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House of Representatives

The House met at 10 a.m.

The Chaplain, Reverend James David Ford, D.D., offered the following prayer:

We recognize, O God, that we are buffeted by the sound of so many words that come our way, words of advice and counsel, words that express joy or sadness and words that recommend actions or promote ideas. We pause this moment to hear Your still small voice that beckons us to do what is good, to be what is good, that encourages us in the way of truth and points us to a healthy and whole understanding of our lives. May we take Your words of justice and peace, of righteousness and integrity and transpose those good words into deeds of caring and concern for others. This is our earnest prayer. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. SCHAFFER. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SCHAFFER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Pursuant to clause 8 rule XX, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Colorado (Mr. SCHAFFER) come forward and lead the House in the Pledge of Allegiance.

Mr. SCHAFFER led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

NEVADANS STAND READY TO ASSIST THEIR NEIGHBORS VICTIMIZED BY POWERFUL TORNADOES IN OKLAHOMA, KANSAS, AND TEXAS

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, today I would like to pay my condolences to the people and the families that suffered from the powerful tornadoes in Oklahoma, Kansas and Texas in the last few days. The thoughts and prayers of all Nevadans are with the victims of this tragedy. Fire, police and emergency services and the National Guard's personnel worked alongside of heroic neighbors in working through the night to help people affected by this tragic act of Mother Nature.

Mr. Speaker, it will take some time to rebuild the damage to the houses, and homes, and buildings and the families. The Federal Government will now do its part in assisting with this effort, helping to rebuild the communities and the lives of those who were affected by these devastating tornadoes.

Mr. Speaker, I applaud the President's announcement to declare these States national disaster areas, allowing the Federal Government to offer speedy financial aid and support.

Mr. Speaker, I and the State of Nevada also stand ready to assist our friends and families as a Nation, and we must join together and persevere in this tragedy.

THE NEED FOR BANKRUPTCY REFORM

(Mr. SMITH of Washington asked and was given permission to address the House for 1 minute.)

Mr. SMITH of Washington. Mr. Speaker, today the House will vote on bankruptcy reform, and I rise today to urge all Members to support this bill. The bill ultimately is about personal responsibility. It is about holding people accountable for their own actions.

Worse, the current bankruptcy situation puts us in a position where others are held accountable for those actions. They are the ones that have to bear the price of other people's choices. Worst, it basically spreads out from the middle class to the poorest of the poor. Those are the ones that have to pay more for retail items and for a variety of items because some people run up obligations that they either have no intention of meeting or do not meet.

Also, small businesses are particularly devastated by bankruptcies. In many small businesses, one or two clients not paying can be the difference between being in business and out of business, and when they go bankrupt and do not pay, those small businesses suffer.

This bill does not eliminate bankruptcy, it is out there as an option, but it makes changes to hold people accountable and responsible for their own financial decisions to make sure that, if they can pay, they do pay. We should not have a situation where people can declare bankruptcy, run out on their obligations to others, drive up costs for everybody else and still live a life better than 95 percent of the rest of the world.

We need this bankruptcy reform bill.

Printed on recycled paper.

SO LONG, JOHN

(Mr. HEFLEY asked and was given permission to address the House for 1 minute.)

Mr. HEFLEY. First it was Jordan, then it was Gretzky, now it is Elway.

On Sunday afternoon, the whole State of Colorado turned on their television sets to watch a press conference. The man whose name has become synonymous with the Denver Broncos, John Elway, announced his retirement from football.

The statistics books will show that John Elway had 16 great seasons as a Denver Bronco. He had 148 victories and 47 come-from-behind wins, both National Football League records. He passed for over 50,000 yards, rushed for another 3,000 and played in 234 games, and through it all he only missed 15 career starts. Not the least of his achievements, he led the Broncos to five Superbowls and two Superbowl wins.

What the stat books will not show us is what John Elway has meant to the State of Colorado. He gave us joy and excitement every week. His career became a true profile in courage of perseverance and was a testimony to all that dreams can really come true.

Most importantly, in a time when Colorado and this Nation is in such desperate need of role models, John Elway was that, too.

John, from the State of Colorado and from a grateful Nation and from this Bronco fan:

''Thank you.''

REASONS TO CELEBRATE WIC'S 25TH ANNIVERSARY

(Mr. STUPAK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STUPAK. Mr. Speaker, I would like to say a few words today about the WIC program, a program dedicated to improving the nutrition and health care needs of low-income women, infants and children.

WIC is celebrating 25 years of service, Mr. Speaker. The value of these 25 years is illustrated by a few key facts expressed in terms of dollars.

Every dollar spent on pregnant women in WIC produces between $1.92 and $4.21 in Medicaid savings for newborns and their mothers. Medicaid costs were reduced on average by $12,000 to $15,000 per infant for every low-birth-weight birth prevented because the mother was involved in the WIC program during her pregnancy.

There is a lot more, Mr. Speaker, in terms of dollars saved and common sense, but there is a more important savings, a human savings. WIC children get a better start in life, they do better in school, and they lead healthier lives. All this translates into an overall better quality of life, and that is the real reason for celebrating WIC's 25th anniversary.

INFORMATION, PLEASE

(Mr. EWING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EWING. Mr. Speaker, this week we will be voting on the supplemental appropriation to provide funds for the Kosovo operation. Unfortunately, the administration has done little to inform Members of Congress. It is strange that people like former Senator Bob Dole, former Ambassador Jean Kirkpatrick have been more vocal, more available to Members of Congress to explain their position on the need for U.S. involvement than we have received from this administration.

I am yet not convinced of the wisdom of this operation or what the national interest is for Americans. I question, too, whether we need to be paying 90 percent or 85 percent or even 70 percent of the cost. Remember, in other operations such as this our allies have indeed contributed.

Why have we not sought their contributions? Why have we not had more information? Why do we not know the true need for our involvement in Kosovo?

RUSSIA OPPOSES NATO, SUPPORTS MILOSEVIC, DUMPS STEEL ILLEGALLY INTO THE UNITED STATES AND STILL EXPECTS US TO LOAN THEM ANOTHER $23 BILLION

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, Uncle Sam and the International Monetary Fund have loaned Russia billions and billions of dollars, and with each loan Russia promised to repay. Guess what? Russia says, and I quote, they cannot repay their loans this year, next year, not even in 10 years.

How is that to fund the KGB, Congress?

Russia says though, and I quote, Russia still expects America to loan them another $23 billion to carry on with their reforms.

Beam me up here. I say, ''Expect this.''

Mr. Speaker, I yield back the facts that Russia opposes NATO, supports Milosevic and dumps steel illegally in the United States of America.

WE MUST NOT FUND THIS SENSELESS BOMBING

(Mr. PAUL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAUL. Mr. Speaker, how many innocent civilians must die before we stop bombing Serbia? We rightfully cherish the lives of our three servicemen and rejoice in their return, but how many Serbs will never rejoice because of all the death and destruction we have rained down upon them by casually dismissing as necessary mistakes of war a war that is not real to us yet only too real to those who are needlessly killed.

Serb victims are people, too, who love their families and hate the war, yet become the victims of this ill-conceived policy of NATO aggression. It is a strange argument, indeed, that the capture of our three soldiers was illegal and yet our bombing of civilians is not. Violence, when not in one's own self-defense, can never be justified, no matter how noble the explanation. It only makes things worse.

The goal of peace and harmony can never be achieved by bombs and intimidation. That goal can only be achieved by honest friendship and trade when permissible and neutrality when armed conflict prevents it. We must not fund this senseless bombing.

TEACHERS LIKE DAVE SANDERS, SHANNON WRIGHT AND CHRISTA MACAULIFFE ARE AMERICAN HEROES

(Ms. SANCHEZ asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SANCHEZ. Mr. Speaker, I am proud to salute America's educators during Teacher Appreciation Week. It is essential in these trying times at our schools that we pay tribute to the professionals who give so much to their work with our communities' children.

Every day 3 million American teachers go to work. They arrive early in the morning and often stay late at night. Their dedication under supremely difficult circumstances cannot be adequately described, but through all this hard work they open a world of opportunity for our children and bring endless possibilities to our communities and to the future of our country. Every day they work their miracles in the classrooms. We entrust them with our most precious resource, our young people.

Tragically, Mr. Speaker, some pay the ultimate sacrifice. Teachers like Dave Sanders of Littleton, Colorado, or Shannon Wright of Jonesboro, Arkansas, and astronaut Christa MacAuliffe are American heroes. We salute their memory and their colleagues this week.

THIS IS TEACHER APPRECIATION WEEK

(Mr. SCHAFFER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHAFFER. Mr. Speaker, this is Teacher Appreciation Week. Almost every Member of this body can think of a special teacher who has touched his life in ways that have never been forgotten, can never be repaid and can

only be appreciated by those who have benefited from such good fortune.

There are special teachers with extraordinary talents in every kind of school in America, in rich and poor, urban and rural, public and private. Great teachers give something of themselves that we take with us for the rest of our lives. It is one of the most rewarding aspects of being a teacher.

But great teachers do not get the recognition they deserve. Their contributions are so great, they ought to have an entire week devoted to their achievement, and so they have. This is their week, and I join with my colleagues in paying tribute to the wonderful gifts teachers have brought to all of us during their teaching careers.

Teaching is a noble profession, and it is an honor for me to salute all those great teachers who are proud to have made teaching their passion and their life's work.

WIC—MORE THAN JUST FOR WOMEN AND CHILDREN, IT IS GOOD FOR AMERICA

(Mr. FILNER asked and was given permission to address the House for 1 minute.)

Mr. FILNER. Mr. Speaker, I rise today to commemorate 25 years of the Special Supplemental Nutrition Program for Women, Infants and Children, what is widely known as WIC. WIC is not just a program that makes a lot of sense, it saves millions of dollars, too.

Every WIC dollar spent for pregnant women results in the savings to the Medicaid program of anywhere between $2 and $4. Well-fed mothers and children are healthier people. Children who eat a nutritious diet grow up to be stronger, better-adjusted adults. WIC allows high-risk young families to properly feed their children during their critical months of growth and development. WIC helps to assure normal childhood growth, reduces early childhood anemia, increases immunization rates, improves access to pediatric health care and prepares children for learning.

□ 1015

What more can we ask for? It truly proves the maxim that an ounce of prevention is worth a pound of cure. WIC, it is a good program for America.

HOLBROOKE'S HONORARIA

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, I rise today to draw my colleagues' attention to what President Clinton promised would be the most ethical administration in the history of our Nation.

The Washington Times lead story today details how special envoy to the President, Richard Holbrooke, in the middle of critical negotiations with Yugoslav President Milosevic in 1998, broke off those talks to deliver two speeches in which he was paid $40,000.

Now, there is a pesky Federal ethics rule that says for government employees, including unpaid presidential appointees, they are barred from accepting side compensation that relates to the employee's official duties.

Quote, just as his talks reached what Mr. Holbrooke said was a dangerous moment, he flew to Athens to give a speech about Kosovo, picking up $16,000 in payment. A few months later, Mr. Holbrooke did the same thing, abandoning diplomatic efforts in the middle of an air-strike deadline to deliver a speech in New York for $24,000.

Mr. President, honestly, based upon past comments, he would be the perfect candidate to be Ambassador to the United Nations.

CONGRATULATIONS TO WIC ON 25 YEARS

(Ms. WOOLSEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Speaker, children are 25 percent of this country's population but they are 10,000 percent of our future. There is no better way to invest in our future than to make sure that every child gets good nutrition and health care, right from the very start. That is what the WIC program does, and that is what they have been doing for 25 years.

At WIC clinics, low income, at-risk pregnant women get healthy foods, nutrition, education and access to health services. The outcome is strong, healthy babies. WIC stays with the new mother after her baby is born, helping to form good eating habits, health habits and a lifetime of good habits. For every $1.00 we spend on WIC, we save $3.50 in future costs for medical care, income support and special education.

Talk about a good investment in our future, talk about WIC. Congratulations, WIC, on this anniversary of 25 years, and thanks for strengthening America's future.

THE POLICY OF NOT USING FOOD AS A WEAPON IS GOOD POLICY

(Mr. NETHERCUTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NETHERCUTT. Mr. Speaker, there is no more fundamental need of human beings than the need for food and medicine. For years, our country has had a policy of imposing unilateral economic sanctions on nations of the world with which we disagree, nations like Iran and Libya and North Korea and many others.

If one is a farmer in America, this policy has hurt American agricultural exports, especially if other nations of the world do not impose such sanctions and are free to trade with such enemy nations.

Earlier this year, I introduced H.R. 212, a bill which lifts sanctions on food and medicine so that we can sell our commodities to these nations, subject to the President reinstating those sanctions if doing so is in the national security interest.

Last week, the President, by administrative order, lifted sanctions on food and medicine to Iran, Libya and Sudan. This can result in the likely sale of $500 million in wheat sales to American agriculture. The policy of not using food as a weapon is good policy, and I urge my colleagues to support H.R. 212.

BRAIN TUMOR AWARENESS WEEK

(Mr. ROTHMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTHMAN. Mr. Speaker, this is Brain Tumor Awareness Week. Each year 100,000 people in the United States will be diagnosed with a primary or metastatic brain tumor. Brain tumors are the second leading cause of cancer death for children under 19, and the third leading cause of cancer death for young adults ages 20 to 39.

Brain tumors attack the essence of the individual. They attack the control center for thought, emotion and movement. There are over 100 different types of brain tumors, making effective treatment very complicated. Currently, there is no cure for most malignant brain tumors. Only 37 percent of men and 52 percent of women survive 5 years following the diagnosis of a primary benign or malignant brain tumor.

Congress needs to appropriate increased funding for the National Institutes of Health and advocate for a strong investment in brain tumor research. We also need Federal legislation that gives patients access to clinical trials and other therapies that are not approved yet by the Food and Drug Administration. I urge more research for brain tumors and more funding for the NIH.

SUPPORT BANKRUPTCY REFORM ACT AND ITS EMPHASIS ON PERSONAL RESPONSIBILITY

(Mr. DOOLEY of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOOLEY of California. Mr. Speaker, today we are going to be considering bankruptcy reform legislation, and I rise in strong support of it. In 1998 we had studies that showed that at least $3 billion was written off in bankruptcy by wealthy debtors who could have afforded to pay it back.

More and more wealthy Americans are using the bankruptcy system to buy a throwaway lifestyle that they cannot afford, then expecting hard-working Americans who pay their bills each month to pick up the tab. That is not right, and Congress needs to do something about it.

I also want to address some information that I think is not true by some of the opponents of this legislation, dealing with child support payments. Under the current system, child support and alimony payments rank seventh on the list of priority payments in a bankruptcy proceeding, behind such things as attorney fees; seventh.

This legislation moves those critical family obligations up to the top of the list. Women and children come first under H.R. 833, the bankruptcy protection reform bill that we are going to be considering today. It is time to require personal responsibility. Support H.R. 833.

RIVERSIDE NATIONAL CEMETERY, THE IDEAL LOCATION FOR THE NATIONAL MEDAL OF HONOR MEMORIAL

(Mr. CALVERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CALVERT. Mr. Speaker, I rise today to praise the 3,417 men and women who have placed their lives on the line for their country, have taken risks above and beyond the call of duty and, because of their extraordinary bravery and action during crisis, have been awarded the Medal of Honor.

Yesterday I introduced the National Medal of Honor Memorial Act. This bill designates the memorial being built at the Riverside National Cemetery as a national memorial. Since this will be the only publicly accessible memorial honoring all 3,417 recipients of the Medal of Honor at a single location, I think it is only fitting to identify it as a national memorial.

Riverside National Cemetery is the ideal location for this memorial. There are two Medal of Honor recipients buried there; 102 recipients are originally from the State of California. At its capacity, the cemetery will inter approximately 1,400,000 persons, making it the largest national cemetery in the United States.

Mr. Speaker, I am proud of the strong support from my colleagues. Seventy of my colleagues have decided to be original cosponsors of this; 100 percent of the California delegation, and the chairman and the ranking member of the Committee on Veterans' Affairs. I look forward to its passage.

PAYDAY BORROWER PROTECTION ACT OF 1999

(Mr. RUSH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RUSH. Mr. Speaker, today I am here to introduce the Payday Borrower Protection Act of 1999.

Payday loan companies are springing up all over the country. Payday loan companies are cannibalistic. They are akin to loansharking. These companies provide short-term loans with minimum credit checks to consumers who are in desperate need of cash.

The interest on these loans are unconscionably high, usually running from 261 percent to 913 percent annually. It is not uncommon for a consumer to have borrowed, say, $100 and within a year to be forced to repay $900 to a payday loan company.

My bill regulates and imposes some rational criteria on these loans. My bill caps annual interest fees at 36 percent and prohibits any payday lender from refinancing or rolling over any loans. My bill also sets a minimum national standard for State payday loan laws.

I encourage my colleagues on both sides of the aisle to support the Payday Borrower Protection Act of 1999.

WITH THE PROSPECT OF MULTI-TRILLION DOLLAR BUDGET SURPLUSES, WE SHOULD PASS A TAX CUT AS SOON AS POSSIBLE

(Mr. CHABOT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHABOT. Mr. Speaker, Congress faces the prospect of multitrillion dollar surpluses, budget surpluses, over the next 15 years. That is good news. As one might expect, the response to this good news has been sharply divided.

Liberals, and President Clinton, have come forward with new Washington spending programs. Republicans, on the other hand, have called for saving Social Security, cutting taxes and paying down the national debt.

It is almost the law of nature that money left in Washington will be spent. Therefore, I think we should pass a tax cut as soon as possible, before the big spenders here in Washington get their hands on it.

Let us hope that Congress and the President get it right. Work together and save Social Security, cut taxes and pay down the national debt. It is very, very important for America's future to do that.

SALUTE TO WIC ON 25TH ANNIVERSARY

(Ms. BROWN of Florida asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. BROWN of Florida. Mr. Speaker, I rise in support of one of our Nation's most valuable programs, Women, Infants and Children, more popularly known as WIC.

The WIC program has been serving women and children across America for 25 years. The valuable service provided by WIC includes nutritional counseling, the supply of supplemental nutritional foods to children and an excellent health referral system.

WIC continues to be effective in improving the health of pregnant women, new mothers and infants. Studies show that WIC participants are more likely to have full term pregnancy, lower medical costs, higher birth weight babies and lower infant mortality rates.

On this anniversary of 25 years, I salute WIC for providing such outstanding service. We must all remember a healthy start is a great start.

ANTIPOVERTY PROGRAMS FOR SENIORS RESULT IN POVERTY FOR FUTURE AMERICAN WORKERS

(Mr. SMITH of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Michigan. Mr. Speaker, I see a lot of students in our gallery today. Mr. Speaker, I would like to report that our Social Security task force meeting yesterday that examined the consequences of doing nothing with Social Security resulted in the headline that antipoverty programs for seniors result in poverty for future American workers. We need to stop spending the Social Security Trust Fund for other government programs.

Our taxes today are higher than they have ever been in most of our history, even through World War II. We have heard a lot of good government spending programs from the speakers this morning that would mean raiding the Social Security Trust Fund or increasing taxes.

I just plead with my colleagues that if there are other good programs, they need to be justified on the basis of increasing taxes to pay for those programs or cutting other government spending to pay for those programs, but stop raiding the Social Security trust fund. We are already facing a $7½ trillion unfunded liability to maintain Social Security. We can't afford to continue to make the situation worse.

CONSTRUCTIVE OWNERSHIP TRANSACTIONS

(Mr. NEAL of Massachusetts asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NEAL of Massachusetts. Mr. Speaker, today I am introducing legislation to shut down a tax avoidance scheme available only to a few wealthy and sophisticated investors. Under current law, if one invests in a hedge fund they pay tax every year and those profits are taxed at a higher short-term capital gains rate, but if one places that same money in a derivative wrapped around a hedge fund, they pay tax only at the end of the contract and are taxed at a lower long-term capital gains rate.

My bill states that if an investor indirectly owns a financial asset like a hedge fund through a derivative, he cannot get more long-term capital gain than if he owned the investment directly. In addition, there is an interest charge to offset the additional benefit of deferral.

□ 1030

This tax shelter is not available to average workers or even to average investors. It is available only to the very wealthy, so that they can avoid paying taxes.

It is important to shut down these tax shelters as we uncover them. Otherwise, we undermine the faith people have in our voluntary tax system. The Committee on Ways and Means is looking at tax shelters this year. This should be the number one issue on our list.

A FOCUS ON CHILDREN

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, it is important that we focus on our children. I am delighted to congratulate the WIC program on its 25th anniversary, a program that has provided nourishment for women and children and infants, a program that has helped so many to be able to have the basic nourishment that allows them to go to schools and then be educated. Our children are our greatest asset.

Then I would like to note that this is Asthma Awareness Day and Month. I hope that we realize the importance of more research to help cure asthma. So many of our children and, yes, so many of our citizens are impacted by that.

Likewise, Mr. Speaker, I would like to invite and acknowledge that the Congressional Children's Caucus will be holding a hearing this afternoon at 2154 Rayburn on the crisis of school violence, how do we help our children. We want solutions and not accusations.

We hope to develop a mental health system for children, where children can be referred and helped and rehabilitated, because in fact they are our precious resource. We will be listening to children today, we will be listening to mental health experts on the crisis of school violence and how do we help our children. We hope the children will come and let us hear them today.

Mr. Speaker, today is a special day for several reasons. Today is the 25th Anniversary of the WIC Program and it is also Asthma Awareness Day. Also today, the Congressional Children's Caucus, which I am the chair, will have a hearing today on the psychology of school violence. I hope My Colleagues will join me for the hearing.

The WIC Program, or the Women, Infant and Children's Supplemental Nutrition Program, has been providing nutrition education and diet counseling since 1972. It is a federally funded program designed for low-income pregnant women, mothers and their children who face nutritional risk.

WIC helps mothers make infant feeding choices and provides breastfeeding support, children's growth checkups and referrals for other health services. WIC also gives mothers one-on-one instructions for making healthy meals for their families.

Families on WIC receive monthly supplies for food like milk, eggs, cereal and juice. This is an important program for mothers and children in need, and I am happy to salute them today on their 25th Anniversary.

Today is also Asthma Awareness Day. Asthma is a serious condition that causes difficulty in breathing and it affects children and adults. An estimated 4.8 million children under 18 have asthma and many more have undiagnosed asthma.

Asthma is the leading chronic illness in children and it is the leading cause of school absenteeism. Hospitalizations due to asthma are disproportionately high for inner-city children, particularly for children of color. Each year, 600 children die from asthma and 150,000 are hospitalized.

Today, there will be screenings for asthma and allergies and I urge everyone to get tested. As it is now allergy season, this is the time to find out how serious your allergies may be and also how to relieve your symptoms.

Finally, today there will be a hearing sponsored by the Congressional Children's Caucus on the issue of school violence. We have a panel of mental health experts who will discuss the need for mental health services in schools. We will also have a panel of students who will discuss their fears about violence in school. I look foward to seeing many of you there.

THE JOURNAL

The SPEAKER pro tempore (Mr. MILLER of Florida). Pursuant to clause 8 of rule XX, the pending business is the question of agreeing to the Speaker's approval of the Journal of the last day's proceedings.

The question is on the Speaker's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SCHAFFER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 359, nays 41, not voting 33, as follows:

[Roll No. 108]

YEAS—359

Abercrombie
Ackerman
Allen
Andrews
Archer
Armey
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Bass
Bateman
Bentsen
Bereuter
Berkley
Berry
Biggert
Bilbray
Bilirakis
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Capuano
Cardin
Castle
Chabot
Chambliss
Chenoweth
Clayton
Clement
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Cox
Coyne
Cramer
Crane
Crowley
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Eshoo
Etheridge
Evans
Everett
Ewing
Fletcher
Foley
Forbes
Fossella
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Green (TX)
Hall (OH)
Hall (TX)
Hansen
Hastings (WA)
Hayes
Hayworth
Herger
Hill (IN)
Hill (MT)
Hilleary
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Inslee
Isakson
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kasich
Kelly
Kennedy
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kleczka
Knollenberg
Kolbe
Kuykendall
LaFalce
LaHood
Lampson
Lantos
Largent
Larson
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Linder
Lipinski
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Minge
Mink
Moakley
Mollohan
Moore
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Obey
Olver
Ortiz
Ose
Owens
Oxley
Packard
Pallone
Pascrell
Pastor
Paul
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Regula
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Ryan (WI)
Ryun (KS)
Salmon
Sanchez
Sandlin
Sanford
Sawyer
Saxton
Schakowsky
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (TX)
Smith (WA)
Snyder
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Strickland
Stump
Sununu
Talent
Tancredo
Tanner
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Thurman
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Vento
Walden
Walsh
Wamp
Watt (NC)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Wexler
Weygand
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey

NAYS—41

Aderholt	Hilliard	Ramstad
Borski	Holt	Rush
Clay	Johnson, E. B.	Sabo
Clyburn	Klink	Schaffer
Costello	Kucinich	Stupak
DeFazio	Lee	Sweeney
English	Lewis (GA)	Taylor (MS)
Filner	LoBiondo	Thompson (CA)
Ford	McDermott	Thompson (MS)
Gephardt	McGovern	Visclosky
Gibbons	Miller, George	Waters
Gutknecht	Moran (KS)	Weller
Hastings (FL)	Oberstar	Wu
Hefley	Pickett	

NOT VOTING—33

Barton	Granger	Scott
Becerra	Green (WI)	Simpson
Berman	Greenwood	Slaughter
Bishop	Gutierrez	Smith (NJ)
Brown (CA)	Hutchinson	Tiahrt
Carson	Hyde	Tierney
Cubin	Istook	Watkins
Dickey	Lewis (KY)	Watts (OK)
Engel	Rangel	Wynn
Farr	Sanders	Young (AK)
Fattah	Scarborough	Young (FL)

□ 1052

So the Journal was approved.

The result of the vote was announced as above recorded.

PROVIDING FOR CONSIDERATION OF H.R. 833, BANKRUPTCY REFORM ACT OF 1999

Mr. SESSIONS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 158 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 158

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 833) to amend title 11 of the United States Code, and for other purposes. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with section 302 or section 311 of the Congressional Budget Act of 1974 are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against the amendments printed in the report are waived. The chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. MILLER of Florida). The gentleman from Texas (Mr. SESSIONS) is recognized for 1 hour.

Mr. SESSIONS. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. FROST), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

H. Res. 158 is a fair, structured rule providing 1 hour of general debate divided equally between the chairman and ranking member of the Committee on the Judiciary.

The rule waives points of order against consideration of the bill for failure to comply with section 302 of the Congressional Budget Act which prohibits consideration of legislation which exceeds a committee's allocation of new spending authority, or section 311 of the Congressional Budget Act which prohibits consideration of legislation that would cause the total level of new budget authority or outlays in the most recent budget resolution to be exceeded or cause revenues to be less.

□ 1100

The rule provides that it shall be in order to consider as an original bill for the purpose of amendment under the 5-minute rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill. The rule waives all points of order against the committee amendment in the nature of a substitute and amendments thereto.

The rule makes in order only those amendments printed in the Committee on Rules report accompanying the resolution. The rule provides that amendments made in order may be offered only in the order printed in the report and may be offered only by a Member designated in the report. These amendments shall be considered as read and be debatable for the time specified in the report equally divided and controlled by the proponent and opponent. They shall not be subject to amendment and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole.

The rule allows for the Chairman of the Committee of the Whole to postpone votes during consideration of the bill and to reduce voting time to 5 minutes on a proposed question if the vote follows a 15-minute vote.

Finally, the rule provides one motion to recommit with or without instructions.

Mr. Speaker, H.R. 833, the Bankruptcy Reform Act of 1999, will fundamentally reform the existing bankruptcy system into a needs-based system. I am proud of the tireless efforts of the House Committee on the Judiciary to address this issue and ensure that our bankruptcy laws operate fairly, efficiently, and free of abuse.

This should not be a controversial issue because Congress has spoken on this issue before. Both the House and the Senate overwhelmingly approved bankruptcy reform legislation last year on a bipartisan basis. Although the measure fell short in the waning days of the 105th Congress because the Senate failed to act on the conference report, the House voted by a veto-proof majority of 300 to 125 to pass very similar legislation last year.

There is great need for this bill now. A record 1.42 million personal bankruptcy filings were recorded in 1998. This is a stunning increase of 500 percent since 1980. Despite an unprecedented time of economic prosperity, unemployment, and rising disposable income, personal bankruptcies are rising, costing over $40 billion in the past year.

Without serious reform of our bankruptcy laws, these trends promise to grow each year, costing businesses and consumers even more in the form of losses and higher costs of credit.

As we debate and vote today, we should keep in mind two important tenets of bankruptcy reform.

First, the bankruptcy system should provide the amount of debt relief needed that an individual needs, no more and no less. Second, bankruptcy should be a last resort and not a first response to a financial crisis.

As a businessman with over 16 years' experience in the private sector and because of many conversations that I have had with leaders, consumers and others who are associated with loan defaults, I am well aware of the problems that are associated with the abuse of our bankruptcy laws.

A record 1.4 million personal bankruptcies were filed last year. That is one out of every 75 households in America. The debts that remained unpaid as a result of those bankruptcies each year cost American families that do pay their bills on time $550 a year in the form of higher cost for credit, goods and services.

Unfortunately, much of the debt that was eventually passed on to the consumers last year was debt that bankruptcy filers could have avoided by

simply repaying those bills because they had the ability. That is why it is so important to pass real bankruptcy reform.

Opponents of this bill have tried to divert the discussion away from the merits of the bill and claim that it would make it more difficult for divorced women to obtain child support and alimony payments. However, nothing could be further from the truth. This bankruptcy reform protects the financial security of women and children by giving them a higher priority than under current law.

The legislation closes loopholes that allow some debtors to use the current system to delay or even evade child support and alimony payments. The bill recognizes that no obligation is more important than that of a parent to his or her children.

Currently, child support payments are the seventh priority, behind such things as attorney's fees. Make no mistake about this, H.R. 833 puts women and children first, at the head of the list. We should provide greater protection to families who are owed child support, and this bill will do just that.

The bill also address other problems, including needs-based bankruptcy. The heart of this legislation is a needs-based formula that separates filers into Chapter 7 or Chapter 13 based upon their ability to pay. While many families may face job loss, divorce or medical bills, and therefore legitimately need the protection provided by the Bankruptcy Code, research has shown that some Chapter 7 filers actually have the capacity to repay some of what they owe.

The formula directs into Chapter 13 those filers who earn more than the national median income which is roughly $51,000 for a family of four, if they can pay all secured debt and at least 20 percent of unsecured non-priority debt.

This bill recognizes the need for consumer education and protection. It includes education provisions that will ensure that debtors are made aware of their options before they file for bankruptcy, including alternatives to bankruptcy such as credit counseling. And the bill cracks down on ''bankruptcy mills,'' law firms and other entities that push debtors into bankruptcy without fully explaining the consequences.

I urge my colleagues to support this rule and the underlying legislation.

Madam Speaker, I reserve the balance of my time.

Mr. FROST. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, as an original cosponsor of H.R. 833, I am pleased that this legislation has come to the floor in a timely manner. However, given the fact that this bill as well as the Defense Supplemental are the only major pieces of business this week, I do think that the Republican leadership should have afforded more Members the opportunity to offer amendments to this important and far-reaching legislation.

Madam Speaker, reform of the bankruptcy system in this country is indeed a major initiative. In this decade, the number of personal bankruptcy filings has skyrocketed, more than doubling in the past 8 years and increasing by an astonishing 400 percent since 1980.

Last year, more than 1.43 million Americans filed for personal bankruptcy. This is indeed an alarming trend, and it is especially alarming in light of the fact that the U.S. economy is booming and personal incomes are rising.

While there are certainly more individuals among these numbers who are seeking Chapter 7 bankruptcy relief as a last resort, there are also many in this number who are using the bankruptcy system to escape debts they are capable of paying.

As the gentleman from Illinois (Mr. HYDE) said yesterday in the Committee on Rules, this bill is an attempt to achieve an appropriate balance between debtor and creditor rights. By establishing needs-based bankruptcy standards, this legislation seeks to ensure that those who need a fresh start will be given one but that those consumers who can afford to repay their debts from future income must do so.

While similar legislation was passed overwhelmingly by the House last year, there is still controversy surrounding this bill. The Committee on the Judiciary held 5 days of hearings and markup on this bill and took 28 recorded votes on amendments. In addition, 37 amendments were filed with the Committee on Rules.

Yet, this rule only makes in order 11 amendments, including a manager's amendment and an amendment in the nature of a substitute to be offered by the ranking member of the Subcommittee on Commercial and Administrative Law, the gentleman from New York (Mr. NADLER).

The Nadler substitute retains much of the work of the committee but differs significantly from H.R. 833 by granting local judicial discretion in the determination about whether a debtor appropriately belongs in Chapter 7 or Chapter 13 bankruptcy. The Nadler substitute eliminates the provisions in the committee bill which establish new grounds for making credit card debt non-dischargeable and offers significantly different child support and alimony payment provisions.

Now, before my Republican colleagues jump in and say that this rule provide for 4 and ½ hours of debate on amendments, including 1 hour on the Nadler substitute, as well as 1 hour of general debate in addition to this hour on the rule, let me note for the record two of the amendments which the Republican majority voted to exclude from consideration: first, an amendment offered by the subcommittee ranking member which would have significantly altered the bill's treatment of child support payments; and, second, an amendment by the gentleman from Massachusetts (Mr. DELAHUNT), a member of the Committee on the Judiciary, relating to claims on credit card debt in those cases where the debtor had not been informed of the terms of the account agreement.

These are not insignificant amendments, Madam Speaker, and I believe the House should have the opportunity to discuss these issues. As such, I would urge Members to vote no on the previous question so that these two amendments might be added to the list of amendments that the House will consider today. I cannot buy the argument that just because the House will have 6 hours and some odd minutes of debate on this bill, we do not have time to consider additional amendments.

Madam Speaker, my colleague from Texas (Mr. SESSIONS) has noted that the bill does contain a provision which would allow States to opt out of the homestead exemption cap imposed by the bill. I realize this is a matter of some controversy; but, for the State of Texas, this is an issue of major and fundamental importance. This matter is far from resolved, but I am pleased that two amendments relating to the effective date of the cap, which were imposed by my colleague from Texas (Mr. BENTSEN), were included in the manager's amendment.

Madam Speaker, while it is important that the House proceed to the consideration of this important legislative proposal early in the session, it is still early enough for the House to have a complete debate on this matter. I am a strong supporter of this bill, as are many of my colleagues here in this body. Consideration of a few additional amendments would have only added time to this debate, time which would have given the House the opportunity to fully air the issues that affect consumers across the country.

Madam Speaker, I reserve the balance of my time.

Mr. SESSIONS. Madam Speaker, I yield such time as she may consume to the gentlewoman from Ohio (Ms. PRYCE).

Ms. PRYCE of Ohio. Madam Speaker, I thank my friend from Texas for yielding me this time.

I rise in support of this fair and balanced rule, which governs consideration of the Bankruptcy Reform Act of 1999.

This rule is very generous to the minority. Madam Speaker, out of 11 amendments the House will have the opportunity to debate and vote upon today, seven are offered by Democrats, one is bipartisan, and only three are offered by Republicans. All told, the House will have 6½ hours to debate their bill, which is very similar to legislation that passed the House last year by an overwhelming margin of 300 to 125.

Madam Speaker, bankruptcy law is nothing if not complex, but the goals of bankruptcy reform are fairly simple and straightforward. Today, we are seeking to restore the values of personal responsibility and integrity to an abused bankruptcy system.

The unfortunate fact is that bankruptcy is no longer a rare occurrence among many American consumers who today are becoming dangerously comfortable with the concept of credit and debt.

Last year, more than 1.4 million bankruptcy cases were filed. That is a 500 percent increase since 1980. And the case load is growing, even as our country enjoys economic prosperity and low unemployment.

Madam Speaker, we all understand that sometimes unforeseen circumstances, often out of our control, can lead to the financial ruin of an individual, a family or a business. Our bankruptcy laws are designed to help the truly needy, honest citizen when he finds himself in an impossible situation. We all see a societal good in that. That is one of the things that makes this Nation great.

However, when intelligent citizens ignore basic common sense by spending outside of their means, we need to establish a reasonable level of accountability and demand some personal responsibility to protect those who have extended credit to them in good faith.

That is not to say that creditors do not have some lessons to make about poor decision-making and high-risk lending; and there are some steps we take to urge responsible behavior among creditors.

□ 1115

Madam Speaker, through this legislation we are asking individuals who apply for bankruptcy if at all possible to repay their debts to the extent that they are able. The bill sets up a needs-based mechanism to determine how much debtors can reasonably be expected to pay.

This needs-based approach, based on current IRS standards, strengthens existing law to weed out abusers of the system who want all their debts dismissed but actually have the means to pay some of them. These individuals will be directed to a repayment plan so their creditors can collect at least some of what they are owed.

This is a fair approach that will not excuse reckless spending but offers needed relief for those who are in a hopeless situation and need a fresh start to get back on their feet. And I am happy to say that the bill puts alimony and child support at the very top of the list. This bill recognizes that a parent's financial responsibility to his or her child takes priority above all other obligations, and I am pleased to report that Ohio's Attorney General supports the child support provisions of the bill, as do many other attorneys general throughout this Nation who are on the front lines, in the trenches, of child support enforcement and collection.

Decreasing the number of bankruptcies in America requires more than new standards to guide repayments. We also must address the factors that lead to bad spending decisions in the first place. This act helps to educate consumers by requiring credit card companies to disclose the long-term costs of paying only the minimum balance each month.

The bill also directs the Federal Reserve Board to study whether consumers indeed have adequate information about the consequences of borrowing beyond their means. Further, the bill will direct the General Accounting Office to examine whether extending credit to college students is contributing to a large extent to the bankruptcy rate.

By combining these consumer protections with requirements that demand personal responsibility, the Bankruptcy Reform Act strikes a balance between the rights of debtors and creditors. At the same time this bill keeps the safety net in place for honest individuals who are in a hole of debt that they cannot climb out of without a helping hand.

Madam Speaker, I urge my colleagues to support this fair rule and the underlying legislation which will restore some integrity to our bankruptcy laws.

Mr. FROST. Madam Speaker, I yield 5 minutes to the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. Madam Speaker, I rise in opposition to the rule. Those who support the so-called means test principle and other provisions of this bill say they wish to end the use of the Bankruptcy Code as a financial planning tool for those who would scam the system. Yet they have denied the House the opportunity to end once and for all the most flagrant and notorious abuse of the Bankruptcy Code.

The bill would subject middle-income debtors to elaborate new restrictions. Yet it leaves in place a loophole that allows wealthy debtors to buy expensive homes in one of the handful of States such as Texas or Florida with an unlimited homestead exemption, declare bankruptcy and continue to enjoy a life of luxury while their creditors get little or nothing. If we are truly serious about curtailing abuse of the bankruptcy system, this is the place to start:

With the owner of the failed Ohio S&L who paid off only a fraction of $300 million in bankruptcy claims while keeping his multimillion dollar ranch in Florida. Or with the convicted Wall Street financier who filed bankruptcy while owing billions of dollars in debts and fines but still kept his $3 million beach front mansion. Or the movie actor, Burt Reynolds, who was more than $10 million in debt but kept his $2.5 million home while his creditors received 20 cents on the dollar.

Now, I do not suggest that these abuses happen every day. But every time they occur, they bring the fairness and rationality of the bankruptcy system into disrepute. That is why the National Bankruptcy Review Commission urged Congress to place a uniform national cap on the amount of equity that could be claimed under the homestead exemption.

At subcommittee I offered an amendment to cap the exemption at $250,000. My amendment was adopted by an overwhelming vote but it was not allowed to stand. When the full committee took up the bill, the provision was amended to permit individual States to opt out, in effect returning us to the current law.

Supporters of the opt-out provision argued that a Federal cap on the homestead exemption would violate States rights. This is certainly ironic, Madam Speaker, because by setting the cap at $250,000, we had expressly left in place the lower thresholds in effect in every one of the 45 States that have established a cap of their own. In other words, those 45 States, in effect, will be subsidizing deadbeats in the remaining five States if this bill passes.

To say the Congress should set no cap at all is to say we must stand by while a handful of States undermine the uniform enforcement of a Federal statutory scheme. That is like legislating a Federal income tax and leaving it to the State legislatures to determine what will count as a business deduction.

By refusing to fix this problem, the authors of this bill have revealed the double standards by which they have gone about these so-called reforms. They ask us to perpetuate the current inequities in the treatment of debtors who live in different States, and they ask us to create new inequities in the treatment of debtors of different financial means.

This is unfair, Madam Speaker, and it is poor public policy. I urge my colleagues to oppose this rule.

Mr. SESSIONS. Madam Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. CHABOT), a member of the Committee on the Judiciary.

Mr. CHABOT. I thank the gentleman for yielding me this time.

Madam Speaker, despite some of the rhetoric on the other side of the aisle, H.R. 833 is a pro-consumer piece of legislation. That is, pro-responsible consumer. H.R. 833 protects individuals and businesses from having to pick up the tab for irresponsible debtors, some of whom are capable of paying off a significant portion of their debts.

This legislation establishes a clear causal link between a debtor's ability to pay and the availability of Chapter 7 bankruptcy remedies. In other words, it makes those who can afford to pay their debts pay.

There are, of course, some people who truly have a legitimate need to declare bankruptcy. At times, hardworking people come up against extraordinary circumstances. Family illness, disability, or the loss of spouse may necessitate the need to seek relief. H.R. 833 protects these individuals.

Too frequently, however, people who have the financial ability or earnings potential to repay their debts are seeking an easy way out. While this may

prove convenient for the debtor, it is not fair to their friends and neighbors who are stuck with their bills. The average American family pays $550 per year in a bad debt tax in the form of higher prices and increased interest rates to cover the economic cost associated with excessive bankruptcy filings.

I am so concerned about the shifting of financial obligations from neighbor to neighbor that I introduced language at the subcommittee level that will relieve at least some of the burden for the 42 million Americans who live in our Nation's cooperatives and condominiums and homeowner associations. With all too much regularity, bankrupt individuals have been abandoning their homes to avoid paying their share of community assessments. Vacant or occupied, the unit continues to receive a wide spectrum of benefits that enhance the inherent value of the property while neighbors are left to pick up the tab through an increase in association fees.

Nationally, consumer bankruptcies reached a record 1.4 million filings in 1997 and are projected to be even higher this year. What makes these numbers significant and particularly alarming is the fact that this trend began in 1994, during a time of solid economic growth, low inflation and low unemployment.

The primary culprit for this dramatic increase is a system that allows consumers to evade personal responsibility for their debts too easily. People who make above the national median income and can afford to pay off a significant portion of their debt should not be allowed to file under Chapter 7 bankruptcy. This bill puts those individuals where they belong, in Chapter 13, where they will be given a generous 5 years to establish a fair repayment plan and get their financial house in order.

Opponents of H.R. 833 are offering a substitute today that will do little or nothing to curb the abuses prevalent in our current system. For instance, the substitute would strike from the bill key provisions that prevent debtors from loading up on credit card debt just before declaring bankruptcy and obtaining a complete discharge of that debt upon filing. These opponents actually think that individuals should not be held responsible for taking huge cash advances and purchasing luxury goods just prior to filing bankruptcy. Unfortunately, this practice has become far too common as more and more individuals have begun using bankruptcy as a financial planning tool.

Madam Speaker, I fully support H.R. 833 and urge my colleagues to do the same and vote ''yes'' for fair and balanced bankruptcy reform.

Mr. FROST. Madam Speaker, I yield 6 minutes to the gentleman from New York (Mr. NADLER).

(Mr. NADLER asked and was given permission to revise and extend his remarks.)

Mr. NADLER. Madam Speaker, I rise in opposition to this closed rule. Although for the second Congress in a row, the gentleman from Illinois (Mr. HYDE), the chairman of the Committee on the Judiciary, has promised to seek the most open rule possible, this certainly is not it. Of the 37 amendments filed, only 11 were made in order. Of those only four, including the Hyde-Conyers bipartisan amendment, can be said to come from Members who have expressed problems with the bill. Four out of 37.

We will not have a real debate on consumer protection or on requiring creditor as well as debtor responsibility because the Delahunt-LaFalce amendment was not made in order. We will not have a real debate on child and family support—which this bill murders—because my amendment, which was written with the help of the National Women's Law Center and which would have placed debts to the family higher than debts to the government, and would have prevented the government from blocking a Chapter 13 reorganization plan if it provided for payments to family and other creditors but not payment in full in arrears to the government, was not made in order.

We cannot debate those issues. We will not be allowed to vote on whether people who terrorize and murder women and their doctors should be allowed to discharge their civil debts as a result of such terrorist actions. Their civil penalties, should they be able to discharge their penalties in bankruptcy? We had such an amendment, but evidently clinic bombers and people who harass women seeking health care services and who violate the law to push their political agenda have more influence at the Committee on Rules than the bipartisan supporters of this amendment. The gentlewoman from Maryland (Mrs. MORELLA) and I had asked that in a bill which makes drunk boating debts nondischargeable, we could at least have a vote on making debts of clinic bombers nondischargeable.

Madam Speaker, the gentleman from Massachusetts (Mr. DELAHUNT) spoke of the fact that this bill allows the homestead exemption in essence to continue, in some States unlimited. I think it is unfair but that is what the bill does.

But we will not have a vote on my amendment that would have said, well, if you are going to allow States to have an unlimited homestead exemption for the rich, how about requiring that you have at least a limited homestead exemption for the poor? In my own State of New York, the homestead exemption is $9,500. Try to buy a house for $9,500.

□ 1130

The Federal homestead exemption is 16,150, not exactly princely, but we are not going to have a debate or a vote on the amendment that would have said, ''If you're going to allow millionaires to have unlimited homestead exemptions in some States, at least require that all States allow the use of the Federal minimum homestead exemption of $16,000.''

We have to be fair to the rich, but we cannot be fair to the middle income and the poor.

Madam Speaker, this bill hurts families, it hurts businesses, it will increase costs to the system, and it is opposed by most of the Nation's bankruptcy experts.

We will not have a vote on the amendment to stop the provisions of this bill from killing small businesses. That amendment was not made in order.

Many small businesses today, Madam Speaker, go bankrupt, they go into a Chapter 11 reorganization, they are entitled to try to be protected from their debts for a while while they work things out, and then they are saved, and they get on with it, they pay their debts, and a business and jobs are saved.

Some businesses do not make it. They are liquidated.

This bill puts so many new restrictions and burdens on small businesses, not big businesses, small businesses in bankruptcy proceedings, that we are told by the Small Business Administration and by others that it will result in a lot of small businesses that could have been saved going bankrupt.

We had an amendment in committee defeated on a party line vote, an amendment in the committee that said that if the judge makes a finding of fact that imposing those restrictions would cost five or more jobs, the judge would have the discretion not to have these new restrictions on the small business so that the jobs could be saved and the business could be saved. That was voted down. The Committee on Rules thinks we should not have a chance to debate and vote on that provision on the floor.

Should tractors and other farm implements in a family farm going bankrupt, should those tractors and farm implements be saved to help keep the farm in running order, or must they be surrendered to the government for payment of back taxes?

Madam Speaker, we are not going to have a vote or a discussion of that either because, apparently, the Committee on Rules does not think saving family farms is important, or allowing the farmer in bankruptcy to keep his tractor, or his hoe, or whatever else it may be.

The government's claim comes first, and to heck with the farmers.

This bill, as I said, hurts families, it hurts small businesses, it hurts farmers, it hurts child support collectors, it hurts children, it will increase costs to the system, and it is opposed by most of the Nation's bankruptcy experts. The administration will veto the bill unless it is moderated, and we should support the administration's efforts to negotiate a good bill. That can only

happen if we deny the sponsors of this bill the supermajority they need to roll the special interest legislation through unmodified. They have crafted this rule to avoid the really tough issues, so we must insist that those issues be considered today by rejecting the previous question.

If the previous question is rejected, the minority will ask the two amendments be made in order, one which will protect child and spousal support, which the gentlewoman from Texas (Ms. JACKSON-LEE) and I had hoped to offer, and one which would hold credit card lenders accountable and put an end to some of the most abusive practices which would have been offered by the gentleman from Massachusetts (Mr. DELAHUNT) and the gentleman from New York (Mr. LAFALCE). We must defeat the previous question or we will not have an opportunity to consider placing some balance in this bill.

So, Madam Speaker, I urge a no vote on the previous question, on the rule and on the bill.

Madam Speaker, this rule is part of a pattern of silencing debate, of rushing through a bad bill with no serious consideration, a bill which will have implications for many, many years, and this rule deserves to be defeated.

Mr. SESSIONS. Madam Speaker, I yield such time as he may consume to the gentleman from Georgia (Mr. LINDER), who is subcommittee chairman of the Subcommittee on Rules and Organization of the House.

Mr. LINDER. Madam Speaker, I thank the gentleman for yielding this time to me.

Madam Speaker, I rise in strong support of H. Res. 158, a fair, structured rule for consideration of the Bankruptcy Reform Act of 1999.

The Committee on Rules has done its best to accommodate Members who filed amendments with the committee. As has been stated, we have been more than fair in permitting seven Democrat amendments, three Republican amendments and one bipartisan amendment. We faced numerous amendments in the Committee on Rules, and we did our best to allow an open debate on most key issues in dispute.

On the substance of the bill, the statistics on U.S. bankruptcy filings are frightening. Bankruptcies have increased more than 400 percent since 1980. In the past, it was possible to blame many bankruptcies on recessions or poor economic situation. Today, however, we face record numbers of bankruptcy filings at a time of economic growth and low unemployment.

If we take these factors into account, we can realistically come to only one conclusion: bankruptcies of convenience have provided a loophole for those who are financially able to pay their debts but simply have found a way to avoid personal responsibility and escape their financial responsibilities.

This bill is a continuation of our efforts to advance the values of personal responsibility. In the welfare bill, we thought that helping the poor escape the welfare trap, restoring the dignity of work and reviving individual responsibility would help people rise from generation after generation of despair. This bankruptcy bill is the Congress' next step in cultivating personal responsibility and accountability.

I expect that we will hear more hollow charges that we are being heartless and cruel. Nonetheless, the abusers of the bankruptcy laws need to receive a message that Federal bankruptcy laws are not a haven for personal fiscal irresponsibility. If a debtor has the ability to pay the debts that have been accumulated, then they must be held accountable.

Under this bill, effective and compassionate bankruptcy relief will continue to be available for Americans who need it. But we cannot condone, however, those who file for bankruptcy relief under Chapter 7 and have the capacity to pay at least some of their debts. In order to ensure that those who can pay actually do pay, this legislation set in motion a needs-based mechanism.

The gentleman from Pennsylvania (Mr. GEKAS) and the Committee on the Judiciary have done their legislative duty in crafting a bill that ensures the debtor's rights to a fresh start and protects the system from flagrant abuses from those who can pay their bills. This is a great opportunity to equalize the needs of the debtor and the rights of the creditor.

Madam Speaker, I urge my colleagues to support this rule so that we may pass this important legislation.

Mr. FROST. Madam Speaker, I yield 3 minutes to the gentleman from North Carolina (Mr. WATT).

Mr. WATT of North Carolina. Madam Speaker, I thank the gentleman for yielding time.

I rise in opposition to the rule. I have concerns about the bill, but I will reserve a discussion of those concerns for the debate on the bill. But my concerns are about the rule itself and the terms under which we will conduct this debate.

Here is the copy of the bill that we are considering today. It is 314 pages long.

Here is a list of the amendments that have been offered to this bill that Members of this House would like to offer as amendments to this major important piece of legislation. There are 37 amendments, proposed amendments, on this list. The Committee on Rules decided that it would make in order only 11 of those amendments.

Now one of those 11 is an amendment by the manager who has had this bill under his control from the very day it was filed. So for all practical purposes the Committee on Rules has seen fit to allow only 10 other Members to offer amendments on this important bill, and so we cannot have a full and fair and democratic debate and allow our constituents to bring their concerns about the content of this bill to the floor of the House.

Madam Speaker, that is really what this rules debate is about. Some of the amendments that were not made in order by the Committee on Rules were amendments that were voted on in the Committee on the Judiciary, on which I sit, and the Committee on the Judiciary divided half and half. There are three of those amendments on the list, and we did not even have an affirmative opinion of the Committee on the Judiciary members about whether those were good or bad amendments, and now we cannot bring those amendments to the floor of the House and have a full and fair debate among our colleagues to allow all of the members to work their will on those amendments.

So in a sense this debate on the rule is about what rights we have as Members of this House to have our voices heard and have the voices of our constituents heard on important legislation.

Three hundred and some pages long; only 10 amendments.

Mr. SESSIONS. Madam Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. GEKAS), the subcommittee chairman of the Subcommittee on Commercial and Administrative Law.

(Mr. GEKAS asked and was given permission to revise and extend his remarks.)

Mr. GEKAS. Madam Speaker, we say that we are happy with the crafting by the Committee on Rules of the procedure by which this debate will go forward. We should all be happy with it because it reflects in a grand way the bipartisan manner in which this entire issue was promulgated from the start.

In the last term the cosponsorship alone of a vehicle in that stage of these proceedings was substantially bipartisan. The votes that were undertaken, both in the House and in the general debate and then later in the conference report, reflected a gigantic bipartisan vote, 300 votes plus. By any measure, that turns out to be bipartisan.

Now when we reintroduced the bill this year, it has, still does have, substantial numbers of the minority as part of the cosponsorship. It is, indeed, a bipartisan vehicle in this term that we are visiting.

On top of that, in the hearings that were held, some eight of them by the subcommittee and with over 70 witnesses to supplement the some 50 or 60 witnesses that we had last term, all of them gave testimony from which was drawn here and there special features which we put into the bill showing not just bipartisanship thus far but nonpartisanship; that is, drawing from the witnesses' actual phraseology and suggestions that became part of this bill. That makes it a balanced, well-apportioned bill from a policy standpoint and from a partisan standpoint, if we want to allow it to be described as that.

On top of that, in the subcommittee we adopted proposals made by the minority. We did so in the full committee

on the basis of assertions and offerings made by the minority.

So some of the provisions that are in this bill already are born of the opposite view side that expressed itself during the subcommittee and the full committee markups.

This is a balanced bill in many, many respects, in most all respects. What the Committee on Rules did in crafting this particular rule was to patiently reflect that bipartisanship, that balanced approach. Our colleagues' voices have been heard already in subcommittee and full committee in many different ways. They have been heard through their cohorts who have cosponsored this bill, and the final outcome will be a bipartisan one.

Mr. FROST. Madam Speaker, I yield 3 minutes to the gentleman from Texas (Mr. BENTSEN).

(Mr. BENTSEN asked and was given permission to revise and extend his remarks.)

Mr. BENTSEN. Madam Speaker, I rise today in support of H. Res. 158, the rule providing for consideration of H.R. 833, the bankruptcy reform legislation.

While I am supportive of the rule, I want to compliment my colleague from Texas (Mr. FROST) and my colleague from Texas (Mr. SESSIONS) for their assistance in allowing the manager's amendment to include two amendments which I had brought before the Committee on Rules yesterday.

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I am concerned that this bill in particular, the underlying bill that we are going to consider later today if the rule is adopted, the bill includes section 147, which would establish a new Federal standard for homestead exemptions, which I believe is both unnecessary and unfair.

It includes two provisions, one which would require a resident to reside in their homestead for 2 years before they can enjoy protections afforded by State law, and it would prohibit them from transferring assets into their homestead during that period.

Additionally, the bill, during consideration of the bill in the full committee two more amendments were added, one which would supersede State homestead laws and overturn more than 200 years of precedent of allowing States the right to make determinations about what property can be exempted under bankruptcy filings.

The first amendment added a new provision that would cap the amount of equity that a consumer can protect during a bankruptcy at $250,000. This would affect the States of Texas, Florida, Kansas, Minnesota, Oklahoma and South Dakota.

Now, the second amendment, which was a compromise, would allow States to opt out of this new Federal standard. While I appreciate that this provision will provide States with an opportunity to preserve their State homestead laws, I am concerned that the opt-out provision raises new problems.

In particular, those States where the legislatures meet only periodically, homeowners would be subject to this new cap until the next legislative session. For instance, in the State of Texas our session ends on May 30 this year and does not meet again until January of 2001.

The Committee on Rules yesterday agreed to accept the second Bentsen amendment which would make the date of enactment of the cap at the end of the next legislative session of the State, and for that I am appreciative.

The third amendment that I offered, which the committee accepted and put in the manager's amendment, would allow States to prospectively opt out of the homestead cap prior to the bill being enacted in law.

I want to commend the Members of the committee for accepting these amendments. I think it is appropriate. Again, there is no empirical evidence of abuse or any problem, substantial problems, with the homestead laws as the States have designed them. This is something that has been left up to the States. It is their prerogative and we ought to continue it that way.

I would just say in the State of Texas our homestead laws go back prior to Texas becoming part of the Union, when we were a Republic. It has been in the State constitution since we have been a State. It is something that ought to be left up to the State of Texas. This is supported by Governor Bush, our current Lieutenant Governor Perry and the Speaker of the House Pete Laney.

I encourage my colleagues to vote to adopt the rule and the manager's amendment.

Mr. SESSIONS. Madam Speaker, I yield 3 minutes to the gentleman from Tennessee (Mr. BRYANT), who is the vice chairman of the Subcommittee on Commercial and Administrative Law.

(Mr. BRYANT asked and was given permission to revise and extend his remarks.)

Mr. BRYANT. Madam Speaker, I want to just add an echo to what our chairman, the gentleman from Pennsylvania (Mr. GEKAS), said about the rule. I think it is a very good rule in this case. This bill itself, H.R. 833, is a product of a number of years of work, including last session up to the point of actually getting a conference report, an agreement on a bankruptcy bill, together with the renewed debate this year in this Congress in the full committee, something like 5 or 6 days of debate, healthy debate on the merits and some would say lack of merits of this bankruptcy reform bill.

H.R. 833 is a necessary bill, and this is a good rule to support to move that bill forward. H.R. 833 restores fairness and common sense and personal responsibility to a bankruptcy code that, in many ways, is out of control. Current bankruptcy filings are about triple the level of the early 1980s, when the rates of interest and unemployment were significantly higher than today.

In other words, even in the robust economy that we are living in today, bankruptcies are more than triple what they were in past times. To make the situation worse, many of the petitioners who file under Chapter 7, which is the straight bankruptcy, doing away with all the debts provision, many of these are simply walking away without any responsibility for any of their debts. This, despite the fact that many have the ability to repay at least a portion of the debts they owe.

It is because of these figures and trends that this reform is needed to handle the increasing number of petitions.

This bill also creates a way to determine the amount of relief a debtor needs, and requires individuals to repay what they can. There is a formula it establishes there.

Under the compromise between the House and Senate versions of this bill last year, this legislation combines the best aspects of both the approaches of this means testing, a bright line standard for measuring the repayment capacity and preserving the right of a debtor in bankruptcy to have a judge review its case if there are unique circumstances that can be taken into account.

The bill also establishes child support and alimony priorities. The bill significantly improves current law by raising child support and alimony payments to the first priority in a bankruptcy proceeding, thus putting the needs of the family and children where they belong, ahead of others.

In addition, after bankruptcy, the bill requires all child support and alimony obligations to be paid before unsecured debt. There is also a debtor's bill of rights. This protects consumers from law firms and other entities that might inappropriately steer consumers into filing bankruptcy petitions without adequately informing them of the other options that may be available to them.

This is sound legislation. It offers protection to both the debtors and creditors. I very much appreciate the efforts of our chairman, the gentleman from Pennsylvania (Mr. GEKAS), and other colleagues who are helping move this bill along. Again, I would urge my colleagues to vote for this rule and later on for the bill as it moves forward.

Mr. FROST. Madam Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Madam Speaker, this legislation and the underlying rule, the rule that we are addressing right now, have the capacity of being a bipartisan piece of legislation.

I remind my colleagues that when we reformed the Bankruptcy Code in the 1970s we took 5 years, and I think we had a legislative initiative that lasted

until this time, 1999. I am concerned about this rule because I think we would have been better off if we had maintained or had an open rule to answer some of the concerns that many of us have expressed.

I am delighted to see the Hyde-Conyers amendment that alters the very mean-spirited means test, which the Bankruptcy Review Commission did not support itself, because the means test provides a difficult hurdle for debtors who are truly suffering from catastrophic illnesses and other unfortunate times that would result in them filing for bankruptcy. It is an enormous hurdle for them to overcome.

In addition, the Committee on Rules did not allow an amendment that I proposed that would take out Social Security income in the accounting for current monthly income. So that means, for example, Madam Speaker, that in fact one would have the Social Security as a part of determining whether or not they would move from Chapter 13 to Chapter 7. At the same time, they did not protect those individuals who would sue HMOs for fraudulent activities, to protect against the HMOs filing for bankruptcy.

The other portion, Madam Speaker, that I think is extremely important, I am grateful for the amendment we had in committee that dealt with the homestead issue in the State of Texas, where at least we have the ability to opt out. I certainly join in the fact that that has helped the State of Texas by the Bentsen amendments, in that now they can opt out as opposed to waiting until the bill's enactment.

But we would have done better if we had allowed this bill to be an open rule, because even with some of the amendments we have not yet answered the full question dealing with the child support, which really still raises its ugly head inasmuch as we still have the custodial parent, male or female, fighting the government in order to get child support payments.

I think this rule could have been improved. I think we should vote ''no'' on this rule, and I wish we had committed ourselves to an open discussion by having an open rule.

Mr. Speaker, I rise today to speak against this rule, which frames the debate on H.R. 833, the Bankruptcy Reform Act of 1999. In my estimation, the modified closed rule that has been recommended by the Committee merely gives us another instance in which House leadership has steam-rolled a bill, filled with perks for corporate America, through the House in the name of ''reform''. I would like to tell you, this bill in no way reforms bankruptcy, rather, it merely changes the rules of the game so that consumers will be even more helpless to defend themselves from multi-million dollar creditors practicing unhealthy and reckless lending practices.

As a Member of the Judiciary Committee, I have been privileged enough to watch the development of this bill from its inception. I have seen the bill undergo no substantial changes after a week and a half of markups. I have seen meaningful amendments promoted by the Chairman of the Committee rebuffed by the Members of his own party. I have seen the good work of many of my Democratic colleagues be summarily dismissed.

Having just come out of Committee just this Tuesday, I remember the votes well. I remember the Republicans saying no to an amendment I offered to protect the recipients of federal disaster assistance. A vote saying no to the recipients of Social Security. A vote saying no to children who receive child support. A vote saying no to veterans. And all the while, the Republicans were quick to cast their votes to protect tobacco companies that are poisoning our children. They voted to protect credit card companies from reasonable reporting requirements that would have been required under an amendment offered by Congressman DELAHUNT. They moved the bill along despite an amendment I would have offered that would have held HMOs and other managed care entities responsible in cases where they have committed fraud.

Even worse, this bill has been moved along without its inspection by the Banking and Financial Services Committee. This is true even though this bill touches and concerns issues that directly relate to the practices employed by lenders and creditors of all sorts.

And now here we are today debating the rule of debate for this bill. It is a bill that limits amendments, which is unacceptable for a bill this far-reaching. Furthermore, it is a rule that omitted a great number of important amendments that were presented to the Rules Committee yesterday. Those include amendments that would have allowed the exclusion of social security from ''current monthly income'', thereby making bankruptcy less onerous to our seniors, and one which would have kept tobacco companies from manipulating the bankruptcy system.

Other very good and important amendments were also left at the table, such as the Nadler-Morella Amendment that would have gone after those terrorists that intentionally utilize the bankruptcy system to protect them from liability when they bomb women's health clinics. We will also not get to discuss any of the amendments that would have removed the new protections available to credit card companies under this bill when they engaged in reckless lending. This is not the way that we should proceed on this bill, and therefore, I urge my colleagues to vote against this rule.

Debate on this bill should be focused squarely on the issues that hurt it the most, so that it can be improved to a level where we can all vote for it. As reported by the Congressional Research Service, this bill is opposed by Public Citizen, the Consumer's Union, the AFL–CIO, the Consumer Federation of America, UAW, UNITE, the National Partnership, the American Association of Retired Persons (AARP), and the National Women's Law Center. How can we move forward without addressing any of the issues that these groups are clamoring about? How can we ignore amendments aimed squarely at improving the way this bill handles domestic support, or social security, or credit counseling?

Thankfully, the rule does provide for a Democratic Substitute to this bill being offered by Congressmen CONYERS, NADLER, and MEEHAN. This will give many of us the opportunity to vote for a bill that truly reforms bankruptcy without destroying its very principles. That substitute provides a realistic means test that takes into account the debtor's actual income and expenses; modifies the child support provisions in this bill to take away the new special rights given to credit-card companies; requires credit card lenders to provide the necessary information to its customers that they need to make informed decisions about their finances; and eliminates the new grounds for making credit card debts nondischargeable. We ought to pass this substitute if we are going to have a real bankruptcy reform, and I ask each of you to support it when it comes to a vote later this afternoon.

Even then, I hope that every Member will vote against this rule, and send it back to the Rules Committee so that we can have a meaningful debate on the issues that will make this a bill worthy of being signed into law.

Mr. SESSIONS. Madam Speaker, I yield 2 minutes to the gentleman from Orlando, Florida (Mr. MCCOLLUM), the chairman of the Subcommittee on Crime.

(Mr. MCCOLLUM asked and was given permission to revise and extend his remarks.)

Mr. MCCOLLUM. Madam Speaker, I thank the gentleman from Texas (Mr. SESSIONS) for yielding me this time.

Madam Speaker, I rise today to support the rule and the underlying bill. I think what is important for us to understand as we consider this bankruptcy bill today is that the heart of this bill is needs-based reform. It needs to be kept as strong as possible.

What is needs-based reform? It is simple. If someone can reasonably repay some of their debts, they should. Does this mean the debtor cannot declare bankruptcy? Not at all. It only means that the debtor has to use Chapter 13 to repay some debt if he can afford to do it, rather than Chapter 7.

Let me make it clear. If someone is in Chapter 13, they are in bankruptcy. The needs-based test does not affect their ability to declare bankruptcy. The needs-based test asks can a person reasonably repay some of their debts while they are in bankruptcy.

How does the test determine what is reasonable? We do the obvious and compare the debtor's income with other debts and living expenses, and if the debtor has a little income and a lot of debt the needs-based test will not affect them.

For those who suffer catastrophic illness or lose their jobs or experience other catastrophic events, this reform will not affect them, but those who can afford to pay back their debt, it will affect them.

Many, unfortunately, are using the Bankruptcy Code for financial planning or mere convenience. It will affect upper-income individuals who declare bankruptcy not because they have to but because they want to. Even for these folks, they will still be able to declare bankruptcy but they will have to repay some of their debt, what they can.

This is such common sense that many Americans think this is already the way the bankruptcy system works,

but it does not work that way and that is why we are here today, to restore integrity and responsibility and common sense to the system.

Why should Americans care? Because bankruptcy will cost our Nation more than $50 billion in 1998 alone. That translates into over $550 for every household in higher costs for goods and services and credit. It hurts responsible consumers who pay the price in the form of higher costs for goods, services and credit.

Bankruptcies have increased about 400 percent since 1980. Last year there were more than 1.4 million filings. That is more than one bankruptcy in every 100 American households. This rate of increase is occurring not in the midst of a recession but during what are by all accounts great economic times. From 1986 to the present time, real per capita annual disposable income grew by over 13 percent but personal bankruptcies more than doubled.

We need to have this bankruptcy reform. We need the needs-based reform. We need to adopt this rule and get on with the bill today.

Mr. FROST. Madam Speaker, I yield 2½ minutes to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Madam Speaker, I have supported this bankruptcy legislation in the past. I believe that it is important to exercise personal responsibility. There have been some abuses of the system. While the bill was not perfect and needed further perfection, I thought it was generally in the right direction.

I am troubled about the bill, however, in its form today, because while most of the focus has been on individuals who did not engage in personal responsibility, there have also been instances in this country of corporate citizens who did not demonstrate any sense of responsibility. Indeed, since the consideration of this bill in the last session, I was particularly troubled by the problem of Dorothy Doyle.

I do not know Dorothy but I have read some of her plight. I know that she is not the only one who suffered from this situation. Dorothy is an 87-year-old widow, a retired Pentagon secretary, who required about $240 a day in nursing care because of her physical condition. Fortunately for her, her younger sister decided that there was a solution to her problems and that together they would purchase a continuing care living arrangement, and they did that.

They moved into the Park Regency Retirement Center out in Scottsdale, Arizona, and they invested a substantial amount of their life savings and received, in turn, a lifetime guarantee. Within 9 months of paying their entrance fees, they were faced with a meeting in the dining room at the Park Regency where the owner declared that he had lost a lot of money in his offshore investments and that he was filing for bankruptcy.

Well, Dorothy and her sister Creta, like a number of other seniors who have invested their lifetime savings in these facilities, of which there are some 2,700 across the country, found themselves in a situation where they had no good remedy.

□ 1200

They had advanced this money as an interest-free loan to get into the facility, their life's savings, and they were unsecured creditors.

So to address the plight of Dorothy and Creta and other seniors across the country, I advanced an amendment that simply says, let us treat them as priority creditors. Let us recognize that if someone has invested their life's savings in an effort to try to get the health care and the nursing care that they need in our society, that they deserve some protection also.

Unfortunately, the Committee on Rules decided to not make that amendment in order. Apparently responsibility does not apply to everyone, does not apply to such irresponsible corporate citizens. I would urge a vote against the rule.

Mr. FROST. Madam Speaker, I yield myself such time as I may consume.

(Mr. FROST asked and was given permission to revise and extend his remarks, and include extraneous material.)

Mr. FROST. Madam Speaker, I urge Members to vote no on the previous question. If the previous question is defeated, I will offer an amendment to the rule that will make in order two amendments.

The first amendment would be the Nadler/Jackson-Lee amendment, that addresses treatment of child support payments in bankruptcy.

The second amendment would be the Delahunt/LaFalce/Watt/Roybal-Allard amendment, which would disallow bankruptcy claims for consumer credit card debt if, at the time of solicitation to open an account, the debtor was not informed in writing of certain disclosure factors.

These amendments were offered in the Committee on Rules last night and, unfortunately, were defeated on a party-line vote. Madam Speaker, these are important amendments and deserve to be considered by the entire House.

Madam Speaker, this vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Republican majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's Precedents of the House of Representatives, (VI, 308–311) describes the vote on the previous question on the rule as "a motion to direct or control the consideration of the subject before the House being made by the Member in charge." To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1920, to the effect that "the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition" in order to offer an amendment. On March 15, 1909, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R-Illinois) said: "The previous question having been refused, the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition."

Because the vote today may look bad for the Republican majority they will say "the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution . . . [and] has no substantive legislative or policy implications whatsoever." But that is not what they have always said. Listen to the Republican Leadership Manual on the Legislative Process in the United States House of Representatives, (6th edition, page 135). Here's how the Republicans describe the previous question vote in their own manual:

> Although it is generally not possible to amend the rule because the majority Member controlling the time will not yield for the purpose of offering an amendment, the same result may be achieved by voting down the previous question on the rule . . . When the motion for the previous question is defeated, control of the time passes to the Member who led the opposition to ordering the previous question. That Member, because he then controls the time, may offer an amendment to the rule, or yield for the purpose of amendment."

Deschler's Procedure in the U.S. House of Representatives, the subchapter titled "Amending Special Rules" states: "a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate." (Chapter 21, section 21.2) Section 21.3 continues:

> Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon."

The vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Republican majority's agenda to offer an alternative plan.

Madam Speaker, I include for the RECORD the text of the amendment and extraneous materials.

The material referred to is as follows:

PREVIOUS QUESTION ON H. RES. 158—H.R. 833—BANKRUPTCY REFORM ACT

At the end of the resolution add the following new sections:

"Sec. 2. Notwithstanding any other provision of this resolution, it shall be in order to consider the amendments specified in section 3 of this resolution as though they were after the amendment numbered 11 in House Report 106–126. The amendment numbered 12 may be offered only by Representative Nadler or Representative Jackson-Lee or a designee and shall be debatable for 30 minutes. The amendment numbered 13 may be offered only be Representative Delahunt or Representative LaFalce or Representative Watt or Representative Roybal-Allard or a designee and shall be debatable for 40 minutes.

''Sec. 3. The amendments described in section 2 are as follows:

AMENDMENT TO H.R. 833, AS REPORTED; OFFERED BY MR. NADLER OF NEW YORK

Page 15, strike lines 18 and 19, and insert the following (and make such technical and conforming changes as may be appropriate):

not otherwise a dependent, but excludes—

''(A) payments to victims of war crimes or crimes against humanity; and

''(B) payments received in satisfaction of a domestic support obligation;'';

Beginning on page 81, strike line 15 and all that follows through line 10 on page 82 (and make such technical and conforming changes as may be appropriate).

Beginning on page 83, strike line 1 and all that follows through line 7 on page 84 (and make such technical and conforming changes as may be appropriate).

Beginning on page 86, strike line 1 and all that follows through line 7 on page 90, and insert the following (and make such technical and conforming changes as may be appropriate):

SEC. 140. DEFINITION OF DOMESTIC SUPPORT OBLIGATION.

Section 101 of title 11, United States Code, is amended—

(1) by striking paragraph (12A); and

(2) by inserting after paragraph (14) the following:

(14A) 'domestic support obligation' means a debt that accrues before or after the entry of an order for relief under this title that is—

''(A) owed to or recoverable by—

''(i) a spouse, former spouse, or child of the debtor or that child's legal guardian; or

''(ii) a governmental unit;

''(B) in the nature of alimony, maintenance, or support (including assistance provided by a governmental unit) of such spouse, former spouse, or child, without regard to whether such debt is expressly so designated;

''(C) established or subject to establishment before or after entry of an order for relief under this title, by reason of applicable provisions of—

''(i) a separation agreement, divorce decree, or property settlement agreement;

''(ii) an order of a court of record; or

''(iii) a determination made in accordance with applicable nonbankruptcy law by a governmental unit; and

''(D) not assigned to a nongovernmental entity, unless that obligation is assigned voluntarily by the spouse, former spouse, child, or parent solely for the purpose of collecting the debt.''.

SEC. 141. REQUIREMENTS TO OBTAIN CONFIRMATION AND DISCHARGE IN CASES INVOLVING DOMESTIC SUPPORT OBLIGATIONS.

Title 11, United States Code, is amended—

(1) in section 1129(a), by adding at the end the following:

''(14) If the debtor is required by a judicial or administrative order or statute to pay a domestic support obligation, the debtor has paid all amounts payable under such order or statute for such obligation that first become payable after the date on which the petition is filed.'';

(2) 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 or statute to pay a domestic support obligation, the debtor has paid all amounts payable under such order for such obligation that become payable after the date on which the petition is filed.''; and

(3) in section 1328(a) in the matter preceding paragraph (1), by inserting '', after a debtor who is required by a judicial or administrative order to pay a domestic support obligation certifies that all amounts payable under such order that are due on or after the date the petition was filed have been paid, and after a debtor who is required by a judicial or administrative order to pay a domestic support obligation, certifies that all amounts payable under such order that are due before the date on which the petition was filed if such amounts are due solely to a spouse, former spouse or child of the debtor or the parent of such child pursuant to a judicial or administrative order, unless the holder of such claim agrees to a different treatment of such claim'' after ''completion by the debtor of all payments under the plan''.

SEC. 142. EXCEPTIONS TO AUTOMATIC STAY IN DOMESTIC SUPPORT OBLIGATION PROCEEDINGS.

Section 362(b) of title 11, United States Code, as amended by sections 104 and 606, is amended—

(1) amending paragraph (2) to read as follows:

''(2) under subsection (a)—

''(A) of the commencement or continuation of an action or proceeding for—

''(i) the establishment of paternity as a part of an effort to collect domestic support obligations; or

''(ii) the establishment or modification of an order for domestic support obligations; or

''(B) the collection of a domestic support obligation from property that is not property of the estate; or

''(C) under subsection (a) of—

''(i) the withholding of income for payment of a domestic support obligation pursuant to a judicial or administrative order or statute for such obligation that first becomes payable after the date on which the petition is filed; or

''(ii) the withholding of income for payment of a domestic support obligation owed directly to the spouse, former spouse or child of the debtor or the parent of such child, pursuant to a judicial or administrative order or statute for such obligation that becomes payable before the date on which the petition is filed unless the court finds, after notice and hearing, that such withholding would render the plan infeasible;'';

(2) in paragraph (19), by striking ''or'' at the end;

(3) in paragraph (20), by striking the period at the end and inserting a semicolon; and

(4) by inserting after paragraph (20) the following:

''(21) under subsection (a) with respect to—

''(A) 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)(16) of the Social Security Act (42 U.S.C. 666(a)(16)) 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)) if such debt is payable solely to a spouse, former spouse or child of the debtor or the parent of such child pursuant to a judicial or administrative order or statute, unless the holder of such claim agrees to waive such withholding, suspension or restriction;

''(B) the interception of tax refunds, as specified in sections 464 and 466(a)(3) of the Social Security Act (42 U.S.C. 664 and 666(a)(3)) if such tax refund is payable solely to a spouse, former spouse or child of the debtor or the parent of such child pursuant to a judicial or administrative order or statute; or

''(C) the enforcement of medical obligations as specified under title IV of the Social Security Act (42 U.S.C. 601 et seq.).''.

SEC. 143. EXEMPTION FOR RIGHT TO RECEIVE CERTAIN ALIMONY, MAINTENANCE, OR SUPPORT.

Section 522(b)(3) of title 11, United States Code, as so redesignated and amended by sections 115 and 203, 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 inserting after subparagraph (D) the following:

''(E) the right to receive—

''(i) alimony, maintenance , support, or property traceable to alimony, maintenance , support; or

''(ii) amounts payable as a result of a property settlement agreement with the debtor's spouse or former spouse; or of an interlocutory or final divorce decree;

to the extent reasonably necessary for the support of the debtor or a dependent of the debtor.''.

SEC. 144. AUTOMATIC STAY INAPPLICABLE TO CERTAIN PROCEEDINGS AGAINST THE DEBTOR.

Section 362(b)(2) of title 11, United States Code, as amended by section 144, is amended—

(1) in subparagraph (A) by striking ''or'' at the end;

(2) by inserting after subparagraph (B) the following:

''(C) the commencement or continuation of a proceeding concerning a child custody or visitation;

''(D) the commencement or continuation of a proceeding alleging domestic violence; or

''(E) the commencement or continuation of a proceeding seeking a dissolution of marriage, except to the extent the proceeding concerns property of the estate;''.

SEC. 145. CERTAIN POSTDISCHARGE PAYMENTS HELD IN TRUST.

Section 523 of title 11, United States Code, is amended by adding at the end the following:

''(f) A creditor that receives a payment, or collects money or property, in satisfaction of all or part of any debt excepted from discharge under paragraphs (2) and (14A) of section 523(a) of this title shall hold such payment, such money, or such property in trust and, not later than 20 days after receiving such payment or collecting such money or property, shall distribute such payment, such money, or such property ratably to individuals who then hold debts in the nature of a domestic support obligation. Not later than 5 years after receiving such payment or collecting such money or property, such creditor shall make the distribution required by this section to all individuals whose identity is known to such creditor, or is reasonably ascertainable by such creditor, at the time of distribution.''.

AMENDMENT TO H.R. 833, AS REPORTED; OFFERED BY MR. DELAHUNT OF MASSACHUSETTS, MR. LAFALCE OF NEW YORK, MR. WATT OF NORTH CAROLINA, AND MS. ROYBAL-ALLARD OF CALIFORNIA

Page 101, after line 9, insert the following (and make such technical and conforming changes as may be appropriate):

SEC. 154. DISCOURAGING RECKLESS LENDING PRACTICES.

(a) LIMITING CLAIMS ARISING FROM IRRESPONSIBLE 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 for a consumer debt under an open end credit plan (as defined in section 103 of the Truth in Lending Act) and before incurring such debt under such plan the debtor was not informed in writing in a clear and conspicuous manner (or in the case of a worldwide web-based solicitation to open a credit card account under such plan, at the time of solicitation by the person making the solicitation to open such account)—

''(A) of the method of determining the required minimum payment amount, if a minimum payment is required that is different from the amount of any finance charge, and the charges or penalties, if any, which may be imposed for failure by the obligor to pay the required finance charge or minimum payment amount;

''(B) of repayment information that would apply to the outstanding balance of the consumer under the credit plan, including—

''(i) the required minimum monthly payment on that balance, represented as both a dollar figure and a percentage of that balance;

''(ii) the number of months (rounded to the nearest month) that it would take to pay the entire amount of that current balance if the consumer pays only the required minimum monthly payments and if no further advances are made;

''(iii) the total cost to the consumer, including interest and principal payments, of paying that balance in full if the consumer pays only the required minimum monthly payments and if no further advances are made; and

(iv) the following statement: 'If your current rate is a temporary introductory rate, your total costs may be higher.';

''(C) of the method for determining the required minimum payment amount to be paid for each billing cycle, and the charge or penalty, if any, to be imposed for any failure by the obligor to pay the required minimum payment amount;

''(D) of any charge that may be imposed due to the failure of the obligor to make payment on or before a required payment due date, the date that payment is due or, if different, the date on which a late payment fee will be charged, and that the terms and conditions of such charge will be stated prominently in a conspicuous location on each billing statement, together with the amount of the charge to be imposed if payment is made after such date;

''(E) in any application or solicitation for a credit card issued under such plan that offers, during an introductory period of less than 1 year, an annual percentage rate of interest that—

''(i) is less than the annual percentage rate of interest which will apply after the end of such introductory period, of such rate in a statement that includes the following: 'The annual percentage rate of interest applicable during the introductory period is not the annual percentage rate which will apply after the end of the introductory period. The permanent annual percentage rate will apply after [insert applicable date] and will be [insert applicable percentage rate].' ; or

''(ii) varies in accordance with an index, which is less than the current annual percentage rate under the index which will apply after the end of such period, of such rate in a statement that includes the following: 'The annual percentage rate of interest applicable during the introductory period is not the annual percentage rate which will apply after the end of the introductory period. The permanent annual percentage rate will be determined by an index and will apply after [insert date]. If the index which will apply after such date were applied to your account today, the annual percentage rate would be [insert applicable percentage rate].' ;

''(F) in the case of any credit card account issued under such plan, that a creditor may not impose a fee based on inactivity for the account during any period in which no advances are made if the obligor maintains any outstanding balance and is charged a finance charge applicable to such balance;

''(G) that a credit card may not be issued to or on behalf of, any individual who has not attained 21 years of age except in response to a written request or application to the card issuer to open a credit card account containing—

''(i) the signature of the parent or guardian of such individual indicating joint liability for debts incurred by such individual in connection with the account before such individual reaches the age of 21; or

''(ii) a submission by such individual of financial information indicating an independent means of repaying any obligation arising from the proposed extension of credit in connection with the account;

''(H) that no creditor may cancel an account, impose a minimum finance charge for any period (including any annual period), impose any fee in lieu of a minimum finance charge, or impose any other charge or penalty with regard to such account or credit extended under such account solely on the basis that any credit extended has been repaid in full before the end of any grace period applicable with respect to the extension of credit, but may impose a flat annual fee which may be imposed on the consumer in advance of any annual period to cover the cost of maintaining a credit card account during such annual period without regard to whether any credit is actually extended under such account during such period, or the actual finance charge applicable with respect to any credit extended under such account during such annual period at the annual percentage rate disclosed to the consumer in accordance with this title for the period of time any such credit is outstanding;

''(I) that no increase in any annual percentage rate of interest (other than an increase due to the expiration of any introductory percentage rate of interest or due solely to a change in another rate of interest to which such rate is indexed) applicable to any outstanding balance of credit under such plan may take effect before the beginning of the billing cycle which begins not less than 15 days after the obligor receives notice of such increase;

''(J) that if an obligor referred to in subparagraph (I) cancels the credit card account before the beginning of the billing cycle referred to in such paragraph—

''(i) an annual percentage rate of interest applicable after the cancellation with respect to such outstanding balance on such account as of the date of cancellation may not exceed any annual percentage rate of interest applicable with respect to such balance under the terms and conditions in effect before the increase referred to in subparagraph (I); and

''(ii) the repayment of such outstanding balance after the cancellation shall be subject to all other terms and conditions applicable with respect to such account before the increase referred to in such paragraph;

''(K) that obligor has the right—

''(i) to cancel the account before the effective date of the increase; and

''(ii) after such cancellation, to pay any balance outstanding on such account at the time of cancellation in accordance with the terms and conditions in effect before the cancellation;

''(L) that a creditor may not provide the obligor with any negotiable or transferable instrument for use in making an extension of credit to the obligor for the purpose of making a transfer to a third party, unless the creditor has with respect to such instrument provided to an obligor, at the same time any such instrument is provided, a notice which prominently and specifically describes—

''(i) the amount of any transaction fee which may be imposed for making an extension of credit through the use of such instrument, including the exact percentage rate to be used in determining such amount if the amount of the transaction fee is expressed as a percentage of the amount of the credit extended; and

''(ii) any annual percentage rate of interest applicable in determining the finance charge for any such extension of credit, if different from the finance charge applicable to other extensions of credit under such account; and

''(M) that a creditor may not impose any fees on the obligor for any extension of credit in excess of the amount of credit authorized to be extended with respect to such account if the extension of credit is made in connection with a credit transaction which the creditor approves in advance or at the time of the transaction.''.

(b) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (9) the following:

''(9A) 'credit card' includes any dual purpose or multifunction card, including a stored-value card, debit card, check card, check guarantee card, or purchase-price discount card, that is connected with an open end credit plan (as defined in section 103 of the Truth in Lending Act) and can be used, either on issuance or upon later activation, to obtain credit directly or indirectly;''.

Madam Speaker, I urge Members to vote no on the previous question so we may add these amendments, and I yield back the balance of my time.

Mr. SESSIONS. Madam Speaker, I yield the balance of my time to the gentleman from California (Mr. DREIER), the chairman of the Committee on Rules, to close debate.

The SPEAKER pro tempore (Mrs. EMERSON). The gentleman from California (Mr. DREIER) is recognized for 1½ minutes.

(Mr. DREIER asked and was given permission to revise and extend his remarks.)

Mr. DREIER. Madam Speaker, I thank my friend, the gentleman from Texas, for yielding time to me. I want to congratulate him on the fine job that he has done in working out this rule, which, as he said and as others have said, is a very fair and balanced rule dealing with the minority's concerns.

I look at my friend, the gentleman from Michigan (Mr. CONYERS) here, and I was pleased we were able to make one of his amendments in order. It is among the seven Democratic amendments, including an amendment in the nature of a substitute to be offered by the gentleman from New York (Mr. NADLER), and it is basically a 7-to-3 ratio.

And then there is a bipartisan amendment that will be offered by the chairman and ranking minority member of the Committee on the Judiciary, and two additional Democratic amendments submitted were accommodated

in the manager's amendment. So that stresses the fairness of it.

What we tried to do, and I believe have done successfully in crafting this rule, is we have not made in order amendments that are singling out one or two industries or interest groups simply to score political points. Basically, the bill provides comprehensive bankruptcy reform, and allows individuals and businesses very broad protection to reorganize so that their creditors are protected.

Enactment of the bill will greatly reduce abuses of the bankruptcy system. By providing predictable standards to be used in bankruptcy proceedings, it will be reducing frivolous litigation in which debtors gamble on the uncertainty in the current system. This will dramatically reduce the cost of credit for all Americans.

It is a very good rule, fair to everyone concerned, and I believe the measure itself is worthy of a very strong bipartisan vote of support. I look forward to consideration of that.

Mr. SESSIONS. Madam Speaker, I move the previous question on the resolution.

The SPEAKER pro tempore (Mrs. EMERSON). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. SESSIONS. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to five minutes the time for electronic voting, if ordered, on the question of agreeing to the resolution.

The vote was taken by electronic device, and there were—yeas 227, nays 190, not voting 16, as follows:

[Roll No. 109]

YEAS—227

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Biggert
Bilbray
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boucher
Boyd
Brady (TX)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Cramer
Crane
Cubin
Cunningham
Davis (VA)
Deal
DeLay
DeMint
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Eshoo
Everett
Ewing
Fletcher
Foley
Forbes
Fossella
Fowler
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Green (WI)
Greenwood
Gutknecht
Hansen
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (MT)
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Isakson
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones (NC)
Kasich
Kelly
King (NY)
Kingston
Kleczka
Knollenberg
Kolbe
Kuykendall
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Miller, Gary
Moran (KS)
Moran (VA)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Ose
Oxley
Packard
Paul
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Reynolds
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Royce
Ryan (WI)
Ryun (KS)
Salmon
Sanford
Saxton
Scarborough
Schaffer
Schakowsky
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Spence
Stearns
Stump
Sununu
Sweeney
Talent
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Toomey
Traficant
Upton
Velazquez
Walden
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Young (AK)

NAYS—190

Abercrombie
Ackerman
Allen
Andrews
Baird
Baldacci
Baldwin
Barrett (WI)
Bentsen
Berkley
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Crowley
Cummings
Danner
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gejdenson
Gephardt
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (OH)
Hall (TX)
Hastings (FL)
Hill (IN)
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Hooley
Hoyer
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind (WI)
Klink
Kucinich
LaFalce
Lampson
Lantos
Larson
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Luther
Maloney (CT)
Maloney (NY)
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Minge
Mink
Moakley
Moore
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Phelps
Pickett
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Scott
Serrano
Sherman
Shows
Sisisky
Skelton
Smith (WA)
Snyder
Spratt
Stabenow
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Vento
Visclosky
Waters
Watt (NC)
Weiner
Wexler
Weygand
Wise
Woolsey
Wu

NOT VOTING—16

Becerra
Berman
Bliley
Brown (CA)
Carson
Davis (FL)
Istook
Mollohan
Simpson
Slaughter
Tiahrt
Watkins
Watts (OK)
Waxman
Wynn
Young (FL)

□ 1222

Messrs. HALL of Ohio, HOLDEN and BALDACCI changed their vote from ''yea'' to ''nay.''

Mr. ROTHMAN changed his vote from ''nay'' to ''yea.''

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mrs. EMERSON). The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO HAVE UNTIL MIDNIGHT FRIDAY, MAY 7, 1999, TO FILE REPORT ON H.R. 775, YEAR 2000 READINESS AND RESPONSIBILITY ACT

Mr. GEKAS. Madam Speaker, I ask unanimous consent that the Committee on the Judiciary have until midnight Friday, May 7, 1999, to file the report on the bill, H.R. 775, to establish certain procedures for civil actions brought for damages relating to the failure of any device or system to process or otherwise deal with the transition from the year 1999 to the year 2000, and for other purposes.

The minority has agreed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

GENERAL LEAVE

Mr. GEKAS. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and that I may be permitted to include extraneous material on the bill, H.R. 833.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

NORTHWEST OHIO WATERSHEDS GIVEN HELP THROUGH ASSISTANCE OF CONGRESSMAN ROBERT BORSKI

(Ms. KAPTUR asked and was given permission to address the House for 1 minute.)

Ms. KAPTUR. Madam Speaker, I wish to state for the RECORD my sincere appreciation to the gentleman from Pennsylvania (Mr. BORSKI) for the enormous assistance he provided our community during the consideration of the water resources bill last week.

When we were on the floor, I did not have an opportunity to place it formally in the RECORD, but I would say that without his help, Northwestern Ohio would not have received the consideration that was placed in that bill, and I wish to acknowledge and deeply thank him for the help that he gave us. Without his assistance, our watersheds would have been given no attention, and I thank him very much.

□ 1230

BANKRUPTCY REFORM ACT OF 1999

The SPEAKER pro tempore (Mrs. EMERSON). Pursuant to House Resolution 158 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 833.

□ 1230

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 833) to amend title 11 of the United States Code, and for further purposes, with Mr. NETHERCUTT in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Pennsylvania (Mr. GEKAS) and the gentleman from Michigan (Mr. CONYERS) each will control 30 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. GEKAS).

Mr. GEKAS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Constitution of the United States guarantees that bankruptcy shall be available to the citizens of our Nation. Accordingly, Congresses, ever since the first moment of our new land, have incorporated into their work special provisions to accommodate those individuals who find themselves totally engulfed by debt rather than to submit them to the prison dungeons that were the plight of people previously prior to the United States.

We, our enlightened forefathers, saw fit to allow the Congress to evolve in a situation in which a fresh start would be accorded to an ordinary citizen who cannot meet his obligations; and that is where we are here today.

We, in a long line of congressional action, re-guarantee the fresh start to individuals who become so engulfed in debt that there is no other way except for the Government to discharge their obligations and to allow them to start all over again. We guarantee that in this bill.

But to balance that situation, we also provide in this bill a mechanism whereby if those individuals who file for bankruptcy can, after a careful screening, be placed in a situation where they could repay some of the debt over a period of years, then this bill accommodates that and allows people to be moved from Chapter 7, where they would have gotten that fresh start automatically, to Chapter 13, where they must work through a plan for repayment of some of the debt over a period of time.

Now, here is the thing that we must make clear to the opponents of bankruptcy reform and to the people of our country. We are talking about a dividing line caused by the median income. We provide that the median income shall be the dividing line.

In other words, people under the median income in our country who apply for bankruptcy almost certainly will be accorded almost automatically the fresh start which their financial circumstances dictate. But we also said that if the income is over the median income, then that set of financial circumstances should be more closely scrutinized to determine if any money can be repaid to this debt that has been accumulated. That is a very balanced and a fair way to approach the economic system of our Nation.

And what is that median income? We are talking about a median income of $51,000 for a family of four is the starting point. So if an individual with four people in the family is earning $30,000 or $40,000 or $50,000, that fresh start is guaranteed. But if they are earning $55,000, $60,000, $80,000, $100,000 or beyond, then that set of finances has to be looked at more closely under the provisions of our bill to see if anything should be used for repayment of some of the debt. That is fair. That is proper.

The more we do that, the less burden the rest of the taxpayers have to bear. Because the taxpayers have to pick up the slack. Consumers at the retail outlets, at the supermarkets, have to pay more. Interest rates go up, etc. The more we are able to recoup some of the debt from the high-income people, the less the burden will be on the rest of the public.

That is what the clear message is of the bankruptcy reform legislation which we have before the House today. I ask for an overwhelming vote in support of the underlying bill.

Mr. Chairman, I include for the RECORD the following letters:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON COMMERCE,
Washington, DC, May 3, 1999.

Hon. HENRY HYDE,
Chairman, Committee on the Judiciary, Rayburn House Office Building, Washington, DC.

DEAR HENRY: I am writing with regard to H.R. 833, the Bankruptcy Reform Act of 1999. As you know, the regulation of securities and exchanges is a matter committed to the jurisdiction of the Committee on Commerce pursuant to Rule X of the Rules of the House of Representatives.

Section 1011 of H.R. 833, as ordered reported (''SIPC Stay''), amends the Securities Investor Protection Act of 1970 (P.L. 91–598), a statute within the jurisdiction of the Committee on Commerce. As you will recall, this provision was originally contained in the Financial Contract Netting Improvement Act of 1998, introduced in the 105th Congress as H.R. 4393 and on which the Committee on Commerce received an additional referral of the bill upon its introduction, as did the Committee on the Judiciary.

Because of the importance of this legislation, I recognize your desire to bring it before the House in an expeditious manner, and I will not exercise the Committee's right to a sequential referral. By agreeing to waive its consideration of the bill, however, the Commerce Committee does not waive its jurisdiction over H.R. 833. In addition, the Commerce Committee reserves its authority to seek conferees on any provisions of the bill that are within its jurisdiction during any House-Senate conference that may be convened on this legislation. I ask for your commitment to support any request by the Commerce Committee for conferees on H.R. 833 or similar legislation.

I request that you include this letter and your response as part of the RECORD during consideration of the legislation on the House floor.

Thank you for your attention to these matters. I remain,

Sincerely,

TOM BLILEY,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC, May 3, 1999.

Hon. TOM BLILEY,
Chairman, Committee on Commerce, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR TOM: Thank you for your letter regarding your Committee's jurisdictional interest in H.R. 833, the Bankruptcy Reform Act of 1999.

I acknowledge your committee's jurisdiction over section 1011 (''SIPC Stay'') of this legislation and appreciate your cooperation in moving the bill to the House floor expeditiously. I agree that your decision to forgo further action on the bill will not prejudice the Commerce Committee with respect to its jurisdictional prerogatives on this or similar provisions, and will support your request for conferees on those provisions within the Committee on the Commerce's jurisdiction should they be the subject of a House-Senate conference. I will also include a copy of your letter and this response in the CONGRESSIONAL RECORD when the legislation is considered by the House.

Thank you again for your cooperation.

Sincerely,

HENRY J. HYDE,
Chairman.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 5, 1999.

Hon. HENRY J. HYDE,
Chairman, Committee on the Judiciary, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 833, the Bankruptcy Reform Act of 1999.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Susanne S. Mehlman (for federal costs), who can be reached at 226–2860, Lisa Cash Driskill (for the state and local impact), who can be reached at 225–3220, and John Harris (for the private-sector impact), who can be reached at 226–6910.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE, MAY 5, 1999

H.R. 833: BANKRUPTCY REFORM ACT OF 1999

(As reported by the House Committee on the Judiciary on April 28, 1999)

SUMMARY

H.R. 833 would make many changes and additions to the laws relating to bankruptcy, including establishing a system of means-testing for determining eligibility for relief under chapter 7 of the U.S. bankruptcy code. CBO estimates that implementing H.R. 833 would cost $333 million over the 2000–2004 period—$322 million in discretionary spending, subject to appropriation of the necessary funds, and $11 million in mandatory spending. CBO also estimates that enacting this bill would decrease receipts by about $4 million over the next five years. Because the bill would affect direct spending and governmental receipts, pay-as-you-go procedures would apply. Provisions in title VIII also would affect receipts, but the Joint Committee on Taxation (JCT) has not completed an estimate of such changes at this time.

H.R. 833 contains an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA), but its costs would be insignificant and would not exceed the threshold established in that act ($50 million in 1996, adjusted annually for inflation). Overall, CBO expects that enacting this bill would benefit state and local governments by enhancing their ability to collect outstanding obligations in bankruptcy cases.

H.R. 833 would impose new private-sector mandates, as defined in UMRA, on bankruptcy attorneys, creditors, and credit and charge-card companies. CBO estimates that the costs of these mandates would exceed the $100 million (in 1996 dollars) threshold established in UMRA.

DESCRIPTION OF THE BILL'S MAJOR PROVISIONS

In addition to establishing means-testing for determining eligibility for chapter 7 bankruptcy relief, H.R. 833 would: Require the Executive Office for the United States Trustees (U.S. Trustees) to establish a test program to educate debtors on financial management; authorize 18 new temporary judgeships and extend five existing judgeships in 19 federal districts; permit courts to waive chapter 7 filing fees and other fees for debtors who could not pay such fees in installments; require that at least one out of every 250 bankruptcy cases under chapter 13 or chapter 7 be audited by an independent certified public accountant; exempt chapter 11 debtors from having to pay certain fees in connection with their bankruptcy cases; require the Administrative Office of the United States Courts (AOUSC) to receive and maintain tax returns for all chapter 7 and chapter 13 debtors; and require the AOUSC and the U.S. Trustees to collect and publish certain statistics on bankruptcy cases.

Other provisions would make various changes affecting the bankruptcy provisions for municipalities and the treatment of tax liabilities in bankruptcy cases.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

As shown in the following table, CBO estimates that implementing H.R. 833 would cost the courts, the AOUSC, and the U.S. Trustees $24 million in fiscal year 2000 and $322 million over the 2000–2004 period, subject to appropriation of the necessary funds. In addition, we estimate that mandatory spending for the salaries and benefits of bankruptcy judges would increase by less than $500,000 in 2000 and $11 million over the 2000–2004 period. Enacting the means-testing and fee waiver provisions in title I would result in a net loss in revenues of about $4 million over the next five years. The costs of this legislation fall within budget function 750 (administration of justice).

	By fiscal year, in millions of dollars—				
	2000	2001	2002	2003	2004
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Means-Testing (Section 102):					
Estimated Authorization Level	4	8	8	8	7
Estimated Outlays	4	8	8	8	7
Debtor Financial Management Training (Section 104):					
Estimated Authorization Level	4	0	0	0	0
Estimated Outlays	1	3	0	0	0
Additional Judgeships—Support Costs (Section 128):					
Estimated Authorization Level	(1)	6	11	11	12
Estimated Outlays	(1)	6	11	11	12
Chapter 7 Filing Fee Waivers (Section 148):					
Estimated Authorization Level	2	5	8	13	13
Estimated Outlays	2	5	8	13	13
Credit Counseling Certification (Section 302):					
Estimated Authorization Level	4	3	3	4	4
Estimated Outlays	2	4	3	4	4
U.S. Trustee Site Visits (Section 410):					
Estimated Authorization Level	3	2	2	2	3
Estimated Outlays	1	4	2	2	3
Audit Procedures (Section 602):					
Estimated Authorization Level	0	6	15	18	19
Estimated Outlays	0	6	15	18	19
Maintenance of Tax Returns (Section 603):					
Estimated Authorization Level	3	6	7	9	9
Estimated Outlays	3	6	7	9	9
Elimination of Quarterly Filing Fees (Section 608):					
Estimated Authorization Level	10	10	10	10	10
Estimated Outlays	10	10	10	10	10
GAO and SBA Studies (Sections 609, 613, 414):					
Estimated Authorization Level	1	(1)	0	0	0
Estimated Outlays	1	(1)	0	0	0
Compiling and Publishing Data (Sections 701–702):					
Estimated Authorization Level	0	5	9	8	8
Estimated Outlays	0	5	9	8	8
Total Discretionary Changes:					
Estimated Authorization Level	31	51	73	83	85
Estimated Outlays	24	57	73	83	85
CHANGES IN DIRECT SPENDING					
Additional Judgeships (Section 128):					
Estimated Budget Authority	(1)	2	3	3	3
Estimated Outlays	(1)	2	3	3	3
CHANGES IN REVENUES [2]					
Changes in Filing Fees (Section 102): Estimated Revenues	0	0	(1)	1	1
Chapter 7 Filing Fee Waivers (Section 148): Estimated Revenues	(1)	−1	−1	−2	−2
Total Revenue Changes: Estimated Revenues	(1)	−1	−1	−1	−1

[1] Less than $500,000.
[2] The Joint Committee on Taxation has not yet completed its review of tax provisions in title VIII.

BASIS OF ESTIMATE

For purposes of this estimate, CBO assumes that H.R. 833 will be enacted by October 1, 1999, and that all estimated authorization amounts will be appropriated for each fiscal year.

Spending Subject to Appropriation. Most of the estimated increases in discretionary spending would be required to fund the additional workload that would be imposed on the U.S. Trustees. Currently, the U.S. Trustees are funded through the bankruptcy-related fees collected by the courts. Without additional statutory authority, these fees

cannot be increased to cover any expenditures or loss of offsetting collections that would occur under the bill. Because the legislation does not provide for such increases in fees, any additional costs would be subject to the availability of appropriated funds.

Means-Testing (Section 102). This section would establish a system of means-testing for determining a debtor's eligibility for relief under chapter 7. Only those debtors whose income exceeds the regional median household income with certain adjustments would be subject to the means test. Under the means test, if the debtor is expected to have at least $6,000 over five years (after the deduction of certain allowable expenses) available to pay nonpriority unsecured claims, then the debtor would be presumed ineligible for chapter 7 relief. A debtor who could not demonstrate ''extraordinary circumstances,'' which would cause the expected disposable income to fall below the threshold, could file under other chapters of the bankruptcy code.

Although the private trustees would be responsible for conducting the initial review of a debtor's income and expenses and filing the majority of motions for dismissal or conversion, CBO expects that the workload of the U.S. Trustees would increase under the means-testing provisions. The U.S. Trustees would provide increased oversight of the work performed by the private trustees, file additional motions for dismissal or conversions, and take part in additional litigation that is expected to occur as the courts and debtors debate allowable expenses and other related issues. Although CBO cannot predict the amount of such litigation, we expect that, during the first few years following enactment of the bill, the amount of litigation could be significant, as parties test the new law's standards. In subsequent years, litigation could begin to subside as precedents are established. Based on information from the U.S. Trustees, CBO estimates that the U.S. Trustees would require about 60 additional attorneys and analysts to address the increased workload. As a result, CBO estimates that appropriations of $35 million would be required over the next five years.

Debtor Financial Management Test Training Program (Section 104). This section would require the U.S. Trustees to establish a test training program to educate debtors on financial management. Based on information from the U.S. Trustees, CBO estimates that about 90,000 debtors would participate if such a program were administered by the U.S. Trustees in fiscal year 2001. At a projected cost of about $40 per debtor, CBO estimates that the U.S. Trustees would require an appropriation of about $4 million in 2000 to administer the program.

Addtional Judgeships—Support Costs (Section 128). This provision would extend five temporary bankruptcy judgeships and authorize 18 new temporary bankruptcy judgeships for 19 federal judicial districts. Based on information from the AOUSC, CBO assumes that one-half of the 18 new positions would be filled by the beginning of fiscal year 2001 and the other half would be filled by the start of fiscal year 2002. Also, we anticipate that all five temporary judgeships would be filled by fiscal year 2002. We expect that discretionary expenditures associated with each judgeship would average about $450,000 (in 2000 dollars), after initial costs of about $50,000. Therefore, CBO estimates that the administrative support of additional bankruptcy judges would require an appropriation of less than $500,000 in fiscal year 2000 and about $40 million over the 2000-2004 period. (Salaries and benefits for the judges are classified as mandatory spending, and those costs are described below.)

Chapter 7 Filing Fee Waivers (Section 148). This section would permit a bankruptcy court or district court to waive the chapter 7 filing fee and other fees for a debtor who is unable to pay such fees in installments. Based on information from the AOUSC, CBO expects that in fiscal year 2000 chapter 7 filing fees would be waived for about 3.5 percent of all chapter 7 filers and that the percentage waived would gradually increase to about 10 percent by fiscal year 2003. The filing fee for a chapter 7 case is $130, and income from this fee appears in two different places in the budget. Of the $130, $70 is recorded as part of the offsetting collections to the U.S. Trustee System Fund and to the AOUSC, and $15 is recorded as governmental receipts (i.e., revenues). the remaining $45 is paid to the private trustee assigned to the case and does not affect the federal budget. The AOUSC also collects an additional $30 million in miscellaneous fees with each chapter 7 filing. Taking into account how means-testing would reduce filing rates under chapter 7, CBO estimates that implementing this section would result in a loss in offsetting collections totaling $41 million over the 2000-2004 period. The loss of offsetting collections would reduce the amount available for spending by the U.S. Trustees and the AOUSC. Because this loss of fees would not be matched by a reduction in workload, additional appropriations would be required to replaced this projected loss.

Credit Counseling Certification (Section 302). This section would require the U.S. Trustees to certify, on an annual basis, that certain credit counseling services could provide adequate services to potential debtors. Based on information from the U.S. Trustees, CBO estimates that the U.S. Trustees would require additional attorneys and analysts to handle the additional workload associated with certification. CBO estimates that enacting this provision would require appropriations of $18 million over the next five years.

U.S. Trustee Site Visits in Chapter 11 Cases (Section 410). This section would expand the responsibilities of the U.S. Trustees in small business bankruptcy cases to include site visits to inspect the debtor's premises, review records, and verify that the debtor has filed tax returns. Based on information from the U.S. Trustees, CBO estimates that implementing section 410 would require about 20 additional analysts to conduct over 2,300 site visits each year. CBO estimates that the U.S. Trustees would require appropriations of about $12 million over the next five years for the salaries, benefits, and travel expenses associated with these additional personnel.

Audit Procedures (Section 602). Beginning 18 months after enactment, H.R. 833 would require that at least one out of every 250 bankruptcy cases under chapter 7 and chapter 13, plus other selected cases under those chapters, be audited by an independent certified public accountant. Based on information from the U.S. Trustees, CBO estimates that about 1.3 million cases would be subject to audits in fiscal year 2001, increasing to about 1.8 million in fiscal year 2004. CBO assumes that about 0.8 percent of all cases would be audited and that each audit would cost about $1,000 (in 2000 dollars.) CBO also expects that the U.S. Trustees would need about 10 additional analysts and attorneys to support the follow-up work associated with the audits. Thus, we estimate that implementing this provision would require appropriations of $6 million in fiscal year 2001 and $58 million over the 2000–2004 period.

Maintenance of Tax Returns (Section 603). This section would require the AOUSC to receive and retain tax returns for the three most recent years preceding the commencement of the bankruptcy case for all chapter 7 and chapter 13 debtors (about 8 million debtors over the 2004–2004 period). CBO estimates that appropriations of $34 million over the next five years would be required to store and provide access to over 20 million tax returns.

Elimination of Quarterly Filing Fees (Section 608). This section would require chapter 11 debtors whose disbursements are less than $300,000 to pay quarterly fees only until their case is converted or their plan is confirmed (whichever occurs first), beginning on October 1, 1999. Currently, these debtors pay quarterly fees even after their plan has been confirmed. These fees are recorded as offsetting collections to the U.S. Trustee System Fund and are available for spending from that account. According to the U.S. Trustees, about 4,000 cases would be affected by this provision each year and, on average, the government collects about $650 per quarter per case each year. Thus, by shortening the period during which fees are paid, the bill would reduce annual fee collections by about $10 million annually. Because this loss of offsetting collections would reduce the amount available for spending by the U.S. Trustees (for overall supervision and administration of bankruptcy cases), CBO estimates that the U.S. Trustees would require an appropriation of $10 million in fiscal year 2000 and $50 million over the next five years to compensate for the loss of quarterly filing fees.

General Accounting Office (GAO) and Small Business Administration (SBA) Studies (Sections 609, 613, and 414). Section 609 would require GAO to conduct a study regarding the impact that the extension of credit to dependents who are enrolled in postsecondary educational institutions has on bankruptcy filing rates. Section 613 would require GAO to conduct a study regarding the feasibility of requiring trustees to provide the Office of Child Support Enforcement information about outstanding child support obligations of debtors. Section 414 would require the Administrator of SBA, in consultation with the Attorney General, the U.S. Trustees, and the AOUSC, to conduct a study on small business bankruptcy issues. Based on information from GAO and SBA, CBO estimates that completing the necessary studies would cost between $500,000 and $1 million in 2000, and less than $500,000 in 2001.

Compilation and Publication of Bankruptcy Data and Statistics (Sections 701–702). H.R. 833 would require the AOUSC to collect data on chapter 7, chapter 11, and chapter 13 cases and the U.S. Trustees to make such information available to the public. CBO estimates that appropriations of about $30 million would be required over the 2000–2004 period to meet these requirements. Of the total estimated cost, about $24 million would be required for additional legal clerks, analysts, and data base support. The remainder would be incurred by the U.S. Trustees for compiling data and providing Internet access to records pertaining to bankruptcy cases.

Direct Spending and Revenues

Additional Judgeships (Section 128). CBO estimates that enacting the means-testing provision (section 102) would impose some additional workload on the courts. Section 128 would authorize 18 new temporary bankruptcy judgeships and extend five existing temporary judgeships. Based on information from the AOUSC and other bankruptcy experts, CBO expects that the increase in the number of bankruptcy judges would be sufficient to meet the increased workload. Assuming that the salary and benefits of a bankruptcy judge would average about $150,000 a year, CBO estimates that the mandatory costs associated with the salaries and benefits of these additional judgeships would be less than $500,000 in fiscal year 2000 and about $11 million over the 2000–2004 period.

Changes in Filing Fees (Section 102). The means-testing provision also could affect the

government's income from bankruptcy filing fees because it would cause changes in the number and type of bankruptcy filings. CBO projects that about 5 to 10 percent of all chapter 7 debtors (about 50,000 to 100,000 cases each year) could be subject to the means test proposed under this bill. CBO expects that those debtors who are not successful in proving ''extraordinary circumstance'' will either convert their cases to chapter 13 cases or withdraw their petitions for bankruptcy relief. Under either of these options, CBO estimates that there would be no significant effect on the federal budget because there is no fee for converting a case from chapter 7 to chapter 13, and filing fees are not refunded to debtors who withdraw their petitions for bankruptcy relief. Over the long term, CBO estimates that the federal government could collect additional revenues as more debtors file directly under chapter 13. (The government collects an additional $45 for each case filed under chapter 13 instead of chapter 7.) This increase could be partly offset by those debtors who might refrain from filing for any type of bankruptcy relief. On balance, CBO estimates that the means-testing provision would increase revenues by about $1 million beginning in 2003. This provision would have no effect on offsetting collections because there is no difference in the amount of offsetting collections collected under either chapter 7 or chapter 13, and any loss in collections would be matched by a reduction in workload.

Chapter 7 Filing Fee Waivers (Section 148). As mentioned above, this section would permit a bankruptcy court or the district court to waiver the chapter 7 filing fee and other fees for a debtor who is unable to pay such fees in installments. For each chapter 7 case filed, the federal government collects $15. Taking into account the means-testing provision and the amount of expected waivers, CBO estimates that implementing this section would result in a loss in revenues of $1 million to $2 million a year beginning in fiscal year 2001.

CBO estimates that the net effect on revenues of implementing the meanstesting and fee waiver provisions would be a loss of about $1 million annually beginning in fiscal year 2001.

Tax Provisions (Title VIII). The provisions in title VIII of the bill are currently under review by the Joint Committee on Taxation, and estimates of their effects on revenues will be provided when they are completed.

PAY-AS-YOU-GO CONSIDERATIONS

The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. Both the means-testing and waiver of fees would affect receipts; hence, pay-as-you-go procedures would apply. The net changes in outlays and governmental receipts are show in the following table. (JCT is reviewing title VIII and has not yet completed an estimate of its effects on receipts.) For the purposes of enforcing pay-as-you-go procedures, only the effects in the current year, the budget year, and the succeeding four years are counted.

	By fiscal year, in million of dollars—										
	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Changes in outlays	0	0	2	3	3	3	3	3	3	2	2
Changes in receipts[1]	0	0	−1	−1	−1	−1	−1	−1	−1	−1	−1

[1] Estimated impact of means-testing and waiver of fees. JCT has not completed an estimate of changes in receipts for title VIII.

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

H.R. 833 contains an intergovernmental mandate as defined in UMRA. Overall, CBO expects that enacting this bill would benefit state and local governments by enhancing their ability to collect outstanding obligations in bankruptcy cases.

Mandates. Section 106 of the bill would preempt state laws governing contracts between a debt relief agency and a debtor, to the extent that they are inconsistent with the federal requirements set forth in this bill. Such preemptions are mandates as defined in UMRA. Because the preemption would not require states to change their laws, CBO estimates the costs to states of complying with that mandate would not be significant and would not exceed the threshold established in UMRA.

Other Impacts. The changes to bankruptcy law in the bill would affect state and local governments primarily as creditors and holders of claims for taxes or child support. In addition, it would change some of the state statutes that govern which of a debtor's assets are protected from creditors in a bankruptcy proceeding.

In 1996, a survey of the 50 states conducted by the Federation of Tax Administrators and the States' Association of Bankruptcy Attorneys indicated that more than 360,000 taxpayers in bankruptcy owed claims to states totaling about $4 billion. Of these claims, states reported collecting only about $234 million. While CBO cannot predict how much more money might be collected, it is likely that states and local governments would collect a greater share of future claims than they would have under current law.

Exemptions. Although bankruptcy is regulated according to federal statute, states are allowed to provide debtors with certain exemptions for property, insurance, and other items that are different from those allowed under the federal bankruptcy code. (Exempt property remains in possession of the debtor and is not available to pay off creditors.) In some states debtors can choose the federal or state exemption; other states require a debtor to use only the state exemptions. This bill would place a ceiling of $250,000 on the exemptions for homesteads and create a new exemption for certain retirement funds and education savings plans. These exemption standards would apply regardless of the state policy on exemptions. The new homestead exemption would make more money available to creditors in some cases, while the exemptions on retirement and education savings generally would make less money available. States would be allowed to set the homestead exemption above the federal ceiling if they specifically enacted legislation doing so.

Domestic Support Obligations. The bill would significantly enhance a state's ability to collect domestic support obligations, including child support. Domestic support obligations owed to state or local governments would be given priority over all other claims, except those same obligations owned to individuals. The bill also would require that filers under chapters 11 and 13 pay in full all domestic support obligations owed to government agencies or individuals in order to receive a discharge of outstanding debts. In addition, the automatic stay that is triggered by filing bankruptcy would not apply to domestic support obligations. Last, the bill would require bankruptcy trustees to notify individuals with domestic support claims of their right to use the services of a state child support enforcement agency and notify the agency that they have done so. The last known address of the debtors would be a part of the notification.

Tax Payment Plans. The bill would require that payment plans for tax liabilities be limited to six years and that payment amounts be regular and proportionate to payments for other obligations. Under current law, taxing authorities sometimes face payment plans that include a series of small payments followed by a large balloon payment near the end of the planned payment stream. At that point, the debtors often fail to complete their payments. This provision would require that taxes be paid at a rate proportionate to those of other debts. It also would establish interest rates to be applied to outstanding tax liabilities. Under current law, any interest charges on outstanding tax liabilities are determined at the discretion of the bankruptcy judge.

Time Limits on Tax Collection. Under some circumstances, a tax claim can qualify for priority status, and thus a state and local government would be more likely to collect the debt. However, this status is granted only if tax is assessed within a specific period of time from the date of the filing for bankruptcy. If that filing is subsequently dismissed and a new filing is made, the tax claim may lose its priority status. The bill would allow more time to pass in some circumstances, thus increasing the likelihood that state or local tax claims would maintain their priority status.

Taxes and Administrative Expenses. Under current law, certain expenses can be paid out of funds that would otherwise be available to pay tax liens on property. The bill would restrict the use of funds for administrative expenses to a limited number of circumstances, thereby making it more likely that funds would remain available to cover tax obligations.

Tax Return Filing and Government Notification. A number of provisions in the bill would require debtors to have filed tax returns, and in some cases to be current in their tax payments, before a bankruptcy case may continue. Also, debtors would be required to provide notice to state authorities in a specific manner when they pursue relief under bankruptcy law. These provisions would help states identify potential claims in bankruptcy cases where they may be owed delinquent taxes.

Priority of Payments. In some circumstances, debtors have borrowed money or incurred some new obligation that is dischargeable (able to be written-off at the end of bankruptcy) to pay for an obligation would not be dischargeable. This bill would give the new debt the same priority as the underlying debt. If the underlying debt had a priority higher than that of state or local tax liabilities, state and local governments could lose access to some funds. However, it is possible that the underlying debt could be for a tax claim, in which case the taxing authority would face no loss. Because it is unclear what types of nondischargeable are covered by new debt and the degree to which this new provision would discourage such activity, CBO can estimate neither the direction nor the magnitude of the provision's impact on states and localities.

Single Asset Cases. One provision of the bill would allow expedited bankruptcy proceeding in certain single asset cases (usually involving a large office building). State and

local governments could benefit to the extent that real property is returned to the tax rolls earlier as a result of this provision.

Municipal Bankruptcy. The bill would clarify regulations governing municipal bankruptcy actions and allow municipalities that have filed for bankruptcy to liquidate certain financial contracts.

ESTIMATED IMPACT ON THE PRIVATE SECTOR

H.R. 833 would impose new private-sector mandates on bankruptcy attorneys, creditors, and credit and charge-card companies. Bankruptcy attorneys would be required to make reasonable inquiries to confirm that the information in documents they submit to the court or the bankruptcy trustee is wellgrounded in fact. Creditors would be required to make disclosures in their agreements with debtors and provide certain notices to courts and to debtors. Credit and charge-card companies would be required to disclose minimum-payment plans in new account materials and monthly statements. CBO estimates that the costs of these mandates would exceed the $100 million (in 1996 dollars) threshold established in the UMRA.

Sections 102 and 607 would make bankruptcy attorneys liable for misleading statements and inaccuracies in schedules and documents submitted to the court or to the trustee. To avoid sanctions and potential civil penalties, attorneys would need to verify the information given to them by their clients regarding the list of creditors, assets and liabilities, and income and expenditures. Based on 1,286,000 projected filings under chapter 7 and chapter 13 and an estimated increase in attorneys' costs of $150 to $500 per case, CBO estimates that the costs to attorneys of complying with this requirement would be between $190 million and $640 million in fiscal year 2000. With the rise in projected filings over the next five years, annual costs would be $280 million to $940 million for fiscal year 2004. CBO expects bankruptcy attorneys to pass increased costs on to debtors, reducing the pool of funds available to creditors.

H.R. 833 would require a creditor with an unsecured consumer debt seeking a reaffirmation agreement with a debtor to notify the debtor of his right to a hearing to determine whether the agreement is an undue hardship, is in the debtor's best interest, or is the result of an illegal threat by the creditor. The bill also would require creditors to specify to the court and to the debtor the person designated to receive notices. Because the required disclosure could be incorporated into existing standard reaffirmation agreements, and the notice to the court and the debtor would require only minimal effort, the costs of this requirement would be relatively small.

The costs of the mandate for credit and charge-card companies are also expected to be small. H.R. 833 would require credit and charge-card companies to add a brief statement regarding the function of the minimum payment option and disadvantages of making only the minimum payment each month to the materials provided to consumers opening new accounts and to all customers' monthly statements. Credit and charge-card companies also would have to provide customers with an illustration of the length of time required to pay off a $500 balance if they make only the minimum required payment. Firms would be able to add this information to the materials they currently give to customers.

Estimate prepared by: Federal Costs: Susanne S. Mehlman (226–2860); Impact on State, Local, and Tribal Governments: Lisa Cash Driskill (225–3220); Impact on the Private Sector: John Harris (226–6910).

Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

(Mr. CONYERS asked and was given permission to revise and extend his remarks.)

Mr. CONYERS. Mr. Chairman, I am delighted to begin immediately by talking about the means test and other consumer provisions that will harm middle-income and low-income people.

Because contrary to the assertion of my friend, the gentleman from Pennsylvania (Mr. GEKAS), that this is going to make it better, the means test is going to make it worse. It is incorrect to assume that the effect of this bill's harmful provisions would be limited to individuals seeking bankruptcy relief who earned more than the regional median income.

First, there are numerous significant flaws in the manner in which the median income is calculated. For example, the median income figure required under this bill will be outdated and understated. This is because the bill states that the household income is to be based on the most recent census figures available as of January 1. But as of January 1, the census has information available for only the second year prior to the date.

Accordingly, during this year, 1999, census figures will be available only for 1997. At times of inflation, this 2-year lag could result, obviously, in a significant increase in the number of individuals who are subject to the motions to dismiss or convert and who may earn more than the outdated median-income figure.

Another flaw in the median-income formula is that the test measures a debtor's income based on how much the debtor earned 6 months prior to bankruptcy. If the debtor lost a good job in month three and has been working at a low-wage job ever since, the income from that good job and the help from family members would be counted as if that is what his future income would be.

In addition, this bill, unlike current law, will permit creditors and other parties and interests to bring motions to dismiss more aggressively; and well-funded creditors will have extremely wide latitude to use such motions as a tool for making bankruptcy an expensive, protracted, contentious process for honest debtors, their families and other creditors.

Now, the bill is opposed by a growing number of Members of the House of Representatives for the simple reason this bill is worse than the bill we voted on in the last Congress; and it is bad for women, children, working Americans. But the good news, if this is good news for them in the credit card industry, it is good for the credit card industry.

This means test is fatally flawed. The legislation attempts to impose a one-size-fits-all income and expense test based on IRS standards to determine who is eligible for bankruptcy relief and how much they may be required to pay their creditors.

The problem is that the formula fails to take into account such important items as child care payments, health care costs, and the costs of taking care of ill parents, to name but a few of the glaring loopholes. The IRS standards are so extreme that they have been rejected by the Congress and abandoned by the IRS; and, yet, the credit card companies would have them apply them in bankruptcy.

Now, the denials have been pouring in pretty fast here so far; and there is going to be a lot of discussion about how the bill is devastating to children and women reliant on child care and alimony payments. Repeat: The bill is devastating to children and women reliant on child care and alimony payments.

On the debtor's side, the legislation makes it far more difficult for single mothers to access the bankruptcy similar. On the creditor's side, the bill pits sophisticated credit card creditors in direct competition with alimony and child support. The attempts to fix this incorporated into the legislation are not effective and are largely redundant.

And, third, but not finally, but I am going to stop here, the bill will also lead to a loss of jobs and collective bargaining rights. The business provisions of the bill will impose harsh new time deadlines and massive new legal and paperwork requirements on small businesses and real estate concerns and, by design, will lead to premature liquidation of job loss.

This is why the largest collective bargaining organization in America has asserted that the legislation will restrict the workings of bankruptcy cases for small businesses and place numerous jobs at risk.

Now, the bill conveniently ignores the real problem of what has caused more bankruptcies, namely, the problem of credit card abuse. And is there any colleague here that does not get credit card applications monthly, weekly, occasionally daily? And, at the same time, the legislation responds to every conceivable debtor excess, real or imagined. It gives a complete pass to the transgressions of the credit card industry.

My colleagues should be on the alert. This Bankruptcy Reform Act legislation of the 106th Congress will worsen the conditions of those few people in their district, working people, honest people, who may need to access this important court. Please remember, this bill is worse than the bill we had last year.

Mr. Chairman, I reserve the balance of my time.

Mr. GEKAS. Mr. Chairman, I yield 4 minutes to the gentleman from Virginia (Mr. BOUCHER).

(Mr. BOUCHER asked and was given permission to revise and extend his remarks.)

Mr. BOUCHER. Mr. Chairman, I want to express thanks to the gentleman from Pennsylvania for yielding me this time.

I am pleased to rise in strong support of the adoption of this much-needed reform to our Nation's bankruptcy laws.

In an era in which disposable incomes are growing, unemployment rates are low, and the economy is strong, consumer bankruptcy filings should be rare. Contrary, however, to this expectation, in 1998, there were 1.4 million personal bankruptcy files, a 40 percent increase from the 1996 figure. In 1996, that figure reached one million for the first time. And, in 1998, there was a full 95 percent increase in the number of personal bankruptcy files from 1990.

Bankruptcies of mere convenience are often driving this increase. Bankruptcy was never meant to be used as a financial planning tool, but it is increasingly becoming a first stop rather than a last resort, as many filers who could repay a substantial part of what they owe elect to use the complete liquidation provisions of Chapter 7 of the bankruptcy law, wipe out all of their debt, even that portion they could repay, and seek an entire fresh start.

□ 1245

Our legislation will direct more filers into Chapter 13 plans and make sure that those who can afford to repay a substantial part of their debt are required to do so.

Mr. Chairman, this is a consumer protection measure. The typical American family pays a hidden tax of $550 every year arising from the increased costs of credit and the increases in prices for goods and services occasioned by the discharge in bankruptcy of $50 billion in consumer debt on an annual basis. By requiring that people who can repay a substantial part of the debt they owe do so in Chapter 13 plans, we can greatly lessen that hidden tax, and this bill will accomplish that result.

Another key point needs to be made about the legislation. The alimony or child support recipient is clearly better off under the terms of this bill than she is under present law. At the present time she stands seventh in the rank of priority for the payment of claims in bankruptcy. She is behind farmers making claims against warehouses and grain elevators. She is behind fishermen who make claims against their warehouses.

Under this bill, the child support or alimony recipient will be elevated to the first priority. She will now stand number one in line for the payment of bankruptcy claims. And other provisions of the bill also make it easier for the bankrupt's assets to be paid to her.

The gentleman from Virginia (Mr. MORAN) will be offering amendments today that I will support and I encourage other Members to support, that will require greater disclosures on credit card statements of the costs of making the minimum monthly payment. Credit card statements would have to indicate that the ordinary finance charge on the outstanding balance would continue to accrue.

The Moran amendment supplements other new consumer protection measures that are already a part of this bill. For example, credit card companies will be prohibited from terminating a customer's account simply because that customer pays his bills on time and therefore does not accrue finance charges. That is a very appropriate change to make and is one of many consumer protection measures contained in the bill.

This is a balanced, bipartisan measure which contains new consumer protections and requires greater debt repayment by those who can afford to make that repayment. This measure, when considered on the floor of the House as a conference report last year, obtained the votes of 300 of the Members, clearly demonstrating the broad bipartisan base for enacting this reform.

I am pleased to be coauthoring this measure with the gentleman from Pennsylvania, and I want to commend him for his leadership in bringing this balanced and bipartisan bill to the floor. I am pleased to join with him in urging its passage by the House.

Mr. CONYERS. Mr. Chairman, I yield myself 1¼ minutes.

I think it is very important that we begin to deal with the alimony and child support measure head-on. It has been suggested that this is not a problem or that it has been improved upon. But actually for women whose average income was at the median during the last 100 days before the support checks stopped or women whose child care expenses exceeded IRS standards, they may be denied access to Chapter 7 and forced into a restrictive Chapter 13 repayment plan.

Secondly, the bill does not exempt child support or foster care payments from the means test definition of disposable income, and does not exclude alimony and child support payments received within 6 months after filing for bankruptcy from the property of the estate.

How can we talk about women and children are okay? This bill is presently a disaster for single mothers and their children, which number in the alimony and child support area an estimated 243,000 to 325,000 bankruptcy cases each year. The National Partnership for Women and Families have told us that the child support enforcement provision in the bill would not adequately protect parents and children.

Mr. Chairman, I yield 2½ minutes to the gentleman from Virginia (Mr. SCOTT) a distinguished member of the Committee on the Judiciary.

Mr. SCOTT. I thank the gentleman for yielding me this time.

Mr. Chairman, this bill overturns centuries of well-established laws involving bankruptcy and the principle that those who are in financial ruin can get a fresh start if they pay all they have, with certain exceptions, to their creditors. Instead, they will be required for those affected to essentially be in debtor's prison for 5 years. Those who find themselves financially overwhelmed because of a loss of a job, illness, business failure, will not get a fresh start. They will have to pay every dime they have, after food and rent and a few other expenses, to their creditors.

Now, that is not a fresh start. That is a guarantee that at the end of 5 years they will be worse off than they started. So if someone is stuck with bills, maybe a spouse had a business reversal, got sick, a spouse had joint debts and their other spouse leaves or dies, they will not get a fresh start. They will get no relief for 5 years.

Now, let us not get misled by this means test where only certain people are affected by this legislation. All that means is that it is not a bad bill for everybody, it is just a bad bill for some people. That does not make it a good bill.

Now, there are some technical problems with the legislation. First of all, the salary calculation in what you have to pay is based on the last 6 months. Part of the bankruptcy problem may be caused by the fact that you lost your job, and that calculation is obviously not effective. You may be forced to pay more than in fact you have as income. It includes as income disability benefits or veterans benefits which if you have another job you will essentially lose in the future, and it forces spouses to compete with sophisticated creditors for their child support.

But fundamentally it violates centuries of laws that provide for a fresh start. I ask that this not happen in a haphazardly drawn bill that has technical problems and which is opposed by virtually every group of experts in bankruptcy law. Mr. Chairman, I would ask that we defeat this bill.

Mr. GEKAS. Mr. Chairman, I am pleased to yield 2½ minutes to the gentlewoman from New Jersey (Mrs. ROUKEMA).

(Mrs. ROUKEMA asked and was given permission to revise and extend her remarks.)

Mrs. ROUKEMA. I thank the gentleman for yielding me this time.

Mr. Chairman, I want to offer my strong support for this legislation. It goes a long way to correct the problems of bankruptcy. But right now I want to focus on the issue of child support. I have been a pioneer in the efforts at reforming child support, and I served on the U.S. Commission for Interstate Child Support Enforcement.

Over the last 10 years we have done a great deal to enforce child support and require the legal obligations, to close that enforcement gap. But in recent years we have learned that bankruptcy is one of the loopholes that has been used. Contrary to what we have heard before, as I view this legislation, it is strong and goes a long way toward

closing the enforcement gap as it relates to the child support component.

This bill really deals with the issue in a substantive way. It includes child support payments that are moved up to number one when determining which debts are paid first in a bankruptcy case. It gives confirmation and discharge of Chapter 13 plans and makes them conditional upon the debtor's complete payment of child support. And there are other issues in here that deal directly with child support.

But I want to particularly distinguish the reform measure that was led by the gentleman from Florida (Mr. SHAW) and also joined by the gentlewoman from Texas (Ms. JACKSON-LEE), so that there was bipartisan support for this reform that will require the trustee to notify a claimant parent of the bankruptcy proceedings.

I will not go into a lot more detail, but it is a strong bill as far as closing those enforcement gaps. But I do want to commend the gentleman from Pennsylvania (Mr. GEKAS) and thank him for including my amendment on child support during the markup. That amendment requires the GAO to study the feasibility of having bankruptcy court trustees report the names of individuals filing bankruptcy to the Office of Child Support Enforcement.

This study by the GAO that we are requiring in this legislation, we in the Congress will use this study to close any remaining loopholes that may remain that are permitting people to avoid their legal child support. It will make it criminal, but at the same time we must remember that it is the children who are being abused and deprived. I lend my strong support to this and look forward to continuing to work on the basis of the GAO study.

Mr. Chairman, I rise in strong support of H.R. 833—the Bankruptcy Reform Act of 1999.

INTRODUCTION

Consumer bankruptcy reform is an important issue that needs to be addressed now. In 1997 Americans filed a record of 1.33 million consumer bankruptcy petitions representing an over 650 percent increase since 1978. Those who entered into bankruptcy erased an estimated $40 billion in consumer debt. This resulted in a hidden tax of almost $400 per household for families who have to pay monthly bills including mortgages, student loans, and insurance. It is important to note that this surge in bankruptcies in the last few years occurred at a time when the national economy has grown at a strong rate. In fact, between 1986 and 1996, real per capita annual disposable income grew by over 13 percent while personal bankruptcies more than doubled.

Bankruptcy is fast becoming the first stop financial planning tool rather than a last resort. The purpose of reform is to improve bankruptcy law and practice by restoring personal responsibility and integrity in the bankruptcy system but also ensuring that the safety net of the bankruptcy code is intact for those who need it most. I am a strong supporter of the consumer bankruptcy reforms contained in the bill.

CHILD SUPPORT

What I really want to focus on in today's debate is child support. I have a long history of standing up for child support enforcement, having been a pioneer on child support reforms and having served on the U.S. Commission for Inter-State Child Support Enforcement. It's a national disgrace that our child support enforcement system continues to allow so many parents who can afford to pay for their children's support to shirk these obligations. And despite the reforms the so-called 'enforcement gap'—the difference between how much child support could be collected and how much child support is collected—has been estimated at $34 billion!

This legal abuse is a criminal violation as well as neglect of our children's most basic needs. In addition, the taxpayers are abused because billions of tax dollars are paid out because these families are falling onto the welfare roles at alarming rates.

I want to commend the Committee for their attention to child support components of this problem. I am very pleased that H.R. 833—the Bankruptcy Reform Act of 1999 strengthens child support enforcement. I thank Chairman GEKAS and the Committee for all their hard work and their reaching out to diverse groups to form a consensus that the payment of child support should be protected.

H.R. 833 stregthens Child Support Enforcement by:

Child support payments are moved to NUMBER ONE when determining which debts are paid first in a bankruptcy case. Currently, child support payments rank seventh behind such ''priorities'' as attorney's fees.

Confirmation and discharge of Chapter 13 plans are made conditional upon the debtor's complete payment of child support. This will help further ensure that child support receives the priority it deserves.

Providing that the automatic stay DOES NOT apply to a state child support collection agency that is trying to recover child support payments. I know from speaking with child support advocates in New Jersey, that this change is a top priority for them to ensure continued payment of important child support.

I also want to associate myself with an additional provision, that was added in full Committee, that will require the trustee to notify a claimant parent of the bankruptcy proceeding. This reform measure was led by Rep. Clay Shaw and me. This will ensure that claimant parents are not left out when a debtor parent enters into bankruptcy. It is important to note that this was dropped from the Conference report last year. Fortunately with Representative SHAW's leadership and with Representative JACKSON-LEE—Republicans and Democrats providing bi partisan support.

There are important reforms for any state of New Jersey and for states across the nation. In fact these provisions are welcomed improvements that will help make real and positive change.

The current child support obligation for this year in New Jersey is $767 million. The total child support payments in arrears is $1.3 Billion. Yes, I said $1.3 Billion, of which about $800 million is still collectible. Bergen county in my district, along with six other New Jersey counties, make up 53 percent of the total collections.

MY AMENDMENT

In addition, I am grateful to Chairman GEKAS and the Committee for including my amendment on child support during mark-up. My amendment requires the GAO to study the feasibility of having Bankruptcy Court trustees report the names of individuals filing bankruptcy to the Office of Child Support Enforcement. The names could then be checked against a national list of court orders for child support. Those found to have support obligations would have the support obligation listed among the debts before the Bankruptcy Court and be used to better facilitate communication between claimant parents, state agencies and the trustee.

The GAO would have 10 months from the enactment of the legislation to conduct the study and report to Congress. The study is intended to lead to effective legislation ensuring that debtor parents cannot use bankruptcy to escape their child support obligations. In other words, we want to use this study to close any remaining loopholes that avoid child support legal obligations.

CONCLUSION

These are important and significant improvements that ensure that child support enforcement is strengthened. I supported these provisions last year and plan to support them this year.

It is important to remember that failure to pay child support is not a victimless crime. The children are the first and most important victims. We must ensure that these children are taken care of and I applaud the work of the Committee to this end and will continue my work on this issue. I urge support for this important legislation.

Mr. CONYERS. Mr. Chairman, I yield myself 45 seconds.

I want to address the gentlewoman from New Jersey, whose concern about bankruptcy is well-known and remembered from the last Congress. I read to her the first paragraph of the National Women's Law Center letter sent to me only 2 weeks ago which says that ''The bankruptcy bill, H.R. 833, puts economically vulnerable women and children at greater risk. By increasing the rights of certain debtors, including credit card companies and secured creditors, the bill would set up a competition for scarce resources between parents and children owed child support and commercial creditors both during and after bankruptcy. And single parents facing financial crises—often caused by divorce, nonpayment of support, loss of job, uninsured medical expenses or domestic violence—would find it harder to access the bankruptcy process and harder, if they got there, to save their homes, cars and essential household items.''

This is a nonpartisan organization. I urge the Members to carefully consider what we are doing to our women and children.

Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. I thank the gentleman for yielding me this time.

Mr. Chairman, we have heard much about personal responsibility during the course of this debate. We have heard over and over again from members of the credit card industry that individuals must be held accountable for

their behavior and that no longer is there any stigma attached to bankruptcy.

No one disagrees with the principles of personal accountability and personal responsibility. The problem is that the rhetoric does not withstand scrutiny in terms of the evidence supporting a linkage, to establish a link between the increase in personal bankruptcy filings and the change we are told has taken place in people's attitudes about bankruptcy simply does not exist.

□ 1300

On the eve of the committee markup I finally received from the Congressional Budget Office a draft of a report which I and other minority members of the committee requested more than a year ago. It concludes, and I quote:

> At this point, we do not have a clear idea of the benefit of a needs-based bankruptcy requirement.

It further concludes, and again I am quoting:

> Available research on the behavior of personal filings over time does not paint a clear picture of whether filings respond to incentives in the bankruptcy law.

In other words, we know very little about the likely consequences of what we are doing here today. Yet we are proceeding as if the evidence was clear and compelling.

But do not be misled. This bill will not reduce the number of bankruptcy filings. Colleagues will not see a substantial difference in terms of the 1.4 million annual filings.

But there is an issue of responsibility, corporate responsibility, and I submit that if we insist on responsible lending by the credit card industry, we will reduce the number of bankruptcy filings. Because while we do not know the cause of the increase in bankruptcy filings, no one, no one can legitimately dispute that irresponsible lending practices are at the very least a contributing factor.

Instead of encouraging responsible use of credit cards and reduction of credit card debt, many credit card lenders have encouraged card holders to take on an increasing amount of debts when they can ill afford it. They have increased interest rates, they have increased fees on current accounts, they have imposed penalties on consumers who pay off credit card balances without incurring any interest charges, and we have all experienced, everyone has experienced, the aggressive marketing tactics of the credit card industry. Last year alone they sent out more than 4 billion, that is 4 billion, solicitations, many of them to students with no credit history whatsoever and consumers already in debt.

The first exhibit to my right shows one of those solicitations which went to my own college-aged daughter. It is what is known as a live loan. I do not know why it is a live loan, but it is called a live loan, which invited her to cash a negotiable check for $2,875 at 18.9 percent interest. The offer said:

> Use the money for whatever you like. No limits, no restrictions, no questions asked—

and I am quoting from the solicitation.

If my colleagues question the link between these kinds of aggressive marketing practices and the rising bankruptcy rate, I invite them to examine the second exhibit to my right. The first panel displays a credit card offer by First Consumers National Bank, a nationally chartered credit card bank owned by Spiegel and Eddie Bauer. It says, and I am quoting:

> If you filed a bankruptcy, you can get a fresh start with this First Consumers National Bank Visa Card today. Your filed bankruptcy, your filed bankruptcy, qualifies you. No need to wait for bankruptcy discharge.

That is a quotation.

The second panel also shows a letter sent to bankruptcy attorneys, and I think it is the third panel, it is the third panel. The third panel shows a letter to bankruptcy attorneys by a Minnesota company that calls itself American Bankruptcy Service. The letter seeks to enlist these attorneys as distributors. Must be like an Amway, an Amway of bankruptcy services who will market the fresh start card to their clients. It actually goes so far as to offer them a commission. For each credit card issued, it promises they will receive $10, 10 bucks if they can get out there and peddle that card.

Now a balanced bankruptcy bill would address this kind of egregious conduct. It would demand responsible behavior not only of debtors but of credit card lenders themselves and particularly those creditors whose own reckless lending practices have done so much to drive people into bankruptcy.

But this is not a balanced bill. H.R. 833 does nothing, nothing to encourage corporate responsibility. In fact, it would reward irresponsible lending by enhancing the position of credit card companies relative to other creditors. It would create a vast new system of means testing that would be implemented at taxpayer expense. In effect, the bill would turn the bankruptcy system into a public funded with our tax dollars collection agency to increase the profitability of the credit card industry.

And what would this all cost the taxpayer? According to the CBO, last year's bill would have cost $214 million over a 5-year period, but that does not include some $225 million in administrative costs required to cover the additional duties assigned to the U.S. trustees under H.R. 833. In other words, almost a half a billion dollars so that the credit card industry can enhance their bottom line.

This bill is nothing more than a public subsidy for the credit card industry, Mr. Chairman, and it deserves to be defeated.

Mr. GEKAS. Mr. Chairman, I yield 30 seconds to the gentleman from Michigan (Mr. SMITH).

Mr. SMITH of Michigan. Mr. Chairman, I thank the gentleman for yielding this time to me, and thank him for his leadership and those on his committee for bringing a bill before Congress that is going to have the effect of lowering interest rates and making credit more available. This bill encourages competition by reducing uncertainty.

Right now, all those credit card companies jack up their interest rates because their competition is forced to impose high interest rates to cover the ease of declaring bankruptcy.

Also let me just say that the farm provisions in this bill that extend indefinitely the provisions of chapter 12 in title 11 for farmers is very good for the agricultural community.

Mr. GEKAS. Mr. Chairman, I yield 3 minutes to the gentlewoman from New York (Mrs. KELLY).

Mrs. KELLY. Mr. Chairman, I thank the gentleman from Pennsylvania (Mr. GEKAS) for yielding me the time to clarify some very important provisions in this legislation.

Mr. Chairman, I rise today in strong support for H.R. 833, the Bankruptcy Reform Act, because it boils down to two words: personal responsibility. If one assumes a debt, they should do everything in their power to pay it off. However, a safety net has to remain for those who legitimately cannot pay their debts. Creditors should be made whole, if possible.

Some of my colleagues here today are trying to paint the word creditors to mean faceless financial institutions who are tricking consumers into assuming debt. They specifically speak of credit card debt. They unfortunately failed to note that credit card debt in the United States amounts to only 3.7 percent of all consumer debt. Furthermore, only 1 percent of credit card accounts end up in bankruptcy. Of that 1 percent it is estimated that 15 percent of those accounts can afford to repay some or all of their debt.

The people who are truly being hurt by our current bankruptcy system are Americans who play by the rules and pay their debts. Bankruptcy costs the average American family an average per year of $400.

Needs-based bankruptcy reform is well overdue, and that is what H.R. 833 delivers. It is the people who game the system that we have to stop.

I have heard from my colleague from Virginia (Mr. MORAN). He stated last year more people filed for bankruptcy than graduated from college. That is a staggering fact.

I am pleased to support H.R. 833's provisions which strengthen the Bankruptcy Code protections for ex-spouses and children. They have to be supported.

In the current bankruptcy law, child support and alimony are placed seventh behind attorney fees as debt obligations. If enacted, this bill would move child support and alimony payments to first on the list of debt obligations.

Also under current law, some debtors use the automatic stay to avoid paying

child support payments after they file for bankruptcy. H.R. 833 exempts State child support authorities from the automatic stay, thus insuring less delay in the proper payment of child support.

I vehemently oppose any legislation that would reduce the ability of women and children to receive support payments.

H.R. 833 is a good bill that moves us in the right direction, and I ask my colleagues from both sides of the aisle to join me in support of this reasonable reform.

Mr. CONYERS. Mr. Chairman, I yield 30 seconds to the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. Mr. Chairman, I thank my friend and colleague for yielding me 30 seconds.

Let us be very, very clear, and I know that most members of the committee were aware of this, but for the rest of our colleagues:

During one of our hearings there was a panel of nine witnesses, including representatives of the credit card industry and minority witnesses. I asked a question and polled each of them, and all nine unanimously stated that this bill would not lower interest rates.

So that is a red herring, I suggest. The bill should be defeated.

Mr. CONYERS. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Chairman, I wanted to discuss a few things about this bill: first, the alleged need for it. And I want to stress that even though I am going to say there is no necessity for this bill, the Democratic substitute answers the nonexisting problem which they posit.

We are told the need for this bill is that the American people, especially the American middle class, are a bunch of deadbeats, that there is a huge increase in bankruptcy filings, which there is, and that the reason for this huge increase in bankruptcy filings is that we have changed social mores. There is no more stigma associated with bankruptcy. People used to be very reluctant to declare bankruptcy. Now they do it as a financial planning instrument, and they are deadbeats, and, therefore, we have got to crack down on it because the credit card companies are not making enough money.

What is the truth of the matter? The truth is that is nonsense. Sure there are a lot more bankruptcy filings, but why? The figures tell a very different story.

First of all, if it were true that the reason for the increase in bankruptcy filings were a change in social mores where people are more easily going to bankruptcies, then people would be going bankrupt when they are less in debt, when they are less in trouble. The figures say differently.

In 1983, before the surge in bankruptcy filings started, the average person who filed for bankruptcy had debts equal to 74 percent of his income. If one has that much debt compared to income, they file for bankruptcy.

Today, the average bankruptcy filer has debts equal to 125 percent of his income; so people are 50 percent more desperate before they go into bankruptcy. They are less eager to file, they are more reluctant to file, they are further in the hole before they file.

So why then do we have such an increase in bankruptcy filings? Here is the answer:

If we look at society at large, not at just bankruptcy filings but at society at large, we can find two things. We find the bankruptcy filings rising, but we also find the household debt burden as a percentage of income rising right along with it. Look how those two lines match.

Mr. Chairman, credit card companies, used to be when I was in college it was hard to get credit. Today they shove it at high school kids. Today they shove credit cards at people who are already 80 percent of their income in debt, of their annual income.

□ 1315

That is the real problem, irresponsible lending by the credit card companies. More and more credit is being given to people. People are getting more and more in debt. Just as the debt-to-income ratio rises, the bankruptcy filing rate rises right in tandem.

By the way, we are told that in 1978 Congress made the bankruptcy laws easier, and in the early eighties we started seeing an increase in bankruptcy because the laws are too easy; now we have to crack down.

Look at Canada. Canada has very harsh bankruptcy laws, harsher even than they want to make our laws in this bill. It has always been very harsh, and yet they have had the same increase in bankruptcies. We can date it.

When did it start in Canada, the increase in bankruptcies? In 1968. Why 1968? That is the year when the Visa card went into Canada, and they have had the same problems we have had with very harsh bankruptcy laws.

So this is a myth. The myth that the American middle class are deadbeats and that we have to crack down and squeeze a little bit more money out of them when they go bankrupt, it is a myth.

The Democratic substitute does squeeze it, but it squeezes it in a more rational way.

Let us talk about four things that this bill does. We are told that we ought to have a means test, needs-based bankruptcy. People should not simply get a discharge of their debts; they should have to repay if they can.

I will agree to that. We all agree to that. If people can repay, they should do so, and there should be a means test to see if they can repay, but a means test should mean a means test. What is your income? What are your unavoidable expenses? The difference is how much can afford to be repaid.

What does this bill do? Does it look at current income, at anticipated income? No. It looks back at income for 6 months before one files bankruptcy and assumes that is going to be the income.

It is pretty common in this country today for someone to be making $50,000, $75,000, $80,000 a year as middle management at IBM or some other big company, laid off. Now he is making $25,000 at McDonald's or as a consultant. That is the new underemployment for the middle class, a consultant.

Well, he is making $25,000. He contracted debts based on an income of $75,000. Now he goes bankrupt. This bill does not look at his new income, which is $25,000, or his prospective income which is $25,000. They look at what his income used to be, $75,000.

Is that fair or rational? Does it make sense? No.

The other half of the means test, what are your expenses? Well, what is your rent? What is your mortgage payment? Does this means test look at this? No. It looks at what the IRS thinks in its guidelines the average mortgage or rent ought to be in the Northeast or the southwestern United States, in guidelines so harsh the Congress told IRS to junk them last year, but for bankrupts we are going to do the same.

So we have to really crack down on the debtors. What about the dishonest creditor? Sears Roebuck was adjudged to have defrauded bankrupt people, debtors, $168 million in a class action suit last year. We cannot let that happen again. Big business crooks have to be protected, so this bill says no more class action suits. Someone wants to sue the big malefactor, the big guy who is cheating people of millions of dollars, they better have a few hundred thousand dollars in legal fees. One person cannot bring that lawsuit and it cannot be done for a class. No class action lawsuits; only in bankruptcy and only against creditors.

Small businesses, this bill murders small businesses. Many small businesses reorganize in bankruptcy. They get protections from their creditors. They manage to reorganize, get out of debt, and go on. This bill imposes such rigid requirements and such time lines on them that they will liquidate and kill jobs in businesses that could have survived.

Finally, child support, they claim that this bill saves child support. No, it does not. It kills child support enforcement. How? Two ways. Chapter 7, it says that not only are child support payments nondischargeable, so is credit card debt nondischargeable, so there is more to compete with mom.

Who is going to collect the debt, mom or the credit card attorney? They say we will give priority to mom; we will give priority to child support. Priorities are irrelevant after the discharge.

When someone is not in bankruptcy court anymore, priorities do not apply,

and in Chapter 13 they say a person cannot have a Chapter 13 repayment plan accepted by the court unless all the child support is paid, there is a plan to pay all the child support. They count as child support debts owed the government, so if the means test in Chapter 13 says he can pay enough money to pay the child support to the custodial parent but not enough to pay the debt he owes to the government, not enough, cannot do it, cannot confirm a plan, too rich to go bankrupt in Chapter 7, too poor to go bankrupt in Chapter 13, cannot go bankrupt at all, and she is out there competing with every other debt collector in the world. What chance does she have?

This bill also hurts farmers. There is no reason for such a harsh, one-sided bill. The Democratic substitute is a very harsh bill. I personally would not vote for it if it were a freestanding bill. I think it is too harsh, but it does everything reasonably that should be done and does not do some of these terrible things of prohibiting class actions, murdering child support, having an unfair means test, hurting small businesses.

That is why the administration will veto the bill. That is why every union is opposed to it, every consumer group, every professional bankruptcy group. Anybody who knows anything about bankruptcy in the profession is opposed to this bill, except for the credit card issuers and the banks.

So I urge a ''yes'' vote on the Democratic substitute and a ''no'' vote on the bill.

Mr. GEKAS. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Mrs. TAUSCHER).

Mrs. TAUSCHER. Mr. Chairman, I rise in support of the Bankruptcy Reform Act because it is based upon a simple principle of personal responsibility. Those who buy on credit should be required to pay their bills.

Our current bankruptcy system does not hold people to that standard. In 1998, a record 1.4 million Americans went to court to have their debts erased. Some were hard-working Americans who could not afford to pay their bills and needed bankruptcy protection, but many others took advantage of a failed bankruptcy system that encourages people to avoid paying their debts.

When people who cannot pay their debts do not, middle class Americans pick up the tab because companies charge higher prices to make up for the losses. Working families in America have a hard enough time paying their own bills. They should not have to needlessly pay someone else's.

The Bankruptcy Reform Act makes the right changes to the law by requiring those who can reasonably pay at least 25 percent of their debt to do so. Lower income Americans who truly cannot get out from mountains of debt will continue to have an escape hatch.

Mr. Chairman, I urge my colleagues to again stand for the reasonable principle of personal responsibility and pass this important legislation.

Mr. GEKAS. Mr. Chairman, I yield 2½ minutes to the gentleman from New Jersey (Mr. MENENDEZ).

(Mr. MENENDEZ asked and was given permission to revise and extend his remarks.)

Mr. MENENDEZ. Mr. Chairman, I thank the gentleman from Pennsylvania (Mr. GEKAS) for yielding me this time and for his work on this bill, along with the gentleman from Virginia (Mr. BOUCHER) and others.

Mr. Chairman, our bankruptcy system should be a safety net for those in need, not a financial planning tool for the well-to-do. It is not fair for the large majority of working men and women who pay their bills and play by the rules to continue footing the bill and paying the price for those who abuse the bankruptcy system. It is just not right.

This bill makes sure that those who truly need the safety net of bankruptcy get it, like those who lose their job or have a medical emergency or a sick child. This bill protects those people, but it also makes sure that those higher income people, who can still repay some of their bills, do so. In my view, that is just basic personal responsibility.

Under the bill, if the debtor earns less than the median household monthly income, they can file Chapter 7, have almost all of their debts erased and be totally unaffected by the needs-based formula. If they make above the median and their monthly income is great enough to pay at least $6,000 of the unsecured debt after subtracting actual priority debts, after subtracting secured debts like their mortgage, after subtracting actual school tuition for their kids, after subtracting allowable living expenses based on IRS guidelines, then, yes, they have a Chapter 13 repayment plan.

Now, that is allowing for a lot of leeway and a lot of protection before we ask someone to pay back the people they owe.

Our colleagues, the gentleman from Illinois (Mr. HYDE) and the gentleman from Michigan (Mr. CONYERS), who I have a great deal of respect for, have an amendment to take the IRS living standards out of the bill and give more discretion to the judges. In my mind, that is a mistake because it is the unfettered discretion that has made the bankruptcy laws so unfair.

Under our current rules, a wealthy person can be subject to one standard for living expenses while the working man or woman is subjected to another one. I believe our Bankruptcy Code should treat everyone equally. That is what the formula does.

Worst of all, under our current system children are often the ones who get shortchanged because their support payments can be stayed during bankruptcy proceedings, all while their noncustodial parents continue to enjoy their current standard of living. So this bill ends that practice and puts child support at the very top priority during bankruptcy, where it should have been all along.

I urge my colleagues to vote for this bill. Let us bring some fairness, some justice, some standards, some protection for our children and some sense to our Bankruptcy Code.

Mr. GEKAS. Mr. Chairman, I yield 1 minute to the gentlewoman from Oregon (Ms. HOOLEY).

Ms. HOOLEY of Oregon. Mr. Chairman, I thank the gentleman from Pennsylvania (Mr. GEKAS) for his work and for yielding me this time.

Mr. Chairman, I am an original cosponsor of H.R. 833, a bill that provides common sense bankruptcy reform. It has been said that over the last 7 years we have had unparalleled economic prosperity and yet the bankruptcy filings have hit an all-time high. The thing that has happened is we have had a lot of studies that have also said some of those people that are filing bankruptcies can afford to pay back some of that debt.

I am supporting this bill because it ensures those with the ability to pay that they pay, and those who legitimately need protection from creditors get it.

I hope Members will keep in mind, and we have heard this number of $51,000 for a family of four, which is the median income, they are not even affected by this legislation. If they are making $51,000, they are not affected by this legislation. For those above that threshold, there is a sensible means testing that determines whether a debtor should be able to walk away and not pay anything or at least pay part of their debt.

Mr. Chairman, this bill encourages personal responsibility, meets its obligation for children and families and saves American consumers money. I urge support for this bill.

Mr. GEKAS. Mr. Chairman, I yield 3½ minutes to the gentleman from New Jersey (Mr. ROTHMAN), a member of the committee.

(Mr. ROTHMAN asked and was given permission to revise and extend his remarks.)

Mr. ROTHMAN. Mr. Chairman, I thank the gentleman from Pennsylvania (Mr. GEKAS) for yielding me the time.

Mr. Chairman, I rise today in favor of H.R. 833. I believe that this legislation is important in order to restore integrity to our Nation's bankruptcy system.

While I believe in the fresh start that bankruptcy provides, and agree that there are people who legitimately need and deserve its protections, I am concerned that this last resort is currently being abused by many people. That is unfair to consumers, to creditors and to the people who truly need the system.

Also, while I support the bill, I believe that it could have been made better had we been allowed a floor vote to

eliminate the provision which allows States to opt out of the homestead exemption contained in the bill, and I hope that the various State legislatures who have been given this discretion will do so wisely.

Nevertheless, I support H.R. 833 and wish to make four points today. First, I believe that there is an urgent need for meaningful reform. It is just common sense, if someone borrows money from somebody else or they encourage them to perform some services and they consume the money or get the benefit of the services, they should pay it back if they can, because if they do not, everyone else in America pays for being a deadbeat.

Now, this bill says we do not want the rest of American families to pick up the tab for those who have avoided paying their just obligations, even though they could afford to repay all or a portion of it.

Next, there is a need to create Federal standards. More than 70 percent of the all-time 1.4 million bankruptcies were filed in Chapter 7, which means all their debts are forgiven, even without regards to income. This says, let us take a look at the regional median income. So in New Jersey, the State that I come from and represent, if someone makes $67,000, less than $67,000 for a family of four, they can discharge all their debts.

□ 1330

It is only if you make more than $67,000 that the questions start to be asked: Can you afford to repay a portion of your debt?

There is discretion involved. There are presumptions that you can afford to repay, but after child support and other legitimate, important deductions are made, the bankruptcy trustee can still use his or her judgment to take into account extraordinary circumstances, such as a decline in income or unexpected medical expenses.

The bill still truly allows those who need a fresh start to get one, but says in New Jersey if you make over $67,000 a year and can afford to repay a portion of your debt, you should.

This bill improves the current law also in several ways. It strengthens protections for vital family support obligations. It completely protects retirement plan assets from the claims of creditors, and completely protects savings accounts for post-secondary college savings accounts, up to $50,000 per child. It adds a whole host of other new consumer protections.

Therefore, as an original cosponsor of this bill, I urge my colleagues to vote in favor of this important bankruptcy reform legislation.

Mr. GEKAS. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia (Mr. MORAN), a Member who has been a bulwark in this effort and a cosponsor right from the beginning.

Mr. MORAN of Virginia. Mr. Chairman, I rise in support of the Bankruptcy Reform Act. I am a lead sponsor of the measure because the current system is broken. What was once the option of last resort has too often become the preferred option of choice. A legislative fix is necessary to distinguish between those who truly need a fresh start and those capable of assuming greater responsibility and making good on at least some of what they owe. It's the fair thing to do.

Mr. Chairman, unless we take the steps now to reform the bankruptcy system while the economic times are good, we will not have the political resolve to fix it when the economy is not so strong.

Despite this country's remarkably strong economy, wages are up, unemployment is down, interest rates and inflation are low—despite the unparalleled times that we are currently experiencing, the rate of personal bankruptcy filings has increased dramatically. That does not make sense, unless the explanation is that the system is broken.

Mr. Chairman, last year bankruptcy filings reached a record high of more than 1.4 million. That is more than the number of people who graduated from college last year.

Now we can vilify creditors and lenders, banks and mortgage companies and credit card companies, particularly credit card companies, and some of that vilification is deserved. All that unsolicited marketing, particularly of college students, is too aggressive, it is inappropriately deceptive, and it is imprudent, and we should not be condoning it.

But while many would like to blame the credit card industry for the sharp increase in bankruptcy filings, it is very important to understand that the statistics indicate that the credit card industry is not the impetus for the current bankruptcy crisis.

The vast majority of Americans recognize the personal responsibility they take in using a credit card. More than 96 percent of credit card holders pay their bills as agreed to, and only 1 percent ever end up in bankruptcy. Bank credit cards represent less than 16 percent of total debt on average bankruptcy petitions.

Mr. Chairman, according to a recent Federal Reserve Board survey, credit cards account for a mere 3.7 percent of consumer debt, hardly large enough to cause a bankruptcy crisis.

Regardless of how one feels about creditors, the key issue before us now is that many borrowers capable of repaying some or all of their obligations are not acting responsibly. Somewhere over the past decade, since 1990, the integrity of the bankruptcy process has been corrupted and an important moral principle has been eviscerated. The time-honored principle of moral responsibility and personal obligation to pay one's debts has been eroded by the convenience and ease with which one can discharge his or her obligations. It is unacceptable and unfair to those who do pay their bills to have to foot the bill for those who do not.

Mr. Chairman, it is estimated that the majority who do make good on their debts are having to pay about an average of $400 a year to make up for the bad debt of those who do not make good on their debts. That is why this legislation addresses the process. It enables those who truly need relief to get the relief. It is fair, it is a bipartisan bill, and it should be passed.

Mr. GEKAS. Mr. Chairman, I yield 2 minutes to the gentleman from Washington (Mr. ADAM SMITH), because if there is anyone who knows about the economic impact of the bill before us, it is he.

Mr. SMITH of Washington. Mr. Chairman, this issue is all about personal responsibility, taking responsibility for one's own actions. In this case, when people do not take responsibility for their own actions, others have to pay.

We all pay more for everything that we buy because of the costs companies have to incur to cover those who do not pay their bills, and in particular, small businesses can be killed by this. If just a couple of critical creditors do not meet their obligations, small businesses can go out of business.

We have a responsibility to honor our commitments. I think the worst message that I have heard in this whole debate is that what is really to blame is the marketing, that we should blame people for advertising credit, and it is their fault, it is not the fault of the person who fell for the marketing campaign, who accepted the obligation, accepted the money. It is somebody else's fault.

When someone gets a credit card and charges it, they are responsible for paying it. Who does not know that? Everybody knows that. To say that it is not the individual's fault who has incurred the debt, but the person who gave them the credit, sends a terrible message to our country, that you do not have to be responsible for your own actions.

Second, it hurts those who can responsibly use credit. I got one of those credit card applications, 10 or 15 of them, when I was in college. I used one of them and got a credit card and I paid it off every month. Because of that, it helped me with some financial spending ability, and helped me establish credit. I would hate to think that people who can use credit responsibly would be denied it because of those who cannot.

One final point on the means testing issue. It is criticized that the means testing is based on your income from the past. First of all, what else can you base it on, really, except the existing record? But secondly, that is exactly the way we calculate child support payments, by your past income.

Just like with child support, in this bill if there is an extenuating circumstance, if you go from being a $100,000 a year marketer to somebody working for $5 an hour at McDonald's, you can go to the judge and have that taken into consideration.

It is just a misstatement of the facts to say that somehow those special circumstances are not considered in this bill. They are, just like they are in calculating child support. I do not think anybody on the other side of this debate would say that we should only base child support payments on projected future incomes, as offered by the person who has to meet the obligation.

The means testing system works, and so does the bill.

Mr. GEKAS. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. PETERSON).

Mr. PETERSON of Pennsylvania. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I would also like to congratulate him and all those who have worked on this legislation. This is one of the most needed pieces of legislation in the economics of this country.

At a time when we are at an all-time high economically, when our economy is growing faster than it has ever grown, we end up with the highest number of bankruptcies, 1.42 million, costing consumers over $40 billion in the past year. In 1998, more people declared bankruptcy than graduated from college. That is inconceivable in a country like this.

Why is that the case? It is because it is so easy. It is because we have current laws that allow people to choose, well, I guess it would be easier to go bankrupt, so I will do that. That is not what made this country strong. When we owe money, when we have debts, it is the responsibility of each and every one of us to pay those debts, however long we have to work, how many hours per day, how many days per week, how much effort is needed to pay our debts.

I was a businessman, a supermarket operator for 26 years. When I am out in my district, I always say to businessmen, and business is what makes this country go, that is what makes our employment base; to independent businessmen I will say, how is business? And they will say, it is good. But I so often hear the complaint, if it was not for bankruptcies, I would have had a good year. I had seven bankruptcies this year and wiped out my total profit picture.

That is happening to small businesses all over the country because people choose to go bankrupt rather than stay and fight and pay their bills, as they should have. The American economy is built on financial responsibility. That is what is different about this country. When we owe something, we pay it.

Currently, child support and alimony are only accorded seventh priority. They are going to go to the top of the list in this bill. That is why H.R. 833 is so well-designed. It put responsibility back, that when you owe money, you have to pay it. You have to make your very best effort. Bankruptcy should only be the very last extreme, where you just cannot physically do it. It is not something that you choose, it is not a choice you make. Bankruptcy should not be easy, and this bill changes that.

Mr. CONYERS. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, the distinguished minority leader, the gentleman from Missouri (Mr. RICHARD GEPHARDT) has said that, ''While I support a balanced approach to bankruptcy reform that places equal responsibility on both debtors and creditors, I must oppose H.R. 833 because it fails to strike such a balance.''

In addition, the administration has said repeatedly that they will veto this bill in its current form. The legislation is opposed by the National Bankruptcy Conference, the Commercial Law League, the National Association of Consumer Bankruptcy Attorneys, the National Association of Bankruptcy Trustees, and the National Association of Chapter 13 Trustees, the AFL, the UAW, AFCSME, UNITE, the Leadership Conference on Civil Rights, the National Partnership for Women and Families.

Please, let us make certain that we do not move bankruptcy into the dark ages. Let us reject this bill, send it back to the committee, and I hope that Members will consider favorably some amendments that could hopefully improve the bill.

Mr. GEKAS. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, the lines of debate are fairly clear now. We have insisted all along that our bill is a balanced approach, contrary to what the gentleman from Michigan (Mr. CONYERS) has implied, or is the implication or the inference gained by the minority leader.

When we consider the fact that we have a safe harbor for low-income and moderate-income and no-income individuals seeking the benefits of bankruptcy, on the one side, and on the other side we have the approach that those individuals in the higher-income brackets, from $50,000 and up who might have an ability to repay are accorded a mechanism for recoupment of some of that debt, then we can see that the balance is what we begin the debate with here in this Chamber.

So when it comes down to the final vote, what the individuals who are supporting this bill will be finding is a bill that fixes the loose machinery that now exists in bankruptcy.

Mr. HYDE. Mr. Chairman, I am pleased that the Committee on the Judiciary, after thorough hearings and markups, completed its consideration last week of H.R. 833 (the ''Bankruptcy Reform Act of 1999''), and reported the legislation favorably.

We are on the Floor today—relatively early in the 106th Congress—debating this omnibus bill, because bankruptcy is an important issue on the national agenda. With this auspicious beginning, I am hopeful the effort to enact major improvements in our bankruptcy law will reach fruition this session. Consumer bankruptcy reform is the centerpiece of H.R. 833, but the bill also addresses business bankruptcy, tax-related issues in bankruptcy, transnational bankruptcy, and the treatment of financial contracts.

Bankruptcy reform was a major activity of the Committee on the Judiciary in the last Congress. In September 1997, our colleague, the gentleman from Florida [Mr. MCCOLLUM], introduced H.R. 2500, the ''Responsible Borrower Protection Bankruptcy Act,'' a bill designed in part to implement the concept of needs based bankruptcy. In February 1998, the chairman of the Subcommittee on Commercial and Administrative Law—the gentleman from Pennsylvania [Mr. GEKAS]—built on this approach by introducing H.R. 3150, the ''Bankruptcy Reform Act of 1998.'' H.R. 3150 incorporated—with modifications and additions—most of H.R. 2500's consumer bankruptcy provisions while also addressing other bankruptcy related subjects. Although the House passed an amended version of H.R. 3150 and later acted favorably on the work product of a Committee of Conference, the other body did not have time before adjournment to take action on the Conference Report.

This year my Committee again devoted much attention to bankruptcy reform. The gentleman from Pennsylvania [Mr. GEKAS], who conducted important hearings on bankruptcy reform in his Subcommittee last year, deserves commendation for the scope of the testimony his Subcommittee elicited during four days of hearings this March. Witnesses represented a wide range of viewpoints.

These hearings were followed by two days of markup in the Subcommittee on Commercial and Administrative Law and five days of markup in the Full Committee on the Judiciary. The positive aspect of returning to a familiar subject was the opportunity to fashion some improvements as a result of benefitting from the thoughtful insights of knowledgeable individuals who analyzed earlier versions of the legislation.

The major objective consumer bankruptcy reform is to achieve an appropriate balance between debtor and creditor rights that will increase creditor recoveries while offering relief to deserving debtors. Those who need an immediate fresh start should get it—but those who can afford to make significant payments out of future income should be required to do so.

Under H.R. 833 as reported, individuals or couples with income levels exceeding adjusted regional median figures that take into account household size generally will not be able to remain in Chapter 7 if they can make payments of at least $100.00 per month out of future income to general unsecured creditors. Chapter 7 offers a financial fresh start—without encumbering future income—to debtors who are prepared to give up all of their nonexempt assets. Those who cannot stay in Chapter 7 as a result of the pending legislation generally will have the option of participating in a Chapter 13 repayment plan for five years and qualifying for a limited discharge eventually.

Bankruptcy reform is needed to address deficiencies in current bankruptcy processes and mitigate adverse impacts of bankruptcy filings. Congress is responding to the many developments since the Bankruptcy Code's enactment over a generation ago—including a burgeoning bankruptcy caseload that now exceeds 1.4 million annual filings.

We can seek to reduce financial losses that result from greatly increased filings while treating debtors and their spouses and children with compassion. In that regard, I plan to offer an amendment relating to the living expenses of debtors who will be channeled into five-year repayment plans.

I am optimistics that the results of my Committee's work and our actions on the Floor today will be to provide for bankruptcy processes that increase creditor recoveries and operate fairly. If so, we will be able to point to an important legislative achievement on a subject of great economic significance to the American people.

I urge my colleagues, after giving careful consideration to the amendments we will be debating today, to support passage of H.R. 833.

SHIPPING ANTITRUST HEARING WEDNESDAY; JUDICIARY TO STUDY COMPETITION IN DEREGULATED INDUSTRY

What: Oversight Hearing on ''Antitrust Aspects of the Ocean Shipping Reform Act of 1998.'' Committee on the Judiciary.

When: Wednesday, May 5, 1999, at 10:00 a.m.

Where: 2141 Rayburn House Office Building.

On May 1, legislation deregulating the ocean shipping industry went into effect, even as new issues regarding competitive practices in the industry have arisen. The justification for the industry's antitrust exemption has been called into question as it primarily benefits foreign carriers at the expense of American shippers, while a new investigation has unearthed alleged anti-competitive activity of some carriers.

Shipping's continued antitrust exemption poses the questions . . .

Did the 1998 Ocean Shipping Reform Act strike the right balance between carriers and non-vessel owning common carriers (NVOs) in allowing ocean carriers to use confidential service contracts, but not the NVOs?

Is antitrust immunity still justified in light of the new environment and the startling findings of anti-competitive activity made in a recent investigative report on the industry?

Does it make sense to continue antitrust immunity when it largely benefits foreign carriers at the expense of American shippers?

Does the Federal Maritime Commission have adequate authority to deal with the kinds of practices detailed in the new report, and what, if any, role can the Justice Department play?

These hearings will . . .

Allow a complete airing of the issues raised in the investigation by its author, FMC Commissioner Delmond Won.

Further discuss the competitive issues surrounding the newly deregulated shipping industry.

Mr. CROWLEY. Mr. Chairman, I rise today in support of H.R. 833, the ''Bankruptcy Reform Act of 1999.''

Mr. Chairman, a record 1.42 million personal bankruptcy filings were recorded in 1998, rising a staggering 500 percent since 1980. Despite strong economic growth, low unemployment and rising disposable income, personal bankruptcies are soaring, costing over $40 billion in the past year alone. Without serious reform, these trends promise to continue growing every year, costing consumers and businesses even more money.

The Bankruptcy Reform Act of 1999 is an important piece of legislation that will start to end the abuse and restore responsibility to the bankruptcy system. H.R. 833 closes loopholes in current law that encourages debtors to take advantage of the system and avoid paying their debts. Too many times debts are wiped out, instead of worked out.

This legislation provides a fair needs based system that takes debtors' special circumstances into account while assuring that those who can afford to pay are required to do so.

Additionally, this bill puts the needs of women and children first. Under current law, child support and alimony payments rank seventh on the priority lists of payments. Under H.R. 833, child support payments are raised from seventh to first giving them the long overdue priority that they need and deserve. In addition, this bill closes various loopholes in bankruptcy so that filers seeking to delay or evade their important family obligations, will not be able to do so.

Mr. Chairman, I strongly urge my colleagues support for this legislation which strikes the appropriate balance between the interests of consumers, debtors and creditors and will help restore personal responsibility and fairness to our bankruptcy system.

Mr. PACKARD. Mr. Chairman, I rise in support in H.R. 833, the Bankruptcy Reform Act of 1999. It is time we revitalize our weak bankruptcy system, which is supposed to benefit those who need it most. As the sponsor of bankruptcy reform legislation during the 105th Congress which protected churches and charities, I strongly endorse the efforts of my colleagues in crafting the bill we are debating today.

The truth is, our bankruptcy system is seriously flawed. This system allows individuals who have the ability to pay back a portion of their debts to declare bankruptcy so American taxpayers can foot the bill for them. This costs Americans an average of $550 a year in the form of higher interest rates and increased product prices.

The original reason for people to file bankruptcy was as a last resort, for those in a dire situation. Unfortunately, bankruptcy has become a way for some reckless spenders to escape their debts. There are more people declaring bankruptcy in America each year than what are graduating from college. This is absurd! H.R. 833 will give this country a need-based bankruptcy system, not an easy way out for those who choose to not repay their debts. I firmly believe this legislation will restore a sense of fairness and personal obligation to our bankruptcy system.

Finally, I would like to thank Chairman GEKAS for his hard work on this legislation and for working with me to ensure the enforcement of my legislation, H.R. 2604 from the 105th Congress. The Religious Liberty and Charitable Donation Protection Act restored the right of debtors to tithe and give charitably after declaring bankruptcy.

Mr. Chairman, what kind of system are we encouraging if we do not require people who can pay back even a portion of their debts to do so? I urge my colleagues to support H.R. 833, and restore a sense of responsibility to our bankruptcy laws.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise in opposition to the passage of H.R. 833, which restructures, I believe in a negative way, the way bankruptcy is handled in the United States today.

At the outset let me say, bankruptcy is an important mechanism for many families and business-owners around the country. For many people who have filed for Chapter 7 Bankruptcy successfully, Chapter 7 has provided a ''fresh start'' and eventually helped them get them and their families on the road to recovery. But it is not a free ride. Chapter 7 involves liquidation of assets—surely a traumatizing and unpleasant situation in any person's life.

Chapter 13 is a less dramatic form of bankruptcy that allows structured repayment. It is an important option for those who have an income sufficient to eventually pay back debt over an extended period of time and maintain their current assets.

Chapter 11 bankruptcy is also important. It is the form of bankruptcy that allows commercial entities to reorganize so that they can satisfy their creditors.

The increase in the number of bankruptcies over the past few years tells Congress that we are in desperate need of bankruptcy reform. Or does it? Perhaps—as many of us Democrats have argued, we ought to be taking a closer look at banking and lending practices. Perhaps the problems, on the consumer side, is not that people have found bankruptcy laws, but rather that credit card companies and other creditors have flooded our constituency with undeserved credit lines. Will we ever find out if this is the case? No, because the Committee on Banking and Financial Services did not look at this bill.

So already, we are working under the assumption that bankruptcy reform is needed because consumers are abusing the system. This premise is a dangerous one, and it shows, because this bill is pockmarked with provisions that give power to credit card companies and collection agencies—and it does nothing to make creditors responsible for their own actions. It gives them carte blanche to lend without fear of reprisal, and creates an atmosphere strikingly similar to the one surrounding the savings and loan industry in the mid-1980s (following deregulation).

The Chairman said it himself during our markup of this bill in the Judiciary Committee when defending an amendment that he had passed. He said

I have been told with great sincerity that [my amendment] is a deal breaker. That it is a killer. That some of the credit card folks will walk away from the bill if it is passed. I found that a bit much. I asked my staff to give me a list of what the creditors are getting out of this bill. I have pages and pages and pages of advantages the creditor community is getting out of this bill. . . . I was going to read a list of what the creditors are getting out of this bill. I won't do it. I assume you know. But there are, I don't know, 12 or 13 pages of single-spaced print of changes that benefit the creditors. . . . There ought to be a little give on the part of the creditor community[,] there doesn't seem to be.

Even the Chair's cry for a ''little flexibility'' could not be heeded by the Members of his own party on the Committee. Does that tell us anything about what is pushing this bill through Congress? Are these reforms guided by reason, or by solidarity with big lenders?

Who does this bill hurt? Small business-owners, bankruptcy trustees, women and children. Why women and children? Because it contains provisions which allow credit card companies to transform their ''investments'' into non-dischargeable debt. This puts women

and children expecting domestic support on the same footing as credit card companies—and when both must fight to get the monies that they deserve, who do you think can afford to pay the better lawyers? Who do you think will get to those funds first? The credit card companies, of course. That is why this bill is strongly opposed by the National Women's Law Center.

But families and children are not the only ones hurt by this bill. It muddies the structure of the bankruptcy system. It replaces our current mechanism used to determine whether a debtor may file for Chapter 7 or Chapter 13 with an IRS ''means test'' that was developed for an entirely different purpose—collecting taxes. It is this section that has drawn the ire of consumer groups, women's and children's organizations, and the Democratic Members of our Committee—and rightfully so. It is a provision that was never recommended by the National Bankruptcy Commission, who has been the primary group studying the bankruptcy system and the need for bankruptcy reform.

Sure, the IRS-developed ''means test'' is easy to use, but does that make it right? Is it a bright line or a rubber stamp? Is it not our responsibility to look at where the bright line lies, rather than on the fact that it is a bright line? Are we allowing form to rule over substance?

At committee and at rules I offered several amendments that would have made this a better bill, a bill that would be more responsive to the needs of all Americans, and not just those that work in glass towers. I offered amendments that would have protected victims of managed care disasters and tobacco companies. I offered amendments that would have protected our seniors that rely on social security as their primary source of income. I offered amendments that would have allowed recipients of federal disaster assistance to not be penalized by the bankruptcy system. How these reasonable amendments were not accepted I cannot say—but I can say that this bill does not do right by the American people.

The bill raises more questions than it answers, especially for America's families. I urge each of you to vote against it, and work with us to provide meaningful bankruptcy reform that eschews personal and financial responsibility from both debtors and creditors.

Mr. CRAMER. Mr. Chairman, I rise in support of H.R. 833, the Bankruptcy Reform Act.

H.R. 833, is a common sense piece of legislation that reforms our deeply flawed bankruptcy system. Under our current bankruptcy system, we have seen an increase in bankruptcy filings by more than 400 percent since 1980. Last year alone, during booming economic times with historic lows in unemployment, more than 1.4 million Americans filed for bankruptcy. This is a 3.6 percent increase over the number of individuals filing for personal bankruptcy in 1997 and an increase of 94.7 percent over 1990 levels. Moreover, 70 percent of these 1.4 million bankruptcies were filed under Chapter 7, the most permissive and lenient form of bankruptcy. Under Chapter 7, individuals can simply erase most of their accumulated debt. In effect, the permissiveness of the current system, while allowing some consumers to escape their debts, ultimately harms all consumers by forcing industry to charge higher prices and impose tighter credit.

Clearly, Mr. Chairman, something is wrong with our current bankruptcy system. Our current system makes it too easy for individuals to compile huge amounts of debt and then escape responsibility for repaying those debts. For far too many individuals, bankruptcy has become an easy and convenient way to skirt their financial obligations rather than an instrument of last resort.

H.R. 833 reforms this flawed system. H.R. 833 simply says that those consumers who can afford to pay back their debt should be required to do so. This bill does this by instituting a means test that requires those individuals making more than the regional median income, and who can pay more than $6,000 in debts over five years to file for Chapter 13 bankruptcy, as opposed to Chapter 7. By doing this, the bill prevents individuals with high incomes from walking away from their debts. At the same time, the bill continues to provide those individuals in need of bankruptcy protection with the opportunity to file for the more lenient Chapter 7 bankruptcy. The bill also attempts to discourage individuals from repeatedly filing for bankruptcy protection by terminating the automatic stay against collection of debts for an individual who files for bankruptcy within one year of clearing up an earlier bankruptcy.

Mr. Chairman, H.R. 833 is a good bill that cuts down on the blatant abuse of the current system by instituting several much needed reforms. This bill restores balance, accountability, and common sense to our deeply flawed system. Some, I know will argue that the bill is extreme and will end up harming families who are in desperate need of bankruptcy relief. But, Mr. Chairman, I believe this bill strikes the right balance between seeking to protect those in most dire need, while restoring personal responsibility to our bankruptcy system.

Therefore, Mr. Chairman, I urge my colleagues to support H.R. 833.

Mr. BEREUTER. Mr. Chairman, this Member rises today to express his support for H.R. 833, the Bankruptcy Reform Act, of which he is an original cosponsor.

First, this Member would thank the distinguished gentleman from Pennsylvania [Mr. GEKAS], Chairman of the Judiciary Subcommittee on Commercial and Administrative Law, for introducing this bill. This Member would also like to express his appreciation to the distinguished gentleman from Illinois [Mr. HYDE], the Chairman of the Judiciary Committee, for his efforts in getting this measure to the House Floor for consideration.

This Member supports the Bankruptcy Reform Act for numerous reasons; however, the most important reasons include the following:

First, and of preeminent importance to the nation's agriculture sector, this Member supports the provision in H.R. 833 which permanently extends Chapter 12 of the Bankruptcy Code for family farmers. Chapter 12 bankruptcy allows family farmers to reorganize their debts as compared to liquidating their assets. Chapter 12 bankruptcy has been a viable option for family farmers nationwide. It has allowed family farmers to reorganize their assets in a manner which balances the interests of creditors and the future success of the involved farmer.

If Chapter 12 bankruptcy provisions are not permanently extended for family farmers, this will have a drastic impact on an agricultural sector already reeling from low commodity prices. Not only will many family farmers have to end their operations, but also land values will likely plunge downward. Such a decrease in land values will affect both the ability of family farmers to earn a living and the manner in which banks, making agricultural loans, conduct their lending activities. This Member has received many contacts from his constituents regarding the extension of Chapter 12 bankruptcy because of the situation now being faced by our nation's farm families—although the U.S. economy is generally healthy, it is clear that agricultural sector is hurting.

Second, this Member supports the provision in H.R. 833 which provides for a means testing (needs-based) formula when determining whether an individual should file for Chapter 7 or Chapter 13 bankruptcy. The vast majority of bankruptcy filers—approximately 70%—choose Chapter 7 of the Bankruptcy Code, which erases all debts. Some Chapter 7 filers actually have the capacity to repay some of what they owe, but they choose Chapter 7 bankruptcy and are able to walk away from these debts. For example, the stories in which an individual filed for Chapter 7 bankruptcy and then goes out takes a nice vacation and/or buys a new car are too common. Moreover, the status quo is costing the average American individual and family in increased costs for consumer goods and credit because of the amount of debt which is never repaid to creditors.

As a response to these concerns, the means test of H.R. 833 will help ensure that high income filers, who could repay some of what they owe, are required to file Chapter 13 bankruptcy as compared to Chapter 7. This needs-based system takes a debtor's income, expenses, obligations and any special circumstances into account when determining whether he or she has the capacity to repay a portion of their debts. However, this bill still preserves the right to file bankruptcy, for an individual or family who legitimately need a ''fresh start'', which was the original intent behind bankruptcy legislation.

Third, this Member also supports the positive steps that H.R. 833 takes in ensuring that those who owe child support and alimony payments are not allowed to evade this vital, familial responsibility by filing bankruptcy. The bill moves child support payments and alimony into the highest payment priority.

In closing, this Member would encourage his colleagues to support H.R. 833, the Bankruptcy Reform Act.

Ms. ROYBAL-ALLARD. Mr. Chairman, I rise in opposition to this bill.

I would gladly vote for H.R. 833 if it were a ''balanced and sensible'' bankruptcy reform bill. Unfortunately, H.R. 833 fails to include reasonable consumer protections.

Because the closed rule prevented Mr. DELAHUNT, Mr. WATT, Mr. LAFALCE and I from offering an amendment to ensure that the credit industry assumes its responsibility for the dramatic rise in consumer debt this bill allows misleading and coercive practices to continue.

My staff collected credit card solicitations they receive in the mail. In a matter of weeks, we amassed dozens of solicitations, offering free cookbooks, calling cards, sweatshirts, and frequent flyer miles. All promoted low teaser rates in giant print. But you need a magnifying glass to see the permanent rate, which can jump to 25%.

With these aggressive marketing techniques, fundamental bankruptcy reform must

include reasonable consumer protections. Without them, H.R. 833 is a lost opportunity for this House.

I urge my colleagues to oppose the bill.

The CHAIRMAN pro tempore (Mr. LAHOOD). All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill is considered as an original bill for the purpose of amendment under the 5-minute rule and is considered as read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 833

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Bankruptcy Reform Act of 1999''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—CONSUMER BANKRUPTCY PROVISIONS

Subtitle A—Needs based bankruptcy

Sec. 101. Conversion.
Sec. 102. Dismissal or conversion.
Sec. 103. Notice of alternatives.
Sec. 104. Debtor financial management training test program.

Subtitle B—Consumer Bankruptcy Protections

Sec. 105. Definitions.
Sec. 106. Enforcement.
Sec. 107. Sense of the congress.
Sec. 108. Discouraging abusive reaffirmation practices.
Sec. 109. Promotion of alternative dispute resolution.
Sec. 110. Enhanced disclosure for credit extensions secured by a dwelling.
Sec. 111. Dual use debit card.
Sec. 112. Enhanced disclosures under an open-end credit plan.
Sec. 113. Protection of savings earmarked for the postsecondary education of children.
Sec. 114. Effect of discharge.
Sec. 115. Limiting trustee liability.
Sec. 116. Reinforce the fresh start.
Sec. 117. Discouraging bad faith repeat filings.
Sec. 118. Curbing abusive filings.
Sec. 119. Debtor retention of personal property security.
Sec. 120. Relief from the automatic stay when the debtor does not complete intended surrender of consumer debt collateral.
Sec. 121. Giving secured creditors fair treatment in chapter 13.
Sec. 122. Restraining abusive purchases on secured credit.
Sec. 123. Fair valuation of collateral.
Sec. 124. Domiciliary requirements for exemptions.
Sec. 125. Restrictions on certain exempt property obtained through fraud.
Sec. 126. Rolling stock equipment.
Sec. 127. Discharge under chapter 13.
Sec. 128. Bankruptcy judgeships.
Sec. 129. Additional amendments to title 11, United States Code.
Sec. 130. Amendment to section 1325 of title 11, United States Code.
Sec. 131. Application of the codebtor stay only when the stay protects the debtor.
Sec. 132. Adequate protection for investors.
Sec. 133. Limitation on luxury goods.
Sec. 134. Giving debtors the ability to keep leased personal property by assumption.
Sec. 135. Adequate protection of lessors and purchase money secured creditors.
Sec. 136. Automatic stay.
Sec. 137. Extend period between bankruptcy discharges.
Sec. 138. Definition of domestic support obligation.
Sec. 139. Priorities for claims for domestic support obligations.
Sec. 140. Requirements to obtain confirmation and discharge in cases involving domestic support obligations.
Sec. 141. Exceptions to automatic stay in domestic support obligation proceedings.
Sec. 142. Nondischargeability of certain debts for alimony, maintenance, and support.
Sec. 143. Continued liability of property.
Sec. 144. Protection of domestic support claims against preferential transfer motions.
Sec. 145. Clarification of meaning of household goods.
Sec. 146. Nondischargeable debts.
Sec. 147. Monetary limitation on certain exempt property.
Sec. 148. Bankruptcy fees.
Sec. 149. Collection of child support.
Sec. 150. Excluding employee benefit plan participant contributions and other property from the estate.
Sec. 151. Clarification of postpetition wages and benefits.
Sec. 152. Exceptions to automatic stay in domestic support obligation proceedings.
Sec. 153. Automatic stay inapplicable to certain proceedings against the debtor.

TITLE II—DISCOURAGING BANKRUPTCY ABUSE

Sec. 201. Reenactment of chapter 12.
Sec. 202. Meetings of creditors and equity security holders.
Sec. 203. Protection of retirement savings in bankruptcy.
Sec. 204. Protection of refinance of security interest.
Sec. 205. Executory contracts and unexpired leases.
Sec. 206. Creditors and equity security holders committees.
Sec. 207. Amendment to section 546 of title 11, United States Code.
Sec. 208. Limitation.
Sec. 209. Amendment to section 330(a) of title 11, United States Code.
Sec. 210. Postpetition disclosure and solicitation.
Sec. 211. Preferences.
Sec. 212. Venue of certain proceedings.
Sec. 213. Period for filing plan under chapter 11.
Sec. 214. Fees arising from certain ownership interests.
Sec. 215. Claims relating to insurance deposits in cases ancillary to foreign proceedings.
Sec. 216. Defaults based on nonmonetary obligations.
Sec. 217. Sharing of compensation.
Sec. 218. Priority for administrative expenses.

TITLE III—GENERAL BUSINESS BANKRUPTCY PROVISIONS

Sec. 301. Definition of disinterested person.
Sec. 302. Miscellaneous improvements.
Sec. 303. Extensions.
Sec. 304. Local filing of bankruptcy cases.
Sec. 305. Permitting assumption of contracts.

TITLE IV SMALL BUSINESS BANKRUPTCY PROVISIONS

Sec. 401. Flexible rules for disclosure Statement and plan.
Sec. 402. Definitions.
Sec. 403. Standard form disclosure Statement and plan.
Sec. 404. Uniform national reporting requirements.
Sec. 405. Uniform reporting rules and forms for small business cases.
Sec. 406. Duties in small business cases.
Sec. 407. Plan filing and confirmation deadlines.
Sec. 408. Plan confirmation deadline.
Sec. 409. Prohibition against extension of time.
Sec. 410. Duties of the United States trustee.
Sec. 411. Scheduling conferences.
Sec. 412. Serial filer provisions.
Sec. 413. Expanded grounds for dismissal or conversion and appointment of trustee or examiner.
Sec. 414. Study of operation of title 11 of the United States Code with respect to small businesses.
Sec. 415. Payment of interest.

TITLE V—MUNICIPAL BANKRUPTCY PROVISIONS

Sec. 501. Petition and proceedings related to petition.
Sec. 502. Applicability of other sections to chapter 9.

TITLE VI—STREAMLINING THE BANKRUPTCY SYSTEM

Sec. 601. Creditor representation at first meeting of creditors.
Sec. 602. Audit procedures.
Sec. 603. Giving creditors fair notice in chapter 7 and 13 cases.
Sec. 604. Dismissal for failure to timely file schedules or provide required information.
Sec. 605. Adequate time to prepare for hearing on confirmation of the plan.
Sec. 606. Chapter 13 plans to have a 5-year duration in certain cases.
Sec. 607. Sense of the Congress regarding expansion of rule 9011 of the Federal Rules of Bankruptcy Procedure.
Sec. 608. Elimination of certain fees payable in chapter 11 bankruptcy cases.
Sec. 609. Study of bankruptcy impact of credit extended to dependent students.
Sec. 610. Prompt relief from stay in individual cases.
Sec. 611. Stopping abusive conversions from chapter 13.
Sec. 612. Bankruptcy appeals.
Sec. 613. GAO study.

TITLE VII—BANKRUPTCY DATA

Sec. 701. Improved bankruptcy statistics.
Sec. 702. Uniform rules for the collection of bankruptcy data.
Sec. 703. Sense of the Congress regarding availability of bankruptcy data.

TITLE VIII—BANKRUPTCY TAX PROVISIONS

Sec. 801. Treatment of certain liens.
Sec. 802. Effective notice to government.
Sec. 803. Notice of request for a determination of taxes.
Sec. 804. Rate of interest on tax claims.
Sec. 805. Tolling of priority of tax claim time periods.
Sec. 806. Priority property taxes incurred.
Sec. 807. Chapter 13 discharge of fraudulent and other taxes.
Sec. 808. Chapter 11 discharge of fraudulent taxes.
Sec. 809. Stay of tax proceedings.
Sec. 810. Periodic payment of taxes in chapter 11 cases.
Sec. 811. Avoidance of statutory tax liens prohibited.
Sec. 812. Payment of taxes in the conduct of business.
Sec. 813. Tardily filed priority tax claims.
Sec. 814. Income tax returns prepared by tax authorities.
Sec. 815. Discharge of the estate's liability for unpaid taxes.
Sec. 816. Requirement to file tax returns to confirm chapter 13 plans.

Sec. 817. Standards for tax disclosure.
Sec. 818. Setoff of tax refunds.
TITLE IX—ANCILLARY AND OTHER CROSS-BORDER CASES
Sec. 901. Amendment to add chapter 15 to title 11, United States Code.
Sec. 902. Amendments to other chapters in title 11, United States Code.
TITLE X—FINANCIAL CONTRACT PROVISIONS
Sec. 1001. Treatment of certain agreements by conservators or —receivers of insured depository institutions.
Sec. 1002. Authority of the corporation with respect to failed and failing institutions.
Sec. 1003. Amendments relating to transfers of qualified financial contracts.
Sec. 1004. Amendments relating to disaffirmance or repudiation of qualified financial contracts.
Sec. 1005. Clarifying amendment relating to master agreements.
Sec. 1006. Federal Deposit Insurance Corporation Improvement Act of 1991.
Sec. 1007. Bankruptcy Code amendments.
Sec. 1008. Recordkeeping requirements.
Sec. 1009. Exemptions from contemporaneous execution —requirement.
Sec. 1010. Damage measure.
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Sec. 1013. Federal Reserve collateral requirements.
Sec. 1014. Effective date; application of — amendments.
TITLE XI—TECHNICAL CORRECTIONS
Sec. 1101. Definitions.
Sec. 1102. Adjustment of dollar amounts.
Sec. 1103. Extension of time.
Sec. 1104. Technical amendments.
Sec. 1105. Penalty for persons who negligently or fraudulently prepare bankruptcy petitions.
Sec. 1106. Limitation on compensation of professional persons.
Sec. 1107. Special tax provisions.
Sec. 1108. Effect of conversion.
Sec. 1109. Allowance of administrative expenses.
Sec. 1110. Priorities.
Sec. 1111. Exemptions.
Sec. 1112. Exceptions to discharge.
Sec. 1113. Effect of discharge.
Sec. 1114. Protection against discriminatory treatment.
Sec. 1115. Property of the estate.
Sec. 1116. Preferences.
Sec. 1117. Postpetition transactions.
Sec. 1118. Disposition of property of the estate.
Sec. 1119. General provisions.
Sec. 1120. Appointment of elected trustee.
Sec. 1121. Abandonment of railroad line.
Sec. 1122. Contents of plan.
Sec. 1123. Discharge under chapter 12.
Sec. 1124. Bankruptcy cases and proceedings.
Sec. 1125. Knowing disregard of bankruptcy law or rule.
Sec. 1126. Transfers made by nonprofit charitable corporations.
Sec. 1127. Prohibition on certain actions for failure to incur finance charges.
Sec. 1128. Protection of valid purchase money security interests.
Sec. 1129. Trustees.
TITLE XII—GENERAL EFFECTIVE DATE; APPLICATION OF AMENDMENTS
Sec. 1201. Effective date; application of amendments.

TITLE I—CONSUMER BANKRUPTCY PROVISIONS

Subtitle A—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 at the request or suggestion of'' and inserting ''the trustee, 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 second and third sentences and inserting the following:

''(2)(A)(i) In considering under paragraph (1) whether the granting of relief would be an abuse of the provisions of this chapter, the court shall presume abuse exists if the debtor's current monthly income less estimated administrative expenses and reasonable attorneys' fees, and amounts set forth in clauses (ii) for monthly expenses (which shall include, if applicable, the continuation of actual expenses of a dependent child under the age of 18 for tuition, books, and required fees at a private elementary or secondary school, not exceeding $10,000 per year, which amount shall be adjusted pursuant to section 104(b)), (iii) for monthly payments on account of secured debts, and (iv) for monthly unsecured priority debt payments, and multiplied by 60 months is not less than $6,000.

''(ii) The debtor's monthly expenses shall be the debtor's applicable monthly expense amounts specified under the National Standards and Local Standards, and the debtor's applicable monthly expenses for the categories specifically listed as Other Necessary Expenses issued by the Internal Revenue Service for the area in which the debtor resides, as in effect on the date of the entry of the order for relief, for the debtor, the dependents of the debtor, and the spouse of the debtor in a joint case, if the spouse is not otherwise a dependent. In addition, if it is demonstrated that it is reasonable and necessary, the debtor may also subtract an allowance of up to 5% of the food and clothing categories as specified by the National Standards issued by the Internal Revenue Service. Notwithstanding any other provision of this clause, the debtor's monthly expenses shall not include any payments for debts.

''(iii) The debtor's average monthly payments on account of secured debts shall be calculated as the total of all amounts scheduled as contractually due to secured creditors in each month of the 60 months following the date of the petition, and dividing that total by 60 months.

''(iv) The debtor's monthly unsecured priority debt payments (including payments for priority child support and alimony claims) shall be calculated as the total amount of unsecured debts entitled to priority, and dividing the total by 60 months.

''(v) For the purposes of this subsection, a family or household shall consist of the debtor, the debtor's spouse, and the debtor's dependents, but not a legally separated spouse unless the spouse files a joint case with the debtor.

''(B) In any proceeding brought under this subsection, the presumption of abuse may be rebutted only by demonstrating extraordinary circumstances that require additional expenses or adjustment of current monthly income. In order to establish extraordinary circumstances, the debtor must itemize each additional expense or adjustment of income and provide documentation for such expenses or adjustment of income and a detailed explanation of the extraordinary circumstances which make such expenses or adjustment of income necessary and reasonable. The debtor shall attest under oath to the accuracy of any information provided to demonstrate that additional expenses or adjustment to income are required. The presumption of abuse may be rebutted only if such additional expenses or adjustments to income cause the debtor's current monthly income less estimated administrative expenses and reasonable attorneys' fees, and the amounts set forth in clauses (ii), (iii), and (iv) of subparagraph (A) when multiplied by 60 to be less than $6,000.

''(C) As part of the schedule of current income and expenditures required under section 521 of this title, the debtor shall include a statement of the debtor's current monthly income, and the calculations which determine whether a presumption arises under subparagraph (A)(i), showing how each amount is calculated. The bankruptcy rules promulgated under section 2075 of title 28, United States Code, shall prescribe a form for such statement and may provide general rules on its content.

''(D) No judge, United States trustee, panel trustee, bankruptcy administrator or other party in interest shall bring a motion under this paragraph 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 regional median household monthly income calculated on a semiannual 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.

''(3) In considering under paragraph (1) whether the granting of relief would be an abuse of the provisions of this chapter in a case in which the presumption in paragraph (2)(A)(i) does not apply or has been rebutted, the court shall consider—

''(A) whether the debtor filed the petition in bad faith; or

''(B) the totality of the circumstances (including whether the debtor seeks to reject a personal services contract and the financial need for such rejection as sought by the debtor) of the debtor's financial situation demonstrates abuse.

''(4)(A) If a panel trustee appointed under section 586(a)(1) of title 28 or bankruptcy administrator 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 violated Rule 9011, the court shall assess damages which may include ordering:

''(i) the counsel for the debtor to reimburse the trustee for all reasonable costs in prosecuting the motion, including reasonable attorneys' fees.

''(ii) the assessment of an appropriate civil penalty against the counsel for the debtor; and

''(iii) the payment of the civil penalty to the panel trustee, bankruptcy administrator or the United States trustee.

''(B) In the case of a petition filed under sections 301, 302, or 303 of this title and supporting lists, schedules and documents filed under section 521(a)(1) of this title, the signature of an attorney on the petition 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, lists, schedules, and documents—

''(I) are well grounded in fact; and

''(II) are warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law and do not constitute an abuse under paragraph (1) of this subsection.

''(5) The court may award a debtor all reasonable costs in contesting a motion filed by a party in interest (not including a trustee or the United States trustee) under this subsection (including reasonable attorneys' fees) if—

''(A) the court does not grant the motion; and

''(B) 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.

''(6) However, only the court, the United States trustee, or the trustee may file a motion to dismiss or convert a case under this subsection if the current monthly income of the debtor and the debtor's spouse combined, as of the date of the order for relief, when multiplied by 12, is less than the highest national median family income last reported by the Bureau of the Census for a family of equal or lesser size, or in the case of a household of 1 person, the national median household income for 1 earner. Notwithstanding the foregoing, the national median family income for a family of more than 4 individuals shall be the national median family income last reported by the Bureau of the Census for a family of 4 individuals plus $583 for each additional member of the family.

''(7) In making a determination whether to dismiss a case under this section, the court may not take into consideration whether a debtor has made, or continues to make, charitable contributions (that meet the definition of 'charitable contribution' under section 548(d)(3)) to any qualified religious or charitable entity or organization (as that term is defined in section 548(d)(4)).

''(8) Not later than 3 years after the date of enactment of the Bankruptcy Reform Act of 1999, the Director of the Executive Office for United States Trustees shall submit a report, to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate, containing its findings regarding the utilization of the Internal Revenue Service standards for determining the current monthly expenses under section 707(b)(1)(A)(ii) of title 11, United States Code, of debtors and the impact that the application of such standards has had on debtors and on the bankruptcy courts. Such report may include recommendations for amendments to such title, consistent with the Director's findings.''.

(b) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—

(1) by inserting after paragraph (10) the following:

''(10A) 'current monthly income' means the average monthly income from all sources derived which the debtor, or in a joint case, the debtor and the debtor's spouse, receive without regard to whether it is taxable income, in the 180 days preceding the date of determination, and includes any amount paid by anyone other than the debtor or, in a joint case, the debtor and the debtor's spouse, on a regular basis to the household expenses of the debtor or the debtor's dependents and, in a joint case, the debtor's spouse if not otherwise a dependent, but excludes payments to victims of war crimes or crimes against humanity;''; and

(2) by inserting after paragraph (17) the following:

''(17A) 'estimated administrative expenses and reasonable attorneys' fees' means 10 percent of projected payments under a chapter 13 plan;''.

(c) ADMINISTRATIVE PROVISIONS.—Section 704 of title 11, United States Code, is amended—

(1) in paragraph (8) by striking ''and'' at the end;

(2) in paragraph (9) by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(10)(A) With respect to an individual debtor, the trustee shall review all materials filed by the debtor, consider all information presented at the first meeting of creditors, and within 10 days after the first meeting of creditors file with the court a statement as to whether the debtor's case should be presumed to be an abuse under section 707(b) of this title. The court shall provide a copy of such statement to all creditors within 5 days after such statement is filed. If, based on the filing of such statement with the court, the trustee determines that the debtor's case should be presumed to be an abuse under section 707(b) of this title and if the current monthly income of the debtor and the debtor's spouse combined, as of the date of the order for relief, when multiplied by 12, is not less than the highest national median family income reported for a family of equal or lesser size, or in the case of a household of 1 person, the national median household income for 1 earner, then the trustee shall within 30 days of the filing of such statement, either—

''(i) file a motion to dismiss or convert under section 707(b) of this title; or

''(ii) file a statement setting forth the reasons the trustee or bankruptcy administrator does not believe that such a motion would be appropriate.

''(B) Notwithstanding subparagraph (A), for purposes of this paragraph the national family income for a family of more than 4 individuals shall be the national median family income last reported by the Bureau of the Census for a family of 4 individuals plus $583 for each additional member of the family.''.

(d) 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.''.

SEC. 103. NOTICE OF ALTERNATIVES.

Section 342(b) of title 11, United States Code, is amended to read as follows:

''(b) Before the commencement of a case under this title by an individual whose debts are primarily consumer debts, the clerk shall give to such individual written notice containing—

''(1) a brief description of—

''(A) chapters 7, 11, 12, and 13 and the general purpose, benefits, and costs of proceeding under each of those chapters; and

''(B) the types of services available from credit counseling agencies; and

''(2) statements specifying that—

''(A) a person who knowingly and fraudulently conceals assets or makes a false oath or statement under penalty of perjury in connection with a bankruptcy case shall be subject to fine, imprisonment, or both; and

''(B) all information supplied by a debtor in connection with a bankruptcy case is subject to examination by the Attorney General.''.

SEC. 104. DEBTOR FINANCIAL MANAGEMENT TRAINING TEST PROGRAM.

(a) DEVELOPMENT OF FINANCIAL MANAGEMENT AND TRAINING CURRICULUM AND MATERIALS.—The Director of the Executive Office for United States Trustees (in this section referred to as the ''Director'') shall consult with a wide range of individuals who are experts in the field of debtor education, including trustees who are appointed under chapter 13 of title 11 of the United States Code and who operate financial management education programs for debtors, and shall develop a financial management training curriculum and materials that can be used to educate individual debtors on how to better manage their finances.

(b) TEST—(1) The Director shall select 6 judicial districts of the United States in which to test the effectiveness of the financial management training curriculum and materials developed under subsection (a).

(2) For a 18-month period beginning not later than 270 days after the date of the enactment of this Act, such curriculum and materials shall be, for the 6 judicial districts selected under paragraph (1), used as the instructional course concerning personal financial management for purposes of section 111 of this title.

(c) EVALUATION.—(1) During the 1-year period referred to in subsection (b), the Director shall evaluate the effectiveness of—

(A) the financial management training curriculum and materials developed under subsection (a); and

(B) a sample of existing consumer education programs such as those described in the Report of the National Bankruptcy Review Commission (October 20, 1997) that are representative of consumer education programs carried out by the credit industry, by trustees serving under chapter 13 of title 11 of the United States Code, and by consumer counselling groups.

(2) Not later than 3 months after concluding such evaluation, the Director shall submit a report to the Speaker of the House of Representatives and the President pro tempore of the Senate, for referral to the appropriate committees of the Congress, containing the findings of the Director regarding the effectiveness of such curriculum, such materials, and such programs and their costs.

Subtitle B—Consumer Bankruptcy Protections

SEC. 105. DEFINITIONS.

(a) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—

(1) by inserting after paragraph (2) the following:

''(3) 'assisted person' means any person whose debts consist primarily of consumer debts and whose non-exempt assets are less than $150,000;'';

(2) by inserting after paragraph (4) the following:

''(4A) 'bankruptcy assistance' means any goods or services sold or otherwise provided to an assisted person with the express or implied purpose of providing information, advice, counsel, document preparation or filing, or attendance at a creditors' meeting or appearing in a proceeding on behalf of another or providing legal representation with respect to a proceeding under this title;''; and

(3) by inserting after paragraph (12A) the following:

''(12B) 'debt relief agency' means any person who provides any bankruptcy assistance to an assisted person in return for the payment of money or other valuable consideration, or who is a bankruptcy petition preparer pursuant to section 110 of this title, but does not include any person that is any of the following or an officer, director, employee or agent thereof—

''(A) any nonprofit organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986;

''(B) any creditor of the person to the extent the creditor is assisting the person to restructure any debt owed by the person to the creditor; or

''(C) any depository institution (as defined in section 3 of the Federal Deposit Insurance Act) or any Federal credit union or State credit union (as those terms are defined in section 101 of the Federal Credit Union Act), or any affiliate or subsidiary of such a depository institution or credit union;''.

(b) CONFORMING AMENDMENT.—In section 104(b)(1) by inserting ''101(3),'' after ''sections''.

SEC. 106. ENFORCEMENT.

(a) ENFORCEMENT.—Subchapter II of chapter 5 of title 11, United States Code, is amended by adding at the end the following:

''§ 526. Debt relief agency enforcement

''(a) A debt relief agency shall not—

''(1) fail to perform any service which the debt relief agency has told the assisted person or prospective assisted person the agency would provide that person in connection with the preparation for or activities during a proceeding under this title;

''(2) make any statement, or counsel or advise any assisted person to make any statement in any document filed in a proceeding under this title, which is untrue and misleading or which upon the exercise of reasonable care, should be known by the debt relief agency to be untrue or misleading;

''(3) misrepresent to any assisted person or prospective assisted person, directly or indirectly, affirmatively or by material omission,

what services the debt relief agency can reasonably expect to provide that person, or the benefits an assisted person may obtain or the difficulties the person may experience if the person seeks relief in a proceeding pursuant to this title; or

''(4) advise an assisted person or prospective assisted person to incur more debt in contemplation of that person filing a proceeding under this title or in order to pay an attorney or bankruptcy petition preparer fee or charge for services performed as part of preparing for or representing a debtor in a proceeding under this title.''.

''(b) ASSISTED PERSON WAIVERS INVALID.—Any waiver by any assisted person of any protection or right provided by or under this section shall not be enforceable against the debtor by any Federal or State court or any other person, but may be enforced against a debt relief agency.

''(c) NONCOMPLIANCE.—

''(1) Any contract between a debt relief agency and an assisted person for bankruptcy assistance which does not comply with the material requirements of this section shall be treated as void and may not be enforced by any Federal or State court or by any other person.

''(2) Any debt relief agency shall be liable to an assisted person in the amount of any fees or charges in connection with providing bankruptcy assistance to such person which the debt relief agency has received, for actual damages, and for reasonable attorneys' fees and costs if the debt relief agency is found, after notice and hearing, to have—

''(A) intentionally or negligently failed to comply with any provision of this section with respect to a bankruptcy case or related proceeding of the assisted person;

''(B) provided bankruptcy assistance to an assisted person in a case or related proceeding which is dismissed or converted because of the debt relief agency's intentional or negligent failure to file bankruptcy papers, including papers specified in section 521 of this title; or

''(C) intentionally or negligently disregarded the material requirements of this title or the Federal Rules of Bankruptcy Procedure applicable to such debt relief agency.

''(3) In addition to such other remedies as are provided under State law, whenever the chief law enforcement officer of a State, or an official or agency designated by a State, has reason to believe that any person has violated or is violating this section, the State—

''(A) may bring an action to enjoin such violation;

''(B) may bring an action on behalf of its residents to recover the actual damages of assisted persons arising from such violation, including any liability under paragraph (2); and

''(C) in the case of any successful action under subparagraph (A) or (B), shall be awarded the costs of the action and reasonable attorney fees as determined by the court.

''(4) The United States District Court for any district located in the State shall have concurrent jurisdiction of any action under subparagraph (A) or (B) of paragraph (3).

''(5) Notwithstanding any other provision of Federal law and in addition to any other remedy provided under Federal or State law, if the court, on its own motion or on the motion of the United States trustee or the debtor, finds that a person intentionally violated this section, or engaged in a clear and consistent pattern or practice of violating this section, the court may—

''(A) enjoin the violation of such section; or

''(B) impose an appropriate civil penalty against such person.

''(c) RELATION TO STATE LAW.—This section shall not annul, alter, affect or exempt any person subject to those sections from complying with any law of any State except to the extent that such law is inconsistent with those sections, and then only to the extent of the inconsistency.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, is amended by inserting after the item relating to section 527, the following:

''526. Debt relief agency enforcement.''.

SEC. 107. SENSE OF THE CONGRESS.

It is the sense of the Congress that States should develop curricula relating to the subject of personal finance, designed for use in elementary and secondary schools.

SEC. 108. DISCOURAGING ABUSIVE REAFFIRMATION PRACTICES.

Section 524 of title 11, United States Code, is amended—

(1) in subsection (c)—

(A) in paragraph (2)—

(i) in subparagraph (A) by striking ''and'' at the end;

(ii) in subparagraph (B) by adding ''and'' at the end; and

(iii) by adding at the end the following:

''(C) if the consideration for such agreement is based on a wholly unsecured consumer debt (except for debts owed to creditors defined in section 461(b)(1)(A)(iv) of title 12, United States Code), such agreement contains a clear and conspicuous statement which advises the debtor—

''(i) that the debtor is entitled to a hearing before the court at which the debtor shall appear in person and at which the court will decide whether the agreement is an undue hardship, not in the debtor's best interest, and not the result of a threat by the creditor to take any action that cannot be legally taken or that is not intended to be taken; and

''(ii) that if the debtor is represented by counsel, the debtor may waive the debtor's right to such a hearing by signing a statement waiving the hearing, stating that the debtor is represented by counsel, and identifying such counsel;''; and

(B) in paragraph (6)(A)—

(i) by striking ''and'' at the end of clause (i);

(ii) by striking the period at the end of clause (ii) and inserting ''; and''; and

(iii) by adding at the end thereof the following:

''(iii) not entered into by the debtor as the result of a threat by the creditor to take any action that cannot be legally taken or that is not intended to be taken.''; and

(2) in the 3d sentence of subsection (d)—

(A) by striking ''of this section'' and inserting a comma; and

(B) by inserting after ''such agreement'' the following:

''or if the consideration for such agreement is based on a wholly unsecured consumer debt (except for debts owed to creditors defined in section 461(b)(1)(A)(iv) of title 12, United States Code) and the debtor has not waived the debtor's right to a hearing on the agreement in accordance with subsection (c)(2)(C) of this section''.

SEC. 109. PROMOTION OF ALTERNATIVE DISPUTE RESOLUTION.

(a) REDUCTION OF CLAIM.—Section 502 of title 11, United States Code, is amended by adding at the end the following:

''(k)(1) The court, on the motion of the debtor and after a hearing, may reduce a claim filed under this section based wholly on unsecured consumer debts by not more than 20 percent, if the debtor can prove by clear and convincing evidence that the claim was filed by a creditor who unreasonably refused to negotiate a reasonable alternative repayment schedule proposed by an approved credit counseling agency acting on behalf of the debtor, and if—

''(A) such offer was made within the period beginning 60 days before the filing of the petition;

''(B) such offer provided for payment of at least 60 percent of the amount of the debt over a period not to exceed the repayment period of the loan, or a reasonable extension thereof; and

''(C) no part of the debt under the alternative repayment schedule is nondischargeable, is entitled to priority under section 507 of this title, or would be paid a greater percentage in a chapter 13 proceeding than offered by the debtor.

''(2) The debtor shall have the burden of proving that the proposed alternative repayment schedule was made in the 60-day period specified in subparagraph (A) and that the creditor unreasonably refused to consider the debtor's proposal.''.

(b) LIMITATION ON AVOIDABILITY.—Section 547 of title 11, United States Code, is amended by adding at the end the following:

''(h) The trustee may not avoid a transfer if such transfer was made as a part of an alternative repayment plan between the debtor and any creditor of the debtor created by an approved credit counseling agency.''.

SEC. 110. ENHANCED DISCLOSURE FOR CREDIT EXTENSIONS SECURED BY A DWELLING.

(a) STUDY REQUIRED.—During the period beginning 180 days after the date of enactment of this Act and ending 18 months after the date of the enactment, the Board of Governors of the Federal Reserve System (in this section referred to as the ''Board'') shall conduct a study and submit to Congress a report (including recommendations for any appropriate legislation) regarding—

(1) whether a consumer engaging in an open-end credit transaction (as defined pursuant to section 103 of the Truth in lending Act) secured by the consumer's principal dwelling is provided adequate information under Federal law, including under section 127A of the Truth in Lending Act, regarding the tax deductibility of interest paid on such transaction; and

(2) whether a consumer engaging in a closed-end credit transaction (as defined pursuant to section 103 of the Truth in Lending Act) secured by the consumer's principal dwelling is provided adequate information regarding the tax deductibility of interest paid on such transaction.

In conducting such study, the Board shall specifically consider whether additional disclosures are necessary with respect to such open-end or closed-end credit transactions in which the amount of the credit extended exceeds the fair market value of the dwelling.

(b) REGULATIONS.—If the Board determines that additional disclosures are necessary in connection with transactions described in subsection (a), the Board, pursuant to its authority under the Truth in Lending Act, may promulgate regulations that would require such additional disclosures. Any such regulations promulgated by the Board under this section shall not take effect before the end of the 36-month period after the date of the enactment of this Act.

SEC. 111. DUAL USE DEBIT CARD.

(a) STUDY REQUIRED.—The Board of Governors of the Federal Reserve System (in this section referred to as the ''Board'') shall conduct a study of existing protections provided to consumers to limit their liability for unauthorized use of a debit card or similar access device.

(b) SPECIFIC CONSIDERATIONS.—In conducting the study required by subsection (a), the Board shall specifically consider the following—

(1) the extent to which existing provisions of section 909 of the Electronic Fund Transfer Act and the Board's implementing regulations provide adequate unauthorized use liability protection for consumers;

(2) the extent to which any voluntary industry rules have enhanced the level of protection afforded consumers in connection with such unauthorized use liability; and

(3) whether amendments to the Electronic Funds Transfer Act or the Board's implementing regulations thereto are necessary to provide adequate protection for consumers in this area.

(c) REPORT AND REGULATIONS.—Not later than 2 years after the date of the enactment of this Act, the Board shall make public a report on its findings with respect to the adequacy of existing protections afforded consumers with respect to

unauthorized-use liability for debit cards and similar access devices. If the Board determines that such protections are inadequate, the Board, pursuant to its authority under the Electronic Funds Transfer Act, may issue regulations to address such inadequacy. Any regulations issued by the Board shall not be effective before 36 months after the date of the enactment of this Act.

SEC. 112. ENHANCED DISCLOSURES UNDER AN OPEN-END CREDIT PLAN.

(a) INITIAL AND ANNUAL MINIMUM PAYMENT DISCLOSURE.—Section 127(a) of the Truth in Lending Act (15 U.S.C. 1637(a)) is amended by adding at the end the following:

''(9) In the case of any credit or charge card account under an open-end consumer credit plan on which a minimum monthly or periodic payment will be required, other than an account described in paragraph (8)—

''(A) the following statement: 'The minimum payment amount shown on your billing statement is the smallest payment which you can make in order to keep the account in good standing. This payment option is offered as a convenience and you may make larger payments at any time. Making only the minimum payment each month will increase the amount of interest you pay and the length of time it takes to repay your outstanding balance.';

''(B) if the plan provides that the consumer will be permitted to forgo making a minimum payment during a specified billing cycle, a statement, if applicable, that if the consumer chooses to forgo making the minimum payment, finance charges will continue to accrue; and

''(C) an example, based on an annual percentage rate and method for determining minimum periodic payments recently in effect for that creditor, and a $500 outstanding balance, showing the estimated minimum periodic payment, and the estimated period of time it would take to repay the $500 outstanding balance if the consumer paid only the minimum periodic payment on each monthly or periodic statement and obtained no additional extensions of credit.

''(10) With respect to one billing cycle per calendar year, the creditor shall transmit the information required under paragraph (9) to each consumer to whom the creditor is required to transit a statement pursuant to subsection (b) for such billing cycle. The creditor shall also transmit to such consumer for such cycle a worksheet prescribed by the Board to assist the consumer in determining the consumer's household income and debt obligations.''.

(b) PERIODIC MINIMUM PAYMENT DISCLOSURES.—Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end the following:

''(11) The following statement: 'The minimum payment amount shown on your billing statement is the smallest payment which you can make in order to keep the account in good standing. This payment option is offered as a convenience and you may make larger payments at any time. Making only the minimum payment each month will increase the amount of interest you pay and the length of time it takes to repay your outstanding balance.' ''.

(c) ENFORCEMENT.—Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end the following:

''(h) In promulgating regulations to implement the disclosure of an example required under subsection (a)(9)(C) and (a)(10), the Board shall set forth a model disclosure to accompany the example stating that the credit features shown are only an example which does not obligate the creditor, but is intended to illustrate the approximate length of time it could take to repay using the assumptions set forth in subsection (a)(9)(C) without regard to any other factors that could impact an approximate repayment period, including other credit features or the consumer's payment or other behavior with respect to the account. Compliance with the disclosures required under subsection (a)(9)(C) and (a)(10) shall be enforced exclusively by the Federal agencies set forth in section 108.''.

(d) REGULATORY IMPLEMENTATION.—The Board of Governors of the Federal Reserve System (in this section referred to as the ''Board'') shall promulgate regulations implementing the amendments made by subsections (a) and (b). Such regulations shall take effect no earlier than the end of the 36-month period beginning on the date of the enactment of this Act.

(e) STUDY REQUIRED.—The Board shall conduct a study to determine whether consumers have adequate information about borrowing activities which may result in financial problems. In studying this issue, the Board shall consider the extent to which—

(1) consumers, in establishing new credit arrangements, are aware of their existing payment obligations, the need to consider those obligations in deciding to take on new credit, and how taking on excessive credit can result in financial difficulty;

(2) minimum periodic payment features offered in connection with open-end credit plans impact consumer default rates;

(3) consumers always make only the minimum payment throughout the life of the plan;

(4) consumers are aware that making only minimum payments will increase the cost and repayment period of an open-end loan; and

(5) the availability of low minimum payment options is a cause of consumers experiencing financial difficulty.

(f) REPORT TO CONGRESS.—Before the end of the 2-year period beginning on the date of the enactment of this Act, the Board shall submit to Congress a report containing the findings of the Board in connection with the study required under subsection (e).

(g) REGULATIONS.—The Board shall, by regulation promulgated pursuant to its authority under the Truth in Lending Act, require additional disclosures to consumers regarding minimum payment features, including periodic statement disclosures, if the Board determines that such disclosures are necessary based on its findings. Any such regulations promulgated by the Board shall not take effect earlier than January 1, 2002.

SEC. 113. PROTECTION OF SAVINGS EARMARKED FOR THE POSTSECONDARY EDUCATION OF CHILDREN.

Section 522 of title 11, United States Code, is amended—

(1) in subsection (b)(2)—

(A) in subparagraph (A) by striking ''and'' at the end;

(B) in subparagraph (B) by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(C) except as provided in paragraph (n), funds placed in an education individual retirement account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986) not less than 365 days before the date of entry of the order of relief but only to the extent such funds—

''(i) are not pledged or promised to any entity in connection with any extension of credit; and

''(ii) are not excess contributions (as described in section 4973(e) of the Internal Revenue Code of 1986).''; and

(2) by adding at the end the following:

''(n) For purposes of subsection (b)(3)(C), funds placed in an education individual retirement account shall not be exempt under this subsection—

''(1) unless the designated beneficiary of such account was a dependent child of the debtor for the taxable year for which the funds were placed in such account; and

''(2) to the extent such funds exceed—

''(A) $50,000 in the aggregate in all such accounts having the same designated beneficiary; or

''(B) $100,000 in the aggregate in all such accounts attributable to all such dependent children of the debtor.''.

SEC. 114. 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 any injunction under subsection (a)(2) which has arisen at the time of the failure.

''(j)(1) An individual who is injured by the willful 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—

''(A) the greater of—

''(i) the amount of actual damages; or

''(ii) $1,000; and

''(B) costs and attorneys' fees.

''(2) An action to recover for a violation specified in paragraph (1) may not be brought as a class action.''.

SEC. 115. LIMITING TRUSTEE LIABILITY.

(a) QUALIFICATION OF TRUSTEE.—Section 322 of title 11, United States Code, is amended—

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

''The trustee in a case under this title is not liable personally or on such trustee's bond for acts taken within the scope of the trustee's duties or authority as delineated by other sections of this title or by order of the court, except to the extent that the trustee acted with gross negligence. Gross negligence shall be defined as reckless indifference or deliberate disregard of the trustee's fiduciary duty.''; and

(2) in subsection (c) by inserting ''for any acts within the scope of the trustee's authority defined in subsection (a)'' before the period at the end.

(b) ROLE AND CAPACITY OF TRUSTEE.—Section 323 of title 11, United States Code, is amended—

(1) in subsection (b) by inserting at the end the following: ''in the trustee's official capacity as representative of the estate'' before the period at the end; and

(2) by adding at the end the following:

''(c) The trustee in a case under this title may not be sued, either personally, in a representative capacity, or against the trustee's bond in favor of the United States—

''(1) for acts taken in furtherance of the trustee's duties or authority in a case in which the debtor is subsequently determined to be ineligible for relief under the chapter in which the trustee was appointed; or

''(2) for the dissemination of statistics and other information regarding a case or cases, unless the trustee has actual knowledge that the information is false.

''(d) The trustee in a case under this title may not be sued in a personal capacity without leave of the bankruptcy court in which the case is pending.''.

SEC. 116. REINFORCE THE FRESH START.

(a) RESTORATION OF AN EFFECTIVE DISCHARGE.—Section 523(a)(17) of title 11, United States Code, is amended—

(1) by striking ''by a court'' and inserting ''by any court'',

(2) by striking ''section 1915(b) or (f)'' and inserting ''subsection (b) or (f)(2) of section 1915'', and

(3) by inserting ''(or a similar non-Federal law)'' after ''title 28'' each place it appears.

SEC. 117. DISCOURAGING BAD FAITH REPEAT FILINGS.

Section 362(c) of title 11, United States Code, is amended—

(1) in paragraph (1) by striking ''and'' at the end;

(2) in paragraph (2) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

''(3) If a single or joint case is filed by or against an individual debtor under chapter 7,

11, or 13 (other than a case refiled under a chapter other than chapter 7 after dismisssal under section 707(b) of this title), and if a single or joint case of the debtor was pending within the previous 1-year period but was dismissed, 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 will terminate with respect to the debtor on the 30th day after the filing of the later case. Upon motion by a party in interest for continuation of the automatic stay and upon notice and a hearing, the court may extend the stay in particular cases as to any or all creditors (subject to such conditions or limitations as the court may then impose) after notice and a hearing completed before the expiration of the 30-day period only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed. A case is presumptively filed not in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)—

''(A) as to all creditors if—

''(i) more than 1 previous case under any of chapter 7, 11, or 13 in which the individual was a debtor was pending within such 1-year period;

''(ii) a previous case under any of chapters 7, 11, or 13 in which the individual was a debtor was dismissed within such 1-year period, after the debtor failed to file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney), failed to provide adequate protection as ordered by the court, or failed to perform the terms of a plan confirmed by the court; or

''(iii) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under any of chapters 7, 11, or 13 of this title, or there is not any other reason to conclude that the later case will be concluded, if a case under chapter 7 of this title, with a discharge, and if a chapter 11 or 13 case, a confirmed plan which will be fully performed;

''(B) as 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 such case, that action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to actions of such creditor.

''(4) If a single or joint case is filed by or against an individual debtor under this title (other than a case refiled under a chapter other than chapter 7 after a dismissal under section 707(b) of this title), and if 2 or more single or joint cases of the debtor were pending within the previous year but were dismissed, the stay under subsection (a) will not go into effect upon the filing of the later case. On request of a party in interest, the court shall promptly enter an order confirming that no stay is in effect. If a party in interest requests within 30 days of the filing of the later case, the court may order the stay to take effect in the case as to any or all creditors (subject to such conditions or limitations as the court may impose), after notice and hearing, only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed. A stay imposed pursuant to the preceding sentence will be effective on the date of entry of the order allowing the stay to go into effect. A case is presumptively not filed in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)—

''(A) as to all creditors if—

''(i) 2 or more previous cases under this title in which the individual was a debtor were pending within the 1-year period;

''(ii) a previous case under this title in which the individual was a debtor was dismissed within the time period stated in this paragraph after the debtor failed to file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney), failed to provide adequate protection as ordered by the court, or failed to perform the terms of a plan confirmed by the court; or

''(iii) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under this title, or there is not any other reason to conclude that the later case will be concluded, if a case under chapter 7, with a discharge, and if a case under chapter 11 or 13, with a confirmed plan that will be fully performed; or

''(B) as 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 such case, such action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to action of such creditor.''.

SEC. 118. CURBING ABUSIVE FILINGS.

(a) IN GENERAL.—Section 362(d) of title 11, United States Code, is amended—

(1) in paragraph (2), by striking ''or'' at the end;

(2) in paragraph (3), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(4) with respect to a stay of an act against real property under subsection (a), by a creditor whose claim is secured by an interest in such real estate, if the court finds that the filing of the bankruptcy petition was part of a scheme to delay, hinder, and defraud creditors that involved either—

''(A) transfer of all or part ownership of, or other interest in, the real property without the consent of the secured creditor or court approval; or

''(B) multiple bankruptcy filings affecting the real property.

If recorded in compliance with applicable State laws governing notices of interests or liens in real property, an order entered pursuant to this subsection shall be binding in any other case under this title purporting to affect the real property filed not later than 2 years after that recording, except that a debtor in a subsequent case may move for relief from such order based upon changed circumstances or for good cause shown, after notice and a hearing. Any Federal, State, or local governmental unit which accepts notices of interests or liens in real property shall accept any certified copy of an order described in this subsection for indexing and recording.''.

(b) AUTOMATIC STAY.—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 inserting after paragraph (18) the following:

''(19) under subsection (a), of any act to enforce any lien against or security interest in real property following the entry of an order under section 362(d)(4) of this title as to that property in any prior bankruptcy case for a period of 2 years after entry of such an order. The debtor in a subsequent case, however, may move the court for relief from such order based upon changed circumstances or for other good cause shown (consistent with the standards for good faith in subsection (c)), after notice and a hearing; or

''(20) under subsection (a), of any act to enforce any lien against or security interest in real property—

''(A) if the debtor is ineligible under section 109(g) of this title to be a debtor in a bankruptcy case; or

''(B) if the bankruptcy case was filed in violation of a bankruptcy court order in a prior bankruptcy case prohibiting the debtor from being a debtor in another bankruptcy case.''.

SEC. 119. DEBTOR RETENTION OF PERSONAL PROPERTY SECURITY.

Title 11, United States Code, is amended—

(1) in section 521—

(A) in paragraph (4) by striking '', and'' at the end and inserting a semicolon;

(B) in paragraph (5) by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(6) in an individual case under chapter 7 of this title, not retain possession of personal property as to which a creditor has an allowed claim for the purchase price secured in whole or in part by an interest in that personal property unless, in the case of an individual debtor, the debtor takes 1 of the following actions within 45 days after the first meeting of creditors under section 341(a)—

''(A) enters into an agreement with the creditor pursuant to section 524(c) of this title with respect to the claim secured by such property; or

''(B) redeems such property from the security interest pursuant to section 722 of this title.

''If the debtor fails to so act within the 45-day period, the stay under section 362(a) of this title is terminated with respect to the personal property of the estate or of the debtor which is affected, such property shall no longer be property of the estate, and the creditor may take whatever action as to such property as is permitted by applicable nonbankruptcy law, unless the court determines on the motion of the trustee brought before the expiration of such 45-day period, and after notice and a hearing, that such property is of consequential value or benefit to the estate, orders appropriate adequate protection of the creditor's interest, and orders the debtor to deliver any collateral in the debtor's possession to the trustee.''; and

(2) in section 722 by inserting ''in full at the time of redemption'' before the period at the end.

SEC. 120. RELIEF FROM THE AUTOMATIC STAY WHEN THE DEBTOR DOES NOT COMPLETE INTENDED SURRENDER OF CONSUMER DEBT COLLATERAL.

Title 11, United States Code, is amended as follows—

(1) in section 362—

(A) by striking ''(e), and (f)'' in subsection (c) and inserting in lieu thereof ''(e), (f), and (h)''; and

(B) by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following:

''(h) In an individual case pursuant to chapter 7, 11, or 13 the stay provided by subsection (a) is terminated with respect to personal property of the estate or of the debtor securing in whole or in part a claim, or subject to an unexpired lease, and such personal property shall no longer be property of the estate if the debtor fails within the applicable time set by section 521(a)(2) of this title—

''(1) to file timely any statement of intention required under section 521(a)(2) of this title with respect to that property or to indicate therein that the debtor will either surrender the property or retain it and, if retaining it, either redeem the property pursuant to section 722 of this title, reaffirm the debt it secures pursuant to section 524(c) of this title, or assume the unexpired lease pursuant to section 365(p) of this title if the trustee does not do so, as applicable; or

''(2) to take timely the action specified in that statement of intention, as it may be amended before expiration of the period for taking action, unless the statement of intention specifies reaffirmation and the creditor refuses to reaffirm on the original contract terms;

unless the court determines on the motion of the trustee filed before the expiration of the applicable time set by section 521(a)(2), and after notice and a hearing, that such property is of consequential value or benefit to the estate, orders appropriate adequate protection of the creditor's

interest, and orders the debtor to deliver any collateral in the debtor's possession to the trustee. If the court does not so determine an order, the stay shall terminate upon the conclusion of the proceeding on the motion.''; and

(2) in section 521, as amended by sections 603 and 604—

(A) in paragraph (2) by striking ''consumer'';

(B) in paragraph (2)(B)—

(i) by striking ''forty-five days after the filing of a notice of intent under this section'' and inserting ''30 days after the first date set for the meeting of creditors under section 341(a) of this title''; and

(ii) by striking ''forty-five day'' the second place it appears and inserting ''30-day'';

(C) in paragraph (2)(C) by inserting ''except as provided in section 362(h) of this title'' before the semicolon; and

(D) by inserting after subsection (b) the following:

''(c) If the debtor fails timely to take the action specified in subsection (a)(6) of this section, or in paragraphs (1) and (2) of section 362(h) of this title, with respect to property which a lessor or bailor owns and has leased, rented, or bailed to the debtor or as to which a creditor holds a security interest not otherwise voidable under section 522(f), 544, 545, 547, 548, or 549 of this title, nothing in this title shall prevent or limit the operation of a provision in the underlying lease or agreement which has the effect of placing the debtor in default under such lease or agreement by reason of the occurrence, pendency, or existence of a proceeding under this title or the insolvency of the debtor. Nothing in this subsection shall be deemed to justify limiting such a provision in any other circumstance.''.

SEC. 121. GIVING SECURED CREDITORS FAIR TREATMENT IN CHAPTER 13.

Section 1325(a)(5)(B)(i) of title 11, United States Code, is amended to read as follows:

''(i) the plan provides that the holder of such claim retain the lien securing such claim until the earlier of payment of the underlying debt determined under nonbankruptcy law or discharge under section 1328 of this title, and that if the case under this chapter is dismissed or converted without completion of the plan, such lien shall also be retained by such holder to the extent recognized by applicable nonbankruptcy law; and''.

SEC. 122. RESTRAINING ABUSIVE PURCHASES ON SECURED CREDIT.

Section 506 of title 11, United States Code, is amended by adding at the end the following:

''(e) In an individual case under chapter 7, 11, 12, or 13—

''(1) 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 within 5 years of the filing of the petition, except for the purpose of applying paragraph (3) of this subsection;

''(2) if such allowed claim attributable to the purchase price is secured only by the personal property so acquired, the value of the personal property and the amount of the allowed secured claim shall be the sum of the unpaid principal balance of the purchase price and accrued and unpaid interest and charges at the contract rate;

''(3) if such allowed claim attributable to the purchase price is secured by the personal property so acquired and other property, the value of the security may be determined under subsection (a), but the value of the security and the amount of the allowed secured claim shall be not less than the unpaid principal balance of the purchase price of the personal property acquired and unpaid interest and charges at the contract rate; and

''(4) in any subsequent case under this title that is filed by or against the debtor in the 2-year period beginning on the date the petition is filed in the original case, the value of the personal property and the amount of the allowed secured claim shall be deemed to be not less than the amount provided under paragraphs (2) and (3) less any payments actually received.''.

SEC. 123. FAIR VALUATION OF COLLATERAL.

Section 506(a) of title 11, United States Code, is amended by adding at the end the following: ''In the case of an individual debtor under chapters 7 and 13, such value with respect to personal property securing an allowed claim shall be determined based on the replacement value of such property as of the date of filing the petition without deduction for costs of sale or marketing. With respect to property acquired for personal, family, or household purpose, replacement value shall mean the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined.''.

SEC. 124. DOMICILIARY REQUIREMENTS FOR EXEMPTIONS.

Section 522(b)(2)(A) of title 11, United States Code, is amended—

(1) by striking ''180'' and inserting ''730''; and

(2) by striking '', or for a longer portion of such 180-day period than in any other place'' and inserting ''or if the debtor's domicile has not been located at a single State for such 730-day period, the place in which the debtor's domicile was located for 180 days immediately preceding the 730-day period or for a longer portion of such 180-day period than in any other place''.

SEC. 125. RESTRICTIONS ON CERTAIN EXEMPT PROPERTY OBTAINED THROUGH FRAUD.

Section 522 of title 11, United States Code, as amended by section 113, is amended—

(1) in subsection (b)(2)(A) by inserting ''subject to subsection (o),'' before ''any property''; and

(2) by adding at the end the following:

''(o) For purposes of subsection (b)(3)(A) and notwithstanding subsection (a), the value of an interest in—

''(1) real or personal property that the debtor or a dependent of the debtor uses as a residence;

''(2) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence; or

''(3) a burial plot for the debtor or a dependent of the debtor;

shall be reduced to the extent such value is attributable to any portion of any property that the debtor disposed of in the 730-day period ending of the date of the filing of the petition, with the intent to hinder, delay, or defraud a creditor and that the debtor could not exempt, or that portion that the debtor could not exempt, under subsection (b) if on such date the debtor had held the property so disposed of.''.

SEC. 126. ROLLING STOCK EQUIPMENT.

(a) IN GENERAL.—Section 1168 of title 11, United States Code, is amended to read as follows:

''§1168. Rolling stock equipment

''(a)(1) The right of a secured party with a security interest in or of a lessor or conditional vendor of equipment described in paragraph (2) to take possession of such equipment in compliance with an equipment security agreement, lease, or conditional sale contract, and to enforce any of its other rights or remedies under such security agreement, lease, or conditional sale contract, to sell, lease, or otherwise retain or dispose of such equipment, is not limited or otherwise affected by any other provision of this title or by any power of the court, except that the right to take possession and enforce those other rights and remedies shall be subject to section 362 of this title, if—

''(A) before the date that is 60 days after the date of commencement of a case under this chapter, the trustee, subject to the court's approval, agrees to perform all obligations of the debtor under such security agreement, lease, or conditional sale contract; and

''(B) any default, other than a default of a kind described in section 365(b)(2) of this title, under such security agreement, lease, or conditional sale contract—

''(i) that occurs before the date of commencement of the case and is an event of default therewith is cured before the expiration of such 60-day period;

''(ii) that occurs or becomes an event of default after the date of commencement of the case and before the expiration of such 60-day period is cured before the later of—

''(I) the date that is 30 days after the date of the default or event of the default; or

''(II) the expiration of such 60-day period; and

''(iii) that occurs on or after the expiration of such 60-day period is cured in accordance with the terms of such security agreement, lease, or conditional sale contract, if cure is permitted under that agreement, lease, or conditional sale contract.

''(2) The equipment described in this paragraph—

''(A) is rolling stock equipment or accessories used on rolling stock equipment, including superstructures or racks, that is subject to a security interest granted by, leased to, or conditionally sold to a debtor; and

''(B) includes all records and documents relating to such equipment that are required, under the terms of the security agreement, lease, or conditional sale contract, that is to be surrendered or returned by the debtor in connection with the surrender or return of such equipment.

''(3) Paragraph (1) applies to a secured party, lessor, or conditional vendor acting in its own behalf or acting as trustee or otherwise in behalf of another party.

''(b) The trustee and the secured party, lessor, or conditional vendor whose right to take possession is protected under subsection (a) may agree, subject to the court's approval, to extend the 60-day period specified in subsection (a)(1).

''(c)(1) In any case under this chapter, the trustee shall immediately surrender and return to a secured party, lessor, or conditional vendor, described in subsection (a)(1), equipment described in subsection (a)(2), if at any time after the date of commencement of the case under this chapter such secured party, lessor, or conditional vendor is entitled pursuant to subsection (a)(1) to take possession of such equipment and makes a written demand for such possession of the trustee.

''(2) At such time as the trustee is required under paragraph (1) to surrender and return equipment described in subsection (a)(2), any lease of such equipment, and any security agreement or conditional sale contract relating to such equipment, if such security agreement or conditional sale contract is an executory contract, shall be deemed rejected.

''(d) With respect to equipment first placed in service on or prior to October 22, 1994, for purposes of this section—

''(1) the term 'lease' includes any written agreement with respect to which the lessor and the debtor, as lessee, have expressed in the agreement or in a substantially contemporaneous writing that the agreement is to be treated as a lease for Federal income tax purposes; and

''(2) the term 'security interest' means a purchase-money equipment security interest.

''(e) With respect to equipment first placed in service after October 22, 1994, for purposes of this section, the term 'rolling stock equipment' includes rolling stock equipment that is substantially rebuilt and accessories used on such equipment.''.

(b) AIRCRAFT EQUIPMENT AND VESSELS.—Section 1110 of title 11, United States Code, is amended to read as follows:

"§ 1110. Aircraft equipment and vessels

''(a)(1) Except as provided in paragraph (2) and subject to subsection (b), the right of a secured party with a security interest in equipment described in paragraph (3), or of a lessor or conditional vendor of such equipment, to take possession of such equipment in compliance with a security agreement, lease, or conditional sale contract, and to enforce any of its other rights or remedies, under such security agreement, lease, or conditional sale contract, to sell, lease, or otherwise retain or dispose of such equipment, is not limited or otherwise affected by any other provision of this title or by any power of the court.

''(2) The right to take possession and to enforce the other rights and remedies described in paragraph (1) shall be subject to section 362 of this title if—

''(A) before the date that is 60 days after the date of the order for relief under this chapter, the trustee, subject to the approval of the court, agrees to perform all obligations of the debtor under such security agreement, lease, or conditional sale contract; and

''(B) any default, other than a default of a kind specified in section 365(b)(2) of this title, under such security agreement, lease, or conditional sale contract—

''(i) that occurs before the date of the order is cured before the expiration of such 60-day period;

''(ii) that occurs after the date of the order and before the expiration of such 60-day period is cured before the later of—

''(I) the date that is 30 days after the date of the default; or

''(II) the expiration of such 60-day period; and

''(iii) that occurs on or after the expiration of such 60-day period is cured in compliance with the terms of such security agreement, lease, or conditional sale contract, if a cure is permitted under that agreement, lease, or contract.

''(3) The equipment described in this paragraph—

''(A) is—

''(i) an aircraft, aircraft engine, propeller, appliance, or spare part (as defined in section 40102 of title 49) that is subject to a security interest granted by, leased to, or conditionally sold to a debtor that, at the time such transaction is entered into, holds an air carrier operating certificate issued pursuant to chapter 447 of title 49 for aircraft capable of carrying 10 or more individuals or 6,000 pounds or more of cargo; or

''(ii) a documented vessel (as defined in section 30101(1) of title 46) that is subject to a security interest granted by, leased to, or conditionally sold to a debtor that is a water carrier that, at the time such transaction is entered into, holds a certificate of public convenience and necessity or permit issued by the Department of Transportation; and

''(B) includes all records and documents relating to such equipment that are required, under the terms of the security agreement, lease, or conditional sale contract, to be surrendered or returned by the debtor in connection with the surrender or return of such equipment.

''(4) Paragraph (1) applies to a secured party, lessor, or conditional vendor acting in its own behalf or acting as trustee or otherwise in behalf of another party.

''(b) The trustee and the secured party, lessor, or conditional vendor whose right to take possession is protected under subsection (a) may agree, subject to the approval of the court, to extend the 60-day period specified in subsection (a)(1).

''(c)(1) In any case under this chapter, the trustee shall immediately surrender and return to a secured party, lessor, or conditional vendor, described in subsection (a)(1), equipment described in subsection (a)(3), if at any time after the date of the order for relief under this chapter such secured party, lessor, or conditional vendor is entitled pursuant to subsection (a)(1) to take possession of such equipment and makes a written demand for such possession to the trustee.

''(2) At such time as the trustee is required under paragraph (1) to surrender and return equipment described in subsection (a)(3), any lease of such equipment, and any security agreement or conditional sale contract relating to such equipment, if such security agreement or conditional sale contract is an executory contract, shall be deemed rejected.

''(d) With respect to equipment first placed in service on or before October 22, 1994, for purposes of this section—

''(1) the term 'lease' includes any written agreement with respect to which the lessor and the debtor, as lessee, have expressed in the agreement or in a substantially contemporaneous writing that the agreement is to be treated as a lease for Federal income tax purposes; and

''(2) the term 'security interest' means a purchase-money equipment security interest.''.

SEC. 127. 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) of this title;

''(2) of the kind specified in paragraph (2), (4), (3)(B), (5), (8), or (9) of section 523(a) of this title;

''(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. 128. BANKRUPTCY JUDGESHIPS.

(a) SHORT TITLE.—This section may be cited as the ''Bankruptcy Judgeship Act of 1999''.

(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. 129. ADDITIONAL AMENDMENTS TO TITLE 11, UNITED STATES CODE.

Section 507(a) of title 11, United States Code, is amended by inserting after paragraph (9) the following:

''(10) Tenth, allowed claims for death or personal injuries resulting from the operation of a motor vehicle or vessel if such operation was unlawful because the debtor was intoxicated from using alcohol, a drug or another substance.''.

SEC. 130. AMENDMENT TO SECTION 1325 OF TITLE 11, UNITED STATES CODE.

Section 1325(b) of title 11, United States Code, is amended—

(1) in paragraph (1), by inserting ''to unsecured creditors'' after ''to make payments'';

(2) in paragraph (2)—

(A) by inserting ''current monthly'' before ''income'';

(B) by striking ''and which is not'' and inserting ''less amounts'';

(C) by inserting after ''received by the debtor'', ''(other than child support payments, foster care payments, or disability payments for a dependent child made in accordance with applicable nonbankruptcy law and which is reasonably necessary to be expended)''; and

(D) in subparagraph (A) by inserting after ''dependent of the debtor'' the following: '', as determined in accordance with section 707(b)(2)(A) and if applicable 707(b)(2)(B)''.

SEC. 131. 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. 132. ADEQUATE PROTECTION FOR INVESTORS.

(a) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (48) the following:

''(48A) 'securities self regulatory organization' means either a securities association registered with the Securities and Exchange Commission pursuant to section 15A of the Securities Exchange Act of 1934 or a national securities exchange registered with the Securities and Exchange Commission pursuant to section 6 of the Securities Exchange Act of 1934;''.

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, as amended by section 118, is amended—

(1) in paragraph (19) by striking ''or'' at the end;

(2) in paragraph (20) by striking the period at the end and a inserting ''; or''; and

(3) by inserting after paragraph (20) the following:

''(21) under subsection (a), of the commencement or continuation of an investigation or action by a securities self regulatory organization to enforce such organization's regulatory power; of the enforcement of an order or decision, other than for monetary sanctions, obtained in an action by the securities self regulatory organization to enforce such organization's regulatory power; or of any act taken by the securities self regulatory organization to delist, delete, or refuse to permit quotation of any stock that does not meet applicable regulatory requirements.''.

SEC. 133. LIMITATION ON LUXURY GOODS.

Section 523(a)(2)(C) of title 11, United States Code, is amended to read as follows:

''(C)(i) for purposes of subparagraph (A), consumer debts owed to a single creditor and aggregating more than $250 for 'luxury goods or services' incurred by an individual debtor on or within 90 days before the order for relief under this title, or cash advances aggregating more than $250 that are extensions of consumer credit under an open end credit plan obtained by an individual debtor on or within 90 days before the order for relief under this title, are presumed to be nondischargeable; and

''(ii) for purposes of this subparagraph—

''(I) the term 'luxury goods or services' does not include goods or services reasonably necessary for the support or maintenance of the debtor or a dependent of the debtor; and

''(II) the term 'an extension of consumer credit under an open end credit plan' has the same meaning such term has for purposes of the Consumer Credit Protection Act;''.

SEC. 134. GIVING DEBTORS THE ABILITY TO KEEP LEASED PERSONAL PROPERTY BY ASSUMPTION.

Section 365 of title 11, United States Code, is amended by adding at the end the following:

''(p)(1) If a lease of personal property is rejected or not timely assumed by the trustee under subsection (d), the leased property is no longer property of the estate and the stay under section 362(a) of this title is automatically terminated.

''(2) In the case of an individual under chapter 7, the debtor may notify the creditor in writing that the debtor desires to assume the lease. Upon being so notified, the creditor may, at its option, notify the debtor that it is willing to have the lease assumed by the debtor and may, at its option, condition such assumption on cure of any outstanding default on terms set by the contract. If within 30 days of the notice from the creditor the debtor notifies the lessor in writing that the lease is assumed, the liability under the lease will be assumed by the debtor and not by the estate. The stay under section 362 of this title and the injunction under section 524(a) of this title shall not be violated by notification of the debtor and negotiation of cure under this subsection. Nothing in this paragraph shall require a debtor to assume a lease, or a creditor to permit assumption.

''(3) In a case under chapter 11 of this title in which the debtor is an individual and in a case under chapter 13 of this title, if the debtor is the lessee with respect to personal property and the lease is not assumed in the plan confirmed by the court, the lease is deemed rejected as of the conclusion of the hearing on confirmation. If the lease is rejected, the stay under section 362 of this title and any stay under section 1301 is automatically terminated with respect to the property subject to the lease.''.

SEC. 135. 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), 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 required under subparagraph (A) 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 the contract amount and shall reduce any amount payable under section 1326(a) of the title.

''(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 payments referred to in paragraph (1) shall not be less than the amount of any weekly, biweekly, monthly, or other periodic payment scheduled as payable under the contract between the debtor and creditor.

''(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.

''(e) On or before 60 days after the filling of a case under this chapter, a debtor retaining possession of personal property subject to a lease or securing a claim attributable in whole or in part to the purchase price of such property shall provide each creditor or lessor reasonable evidence of the maintenance of any required insurance coverage with respect to the use or ownership of such property and continue to do so for so long as the debtor retains possession of such property.''.

(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. 136. AUTOMATIC STAY.

Section 362(b) of title 11, United States Code, as amended by sections 118 and 132, is amended—

(1) in paragraph (20), by striking ''or'' at the end;

(2) in paragraph (21), by striking the period at the end and inserting a semicolon; and

(3) by inserting after paragraph (21) the following:

''(22) under subsection (a) of any transfer that is not avoidable under section 544 of this title and that is not avoidable under section 549 of this title;

''(23) under subsection (a)(3), 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 and the debtor has not paid rent to the lessor pursuant to the terms of the lease agreement or applicable State law after the commencement and during the course of the case;

''(24) under subsection (a)(3), of the commencement or 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 that has terminated pursuant to the lease agreement or applicable State law;

''(25) under subsection (a)(3), of any eviction, unlawful detainer action, or similar proceeding, if the debtor has previously filed within the last year and failed to pay post-petition rent during the course of that case; or

''(26) under subsection (a)(3), of eviction actions based on endangerment to property or person or the use of illegal drugs.''.

SEC. 137. EXTEND PERIOD BETWEEN BANKRUPTCY DISCHARGES.

Title 11, United States Code, is amended—

(1) in section 727(a)(8) by striking ''six'' and inserting ''8''; and

(2) in section 1328 by adding at the end the following:

''(f) Notwithstanding subsections (a) and (b), the court shall not grant a discharge of all debts provided for by the plan or disallowed under section 502 of this title if the debtor has received a discharge in any case filed under this title within 5 years of the order for relief under this chapter.''.

SEC. 138. DEFINITION OF DOMESTIC SUPPORT OBLIGATION.

Section 101 of title 11, United States Code, is amended—

(1) by striking paragraph (12A); and

(2) by inserting after paragraph (14) the following:

''(14A) 'domestic support obligation' means a debt that accrues before or after the entry of an order for relief under this title that is—

''(A) owed to or recoverable by—

''(i) a spouse, former spouse, or child of the debtor or that child's legal guardian; or

''(ii) a governmental unit;

''(B) in the nature of alimony, maintenance, or support (including assistance provided by a governmental unit) of such spouse, former spouse, or child, without regard to whether such debt is expressly so designated;

''(C) established or subject to establishment before or after entry of an order for relief under this title, by reason of applicable provisions of—

''(i) a separation agreement, divorce decree, or property settlement agreement;

''(ii) an order of a court of record; or

''(iii) a determination made in accordance with applicable nonbankruptcy law by a governmental unit; and

''(D) not assigned to a nongovernmental entity, unless that obligation is assigned voluntarily by the spouse, former spouse, child, or parent solely for the purpose of collecting the debt.''.

SEC. 139. PRIORITIES FOR CLAIMS FOR DOMESTIC SUPPORT OBLIGATIONS.

Section 507(a) of title 11, United States Code, is amended—

(1) by striking paragraph (7);

(2) by redesignating paragraphs (1) through (6) as paragraphs (2) through (7), respectively;

(3) in paragraph (2), as redesignated, by striking ''First'' and inserting ''Second'';

(4) in paragraph (3), as redesignated, by striking ''Second'' and inserting ''Third'';

(5) in paragraph (4), as redesignated, by striking ''Third'' and inserting ''Fourth'';

(6) in paragraph (5), as redesignated, by striking ''Fourth'' and inserting ''Fifth'';

(7) in paragraph (6), as redesignated, by striking ''Fifth'' and inserting ''Sixth'';

(8) in paragraph (7), as redesignated, by striking ''Sixth'' and inserting ''Seventh''; and

(9) by inserting before paragraph (2), as redesignated, the following:

''(1) First, allowed claims for domestic support obligations to be paid in the following order on the condition that funds received under this paragraph by a governmental unit in a case under this title be applied:

''(A) Claims that, as of the date of entry of the order for relief, are owed directly to a spouse, former spouse, or child of the debtor, or the parent of such child, without regard to whether the claim is filed by the spouse, former spouse, child, or parent, or is filed by a governmental unit on behalf of that person.

''(B) Claims that, as of the date of entry of the order for relief, are assigned by a spouse, former spouse, child of the debtor, or the parent of that child to a governmental unit or are owed directly to a governmental unit under applicable nonbankruptcy law.''.

SEC. 140. REQUIREMENTS TO OBTAIN CONFIRMATION AND DISCHARGE IN CASES INVOLVING DOMESTIC SUPPORT OBLIGATIONS.

Title 11, United States Code, is amended—

(1) in section 1129(a), by adding at the end the following:

''(14) If the debtor is required by a judicial or administrative order or statute to pay a domestic support obligation, the debtor has paid all amounts payable under such order or statute for such obligation that become payable after the date on which the petition is filed.'';

(2) 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 or statute to pay a domestic support obligation, the debtor has paid all amounts payable under such order for such obligation that become payable after the date on which the petition is filed.''; and

(3) in section 1328(a), as amended by section 127, 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 a domestic support obligation, certifies that all amounts payable under such order or statute that are due on or before the date of the certification (including amounts due before or after the petition was filed) have been paid'' after ''completion by the debtor of all payments under the plan''.

SEC. 141. EXCEPTIONS TO AUTOMATIC STAY IN DOMESTIC SUPPORT OBLIGATION PROCEEDINGS.

Section 362(b) of title 11, United States Code, as amended by sections 118, 132, and 136, is amended—

(1) by striking paragraph (2) and inserting the following:

''(2) under subsection (a)—

''(A) of the commencement or continuation of an action or proceeding for—

''(i) the establishment of paternity; or

''(ii) the establishment or modification of an order for domestic support obligations; or

''(B) the collection of a domestic support obligation from property that is not property of the estate;'';

(2) in paragraph (25), by striking ''or'' at the end;

(3) in paragraph (26), by striking the period at the end and inserting a semicolon; and

(4) by inserting after paragraph (26) the following:

''(27) 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

''(28) under subsection (a) with respect to—

''(A) 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)(16) of the Social Security Act (42 U.S.C. 666(a)(16)) 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));

''(B) the interception of tax refunds, as specified in sections 464 and 466(a)(3) of the Social Security Act (42 U.S.C. 664 and 666(a)(3)); or

''(C) the enforcement of medical obligations as specified under title IV of the Social Security Act (42 U.S.C. 601 et seq.).''.

SEC. 142. NONDISCHARGEABILITY OF CERTAIN DEBTS FOR ALIMONY, MAINTENANCE, AND SUPPORT.

Section 523 of title 11, United States Code, is amended—

(1) in subsection (a), by striking paragraph (5) and inserting the following:

''(5) for a domestic support obligation;'';

(2) in subsection (a)(15)—

(A) by inserting ''or'' after ''court of record,'';

(B) by striking ''unless—'' and all that follows through ''debtor'' the last place it appears; and

(3) in subsection (c), by striking ''(6), or (15)'' each place it appears and inserting ''or (6)''.

SEC. 143. CONTINUED LIABILITY OF PROPERTY.

Section 522 of title 11, United States Code, is amended—

(1) in subsection (c), by striking paragraph (1) and inserting the following:

''(1) a debt of a kind specified in paragraph (1) or (5) of section 523(a) (in which case, notwithstanding any provision of applicable nonbankruptcy law to the contrary, such property shall be liable for a debt of a kind specified in section 523(a)(5);''; and

(2) in subsection (f)(1)(A), by striking the dash and all that follows through the end of the subparagraph and inserting ''of a kind that is specified in section 523(a)(5); or''.

SEC. 144. PROTECTION OF DOMESTIC SUPPORT CLAIMS AGAINST PREFERENTIAL TRANSFER MOTIONS.

Section 547(c)(7) of title 11, United States Code, is amended to read as follows:

''(7) to the extent such transfer was a bona fide payment of a debt for a domestic support obligation; or''.

SEC. 145. CLARIFICATION OF MEANING OF HOUSEHOLD GOODS.

Section 101 of title 11, United States Code, is amended by inserting after paragraph (27) the following:

''(27A) 'household goods' includes tangible personal property normally found in or around a residence, but does not include motorized vehicles used for transportation purposes;''.

SEC. 146. 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), 1228(b), or 1328(c), or any other provision of this subsection, if the debtor incurred the debt to pay such a nondischargeable debt with the intent to discharge in bankruptcy the newly-created debt, except that all debts incurred to pay nondischargeable debts, without regard to intent, are nondischargeable if incurred within 90 days of the filing of the petition;''.

SEC. 147. MONETARY LIMITATION ON CERTAIN EXEMPT PROPERTY.

Section 522 of title 11, United States Code, as amended by section 125, is amended—

(1) in subsection (b)(2)(A) by striking ''subsection (o)'' and inserting ''subsections (o) and (p)'' before ''any property''; and

(2) by adding at the end the following:

''(p)(1) Except as provided in paragraphs (2) and (3), as a result of electing under subsection (b)(3)(A) to exempt property under State or local law, a debtor may not exempt any interest that exceeds $250,000 in value, in the aggregate, 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)(3)(A) by a family farmer for the principal residence of that farmer.

''(3) Paragraph (1) shall not apply to debtors if applicable State law expressly provides by a statute enacted after the effective date of this paragraph that such paragraph shall not apply to debtors.''.

SEC. 148. BANKRUPTCY FEES.

Section 1930 of title 28, United States Code, is amended—

(1) in subsection (a) by striking ''Notwithstanding section 1915 of this title, the'' and inserting ''The''; and

(2) by adding at the end the following:

''(f)(1) Pursuant to procedures prescribed by the Judicial Conference of the United States, the district court or the bankruptcy court may waive the filing fee in a case under chapter 7 of title 11 for an individual debtor who is unable to pay such fee in installments. For purposes of this paragraph, the term 'filing fee' means the filing fee required by subsection (a), or any other fee prescribed by the Judicial Conference under subsections (b) and (c) that is payable to the clerk upon the commencement of a case under chapter 7 of title 11.

''(2) The district court or the bankruptcy court may also waive for such debtors other fees prescribed pursuant to subsections (b) and (c).

''(3) This subsection does not restrict the district court or the bankruptcy court from waiving, in accordance with Judicial Conference policy, fees prescribed pursuant to such subsections for other debtors and creditors.''.

SEC. 149. COLLECTION OF CHILD SUPPORT.

(a) DUTIES OF TRUSTEE UNDER CHAPTER 7.—Section 704 of title 11, United States Code, as amended by section 102, is amended—

(1) by inserting ''(a)'' before ''The trustee'',

(2) in paragraph (9) by striking ''and'' at the end,

(3) in paragraph (10) by striking the period and inserting ''; and'', and

(4) by adding at the end the following:

''(11) if, with respect to an individual debtor, there is a claim for support of a child of the debtor or a custodial parent of such child entitled to receive priority under section 507(a)(1) of this title, provide the applicable notification specified in subsection (b).

''(b)(1) In any case described in subsection (a)(11), the trustee shall—

''(A)(i) notify in writing the holder of the claim of the right of such holder to use the services of a State child support enforcement agency established under sections 464 and 466 of the Social Security Act for the State in which the holder resides; and

''(ii) include in the notice under this paragraph the address and telephone number of the child support enforcement agency; and

''(B)(i) notify in writing the State child support agency of the State in which the holder of the claim resides of the claim;

''(ii) include in the notice under this paragraph the name, address, and telephone number of the holder of the claim; and

''(iii) at such time as the debtor is granted a discharge under section 727 of this title, notify the holder of such claim and the State child support agency of the State in which such holder resides of—

''(I) the granting of the discharge;

''(II) the last recent known address of the debtor; and

''(III) with respect to the debtor's case, the name of each creditor that holds a claim that is not discharged under paragraph (2), (4), or (14A) of section 523(a) of this title or that was reaffirmed by the debtor under section 524(c) of this title.

''(2)(A) If, after receiving a notice under paragraph (1)(B)(iii), a holder of a claim or a State child support agency is unable to locate the debtor that is the subject of the notice, such holder or such agency may request from a creditor described in paragraph (1)(B)(iii)(III) the last known address of the debtor.

''(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable to the debtor or any other person by reason of making such disclosure.''.

(b) DUTIES OF TRUSTEE UNDER CHAPTER 13.—Section 1302 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (4) by striking ''and'' at the end,

(B) in paragraph (5) by striking the period and inserting ''; and'', and

(C) by adding at the end the following:

''(6) if, with respect to an individual debtor, there is a claim for support of a child of the debtor or a custodial parent of such child entitled to receive priority under section 507(a)(1) of this title, provide the applicable notification specified in subsection (d).'', and

(2) by adding at the end the following:

''(d)(1) In any case described in subsection (b)(6), the trustee shall—

''(A)(i) notify in writing the holder of the claim of the right of such holder to use the services of a State child support enforcement agency established under sections 464 and 466 of the Social Security Act for the State in which the holder resides; and

''(ii) include in the notice under this paragraph the address and telephone number of the child support enforcement agency; and

''(B)(i) notify in writing the State child support agency of the State in which the holder of the claim resides of the claim; and

''(ii) include in the notice under this paragraph the name, address, and telephone number of the holder of the claim;

''(iii) at such time as the debtor is granted a discharge under section 1328 of this title, notify the holder of the claim and the State child support agency of the State in which such holder resides of—

''(I) the granting of the discharge;

''(II) the last recent known address of the debtor; and

''(III) with respect to the debtor's case, the name of each creditor that holds a claim that is not discharged under paragraph (2), (4), or (14A) of section 523(a) of this title or that was reaffirmed by the debtor under section 524(c) of this title.

''(2)(A) If, after receiving a notice under paragraph (1)(B)(iii), a holder of a claim or a State child support agency is unable to locate the debtor that is the subject of the notice, such holder or such agency may request from a creditor described in paragraph (1)(B)(iii) the last known address of the debtor.

''(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable to the debtor or any other person by reason of making such disclosure.''.

SEC. 150. EXCLUDING EMPLOYEE BENEFIT PLAN PARTICIPANT CONTRIBUTIONS AND OTHER PROPERTY FROM THE ESTATE.

(a) IN GENERAL.—Section 541(b) of title 11 of the United States Code is amended—

(1) by striking ''or'' at the end of paragraph (4)(B)(ii);

(2) by striking the period at the end of paragraph (5) and inserting ''; or''; and

(3) by inserting after paragraph (5) the following:

''(7) any amount or interest in property to the extent that an employer has withheld amounts from the wages of employees for contribution to an employee benefit plan subject to title I of the Employee Retirement Income Security Act of 1974, or to the extent that the employer has received amounts as a result of payments by participants or beneficiaries to an employer for contribution to an employee benefit plan subject to title I of the Employee Retirement Income Security Act of 1974.''.

(b) APPLICATION OF AMENDMENT.—The amendment made by this section shall not apply to cases commenced under title 11 of the United States Code before the expiration of the 180-day period beginning on the date of the enactment of this Act.

SEC. 151. CLARIFICATION OF POSTPETITION WAGES AND BENEFITS.

Section 503(b)(1)(A) of title 11, United States Code, is amended to read as follows:

''(A) the actual, necessary costs and expenses of preserving the estate, including wages, salaries, or commissions for services rendered after the commencement of the case, and wages and benefits attributable to any period of time after commencement of the case as a result of the debtor's violation of Federal law, without regard to when the original unlawful act occurred or to whether any services were rendered;''.

SEC. 152. EXCEPTIONS TO AUTOMATIC STAY IN DOMESTIC SUPPORT OBLIGATION PROCEEDINGS.

Section 362(b)(2) of title 11, United States Code, is amended—

(1) in subparagraph (A) by striking ''or'' at the end;

(2) in subparagraph (B) by adding ''or'' at the end; and

(3) by adding at the end the following:

''(C) under subsection (a) of—

''(i) the withholding of income for payment of a domestic support obligation pursuant to a judicial or administrative order or statute for such obligation that first becomes payable after the date on which the petition is filed; or

''(ii) the withholding of income for payment of a domestic support obligation owed directly to the spouse, former spouse or child of the debtor or the parent of such child, pursuant to a judicial or administrative order or statute for such obligation that becomes payable before the date on which the petition is filed unless the court finds, after notice and hearing, that such withholding would render the plan infeasible;''.

SEC. 153. AUTOMATIC STAY INAPPLICABLE TO CERTAIN PROCEEDINGS AGAINST THE DEBTOR.

Section 362(b)(2) of title 11, United States Code, as amended by section 153, is amended—

(1) in subparagraph (B) by striking ''or'' at the end;

(2) by inserting after subparagraph (C) the following:

''(D) the commencement or continuation of a proceeding concerning a child custody or visitation;

''(E) the commencement or continuation of a proceeding alleging domestic violence; or

''(F) the commencement or continuation of a proceeding seeking a dissolution of marriage, except to the extent the proceeding concerns property of the estate;''.

TITLE II—DISCOURAGING BANKRUPTCY ABUSE

SEC. 201. REENACTMENT OF CHAPTER 12.

(a) REENACTMENT.—Chapter 12 of title 11 of the United States Code, as in effect on March 31, 1999, is hereby reenacted.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on March 31, 1999.

SEC. 202. MEETINGS OF CREDITORS AND EQUITY SECURITY HOLDERS.

Section 341 of title 11, United States Code, is amended by adding at the end the following:

''(e) Notwithstanding subsections (a) and (b), the court, on the request of a party in interest and after notice and a hearing, for cause may order that the United States trustee not convene a meeting of creditors or equity security holders if the debtor has filed a plan as to which the debtor solicited acceptances prior to the commencement of the case.''.

SEC. 203. PROTECTION OF RETIREMENT SAVINGS IN BANKRUPTCY.

(a) IN GENERAL.—Section 522 of title 11, United States Code, as amended by sections 113, 125, and 147 is amended—

(1) in subsection (b)—

(A) in paragraph (2)—

(i) by striking ''(2)(A)'' and inserting:

''(3) Property listed in this paragraph is—

''(A) subject to subsections (o) and (p),'';

(ii) in subparagraph (B), by striking ''and'' at the end;

(iii) in subparagraph (C), by striking the period at the end and inserting ''; and''; and

(iv) by adding at the end the following:

''(D) retirement funds to the extent that those funds are in a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986.'';

(B) by striking paragraph (1) and inserting:

''(2) Property listed in this paragraph is property that is specified under subsection (d), unless the State law that is applicable to the debtor under paragraph (3)(A) specifically does not so authorize.'';

(C) in the matter preceding paragraph (2)—

(i) by striking ''(b)'' and inserting ''(b)(1)'';

(ii) by striking ''paragraph (2)'' both places it appears and inserting ''paragraph (3)'';

(iii) by striking ''paragraph (1)'' each place it appears and inserting ''paragraph (2)''; and

(iv) by striking ''Such property is—''; and

(D) by adding at the end of the subsection the following:

''(4) For purposes of paragraph (3)(D) and subsection (d)(12), the following shall apply:

''(A) If the retirement funds are in a retirement fund that has received a favorable determination pursuant to section 7805 of the Internal Revenue Code of 1986, and that determination is in effect as of the date of the commencement of the case under section 301, 302, or 303 of this title, those funds shall be presumed to be exempt from the estate.

''(B) If the retirement funds are in a retirement fund that has not received a favorable determination pursuant to such section 7805, those funds are exempt from the estate if the debtor demonstrates that—

''(i) no prior determination to the contrary has been made by a court or the Internal Revenue Service; and

''(ii) the retirement fund is in substantial compliance with the applicable requirements of the Internal Revenue Code of 1986.

''(C) A direct transfer of retirement funds from 1 fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986, pursuant to section 401(a)(31) of the Internal Revenue Code of 1986, or otherwise, shall not cease to qualify for exemption under paragraph (3)(D) or subsection (d)(12) by reason of that direct transfer.

''(D)(i) Any distribution that qualifies as an eligible rollover distribution within the meaning of section 402(c) of the Internal Revenue Code of 1986 or that is described in clause (ii) shall not cease to qualify for exemption under paragraph (3)(D) or subsection (d)(12) by reason of that distribution.

''(ii) A distribution described in this clause is an amount that—

''(I) has been distributed from a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986; and

''(II) to the extent allowed by law, is deposited in such a fund or account not later than 60 days after the distribution of that amount.''; and

(2) in subsection (d)—

(A) in the matter preceding paragraph (1), by striking ''subsection (b)(1)'' and inserting ''subsection (b)(2)''; and

(B) by adding at the end the following:

''(12) Retirement funds to the extent that those funds are in a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986.''.

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, as amended by sections 118, 132, 136, and 141 is amended—

(1) in paragraph (27), by striking ''or'' at the end;

(2) in paragraph (28), by striking the period and inserting ''; or'';

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

''(29) under subsection (a), of withholding of income from a debtor's wages and collection of amounts withheld, pursuant to the debtor's agreement authorizing that withholding and collection for the benefit of a pension, profit-sharing, stock bonus, or other plan established under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986 that is sponsored by the employer of the debtor, or an affiliate, successor, or predecessor of such employer—

''(A) to the extent that the amounts withheld and collected are used solely for payments relating to a loan from a plan that satisfies the requirements of section 408(b)(1) of the Employee Retirement Income Security Act of 1974 or is subject to section 72(p) of the Internal Revenue Code of 1986; or

''(B) in the case of a loan from a thrift savings plan described in subchapter III of title 5, that satisfies the requirements of section 8433(g) of such title.''; and

(4) by adding at the end of the flush material following paragraph (29) the following: ''Paragraph (29) does not apply to any amount owed to a plan referred to in that paragraph that is incurred under a loan made during the 1-year period preceding the filing of a petition. Nothing in paragraph (29) may be construed to provide that any loan made under a governmental plan under section 414(d), or a contract or account under section 403(b), of the Internal Revenue Code of 1986 constitutes a claim or a debt under this title.''.

(c) EXCEPTIONS TO DISCHARGE.—Section 523(a) of title 11, United States Code, is amended—

(1) by striking ''or'' at the end of paragraph (17);

(2) by striking the period at the end of paragraph (18) and inserting ''; or''; and

(3) by adding at the end the following:

''(19) owed to a pension, profit-sharing, stock bonus, or other plan established under section 401, 403, 408, 408A, 414, 457, or 501(c) of the Internal Revenue Code of 1986, pursuant to—

''(A) a loan permitted under section 408(b)(1) of the Employee Retirement Income Security Act of 1974) or subject to section 72(p) of the Internal Revenue Code of 1986; or

''(B) a loan from the thrift savings plan described in subchapter III of title 5, that satisfies the requirements of section 8433(g) of such title.

Paragraph (19) does not apply to any amount owed to a plan referred to in that paragraph that is incurred under a loan made during the 1-year period preceding the filing of a petition. Nothing in paragraph (19) may be construed to provide that any loan made under a governmental plan under section 414(d), or a contract or account under section 403(b), of the Internal Revenue Code of 1986 constitutes a claim or a debt under this title.''.

(d) PLAN CONTENTS.—Section 1322 of title 11, United States Code, is amended by adding at the end the following:

''(f) A plan may not materially alter the terms of a loan described in section 362(b)(29) of this title.''.

SEC. 204. PROTECTION OF REFINANCE OF SECURITY INTEREST.

Subparagraphs (A), (B), and (C) of section 547(e)(2) of title 11, United States Code, are amended by striking ''10'' each place it appears and inserting ''30''.

SEC. 205. 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 in 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 such 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)(i) The court may extend the period determined under subparagraph (A) for 120 days upon motion of the trustee or the lessor for cause.

''(ii) If the court grants an extension under clause (i), the court may grant a subsequent extension only upon prior written consent of the lessor.''.

SEC. 206. 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. 207. AMENDMENT TO SECTION 546 OF TITLE 11, UNITED STATES CODE.

Section 546 of title 11, United States Code, is amended by inserting at the end thereof:

''(i) Notwithstanding section 545 (2) and (3) of this title, the trustee may not avoid a warehouseman's lien for storage, transportation or other costs incidental to the storage and handling of goods, as provided by section 7–209 of the Uniform Commercial Code.''.

SEC. 208. LIMITATION.

Section 546(c)(1)(B) of title 11, United States Code, is amended by striking ''20'' and inserting ''45''.

SEC. 209. AMENDMENT TO SECTION 330(a) OF TITLE 11, UNITED STATES CODE.

Section 330(a) of title 11, United States Code, is amended—

(1) in paragraph (3)—

(A) in subparagraph (A) after ''awarded'', by inserting ''to an examiner, chapter 11 trustee, or professional person''; and

(B) by redesignating subdivisions (A) through (E) as clauses (i) through (iv), respectively; and

(2) by adding at the the following:

''(B) In determining the amount of reasonable compensation to be awarded a trustee, the court shall treat such compensation as a commission based on the results achieved.''.

SEC. 210. POSTPETITION DISCLOSURE AND SOLICITATION.

Section 1125 of title 11, United States Code, is amended by adding at the end the following:

''(g) Notwithstanding subsection (b), an acceptance or rejection of the plan may be solicited from a holder of a claim or interest if such solicitation complies with applicable nonbankruptcy law and if such holder was solicited before the commencement of the case in a manner complying with applicable nonbankruptcy law.''.

SEC. 211. PREFERENCES.

Section 547(c) of title 11, United States Code, is amended—

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

''(2) to the extent that such transfer was in payment of a debt incurred by the debtor in the ordinary course of business or financial affairs of the debtor and the transferee, and such transfer was—

''(A) made in the ordinary course of business or financial affairs of the debtor and the transferee; or

''(B) made according to ordinary business terms;'';

(2) in paragraph (7) by striking ''or'' at the end;

(3) in paragraph (8) by striking the period at the end and inserting ''; or''; and

(4) by adding at the end the following:

''(9) if, in a case filed by a debtor whose debts are not primarily consumer debts, the aggregate value of all property that constitutes or is affected by such transfer is less than $5,000.''.

SEC. 212. VENUE OF CERTAIN PROCEEDINGS.

Section 1409(b) of title 28, United States Code, is amended by inserting '', or a nonconsumer debt against a noninsider of less than $10,000,'' after ''$5,000''.

SEC. 213. PERIOD FOR FILING PLAN UNDER CHAPTER 11.

Section 1121(d) of title 11, United States Code, is amended—

(1) by striking ''On'' and inserting ''(1) Subject to paragraph (1), on''; and

(2) by adding at the end the following:

''(2)(A) Such 120-day period may not be extended beyond a date that is 18 months after the date of the order for relief under this chapter.

''(B) Such 180-day period may not be extended beyond a date that is 20 months after the date of the order for relief under this chapter.''.

SEC. 214. FEES ARISING FROM CERTAIN OWNERSHIP INTERESTS.

Section 523(a)(16) of title 11, United States Code, is amended—

(1) by striking ''dwelling'' the first place it appears;

(2) by striking ''ownership or'' and inserting ''ownership,'';

(3) by striking ''housing'' the first place it appears; and

(4) by striking ''but only'' and all that follows through ''such period,'', and inserting ''or a lot in a homeowners association, for as long as the debtor or the trustee has a legal, equitable, or possessory ownership interest in such unit, such corporation, or such lot,''.

SEC. 215. CLAIMS RELATING TO INSURANCE DEPOSITS IN CASES ANCILLARY TO FOREIGN PROCEEDINGS.

Section 304 of title 11, United States Code, is amended to read as follows:

''§ 304. Cases ancillary to foreign proceedings

''(a) For purposes of this section—

''(1) the term 'domestic insurance company' means a domestic insurance company, as such term is used in section 109(b)(2);

''(2) the term 'foreign insurance company' means a foreign insurance company, as such term is used in section 109(b)(3);

''(3) the term 'United States claimant' means a beneficiary of any deposit referred to in subsection (b) or any multibeneficiary trust referred to in subsection (b);

''(4) the term 'United States creditor' means, with respect to a foreign insurance company—

''(A) a United States claimant; or

''(B) any business entity that operates in the United States and that is a creditor; and

''(5) the term 'United States policyholder' means a holder of an insurance policy issued in the United States.

''(b) The court may not grant relief under chapter 15 of this title with respect to any deposit, escrow, trust fund, or other security required or permitted under any applicable State insurance law or regulation for the benefit of claim holders in the United States.''.

SEC. 216. DEFAULTS BASED ON NONMONETARY OBLIGATIONS.

(a) EXECUTORY CONTRACTS AND UNEXPIRED LEASES.—Section 365 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1)(A) by striking the semicolon at the end and inserting the following: ''other than a default that is a breach of a provision relating to—

''(i) the satisfaction of any provision (other than a penalty rate or penalty provision) relating to a default arising from any failure to perform nonmonetary obligations under an unexpired lease of real property (excluding executory contracts that transfer a right or interest under a filed or issued patent, copyright, trademark, trade dress, or trade secret), if it is impossible for the trustee to cure such default by performing nonmonetary acts at and after the time of assumption; or

''(ii) the satisfaction of any provision (other than a penalty rate or penalty provision) relating to a default arising from any failure to perform nonmonetary obligations under an executory contract, if it is impossible for the trustee to cure such default by performing nonmonetary acts at and after the time of assumption and if the court determines, based on the equities of the case, that this subparagraph should not apply with respect to such default;''; and

(B) by amending paragraph (2)(D) to read as follows:

''(D) the satisfaction of any penalty rate or penalty provision relating to a default arising from a failure to perform nonmonetary obligations under an executory contract (excluding executory contracts that transfer a right or interest under a filed or issued patent, copyright, trademark, trade dress, or trade secret) or under an unexpired lease of real or personal property.'';

(2) in subsection (c)—

(A) in paragraph (2) by adding ''or'' at the end;

(B) in paragraph (3) by striking ''; or'' at the end and inserting a period; and

(C) by striking paragraph (4);

(3) in subsection (d)—

(A) by striking paragraphs (5) through (9); and

(B) by redesignating paragraph (10) as paragraph (5); and

(4) in subsection (f)(1) by striking ''; except that'' and all that follows through the end of the paragraph and inserting a period.

(b) IMPAIRMENT OF CLAIMS OR INTERESTS.—Section 1124(2) of title 11, United States Code, is amended—

(1) in subparagraph (A) by inserting ''or of a kind that section 365(b)(1)(A) of this title expressly does not require to be cured'' before the semicolon at the end;

(2) in subparagraph (C) by striking ''and'' at the end;

(3) by redesignating subparagraph (D) as subparagraph (E); and

(4) by inserting after subparagraph (C) the following:

''(D) if such claim or such interest arises from any failure to perform a nonmonetary obligation, compensates the holder of such claim or such interest (other than the debtor or an insider) for any actual pecuniary loss incurred by such holder as a result of such failure; and''.

SEC. 217. SHARING OF COMPENSATION.

Section 504 of title 11, United States Code, is amended by adding at the end the following:

''(c) This section shall not apply with respect to sharing, or agreeing to share, compensation with a bona fide public service attorney referral program that operates in accordance with non-Federal law regulating attorney referral services and with rules of professional responsibility applicable to attorney acceptance of referrals.''.

SEC. 218. PRIORITY FOR ADMINISTRATIVE EXPENSES.

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

(1) by deleting ''and'' at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting ''; and'';

(3) by inserting the following after paragraph (6):

''(7) with respect to a nonresidential real property lease previously assumed under section 365, and subsequently rejected, a sum equal to all monetary obligations due, excluding those arising from or relating to a failure to operate or penalty provisions, for the period of one year following the later of the rejection date or date of actual turnover of the premises, without reduction or setoff for any reason whatsoever except for sums actually received or to be received from a nondebtor; and the claim for remaining sums due for the balance of the term of the lease shall be a claim under section 502(b)(6).''.

TITLE III—GENERAL BUSINESS BANKRUPTCY PROVISIONS

SEC. 301. DEFINITION OF DISINTERESTED PERSON.

Section 101(14) of title 11, United States Code, is amended to read as follows:

''(14) 'disinterested person' means a person that—

''(A) is not a creditor, an equity security holder, or an insider;

''(B) is not and was not, within 2 years before the date of the filing of the petition, a director, officer, or employee of the debtor; and

''(C) does not have an interest materially adverse to the interest of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the debtor, or for any other reason;''.

SEC. 302. 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)).

''(2)(A) Paragraph (1) shall not apply with respect to a debtor who resides in a district for which the United States trustee or bankruptcy administrator of the bankruptcy court of that district determines that the approved credit counseling services for that district are not reasonably 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 United States trustee or bankruptcy administrator that makes a determination described in subparagraph (A) shall review that determination not later than one year after the date of that determination, and not less frequently than every year 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 or that the exigent circumstances require filing before such 5-day period expires; 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 unless the debtor resides in a district for which the United States trustee or bankruptcy administrator of the bankruptcy court of that district determines that the approved instructional courses are not adequate to provide service to the additional individuals who would be required to compete the instructional course by reason of the requirements of this section. Each United States trustee or bankruptcy administrator that makes such a determination shall review that determination not later than 1 year after the date of that determination, and not less frequently than every year thereafter.''.

(c) CHAPTER 13 DISCHARGE.—Section 1328 of title 11, United States Code, as amended by section 137, is amended by adding at the end the following:

''(g) 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.

''(h) Subsection (g) shall not apply with respect to a debtor who resides in a district for which the United States trustee or bankruptcy administrator of the bankruptcy court of that district determines that the approved instructional courses are not adequate to provide service to the additional individuals who would be required to complete the instructional course by reason of the requirements of this section.

''(i) Each United States trustee or bankruptcy administrator that makes a determination described in subsection (h) shall review that determination not later than 1 year after the date of that determination, and not less frequently than every year thereafter.''.

(d) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, as amended by sections 604 and 120, is amended by adding at the end the following:

''(d) 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) 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

''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 a list of instructional courses concerning personal financial management that have been approved by—

''(1) the United States trustee; or

''(2) the bankruptcy administrator for the district.''.

(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.''.

(e) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—

(1) by inserting after paragraph (13) the following:

''(13A) 'debtor's principal residence' means a residential structure including incidental property when the structure contains 1 to 4 units, whether or not that structure is attached to real property, and includes, without limitation, an individual condominium or cooperative unit or mobile or manufactured home or trailer;'';

(2) by inserting after paragraph (27A), as added by section 318 of this Act, the following:

''(27B) 'incidental property' means property incidental to such residence including, without limitation, property commonly conveyed with a principal residence where the real estate is located, window treatments, carpets, appliances and equipment located in the residence, and easements, appurtenances, fixtures, rents, royalties, mineral rights, oil and gas rights, escrow funds and insurance proceeds;'';

(3) in section 362(b), as amended by sections 117, 118, 132, 136, 141 203, 818, and 1007,—

(A) in paragraph (28) by striking ''or'' at the end thereof;

(B) in paragraph (29) by striking the period at the end and inserting ''; or''; and

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

''(30) under subsection (a), until a prepetition default is cured fully in a case under chapter 13 of this title by actual payment of all arrears as required by the plan, of the postponement, continuation or other similar delay of a prepetition foreclosure proceeding or sale in accordance with applicable nonbankruptcy law, but nothing herein shall imply that such postponement, continuation or other similar delay is a violation of the stay under subsection (a).''; and

(4) by amending section 1322(b)(2) to read as follows:

''(2) modify the rights of holders of secured claims, other than a claim secured primarily by a security interest in property used as the debtor's principal residence at any time during 180 days prior to the filing of the petition, or of holders of unsecured claims, or leave unaffected the rights of holders of any class of claims;''.

(f) LIMITATION.—Section 362 of title 11, United States Code, is amended by adding at the end the following:

''(j) If one case commenced under chapter 7, 11, or 13 of this title is dismissed due to the creation of a debt repayment plan administered by a credit counseling agency approved pursuant to section 111 of this title, then for purposes of section 362(c)(3) of this title the subsequent case commenced under any such chapter shall not be presumed to be filed not in good faith.''.

(g) RETURN OF GOODS SHIPPED.—Section 546(g) of title 11, United States Code, as added by section 222(a) of Public Law 103–394, is amended to read as follows:

''(h) Notwithstanding the rights and powers of a trustee under sections 544(a), 545, 547, 549, and 553 of this title, if the court determines on a motion by the trustee made not later than 120 days after the date of the order for relief in a case under chapter 11 of this title and after notice and hearing, that a return is in the best interests of the estate, the debtor, with the consent of the creditor, and subject to the prior rights, if any, of third parties in such goods, may return goods shipped to the debtor by the creditor before the commencement of the case, and the creditor may offset the purchase price of such goods against any claim of the creditor against the debtor that arose before the commencement of the case.''.

SEC. 303. 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. 304. LOCAL FILING OF BANKRUPTCY CASES.

Section 1408 of title 28, United States Code, is amended—

(1) by striking ''Except'' and inserting ''(a) Except''; and

(2) by adding at the end the following:

''(b) For the purposes of subsection (a), if the debtor is a corporation, the domicile and residence of the debtor are conclusively presumed to be where the debtor's principal place of business in the United States is located.''.

SEC. 305. PERMITTING ASSUMPTION OF CONTRACTS.

(a) Section 365(c) of title 11, United States Code, is amended to read as follows:

''(c)(1) The trustee may not assume or assign an executory contract or unexpired lease of the debtor, whether or not the contract or lease prohibits or restricts assignment of rights or delegation of duties, if—

''(A)(i) applicable law excuses a party to the contract or lease from accepting performance from or rendering performance to an assignee of the contract or lease, whether or not the contract or lease prohibits or restricts assignment of rights or delegation of duties; and

''(ii) the party does not consent to the assumption or assignment; or

''(B) the contract is a contract to make a loan, or extend other debt financing or financial accommodations, to or for the benefit of the debtor, or to issue a security of the debtor.

''(2) Notwithstanding paragraph (1)(A) and applicable nonbankruptcy law, in a case under chapter 11 of this title, a trustee in a case in which a debtor is a corporation, or a debtor in possession, may assume an executory contract or unexpired lease of the debtor, whether or not the contract or lease prohibits or restricts assignment of rights or delegation of duties.

''(3) The trustee may not assume or assign an unexpired lease of the debtor of nonresidential real property, whether or not the contract or lease prohibits or restricts assignment of rights or delegation of duties, if the lease has been terminated under applicable nonbankruptcy law before the order for relief.''.

(b) Section 365(d) of title 11, United States Code, is amended by striking paragraphs (5), (6), (7), (8), and (9), and redesignating paragraph (10) as paragraph (5).

(c) Section 365(e) of title 11, United States Code, is amended to read as follows:

''(e)(1) Notwithstanding a provision in an executory contract or unexpired lease, or in applicable law, an executory contract or unexpired lease of the debtor may not be terminated or modified, and any right or obligation under such contract or lease may not be terminated or modified, at any time after the commencement of the case solely because of a provision in such contract or lease that is conditioned on—

''(A) the insolvency or financial condition of the debtor at any time before the closing of the case;

''(B) the commencement of a case under this title; or

''(C) the appointment of or taking possession by a trustee in a case under this title or a custodian before such commencement.

''(2) Paragraph (1) does not apply to an executory contract or unexpired lease of the debtor if the trustee may not assume or assign, and the debtor in possession may not assume, the contract or lease by reason of the provisions of subsection (c) of this section.''.

(d) Section 365(f)(1) of title 11, United States Code, is amended by striking the semicolon and all that follows through ''event''.

TITLE IV SMALL BUSINESS BANKRUPTCY PROVISIONS

SEC. 401. FLEXIBLE RULES FOR DISCLOSURE STATEMENT AND PLAN.

(a) Section 1125(a)(1) of title 11, United States Code, is amended by inserting before the semicolon following:

''and in determining whether a disclosure statement provides adequate information, the court shall consider the complexity of the case, the benefit of additional information to creditors and other parties in interest, and the cost of providing additional information''.

(b) Section 1125(f) of title 11, United States Code, is amended to read as follows:

''(f) Notwithstanding subsection (b)—

''(1) the court may determine that the plan itself provides adequate information and that a separate disclosure statement is not necessary;

''(2) the court may approve a disclosure statement submitted on standard forms approved by the court or adopted pursuant to section 2075 of title 28; and

''(3)(A) the court may conditionally approve a disclosure statement subject to final approval after notice and a hearing;

''(B) acceptances and rejections of a plan may be solicited based on a conditionally approved disclosure statement if the debtor provides adequate information to each holder of a claim or interest that is solicited, but a conditionally approved disclosure statement shall be mailed not less than 20 days before the date of the hearing on confirmation of the plan; and

''(C) the hearing on the disclosure statement may be combined with the hearing on confirmation of a plan.''.

SEC. 402. DEFINITIONS.

(a) DEFINITIONS. Section 101 of title 11, United States Code, is amended by striking paragraph (51C) and inserting the following:

''(51C) 'small business case' means a case filed under chapter 11 of this title in which the debtor is a small business debtor; and

''(51D) 'small business debtor' means (A) a person (including affiliates of such person that are also debtors under this title) that has aggregate noncontingent, liquidated secured and unsecured debts as of the date of the petition or the order for relief in an amount not more than $4,000,000 (excluding debts owed to 1 or more affiliates or insiders), except that if a group of affiliated debtors has aggregate noncontingent liquidated secured and unsecured debts greater than $4,000,000 (excluding debt owed to 1 or more affiliates or insiders), then no member of such group is a small business debtor;''.

(b) CONFORMING AMENDMENT.—Section 1102(a)(3) of title 11, United States Code, is amended by inserting ''debtor'' after ''small business'' .

SEC. 403. STANDARD FORM DISCLOSURE STATEMENT AND PLAN.

The Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States shall, within a reasonable period of time after the date of the enactment of this Act, propose for adoption standard form disclosure statements and plans of reorganization for small business debtors (as defined in section 101 of title 11, United States Code, as amended by this Act), designed to achieve a practical balance between—

(1) the reasonable needs of the courts, the United States trustee, creditors, and other parties in interest for reasonably complete information; and

(2) economy and simplicity for debtors.

SEC. 404. UNIFORM NATIONAL REPORTING REQUIREMENTS.

(a) REPORTING REQUIRED.—

(1) Title 11 of the United States Code is amended by inserting after section 307 the following:

''§ 308. Debtor reporting requirements

''A small business debtor shall file periodic financial and other reports containing information including—

''(1) the debtor's profitability, that is, approximately how much money the debtor has been earning or losing during current and recent fiscal periods;

''(2) reasonable approximations of the debtor's projected cash receipts and cash disbursements over a reasonable period;

''(3) comparisons of actual cash receipts and disbursements with projections in prior reports; and

''(4) whether the debtor is—

''(A) in compliance in all material respects with postpetition requirements imposed by this title and the Federal Rules of Bankruptcy Procedure; and

''(B) timely filing tax returns and paying taxes and other administrative claims when due, and, if not, what the failures are and how, at what cost, and when the debtor intends to remedy such failures; and

''(5) such other matters as are in the best interests of the debtor and creditors, and in the public interest in fair and efficient procedures under chapter 11 of this title.''.

(2) The table of sections of chapter 3 of title 11, United States Code, is amended by inserting after the item relating to section 307 the following:

''308. Debtor reporting requirements.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect 60 days after the date on which rules are prescribed pursuant to section 2075, title 28, United States Code to establish forms to be used to comply with section 308 of title 11, United States Code, as added by subsection (a).

SEC. 405. UNIFORM REPORTING RULES AND FORMS FOR SMALL BUSINESS CASES.

(a) PROPOSAL OF RULES AND FORMS.—The Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States shall propose for adoption amended Federal Rules of Bankruptcy Procedure and Official Bankruptcy Forms to be used by small business debtors to file periodic financial and other reports containing information, including information relating to—

(1) the debtor's profitability;

(2) the debtor's cash receipts and disbursements; and

(3) whether the debtor is timely filing tax returns and paying taxes and other administrative claims when due.

(b) PURPOSE.—The rules and forms proposed under subsection (a) shall be designed to achieve a practical balance between—

(1) the reasonable needs of the bankruptcy court, the United States trustee, creditors, and other parties in interest for reasonably complete information;

(2) the small business debtor's interest that required reports be easy and inexpensive to complete; and

(3) the interest of all parties that the required reports help the small business debtor to understand its financial condition and plan its future.

SEC. 406. DUTIES IN SMALL BUSINESS CASES.

(a) DUTIES IN CHAPTER 11 CASES.—Title 11 of the United States Code is amended by inserting after section 1114 the following:

''§ 1115. Duties of trustee or debtor in possession in small business cases

''(a) In a small business case, a trustee or the debtor in possession, in addition to the duties provided in this title and as otherwise required by law, shall—

''(1) append to the voluntary petition or, in an involuntary case, file within 3 days after the date of the order for relief—

''(A) its most recent balance sheet, statement of operations, cash-flow statement, Federal income tax return; or

''(B) a statement made under penalty of perjury that no balance sheet, statement of operations, or cash-flow statement has been prepared and no Federal tax return has been filed;

''(2) attend, through its responsible individual, meetings scheduled by the court or the United States trustee, including initial debtor interviews and meetings of creditors convened under section 341 of this title;

''(3) timely file all schedules and statements of financial affairs, unless the court, after notice and a hearing, grants an extension, which shall not extend such time period to a date later than 30 days after the date of the order for relief, absent extraordinary and compelling circumstances;

''(4) file all postpetition financial and other reports required by the Federal Rules of Bankruptcy Procedure or by local rule of the district court;

''(5) subject to section 363(c)(2) of this title, maintain insurance customary and appropriate to the industry;

''(6)(A) timely file tax returns;

''(B) subject to section 363(c)(2) of this title, timely pay all administrative expense tax claims, except those being contested by appropriate proceedings being diligently prosecuted; and

''(C) subject to section 363(c)(2) of this title, establish 1 or more separate deposit accounts not later than 10 business days after the date of order for relief (or as soon thereafter as possible if all banks contacted decline the business) and deposit therein, not later than 1 business day after receipt thereof or a responsible time set by the court, all taxes payable for periods beginning after the date the case is commenced that are collected or withheld by the debtor for governmental units unless the court waives this requirement after notice and hearing; and

''(7) allow the United States trustee, or its designated representative, to inspect the debtor's business premises, books, and records at reasonable times, after reasonable prior written notice, unless notice is waived by the debtor.''.

(b) TECHNICAL AMENDMENT.—The table of sections of chapter 11, United States Code, is amended by inserting after the item relating to section 1114 the following:

''1115. Duties of trustee or debtor in possession in small business cases.''.

SEC. 407. PLAN FILING AND CONFIRMATION DEADLINES.

Section 1121(e) of title 11, United States Code, is amended to read as follows:

''(e) In a small business case—

''(1) only the debtor may file a plan until after 90 days after the date of the order for relief, unless a trustee has been appointed under this chapter, or unless the court, on request of a party in interest and after notice and hearing, shortens such time;

''(2) the debtor shall file a plan, and any necessary disclosure statement, not later than 90 days after the date of the order for relief, unless the United States Trustee has appointed under section 1102(a)(1) of this title a committee of unsecured creditors that the court has determined, before the 90 days has expired, is sufficiently active and representative to provide effective oversight of the debtor; and

''(3) the time periods specified in paragraphs (1) and (2) of this subsection and the time fixed in section 1129(e) of this title for confirmation of a plan, may be extended only as follows:

''(A) On request of a party in interest made within the respective periods, and after notice and hearing, the court may for cause grant one or more extensions, cumulatively not to exceed 60 days, if the movant establishes—

''(i) that no cause exists to dismiss or convert the case or appoint a trustee or examiner under subparagraphs (A) (I) of section 1112(b) of this title; and

''(ii) that there is a reasonable possibility the court will confirm a plan within a reasonable time;

''(B) On request of a party in interest made within the respective periods, and after notice and hearing, the court may for cause grant one or more extensions in excess of those authorized under subparagraph (A) of this paragraph, if the movant establishes:

''(i) that no cause exists to dismiss or convert the case or appoint a trustee or examiner under subparagraphs (A) (I) of section 1112(b)(3) of this title; and

''(ii) that it is more likely than not that the court will confirm a plan within a reasonable time; and

''(C) a new deadline shall be imposed whenever an extension is granted.''.

SEC. 408. PLAN CONFIRMATION DEADLINE.

Section 1129 of title 11, United States Code, is amended by adding at the end the following:

''(e) In a small business case, the debtor shall confirm a plan not later than 150 days after the date of the order for relief unless—

''(1) the United States Trustee has appointed, under section 1102(a)(1) of this title, a committee of unsecured creditors that the court has determined, before the 150 days has expired, is sufficiently active and representative to provide effective oversight of the debtor; or

''(2) such 150-day period is extended as provided in section 1121(e)(3) of this title.''.

SEC. 409. PROHIBITION AGAINST EXTENSION OF TIME.

Section 105(d) of title 11, United States Code, is amended—

(1) in paragraph (2)(B)(vi) by striking the period at the end and inserting ''; and''; and

(2) by adding at the end the following:

''(3) in a small business case, not extend the time periods specified in sections 1121(e) and 1129(e) of this title except as provided in section 1121(e)(3) of this title.''.

SEC. 410. DUTIES OF THE UNITED STATES TRUSTEE.

(a) DUTIES OF THE UNITED STATES TRUSTEE.—Section 586(a) of title 28, United States Code, is amended—

(1) in paragraph (3)—

(A) in subparagraph (G) by striking ''and at the end'';

(B) by redesignating subparagraph (H) as subparagraph (I); and

(C) by inserting after subparagraph (G) the following:

''(H) in small business cases (as defined in section 101 of title 11), performing the additional duties specified in title 11 pertaining to such cases'';

(2) in paragraph (5) by striking ''and at the end'';

(3) in paragraph (6) by striking the period at the end and inserting ''; and''; and

(4) by inserting after paragraph (7) the following:

''(7) in each of such small business cases—

''(A) conduct an initial debtor interview as soon as practicable after the entry of order for relief but before the first meeting scheduled under section 341(a) of title 11 at which time the United States trustee shall begin to investigate the debtor's viability, inquire about the debtor's business plan, explain the debtor's obligations to file monthly operating reports and other required reports, attempt to develop an agreed scheduling order, and inform the debtor of other obligations;

''(B) when determined to be appropriate and advisable, visit the appropriate business premises of the debtor and ascertain the state of the debtor's books and records and verify that the debtor has filed its tax returns; and

''(C) review and monitor diligently the debtor's activities, to identify as promptly as possible whether the debtor will be unable to confirm a plan; and

''(8) in cases in which the United States trustee finds material grounds for any relief under section 1112 of title 11, the United States trustee shall apply promptly to the court for relief.''.

SEC. 411. SCHEDULING CONFERENCES.

Section 105(d) of title 11, United States Code, is amended—

(1) in the matter preceding paragraph (1) by striking '', may'';

(2) by amending paragraph (1) to read as follows:

''(1) shall hold such status conferences as are necessary to further the expeditious and economical resolution of the case; and''; and

(3) in paragraph (2) by striking ''unless inconsistent with another provision of this title or with applicable Federal Rules of Bankruptcy Procedure'', and inserting ''may''.

SEC. 412. SERIAL FILER PROVISIONS.

Section 362 of title 11, United States Code, as amended by section 302, is amended—

(1) in subsection (i) as so redesignated by section 122—

(A) by striking ''An'' and inserting ''(1) Except as provided in paragraph (2), an''; and

(B) by adding at the end the following:

''(2) If such violation is based on an action taken by an entity in the good-faith belief that subsection (h) applies to the debtor, then recovery under paragraph (1) against such entity shall be limited to actual damages.''; and

(2) by inserting after subsection (j), as added by section 302, the following:

''(k)(1) Except as provided in paragraph (2) of this subsection, the provisions of subsection (a) of thissection shall not apply in a case in which the debtor—

''(A) is a debtor in a case under this title pending at the time the petition is filed;

''(B) was a debtor in a case under this title which was dismissed for any reason by an order that became final in the 2-year period ending on the date of the order for relief entered with respect to the petition;

''(C) was a debtor in a case under this title in which a chapter 11, 12, or 13 plan was confirmed in the 2-year period ending on the date of the order for relief entered with respect to the petition; or

''(D) is an entity that has succeeded to substantially all of the assets or business of a debtor described in subparagraph (A), (B), or (C).

''(2) This subsection shall not apply—

''(A) to a case initiated by an involuntary petition filed by a creditor that is not an insider or affiliate of the debtor; or

''(B) after such time as the debtor, after notice and a hearing, demonstrates by a preponderance of the evidence, that the filing of such petition resulted from circumstances beyond the control of the debtor and not foreseeable at the time the earlier case was filed; and that it is more likely than not that the court will confirm a plan, other than a liquidating plan, within a reasonable time.''.

SEC. 413. EXPANDED GROUNDS FOR DISMISSAL OR CONVERSION AND APPOINTMENT OF TRUSTEE OR EXAMINER.

(a) EXPANDED GROUNDS FOR DISMISSAL OR CONVERSION.—Section 1112(b) of title 11, United States Code, is amended to read as follows:

''(b)(1) Except as provided in paragraphs (2) and (4) of this subsection, and in subsection (c) of this section, on request of a party in interest, and after notice and a hearing, the court shall convert a case under this chapter to a case under chapter 7 of this title or dismiss a case under this chapter, or appoint a trustee or examiner under section 1104(e) of this title, whichever is in the best interest of creditors and the estate, if the movant establishes cause.

''(2) The court may decline to grant the relief specified in paragraph (1) of this subsection if the debtor or another party in interest objects and establishes by a preponderance of the evidence that—

''(A) it is more likely than not that a plan will be confirmed within a time as fixed by this title or by order of the court entered pursuant to section 1121(e)(3), or within a reasonable time if no time has been fixed; and

''(B) if the cause is an act or omission of the debtor that—

''(i) there exists a reasonable justification for the act or omission; and

''(ii) the act or omission will be cured within a reasonable time fixed by the court not to exceed 30 days after the court decides the motion, unless the movant expressly consents to a continuance for a specific period of time, or compelling circumstances beyond the control of the debtor justify an extension.

''(3) For purposes of this subsection, cause includes—

''(A) substantial or continuing loss to or diminution of the estate;

''(B) gross mismanagement of the estate;

''(C) failure to maintain insurance that poses a material risk to the estate or the public;

''(D) unauthorized use of cash collateral harmful to 1 or more creditors;

''(E) failure to comply with an order of the court;

''(F) failure timely to satisfy any filing or reporting requirement established by this title or by any rule applicable to a case under this chapter;

''(G) failure to attend the meeting of creditors convened under section 341(a) of this title;

''(H) failure timely to provide information or attend meetings reasonably requested by the United States trustee or bankruptcy administrator;

''(I) failure timely to pay taxes due after the date of the order for relief or to file tax returns due after the order for relief;

''(J) failure to file a disclosure statement, or to file or confirm a plan, within the time fixed by this title or by order of the court;

''(K) failure to pay any fees or charges required under chapter 123 of title 28;

''(L) revocation of an order of confirmation under section 1144 of this title;

''(M) inability to effectuate substantial consummation of a confirmed plan;

''(N) material default by the debtor with respect to a confirmed plan; and

''(O) termination of a plan by reason of the occurrence of a condition specified in the plan.

''(4) The court may grant relief under this subsection for cause as defined in subparagraphs C, F, G, H, or K of paragraph 3 of this subsection only upon motion of the United States trustee or bankruptcy administrator or upon the court s own motion.

''(5) The court shall commence the hearing on any motion under this subsection not later than 30 days after filing of the motion, and shall decide the motion within 15 days after commencement of the hearing, unless the movant expressly consents to a continuance for a specific period of time or compelling circumstances prevent the court from meeting the time limits established by this paragraph.''.

(b) ADDITIONAL GROUNDS FOR APPOINTMENT OF TRUSTEE OR EXAMINER.—Section 1104 of title 11, United States Code, is amended by adding at the end the following:

''(e) If grounds exist to convert or dismiss the case under section 1112 of this title, the court may instead appoint a trustee or examiner, if it determines that such appointment is in the best interests of creditors and the estate.''.

SEC. 414. STUDY OF OPERATION OF TITLE 11 OF THE UNITED STATES CODE WITH RESPECT TO SMALL BUSINESSES.

Not later than 2 years after the date of the enactment of this Act, the Administrator of the Small Business Administration, in consultation

with the Attorney General, the Director of the Administrative Office of United States Trustees, and the Director of the Administrative Office of the United States Courts, shall—

(1) conduct a study to determine—

(A) the internal and external factors that cause small businesses, especially sole proprietorships, to become debtors in cases under title 11 of the United States Code and that cause certain small businesses to successfully complete cases under chapter 11 of such title; and

(B) how Federal laws relating to bankruptcy may be made more effective and efficient in assisting small businesses to remain viable; and

(2) submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report summarizing that study.

SEC. 415. PAYMENT OF INTEREST.

Section 362(d)(3) of title 11, United States Code, is amended—

(1) by inserting ''or 30 days after the court determines that the debtor is subject to this paragraph, whichever is later'' after ''90-day period)''; and

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

''(B) the debtor has commenced monthly payments (which payments may, in the debtor's sole discretion, notwithstanding section 363(c)(2) of this title, be made from rents or other income generated before or after the commencement of the case by or from the property) to each creditor whose claim is secured by such real estate (other than a claim secured by a judgment lien or by an unmatured statutory lien), which payments are in an amount equal to interest at the then-applicable nondefault contract rate of interest on the value of the creditor's interest in the real estate; or''.

TITLE V—MUNICIPAL BANKRUPTCY PROVISIONS

SEC. 501. PETITION AND PROCEEDINGS RELATED TO PETITION.

(a) TECHNICAL AMENDMENT RELATING TO MUNICIPALITIES.—Section 921(d) of title 11, United States Code, is amended by inserting ''notwithstanding section 301(b)'' before the period at the end.

(b) CONFORMING AMENDMENT.—Section 301 of title 11, United States Code, is amended—

(1) by inserting ''(a)'' before ''A voluntary''; and

(2) by amending the last sentence to read as follows:

''(b) The commencement of a voluntary case under a chapter of this title constitutes an order for relief under such chapter.''.

SEC. 502. APPLICABILITY OF OTHER SECTIONS TO CHAPTER 9.

Section 901(a) 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,''.

TITLE VI—STREAMLINING THE BANKRUPTCY SYSTEM

SEC. 601. 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 and activities related thereto 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. 602. AUDIT PROCEDURES.

(a) AMENDMENTS.—Section 586 of title 28, United States Code, is amended—

(1) in subsection (a) by amending striking paragraph (6) to read as follows:

''(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 to determine the accuracy, veracity, 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. Such audits shall be in accordance with generally accepted auditing standards and performed by independent certified public accountants or independent licensed public accountants.

''(B) Those procedures shall—

''(i) establish a method of selecting appropriate qualified persons to contract to perform those audits;

''(ii) establish a method of randomly selecting cases to be audited, except that not less than 1 out of every 250 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 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.

''(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)(A) The report of each audit conducted under this subsection shall be filed with the court and transmitted to the United States trustee. Each report shall clearly and conspicuously specify any material misstatement of income or expenditures or of assets identified by the person performing the audit. In any case where a material misstatement of income or expenditures or of assets has been reported, the clerk of the bankruptcy court shall give notice of the misstatement to the creditors in the case.

''(B) If a material misstatement of income or expenditures or of assets is reported, the United States trustee shall—

''(i) report the material misstatement, if appropriate, to the United States Attorney pursuant to section 3057 of title 18, United States Code; and

''(ii) if advisable, take appropriate action, including but not limited to commencing an adversary proceeding to revoke the debtor's discharge pursuant to section 727(d) of title 11, United States Code.''.

(b) AMENDMENTS TO SECTION 521 OF TITLE 11, U.S.C.—Section 521(a) of title 11, United States Code, as amended by section 603, is amended in paragraphs (3) and (4) by adding ''or an auditor appointed pursuant to section 586 of title 28, United States Code'' after ''serving in the case''.

(c) AMENDMENTS TO SECTION 727 OF TITLE 11, U.S.C.—Section 727(d) of title 11, United States Code, is amended—

(1) by deleting ''or'' at the end of paragraph (2);

(2) by substituting ''; or'' for the period at the end of paragraph (3); and

(3) by adding the following at the end the following:

''(4) the debtor has failed to explain satisfactorily—

''(A) a material misstatement in an audit performed pursuant to section 586(f) of title 28, United States Code; or

''(B) a failure to make available for inspection all necessary accounts, papers, documents, financial records, files, and all other papers, things, or property belonging to the debtor that are requested for an audit conducted pursuant to section 586(f) of title 28, United States Code.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

SEC. 603. GIVING CREDITORS FAIR NOTICE IN CHAPTER 7 AND 13 CASES.

(a) NOTICE.—Section 342 of title 11, United States Code, is amended—

(1) in subsection (c)—

(A) by striking '', but the failure of such notice to contain such information shall not invalidate the legal effect of such notice''; and

(B) by adding the following at the end:

''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 which is the current account number of the debtor with respect to any debt held by the creditor against the debtor, the debtor shall include such account number in any notice to the creditor required to be given under this title. If the creditor has specified to the debtor 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. For the purposes of this section, 'notice' shall include, but shall not be limited to, any correspondence from the debtor to the creditor after the commencement of the case, any statement of the debtor's intention under section 521(a)(2) of this title, notice of the commencement of any proceeding in the case to which the creditor is a party, and any notice of the hearing under section 1324 of this title.'';

(2) by adding at the end the following:

''(d) At any time, a creditor in a case of an individual debtor 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. After 5 days following receipt of such notice, any notice the court or the debtor is required to give the creditor shall be given at that address.

''(e) An entity may file with the court a notice stating its address for notice in cases under chapters 7 and 13. After 30 days following the filing of such 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 (d) with respect to a particular case.

''(f) Notice given to a creditor other than as provided in this section shall not be effective notice until it has been brought to the attention of the creditor. 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 such department or person, notice will not be brought to the attention of the creditor until received by such person or department. No sanction under section 362(h) of this title or any other sanction which a court may impose on account of violations of the stay under section 362(a) of this title or failure to comply with section 542 or 543 of this title may be imposed on any action of the creditor unless the action takes place after the creditor has received notice of the commencement of the case effective under this section.''.

(b) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, as amended by sections 604, 120, and 302, 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 monthly income and current expenditures prepared in accordance with section 707(b)(2);

''(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) of this title indicating that such attorney or bankruptcy petition preparer delivered to the debtor any notice required by section 342(b) of this title; 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; and

''(vi) a statement disclosing any reasonably anticipated increase in income or expenditures over the 12-month period following the date of filing;'';

(3) by adding at the end the following:

''(e)(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 at a reasonable cost within 5 business days after such request.

''(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 such plan available to the creditor who requests such plan at a reasonable cost and not later than 5 days after such request.

''(f) 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 current monthly income and expenditures in the preceding tax year and current monthly income less expenditures for the month preceding the statement prepared in accordance with section 707(b)(2) 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.

''(g)(1) A statement referred to in subsection (f)(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 (h).

''(h)(1) Not later than 30 days after the date of enactment of the Consumer Bankruptcy Reform Act of 1999, 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 reasonable restrictions on creditor access to tax information that is required to be provided under this section to verify creditor identity and to restrict use of the information except with respect to the case.

''(3) Not later than 1 year after the date of enactment of the Consumer Bankruptcy Reform Act of 1999, 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) to provide timely and sufficient information to creditors concerning the case; and

''(B) if appropriate, includes proposed legislation—

''(i) to further protect the confidentiality of tax information or to make it better available to creditors; and

''(ii) to provide penalties for the improper use by any person of the tax information required to be provided under this section.

''(i) If requested by the United States trustee or a trustee serving in the case, the debtor provide a document that establishes the identity of the debtor, including a driver's license, passport, or other document that contains a photograph of the debtor and such other personal identifying information relating to the debtor that establishes the identity of the debtor.''.

(c) Section 1324 of title 11, United States Code, is amended—

(1) by inserting ''(a)'' before ''After''; and

(2) by inserting at the end thereof—

''(c) Whenever a party in interest is given notice of a hearing on the confirmation or modification of a plan under this chapter, such notice shall include the information provided by the debtor on the most recent statement filed with the court pursuant to section 521(a)(1)(B)(ii) or (f)(4) of this title.''.

SEC. 604. DISMISSAL FOR FAILURE TO TIMELY FILE SCHEDULES OR PROVIDE REQUIRED INFORMATION.

Section 521 of title 11, United States Code, as amended by section 603 is amended by inserting after subsection (a) the following:

''(b)(1) Notwithstanding section 707(a) of this title, 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 subsection (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 such 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 not to exceed 45 days to file the information required under subsection (a)(1) if the court finds justification for extending the period for the filing.''.

SEC. 605. ADEQUATE TIME TO PREPARE FOR HEARING ON CONFIRMATION OF THE PLAN.

(a) HEARING.—Section 1324 of title 11, United States Code, 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) The hearing on confirmation of the plan may be held not earlier than 20 days, and not later than 45 days, after the meeting of creditors under section 341(a) of this title.''.

SEC. 606. CHAPTER 13 PLANS TO HAVE A 5-YEAR DURATION IN CERTAIN CASES.

Title 11, United States Code, is amended—

(1) by amending section 1322(d) to read as follows:

''(d) If the current monthly income of the debtor and the debtor's spouse combined, when multiplied by 12, is not less than the highest national median family income last reported by the Bureau of the Census for a family of equal or lesser size or, in the case of a household of 1 person, not less than the national median household income for 1 earner, the plan may not provide for payments over a period that is longer than 5 years. If the current monthly income of the debtor and the debtor's spouse combined, when multiplied by 12, is less than the highest national median family income for a family of equal or lesser size, or in the case of a household of 1 person, the national median household income for 1 earner, the plan may not provide for payments over a period that is longer than 3 years, unless the court, for cause, approves a longer period, but the court may not approve a period that is longer than 5 years. Notwithstanding the foregoing, the national median family income for a family of more than 4 individuals shall be the national median family income last reported by the Bureau of the Census for a family of 4 individuals plus $583 for each additional member of the family.'';

(2) in section 1325(b)(1)(B) as amended by section 130—

(A) by striking ''three year period'' and inserting ''applicable commitment period''; and

(B) by inserting at the end of subparagraph (B) the following: ''The 'applicable commitment period' shall be not less than 5 years if the current monthly income of the debtor and the debtor's spouse combined, when multiplied by 12, is not less than the highest national median family income last reported by the Bureau of the Census for a family of equal or lesser size, or in the case of a household of 1 person, the national median household income for 1 earner. Notwithstanding the foregoing, the national median family income for a family of more than 4 individuals shall be the national median family income last reported by the Bureau of the Census for a family of 4 individuals plus $583 for each additional member of the family.''; and

(3) in section 1329—

(A) by striking in subsection (c) ''three years'' and inserting ''the applicable commitment period under section 1325(b)(1)(B)''; and

(B) by inserting at the end of subsection (c) the following:

''The duration period shall be 5 years if the current monthly income of the debtor and the debtor's spouse combined, when multiplied by 12, is not less than the highest national median family income last reported by the Bureau of the Census for a family of equal or lesser size or, in the case of a household of 1 person, the national median household income for 1 earner, as of the date of the modification and shall be 3 years if the current monthly total income of the debtor and the debtor's spouse combined, when multiplied by 12, is less than the highest national median family income last reported by the Bureau of the Census for a family of equal or lesser size or, in the case of a household of 1 person, less than the national median household income for 1 earner as of the date of the modification. Notwithstanding the foregoing, the national median family income for a family of more than 4 individuals shall be the national median family income last reported by the Bureau of the Census

for a family of 4 individuals plus $583 for each additional member of the family.''.

SEC. 607. SENSE OF THE CONGRESS REGARDING EXPANSION OF RULE 9011 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE.

It is the sense of the Congress that rule 9011 of the Federal Rules of Bankruptcy Procedure (11 U.S.C. App) should be modified to include a requirement that all documents (including schedules), signed and unsigned, submitted to the court or to a trustee by debtors who represent themselves and debtors who are represented by an attorney be submitted only after the debtor or the debtor's attorney has made reasonable inquiry to verify that the information contained in such documents is well grounded in fact, and is warranted by existing law or a good-faith argument for the extension, modification, or reversal of existing law.

SEC. 608. ELIMINATION OF CERTAIN FEES PAYABLE IN CHAPTER 11 BANKRUPTCY CASES.

(a) AMENDMENTS.—Section 1930(a)(6) of title 28, United States Code, is amended—

(1) in the 1st sentence by striking ''until the case is converted or dismissed, whichever occurs first''; and

(2) in the 2d sentence—

(A) by striking ''The'' and inserting ''Until the plan is confirmed or the case is converted (whichever occurs first) the''; and

(B) by striking ''less than $300,000;'' and inserting ''less than $300,000. Until the case is converted, dismissed, or closed (whichever occurs first and without regard to confirmation of the plan) the fee shall be''.

(b) DELAYED EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1999.

SEC. 609. STUDY OF BANKRUPTCY IMPACT OF CREDIT EXTENDED TO DEPENDENT STUDENTS.

Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall—

(1) conduct a study regarding the impact that the extension of credit to individuals who are—

(A) claimed as dependents for purposes of the Internal Revenue Code of 1986; and

(B) enrolled in post-secondary educational institutions,

has on the rate of cases filed under title 11 of the United States Code; and

(2) submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report summarizing such study.

SEC. 610. 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 by for good cause as described in findings made by the court.''.

SEC. 611. 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—

''(i) 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 such 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; and

''(ii) unless a prebankruptcy default has been fully cured pursuant to the plan at the time of conversion, in any proceeding under this title or otherwise, the default shall have the effect given under applicable nonbankruptcy law.''.

SEC. 612. BANKRUPTCY APPEALS.

Title 28 of the United States Code is amended by inserting after section 1292 the following:

''§ 1293. Bankruptcy appeals

''(a) The courts of appeals (other than the United States Court of Appeals for the Federal Circuit) shall have jurisdiction of appeals from the following:

''(1) Final orders and judgments entered by bankruptcy courts and district courts in cases under title 11, in proceedings arising under title 11, and in proceedings arising in or related to a case under title 11, including final orders in proceedings regarding the automatic stay of section 362 of title 11.

''(2) Interlocutory orders entered by bankruptcy courts and district courts granting, continuing, modifying, refusing or dissolving injunctions, or refusing to dissolve or modify injunctions in cases under title 11, in proceedings arising under title 11, and in proceedings arising in or related to a case under title 11, other than interlocutory orders in proceedings regarding the automatic stay of section 362 of title 11.

''(3) Interlocutory orders of bankruptcy courts and district courts entered under section 1104(a) or 1121(d) of title 11, or the refusal to enter an order under such section.

''(4) An interlocutory order of a bankruptcy court or district court entered in a case under title 11, in a proceeding arising under title 11, or in a proceeding arising in or related to a case under title 11, if the court of appeals that would have jurisdiction of an appeal of a final order entered in such case or such proceeding permits, in its discretion, appeal to be taken from such interlocutory order.

''(b) Final decisions, judgments, orders, and decrees entered by a bankruptcy appellate panel under subsection (b) of this section.

''(c)(1) The judicial council of a circuit may establish a bankruptcy appellate panel composed of bankruptcy judges in the circuit who are appointed by the judicial council, which panel shall exercise the jurisdiction to review orders and judgments of bankruptcy courts described in paragraphs (1)–(4) of subsection (a) of this section unless—

''(A) the appellant elects at the time of filing the appeal; or

''(B) any other party elects, not later than 10 days after service of the notice of the appeal;

to have such jurisdiction exercised by the court of appeals.

''(2) An appeal to be heard by a bankruptcy appellate panel under this subsection (b) shall be heard by 3 members of the bankruptcy appellate panel, provided that a member of such panel may not hear an appeal originating in the district for which such member is appointed or designated under section 152 of this title.

''(3) If authorized by the Judicial Conference of the United States, the judicial councils of 2 or more circuits may establish a joint bankruptcy appellate panel.''.

SEC. 613. GAO STUDY.

(a) STUDY.—Not later than 270 days after the date of the enactment of this Act, the Comptroller General of the United States shall conduct a study of the feasibility, effectiveness, and cost of requiring trustees appointed under title 11 of the United States Code, or the bankruptcy courts, to provide to the Office of Child Support Enforcement promptly after the commencement of cases by individual debtors under such title, the names and social security numbers of such debtors for the purposes of allowing such Office to determine whether such debtors have outstanding obligations for child support (as determined on the basis of information in the Federal Case Registry or other national database).

(b) REPORT.—Not later than 300 days after the date of the enactment of this Act, the Comptroller General shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate, a report containing the results of the study required by subsection (a).

TITLE VII—BANKRUPTCY DATA

SEC. 701. 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, 2000, 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 monthly income, and average income and average expenses of those debtors as reported on the schedules and statements that each such debtor files under sections 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, the number of cases dismissed for failure to make payments under the plan, the number of cases refiled after dismissal, and the number of cases in which the plan was completed, separately itemized with respect to the number of modifications made before completion of the plan, if any; and

''(iii) the number of cases in which the debtor filed another case within the 6 years previous to the filing;

''(G) the number of cases in which creditors were fined for misconduct and any amount of punitive damages awarded by the court for creditor misconduct; and

''(H) the number of cases in which sanctions under rule 9011 of the Federal Rules of Bankruptcy Procedure were imposed against debtor's counsel and damages awarded under such Rule.''.

(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. 702. UNIFORM RULES FOR THE COLLECTION OF BANKRUPTCY DATA.

(a) AMENDMENT.—Title 28 of the United States Code is amended by inserting after section 589a the following:

''§ 589b. Bankruptcy data

''(a) RULES.—The Attorney General shall, within a reasonable time after the effective date of this section, issue rules requiring uniform forms for (and from time to time thereafter to appropriately modify and approve)—

''(1) final reports by trustees in cases under chapters 7, 12, and 13 of title 11; and

''(2) periodic reports by debtors in possession or trustees, as the case may be, in cases under chapter 11 of title 11.

''(b) REPORTS.—All reports referred to in subsection (a) shall be designed (and the requirements as to place and manner of filing shall be established) so as to facilitate compilation of data and maximum possible access of the public, both by physical inspection at 1 or more central filing locations, and by electronic access through the Internet or other appropriate media.

''(c) REQUIRED INFORMATION.—The information required to be filed in the reports referred to in subsection (b) shall be that which is in the best interests of debtors and creditors, and in the public interest in reasonable and adequate information to evaluate the efficiency and practicality of the Federal bankruptcy system. In issuing rules proposing the forms referred to in subsection (a), the Attorney General shall strike the best achievable practical balance between—

''(1) the reasonable needs of the public for information about the operational results of the Federal bankruptcy system; and

''(2) economy, simplicity, and lack of undue burden on persons with a duty to file reports.

''(d) FINAL REPORTS.—Final reports proposed for adoption by trustees under chapters 7, 12, and 13 of title 11 shall, in addition to such other matters as are required by law or as the Attorney General in the discretion of the Attorney General, shall propose, include with respect to a case under such title—

''(1) information about the length of time the case was pending;

''(2) assets abandoned;

''(3) assets exempted;

''(4) receipts and disbursements of the estate;

''(5) expenses of administration;

''(6) claims asserted;

''(7) claims allowed; and

''(8) distributions to claimants and claims discharged without payment,

in each case by appropriate category and, in cases under chapters 12 and 13 of title 11, date of confirmation of the plan, each modification thereto, and defaults by the debtor in performance under the plan.

''(e) PERIODIC REPORTS.—Periodic reports proposed for adoption by trustees or debtors in possession under chapter 11 of title 11 shall, in addition to such other matters as are required by law or as the Attorney General, in the discretion of the Attorney General, shall propose, include—

''(1) information about the standard industry classification, published by the Department of Commerce, for the businesses conducted by the debtor;

''(2) length of time the case has been pending;

''(3) number of full-time employees as at the date of the order for relief and at end of each reporting period since the case was filed;

''(4) cash receipts, cash disbursements and profitability of the debtor for the most recent period and cumulatively since the date of the order for relief;

''(5) compliance with title 11, whether or not tax returns and tax payments since the date of the order for relief have been timely filed and made;

''(6) all professional fees approved by the court in the case for the most recent period and cumulatively since the date of the order for relief (separately reported, in for the professional fees incurred by or on behalf of the debtor, between those that would have been incurred absent a bankruptcy case and those not); and

''(7) plans of reorganization filed and confirmed and, with respect thereto, by class, the recoveries of the holders, expressed in aggregate dollar values and, in the case of claims, as a percentage of total claims of the class allowed.''.

(b) TECHNICAL AMENDMENT.—The table of sections of chapter 39 of title 28, United States Code, is amended by adding at the end the following:

''589b. Bankruptcy data.''.

SEC. 703. SENSE OF THE CONGRESS REGARDING AVAILABILITY OF BANKRUPTCY DATA.

It is the sense of the Congress that—

(1) the national policy of the United States should be that all data held by bankruptcy clerks in electronic form, to the extent such data reflects only public records (as defined in section 107 of title 11 of the United States Code), should be released in a usable electronic form in bulk to the public subject to such appropriate privacy concerns and safeguards as the Judicial Conference of the United States may determine; and

(2) there should be established a bankruptcy data system in which—

(A) a single set of data definitions and forms are used to collect data nationwide; and

(B) data for any particular bankruptcy case are aggregated in the same electronic record.

TITLE VIII—BANKRUPTCY TAX PROVISIONS

SEC. 801. TREATMENT OF CERTAIN LIENS.

(a) TREATMENT OF CERTAIN LIENS.—Section 724 of title 11, United States Code, is amended—

(1) in subsection (b), in the matter preceding paragraph (1), by inserting ''(other than to the extent that there is a properly perfected unavoidable tax lien arising in connection with an ad valorem tax on real or personal property of the estate)'' after ''under this title'';

(2) in subsection (b)(2), after ''507(a)(1)'', insert ''(except that such expenses, other than claims for wages, salaries, or commissions which arise after the filing of a petition, shall be limited to expenses incurred under chapter 7 of this title and shall not include expenses incurred under chapter 11 of this title)''; and

(3) by adding at the end the following:

''(e) Before subordinating a tax lien on real or personal property of the estate, the trustee shall—

''(1) exhaust the unencumbered assets of the estate; and

''(2) in a manner consistent with section 506(c) of this title, recover from property securing an allowed secured claim the reasonable, necessary costs and expenses of preserving or disposing of that property.

''(f) Notwithstanding the exclusion of ad valorem tax liens set forth in this section and subject to the requirements of subsection (e)—

''(1) claims for wages, salaries, and commissions that are entitled to priority under section 507(a)(3) of this title; or

''(2) claims for contributions to an employee benefit plan entitled to priority under section 507(a)(4) of this title,

may be paid from property of the estate which secures a tax lien, or the proceeds of such property.''.

(b) DETERMINATION OF TAX LIABILITY.—Section 505(a)(2) of title 11, United States Code, is amended—

(1) in subparagraph (A), by striking ''or'' at the end;

(2) in subparagraph (B), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(C) the amount or legality of any amount arising in connection with an ad valorem tax on real or personal property of the estate, if the applicable period for contesting or redetermining that amount under any law (other than a bankruptcy law) has expired.''.

SEC. 802. EFFECTIVE NOTICE TO GOVERNMENT.

(a) EFFECTIVE NOTICE TO GOVERNMENTAL UNITS.—Section 342 of title 11, United States Code, as amended by section 603, is amended by adding at the end the following:

''(g) If a debtor lists a governmental unit as a creditor in a list or schedule, any notice required to be given by the debtor under this title, any rule, any applicable law, or any order of the court, shall identify the department, agency, or instrumentality through which the debtor is indebted. The debtor shall identify (with information such as a taxpayer identification number, loan, account or contract number, or real estate parcel number, where applicable), and describe the underlying basis for the governmental unit's claim. If the debtor's liability to a governmental unit arises from a debt or obligation owed or incurred by another individual, entity, or organization, or under a different name, the debtor shall identify such individual, entity, organization, or name.

''(h) The clerk shall keep and update quarterly, in the form and manner as the Director of the Administrative Office of the United States Courts prescribes, and make available to debtors, a register in which a governmental unit may designate a safe harbor mailing address for service of notice in cases pending in the district. A governmental unit may file a statement with the clerk designating a safe harbor address to which notices are to be sent, unless such governmental unit files a notice of change of address.''.

(b) ADOPTION OF RULES PROVIDING NOTICE.—The Advisory Committee on Bankruptcy Rules of the Judicial Conference shall, within a reasonable period of time after the date of the enactment of this Act, propose for adoption enhanced rules for providing notice to State, Federal, and local government units that have regulatory authority over the debtor or which may be creditors in the debtor's case. Such rules shall be reasonably calculated to ensure that notice will reach the representatives of the governmental unit, or subdivision thereof, who will be the proper persons authorized to act upon the notice. At a minimum, the rules should require that the debtor—

(1) identify in the schedules and the notice, the subdivision, agency, or entity in respect of which such notice should be received;

(2) provide sufficient information (such as case captions, permit numbers, taxpayer identification numbers, or similar identifying information) to permit the governmental unit or subdivision thereof, entitled to receive such notice, to identify the debtor or the person or entity on behalf of which the debtor is providing notice where the debtor may be a successor in interest or may not be the same as the person or entity which incurred the debt or obligation; and

(3) identify, in appropriate schedules, served together with the notice, the property in respect of which the claim or regulatory obligation may have arisen, if any, the nature of such claim or regulatory obligation and the purpose for which notice is being given.

(c) EFFECT OF FAILURE OF NOTICE.—Section 342 of title 11, United States Code, as amended by section 603 and subsection (a), is amended by adding at the end the following:

''(i) A notice that does not comply with subsections (d) and (e) shall not be effective unless the debtor demonstrates, by clear and convincing evidence, that timely notice was given in a manner reasonably calculated to satisfy the requirements of this section was given, and that—

''(1) either the notice was timely sent to the safe harbor address provided in the register maintained by the clerk of the district in which the case was pending for such purposes; or

''(2) no safe harbor address was provided in such list for the governmental unit and that an officer of the governmental unit who is responsible for the matter or claim had actual knowledge of the case in sufficient time to act.''.

SEC. 803. NOTICE OF REQUEST FOR A DETERMINATION OF TAXES.

Section 505(b) of title 11, United States Code, is amended by striking ''Unless'' at the beginning of the second sentence thereof and inserting ''If the request is made substantially in the manner designated by the governmental unit and unless''.

SEC. 804. RATE OF INTEREST ON TAX CLAIMS.

(a) AMENDMENT.—Chapter 5 of title 11, United States Code, is amended by adding at the end the following:

''§ 511. Rate of interest on tax claims

''If any provision of this title requires the payment of interest on a tax claim or requires the payment of interest to enable a creditor to receive the present value of the allowed amount of a tax claim, the rate of interest shall be as follows:

''(1) In the case of ad valorem tax claims, whether secured or unsecured, other unsecured tax claims where interest is required to be paid under section 726(a)(5) of this title, secured tax claims, and administrative tax claims paid under section 503(b)(1) of this title, the rate shall be determined under applicable nonbankruptcy law.

''(2) In the case of all other tax claims, the minimum rate of interest shall be the Federal short-term rate rounded to the nearest full percent, determined under section 1274(d) of the Internal Revenue Code of 1986, plus 3 percentage points.

''(A) In the case of claims for Federal income taxes, such rate shall be subject to any adjustment that may be required under section 6621(d) of the Internal Revenue Code of 1986.

''(B) In the case of taxes paid under a confirmed plan or reorganization, such rate shall be determined as of the calendar month in which the plan is confirmed.''.

(b) CONFORMING AMENDMENT.—The table of sections of chapter 5 of title 11, United States Code, is amended by inserting after the item relating to section 510 the following:

''511. Rate of interest on tax claims.''.

SEC. 805. TOLLING OF PRIORITY OF TAX CLAIM TIME PERIODS.

Section 507(a)(8)(A) of title 11, United States Code, as so redesignated, is amended—

(1) in clause (i) by inserting after ''petition'' and before the semicolon '', plus any time, plus 6 months, during which the stay of proceedings was in effect in a prior case under this title''; and

(2) amend clause (ii) to read as follows:

''(ii) assessed within 240 days before the date of the filing of the petition, exclusive of—

''(I) any time plus 30 days during which an offer in compromise with respect of such tax, was pending or in effect during such 240-day period;

''(II) any time plus 30 days during which an installment agreement with respect of such tax was pending or in effect during such 240-day period, up to 1 year; and

''(III) any time plus 6 months during which a stay of proceedings against collections was in effect in a prior case under this title during such 240-day period.''.

SEC. 806. PRIORITY PROPERTY TAXES INCURRED.

Section 507(a)(8)(B) of title 11, United States Code, is amended by striking ''assessed'' and inserting ''incurred''.

SEC. 807. CHAPTER 13 DISCHARGE OF FRAUDULENT AND OTHER TAXES.

Section 1328(a)(2) of title 11, United States Code, is amended by inserting ''(1),'' after ''paragraph''.

SEC. 808. CHAPTER 11 DISCHARGE OF FRAUDULENT TAXES.

Section 1141(d) of title 11, United States Code, is amended by adding at the end the following:

''(6) Notwithstanding the provisions of paragraph (1), the confirmation of a plan does not discharge a debtor which is a corporation from any debt for a tax or customs duty with respect to which the debtor made a fraudulent return or willfully attempted in any manner to evade or defeat such tax.''.

SEC. 809. STAY OF TAX PROCEEDINGS.

(a) SECTION 362 STAY LIMITED TO PREPETITION TAXES.—Section 362(a)(8) of title 11, United States Code, is amended by striking the period at the end and inserting '', in respect of a tax liability for a taxable period ending before the order for relief.''.

(b) APPEAL OF TAX COURT DECISIONS PERMITTED.—Section 362(b)(9) of title 11, United States Code, is amended—

(1) in subparagraph (C) by striking ''or'' at the end;

(2) in subparagraph (D) by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(E) the appeal of a decision by a court or administrative tribunal which determines a tax liability of the debtor without regard to whether such determination was made prepetition or postpetition.''.

SEC. 810. PERIODIC PAYMENT OF TAXES IN CHAPTER 11 CASES.

Section 1129(a)(9) of title 11, United States Code, is amended—

(1) in subparagraph (B) by striking ''and'' at the end; and

(2) in subparagraph (C)—

(A) by striking ''deferred cash payments, over a period not exceeding six years after the date of assessment of such claim,'' and inserting ''regular installment payments in cash, but in no case with a balloon provision, and no more than three months apart, beginning no later than the effective date of the plan and ending on the earlier of five years after the petition date or the last date payments are to be made under the plan to unsecured creditors,'';

(B) by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(D) with respect to a secured claim which would be described in section 507(a)(8) of this title but for its secured status, the holder of such claim will receive on account of such claim cash payments of not less than is required in subparagraph (C) and over a period no greater than is required in such subparagraph.''.

SEC. 811. AVOIDANCE OF STATUTORY TAX LIENS PROHIBITED.

Section 545(2) of title 11, United States Code, is amended by striking the semicolon at the end and inserting '', except where such purchaser is a purchaser described in section 6323 of the Internal Revenue Code of 1986 or similar provision of State or local law;''.

SEC. 812. PAYMENT OF TAXES IN THE CONDUCT OF BUSINESS.

(a) PAYMENT OF TAXES REQUIRED.—Section 960 of title 28, United States Code, is amended—

(1) by inserting ''(a)'' before ''Any''; and

(2) by adding at the end the following:

''(b) Such taxes shall be paid when due in the conduct of such business unless—

''(1) the tax is a property tax secured by a lien against property that is abandoned within a reasonable time after the lien attaches, by the trustee of a bankruptcy estate, pursuant to section 554 of title 11; or

''(2) payment of the tax is excused under a specific provision of title 11.

''(c) In a case pending under chapter 7 of title 11, payment of a tax may be deferred until final distribution is made under section 726 of title 11 if—

''(1) the tax was not incurred by a trustee duly appointed under chapter 7 of title 11; or

''(2) before the due date of the tax, the court has made a finding of probable insufficiency of funds of the estate to pay in full the administrative expenses allowed under section 503(b) of title 11 that have the same priority in distribution under section 726(b) of title 11 as such tax.''.

(b) PAYMENT OF AD VALOREM TAXES REQUIRED.—Section 503(b)(1)(B) of title 11, United States Code, is amended in clause (i) by inserting after ''estate,'' and before ''except'' the following: ''whether secured or unsecured, including property taxes for which liability is in rem only, in personam or both,''.

(c) REQUEST FOR PAYMENT OF ADMINISTRATIVE EXPENSE TAXES ELIMINATED.—Section 503(b)(1) of title 11, United States Code, is amended by adding at the end the following:

''(D) notwithstanding the requirements of subsection (a) of this section, a governmental unit shall not be required to file a request for the payment of a claim described in subparagraph (B) or (C);''.

(d) PAYMENT OF TAXES AND FEES AS SECURED CLAIMS.—Section 506 of title 11, United States Code, is amended—

(1) in subsection (b) by inserting ''or State statute'' after ''agreement''; and

(2) in subsection (c) by inserting '', including the payment of all ad valorem property taxes in respect of the property'' before the period at the end.

SEC. 813. TARDILY FILED PRIORITY TAX CLAIMS.

Section 726(a)(1) of title 11, United States Code, is amended by striking ''before the date on which the trustee commences distribution under this section'' and inserting ''on or before the earlier of 10 days after the mailing to creditors of the summary of the trustee's final report or the date on which the trustee commences final distribution under this section''.

SEC. 814. INCOME TAX RETURNS PREPARED BY TAX AUTHORITIES.

Section 523(a)(1)(B) of title 11, United States Code, is amended—

(1) by inserting ''or equivalent report or notice,'' after ''a return,'';

(2) in clause (i)—

(A) by inserting ''or given'' after ''filed''; and

(B) by striking ''or'' at the end;

(3) in clause (ii)—

(A) by inserting ''or given'' after ''filed''; and

(B) by inserting '', report, or notice'' after ''return''; and

(4) by adding at the end the following:

''(iii) for purposes of this subsection, a return—

''(I) must satisfy the requirements of applicable nonbankruptcy law, and includes a return

prepared pursuant to section 6020(a) of the Internal Revenue Code of 1986, or similar State or local law, or a written stipulation to a judgment entered by a nonbankruptcy tribunal, but does not include a return made pursuant to section 6020(b) of the Internal Revenue Code of 1986, or similar State or local law; and

''(II) must have been filed in a manner permitted by applicable nonbankruptcy law; or''.

SEC. 815. DISCHARGE OF THE ESTATE'S LIABILITY FOR UNPAID TAXES.

Section 505(b) of title 11, United States Code, is amended in the second sentence by inserting ''the estate,'' after ''misrepresentation,''.

SEC. 816. REQUIREMENT TO FILE TAX RETURNS TO CONFIRM CHAPTER 13 PLANS.

(a) FILING OF PREPETITION TAX RETURNS REQUIRED FOR PLAN CONFIRMATION.—Section 1325(a) of title 11, United States Code, as amended by section 140, is amended—

(1) in paragraph (6) by striking ''and'' at the end;

(2) in paragraph (7) by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(8) if the debtor has filed all Federal, State, and local tax returns as required by section 1308 of this title.''.

(b) ADDITIONAL TIME PERMITTED FOR FILING TAX RETURNS.—(1) Chapter 13 of title 11, United States Code, as amended by section 135, is amended by adding at the end the following:

''§ 1308. Filing of prepetition tax returns

''(a) On or before the day prior to the day on which the first meeting of the creditors is convened under section 341(a) of this title, the debtor shall have filed with appropriate tax authorities all tax returns for all taxable periods ending in the 3-year period ending on the date of filing of the petition.

''(b) If the tax returns required by subsection (a) have not been filed by the date on which the first meeting of creditors is convened under section 341(a) of this title, the trustee may continue such meeting for a reasonable period of time, to allow the debtor additional time to file any unfiled returns, but such additional time shall be no more than—

''(1) for returns that are past due as of the date of the filing of the petition, 120 days from such date;

''(2) for returns which are not past due as of the date of the filing of the petition, the later of 120 days from such date or the due date for such returns under the last automatic extension of time for filing such returns to which the debtor is entitled, and for which request has been timely made, according to applicable nonbankruptcy law; and

''(3) upon notice and hearing, and order entered before the lapse of any deadline fixed according to this subsection, where the debtor demonstrates, by clear and convincing evidence, that the failure to file the returns as required is because of circumstances beyond the control of the debtor, the court may extend the deadlines set by the trustee as provided in this subsection for—

''(A) a period of no more than 30 days for returns described in paragraph (1) of this subsection; and

''(B) for no more than the period of time ending on the applicable extended due date for the returns described in paragraph (2).

''(c) For purposes of this section only, a return includes a return prepared pursuant to section 6020 (a) or (b) of the Internal Revenue Code of 1986 or similar State or local law, or a written stipulation to a judgment entered by a nonbankruptcy tribunal.''.

(2) The table of sections of chapter 13 of title 11, United States Code, is amended by inserting after the item relating to section 1307 the following:

''1308. Filing of prepetition tax returns.''.

(c) DISMISSAL OR CONVERSION ON FAILURE TO COMPLY.—Section 1307 of title 11, United States Code, is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d) the following:

''(e) Upon the failure of the debtor to file tax returns under section 1308 of this title, on request of a party in interest or the United States trustee and after notice and a hearing, the court shall dismiss a case or convert a case under this chapter to a case under chapter 7 of this title, whichever is in the best interests of creditors and the estate.''.

(d) TIMELY FILED CLAIMS.—Section 502(b)(9) of title 11, United States Code, is amended by striking the period at the end and inserting '', and except that in a case under chapter 13 of this title, a claim of a governmental unit for a tax in respect of a return filed under section 1308 of this title shall be timely if it is filed on or before 60 days after such return or returns were filed as required.''.

(e) RULES FOR OBJECTIONS TO CLAIMS AND TO CONFIRMATION.—It is the sense of the Congress that the Advisory Committee on Bankruptcy Rules of the Judicial Conference should, within a reasonable period of time after the date of the enactment of this Act, propose for adoption amended Federal Rules of Bankruptcy Procedure which provide that—

(1) notwithstanding the provisions of Rule 3015(f), in cases under chapter 13 of title 11, United States Code, a governmental unit may object to the confirmation of a plan on or before 60 days after the debtor files all tax returns required under sections 1308 and 1325(a)(7) of title 11, United States Code; and

(2) in addition to the provisions of Rule 3007, in a case under chapter 13 of title 11, United States Code, no objection to a tax in respect of a return required to be filed under such section 1308 shall be filed until such return has been filed as required.

SEC. 817. STANDARDS FOR TAX DISCLOSURE.

Section 1125(a) of title 11, United States Code, is amended in paragraph (1)—

(1) by inserting after ''records,'' the following: ''including a full discussion of the potential material Federal, State, and local tax consequences of the plan to the debtor, any successor to the debtor, and a hypothetical investor domiciled in the State in which the debtor resides or has its principal place of business typical of the holders of claims or interests in the case,'';

(2) by inserting ''such'' after ''enable''; and

(3) by striking ''reasonable'' where it appears after ''hypothetical'' and by striking ''typical of holders of claims or interests'' after ''investor''.

SEC. 818. SETOFF OF TAX REFUNDS.

Section 362(b) of title 11, United States Code, as amended by sections 118, 132, 136, and 203, is amended—

(1) in paragraph (29) by striking ''or'';

(2) in paragraph (30) by striking the period at the end and inserting ''; or''; and

(3) by inserting after paragraph (30) the following:

''(31) under subsection (a) of the setoff of an income tax refund, by a governmental unit, in respect of a taxable period which ended before the order for relief against an income tax liability for a taxable period which also ended before the order for relief, unless—

''(A) prior to such setoff, an action to determine the amount or legality of such tax liability under section 505(a) was commenced; or

''(B) where the setoff of an income tax refund is not permitted because of a pending action to determine the amount or legality of a tax liability, the governmental unit may hold the refund pending the resolution of the action.''.

TITLE IX—ANCILLARY AND OTHER CROSS-BORDER CASES

SEC. 901. AMENDMENT TO ADD CHAPTER 15 TO TITLE 11, UNITED STATES CODE.

(a) IN GENERAL.—Title 11, United States Code, is amended by inserting after chapter 13 the following:

''CHAPTER 15—ANCILLARY AND OTHER CROSS-BORDER CASES

''Sec.
''1501. Purpose and scope of application.
''SUBCHAPTER I—GENERAL PROVISIONS
''1502. Definitions.
''1503. International obligations of the United States.
''1504. Commencement of ancillary case.
''1505. Authorization to act in a foreign country.
''1506. Public policy exception.
''1507. Additional assistance.
''1508. Interpretation.
''SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND CREDITORS TO THE COURT
''1509. Right of direct access.
''1510. Limited jurisdiction.
''1511. Commencement of case under section 301 or 303.
''1512. Participation of a foreign representative in a case under this title.
''1513. Access of foreign creditors to a case under this title.
''1514. Notification to foreign creditors concerning a case under this title.
''SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING AND RELIEF
''1515. Application for recognition of a foreign proceeding.
''1516. Presumptions concerning recognition.
''1517. Order recognizing a foreign proceeding.
''1518. Subsequent information.
''1519. Relief that may be granted upon petition for recognition of a foreign proceeding.
''1520. Effects of recognition of a foreign main proceeding.
''1521. Relief that may be granted upon recognition of a foreign proceeding.
''1522. Protection of creditors and other interested persons.
''1523. Actions to avoid acts detrimental to creditors.
''1524. Intervention by a foreign representative.
''SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES
''1525. Cooperation and direct communication between the court and foreign courts or foreign representatives.
''1526. Cooperation and direct communication between the trustee and foreign courts or foreign representatives.
''1527. Forms of cooperation.
''SUBCHAPTER V—CONCURRENT PROCEEDINGS
''1528. Commencement of a case under this title after recognition of a foreign main proceeding.
''1529. Coordination of a case under this title and a foreign proceeding.
''1530. Coordination of more than 1 foreign proceeding.
''1531. Presumption of insolvency based on recognition of a foreign main proceeding.
''1532. Rule of payment in concurrent proceedings.

''§ 1501. 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);

''(2) an individual, or to an individual and such individual's spouse, who have debts within the limits specified in section 109(e) and who are citizens of the United States or aliens lawfully admitted for permanent residence in the United States; or

''(3) an entity subject to a proceeding under the Securities Investor Protection Act, a stockbroker subject to subchapter III of chapter 7 of this title, or a commodity broker subject to subchapter IV of chapter 7 of this title.

''SUBCHAPTER I—GENERAL PROVISIONS

''§ 1502. 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 chapter 9 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 under applicable nonbankruptcy law to be located within that territory, including any property subject to attachment or garnishment that may properly be seized or garnished by an action in a Federal or State court in the United States.

''§ 1503. 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.

''§ 1504. 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 1515.

''§ 1505. Authorization to act in a foreign country

''A trustee or another entity (including an examiner) 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.

''§ 1506. 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.

''§ 1507. Additional assistance

''(a) Subject to the specific limitations stated elsewhere in this chapter the court, upon recognition of a foreign proceeding, the court may 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.

''§ 1508. 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

''§ 1509. Right of direct access

''(a) A foreign representative may commence a case under section 1504 of this title by filing with the court a petition for recognition of a foreign proceeding under section 1515 of this title.

''(b) If the court grants recognition under section 1515 of this title, and subject to any limitations that the court may impose consistent with the policy of this chapter—

''(1) the foreign representative has the capacity to sue and be sued in a court in the United States;

''(2) the foreign representative may apply directly to a court in the United States for appropriate relief in that court; and

''(3) a court in the United States shall grant comity or cooperation to the foreign representative.

''(c) A request for comity or cooperation by a foreign representative in a court in the United States shall be accompanied by a certified copy of an order granting recognition under section 1517 of this title.

''(d) If the court denies recognition under this chapter, the court may issue any appropriate order necessary to prevent the foreign representative from obtaining comity or cooperation from courts in the United States.

''(e) Whether or not the court grants recognition, and subject to sections 306 and 1510 of this title, a foreign representative is subject to applicable nonbankruptcy law.

''(f) Notwithstanding any other provision of this section, the failure of a foreign representative to commence a case or to obtain recognition under this chapter does not affect any right the foreign representative may have to sue in a court in the United State to collect or recover a claim which is the property of the debtor.''.

''§ 1510. Limited jurisdiction

''The sole fact that a foreign representative files a petition under section 1515 does not subject the foreign representative to the jurisdiction of any court in the United States for any other purpose.

''§ 1511. Commencement of case under section 301 or 303

''(a) Upon 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) must be accompanied by certified copy of an order granting recognition. 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) prior to such commencement.

''§ 1512. 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.

''§ 1513. 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) does not change or codify present law as to the priority of claims under section 507 or 726 of this title, except that the claim of a foreign creditor under those sections shall not be given a lower priority than that of general unsecured claims without priority solely because the holder of such claim is a foreign creditor.

''(2)(A) Subsection (a) and paragraph (1) do not change or codify present law 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.

''§ 1514. 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) Such 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 under 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

''§ 1515. 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.

''§ 1516. Presumptions concerning recognition

''(a) If the decision or certificate referred to in section 1515(b) indicates that the foreign proceeding is a foreign proceeding as defined in section 101 and that the person or body is a foreign representative as defined in section 101, 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 or not they have been legalized.

''(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.

''§ 1517. Order recognizing a foreign proceeding

''(a) Subject to section 1506, after notice and a hearing 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 1502;

''(2) the foreign representative applying for recognition is a person or body as defined in section 101; and

''(3) the petition meets the requirements of section 1515.

''(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 1502 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 constitutes 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 case under this chapter may be closed in the manner prescribed under section 350.

''§ 1518. 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.

''§ 1519. 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 court rules on the petition, 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 authorized 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 1521(a).

''(b) Unless extended under section 1521(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.

''§ 1520. Effects of recognition of a foreign main proceeding

''(a) Upon recognition of a foreign proceeding that is a foreign main proceeding—

''(1) sections 361 and 362 with respect to the debtor and that property of the debtor that is within the territorial jurisdiction of the United States;

''(2) sections 363, 549, and 552 of this title apply to a transfer of an interest of the debtor in property that is within the territorial jurisdiction of the United States to the same extent that the sections would apply to property of an estate;

''(3) unless the court orders otherwise, the foreign representative may operate the debtor's business and may exercise the rights and powers of a trustee under and to the extent provided by sections 363 and 552; and

''(4) section 552 applies to property of the debtor that is within the territorial jurisdiction of the United States.''.

''(b) Subsection (a) does not affect the right to commence an individual action or proceeding in a foreign country to the extent necessary to preserve a claim against the debtor.

''(c) Subsection (a) 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.

''§ 1521. 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 an individual action or proceeding concerning the debtor's assets, rights, obligations or liabilities to the extent they have not been stayed under section 1520(a);

''(2) staying execution against the debtor's assets to the extent it has not been stayed under section 1520(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 1520(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, authorized by the court;

''(6) extending relief granted under section 1519(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, authorized 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.

''(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under paragraphs (1), (2), (3), and (6) of subsection (a).

''§ 1522. Protection of creditors and other interested persons

''(a) The court may grant relief under section 1519 or 1521, or may modify or terminate relief under subsection (c), only if the interests of the creditors and other interested entities, including the debtor, are sufficiently protected.

''(b) The court may subject relief granted under section 1519 or 1521, or the operation of the debtor's business under section 1520(a)(3) of this title, to conditions it considers appropriate, including the giving of security or the filing of a bond.

''(c) The court may, at the request of the foreign representative or an entity affected by relief granted under section 1519 or 1521, or at its own motion, modify or terminate such relief.

''(d) 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.

''§ 1523. Actions to avoid acts detrimental to creditors

''(a) Upon recognition of a foreign proceeding, the foreign representative has standing in a case concerning the debtor pending 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) relates to assets that, under United States law, should be administered in the foreign nonmain proceeding.

''§ 1524. 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

''§ 1525. Cooperation and direct communication between the court and foreign courts or foreign representatives

''(a) Consistent with section 1501, 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.

''§ 1526. Cooperation and direct communication between the trustee and foreign courts or foreign representatives

''(a) Consistent with section 1501, the trustee or other person, including an examiner, authorized 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, authorized by the court is entitled, subject to the supervision of the court, to communicate directly with foreign courts or foreign representatives.

''§ 1527. Forms of cooperation

''Cooperation referred to in sections 1525 and 1526 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

''§ 1528. 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 such 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 1525, 1526, and 1527, to other assets of the debtor that are within the jurisdiction of the court under sections 541(a) of this title, and 1334(e) of title 28, 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.

''§ 1529. 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 1525, 1526, and 1527, 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 1519 or 1521 must be consistent with the relief granted in the case in the United States; and

''(B) even if the foreign proceeding is recognized as a foreign main proceeding, section 1520 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 1519 or 1521 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 1520(a) shall be modified or terminated if inconsistent with the relief granted in 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 1528 and 1529, the court may grant any of the relief authorized under section 305.

''§ 1530. Coordination of more than 1 foreign proceeding

''In matters referred to in section 1501, with respect to more than 1 foreign proceeding regarding the debtor, the court shall seek cooperation and coordination under sections 1525, 1526, and 1527, and the following shall apply:

''(1) Any relief granted under section 1519 or 1521 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 1519 or 1521 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.

''§ 1531. 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 as such debts become due.

''§ 1532. 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 13 the following:

''15. Ancillary and Other Cross-Border Cases ..... 1501''.

SEC. 902. 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, 304, 555 through 557, 559, and 560 apply in a case under chapter 15''; and

(2) by adding at the end the following:

''(j) Chapter 15 applies only in a case under such chapter, except that—

''(1) sections 1505, 1513, and 1514 apply in all cases under this title; and

''(2) section 1509 applies whether or not a case under this title is pending.''.

(b) DEFINITIONS.—Paragraphs (23) and (24) of title 11, United States Code, are amended to read as follows:

''(23) 'foreign proceeding' means a collective judicial or administrative proceeding in a foreign country, including an interim proceeding, under a law relating to insolvency or adjustment of debt 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 a person or body 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 15 of title 11.''.

(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 15 of title 11, nothing in''.

(3) DUTIES OF TRUSTEES.—Section 586(a)(3) of title 28, United States Code, is amended by striking ''or 13'' and inserting ''13, or 15,'' after ''chapter''.

(4) Section 305(a)(2) of title 11, United States Code, is amended to read:

''(2)(A) a petition under section 1515 of this title for recognition of a foreign proceeding has been granted; and

''(B) the purposes of chapter 15 of this title would be best served by such dismissal or suspension.''.

(5) Section 508 of title 11, United States Code, is amended by striking subsection (a) and by striking out the letter ''(b)'' at the beginning of the second paragraph.

TITLE X—FINANCIAL CONTRACT PROVISIONS

SEC. 1001. TREATMENT OF CERTAIN AGREEMENTS BY CONSERVATORS OR —RECEIVERS OF INSURED DEPOSITORY INSTITUTIONS.

(a) DEFINITION OF QUALIFIED FINANCIAL CONTRACT.—Section 11(e)(8)(D)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(i)) is amended by inserting '', resolution or order'' after ''any similar agreement that the Corporation determines by regulation''.

(b) DEFINITION OF SECURITIES CONTRACT.—Section 11(e)(8)(D)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(ii)) is amended to read as follows:

''(ii) SECURITIES CONTRACT.—The term 'securities contract'—

''(I) means 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, 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 any 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) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan unless the Corporation determines by regulation, resolution, or order to include any such agreement within the meaning of such term;

''(III) means any option entered into on a national securities exchange relating to foreign currencies;

''(IV) means the guarantee by or to any securities clearing agency of any settlement of cash, securities, certificates of deposit, mortgage loans

or interests therein, 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;

''(V) means any margin loan;

''(VI) means any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

''(VII) means any combination of the agreements or transactions referred to in this clause;

''(VIII) means any option to enter into any agreement or transaction referred to in this clause;

''(IX) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII), 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 clause, except that the master agreement shall be considered to be a securities contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII); and

''(X) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause.''.

(c) DEFINITION OF COMMODITY CONTRACT.—Section 11(e)(8)(D)(iii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(iii)) is amended to read as follows:

''(iii) COMMODITY CONTRACT.—The term 'commodity contract' means—

''(I) with respect to a futures commission merchant, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade;

''(II) with respect to a foreign futures commission merchant, a foreign future;

''(III) with respect to a leverage transaction merchant, a leverage transaction;

''(IV) with respect to a clearing organization, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization, or commodity option traded on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization;

''(V) with respect to a commodity options dealer, a commodity option;

''(VI) any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

''(VII) any combination of the agreements or transactions referred to in this clause;

''(VIII) any option to enter into any agreement or transaction referred to in this clause;

''(IX) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII), 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 clause, except that the master agreement shall be considered to be a commodity contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII); or

''(X) a security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause.''.

(d) DEFINITION OF FORWARD CONTRACT.—Section 11(e)(8)(D)(iv) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(iv)) is amended to read as follows:

''(iv) FORWARD CONTRACT.—The term 'forward contract' means—

''(I) a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade, or product or byproduct thereof, with a maturity date more than 2 days after the date the contract is entered into, including, but not limited to, a repurchase agreement, reverse repurchase agreement, consignment, lease, swap, hedge transaction, deposit, loan, option, allocated transaction, unallocated transaction, or any other similar agreement;

''(II) any combination of agreements or transactions referred to in subclauses (I) and (III);

''(III) any option to enter into any agreement or transaction referred to in subclause (I) or (II);

''(IV) a master agreement that provides for an agreement or transaction referred to in subclauses (I), (II), or (III), 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 clause, except that the master agreement shall be considered to be a forward contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), or (III); or

''(V) a security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (II), (III), or (IV).''.

(e) DEFINITION OF REPURCHASE AGREEMENT.—Section 11(e)(8)(D)(v) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(v)) is amended to read as follows:

''(v) REPURCHASE AGREEMENT.—The term 'repurchase agreement' (which definition also applies to a reverse repurchase agreement)—

''(I) mean 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 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;

''(II) does not include any repurchase obligation under a participation in a commercial mortgage loan unless the Corporation determines by regulation, resolution, or order to include any such participation within the meaning of such term;

''(III) means any combination of agreements or transactions referred to in subclauses (I) and (IV);

''(IV) means any option to enter into any agreement or transaction referred to in subclause (I) or (III);

''(V) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), or (IV), 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 repurchase agreement under this clause, except that the master agreement shall be considered to be a repurchase agreement under this subclause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), or (IV); and

''(VI) means a security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (III), (IV), or (V).

For purposes of this clause, 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 (as determined by regulation or order adopted by the appropriate Federal banking authority).''.

(f) DEFINITION OF SWAP AGREEMENT.—Section 11(e)(8)(D)(iv) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(vi)) is amended to read as follows:

''(vi) SWAP AGREEMENT.—The term 'swap agreement' 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 or transaction similar to any other agreement or transaction referred to in this clause that is presently, or in the future becomes, regularly entered into in the swap market (including terms and conditions incorporated by reference in such agreement) and that 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 clause;

''(IV) any option to enter into any agreement or transaction referred to in this clause;

''(V) a master agreement that provides for an agreement or transaction referred to in subclause (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 not a swap agreement under this clause, except that the master agreement shall be considered to be a swap agreement under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), or (IV); and

''(VI) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in subparagraph (I), (II), (III), or (IV).

Such term is applicable for purposes of this title only and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement 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 promulgated by the Securities and Exchange Commission or the Commodity Futures Trading Commission.''.

(g) DEFINITION OF TRANSFER.—Section 11(e)(8)(D)(viii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(viii)) is amended to read as follows:

''(viii) TRANSFER.—The term 'transfer' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest and foreclosure of the depository institutions's equity of redemption.''.

(h) TREATMENT OF QUALIFIED FINANCIAL CONTRACTS.—Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended—

(1) in subparagraph (A), by striking ''paragraph (10)'' and inserting ''paragraphs (9) and (10)'';

(2) in subparagraph (A)(i), by striking ''to cause the termination or liquidation'' and inserting ''such person has to cause the termination, liquidation, or acceleration'';

(3) by amending subparagraph (A)(ii) to read as follows:

''(ii) any right under any security agreement or arrangement or other credit enhancement related to 1 or more qualified financial contracts described in clause (i);''; and

(4) by amending subparagraph (E)(ii) to read as follows:

''(ii) any right under any security agreement or arrangement or other credit enhancement related to 1 or more qualified financial contracts described in clause (i);''.

(i) AVOIDANCE OF TRANSFERS.—Section 11(e)(8)(C)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(C)(i)) is amended by inserting ''section 5242 of the Revised Statutes of the United States (12 U.S.C. 91) or any other Federal or State law relating to the avoidance of preferential or fraudulent transfers,'' before ''the Corporation''.

SEC. 1002. AUTHORITY OF THE CORPORATION WITH RESPECT TO FAILED AND FAILING INSTITUTIONS.

(a) IN GENERAL.—Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended—

(1) in subparagraph (E), by striking ''other than paragraph (12) of this subsection, subsection (d)(9)'' and inserting ''other than subsections (d)(9) and (e)(10)''; and

(2) by adding at the end the following new subparagraphs:

''(F) CLARIFICATION.—No provision of law shall be construed as limiting the right or power of the Corporation, or authorizing any court or agency to limit or delay, in any manner, the right or power of the Corporation to transfer any qualified financial contract in accordance with paragraphs (9) and (10) of this subsection or to disaffirm or repudiate any such contract in accordance with subsection (e)(1) of this section.

''(G) WALKAWAY CLAUSES NOT EFFECTIVE.—

''(i) IN GENERAL.—Notwithstanding the provisions of subparagraphs (A) and (E), and sections 403 and 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, no walkaway clause shall be enforceable in a qualified financial contract of an insured depository institution in default.

''(ii) WALKAWAY CLAUSE DEFINED.—For purposes of this subparagraph, the term 'walkaway clause' means a provision in a qualified financial contract that, after calculation of a value of a party's position or an amount due to or from 1 of the parties in accordance with its terms upon termination, liquidation, or acceleration of the qualified financial contract, either does not create a payment obligation of a party or extinguishes a payment obligation of a party in whole or in part solely because of such party's status as a nondefaulting party.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 11(e)(12)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(12)(A)) is amended by inserting ''or the exercise of rights or powers'' after ''the appointment''.

SEC. 1003. AMENDMENTS RELATING TO TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS.

(a) TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS TO FINANCIAL INSTITUTIONS.—Section 11(e)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(9)) is amended to read as follows:

''(9) TRANSFER OF QUALIFIED FINANCIAL CONTRACTS.—

''(A) IN GENERAL.—In making any transfer of assets or liabilities of a depository institution in default which includes any qualified financial contract, the conservator or receiver for such depository institution shall either—

''(i) transfer to 1 financial institution, other than a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding—

''(I) all qualified financial contracts between any person or any affiliate of such person and the depository institution in default;

''(II) all claims of such person or any affiliate of such person against such depository institution under any such contract (other than any claim which, under the terms of any such contract, is subordinated to the claims of general unsecured creditors of such institution);

''(III) all claims of such depository institution against such person or any affiliate of such person under any such contract; and

''(IV) all property securing or any other credit enhancement for any contract described in subclause (I) or any claim described in subclause (II) or (III) under any such contract; or

''(ii) transfer none of the qualified financial contracts, claims, property or other credit enhancement referred to in clause (i) (with respect to such person and any affiliate of such person).

''(B) TRANSFER TO FOREIGN BANK, FOREIGN FINANCIAL INSTITUTION, OR BRANCH OR AGENCY OF A FOREIGN BANK OR FINANCIAL INSTITUTION.—In transferring any qualified financial contracts and related claims and property pursuant to subparagraph (A)(i), the conservator or receiver for such depository institution shall not make such transfer to a foreign bank, financial institution organized under the laws of a foreign country, or a branch or agency of a foreign bank or financial institution unless, under the law applicable to such bank, financial institution, branch or agency, to the qualified financial contracts, and to any netting contract, any security agreement or arrangement or other credit enhancement related to 1 or more qualified financial contracts, the contractual rights of the parties to such qualified financial contracts, netting contracts, security agreements or arrangements, or other credit enhancements are enforceable substantially to the same extent as permitted under this section.

''(C) TRANSFER OF CONTRACTS SUBJECT TO THE RULES OF A CLEARING ORGANIZATION.—In the event that a conservator or receiver transfers any qualified financial contract and related claims, property and credit enhancements pursuant to subparagraph (A)(i) and such contract is subject to the rules of a clearing organization, the clearing organization shall not be required to accept the transferee as a member by virtue of the transfer.

''(D) DEFINITION.—For purposes of this section, the term 'financial institution' means a broker or dealer, a depository institution, a futures commission merchant, or any other institution as determined by the Corporation by regulation to be a financial institution.''.

(b) NOTICE TO QUALIFIED FINANCIAL CONTRACT COUNTERPARTIES.—Section 11(e)(10)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(10)(A)) is amended by amending the flush material following clause (ii) to read as follows: ''the conservator or receiver shall notify any person who is a party to any such contract of such transfer by 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver, in the case of a receivership, or the business day following such transfer, in the case of a conservatorship.''.

(c) RIGHTS AGAINST RECEIVER AND TREATMENT OF BRIDGE BANKS.—Section 11(e)(10) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(10)) is further amended—

(1) by redesignating subparagraph (B) as subparagraph (D); and

(2) by inserting after subparagraph (A) the following new subparagraphs:

''(B) CERTAIN RIGHTS NOT ENFORCEABLE.—

''(i) RECEIVERSHIP.—A person who is a party to a qualified financial contract with an insured depository institution may not exercise any right such person has to terminate, liquidate, or net such contract under paragraph (8)(A) or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991 solely by reason of or incidental to the appointment of a receiver for the depository institution (or the insolvency or financial condition of the depository institution for which the receiver has been appointed)—

''(I) until 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver; or

''(II) after the person has received notice that the contract has been transferred pursuant to paragraph (9)(A).

''(ii) CONSERVATORSHIP.—A person who is a party to a qualified financial contract with an insured depository institution may not exercise any right such person has to terminate, liquidate, or net such contract under paragraph (8)(E) or sections 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a conservator for the depository institution (or the insolvency or financial condition of the depository institution for which the conservator has been appointed).

''(iii) NOTICE.—For purposes of this subsection, the Corporation as receiver or conservator of an insured depository institution shall be deemed to have notified a person who is a party to a qualified financial contract with such depository institution if the Corporation has taken steps reasonably calculated to provide notice to such person by the time specified in subparagraph (A) of this subsection.

''(C) TREATMENT OF BRIDGE BANKS.—The following institutions shall not be considered a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding for purposes of subsection (e)(9)—

''(i) a bridge bank; or

''(ii) a depository institution organized by the Corporation, for which a conservator is appointed either—

''(I) immediately upon the organization of the institution; or

''(II) at the time of a purchase and assumption transaction between such institution and the Corporation as receiver for a depository institution in default.''.

SEC. 1004. AMENDMENTS RELATING TO DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.

Section 11(e) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)) is further amended—

(1) by redesignating paragraphs (11) through (15) as paragraphs (12) through (16), respectively; and

(2) by inserting after paragraph (10) the following new paragraph:

''(11) DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.—In exercising the rights of disaffirmance or repudiation of a conservator or receiver with respect to any qualified financial contract to which an insured depository institution is a party, the conservator or receiver for such institution shall either—

''(A) disaffirm or repudiate all qualified financial contracts between—

''(i) any person or any affiliate of such person; and

''(ii) the depository institution in default; or

''(B) disaffirm or repudiate none of the qualified financial contracts referred to in subparagraph (A) (with respect to such person or any affiliate of such person).''.

SEC. 1005. CLARIFYING AMENDMENT RELATING TO MASTER AGREEMENTS.

Section 11(e)(8)(D)(vii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(vii)) is amended to read as follows:

''(vii) TREATMENT OF MASTER AGREEMENT AS 1 AGREEMENT.—Any master agreement for any contract or agreement described in any preceding clause of this subparagraph (or any master agreement for such master agreement or agreements), together with all supplements to such master agreement, shall be treated as a single agreement and a single qualified financial contract. If a master agreement contains provisions relating to agreements or transactions that are not themselves qualified financial contracts, the master agreement shall be deemed to be a qualified financial contract only with respect to those transactions that are themselves qualified financial contracts.''.

SEC. 1006. FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991.

(a) DEFINITIONS.—Section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4402) is amended—

(1) in paragraph (6)—

(A) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively;

(B) by inserting after subparagraph (A) the following new subparagraph:

''(B) an uninsured national bank or an uninsured State bank that is a member of the Federal Reserve System if the national bank or State member bank is not eligible to make application to become an insured bank under section 5 of the Federal Deposit Insurance Act;''; and

(C) by amending subparagraph (C) (as redesignated) to read as follows:

''(C) a branch or agency of a foreign bank, a foreign bank and any branch or agency of the foreign bank, or the foreign bank that established the branch or agency, as those terms are defined in section 1(b) of the International Banking Act of 1978;'';

(2) in paragraph (11), by adding before the period ''and any other clearing organization with which such clearing organization has a netting contract'';

(3) by amending paragraph (14)(A)(i) to read as follows:

''(i) means a contract or agreement between 2 or more financial institutions, clearing organizations, or members that provides for netting present or future payment obligations or payment entitlements (including liquidation or closeout values relating to such obligations or entitlements) among the parties to the agreement; and''; and

(4) by adding at the end the following new paragraph:

''(15) PAYMENT.—The term 'payment' means a payment of United States dollars, another currency, or a composite currency, and a noncash delivery, including a payment or delivery to liquidate an unmatured obligation.''.

(b) ENFORCEABILITY OF BILATERAL NETTING CONTRACTS.—Section 403 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4403) is amended—

(1) by amending subsection (a) to read as follows:

''(a) GENERAL RULE.—Notwithstanding any other provision of State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act or any order authorized under section 5(b)(2) of the Securities Investor Protection Act of 1970, the covered contractual payment obligations and the covered contractual payment entitlements between any 2 financial institutions shall be netted in accordance with, and subject to the conditions of, the terms of any applicable netting contract (except as provided in section 561(b)(2) of title 11).''; and

(2) by adding at the end the following new subsection:

''(f) ENFORCEABILITY OF SECURITY AGREEMENTS.—The provisions of any security agreement or arrangement or other credit enhancement related to 1 or more netting contracts between any 2 financial institutions shall be enforceable in accordance with their terms (except as provided in section 561(b)(2) of title 11) and shall not be stayed, avoided, or otherwise limited by any State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act and section 5(b)(2) of the Securities Investor Protection Act of 1970).''.

(c) ENFORCEABILITY OF CLEARING ORGANIZATION NETTING CONTRACTS.—Section 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4404) is amended—

(1) by amending subsection (a) to read as follows:

''(a) GENERAL RULE.—Notwithstanding any other provision of State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act and any order authorized under section 5(b)(2) of the Securities Investor Protection Act of 1970, the covered contractual payment obligations and the covered contractual payment entitlements of a member of a clearing organization to and from all other members of a clearing organization shall be netted in accordance with and subject to the conditions of any applicable netting contract (except as provided in section 561(b)(2) of title 11, United States Code).''; and

(2) by adding at the end the following new subsection:

''(h) ENFORCEABILITY OF SECURITY AGREEMENTS.—The provisions of any security agreement or arrangement or other credit enhancement related to 1 or more netting contracts between any 2 members of a clearing organization shall be enforceable in accordance with their terms (except as provided in section 561(b)(2) of title 11, United States Code) and shall not be stayed, avoided, or otherwise limited by any State or Federal law other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act and section 5(b)(2) of the Securities Investor Protection Act of 1970.''.

(d) ENFORCEABILITY OF CONTRACTS WITH UNINSURED NATIONAL BANKS AND UNINSURED FEDERAL BRANCHES AND AGENCIES.—The Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4401 et seq.) is amended—

(1) by redesignating section 407 as section 408; and

(2) by adding after section 406 the following new section:

''SEC. 407. TREATMENT OF CONTRACTS WITH UNINSURED NATIONAL BANKS AND UNINSURED FEDERAL BRANCHES AND AGENCIES.

''(a) IN GENERAL.—Notwithstanding any other provision of law, paragraphs (8), (9), (10), and (11) of section 11(e) of the Federal Deposit Insurance Act shall apply to an uninsured national bank or uninsured Federal branch or Federal agency except—

''(1) any reference to the 'Corporation as receiver' or 'the receiver or the Corporation' shall refer to the receiver of an uninsured national bank or uninsured Federal branch or Federal agency appointed by the Comptroller of the Currency;

''(2) any reference to the 'Corporation' (other than in section 11(e)(8)(D) of such Act), the 'Corporation, whether acting as such or as conservator or receiver', a 'receiver', or a 'conservator' shall refer to the receiver or conservator of an uninsured national bank or uninsured Federal branch or Federal agency appointed by the Comptroller of the Currency; and

''(3) any reference to an 'insured depository institution' or 'depository institution' shall refer to an uninsured national bank or an uninsured Federal branch or Federal agency.

''(b) LIABILITY.—The liability of a receiver or conservator of an uninsured national bank or uninsured Federal branch or agency shall be determined in the same manner and subject to the same limitations that apply to receivers and conservators of insured depository institutions under section 11(e) of the Federal Deposit Insurance Act.

''(c) REGULATORY AUTHORITY.—

''(1) IN GENERAL.—The Comptroller of the Currency, in consultation with the Federal Deposit Insurance Corporation, may promulgate regulations to implement this section.

''(2) SPECIFIC REQUIREMENT.—In promulgating regulations to implement this section, the Comptroller of the Currency shall ensure that the regulations generally are consistent with the regulations and policies of the Federal Deposit Insurance Corporation adopted pursuant to the Federal Deposit Insurance Act.

''(d) DEFINITIONS.—For purposes of this section, the terms 'Federal branch', 'Federal agency', and 'foreign bank' have the same meaning as in section 1(b) of the International Banking Act.''.

SEC. 1007. BANKRUPTCY CODE AMENDMENTS.

(a) DEFINITIONS OF FORWARD CONTRACT, REPURCHASE AGREEMENT, SECURITIES CLEARING AGENCY, SWAP AGREEMENT, COMMODITY CONTRACT, AND SECURITIES CONTRACT.—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:

''(B) any combination of agreements or transactions referred to in subparagraphs (A) and (C);

''(C) any option to enter into an 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 such master agreement provides for an agreement or transaction that is not a forward contract under this paragraph, except that such master agreement shall be considered to be a forward contract under this paragraph only with respect to each agreement or transaction under such 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), but not to exceed the actual value of such contract, option, agreement, or transaction on the date of the filing of the petition;'';

(B) in paragraph (46), by striking ''on any day during the period beginning 90 days before the date of'' and replacing it with ''at any time before'';

(C) by amending paragraph (47) to read as follows:

''(47) 'repurchase agreement' (which definition also applies to a reverse repurchase agreement) means—

''(i) an agreement, including related terms, which provides for the transfer of 1 or more certificates of deposit, mortgage-related securities (as 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 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' acceptance, securities, loans, or interests of the kind described above, at a date certain not later than 1 year after such transfer or on demand, against the transfer of funds;

''(ii) any combination of agreements or transactions referred to in clauses (i) and (iii);

''(iii) an option to enter into an agreement or transaction referred to in clause (i) or (ii);

''(iv) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), or (iii), together with all supplements to any such master agreement, without regard to whether such master agreement provides for an agreement or transaction that is not a repurchase agreement under this paragraph, except that such master agreement shall be considered to be a repurchase agreement under this paragraph 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 clause (i), (ii), (iii), or (iv), but not to exceed the actual value of such contract on the date of the filing of the petition; and

''(B) does not include a 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;'';

(D) in paragraph (48) by inserting ''or exempt from such registration under such section pursuant to an order of the Securities and Exchange Commission'' after ''1934''; and

(E) by amending paragraph (53B) to read as follows:

''(53B) 'swap agreement'

''(A) means—

''(i) any agreement, including the terms and conditions incorporated by reference in 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 an equity swap, option, future, or forward agreement; a debt index or a debt swap, option, future, or forward agreement; a credit spread or a credit swap, option, future, or forward agreement; or a commodity index or a commodity swap, option, future, or forward agreement;

''(ii) any agreement or transaction similar to any other agreement or transaction referred to in this paragraph that—

''(I) is presently, or in the future becomes, regularly entered into in the swap 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 on an economic index or measure of economic risk or value;

''(iii) any combination of agreements or transactions referred to in this paragraph;

''(iv) any option to enter into an agreement or transaction referred to in this paragraph;

''(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, and without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this paragraph, except that the master agreement shall be considered to be a swap agreement under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in clause (i), (ii), (iii), or (iv); or

''(B) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in subparagraph (A); and

''(C) is applicable for purposes of this title only and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement 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) '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, a group or index of securities, certificates of deposit or mortgage loans or interests therein (including an interest therein or based on the value thereof), or option on any of the foregoing, including an 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 a settlement of cash, securities, certificates of deposit mortgage loans or interests therein, group or index of securities, or mortgage loans or interests therein (including any interest therein or based on the value thereof), or option on any of the foregoing, including an 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 an agreement or transaction referred to in this paragraph;

''(vi) any combination of the agreements or transactions referred to in this paragraph;

''(vii) any option to enter into any agreement or transaction referred to in this paragraph;

''(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 paragraph, except that such master agreement shall be considered to be a securities contract under this paragraph only with respect to each agreement or transaction under such master agreement that is referred to in clause (i), (ii), (iii), (iv), (v), (vi), or (vii); or

''(ix) any security agreement or arrangement, or other credit enhancement, related to any agreement or transaction referred to in this paragraph, but not to exceed the actual value of such contract on the date of the filing of the petition; and

''(B) does not include any purchase, sale, or repurchase obligation under a participation in 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:

''(F) any other agreement or transaction that is similar to an 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 an 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 such master netting agreement, without regard to whether the master netting 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, but not to exceed the actual value of such contract on the date of the filing of the petition;''.

(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) 'financial institution' means—

''(A) a Federal reserve bank, or an entity (domestic or foreign) that is a commercial or savings bank, industrial savings bank, savings and loan association, trust company, or receiver or conservator for such entity and, when any such Federal reserve bank, receiver, conservator or entity is acting as agent or custodian for a customer in connection with a securities contract, as defined in section 741 of this title, such customer; or

''(B) in connection with a securities contract, as defined in section 741 of this title, an investment company registered under the Investment Company Act of 1940;'';

(2) by inserting after paragraph (22) the following:

''(22A) 'financial participant' means an 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 agreement or transaction 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) 'forward contract merchant' means a Federal reserve bank, or an entity 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 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) '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) '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, as amended by sections 118, 132, 136, 142, 203 and 818, 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 a mutual debt and claim under or in connection with 1 or more swap agreements that constitutes the setoff of a claim against the debtor for any payment or other transfer of property 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 held by, pledged to, and under the control of, or due from such swap participant to margin guarantee, secure, or settle a swap agreement;'';

(D) in paragraph (30) by striking ''or'' at the end;

(E) in paragraph (31) by striking the period at the end and inserting ''; or''; and

(F) by inserting after paragraph (31) the following new paragraph:

''(32) 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 or any contract or agreement subject to such agreements that constitutes the setoff of a claim against the debtor for any payment or other transfer of property due from the debtor under or in connection with such agreements or any contract or agreement subject to such agreements against any payment due to the debtor from such master netting agreement participant under or in connection with such agreements or any contract or agreement subject to such agreements or against cash, securities, or other property held by, pledged or and under the control of, or due from such master netting agreement participant to margin, guarantee, secure, or settle such agreements or any contract or agreement subject to such agreements, to the extent such participant is eligible to exercise such offset rights 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, as amended by sections 120, 302, and 412, is amended by adding at the end the following:

''(l) LIMITATION.—The exercise of rights not subject to the stay arising under subsection (a) pursuant to paragraph (6), (7), or (17), or (31) 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, as amended by sections 207 and 302, 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''; and

(2) by adding at the end the following:

''(j) Notwithstanding sections 544, 545, 547, 548(a)(2)(B), and 548(b) of this title, the trustee may not avoid a transfer made by or to a master netting agreement participant under or in connection with any master netting agreement or any individual contract covered thereby that is made before the commencement of the case, except under section 548(a)(1)(A) of this title, and except to the extent the trustee could otherwise avoid such a transfer made under an individual contract covered by such master netting agreement.''.

(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 or any individual contract covered thereby takes for value to the extent of such transfer, except, with respect to a transfer under any individual contract covered thereby, to the extent such master netting agreement participant otherwise did not take (or is otherwise not deemed to have taken) such transfer for value.''.

(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 as follows:

''§ 555. 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 as follows:

''§ 556. 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 as follows:

''§ 559. 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 as follows:

''§ 560. 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.—(1) Title 11, United States Code, is amended by inserting after section 560 the following:

''§ 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 1 or more (or 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) If a debtor is a commodity broker subject to subchapter IV of chapter 7 of this title—

''(A) 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, contracts, or agreements listed in subsection (a) except to the extent the party has positive net equity in the commodity accounts at the debtor, as calculated under subchapter IV; and

''(B) another commodity broker may not net or offset an obligation to the debtor arising under, or in connection with, a commodity contract entered into or held on behalf of a customer of the debtor against any claim arising under, or in connection with, other instruments, contracts, or agreements listed in subsection (a).

''(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.''.

(2) CONFORMING AMENDMENT.—The table of sections of chapter 9 of title 11, United States Code, is amended by inserting after the item relating to section 560 the following:

''561. Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts.

(l) ANCILLARY PROCEEDINGS.—Section 304 of title 11, United States Code, as amended by section 215, is amended by adding at the end the following:

''(c) 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 case 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).''.

(m) COMMODITY BROKER LIQUIDATIONS.—Title 11, United States Code, is amended by inserting after section 766 the following:

"§ 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.''.

(n) STOCKBROKER LIQUIDATIONS.—Title 11, United States Code, is amended by inserting after section 752 the following:

"§ 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, financial 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.''.

(o) 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), 362(b)(19), 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), 362(b)(19), 555, 556, 559, 560, 561''.

(p) 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 at the end '', 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''.

(q) CONFORMING AMENDMENTS.—Title 11 of the United States Code is amended—

(1) in the table of sections of chapter 5—

(A) by amending the items relating to sections 555 and 556 to read as follows:

''555. Contractual right to liquidate, terminate, or accelerate a securities contract.

''556. Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract.''; and

(B) by amending the items relating to sections 559 and 560 to read as follows:

''559. Contractual right to liquidate, terminate, or accelerate a repurchase agreement.

''560. Contractual right to liquidate, terminate, or accelerate a swap agreement.''; and

(2) in the table of sections of chapter 7—

(A) by inserting after the item relating to section 766 the following:

''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.''; and

(B) by inserting after the item relating to section 752 the following:

''753. Stockbroker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.''.

SEC. 1008. 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:

''(H) RECORDKEEPING REQUIREMENTS.—The Corporation, in consultation with the appropriate Federal banking agencies, may prescribe regulations requiring more detailed recordkeeping with respect to qualified financial contracts (including market valuations) by insured depository institutions.''.

SEC. 1009. EXEMPTIONS FROM CONTEMPORANEOUS EXECUTION —REQUIREMENT.

Section 13(e)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)(2)) is amended to read as follows:

''(2) EXEMPTIONS FROM CONTEMPORANEOUS EXECUTION REQUIREMENT.—An agreement to provide for the lawful collateralization of—

''(A) deposits of, or other credit extension by, a Federal, State, or local governmental entity, or of any depositor referred to in section 11(a)(2), including an agreement to provide collateral in lieu of a surety bond;

''(B) bankruptcy estate funds pursuant to section 345(b)(2) of title 11, United States Code;

''(C) extensions of credit, including any overdraft, from a Federal reserve bank or Federal home loan bank; or

''(D) 1 or more qualified financial contracts, as defined in section 11(e)(8)(D),

shall not be deemed invalid pursuant to paragraph (1)(B) solely because such agreement was not executed contemporaneously with the acquisition of the collateral or because of pledges, delivery, or substitution of the collateral made in accordance with such agreement.''.

SEC. 1010. DAMAGE MEASURE.

(a) Title 11, United States Code, as amended by section 1007, is amended—

(1) by inserting after section 561 the following:

"§ 562. 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, commodity contract (as defined in section 761 of this title) 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, financial participant, master netting agreement participant, or swap participant liquidates, terminates, or accelerates 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.''; and

(2) in the table of sections of chapter 5 by inserting after the item relating to section 561 the following:

''562. Damage measure in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, or master netting agreements.''.

(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:

''(2) A claim for damages calculated in accordance with section 561 of this title shall be allowed under subsection (a), (b), or (c), or disallowed under subsection (d) or (e), as if such claim had arisen before the date of the filing of the petition.''.

SEC. 1011. SIPC STAY.

Section 5(b)(2) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78eee(b)(2)) is amended by adding after subparagraph (B) the following new subparagraph:

''(C) EXCEPTION FROM STAY.—

''(i) Notwithstanding section 362 of title 11, United States Code, neither the filing of an application under subsection (a)(3) nor any order or decree obtained by Securities Investor Protection Corporation from the court shall operate as a stay of any contractual rights of a creditor to liquidate, terminate, or accelerate a securities contract, commodity contract, forward contract, repurchase agreement, swap agreement, or master netting agreement, each as defined in title 11, to offset or net termination values, payment amounts, or other transfer obligations arising under or in connection with 1 or more of such contracts or agreements, or to foreclose on any cash collateral pledged by the debtor whether or not with respect to 1 or more of such contracts or agreements.

''(ii) Notwithstanding clause (i), such application, order, or decree may operate as a stay of the foreclosure on securities collateral pledged by the debtor, whether or not with respect to 1 or more of such contracts or agreements, securities sold by the debtor under a repurchase agreement or securities lent under a securities lending agreement.

''(iii) 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 in writing, arising under common law, under law merchant, or by reason of normal business practice.''.

SEC. 1012. ASSET-BACKED SECURITIZATIONS.

Section 541 of title 11, United States Code, as amended by section 150, is amended—

(1) by redesignating paragraph (5) of subsection (b) as paragraph (6);

(2) 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);''; and

(3) by adding at the end the following new subsection:

''(e) For purposes of this section, the following definitions shall apply:

''(1) 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) 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 residual interest in property subject to receivables included in such financial assets 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) 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) 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; and

''(5) 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. 1013. FEDERAL RESERVE COLLATERAL REQUIREMENTS.

The 3d sentence of the 3d undesignated paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 412) is amended by striking ''acceptances acquired under the provisions of section 13 of this Act'' and inserting ''acceptances acquired under section 10A, 10B, 13, or 13A of this Act''.

SEC. 1014. EFFECTIVE DATE; APPLICATION OF — AMENDMENTS.

(a) EFFECTIVE DATE.—This title shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—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, but shall not apply with respect to cases commenced or appointments made under any Federal or State law before the date of enactment of this Act.

TITLE XI—TECHNICAL CORRECTIONS

SEC. 1101. DEFINITIONS.

Section 101 of title 11, United States Code, as amended by sections 102, 105, 132, 138, 301, 302, 402, 902, and 1007, 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 (55) (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 (55), including paragraph (54), as amended by paragraph (6) of this section, in entirely numerical sequence.

SEC. 1102. 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. 1103. 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. 1104. TECHNICAL AMENDMENTS.

Title 11 of the United States Code is amended—

(1) in section 109(b)(2) by striking ''subsection (c) or (d) of''; and

(2) in section 552(b)(1) by striking ''product'' each place it appears and inserting ''products''.

SEC. 1105. 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. 1106. 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. 1107. 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. 1108. 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. 1109. 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. 1110. PRIORITIES.

Section 507(a) of title 11, United States Code, as amended by section 323, is amended in paragraph (4), as so redesignated by section 142, by striking the semicolon at the end and inserting a period.

SEC. 1111. EXEMPTIONS.

Section 522(g)(2) of title 11, United States Code, is amended by striking ''subsection (f)(2)'' and inserting ''subsection (f)(1)(B)''.

SEC. 1112. EXCEPTIONS TO DISCHARGE.

Section 523 of title 11, United States Code, as amended by section 146, 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 (14A) 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)''; and

(5) in subsection (e), by striking ''a insured'' and inserting ''an insured''.

SEC. 1113. 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. 1114. 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. 1115. 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. 1116. PREFERENCES.

(a) IN GENERAL.—Section 547 of title 11, United States Code, is amended—

(1) in subsection (b), by striking ''subsection (c)'' and inserting ''subsections (c) and (i)''; and

(2) by adding at the end the following:

''(i) If the trustee avoids under subsection (b) a transfer made 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 transfer may be avoided under this section only with respect to the creditor that is an insider.''.

(b) APPLICABILITY.—The amendments made by this section shall apply to any case that is pending or commenced on or after the date of enactment of this Act.

SEC. 1117. 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. 1118. DISPOSITION OF PROPERTY OF THE ESTATE.

Section 726(b) of title 11, United States Code, is amended by striking ''1009,''.

SEC. 1119. GENERAL PROVISIONS.

Section 901(a) of title 11, United States Code, is amended by inserting ''1123(d),'' after ''1123(b),''.

SEC. 1120. 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. 1121. 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. 1122. 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. 1123. 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. 1124. 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. 1125. 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. 1126. TRANSFERS MADE BY NONPROFIT CHARITABLE CORPORATIONS.

(a) SALE OF PROPERTY OF ESTATE.—Section 363(d) of title 11, United States Code, is amended—

(1) by striking ''only'' and all that follows through the end of the subsection and inserting ''only—

''(1) in accordance with applicable nonbankruptcy law that governs the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust; and

''(2) to the extent not inconsistent with any relief granted under subsection (c), (d), (e), or (f) of section 362 of this title.''.

(b) CONFIRMATION OF PLAN FOR REORGANIZATION.—Section 1129(a) of title 11, United States Code, as amended by section 140, is amended by adding at the end the following:

''(15) All transfers of property of the plan shall be made in accordance with any applicable provisions of nonbankruptcy law that govern the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust.''.

(c) TRANSFER OF PROPERTY.—Section 541 of title 11, United States Code, as amended by section 1102, is amended by adding at the end the following:

''(f) Notwithstanding any other provision of this title, property that is held by a debtor that is a corporation described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code may be transferred to an entity that is not such a corporation, but only under the same conditions as would apply if the debtor had not filed a case under this title.''.

(d) APPLICABILITY.—The amendments made by this section shall apply to a case pending under title 11, United States Code, on the date of enactment of this Act, except that the court shall not confirm a plan under chapter 11 of this title without considering whether this section would substantially affect the rights of a party in interest who first acquired rights with respect to the debtor after the date of the petition. The parties who may appear and be heard in a proceeding under this section include the attorney general of the State in which the debtor is incorporated, was formed, or does business.

(e) RULE OF CONSTRUCTION.—Nothing in this section shall be deemed to require the court in which a case under chapter 11 is pending to remand or refer any proceeding, issue, or controversy to any other court or to require the approval of any other court for the transfer of property.

SEC. 1127. PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.

Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end the following:

''(i) PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.—A creditor of an account under an open end consumer credit plan may not terminate an account prior to its expiration date solely because the consumer has not incurred finance charges on the account. Nothing in this subsection shall prohibit a creditor from terminating an account for inactivity in 3 or more consecutive months.''.

SEC. 1128. PROTECTION OF VALID PURCHASE MONEY SECURITY INTERESTS.

Section 547(c)(3)(B) of title 11, United States Code, is amended by striking ''20'' and inserting ''30''.

SEC. 1129. TRUSTEES.

(a) SUSPENSION AND TERMINATION OF PANEL TRUSTEES AND STANDING TRUSTEES.—Section 586(d) of title 28, United States Code, is amended—

(1) by inserting ''(1)'' after ''(d)''; and

(2) by adding at the end the following:

''(2) A trustee whose appointment under subsection (a)(1) or under subsection (b) is terminated or who ceases to be assigned to cases filed under title 11 of the United States Code may obtain judicial review of the final agency decision by commencing an action in the United States district court for the district for which the panel to which the trustee is appointed under subsection (a)(1), or in the United States district court for the district in which the trustee is appointed under subsection (b) resides, after first exhausting all available administrative remedies, which if the trustee so elects, shall also include an administrative hearing on the record. Unless the trustee elects to have an administrative hearing on the record, the trustee shall be deemed to have exhausted all administrative remedies for purposes of this paragraph if the agency fails to make a final agency decision within 90 days after the trustee requests administrative remedies. The Attorney General shall prescribe procedures to implement this paragraph. The decision of the agency shall be affirmed by the district court unless it is unreasonable and without cause based on the administrative record before the agency.''.

(b) EXPENSES OF STANDING TRUSTEES.—Section 586(e) of title 28, United States Code, is amended by adding at the end the following:

''(3) After first exhausting all available administrative remedies, an individual appointed under subsection (b) may obtain judicial review of final agency action to deny a claim of actual, necessary expenses under this subsection by commencing an action in the United States district court in the district where the individual resides. The decision of the agency shall be affirmed by the district court unless it is unreasonable and without cause based upon the administrative record before the agency.

''(4) The Attorney General shall prescribe procedures to implement this subsection.''.

TITLE XII—GENERAL EFFECTIVE DATE; APPLICATION OF AMENDMENTS

SEC. 1201. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as provided otherwise in this Act, this Act and the amendments made by this Act shall take effect 180 days after the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—Except as otherwise provided in this Act, the amendments made by this Act shall not apply with respect to cases commenced under title 11 of the United States Code before the effective date of this Act.

The CHAIRMAN pro tempore. No amendment shall be in order except those printed in House Report 106–126. Each amendment may be. Each amendment may be offered only in the order specified, may be offered only by a Member designated in the report, shall be considered as read, debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for a division of the question.

The Chairman of the Committee of the Whole may postpone a request for a recorded vote on any amendment and may reduce to a minimum of 5 minutes the time for voting on any postponed question that immediately follows another vote, provided that the time for voting on the first question shall be a minimum of 15 minutes.

It is now in order to consider Amendment No. 1 printed in House Report 106–126.

AMENDMENT NO. 1 OFFERED BY MR. GEKAS

Mr. GEKAS. Mr. Chairman, I offer amendment No. 1.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. GEKAS:

In the table of contents of the bill—

(1) in the item relating to section 107, strike ''congress'' and insert ''Congress'', and

(2) in the item relating to section 134, strike ''Giving debtors the ability to keep'' and insert ''Allowing a debtor to retain''.

Page 9, line 1, strike ''applicable'' and insert ''actual''.

Page 9, beginning on line 1, strike ''specifically listed'' and insert ''specified''.

Page 10, line 3, strike ''proceeding brought'' and insert ''motion filed''.

Beginning on page 10, strike line 22 and all that follows through line 5 on page 11.

Page 11, line 6, strike ''(D)'' and insert ''(C)''.

Page 12, beginning on line 11, strike ''in prosecuting the motion''.

Page 16, line 13, insert ''or not'' after ''whether''.

Page 17, after line 16, insert the following (and make such technical and conforming changes as may be appropriate):

(d) DEBTOR'S DUTIES.—Section 521(a)(1)(B) of title 11, United States Code, as amended by section 603, is amended—

(1) in clause (v) by striking ''and'' at the end;

(2) in clause (vi) by adding ''and'' at the end;

(3) by inserting the following after clause (vi):

''(vii) a statement of the debtor's current monthly income, and the calculations which determine whether a presumption arises under section 707(b)(2)(A)(i), showing how each amount is calculated.''.

(e) BANKRUPTCY FORMS.—Section 2075 of title 28, United States Code, is amended by adding the following at the end of the 1st paragraph:

''The bankruptcy rules promulgated under this section shall prescribe a form for the statement referred to in section 521(a)(1)(B)(vii) of title 11, United States Code, and may provide general rules on the content of such statement.''.

(f) CHAPTER 13.—Section 1325(a) of title 11, United States Code, is amended—

(1) in paragraph (5) by striking ''and'' at the end;

(2) in paragraph (6) by striking the period and inserting ''; and'';

(3) by inserting the following after paragraph (6):

''(7) the action of the debtor in filing the petition under this chapter was in good faith.''.

Page 19, line 15, strike ''this title'' and insert ''title 11, United States Code''.

Page 22, lines 17 and 20, insert ''case or'' after ''a''.

Page 23, lines 9 and 12, strike ''proceeding'' and insert ''case''.

Page 77, strike line 1, and insert the following:

SEC. 134. ALLOWING THE DEBTOR TO RETAIN LEASED

Beginning on page 114, strike line 1 and all that follows through line 5 on page 115 (and make such technical and conforming changes as may be appropriate).

Page 91, line 15, insert ''(a) AMENDMENT.—'' before ''Section''.

Page 92, beginning on line 13, strike ''expressly'' and all that follows through ''this paragraph'', and insert ''provides by statute''.

Page 92, after line 15, insert the following:

(b) APPLICATION OF AMENDMENT TO INDIVIDUAL STATES.—(1) Section 522(p) of title 11, United States Code, as added by subsection (a), shall not apply with respect to a State before the end of the first regular session of the State legislature following the date of the enactment of this Act.

(2) For purposes of paragraph (1), the term ''State'' has the meaning given such term in section 101 of title 11, United States Code.

Page 115, beginning on line 20, strike ''(excluding'' and all that follows through ''secret)''.

Page 116, line 7, insert ''(excluding executory contracts that transfer a right or interest under a filed or issued patent, copyright, trademark, trade dress, or trade secret)'' after ''contract''.

Page 117, line 15, strike ''365(b)(1)(A)'' and insert ''365(b)(2)''.

Page 174, line 2, insert ''(a) APPEALS.—'' before ''Title''.

Page 175, line 9, strike ''(b)'' and insert ''(5)''.

Page 175, indent lines 9 through 11 2 ems to the right.

Page 175, line 12, strike ''(c)(1)'' and insert ''(b)(1)''.

Page 175, line 17, strike ''(1)-(4)'' and insert ''(1) through (5)''.

Page 175, line 24, strike ''subsection (b)'' and insert ''paragraph (1)''

Page 176, after line 6, insert the following:

(b) PROCEDURAL RULES.—Until rules of practice and procedure are promulgated or amended pursuant to the Rules Enabling Act (28 U.S.C. sections 2071–77) to govern appeals to a bankruptcy appellate panel or to a court of appeals exercising jurisdiction pursuant to section 1293 of title 28, as added by this Act, the following shall apply:

(1) A notice of appeal with respect to an appeal from an order or judgment of a bankruptcy court to a court of appeals or a bankruptcy appellate panel must be filed within the time provided in Rule 8002 of the Federal Rules of Bankruptcy Procedure.

(2) An appeal to a bankruptcy appellate panel shall be taken in the manner provided in Part VIII of the Federal Rules of Bankruptcy Procedure and local court rules.

(3) An appeal from an order or judgment of a bankruptcy court directly to a court of appeals shall be governed by the rules of practice and procedure that apply to a civil appeal from a judgment of a district court exercising original jurisdiction, as if the bankruptcy court were a district court, except as provided in paragraph (1) regarding the time to appeal or by local court rules.

(4) An appeal to a court of appeals from a decision, judgment, order, or decree entered by a bankruptcy appellate panel exercising appellate jurisdiction shall be taken in the manner provided by Rule 6(b) of the Federal Rules of Appellate Procedure.

(c) REPEALER.—(1) Section 158 of title 28, United States Code, is repealed.

(2) The table of sections of chapter 6 of title 28, United States Code, is amended by striking the item relating to section 158.

Page 208, line 9, insert '', other than a foreign insurance company,'' after ''entity''.

Page 208, after line 20, insert the following:

''(d) The court may not grant relief under this chapter with respect to any deposit, escrow, trust fund, or other security required or permitted under any applicable State insurance law or regulation for the benefit of claim holders in the United States.

Page 231, strike line 13, and insert the following:

''SEC. 902. OTHER AMENDMENTS TO TITLES 11 AND 28 OF THE UNITED STATES CODE.

Page 233, after line 11, insert the following (and make such technical and conforming changes as may be appropriate):

(d) OTHER SECTIONS OF TITLE 11.—(1) Section 109(b)(3) of title 11, United States Code, is amended to read as follows:

''(3)(A) a foreign insurance company, engaged in such business in the United States; or

''(B) a foreign bank, savings bank, cooperative bank, savings and loan association, building and loan association, or credit union, which has a branch or agency (as defined in section 3101 of title 12, United States Code) in the United States.''.

(2) Section 303(k) of title 11, United States Code, is repealed.

(3)(A) Section 304 of title 11, United States Code, is repealed.

(B) The table of sections of chapter 3 of title 11, United States Code, is amended by striking the item relating to section 304.

(C) Section 306 of title 11, United States Code, is amended by striking '', 304,'' each place it appears.

Page 279, beginning on line 1, strike ''that is described in section 561(a)(2)'' and insert ''described in paragraph (1), (2), (3), (4), or (5) of section 561(a)''.

The CHAIRMAN pro tempore. Pursuant to House Resolution 158, the gentleman from Pennsylvania (Mr. GEKAS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. GEKAS).

Mr. GEKAS. Mr. Chairman, I yield myself such time as I may consume.

□ 1345

In this amendment, which is the manager's amendment, of course, the bulk of it is with technical corrections that have to be made, that almost always appear in a bill that is so mammoth as is ours. But besides that, there are some other revisions in it of which the minority is well aware.

For instance, in the homestead exemption portion, we allow the States who want to opt out to do so, even in advance of the adoption of the bill, because of the legislative schedules in some of those States.

So the technical corrections bill corrects some of the technical misgivings that we have had about the original text.

Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of the amendment. This is a technical amendment, the manager's amendment. It contains 11 changes. We have examined them carefully and have absolutely no objection to them.

Mr. BENTSEN. Mr. Chairman, I rise today in strong support of the manager's amendment to H.R. 833, bankruptcy reform legislation.

I believe that adoption of this amendment is necessary to preserve state homestead laws. I am pleased that the manager's amendment includes two critically important amendments that I offered yesterday in the House Rules Committee. The adoption of the manager's amendment would ensure that states can decide how much property should be exempted when a consumer files for bankruptcy. This will grant the states latitude to opt out of this intrusive law protecting their prerogative in determining what homestead exemptions are allowed. State's citizens will not be forced to live under this new federal mandate until such time as a state legislature reconvened.

The first Bentsen amendment would change the effective date of the new federal homestead cap of $250,000 until the last day of the next legislative session of any state. The second Bentsen amendment would preserve the right of states to opt out of the cap and allow states to prospectively opt out of the new homestead cap prior to this bill being enacted into law. This would allow the legislatures ample time to pass legislation opting out of this new federal standard.

The bill as reported by the House Judiciary Committee, includes many provisions related to the homestead exemption. First, it would place a monetary cap of $250,000 on the amount of homestead equity individuals can protect from bankruptcy foreclosure proceedings. If a consumer holds more than $250,000 in equity, the consumer would be required to foreclose on the property to repay their non-mortgage debts. Second, it includes a two-year residency requirement before one can qualify. Third, this legislation includes a provision that would prohibit them from transferring assets in their home during this two-year period. This provision could penalize any homeowner or farmer who tried to pay more than what's required on their mortgage payments. Finally, this legislation also would permit states to ''opt out'' of this new federal standard.

My amendment would address the ''opt out'' provision by ensuring that states are not required to choose between convening a special legislative session or forcing their citizens to live under this intrusive federal mandate.

There is no substantive reason to address state homestead laws in this or any other legislation. No evidence of abusive practices has been provided during the debate. When the 105th Congress considered this legislation we successfully prevailed against such a cap. And, while I support much of the underlying bill, I will be unable to support any conference report which includes any restriction on the states' ability to determine exempt property with respect to one's homestead including eliminating and limiting the states' ability to opt out of the new federal standard.

While this legislation is not perfect, I believe that the manager's amendment makes important improvements to this legislation. With these additions, I believe we should support the manager's amendment and would urge colleagues to also support this amendment.

The CHAIRMAN pro tempore (Mr. LAHOOD). The question is on the amendment offered by the gentleman from Pennsylvania (Mr. GEKAS).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment number 2 printed in House Report 106–126.

AMENDMENT NO. 2 OFFERED BY MR. MORAN OF VIRGINIA

Mr. MORAN of Virginia. Mr. Chairman, I offer an amendment made in order by the rule.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. MORAN of Virginia:

Page 34, strike lines 7 through 25 and insert the following:

''(C) the following examples:

''(i) if the average account balance under a creditor's open-end consumer credit plan, taken as an average of the account balances for all consumer accounts under that open-end consumer credit plan, is $1,000 or less, two examples, based on an annual percentage rate and method for determining minimum periodic payments recently in effect for that creditor, and based on outstanding balances of $250 and $500, showing the estimated minimum periodic payments, and the estimated period of time it would take to repay those outstanding balances of $250 and $500, if the consumer paid only the minimum periodic payment on each monthly or periodic statement and obtained no additional extensions of credit; or

''(ii) if the average account balance under a creditor's open-end consumer credit plan, taken as an average of the account balances for all consumer accounts under that open-end consumer credit plan, is more than $1,000, three examples, based on an annual percentage rate and method for determining minimum periodic payments recently in effect for that creditor, and outstanding balances of $1,000, $1,500 and $2,000, showing the estimated minimum periodic payments, and the estimated period of time it would take to repay those outstanding balances of $1,000, $1,500 and $2,000 if the consumer paid only the minimum periodic payment on each monthly or periodic statement and obtained no additional extensions of credit.

''(10) With respect to one billing cycle per calendar year, the creditor shall transmit to each consumer to whom the creditor is required to transmit a statement pursuant to subsection (b) for such billing cycle the following information:

''(A) the following statement: 'The minimum payment amount shown on your billing statement is the smallest payment which you can make in order to keep the account in good standing. This payment option is offered as a convenience and you may make larger payments at any time. Making only the minimum payment each month will increase the amount of interest you pay and the length of time it takes to repay your outstanding balance.';

''(B) if the plan provides that the consumer will be permitted to forgo making a minimum payment during a specified billing cycle, a statement, if applicable, that if the consumer chooses to forgo making the minimum payment, finance charges will continue to accrue;

''(C) an example, based on an annual percentage rate and method for determining minimum periodic payments recently in effect for that creditor, and a $500 outstanding balance, showing the estimated minimum periodic payment, and the estimated period of time it would take to repay the $500 outstanding balance if the consumer paid only the minimum periodic payment on each monthly or periodic statement and obtained no additional extensions of credit; and

''(D) a worksheet prescribed by the Board to assist the consumer in determining the consumer's household income and debt obligations.''.

Page 35, line 12, strike the close quotation marks and the period at the end.

Page 35, after line 12 insert the following:

''(12) the required minimum payment amount represented as a dollar figure.

''(13) the date by which or the period within which the required minimum payment must be made.''.

(c) DISCLOSURES RELATED TO INTRODUCTORY RATES.—Section 127(c)(1)(A)(i) of the Truth in Lending Act (15 U.S.C. 1637(c)(1)(A)(i)) is amended by inserting the following at the end of subclause (III):

''(IV) Where the initial rate is temporary and will expire within a period of less than 1 year, and is lower than the rate that will apply after the temporary rate expires—

''(A) the time period during which the initial rate will remain in effect; and

''(B) the annual percentage rate that will apply to the account after the temporary rate expires, or if that rate is a variable rate, the fact that the rate is variable, the rate at the time of mailing, and how the rate is determined.

''(V)(A) Subject to subclauses (C) and (D), where the initial rate may increase upon the occurrence of one or more specific events, the following information:

''(i) the initial rate and the increased rate that may apply;

''(ii) if the increased rate is a variable rate, the fact that the increased rate is variable, the rate at the time of mailing, and how the rate is determined; and

''(iii) the specific event or events that may result in imposing the increased rate.

''(B) At the creditor's option, the creditor may disclose the period for which the increased rate will remain in effect.

''(C) If the increased rate cannot be determined at the time disclosures are given, an explanation of the specific event or events that may result in an increased rate must be disclosed.

''(D) A creditor is not required to disclose an increased rate that is imposed when credit privileges are permanently terminated.''.

(d) INTERNET-BASED CREDIT CARD SOLICITATIONS.—(1)—Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended by inserting after paragraph (5) the following:

''(6)(A) Any application to open a credit card account for any person under an open-end consumer credit plan, and any solicitation to open such an account without requiring an application, that is made available through the Internet or an interactive computer service, shall disclose the following:

''(i) the information.—

''(I) described in paragraph (1)(A) in the form required under section 122(c) of this chapter, subject to subsection (e), and

''(II) described in paragraph (1)(B) in a clear and conspicuous form, subject to subsections (e) and (f);

''(ii) a statement, in a conspicuous and prominent location on or with the application or solicitation, that—

''(I) the information is accurate as of the date the application or solicitation was posted;

''(II) the information contained in the application or solicitation is subject to change after such date;

''(III) the applicant should contact the creditor for information on any change in the information presented on or with the application or solicitation since it was posted;

''(iii) a clear and conspicuous disclosure of the date the application or solicitation was posted and how frequently the information described in subclause (i) is updated; and

''(iv) a disclosure, in a conspicuous and prominent location on or with the application or solicitation, of a toll-free telephone number or e-mail address at which the applicant may contact the creditor to obtain any change in the information provided on or with the application or solicitation since it was posted.

''(B) The disclosures required under subparagraph (A) may be contained either:

''(i) on the webpage which contains the application or solicitation; or

''(ii) on a separate webpage which can be directly accessed using a hypertext link which is contained on the webpage which contains the application or solicitation.

''(C) Upon receipt of a request for any of the information referred to in subparagraph (A), the creditor or its agent shall promptly disclose any change in the information required to be disclosed under subparagraph (A).

''(D) For purposes of this paragraph (6)—

''(i) the term 'Internet' means the international computer network of both Federal and non-Federal interoperable packets switched data networks; and

''(ii) the term 'interactive computer service' means any information service system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions.''.

(2) Section 122(c)(1) of the Truth in Lending Act (15 U.S.C. 1632(c)(1)) is amended by striking ''and (4)(C)(i)(I)'' and inserting '', (4)(C)(i)(I) and (6)(A)(i)(I)''.

The CHAIRMAN pro tempore. Pursuant to House Resolution 158, the gentleman from Virginia (Mr. MORAN) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this bill, as reported by the Committee on the Judiciary, already does require credit card issuers to tell consumers on every monthly billing statement that making only the minimum payment each month will increase the amount of interest paid and the length of time it takes to repay the balance on the account.

Our amendment, which is cosponsored by the gentleman from California (Mr. DOOLEY) and the gentleman from New York (Mr. ACKERMAN), adds four components to the existing consumer protection provisions of H.R. 833. These components have been crafted to respond to specific concerns that have been expressed about whether consumers have adequate information about certain features of their credit card accounts.

First of all, in terms of minimum payments, it enhances the minimum payment disclosure requirements already contained in this bill. Under our amendment credit card issuers would be required to disclose, when the consumer first opens an account, several examples of how long it would take to repay a balance if the consumer makes only minimum payments. The number and type of examples would be tailored to the size of the card issuer's typical account balance.

Secondly, disclosure of late payment penalties and deadlines: Our amendment responds to concerns that have

been raised about whether consumers have the information they need in order to avoid the imposition of late fees and penalties. Credit card issuers would have to disclose on each monthly statement the amount of the minimum payment expressed as a dollar amount and the date by which it must be paid. Believe it or not, these requirements are not currently in the Federal code.

The amendment would require applications or solicitations for a credit card to include a clear and conspicuous disclosure of any so-called penalty rate that may apply if the consumer does not pay as agreed. Such penalty rates are higher than the regular interest rate, and this amendment would ensure that consumers were adequately informed in advance about the circumstances under which they would apply.

Thirdly, worldwide web-based credit card solicitations: We modify the Truth in Lending Act to establish for the first time disclosure requirements that specifically apply to credit card applications or solicitations that are posted on the worldwide web. The amendment would require these solicitations to post the same disclosures, usually presented in a table, that currently apply to every other credit card offer made through the traditional mail system.

The amendment would require that the web site include the date the disclosures were posted and a statement that they were accurate as of that date. It would also require a statement that the information disclosed on the web site may change, and a toll free telephone number or e-mail address would have to be provided so the consumer could obtain the most current information.

Lastly, related to teaser rates, our amendment would ensure that consumers receive the information they need in order to make informed decisions regarding credit card introductory rates, sometimes called teaser rates. Specifically, the amendment would amend the Truth in Lending Act to require that an application or solicitation for a credit card that has an introductory rate must include a clear and conspicuous disclosure of when the introductory rate will expire, as well as the rate that will apply after the introductory rate will expire, after the introductory period.

This is the kind of information that consumers desperately need. The fact that those disclosures are not required by statute points up a glaring error, and we think that this significantly improves the bill. It gives balance to this bill by adding these consumer protections, but does not inappropriately load up the lending industry with onerous and expensive new requirements that have nothing to do with the underlying purpose of the bill, which is to provide long overdue reform to the bankruptcy bill.

So I think these are appropriate, if I do say so myself, Mr. Chairman, and we would hope that this body would approve them unanimously.

Mr. GEKAS. Mr. Chairman, will the gentleman yield?

Mr. MORAN of Virginia. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. Mr. Chairman, I want to commend the gentleman for offering the amendment, and to indicate to all parties that we on this side agree to the amendment.

Mr. MORAN of Virginia. Mr. Chairman, I yield back the balance of my time, and thank the gentleman for his comments.

The CHAIRMAN pro tempore. Is there any Member in opposition to the amendment?

Mr. CONYERS. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from Michigan (Mr. CONYERS) is recognized for 10 minutes.

Mr. CONYERS. Mr. Chairman, I yield 2½ minutes to the gentleman from North Carolina (Mr. WATT).

Mr. WATT of North Carolina. Mr. Chairman, I am not rising in opposition to the amendment, I am rising to express my disappointment that the Committee on Rules failed to make an even better amendment in order.

This amendment certainly improves the bill from its current position, and I intend to vote for it, but it still is nowhere as good as the amendment should have been. Because instead of providing borrowers the kind of information they need to really evaluate how much money they will make in payments on their credit cards, we continue to provide hypothetical information to them under this amendment.

It would not have been any more costly or any more burdensome to lenders to provide actual information about the amount of time it takes to pay off a loan if one pays the minimum amount. And, unfortunately, we had an amendment that would have done that, but the Committee on Rules did not see fit to make it in order.

So I will support this amendment because it is better than what is in the bill, but it is still not anywhere close to being as good as it could be and should be for the consumers of America.

Mr. CONYERS. Mr. Chairman, I yield 30 seconds to the gentleman from Texas (Mr. BENTSEN).

(Mr. BENTSEN asked and was given permission to revise and extend his remarks.)

Mr. BENTSEN. Mr. Chairman, I thank the gentleman for yielding me this time, and I just wanted to spend a second to speak on the amendment that was just adopted, the manager's amendment, to say that I strongly support it; that it includes two important provisions which would correct the opt-out language related to the equity cap for State homestead laws.

Without these opt-outs, I think citizens in my State of Texas and several other States would be unfairly affected by the homestead provisions in this bill, which I believe are unfair and unnecessary.

Mr. CONYERS. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. ACKERMAN).

(Mr. ACKERMAN asked and was given permission to revise and extend his remarks.)

Mr. ACKERMAN. Mr. Chairman, I rise in support of this amendment, of which I am a cosponsor, and ask for its approval.

Mr. CONYERS. Mr. Chairman, I yield the balance of my time to the gentleman from New York (Mr. NADLER), the ranking member of the subcommittee.

Mr. NADLER. Mr. Chairman, this amendment is harmless enough, and may do a little bit of good. I really do not think it is very important one way or the other.

It is somewhat deceptive, however. It is somewhat deceptive. I am not going to urge a vote against it, but I do think we should have a word of caution here. It will lead to some misleading information because it demands that the credit card information tell us, the credit card information, not about our credit card, not about what we are doing, but about what some typical borrower might do if he were borrowing $500 or $300 or $1,000.

Unfortunately, this amendment was made in order by the Committee on Rules in order to avoid making in order the amendment of the gentleman from Massachusetts (Mr. DELAHUNT) which had real consumer protections in it. The amendment of the gentleman from Massachusetts, which was voted down on a party line vote in the committee, requires actual disclosure of minimum payments and interest based on the actual debt on our own credit card, rather than have the information just give samples which may bear no relationship to our own situation.

The amendment of the gentleman from Massachusetts (Mr. DELAHUNT) has disclosure on teaser rates and penalties. They have to tell us that, the disclosure on penalties for having no interest, for paying in full, disclosures regarding prohibiting soliciting kids, and makes other real consumer protections and disclosures.

Unfortunately, the Committee on Rules chose to make this basically irrelevant amendment and somewhat misleading amendment in order, and did not put in order the real amendment by the gentleman from Massachusetts (Mr. DELAHUNT), which parallels the provisions the Senate put in, sponsored by Senator DURBIN in last year's bill, but which the conference committee took out.

Now, I understand the authors of this bill do not want real consumer protections in this bill. It is supposed to be a one-sided bill. But it is too bad we have these illusory protections and somewhat misleading instead of real protections. Just another ground for voting against the bill.

Mr. MORAN of Virginia. Mr. Chairman, I ask unanimous consent to reclaim the time I yielded back. I did not expect there would be these comments that I understand, while they are supportive, are not necessarily wholehearted endorsements.

I do have speakers that would use what time is remaining, if the Speaker would tell me how much time is remaining, and I would ask unanimous consent if I could reclaim it and use it for speakers on behalf of the amendment.

The CHAIRMAN pro tempore. The gentleman from Virginia (Mr. MORAN) has 6 minutes remaining.

Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. MORAN of Virginia. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. DOOLEY).

(Mr. DOOLEY of California asked and was given permission to revise and extend his remarks.)

Mr. DOOLEY of California. Mr. Chairman, I am proud to be a cosponsor of the amendment offered by the gentleman from Virginia (Mr. MORAN).

I would say that we are dedicated to providing for true consumer protection. This amendment does, I think, take a balanced and responsible approach to ensuring that consumers and those who are incurring debt will have the information they need in order to make informed decisions about their purchases and about the debt that they incur.

The amendment goes a long ways to ensuring that consumers who are faced with credit card applications coming to them in their homes are fully aware of the real rates that they will be facing and ensuring that the teaser rates will be clearly distinguished.

It also ensures that our consumers that unfortunately use credit cards in a manner which is not consistent with their ability to repay will have the information that will be disclosed to them, if they did make that payment of the monthly minimum payment, how long, in fact, it would take them to repay the obligation that they have incurred.

I would say this: That all consumers are going to have to accept the personal responsibility to show their due diligence; to understand when they get a credit card application that nothing comes for nothing; that they have to read the print, they have to understand the obligations that they are incurring when they do make a purchase and they do use this tool, which ensures that many Americans have more affordable and accessible credit.

I think this is a great amendment and I think it will go a long ways towards ensuring consumers have the information to make responsible purchasing decisions.

Mr. MORAN of Virginia. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. ACKERMAN), also a cosponsor of this amendment.

□ 1400

Mr. ACKERMAN. Mr. Chairman, we all have been told in so many words that bankruptcies are on the rise, and indeed they are, and that because of that everybody suffers because of increased interest rates and other charges. And we are also told, and rightfully so, that consumers need to take personal responsibility for their obligations. That is true, as well.

As we address bankruptcy reform today, we have a unique opportunity to at least modestly combat part of this rising trend in bankruptcies, and one of the best ways that we can begin to tackle that is to have more information for consumers so that they are better informed and can make smarter decisions about their credit needs.

How do we do this? First, with better and clearer disclosure rules for solicitations and credit applications. Every one of my colleagues here are familiar were the deluge of solicitations that we get in the mail almost on a daily basis advertising a particularly low introductory rate, and the rate is on the envelope and it does not tell us how long that rate is for and the consumer cannot make an objective kind of a decision; and then he borrows at a rate that he thinks he is going to have for a longer period of time and that ends and the interest rates goes up and he is paying more than he did under a previous credit card that he might have had that he switched over from.

This is an opportunity for us to fix part of that problem, and that is why the gentleman from Virginia (Mr. MORAN) and the gentleman from California (Mr. DOOLEY) and myself have introduced this amendment. The amendment requires lenders to provide consumers with the information they need to make informed decisions.

Specifically, they would have to do several things. They would have to indicate the minimum payment and day that the payment is due on every periodic statement that they send. They would have to indicate what the late penalty deadlines are so that consumers have all the information they need in order to make that appropriate decision and meet their responsibilities and in order to avoid the imposition of late fees. And whenever a solicitation includes an introductory rate, it must be clear when that rate expires.

I think these and some of the other small steps make it much better to avoid bankruptcy on the part of many consumers and users of credit.

Mr. MORAN of Virginia. Mr. Chairman, I yield the remaining 2 minutes to the distinguished gentleman from Indiana (Mr. ROEMER), co-chairman of the new Democrat Coalition.

(Mr. ROEMER asked and was given permission to revise and extend his remarks.)

Mr. ROEMER. Mr. Chairman, I thank my good friend from Virginia (Mr. MORAN) and my good friend from California (Mr. DOOLEY), co-chairs of the new Democrat Coalition, for sponsoring the amendment, along with the gentleman from New York (Mr. ACKERMAN).

I am a proud cosponsor of this legislation and a strong supporter of this amendment offered by my friends. I think there are two key issues as we debate this bankruptcy reform bill. One is personal responsibilities.

We have seen a 94-percent increase in the filings of bankruptcy since 1990. We need to address this, and I believe this bill does it in a coherent and fair fashion.

The second issue that this amendment gets to is not so much credit card availability but consumer protections. There are two provisions in this amendment that I encourage my colleagues to take a look at and support. One is the minimum payment that we have, that we have better disclosures on how long it would simply take to repay a balance if they pay the minimum amount each month. That is the minimum payments requirement.

Secondly, the so-called teaser rates is that companies need to disclose what that introductory rate is, if it is 9 or 10 percent, and then what it is going to go up to after it teases them with that first 9 or 10 percent, if it is then going to be 11 or 12 or 18 or 19 percent later on. We need consumer disclosure and consumer protections.

So this is a good amendment offered by the gentleman from Virginia (Mr. MORAN) and the gentleman from California (Mr. DOOLEY) and the gentleman from New York (Mr. ACKERMAN). I strongly encourage my colleagues to support it. And, hopefully, that will continue to improve this bill and we will have a sound bill both on personal responsibility and the consumer protections aspects.

The CHAIRMAN (Mr. NETHERCUTT). The question is on the amendment offered by the gentleman from Virginia (Mr. MORAN).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 3 printed in House Report 106–126.

AMENDMENT NO. 3 OFFERED BY MR. MORAN OF VIRGINIA

Mr. MORAN of Virginia. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. MORAN of Virginia:

Page 101, after line 9, insert the following (and make such technical and conforming changes as may be appropriate):

SEC. 154. DISCLOSURES.

(a) DISCLOSURES.—Subchapter II of chapter 5 of title 11, United States Code, as amended by section 106, is amended by adding at the end the following:

"§ 527. Disclosures

''(a) A debt relief agency providing bankruptcy assistance to an assisted person shall provide the following notices to the assisted person:

''(1) the written notice required under section 342(b)(1) of this title; and

''(2) to the extent not covered in the written notice described in paragraph (1) of this section and no later than three business days after the first date on which a debt relief agency first offers to provide any bankruptcy assistance services to an assisted person, a clear and conspicuous written notice advising assisted persons of the following—

''(A) all information the assisted person is required to provide with a petition and thereafter during a case under this title must be complete, accurate and truthful;

''(B) all assets and all liabilities must be completely and accurately disclosed in the documents filed to commence the case, and the replacement value of each asset as defined in section 506 of this title must be stated in those documents where requested after reasonable inquiry to establish such value;

''(C) current monthly income, the amounts specified in section 707(b)(2) and, in a chapter 13 case, disposable income (determined in accordance with section 707(b)(2)) must be stated after reasonable inquiry; and

''(D) that information an assisted person provides during their case may be audited pursuant to this title and that failure to provide such information may result in dismissal of the proceeding under this title or other sanction including, in some instances, criminal sanctions.

''(b) A debt relief agency providing bankruptcy assistance to an assisted person shall provide each assisted person at the same time as the notices required under subsection (a)(1) with the following statement, to the extent applicable, or one substantially similar. The statement shall be clear and conspicuous and shall be in a single document separate from other documents or notices provided to the assisted person:

''`IMPORTANT INFORMATION ABOUT BANKRUPTCY ASSISTANCE SERVICES FROM AN ATTORNEY OR BANKRUPTCY PETITION PREPARER

''`If you decide to seek bankruptcy relief, you can represent yourself, you can hire an attorney to represent you, or you can get help in some localities from a bankruptcy petition preparer who is not an attorney. THE LAW REQUIRES AN ATTORNEY OR BANKRUPTCY PETITION PREPARER TO GIVE YOU A WRITTEN CONTRACT SPECIFYING WHAT THE ATTORNEY OR BANKRUPTCY PETITION PREPARER WILL DO FOR YOU AND HOW MUCH IT WILL COST. Ask to see the contract before you hire anyone.

''`The following information helps you understand what must be done in a routine bankruptcy case to help you evaluate how much service you need. Although bankruptcy can be complex, many cases are routine.

''`Before filing a bankruptcy case, either you or your attorney should analyze your eligibility for different forms of debt relief made available by the Bankruptcy Code and which form of relief is most likely to be beneficial for you. Be sure you understand the relief you can obtain and its limitations. To file a bankruptcy case, documents called a Petition, Schedules and Statement of Financial Affairs, as well as in some cases a Statement of Intention need to be prepared correctly and filed with the bankruptcy court. You will have to pay a filing fee to the bankruptcy court. Once your case starts, you will have to attend the required first meeting of creditors where you may be questioned by a court official called a ''trustee'' and by creditors.

''`If you choose to file a chapter 7 case, you may be asked by a creditor to reaffirm a debt. You may want help deciding whether to do so and a creditor is not permitted to coerce you into reaffirming your debts.

''`If you choose to file a chapter 13 case in which you repay your creditors what you can afford over three to five years, you may also want help with preparing your chapter 13 plan and with the confirmation hearing on your plan which will be before a bankruptcy judge.

''`If you select another type of relief under the Bankruptcy Code other than chapter 7 or chapter 13, you will want to find out what needs to be done from someone familiar with that type of relief.

''`Your bankruptcy case may also involve litigation. You are generally permitted to represent yourself in litigation in bankruptcy court, but only attorneys, not bankruptcy petition preparers, can give you legal advice.'.

''(c) Except to the extent the debt relief agency provides the required information itself after reasonably diligent inquiry of the assisted person or others so as to obtain such information reasonably accurately for inclusion on the petition, schedules or statement of financial affairs, a debt relief agency providing bankruptcy assistance to an assisted person, to the extent permitted by nonbankruptcy law, shall provide each assisted person at the time required for the notice required under subsection (a)(1) reasonably sufficient information (which shall be provided in a clear and conspicuous writing) to the assisted person on how to provide all the information the assisted person is required to provide under this title pursuant to section 521, including—

''(1) how to value assets at replacement value, determine current monthly income, the amounts specified in section 707(b)(2)) and, in a chapter 13 case, how to determine disposable income in accordance with section 707(b)(2) and related calculations;

''(2) how to complete the list of creditors, including how to determine what amount is owed and what address for the creditor should be shown; and

''(3) how to determine what property is exempt and how to value exempt property at replacement value as defined in section 506 of this title.

''(d) A debt relief agency shall maintain a copy of the notices required under subsection (a) of this section for two years after the date on which the notice is given the assisted person.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, as amended by section 106, is amended by inserting after the item relating to section 526 the following:

''527. Disclosures.''.

SEC. 155. DEBTOR'S BILL OF RIGHTS.

Subchapter II of chapter 5 of title 11, United States Code, as amended by sections 106 and 154, is amended by adding at the end the following:

''§ 528. Debtor's bill of rights

''(a) A debt relief agency shall—

''(1) no later than five business days after the first date on which a debt relief agency provides any bankruptcy assistance services to an assisted person, but prior to such assisted person's petition under this title being filed, execute a written contract with the assisted person specifying clearly and conspicuously the services the agency will provide the assisted person and the basis on which fees or charges will be made for such services and the terms of payment, and give the assisted person a copy of the fully executed and completed contract in a form the person can keep;

''(2) disclose in any advertisement of bankruptcy assistance services or of the benefits of bankruptcy directed to the general public (whether in general media, seminars or specific mailings, telephonic or electronic messages or otherwise) that the services or benefits are with respect to proceedings under this title, clearly and conspicuously using the following statement: 'We are a debt relief agency. We help people file Bankruptcy petitions to obtain relief under the Bankruptcy Code.' or a substantially similar statement. An advertisement shall be of bankruptcy assistance services if it describes or offers bankruptcy assistance with a chapter 13 plan, regardless of whether chapter 13 is specifically mentioned, including such statements as 'federally supervised repayment plan' or 'Federal debt restructuring help' or other similar statements which would lead a reasonable consumer to believe that help with debts was being offered when in fact in most cases the help available is bankruptcy assistance with a chapter 13 plan; and

''(3) if an advertisement directed to the general public indicates that the debt relief agency provides assistance with respect to credit defaults, mortgage foreclosures, lease eviction proceedings, excessive debt, debt collection pressure, or inability to pay any consumer debt, disclose conspicuously in that advertisement that the assistance is with respect to or may involve proceedings under this title, using the following statement: 'We are a debt relief agency. We help people file Bankruptcy petitions to obtain relief under the Bankruptcy Code.' or a substantially similar statement.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, as amended by sections 106 and 154, is amended by inserting after the item relating to section 527, the following:

''528. Debtor's bill of rights.''.

The CHAIRMAN. Pursuant to House Resolution 158, the gentleman from Virginia (Mr. MORAN) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today to offer this amendment for the purpose of adding to the consumer protections that are already contained in H.R. 833. We have all seen the advertisements. ''Consolidate your bills into one monthly payment without borrowing'' goes one. ''Stop credit harassment, foreclosures, repossessions, tax levies and garnishments'' is another advertisement. ''Wipe out your debts. Consolidate your bills. How? By using the protection that the Federal Government offers provided by Federal law.''

We have seen these advertisements. They are all opportunities to exploit the consumer, exploit the consumer's ignorance. And they would be addressed by this bill. Because only later does the consumer find out that very often these phrases involve bankruptcy proceedings which can hurt their credit and cost them substantial attorney's fees. They often do not realize that very often these are bankruptcy mills that do not advise consumers on other options that they have, including consumer credit counseling, working out a repayment plan with their creditors, or getting a second mortgage.

This amendment adds to the bill provisions requiring so-called ''debt relief organizations,'' but more appropriately sometimes ''bankruptcy mills,'' to make certain minimal disclosures to

consumer debtors and to prevent deceptive and fraudulent advertising practices that were identified by the Federal Trade Commission in their Consumer Alert.

The disclosures are designed to ensure that debtors who retain the services of these organizations understand the nature of the services that are being provided, the cost of the services and, if the service includes placing the debtor into bankruptcy, the consequences of that action.

This requirement was included in the conference report of last year's bankruptcy reform bill, which was overwhelmingly approved by the House of Representatives. The requirement is modeled on legislation enacted by Congress several years ago to address abuses by so-called credit repair organizations.

Mr. GEKAS. Mr. Chairman, will the gentleman yield?

Mr. MORAN of Virginia. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. Mr. Chairman, I rise to support the amendment of the gentleman. I must tell my colleagues, I was set back a bit when in the full committee this group of debtors' rights, ''debtors' rights'' I repeat, were removed from the bill. Just as the gentleman says, last year's effort resulted in a conference report that had this debtors' bill of rights as part and parcel.

Now we are faced with the prospect of attempting to do, and I will help the gentleman do so, restore this same set of debtors' rights, and I will do everything I can to help the gentleman succeed.

Mr. MORAN of Virginia. Mr. Chairman, I greatly appreciate the comments of the chair of the subcommittee.

Mr. Chairman, I reserve the balance of my time.

Mr. WATT of North Carolina. Mr. Chairman, I rise in opposition to the amendment, and I yield myself such time as I may consume.

Mr. Chairman, I am saddened to have to rise in opposition to this amendment. This exact language that is proposed in this amendment was in the bill originally and was considered by the Committee on the Judiciary, and an amendment passed in the Committee on the Judiciary to remove this language from the bill.

Now, the chairman of the subcommittee, who has risen to express his support for this amendment to put it back in, voted against that amendment in the committee. So it is not surprising that he would be here saying he likes the Moran amendment. But the majority of the Committee on the Judiciary, including a bipartisan group of individuals, not just Democrats or Republicans, both Democrats and Republicans, voted to remove this language from the bill.

Now, why did they vote to do it? First of all, understand that there continues to be language in the bill which prohibits misrepresentation and misleading of the public by these persons who are assisting folks with bankruptcies. But remember that every attorney who does bankruptcy practice would be covered by this provision; every credit counseling service, consumer credit organization, many of which are governed by or under the city and county governments in our local communities, would be governed by these provisions; and these agencies would be put to the task of giving page after page after page of disclosures in an effort to get at a few bad people who are in this business.

Now, I am not saying that there are not people who are providing credit counseling advice who are bad. There are people in the business who are bad. But 99 percent of the people who are providing advice to bankruptcy applicants or potential bankruptcy applicants are reputable people, attorneys who provide information and services, credit counseling services and the like, that we are simply imposing substantial burdens on if we put this language back in the bill, which the Committee on the Judiciary, I remind my colleagues, has taken out of the bill.

If we start on page 3 of this proposed amendment and we go all the way over to page 5 of this proposed amendment, there are disclosures that would have to be made by anybody who even sat down and talked to somebody about the possibility of filing a bankruptcy. This is not for people who file bankruptcies, because these disclosures have to be given at the first encounter before there is even a decision to file bankruptcy.

Most of the disclosures are, essentially, worthless because what most people will do is print up these disclosures verbatim from the bill and hand them to people when they come into their offices and nobody is going to read this stuff. And Republicans and Democrats alike acknowledge that these kinds of disclosures are simply worthless.

Additionally, for those of us, including the gentleman from Virginia (Mr. MORAN), who is the sponsor of this bill who say that they want to stop attorneys from soliciting folks to file bankruptcy, there are additional advertisements that must be given which require folks who advertise to say to the public, look, I am in the business of providing bankruptcy advice.

That is exactly the kind of advertising we have been trying to discourage. That is not something that is furthering the public policy that underlies this bill.

So, for those reasons, I want to state strongly that we do not want to impose additional burdens on good reliable business people. We want to, as the bill still does, prohibit false information from being given to potential filers of bankruptcy. But we do not need to burden the people who are the attorneys and credit counseling people who are reputable by forcing them to give page after page after page of useless disclosures.

Mr. Chairman, I reserve the balance of my time.

□ 1415

Mr. MORAN of Virginia. Mr. Chairman, I yield myself such time as I may consume. I refer for the record to the Consumer Alert issued by the Federal Trade Commission warning consumers of exactly the situation that this amendment addresses, the fraudulent advertising, the kind of advertising that sucks consumers into a situation where they wind up declaring bankruptcy, which was not their original intent, because they were misled by the people that would be covered by this amendment.

This amendment addresses abuses by ''bankruptcy mills'' which advertise themselves as debt counseling organizations or government sanctioned sources of assistance for consumers having difficulty meeting debt repayments. According to the Federal Trade Commission, consumers are frequently using these organizations without understanding that the only relief that these groups offer is to put the debtor into bankruptcy, sometimes when the debtor could have avoided such a drastic step through voluntary repayment arrangements.

The amendment requires debt relief organizations to disclose the nature of the services they offer, explain to consumers the alternatives to filing bankruptcy, disclose the rights and obligations of a debtor who files for bankruptcy and the consequences of a bankruptcy filing. The purpose of the amendment is to educate the consumer about bankruptcy and bankruptcy mills before it is too late; in other words, before the debtor has made an uninformed decision.

Those who feel that the answer to the growth in bankruptcies is increased disclosure about the consequences of incurring credit card or other debt should support the up-front disclosure approach of this amendment and not try to protect these lawyers who are exploiting the ignorance of their clients.

This is an amendment that is entirely appropriate. It is appropriate that it be called the Debtor's Bill of Rights. It is directly addressing a warning that the Federal Trade Commission has made available to consumers. I would hope that the House would pass this unanimously.

FEDERAL TRADE COMMISSION, FOR YOUR INFORMATION, MARCH 26, 1997

Debt-burdened consumers who answer ads that offer to ''consolidate bills'' or ''stop credit harassment'' may be the targets of bankruptcy mills, according to a new publication from the Federal Trade Commission. ''Advertisements Promising Debt Relief May Be Offering Bankruptcy,'' the FTC Consumer Alert warns.

A record one million consumers file for bankruptcy in 1996, according to the Alert. But bankruptcy can have a long-term negative impact on creditworthiness; stays on

you credit report for 10 years, and can hinder a consumer's ability to get credit, a job, insurance or even a place to live. ''Although bankruptcy is one option to deal with financial problems, it's generally considered the option of last resort,'' the publication says.

The Alert says that some newspaper, magazine and telephone directory ads give tip-offs that their ''debt consolidation'' ads are really toting bankruptcy mills. Ads that make claims such as:

''Consolidate your bills into one monthly payment without borrowing;''

''Wipe out your debts! Consolidate your bills! How? By using the protection and assistance provided by federal law;'' and

''Stop credit harassment, foreclosures, repossessions'' . . . ''Keep your Property,'' may be touting bankruptcy services which can hurt consumers' credit and cost attorneys; fees, the Alert says.

The FTC advises that before considering bankruptcy, consumers having trouble paying their bills should:

Talk with their creditors who may be willing to work out a modified payment plan;

Contact a credit counseling service. Some nonprofit organizations charge little or nothing for these services;

Consider a second mortgage or home equity line of credit.

ADVERTISEMENTS PROMISING DEBT RELIEF MAY BE OFFERING BANKRUPTCY

WASHINGTON, DC—Debt got you down? You're not alone. Consumer debt is at an all-time high. What's more, record numbers of consumers—more than 1 million in 1996—are filing for bankruptcy. Whether your debt dilemma is the result of an illness, unemployment, or simply overspending, it can seem overwhelming. In your effort to get solvent, be on the alert for advertisements that offer seemingly quick fixes. While the ads pitch the promise of debt relief, they rarely say relief may be spelled b-a-n-k-r-u-p-t-c-y. And although bankruptcy is one option to deal with financial problems, it's generally considered the option of last resort. The reason: its long-term negative impact on your creditworthiness. A bankruptcy stays on your credit report for 10 years, and can hinder your ability to get credit, a job, insurance, or even a place to live.

The Federal Trade Commission cautions consumers to read between the lines when faced with ads in newspapers, magazines or even telephone directories that say: ''Consolidate your bills into one monthly payment without borrowing.'' ''STOP credit harassment, foreclosures, repossessions, tax levies and garnishments,'' ''Keep Your Property.'' ''Wipe out your debts! Consolidate your bills! How? By using the protection and assistance provided by Federal law. For once, let the law work for you!''

You'll find out later that such phrases often involve bankruptcy proceedings, which can hurt your credit and cost you attorneys' fees.

If you're having trouble paying your bills, consider these possibilities before considering filing for bankruptcy:

Talk with your creditors. They may be willing to work out a modified payment plan.

Contact a credit counseling service. These organizations work with you and your creditors to develop debt repayment plans. Such plans require you to deposit money each month with the counseling service. The service then pays your creditors. Some nonprofit organizations charge little or nothing for their services.

Carefully consider a second mortgage or home equity line of credit. While these loans may allow you to consolidate your debt, they also require your home as collateral.

If none of these options is possible, bankruptcy may be the likely alternative. There are two kinds of personal bankruptcy: Chapter 13 and Chapter 7. Each must be filed in federal court. The current filing fee is $160. Attorney fees are additional and can vary widely. The consequences of bankruptcy are significant and require careful consideration.

Chapter 13, also known as a reorganization, allows you to keep property, such as a mortgaged home or car, that you otherwise might lose. Reorganization may allow you to pay off a default during a period of three to five years, rather than surrender any property.

Chapter 7, known as a straight bankruptcy, involves liquidating all assets that are not exempt in your state. Exempt property may include work-related tools and basic household furnishings. Some property may be sold by a court-appointed official or turned over to creditors. You can file for Chapter 7 only once every six years. Both types of bankruptcy may get rid of unsecured debts and stop foreclosures, repossessions, garnishments, utility shut-offs, and debt collection activities. Both also provide exemptions that allow you to keep certain assets, although exemption amounts vary among states. Personal bankruptcy usually does not erase child support, alimony, fines, taxes, and some student loan obligations. Also, unless you have an acceptable plan to catch up on your debt under Chapter 13, bankruptcy usually does not allow you to keep property when your creditor has an unpaid mortgage or lien on it.

Visit the FTC web site at www.ftc.gov, or contact the AFSA's Education Foundation at 1-888-400-2233 for more credit/money management information.

Mr. Chairman, I reserve the balance of my time.

Mr. WATT of North Carolina. Mr. Chairman, I reserve the balance of my time. I believe it is my right to close as a member of the committee and in defense of the bill.

The CHAIRMAN. The gentleman from North Carolina is correct.

Mr. MORAN of Virginia. Mr. Chairman, I guess I must not fully understand parliamentary procedure. I thought that the person introducing the amendment has the right to close on the amendment.

How much time do I have remaining, Mr. Chairman?

The CHAIRMAN. The gentleman from Virginia (Mr. MORAN) has 4 minutes remaining, and the gentleman from North Carolina (Mr. WATT) has 4 minutes remaining.

Mr. MORAN of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Since this is going to be challenged, let me again say for the Members who may be listening that this is a Debtor's Bill of Rights. It strengthens this bill. It responds to a very serious concern that the Federal Trade Commission has stipulated in its Consumer Alert. It informs debtors who retain the services of bankruptcy mills to disclose the services, the costs and the consequences, and particularly the consequences of filing for bankruptcy. We do not want people to have to file for bankruptcy, particularly people who never intended to file for bankruptcy.

Mr. GEKAS. Mr. Chairman, will the gentleman yield?

Mr. MORAN of Virginia. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. I wanted to add to the gentleman's sentiments, that who can be opposed to the idea that an individual who is contemplating bankruptcy should be given full disclosure on what entities or others out there who are ready to assist him or prod him into bankruptcy? What we are talking about is if we could do it, to prevent people from jumping headlong into bankruptcy, we ought to take every step in order to do that.

The gentleman from North Carolina (Mr. WATT) is correct that I voted against his amendment in committee. I will remind him at the proper time of how many other votes then were taken on a bipartisan basis that he opposes still. So that is not a criterion, that when a bill is passed on a bipartisan basis, he believes it is worthy of something. So do I. But I will remind him when the time comes of bipartisan support for X or Y and see if he has the same rationale applicable to that amendment.

But in the meantime, it is not a bad thing to let a prospective bankrupt individual look at all the possible traps into which he can fall. I commend the gentleman's return to sanity through the debtor's rights amendment.

Mr. MORAN of Virginia. I thank the gentleman for his comments.

Mr. Chairman, if I may briefly sum up my argument, which is simply that so-called debt relief agencies that are coming out with this kind of deliberately misleading advertising suggesting even that they are government sanctioned organizations, which they are not, they should be required to give written notice within 3 business days after the first date of services to advise the people they are allegedly assisting of their rights and responsibilities of disclosure.

It would require attorneys or bankruptcy petition preparers to give the person they are assisting a written contract specifying what the attorney or bankruptcy petition preparer will do, what it will cost and the terms of payment. That is what we would want for our mother or our spouse or our children or our neighbor or any other consumer in the United States, to be able to have the value of that kind of information.

This is a consumer amendment, to educate consumers so they do not get taken in by people who are designing to exploit them and exploit the bankruptcy system. Mr. Chairman, I strongly urge an ''aye'' vote on this amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. WATT of North Carolina. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, let me just advise my colleagues that these bankruptcy mills that the gentleman from Virginia (Mr. MORAN) is talking about are attorneys who provide bankruptcy services, consumer credit counseling services, many

of whom are sanctioned by local governments because they provide a very valuable service in local communities. I have one in my own community of Charlotte. I was on the board of directors of this nonprofit agency which receives substantial government funds and provides a major service when people get into debt.

We can characterize every single one of these people as bankruptcy mills if we want, but they are not. To try to inflame the opinions of the colleagues in this body by referring to every lawyer who practices bankruptcy law or every consumer credit counselor as a bankruptcy mill is just inaccurate and unfair and it should not be done. There are some bad apples in the barrel.

For those we need to understand, Mr. Chairman, that there is a specific provision which remains in this bill, this section 526, which says that a debt relief agency shall not do a whole list of things that are listed in this bill. One of those things it shall not do is misrepresent to any assisted person or prospective assisted person, directly or indirectly, affirmatively or by material omission, what services the debt relief agency can reasonably expect to provide that person or the benefits, and it goes on and on and on.

There is a prohibition in this bill against the kind of activity that the gentleman from Virginia (Mr. MORAN) is trying to outlaw. I think it ought to be outlawed, but we ought not impose the burdens of all of these disclosures on the reputable people who are in the business.

He says that we have got to stop this faulty advertising, but what does his amendment do? I am reading directly from page 8 of his amendment. If you do an advertisement, under the Moran amendment, this is what you have got to say, in quotes:

''We are a debt relief agency. We help people file bankruptcy petitions to obtain relief under the Bankruptcy Code.''

I do not want people to be disclosing that or saying that to the public. I want to stop people from advertising. And yet the same people he is saying we want to stop from faulty advertising, he is telling them how to go out and advertise in a misleading way. That is not what we need to be doing, is undermining the policy of the bill.

Mr. Chairman, I understand his motivations for this amendment. I understand that there may be some lawyers he does not like, there may be some consumer credit counselors that he does not like. There are some that I do not like. That is why we have prohibited them in the bill from engaging in any kind of sinister activities. But that is different than requiring every reputable lawyer and every reputable consumer credit counseling service to give page after page after page of worthless disclosures. I encourage my colleagues to vote against this amendment. It just adds paperwork and adds burdens to small businesses. That is what it does.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. MORAN).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. WATT. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 158, further proceedings on the amendment offered by the gentleman from Virginia (Mr. MORAN) will be postponed.

It is now in order to consider amendment No. 4 printed in House Report 106–126.

AMENDMENT NO. 4 OFFERED BY MS. VELÁZQUEZ

Ms. VELÁZQUEZ. Mr. Chairman, I offer an amendment made in order by the rule.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Ms. VELÁZQUEZ:

Page 109, line 23, insert ''(a) APPOINTMENT.—''.

Page 110, line 4, insert the following before the close quotation marks:

The court may expand the membership of a committee to include a creditor that is small business if the court determines that such creditor holds claims of the kind represented by such committee that are, in the aggregate, disproportionately large when compared to the annual gross revenue of such creditor.

Page 110, after line 4, insert the following:

(b) INFORMATION.—Section 1102(b) of title 11, United States Code, is amended by adding at the end the following:

''(3) A committee appointed under subsection (a) shall provide access to information for creditors who hold claims of the kind represented by such committee and who are not appointed such committee, shall to be open for comment from such creditors, and shall be subject to a court order compelling additional reports or disclosure to be made to such creditors.''.

The CHAIRMAN. Pursuant to House Resolution 158, the gentlewoman from New York (Ms. VELÁZQUEZ) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentlewoman from New York (Ms. VELÁZQUEZ).

Ms. VELÁZQUEZ. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, while H.R. 833 provides a plan for overhauling our Nation's bankruptcy law, there is one issue that, while seemingly small, will have a great impact on this Nation's small businesses. That is the way that the bankruptcy process leaves small businesses who are creditors on the outside looking in.

To solve this problem, I am offering an amendment that will quickly and fairly address the issue by ensuring more small business involvement and greater communication in the bankruptcy process. My amendment will make two simple changes.

First, it would allow a small business involved as a creditor in a Chapter 11 bankruptcy case to be added to the creditor committee by the court. The court could make such an appointment by comparing the amount of the claim as a proportion of the business' gross annual revenue, thus showing that a business is disproportionately affected.

Second, my amendment will ensure that those small businesses not included on the creditor committee will have access to critical information regarding the credit committee's actions. This could be achieved by simply making the committee open to comments from and required to provide additional information to those small businesses not included on the committee but who will nonetheless be affected by the outcome.

I urge the adoption of these measures which will help small businesses. The need to take them can be underscored by looking at just one example of a company that was nearly devastated when one of its customers filed for bankruptcy.

Unicare Corporation, a small business located in Ohio, was caught off guard when one of its largest customers filed for bankruptcy. The debt to Unicare represented almost 10 percent of the company's annual revenue. The bankruptcy court created an unsecured creditors committee based on total outstanding debts owed.

□ 1430

Not only did Unicare not qualify as a member of the credit committee, but it was left on the outside looking in with no involvement in the process. This made Unicare's future uncertain, forcing it to reduce staff and revise plans for expansion. Fortunately, because of hard work and strong strategic planning, Unicare was able to recover, and today it continues as a very strong business.

But, Mr. Chairman, if each of us were to look around our districts, we will find that we will have many small businesses that could face the same unfair challenge, which is why we need to adopt this uniform and practical solution. Because, unlike Unicare, many businesses in our communities might not be so fortunate. If small businesses had the ability to appeal to the court based on their claim compared to the overall effect on the company, devastating problems might be averted.

Finally, Mr. Chairman, when we reconvene in the full House, I will submit for the record a letter of support from Small Business United, this Nation's oldest small business trade association. Their support reflects the same concern that I have heard from small business owners. They need access to the bankruptcy process.

We must insure that small businesses are not financially crippled through no fault of their own and that their hard work is not undone by the failures of others. I urge the adoption of this amendment.

Mr. TALENT. Mr. Chairman, will the gentlewoman yield?

Ms. VELÁZQUEZ. I yield to the gentleman from Missouri.

Mr. TALENT. Mr. Chairman, I rise in support of the gentlewoman from New York's very timely and important amendment and congratulate her on this important amendment for small business; and, Mr. Chairman, all of us who have dealt with small businesses in this kind of a context understand the problem the gentlewoman's amendment is intended to adopt.

I mean, let us suppose that a firm goes bankrupt and that it owes Microsoft $100,000 for software and it owes a small consulting firm, computer consulting firm, 30 or $35,000 for the work that has been done and that both of them are unsecured creditors. Well, Microsoft is going to get on the creditors committee because it has the larger debt, but $100,000 to Microsoft may be nothing, in terms of that firm is nothing in terms of that firm's total revenue. But that 30 or $35,000 could be a crucial account for that small business consulting firm, and they need to be represented on the creditors committee. That is really the only way that their interests can be protected.

The gentlewoman's amendment allows the court to appoint that small business to the creditors committee. It does not require it, but it at least allows that small business to make its case to the court. I think it is a timely and important amendment, Mr. Chairman.

There is nothing worse really than a small business caught up in this, an unforeseen bankruptcy on the part of one of its important clients. It cannot protect its interests, it does not know what is going on, does not have the money to hire legions of lawyers the way the bigger, unsecured creditors do.

Again, I congratulate the gentlewoman for fixing what I think is, if not a problem in the bill, at least an absence in the bill of an important protection for small business. I am pleased to support the amendment, and I thank the gentlewoman from New York for having yielded.

Mr. CONYERS. Mr. Chairman I yield myself such time as I may consume.

Mr. Chairman, I want to thank the gentlewoman from New York (Ms. VELÁZQUEZ) for bringing forward the provision before us now that would allow the expansion of the credit committee membership and also ensure better access to information for the small businesses not included on the committee by allowing them to be open for comment and subject to additional reports or disclosures. And so we have no problem with this amendment.

I would also point out to the gentlewoman from New York that there is another amendment of mine coming up shortly dealing with small business, she serves with great distinction on the Committee on Small Business, in which we would allow small business debtors in cases where application of these provisions could result in the loss of five or more jobs to waive the provisions of chapter 11 that relate to other business debtors, and I hope that that will gain her attention and other members that serve on that committee.

So we have no objection to this amendment whatsoever, Mr. Chairman.

Ms. VELÁZQUEZ. Mr. Chairman, I yield myself such time as I may consume, and I would like to close.

Mr. Chairman, for too long small businesses who are creditors have been hurt when customers and clients have been unable to pay their bills. For small businesses, the bankruptcy of other companies can mean an uncertain future. The adoption of my amendment provides small businesses with some peace of mind.

I urge my colleagues to support this amendment and to support small businesses.

Mr. Chairman, I include the following letter for the RECORD:

NATIONAL SMALL BUSINESS UNITED,
Washington, DC, May 3, 1999.

Hon. NYDIA VALÁZQUEZ,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE VELÁZQUEZ: As the House Rules Committee, and subsequently the entire House of Representatives, considers H.R. 833—the Bankruptcy Reform Act of 1999—NSBU fully supports your amendment protecting small businesses. National Small Business United, the nation's oldest small business advocacy organization, is a member of the Coalition for Financial Responsibility and has been a leading participant in this important debate for many years. We see your amendment as an important addition to the bill that has already cleared the Judiciary Committee.

Your amendment provides vital language that would allow for greater small business representation on the unsecured creditors committees, the key working group that structures and partitions the payments a bankrupt company owes its creditors. Traditionally, those companies that are owed the greatest lump sum of money have been placed on these committees, with little to no requirement to keep other interested companies informed of the situation. Your amendment would allow for greater communication and a more vital small business involvement in this process.

For too long, small businesses have been hurt when customers and clients have been unable to pay their bills without representation. This practice would be limited by this important legislation and has the full support of our 65,000 members nationwide. If there is anything else we can do to assist you in your efforts on before of the nation's 23.3 million small businesses, please let us know.

Sincerely,

TODD MCCRACKEN,
President.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentlewoman from New York (Ms. VELÁZQUEZ).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider Amendment No. 5 printed in House Report 106–126.

AMENDMENT NO. 5 OFFERED BY MR. GRAHAM

Mr. GRAHAM. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. GRAHAM:

Page 119, after line 9, insert the following (and make such technical and conforming changes as may be appropriate):

SEC. 219. NONDISCHARGEABILITY OF CERTAIN EDUCATIONAL BENEFITS AND LOANS.

Section 523(a)(8) of title 11, United States Code, is amended to read as follows:

''(8) for—

''(A) an educational benefit overpayment or loan made, insured or guaranteed by a governmental unit, or made under any program funded in whole or in part by a governmental unit or nonprofit institution, or for an obligation to repay funds received as an educational benefit, scholarship or stipend; or

''(B) any other education loan incurred by an individual debtor that meets the definition of 'Qualified Education Loan' under section 221(e)(1) of the Internal Revenue Code; unless excepting such debt from discharge under this paragraph will impose an undue hardship on the debtor and a debtor's dependents;''.

MODIFICATION TO AMENDMENT NO. 5 OFFERED BY MR. GRAHAM

Mr. GRAHAM. Mr. Chairman, I ask unanimous consent to modify my amendment, that modification is at the desk.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification offered by Mr. GRAHAM to Amendment No. 5:

Page 119, after line 9, insert the following (and make such technical and conforming changes as may be appropriate):

SEC. 219. NONDISCHARGEABILITY OF CERTAIN EDUCATIONAL BENEFITS AND LOANS.

Section 523(a)(8) of title 11, United States Code, is amended to read as follows:

''(8) for—

''(A) an educational benefit overpayment or loan made, insured or guaranteed by a governmental unit, or made under any program funded in whole or in part by a governmental unit or nonprofit institution, or for an obligation to repay funds received as an educational benefit, scholarship or stipend; or

''(B) any other education loan incurred by an individual debtor that meets the definition of 'Qualified Education Loan' under section 221(e)(1) of the Internal Revenue Code; unless excepting such debt from discharge under this paragraph will impose an undue hardship on the debtor and a debtor's dependents;''.

Mr. GRAHAM (during the reading). Mr. Chairman, I ask unanimous consent that the modification to Amendment No. 5 be considered read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

The CHAIRMAN. Is there objection to the request of the gentleman from South Carolina that Amendment No. 5 be modified?

There was no objection.

The CHAIRMAN. Pursuant to House Resolution 158, the gentleman from South Carolina (Mr. GRAHAM) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from South Carolina (Mr. GRAHAM).

(Mr. GRAHAM asked and was given permission to revise and extend his remarks.).

Mr. GRAHAM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, very briefly, this amendment is designed to correct a, I think, flaw in the Bankruptcy Code regarding student loans.

Under our current Bankruptcy Code, a Federal- guaranteed student loan is a nondischargeable loan. As many students graduate from college with a student debt, they are starting their lives, and we have protected the Federal-guaranteed student loans from discharge from bankruptcy because I think that is just a common-sense approach to a problem that existed in the past.

In addition, nonprofit lending organizations are also protected under the Bankruptcy Code, that their student loans are nondischargeable.

There is a growing industry in the private sector. There is a $1.25 billion loan volume for where private lenders who will loan money to students for their college expenses as the federally guaranteed program does not in every occasion meet the needs of the student, and we are trying to give the private lender the same protection under bankruptcy that the federally guaranteed loan program has and nonprofit organizations have. We are trying to make sure they are available loans, loans are available to students to meet their financial needs, and this would have a beneficial effect, make sure that the loan volume necessary to take care of college expenses are available for students, and I would appreciate the cooperation from the gentleman from New York (Mr. NADLER) and the gentleman from Pennsylvania (Mr. GEKAS) on this amendment.

Mr. GEKAS. Mr. Chairman, will the gentleman yield?

Mr. GRAHAM. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. Mr. Chairman, I want to indicate to the gentleman that the amendment is well thought out and is a necessary change to our original bill. It draws attention to our intent to treat everybody fairly, and the student loan quotient is one of the most important features in all of bankruptcy.

We thank the gentleman for that, and I will agree to the amendment.

Mr. GRAHAM. Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

The CHAIRMAN. Does the gentleman from Michigan claim the time in opposition to the amendment offered by the gentleman from South Carolina?

Mr. CONYERS. Absolutely. Mr. Chairman, I claim time in opposition to the amendment.

The CHAIRMAN. The gentleman from Michigan (Mr. CONYERS) is recognized for 10 minutes.

Mr. CONYERS. Mr. Chairman, I will not oppose the amendment. As a matter of fact, I think particularly with an inclusion for exceptions for undue hardships this amendment is an important one.

The Bankruptcy Code prohibits the discharge of federally made guaranteed or insured education loans or education loans made by nonprofit institutions. What the gentleman from South Carolina would do now is extend the prohibition from discharge to all qualified education loans and include exceptions for undue hardships.

That is the thrust of the amendment, and we have no objection to that whatsoever.

Mr. Chairman, I yield back the balance of my time.

Mr. GRAHAM. Mr. Chairman, I thank the gentleman from Michigan (Mr. CONYERS), and I yield back the balance of my time.

The CHAIRMAN. All time has expired.

The question is on the amendment, as modified, offered by the gentleman from South Carolina (Mr. GRAHAM).

The amendment, as modified, was agreed to.

The CHAIRMAN. It is now in order to consider Amendment No. 6 printed in House Report 106–126.

AMENDMENT NO. 6 OFFERED BY MR. DOOLEY OF CALIFORNIA

Mr. DOOLEY of California. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mr. DOOLEY of California:

Page 124, strike lines 13 through 20, and insert the following:

''(a) The clerk of each district shall maintain a publicly available list of credit counseling agencies and of programs described in section 109(h) and instructional courses offered by such agencies currently approved by—

''(1) the United States Trustee; or

''(2) the bankruptcy administrator for the district.

''(b) The United States Trustee or bankruptcy administrator shall only approve credit counseling agencies which satisfy standards set in regulations promulgated by the Federal Trade Commission and which are accredited by the Council on Accreditation or an equivalent third party nonprofit accrediting organization.

''(c) The United States Trustee or bankruptcy administrator shall only approve programs or courses under subsection (a) if they satisfy standards set in regulations promulgated by the Executive Office of the United States Trustees. The Executive Office of the United States Trustee is authorized to promulgate regulations setting such standards.

''(d) The Federal Trade Commission shall have authority to promulgate regulations setting standards for credit counseling agencies for the purposes of subsection (b). Such standards shall establish minimum requirements for such agencies with respect to providing qualified counselors, safekeeping and payment of client funds, disclosure to clients, adequate counseling with respect to client credit problems, and such other matters as relate to the quality and financial security of such programs. Nothing in this provision shall limit the authority of the Federal Trade Commission pursuant to the Federal Trade Commission Act (15 U.S.C. 45 et seq.).

''(e) The United States Trustee or bankruptcy administrator may notify the clerk that a credit counseling agency, or a program or course, is no longer approved, in which case the clerk shall remove it from the list maintained under subsection (a).

''(2) REGULATIONS.—The Federal Trade Commission and the Executive Office of United States Trustees shall promulgate regulations pursuant to the power delegated in this section within 180 days of the date of the enactment of this Act.''.

Page 124, line 21, strike ''(2)'' and insert ''(3)''.

The CHAIRMAN. Pursuant to House Resolution 158, the gentleman from California (Mr. DOOLEY) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from California (Mr. DOOLEY).

Mr. DOOLEY of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my amendment is very simple and straightforward. Simply put, it would require consumer credit counselors to meet basic professional standards established by the Federal Trade Commission.

One of the most progressive and debtor-friendly reforms made in H.R. 833 is the requirement that debtors seek credit counseling prior to filing bankruptcy. Many consumers want assistance in dealing with their bills, not bankruptcy. Legitimate consumer credit counseling helped approximately 1 million debtors this past year. This bill provides the opportunity for many more to receive help.

Done properly by a qualified professional, consumer credit counseling has proven highly successful in helping debtors regain control over their financial lives, a goal we all share. Many of my colleagues are familiar with the Federal Trade Commission's struggle to clean up abusive and fraudulent credit repair clinics that dupe debtors facing financial problems with promises to clean up their credit records.

The FTC has worked to protect consumers through the provisions approved by Congress several years ago as a part of the Fair Credit Reporting Act. However, as the opportunities for credit counseling would be significantly increased under this bill, we need to ensure from the outset that fraudulent and abusive credit counseling operations do not spring up and meet this new demand for services.

My amendment is designed to ensure that consumers have access to qualified, professional consumer credit counselors and to prevent the proliferation of substandard counseling practices. The amendment will provide that the U.S. trustee or bankruptcy administrator can only approve credit counseling agencies which satisfy standards set in regulations promulgated by the FTC and are credited by the Council of Accreditation or equivalent third-party nonprofit accrediting organization. The FTC is able and experienced in addressing issues of this nature.

With this amendment we have an opportunity to ensure that the credit

counseling provisions of this legislation will function as intended from the outset and that consumers will have access to qualified credit counseling.

I urge my colleagues to support this common-sense amendment.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Does any Member claim time in opposition to the amendment offered by the gentleman from California (Mr. DOOLEY)?

Mr. CONYERS. For purposes of getting the floor I oppose the amendment, and I ask to be recognized.

The CHAIRMAN. Without objection, the gentleman from Michigan may have the time otherwise reserved for those in opposition.

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. CONYERS) for 10 minutes.

Mr. CONYERS. Mr. Chairman, this is an amendment that we find absolutely acceptable, and I plan to support it, and we urge the Members to join in support of it.

Mr. Chairman, I yield back the balance of my time.

Mr. DOOLEY of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I urge the passage of this amendment.

Mr. Chairman, I yield back the balance of my time.

□ 1445

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. DOOLEY).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 7 printed in House Report 106–126.

AMENDMENT NO. 7 OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. CONYERS:

Page 151, after line 24, insert the following (and make such technical and conforming changes as may be appropriate):

SEC. 416. APPLICABILITY OF CERTAIN PROVISIONS.

The provisions of title 11 of the United States Code relating to small business debtors or to single asset real estate shall not apply in a case under such title if the application of any of such provisions in such case could result in the loss of 5 or more jobs.

The CHAIRMAN. Pursuant to House Resolution 158, the gentleman from Michigan (Mr. CONYERS), and the gentleman from Pennsylvania (Mr. GEKAS) each will control 10 minutes.

The Chair recognizes the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as usual, there is a good deal of talk about preserving jobs and creating jobs in the House of Representatives. Accordingly, if we really want to protect jobs, there should be little problem in supporting my amendment which waives the harsh new small business and single asset real estate provisions of the bill where they could result in the loss of five jobs or more. We are now talking about small business and protecting the jobs therein under the bankruptcy bill.

Now, the measure before us would completely alter the manner in which small business and real estate concerns may reorganize under the bankruptcy laws. For small businesses, H.R. 833 would mandate the operation of a whole host of burdensome new requirements, requiring them to provide balance sheets, for example, statements of operation, cash flow statements, income tax returns, within 3 days after filing a bankruptcy petition.

The bill also shortens the time period the debtor has to file a plan of reorganization to a mere 90 days, making liquidations far more likely than they might have otherwise been.

Now I have no problem with these new requirements, as long as the principal parties involved are the business owner and his creditor, but where the new deadlines will result in a loss of jobs, there I have a major concern.

These provisions have drawn the strong opposition of organized labor and the Small Business Administration's Office of Advocacy. I think my amendment is a way out of this dilemma.

The American Federation of Labor has warned that the small business provisions will threaten jobs by placing substantial procedural and substantive barriers in the way of small businesses and their ability to access the provisions of Chapter 11, threatening their overall ability to successfully reorganize and go on to succeed.

Similarly, the Small Business Administration has written that under the bill H.R. 833, small business owners who are legitimately using Chapter 11 proceedings to reorganize their businesses may be forced into a premature dismissal or conversion or may have to expend vital resources to fend off challenges by any creditor for relatively minor procedural infractions.

So we urge that this amendment be accepted and crafted into this bill. It would help at least in a small way those small businesses who might be in a position to lose five or more jobs as a result of bankruptcy proceedings.

Mr. Chairman, I reserve the balance of my time.

Mr. GEKAS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the record should indicate right at the outset that the provisions that we have built into the current legislation having to do with small business have reached the highest possible approval by the advocate of the Small Business Administration, the Justice Department itself, and most importantly for this debate, of the Bankruptcy Commission on whom we relied for this extensive comprehensive review that they finished a few years back.

So we start off with a creditable small business set of provisions which now the gentleman, if this amendment should be adopted, would absolutely wreck. Beyond that, one can imagine that every case that came under Title 11, as the gentleman proposes in his amendment, would first have to be scrutinized to see if five or more jobs would or could be lost, and we would never get to the first event in a bankruptcy situation before we had had time to litigate the number of jobs.

What if someone contends there are only four affected or others say none would be affected? That entire set of circumstances would have to be litigated. It is a monstrous scenario of additional litigation proposed in a situation where we have already structured the provisions in such a way to have met the approval of everybody who looks at the small business provisions of our bill.

Beyond that, the wording of the bill seems to indicate that not just the small business provisions of Chapter 11 would be affected but any and all provisions of the title known as 11 would be affected, and we would have to take this test of five jobs, which in itself is very murky, very cloudy. How many jobs would be included, part-time, full-time? How many individuals? If somebody is carrying on two occupations in the same firm, would that apply? It is so nondescriptive of any real problem that we must reject it out of hand.

I ask all the Members to vote ''no'' on this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I would like to remind the esteemed chairman of the subcommittee that the Bankruptcy Commission was the one that turned down means testing, which has now been put into the bill. So I am glad that he picks and chooses those that he likes.

There are some people involved in labor that have a strong opposition to the bill without this amendment. They are called the AFL-CIO. That is the largest collective bargaining organization in the United States of America. They have examined it pretty carefully.

Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. Nadler), the ranking member of the subcommittee.

Mr. NADLER. Mr. Chairman, this amendment is really in the nature of the truth. We say that this bill imposes very onerous restrictions on small businesses. It imposes very sharp and restrictive time deadlines and terrible restrictions only on small businesses.

We think this is going to result in a lot of businesses that otherwise would have the opportunity to reorganize in Chapter 11 to get protection from their debtors, reorganize, get back on their feet and survive and not lay off all their employees, it will require instead that a lot of these companies liquidate

and go out of business and lay off their employees because they will not be able to meet these new restrictions.

Now, the gentleman from Pennsylvania (Mr. GEKAS) and the people on the other side say, no, that will not happen. Well, all this amendment says is, well, maybe they are right, maybe they are wrong.

In a given case, the judge is looking over the situation in this case, and if the judge finds that there is a likelihood that this company, which is now seeking Chapter 11 protection from its creditors, could reorganize, could get back on its feet, could avoid liquidating, could avoid laying off its employees, but he further finds that if these new onerous restrictions are imposed and timetables that that would probably force the company out of business and would cost at least five jobs, it lets the judge say, ''It really looks like this is going to cost five jobs, so I will not impose these new restrictions on this small business.'' If the judge makes the finding that these new restrictions will kill this business, force this job loss and force this business out of business, the judge would be given the discretion to say, use the old law, not these new restrictions.

What could be fairer than to look at the individual case?

Now, the gentleman from Pennsylvania (Mr. GEKAS) will say this is extensive litigation. No, it is not. It is simply a company asking for Chapter 11 protection and saying, ''Judge, we think we need X time but this gives us less time, and here is why we think we need so much additional time as we could have gotten under the old law,'' and the judge says either yes or no. Why not let the judge have that discretion?

I know that the gentleman from Pennsylvania (Mr. GEKAS) and other proponents of this bill do not trust human beings; they do not trust judges at all. They say throughout this bill judges have no discretion; they are always wrong. Maybe they are always wrong, but give them a chance to save some jobs and save some small businesses. That is all this amendment does.

I do not see how anybody who cares about small businesses or jobs could oppose this amendment. It just boggles the mind.

Mr. GEKAS. Mr. Chairman, I yield 4 minutes to the gentleman from Michigan (Mr. KNOLLENBERG).

Mr. KNOLLENBERG. Mr. Chairman, I thank the gentleman from Pennsylvania (Mr. GEKAS) for yielding me this time.

Mr. Chairman, I rise in opposition to this amendment, in opposition to my good friend the gentleman from Michigan (Mr. CONYERS).

This bill, the Bankruptcy Reform Act of 1999, includes a provision that addresses an injustice that exists within Title 11 of the United States Code regarding single asset bankruptcies. That is a big long statement.

This provision mirrors legislation that I introduced in H.R. 624, and I want to thank the gentleman from Pennsylvania (Chairman GEKAS) for his instructive help on that matter. This was done in the previous Congress and I thank him for including this in H.R. 833.

Let me say what, in addition to what we have heard, is wrong with this amendment. The injustice within Title 11 stems from a last-minute decision that was made in the 103rd Congress, which placed an arbitrary $4 million ceiling on the single asset provisions of the bankruptcy reform bill. The effect has been to render investors helpless in foreclosure on single assets valued at over $4 million.

H.R. 833 provides relief to victims by eliminating this arbitrary ceiling. Under this law, Chapter 11 of the Bankruptcy Code serves as a legal shield for the debtor. Upon the investors filing to foreclose, the debtor preemptively files for Chapter 11 protection, which postpones indefinitely foreclosure, while in Chapter 11 the debtor will continue to collect the rents on the commercial asset.

Now listen to this. However, the commercial property will typically be left to deteriorate and the property taxes go unpaid. When the investor finally recovers the property through the delayed foreclosure, they owe an enormous amount in back taxes; they receive a commercial property left in deterioration which has a lower rent value and resale value, and meanwhile the rent for all the months or years they were trying to retain the property went to an uncollectable debtor.

H.R. 833 does not leave the debtor without protection, however. First, the investor brings a foreclosure against a debtor only as a last result. This usually comes after all other efforts to reconcile delinquent mortgage payments have failed.

Second, the debtor has up to 90 days to reorganize under a Chapter 11. It should be noted, however, that single asset reorganizations are typically a false hope, since the owner of a single asset does not normally have other properties from which he can recapitalize his business.

Mr. Chairman, I urge my colleagues to defeat the amendment offered by the gentleman from Michigan (Mr. CONYERS), which could prohibit the single asset real estate definition from being applied in such case, which could result in the loss of five or more jobs. This amendment, if adopted, would effectively nullify the single asset protection currently in the code and allow Chapter 11 debtors to continue gaming the system by hiring new employees just before the filing.

Make no mistake about it, this amendment, if approved, would allow unscrupulous debtors to drag out single asset cases for years to avoid meeting their financial obligations.

Mr. Chairman, H.R. 833 restores personal responsibility to our bankruptcy laws; closes the loopholes, in addition, that allow individuals to game the system. I urge my colleagues on both sides of the aisle to oppose the Conyers amendment and vote ''yes'' on final passage.

□ 1500

Mr. GEKAS. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Ohio (Ms. PRYCE).

Ms. PRYCE of Ohio. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Michigan (Mr. CONYERS). By way of background, the great majority of commercial properties within the United States are owned by corporations, partnerships, and limited liability companies that only own one property. These are known as single-asset real estate entities.

The typical single-asset real estate entity has only one major creditor, the mortgage lender that provided the financing for the acquisition of the property. In most cases, the mortgage lender's only remedy in the case of default is to take possession of the property through foreclosure.

The recession of the late eighties and early 1990s caused a flood of Chapter 11 filings by single-asset real estate entities. In the typical case, the single-asset entity merely sought to stave off foreclosure and to use the bankruptcy process to force concessions from its mortgage lender. As a result, properties deteriorated and lenders suffered large losses as cases dragged on and on, sometimes for months and years.

In the Bankruptcy Reform Act of 1994, Congress recognized that single-asset entities should receive expedited treatment in bankruptcy proceedings in order to protect properties from otherwise deteriorating during these lengthy bankruptcy proceedings.

At that time, Congress amended the automatic stay provision of the Bankruptcy Code to provide that mortgage lenders may have the stay lifted and proceed with foreclosure, unless the single-asset debtor files a feasible reorganization plan within 90 days, or commences monthly interest payments to the lender. However, these provisions currently apply only to single-asset debtors whose property are valued at $4 million or less.

Typically, when the owner of a building is bankrupt and the lender is allowed to foreclose, there is usually a net economic benefit to the property, because it is the goal of the lender to maximize the value of the property. A weak owner is replaced by a strong owner who has resources to make the repairs, attract new tenants, and effect capital improvements. This benefits our communities as well, including the generation of tax revenues.

Moreover, by helping to keep the property commercially viable, we help ensure that the workers who maintain the building, from the janitors to the

engineers, will remain employed. Clearly, everybody benefits from keeping the property from deteriorating.

Significantly, H.R. 833 would eliminate the arbitrary $4 million cap with respect to expedited foreclosures on these entities, so that all commercial properties, regardless of value, can be protected from deterioration during bankruptcy proceedings.

However, the Conyers amendment would prohibit expedited foreclosure in any case where five employees of the property could be lost. As such, the Conyers amendment would not only gut the provision in H.R. 833 which lifts the $4 million cap, but it would also, in effect, nullify existing expedited foreclosure provisions in the Bankruptcy Code.

The Conyers amendment would recreate the uncertainty that the current law seeks to remedy. Bankruptcy courts could hold endless hearings on the application of this amendment and whether certain employees may or may not lose their jobs. Chapter 11 debtors could continue to game the system, as they have sometimes in the past, by hiring employees before filing, or delaying the bankruptcy action unfairly.

Moreover, the very employees that the gentleman from Michigan (Mr. CONYERS) seeks to protect would be worse off because new entities would be hampered in their efforts to take over the troubled property and return it to a going concern, and keep them employed.

Mr. Chairman, I urge my colleagues to defeat the Conyers amendment, in the very interest of those he purports to protect.

Mr. CONYERS. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, this is puzzling. It is one thing to tighten the bankruptcy rules on only the parties that are involved that are borrowing from the lender, but where the changes will harm innocent third parties, the employees and their families, I believe we have an obligation to give the business a reasonable chance to reorganize.

The single-asset real estate provision, connected with the five-job requirement that the judge would look at, suppose it was the gentleman's job, I say to the gentleman from Pennsylvania (Mr. GEKAS), one of the five. It would not be hard for a referee in bankruptcy or a judge in bankruptcy to make the decision.

But what we are doing is saying that every single real estate concern, no matter how large its operation or how many jobs are at stake, be subject to expedited liquidation and bankruptcy. That is, within 90 days after filing, they can be subject to foreclosure by their creditors. Give us a break. All we are doing is giving additional discretion to the judge.

I urge the Members on both sides of the aisle to support this modest amendment.

Mr. Chairman I yield the balance of my time to the gentleman from New York (Mr. NADLER).

The CHAIRMAN. The gentleman from New York (Mr. NADLER) is recognized for 1 minute.

Mr. NADLER. Mr. Chairman, this amendment does two things. The gentleman from Michigan (Mr. CONYERS) described the impact on the single-asset realty. But it does something else, and we did not hear from the other side why it is so terrible, what it does, or why they rejected it in committee and reject it now, having nothing to do with single-asset real estate.

What this does is say to the judge, is to give the judge discretion. When looking at a small business bankruptcy, the judge would have discretion to say, if he finds that imposition of these new onerous filing requirements and deadlines was likely to push that business into liquidation and cost more than five jobs, instead of enabling the business to reorganize, he is given the discretion to say, never mind these new restrictions, these new onerous requirements, better the business shall survive and not lay off the workers.

Why not let judges have that discretion? Why insist that small businesses have to go out of existence and lay off these people? Let the judge have discretion, if he makes a finding that imposition of these new restrictions would likely cause the business to go out of existence instead of reorganizing, getting on its feet and saving the jobs.

This is an anti-jobs bill. This is a pro-jobs amendment. I do not understand the opposition to it.

Mr. GEKAS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I ask the Members to vote no on this amendment. I repeat, we have taken great pains to solidify in our bill, the bill that is before us, those provisions having to do with small business that have found broad favor across the commercial world, to include the Justice Department, to include the advocate for the SBA and other organizations. I ask for a no vote.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Michigan (Mr. CONYERS).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. CONYERS. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 158, further proceedings on the amendment offered by the gentleman from Michigan (Mr. CONYERS) will be postponed.

It is now in order to consider amendment No. 8 printed in House report 106–126.

AMENDMENT NO. 8 OFFERED BY MR. WATT OF NORTH CAROLINA

Mr. WATT of North Carolina. Mr. Chairman, I offer amendment No. 8, which is made in order under the rule.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Mr. WATT of North Carolina:

Beginning on page 160, strike line 23 and all that follows through line 2 on page 161.

Page 162, strike lines 1 through 15, and insert the following (and make such technical and conforming changes as may be appropriate):

''(f) An individual debtor in a case under chapter 7 or 13 of this title shall file with the court at the request of any party in interest—

''(1) 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 of relief;

''(3) any amendments to any of the tax returns, including schedules or attachments, described in paragraph (1) or (2); and

The CHAIRMAN. Pursuant to House Resolution 158, the gentleman from North Carolina (Mr. WATT) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. WATT).

Mr. WATT of North Carolina. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is a simple amendment, and hopefully it will not take the entire allotted time. This is an amendment that was offered in the Committee on the Judiciary, and the Committee on the Judiciary split evenly, so I am sure the chairman of the subcommittee has a position on it, but the Committee on the Judiciary itself has failed to express an opinion one way or another because it failed on a split vote. I believe the vote was 13 to 13.

Mr. Chairman, this bill currently requires that every bankruptcy filer, no matter whether his filing is or is not contested, file at least 3 years' worth of tax returns with the court. In our subcommittee we had hearings, and the bankruptcy judges, bankruptcy trustees, every single witness who came agreed that requiring all of these tax returns to be filed simply creates a massive paperwork burden and expense to the bankruptcy system, and that this was not a good idea. These burdens are unnecessary.

Credit industry finance studies, consumer advocacy group finance studies, all indicate that the number of abusive Chapter 7 bankruptcy filings are approximately 10 percent, at most, of the bankruptcy filings. They also indicate that the vast majority of bankruptcy filings are what they categorize as uncontested filings.

So why are we requiring tax returns for 3 years to be filed with the bankruptcy court, when in the great majority of these cases there will not be any contest about it, there will not be any need for the tax returns? They will

simply sit there in a corner in the bankruptcy court, clutter up space, take up needed time and energy to move around from place to place. They are simply unneeded.

So my amendment simply says, look, you do not have to file these returns unless some party in interest says, I want you to file the returns. If some party in interest, any party in interest in the bankruptcy wants the tax returns, all they have to do is file one sentence which says, I want the tax returns filed. They do not have to give a reason, there has to be no hearing, there does not have to be anything but one sentence saying, I want the tax returns of this filer filed, and that person would have to file them. And for some reason the author of this bill thinks that is terrible.

Mr. Chairman, I think he is overreacting. What he has decided is that every person who files a bankruptcy petition is a bad person, and we are going to impose all these burdens on him.

But Mr. Chairman, listen to what the Congressional Budget Office says about this provision. I quote: ''This section would require the Administrative Office of the U.S. courts to receive and retain the tax returns for the three most recent years preceding the commencement of the bankruptcy case for all Chapter 7 and Chapter 13 debtors, about 8 million debtors over the 2000 to 2004 period. CBO estimates that appropriations of $34 million over the next 5 years would be required to store and provide access to over 20 million tax returns.''

That is the Congressional Budget Office, who is telling the sponsor of this bill that because he thinks every filer in America of a bankruptcy petition is a bad person and ought to be subjected to this, even though nobody is ever going to look at most of these tax returns, he is willing to cost the taxpayers of America $34 million because he has this personal agenda that, I do not know, even Republican Members on the committee said, this is a bad idea. Even members of the Committee on Rules said, this is a bad idea. We support your amendment. That is how this amendment got made in order.

Yet, we are taking up valuable legislative time arguing about something that is completely inconsistent with what the professed philosophy is, to save taxpayers' money and to do something that is valuable to the system of bankruptcy. This is a provision in the bill which is not needed.

Mr. Chairman, I reserve the balance of my time.

□ 1515

Mr. GEKAS. Mr. Chairman, I yield myself such time as I may consume.

It is amazing to me that we can be criticized for trying to bring into the bankruptcy world a sense of accountability, of discipline. What is wrong with asking an individual who approaches the bankruptcy court and says, I am in terrible shape; I need to have bankruptcy relief, what is wrong with asking that individual to prove at the outset or to demonstrate at least prima facie what those financial circumstances are? That is a common sense requirement in most of the proceedings and most of the cases that we have of every conceivable kind in the court system of our country.

So here we have an individual who says, my income cannot match, cannot meet the debts that have fallen upon me. So we tell that individual to come to the bankruptcy court, to file for discharge of their obligations, to bring their income tax returns so they can show right away, to the lawyer who is helping them or to the bankruptcy court which will ultimately receive them, what their stream of income has been and what can be perceived as forecasting what income they will have in the next year or so beyond the aegis of the bankruptcy court.

That allows a couple of things to happen. Number one, it will allow many times, in our judgment, right at the outset, that the debtor and his counselor or bankruptcy adviser will come to the conclusion that he may not fare well in the bankruptcy court. The income stream that the individual has, together with the expenses that are matched against it, they might find that they would be rejected in bankruptcy. So maybe it would be better to wait a while, try to work out some of these debts and then decide later whether or not bankruptcy should be approached. That is a commonsense, valuable, preliminary finding for the debtor to make with his counselor.

We believe that that is helpful. That brings accountability, personal responsibility, and a sense of stability to the system, and may prevent countless individuals from filing bankruptcy where before all they had to say was, as is the system now, I am bankrupt, I do not have any income, and so forth. And when asked how much they make; well, they do not want to be asked those questions. They may say, I think I am making $85 a week, or whatever calculation that the debtor asserts then becomes the basis of his asking for bankruptcy relief. Well, that is wrong.

And furthermore, if we should rely on what the gentleman from North Carolina says, to ask someone or embed in the law the requirement that a tax return be requested and that that should be granted automatically, first of all, it would allow that system itself to be gamed by some.

For instance, if I am a debtor, ready to approach the filing of bankruptcy, and my counselor tells me that I may or may not be asked for an income tax return once I file, if the amendment were carried, the debtor might say, well, I will take that chance. And if the request is not made for the tax return, he glides on his merry way towards a discharge in bankruptcy. If the trustee or the bankruptcy court asks for the tax return, he still has the option to drop out of the bankruptcy filing. So, in a way, we have an uncertain system at hand under the Watt amendment.

I am not ready to vouch for the inevitability that mountains of paper will be piled on top of the paper that has already been filed. I believe that with the electronic systems that are at hand, that it may be after the first filing of the 3 years of income tax returns, that almost forthwith they would be returned to the bankrupt filer while the system goes on with an electronic recordation of the data in that income tax return. So I see some relief even in the paperwork that might not otherwise be seen. We all agree that the increased technology is helping these kinds of systems all along.

The other important feature here is that I take it from the offering by the gentleman from North Carolina that the gentleman intends to vote against the Nadler substitute which is coming, because as one of the debtor's duties that even the gentleman from New York recognizes and applauds and includes in his version of bankruptcy reform is the filing of tax returns from the previous 3 years for anyone who dares to enter the bankruptcy courts asking for relief.

The commonsense requirement that a person seeking the help of the court provide all the information necessary for the court to determine the real status of that individual is a commonsense precept of our law, and we should not have any court rely only on the word or the assertions of the person who wants relief without the evidence that will make it a more stable set of provisions.

Mr. Chairman, I reserve the balance of my time.

Mr. WATT of North Carolina. Mr. Chairman, how much time remains?

The CHAIRMAN. Both Members have 3½ minutes remaining.

Mr. WATT of North Carolina. Mr. Chairman, I yield 1 minute to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Chairman, I thank the gentleman for yielding me this time.

I wish to say to the gentleman from Pennsylvania, Mr. Chairman, that apparently the Congressional Budget Office did not see the savings that the gentleman envisions in this, and the gentleman has been here long enough to remember the Paperwork Reduction Act. Whatever happened to that?

Here, if the gentleman were to examine the proceedings in any bankruptcy court, he would quickly know that the court can demand an income tax return, and certainly any party in interest is not about to forget to bring that in to the proceeding if there is any slight notice that he needs it. So what the gentleman from North Carolina is doing is merely making this optional to anybody that wants it, and here the gentleman from Pennsylvania is resisting it.

If a Federal agency tried to promulgate this rule, the gentleman from

Pennsylvania would be leading the Congress in demanding to know why they want such unnecessary authority. So, please, let us improve the bill to at least this minor amount.

Mr. GEKAS. Mr. Chairman, I yield the balance of my time to the gentleman from Florida (Mr. FOLEY).

Mr. FOLEY. Mr. Chairman, I want to thank the gentleman from Pennsylvania (Mr. GEKAS) for his hard work on this vitally important bill and on the series of amendments we have been debating today. Clearly, we want to make certain that people pay their debts. Having been a commercial realtor and involved in the business of real estate and restaurants and different things, certainly I understand when people have trouble in society.

The one provision sponsored by the gentleman from North Carolina that would make a tax return subject to the presentation of one of the parties interested in asking for it I think strikes at what we should be trying to accomplish in the bill. Having a tax form as a requirement of a bankruptcy petition will, in fact, give the courts and all interested parties a chance to review the assets of the individual, at least the income of the individual, and whether in fact they can make due their debts to society. I think it is an important and fundamental thing that occur at the very, very beginning of a bankruptcy hearing. I think the court should be able to review in fact that they have income to satisfy their debts.

It seems time and time again I am reading about somebody who struck it rich and won the lottery, but somehow, because of the foolish management of their own money, they leave a lot of creditors out in the lurch. I would like to see some of those tax returns, and I would like to see the income from those lottery proceeds, and I think the court is entitled to them.

I think then to go and require one of the aggrieved parties to step forward and say, judge, I would like to petition to have a tax return submitted for the record so we can at least look to see if the income is there to satisfy the debts, is only going to encumber the process. It will drag it out. The debtor may say, well, I do not know where my copies are; well, let me see if I can get them; well, I may have to acquire them through the IRS to get copies back to make a presentation to the court, simply looking to delay and obfuscate the problem.

I want to speak for a moment on the amendment offered by the gentleman from Michigan (Mr. CONYERS) on the job requirements.

Mr. WATT of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. Mr. Chairman, the gentleman is aware, of course, that that possibility that he just mentioned exists under the underlying bill. If somebody does not have the tax returns, they can still come in, in an emergency situation, and have the same kind of argument.

And there is no hearing required under my amendment. I do not know which amendment the gentleman is debating. All someone has to do is file one sentence saying, I would like to have the tax returns. This is not about not filing the tax returns.

I agree with the gentleman. There are a lot of cases where the tax returns are needed, and I am not trying to impede that. I am just trying to keep mountains and mountains of paper from stacking up in the bankruptcy court.

Mr. FOLEY. Reclaiming my time, Mr. Chairman, I think that is a mountain of paperwork we desperately need to see. We need to see the facts. We need to see the proof in the pudding of what the income of the gentleman or gentlewoman was as they are making their claims to the courts. I think absent that information the courts have very little to base whether in fact this is a viable bankruptcy petition filed.

These are the types of things that will strengthen the law; so that all things that are material are filed accurately in the court and we are not waiting until we have delay after delay after delay.

So I again strongly urge the Congress to reject the amendment and proceed to support the underlying bill to bring some semblance of reasonableness to the Bankruptcy Reform Act of 1999.

Mr. GEKAS. Mr. Chairman, I yield back the balance of my time.

Mr. WATT of North Carolina. Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Chairman, this is a simply silly provision and does not, frankly, deserve the attention it is being paid on the floor today.

Why should we not waste $34 million of the taxpayers' money for no purpose at all, the gentleman from Pennsylvania asks? My answer is because it is $34 million of the taxpayers' money.

There are no hearings here. Anyone who practices bankruptcy knows that in a vast number of cases it is open and shut. Everybody knows what is going on. There are no assets, very little income, no one has any desire to see the tax forms. Anyone, any creditor, the judge, anybody who wants to see the tax form, a one-sentence request suffices.

All that not passing the amendment of the gentleman from North Carolina will do will be to waste $34 million of the taxpayers' money in order to pile up tax forms in court that no one will read.

Sure, there are many cases where we may want to see what the assets are, what the income is, whether the bankruptcy makes sense or not, whether it meets the requirements of the law. All anyone has to do is ask, and someone will ask, and those are the complicated ones. But for those where there is no question, why require the court, as is not now required, to bury itself under a mountain of paper for no other purpose than to waste the taxpayers' money?

Mr. WATT of North Carolina. Mr. Chairman, how much time remains?

The CHAIRMAN. The gentleman from North Carolina (Mr. WATT) has 1½ minutes remaining.

Mr. WATT of North Carolina. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, let me just very quietly and calmly explain to the gentleman from Pennsylvania (Mr. GEKAS) and the gentleman from Florida (Mr. FOLEY) that I agree with them. There are a number of cases where tax returns are necessary in the bankruptcy court. But there are just as many cases where tax returns are unnecessary in the bankruptcy court; where no issue exists in the case, no argument about whether the person is bankrupt, nothing to be gained by having somebody bring in a stack of papers of 3 years' worth of tax returns other than that they will stack up in the corner and sit there and the taxpayers of America will have to pay the storage cost on that.

This whole notion that the gentleman has put together, that every single person ought to come in with a tax return, is just the gentleman boxing with a shadow. This is not evidence unless somebody wants it to be evidence; unless it is relevant to a determination of the outcome of the case. And all that is required under my amendment to get that tax return is a one-sentence statement saying I need the tax return. No reasons, nothing.

□ 1530

Please save the taxpayers $34 million and vote for this amendment.

The CHAIRMAN (Mr. NETHERCUTT). All time has expired.

The question is on the amendment offered by the gentleman from North Carolina (Mr. WATT).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. WATT of North Carolina. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 158, further proceedings on the amendment offered by the gentleman from North Carolina (Mr. WATT) will be postponed.

It is now in order to consider amendment No. 9 printed in House Report 106–126.

AMENDMENT NO. 9 OFFERED BY MR. WHITFIELD

Mr. WHITFIELD. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 9 offered by Mr. WHITFIELD:

Page 176, after line 24, insert the following:

SEC. 614. COMPENSATING TRUSTEES.

Title 11, United States Code, is amended—

(1) in section 104(b)(1) in the material preceding subparagraph (A)—

(A) by striking ''and''; and

(B) by inserting '', 1326(b)(3)'' before ''immediately'';

(2) in section 326, by inserting at the end the following:

''(e) Notwithstanding any other provision of this section, the court shall allow reasonable compensation under section 330(a) of this title for the services and expenses of the trustee in taking the actions described in paragraphs (1) and (2) if—

''(1) a trustee in a chapter 7 case commences a motion to dismiss or convert under section 707(b) and such motion is granted; or

''(2) the trustee demonstrates by a preponderance of the evidence that the case was converted or dismissed because of the trustee's actions.''; and

(3) in section 1326(b)—

(A) in paragraph (1), by striking ''and'';

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

(C) by adding at the end the following:

''(3)(A) the amount of the compensation described in subclauses (I) and (II) which is unpaid at the time of each such payment, prorated over the remaining duration of the plan—

''(i) and which has been allowed in a case—

''(I) converted to this chapter; or

''(II) dismissed from chapter 7 in which the debtor in this case was a debtor, whether dismissed voluntarily by the debtor or on motion of the trustee under section 707(b);

''(ii) but only to the extent such compensation has been allowed to a chapter 7 trustee under section 326(e);

''(B) the compensation payable to the chapter 7 trustee in the case under this chapter shall not exceed the greater of the trustee fee allowed pursuant to section 330 of this title plus—

''(i) $25 per month; or

''(ii) the amount payable to unsecured nonpriority creditors as provided by the plan multiplied by 5 percent, and the result divided by the number of months in the plan; and

''(C) notwithstanding any other provision of this title, any such compensation awarded to a chapter 7 trustee in a converted or dismissed case shall be payable and may be collected in a case under this chapter—

''(i) even if such amount has been discharged in a prior proceeding under this title; and

''(ii) only to the extent permitted by this section.''.

The CHAIRMAN. Pursuant to House Resolution 158, the gentleman from Kentucky (Mr. WHITFIELD) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Kentucky (Mr. WHITFIELD).

Mr. WHITFIELD. Mr. Chairman, I yield myself such time as I may consume.

First of all, I would like to certainly thank and congratulate the leadership of the gentleman from Pennsylvania (Mr. GEKAS) on this important legislation, as well as that of the gentlemen from Michigan and New York, for the hard work that they have put in on this legislation, as well as that of their staffs. It is very important legislation to reform the bankruptcy laws and to bring it up to date.

This amendment that I have, Mr. Chairman, is an amendment really about basic fairness; and that is, this legislation requires trustees to do some additional tasks, some additional work, and to simply provide them an opportunity to be compensated for that work.

Specifically, it provides the opportunity for the trustees to be compensated for the additional responsibilities they must perform pursuant to the terms of H.R. 833.

Under this bill, trustees must comply with new duties, clarifying which debtors truly need the relief provided by Chapter 7 and whether those debtors should be converted to the Chapter 13 payment plan. However, despite those additional duties, there are no provisions compensating the trustees or even giving them the opportunity to be compensated for the additional functions.

This amendment will allow the court or the bankruptcy judge to award a reasonable fee for trustees' actions resulting in a case being converted from Chapter 7 to Chapter 13.

In addition, in order to avoid overburdening debtors and reducing the effect this fee would have on the distribution to any creditors, this fee will be paid monthly over the life of the Chapter 13 plan.

It is only fair that individuals have the opportunity to be compensated for additional work performed. Therefore, Mr. Chairman, I would request that this amendment be accepted.

Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I rise in opposition to the amendment, and I yield myself such time as I may consume.

Mr. Chairman, I think that we can accept this amendment. This is a provision that we think will be helpful. We want to make sure that, whatever fees, that that would come out of the debtor's assets so that that would not be something else he would have to confront.

Mr. Chairman, I yield to the gentleman from Kentucky (Mr. WHITFIELD).

Mr. WHITFIELD. Mr. Chairman, that is my understanding; that is the intent.

Mr. CONYERS. Mr. Chairman, under those circumstances, we approve of the amendment; and I yield back the balance of my time.

Mr. WHITFIELD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I thank the gentleman from Michigan (Mr. CONYERS) for his support on this amendment.

Mr. Chairman, I yield the balance of my time to the gentleman from Pennsylvania (Mr. GEKAS).

Mr. GEKAS. Mr. Chairman, I thank the gentleman for yielding me the time.

I want to indicate, for the record, and to urge the Members that we support this amendment and that it goes to some of the dependability and predictability that we are trying to build into the revised Bankruptcy Code. So the gentleman comes to the Chamber with an amendment that is worthy of the support of all the Members.

Mr. WHITFIELD. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Kentucky (Mr. WHITFIELD).

The amendment was agreed to.

Mr. MANZULLO. Mr. Chairman, I ask unanimous consent to speak for 1 minute on the Watt amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. MANZULLO. Mr. Chairman, I was listening to the debate in my office on the Watt amendment, which would simply say that whenever the trustee or any party or any attorney requests a copy of the tax returns that that would be turned over, as opposed to having a mandatory provision requiring the filing of tax returns with a bankruptcy petition.

When I practiced law, I probably had somewhere between 300 and 500 bankruptcy petitions representing petitioners, debtors and also creditors. And if we are going to require, under the present main text of this bill, the filing of tax returns, we are going to have to pass an appropriation to increase the size of the Federal courthouses in order to hold all the paperwork.

So I speak in favor of the Watt amendment, if the tax return is requested by any party, that it could be turned over, as opposed to putting additional paperwork into every single bankruptcy petition that is filed.

The CHAIRMAN. It is now in order to consider amendment No. 10 printed in House Report 106–126.

AMENDMENT NO. 10 OFFERED BY MR. HYDE

Mr. HYDE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 10 offered by Mr. Hyde:

Page 8, beginning on line 14, strike ''(which'' and all that follows through ''104(b))'' on line 19.

Beginning on page 8, strike line 23, and all that follows through line 13 on page 9, and insert the following (and make such technical and conforming changes as may be appropriate):

''(ii) The debtor's monthly expenses shall be the debtor's monthly expenses reasonably necessary to be expended—

''(I) for the maintenance or support of the debtor, the dependents of the debtor, and, in a joint case, the spouse of the debtor if the spouse is not otherwise a dependent; and

''(II) if the debtor is engaged in business, for the payment of expenditures necessary for the continuation, preservation, and operation of such business.

Notwithstanding any other provision of this clause, the debtor's monthly expenses shall not include any payments for debts described in clauses (iii) and (iv).

Page 14, line 15, add close quotation marks and a period at the end.

Beginning on page 14, strike line 16 and all that follows through line 3 on page 15.

Page 101, after line 9, insert the following (and make such technical and conforming changes as may be appropriate):

SEC. 154. GUIDELINES FOR ASSESSING INCOME.

Section 586 of title 28, United States Code, is amended by adding at the end the following:

''(f) Not later than 1 year after the effective date of this subsection, the Director of the Executive Office for United States Trustees shall issue guidelines to assist in making assessments of whether income is not reasonably necessary to be expended by a debtor for the maintenance or support of the debtor, the dependents of the debtor, and, in a joint case, the spouse of the debtor if the spouse is not otherwise a dependent.''.

Page 153, line 23, insert ''as amended by section 154,'' after ''Code,''.

Page 154, line 3, strike ''(f)'' and insert ''(g)''.

Page 154, line 5, strike ''(f)(1)(A)'' and insert ''(g)(1)(A)''.

Page 156, line 22, strike ''586(f)'' and insert ''586(g)''.

Page 157, line 4, strike ''586(f)'' and insert ''586(g)''.

The CHAIRMAN. Pursuant to House Resolution 158, the gentleman from Illinois (Mr. HYDE) and the gentleman from Pennsylvania (Mr. GEKAS) each will control 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Chairman, I yield half my time to the gentleman from Michigan (Mr. CONYERS), and I ask unanimous consent that he may control that time.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. HYDE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased to speak in support of an amendment that I am offering, together with the gentleman from Michigan (Mr. CONYERS), that relates to permissible living expenses of debtors and their families. It replaces the bill's reliance on Internal Revenue Service expense allowances and instead incorporates a test based on the disposable income standard of current law, namely, whether income is reasonably necessary for maintenance or support.

To enhance predictability, the amendment requires the Director of the Executive Office for United States Trustees to issue guidelines that will be considered in the application of the ''reasonably necessary'' standard.

Before discussing our proposed amendment relating to living expenses, I want to emphasize, and I mean ''emphasize,'' that various pro-creditor enhancements in Section 102, the relevant section of the bill, are unaffected by this amendment. These enhancements greatly expand the potential for utilizing Bankruptcy Code Section 707(b) to remove cases from Chapter 7 of the Bankruptcy Code, where a debtor can receive a limited discharge of obligations in return for giving up nonexempt assets.

By recent count, there are a dozen pro-creditor enhancements in Section 102 that my amendment leaves in place and 63 creditor-friendly reforms in other sections of the bill. Believe me, we can enact legislation that is highly favorable to creditors without depriving debtors and their families of ''reasonably necessary'' living expenses.

This bill effectuates a major shift in bankruptcy policy, a change in direction that necessitates focusing on what portion of a debtor's future income will be available to meet the requirements of daily living. For the last century, individual debtors generally have been able to receive an immediate financial fresh start without having to encumber their future incomes. By greatly increasing the potential for dismissing Chapter 7 liquidation cases, this bill channels many debtors into 5-year Chapter 13 repayment plans.

What will debtors, their spouses, and children be able to live on during long repayment periods? This bill says, in effect, that debtors and their families must adhere to a somewhat modified version of expense allowances formulated within the Internal Revenue Service to facilitate compromises with delinquent taxpayers. This model is inappropriate for imposition in bankruptcy because, firstly, the successful collection of taxes is a matter of national self-preservation; and, secondly, the creditors can minimize the risk of losses by adhering to prudent creditor practices.

I do not think it is a particularly Republican idea to advance the IRS living standards. Recently, Congress gave legislative expression to the need for flexibility in the application of IRS expense allowances with the IRS to determine the appropriateness of applying the schedules to individual taxpayers. It would be particularly anomalous for this body to disregard the IRS Restructuring Act of 1998 and mandate an application of IRS expense allowances in bankruptcy cases that is more rigid and inflexible than what IRS itself does in the context of accepting compromises of tax obligations.

Professor Jack Williams of Georgia State University School of Law, who chaired the National Bankruptcy Review Commission's Tax Advisory Committee, pointed out to us that tying debtor eligibility to a formula that the IRS deviates from on a regular basis makes no sense. He described the IRS collections standards as too parsimonious and said the standards are unrealistic.

The limited effort to modify the IRS expense allowances during our markup by including a potential add-on for food and clothing only of up to 5 percent and providing for continuation of private school expenses failed to solve major problems with the incorporation of IRS schedules into our bankruptcy law.

Allowances for food are included in the IRS National Standards which apply throughout the contiguous 48 States and do not reflect differing costs from one region to another. In addition, allowable expenses for food under IRS schedules increase dramatically with increases in income.

The broader problem, of course, is the bill does not even make an attempt to address problems with IRS allowances unrelated to food, clothing, and education.

Leading national organizations with bankruptcy related expertise and credibility recognize the need to replace the IRS expense allowances in this bill. I am speaking of the Commercial Law League of America. They have written us favorably.

Judge Randal Newsome, President of the National Conference of Bankruptcy Judges, has said that, ''On behalf of the 319 members of the National Conference of Bankruptcy Judges, I firmly believe your amendment would lead to a far less complex and far more workable needs-based bankruptcy system than one which attempts to incorporate IRS expense standards.''

An unfortunate consequence of applying IRS living allowances in bankruptcy cases is to penalize some family members because they live with the debtor and cannot benefit from a support order.

The bill includes protections for the beneficiaries of support orders issued by family courts, courts that are not constrained by the living allowances the IRS seeks to impose on delinquent taxpayers.

Mr. Chairman, this is simple. What are they going to live on while they are playing out the 5 years that they have to play out paying their bills, paying their debts under Chapter 13?

The bill wants to use the IRS living standards. I want to replace them with the reasonably necessary standard, which is the current law. This bill has over 75 creditor enhancements. And to say if my amendment passes this is a deal breaker, that kills the bill, is ludicrous. There is so much in here for the creditors they ought to grab it and run.

□ 1545

It just seems to me a little humanity, a little flexibility, a little reasonableness in working out the living standards, the rules by which you are going to live on while you are working out your Chapter 13 obligations, is appropriate.

Mr. Chairman, I reserve the balance of my time.

Mr. GEKAS. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas (Mr. ARMEY), the majority leader.

Mr. ARMEY. I thank the gentleman for yielding me this time. I will be brief.

Mr. Chairman, let me say, first of all, I do not think it is any secret around here the high esteem with which I hold the gentleman from Illinois (Mr. HYDE). The gentleman from Illinois is one of my heroes and a close personal friend. It pains me to find myself ever in disagreement with a gentleman I admire so much, but I could not be more in disagreement with the gentleman from Illinois on this point than I am.

Mr. Chairman, for years we have labored here, watching bills come and bills go, markups come and markups

go, legislation pass through the floor. For all those years what I have looked to is for the Congress to act in such a way as to exercise the legislative discipline in the way the law is written, to write in an acceptable objective standard so that anybody that comes under the jurisdiction of the law will know in fact the rules of the game when they enter the courtroom.

For too many years, what we have done is we have written law in this body to leave things at a subjective level and to the discretion of the court, that for too many times and too many pieces of legislation have resulted in excessively drawn out cases under the law where in fact the law was written on an ad hoc basis, in the courtroom, by the court. Many of us who believe so much in judicial constructionism have bemoaned that liberalism in the courts.

This legislation as it comes to the floor has a good, acceptable, reasonable and I believe necessary objective standard. The Hyde-Conyers amendment would remove that and would leave us again to the vagaries of judgments in the courts and all that go with it.

No, I think at this point we must practice legislative discipline. We must write the law as Congress intends the law. And we must give everybody who would enter the courtroom under the jurisdiction of the law a clear understanding of what the law is and what are the rules of the game and what are the compliances required going into it.

I implore all of us to vote against this amendment, uphold clear, defined standards under the law. Let this legislation go forward as it does, as it is brought to the floor, as legislation that once again will connect freedom and responsibility in financial dealings as a message before all our families.

We all teach these lessons to our children about accepting your responsibilities and fulfilling your responsibilities. Let the bankruptcy laws of this great land be a complement to the teachings we give our children and an encouragement to that, and let our children know the standards of compliance that are expected of them under the law. Let us not leave that to the whim of a judicial proceeding.

Mr. CONYERS. Mr. Chairman, I yield myself 5 minutes.

May I make it clear to my colleagues that there is no other amendment that I support stronger than this one with the gentleman from Illinois (Mr. HYDE), deleting provisions in the bill that would impose the sort of one-size-fits-all standard for the income and expense test based on IRS standards to determine who is eligible for bankruptcy relief and how much they are required to pay their creditors. I am appalled with the thought of using IRS expense standards.

First, the IRS standards do not protect a debtor's ability to pay for health care, for elderly, care for the elderly, taxes, accounting or legal fees. Now, an IRS standard like this has the effect of requiring the payment of unsecured credit card debt before allowing for payment of these important family-friendly items.

In the second place, where the IRS does allow specific expense items, the permitted amounts are often inhumanely inadequate. For example, the permitted automobile expense in the San Francisco Bay area for two cars is $373 per month, even though most families could barely cover the cost of automobile insurance, let alone car payments, gasoline, tolls and other items of expense.

Question: How can we expect people to keep their jobs if we do not provide them with enough money for transportation to get to work?

Number three, the IRS standards have a severe bias against renters and other debtors without secured debts. This is because the bill allows all secured debt payments to be deducted from monthly income but limits rental and lease payments to the amount permitted by the IRS standards. This means that the person renting apartments or leasing cars may not be able to deduct the full amount of their housing and transportation cost in bankruptcy, while persons with mortgages and automobile debt would be able to do so. There is no legitimate policy rationale for this discrepancy which punishes persons who try to live within their means.

I have just a few letters that I will shortly put in the RECORD. From the American Federation of State, County and Municipal Employees we have a strong letter arguing against the means test. From the American Federation of Labor, we have a legislative alert that says imposing an unworkable and unfair means test on families seeking to obtain a fresh start under Chapter 7 is to be avoided. We also have a letter from the United Automobile Workers of America, who are particularly disturbed by the up-front arbitrary means test that would unfairly bar many working families from being able to obtain a fresh start under Chapter 7.

Mr. Chairman, this is probably the touchstone of this whole bill. If we could move to this agreement to accept this joint amendment, we may be able to save this bill from being turned down in the administration. I am urging the Members to give this their consideration and ultimately their support.

Mr. Chairman, I include the following material for the RECORD:

AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, AFL–CIO,

Washington, DC, April 19, 1999.

DEAR REPRESENTATIVE: On behalf of 1.3 million members of the American Federation of State, County and Municipal Employees (AFSCME), I am writing concerning the scheduled mark up of the Bankruptcy Reform Act of 1999 (H.R. 833). We urge you to oppose H.R. 833 because it represents one-sided legislation that elevates the interests of banks and credit card companies above the interests of working men and women.

Many hard-working American families find themselves in unfortunate financial positions due to circumstances beyond their control. These families typically struggle with their debts for substantial periods of time. They work extra hours at multiple jobs, or borrow money from their relatives and friends. They try to avoid bankruptcy to protect their homes and save their credit ratings. But these efforts often fail, especially when the creditors refuse to give them a second chance that they desperately need.

H.R. 833 contains numerous provisions that will allow creditors, particularly the credit card industry, to unfairly burden or harass working families. Of particular concern is the ''means test'' that would unfairly bar many working families from being able to obtain a fresh start under Chapter 7.

There is no economic evidence to suggest that the profiles of families in Chapter 7 have improved since last year's Conference Report was published. During the debate over the bankruptcy legislation last year, much evidence was presented to the contrary; families in Chapter 7, on average, are worse off today than in the past. There is also no evidence that these families are abusing the system.

AFSCME supports balanced bankruptcy reform, but this bill departs from the bipartisan version of reform which cleared the Senate floor last fall. We again urge you to vote against H.R. 833.

Sincerely,

CHARLES M. LOVELESS,
Director of Legislation.

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,

Washington, DC, April 20, 1999.

Hon. HENRY J. HYDE,
Chairman, House Committee on the Judiciary, Washington, DC.

DEAR MR. CHAIRMAN: This week the House is scheduled to take up H.R. 833, the Bankruptcy Reform Act of 1999. The AFL–CIO is opposed to this radical legislation. It will harm working families and weaken a vital safety net protecting small businesses and jobs in times of economic downturn.

Specifically, the AFL–CIO opposes provisions in the bill that:

Threaten jobs by placing substantial procedural and substantive barriers in the way of small businesses' access to the protections of Chapter 11;

Threaten jobs by broadening the scope of signal asset real estate debtors subject to rules which increase the threat of disruptive summary foreclosures of commercial property;

Threaten jobs by requiring commercial debtors to assume or reject commercial leases within a rigid timetable, which would force debtors to favor one class of creditors over others, and threaten their overall ability to successfully reorganize.

Impose an unworkable and unfair ''means'' test on families seeking to obtain a fresh start under Chapter 7;

Impose burdensome, bureaucratic requirements on consumer debtors that could result in the arbitrary dismissal of many bankruptcy petitions, even when there is no abuse and working families genuinely need relief; and

Place severe, punitive restrictions on repeat consumer filings.

The current bankruptcy system is the result of decades of thoughtful, careful bi-partisan legislative efforts, designed to balance the interests of creditors, debots and the nation as a whole. Working families and their unions participate in this system as debtors, creditors and employees of both debtors and creditors. We have much to lose if this system becomes unbalanced or damaged by hasty and poorly thought-out changes.

But the real danger posed by H.R. 833 is the threat it poses to our economy's ability to weather downturns. The bill aims to make access to the bankruptcy process more difficult for our economy's most vulnerable links—small businesses and consumers. This will likely result in increased business closures, job loss and home foreclosure, increasing the severity and length of any future economic downturn. It does so in the face of academic data showing that consumers filing bankruptcy are overwhelmingly working families who have experienced a catastrophic event—families whose median income is less than $18,000.

H.R. 833 threatens jobs and tilts the playing field against working families and small businesses. We urge the Senate to reject the harsh and ill-considered proposals embodied in the current text of H.R. 833.

Sincerely,

PEGGY TAYLOR,
Director, Department of Legislation.

INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA—UAW

Washington, DC, April 28, 1999.

DEAR REPRESENTATIVE: This week the House is scheduled to vote on H.R. 833, the Bankruptcy Reform Act of 1999. This bill incorporates the Conference Report on the bankruptcy legislation in the last Congress. The UAW opposed that Conference Report, and we urge you to oppose H.R. 833, because they represent one sided legislation that elevates the interests of banks and credit card companies above the interests of working men and women.

Many hard-working American families find themselves in unfortunate financial positions due to circumstances beyond their control. Layoffs, divorce and medical crisis can quickly introduce financial instability into the lives of workers and their families. These families typically struggle with their debts for substantial periods of time. They work extra hours and multiple jobs, or borrow money from their relatives and friends. They try to avoid bankruptcy to protect their homes and save their credit rating. But these efforts often fail, especially when creditors refuse to give them a second chance that they desperately need.

Like last year's Conference Report, H.R. 833 contains numerous provisions that will allow creditors, particularly the credit card industry, to unfairly burden or harass working families. We are particularly disturbed with its up-front, arbitrary ''means test'' that would unfairly bar many working families from being able to obtain a fresh start under Chapter 7. This concern is shared by Judiciary Chairman Hyde, as demonstrated by the series of amendments he offered to overcome the arbitrary and unfair effects of using IRS standards in the means test and to allow bankruptcy judges more discretion over the outcome. Unfortunately, these amendments were rejected by the Committee.

There is no economic evidence to suggest that the profiles of families in Chapter 7 have improved since the Conference Report was published. Indeed, during the course of the debate over the bankruptcy legislation last year, much evidence was presented to the contrary; families in Chapter 7, on average, are worse off today than the past. There is also no objective evidence that these families are abusing the system. Despite credit industry claims to the contrary, a recent study commissioned by the American Bankruptcy Institute found that only 3 percent of Chapter 7 filers could afford to repay some portion of their debt—a finding that was also confirmed by the U.S. Trustee's office.

The UAW is also deeply concerned that H.R. 833 contains only watered-down consumer ''protections''. For example, it would not provide for meaningful disclosure about the consequences of making low credit card payments. It also fails to adequately protect debtors against strong-arm tactics used by creditors to re-affirm debt, abuses that have been recently well-documented in the Sears case and others.

The UAW also is troubled that H.R. 833 places substantial procedural and substantive barriers in the way of small business seeking to re-organize under Chapter 11. This could result in the loss of thousands of jobs for American workers.

The UAW supports balanced bankruptcy reform. But that is not what H.R. 833 is about. Instead, it would favor the interests of credit card companies and banks over the interests of hard working families that are experiencing financial difficulties. We therefore urge you to oppose H.R. 833.

Sincerely,

ALAN REUTHER,
Legislative Director.

Mr. Chairman, I reserve the balance of my time.

Mr. GEKAS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we share, all of us, the reverence for the gentleman from Illinois (Mr. HYDE) and the gentleman from Michigan (Mr. CONYERS), two of the statesmen of our organization and to whom we look for decision-making on a broad spate of subject matters. But here I think they themselves may not realize what they are espousing.

I say that with all kindness, because there are many times when I do not realize what I am doing, but this may be an example of good intentions that result in unintended consequences. We have heard that phraseology many times.

What the gentlemen do, these two stalwarts of our Chamber, is shower additional benefits upon the higher income people in our society. How do they do that? All of us will agree that this whole process begins with the median income. Those people at the median income or less are protected by legislation that the gentleman from Illinois himself has put into this bill, the safe harbor. Those people are beyond the accountability that we seek from others because they are in such bad shape that they must be given almost automatically a fresh start.

But now we are going to the higher income, over $50,000, 60, 70, 80, 90. Now, those people under our bill, we have a set of standards to make sure that when we scrutinize their financial circumstances, we can find, if at all, the possibility that they could repay some of the debt. By putting these objective standards in it that we have, the IRS standards, we are putting a standard into play which allows a reasonable, objective scrutiny of these financial circumstances.

Look what the gentleman from Illinois and what the gentleman from Michigan do. They say that for the $90,000 or $100,000 earner, we do not have to use these objective standards, let us use subjective standards, reasonable and necessary expenses. That means that before some fact finder a debtor can plead a Rolls Royce and really make a case or try to make a case that that is reasonable and necessary—I am exaggerating, of course, to make a point—for the conduct of that person's enterprise.

For a variety of things from Oregon to Georgia, there would be 20 different types of decisions made by 25 different courts on 25 different items in a bankruptcy proceeding. Disparity will return. We are trying to get rid of disparity. Flexibility of outcome will return where we are trying to contract that, to bring predictability and stability into the system.

I do not believe that, in looking at it very closely, that the gentleman from Michigan and the gentleman from Illinois would want to shower additional benefits on the higher income people, because that is what the result is. They are loosening those standards, returning them to the status quo now where so many of the high earners are escaping scrutiny in the bankruptcy system. That is what their unintended consequences might be.

Furthermore, all the worry that the gentleman from Illinois articulates about the lack of discretion and flexibility is taken care of by one flat phraseology that we employ in our bill, and that is extraordinary circumstances. When we have a situation, even when we apply the objective standards which we think are absolutely necessary for stability of the system, but we also allow a variance from that when extraordinary circumstances can be demonstrated, then we have covered all the concerns that the gentleman from Illinois and the gentleman from Michigan express and still retain that stalwart set of objective standards that brings predictability and stability to the system.

We must reject it, while applauding the gentlemen for their intentions, but the intentions of the proponents and sponsors of this bill is to make sanity out of a system that has gone awry. What they do is retain the status quo. We resist that temptation by saying to the Members, vote ''no'' on the Hyde-Conyers amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield 4 minutes to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Chairman, the picture painted by the gentleman from Pennsylvania (Mr. GEKAS) would be funny if it were not serious. The gentleman from Illinois (Mr. HYDE), that paragon, supporter and champion of the raging liberal judiciary. Who believes that?

The fact of the matter is that I must commend the gentleman from Illinois and the gentleman from Michigan for this amendment, for trying to retain some humanity in the bankruptcy courts.

□ 1600

The objective standards of which the gentleman from Pennsylvania (Mr.

GEKAS) speaks are rigid and inhumane standards, inhumane standards that this Congress told the IRS to junk last year because we found they were inhumane. They are also standards that ignore the facts.

In addition to what the gentleman from Michigan said before about the things they ignore, the fact is these standards are rigid and are averages. If you are a bankrupt and you are going to bankruptcy and they want to figure out how much you can afford to pay, the proper question is, what is your rent? What is your mortgage? Not what is the average mortgage payment in the northeast United States. If the IRS says the average mortgage payment in the United States is $400 a month, but your mortgage payment is $500, try to tell the bank that you can only pay $400. See how far you get.

The fact is, a means test ought to be based on the reality, on the facts. What is your real income? That is a problem with this test that this amendment does not deal with, but what is your real income? What are your real expenses? Not what the IRS thinks the expenses of the average person in New York or California might be.

The gentleman from Pennsylvania (Mr. GEKAS) says that you have the safe harbor, that people under the median income are excluded from this means test. He forgets his own bill, because this means test is used in Chapter 13 without the safe harbor. In Chapter 13 this means test says how much you can afford to repay in a repayment plan, even if you are making $10,000 or $20,000 and you are under the median. But, again, how much can you afford to repay? Who cares what your real expenses are? All we care about is what the IRS says. That is simply unjust. It simply will produce injustice.

This amendment would have the executive office of the United States trustee set up standards and the judge could look at the real facts. That is what a just system is. The gentleman from Pennsylvania (Mr. GEKAS) says, well, you can go in and plead extraordinary circumstances. Sure you can, if you can spend $7,000 or $8,000 to do that with a lawyer. And you are bankrupt. Good luck.

The gentleman from Pennsylvania (Mr. GEKAS) says the gentleman from Illinois (Mr. HYDE) and the gentleman from Michigan (Mr. CONYERS) do not understand what they are doing. They certainly do understand what they are doing, and because they understand what they are doing, that is why the National Bankruptcy Conference approves of this amendment, and why the Commercial Law League and the National Association of Consumer Bankruptcy Attorneys, the National Association of Bankruptcy Trustees, the National Association of Chapter 13 Trustees, the Consumer Federation of America, the Consumers Union, Public Citizen, and everybody who knows anything about bankruptcy, except the creditors who are buying and paying for this bill, support this amendment.

Mr. GEKAS. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee (Mr. BRYANT), a member of the committee.

(Mr. BRYANT asked and was given permission to revise and extend his remarks.)

Mr. BRYANT. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I too stand in opposition to this amendment. In order to have effective bankruptcy reform, we need to have in this bill a set of uniform standards as to whether or not someone should be allowed to file in Chapter 7 or in Chapter 13 bankruptcy. The reason I oppose this amendment is that it would effectively damage the means test, using an open-ended subjective standards test. We have talked about that a little bit. You have heard about that already.

In effect what that does in the real courtroom, it allows the debtor's expenses, rather than being determined in a uniform fashion, to be determined on a case-by-case, jurisdiction-by-jurisdiction, court-by-court basis, bound only by the limits of the debtor's imagination or the discretion of the judge.

The debtor may deduct any expense, if they can show that it is reasonably necessary. If there is ever a word that is litigated to the ''Nth'' degree, it is the word ''reasonable.'' That is what you are inviting in this situation. It invites an open door for litigation every time there is a dispute over what is meant by ''reasonably necessary.'' By having more litigation, you increase the administrative burdens on the bankruptcy system and already add to a costly situation.

The ability to consider in this case that our chairman has spoken about the extraordinary circumstances I think does give the requisite flexibility that is needed, while at the same time maintaining some uniformity to this situation. Allowing bankruptcy judges to create their own test is an invitation, as has been said before, to disparate treatment of claims and confusion among creditors and all those who work within the bankruptcy system.

Mr. Chairman, in conclusion, I would say that my understanding of H.R. 833 is that it does not actually incorporate the repayment test by the IRS. Instead, it merely incorporates the categories identified by the IRS as necessary expenses. So I urge my colleagues to oppose this amendment and vote no.

Mr. GEKAS. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. ROYCE).

Mr. ROYCE. Mr. Chairman, I rise in strong opposition to the Hyde-Conyers amendment.

Mr. Chairman, this legislation, H.R. 833, is about personal responsibility. It is about clear standards. It is about correcting a system that was designed to help those who have fallen on hard times, but which is now used to protect those who can afford to pay to repay some of their debt, but they choose not to.

H.R. 833 imposes clear objective standards to give debtors, creditors, judges and trustees guidance in applying a means test used to determine who has the ability to repay some of their debt. How is this test based? On the median expenditure levels as determined by the Bureau of Labor Standards and Statistics. This represents what the average American family spends each month and what someone in bankruptcy can afford to repay.

This amendment that we are discussing removes this standard and replaces it with an entirely undefined standard of reasonably necessary expenses. Essentially this amendment would put us right back where we started.

Yesterday's Washington Post included an article which, in my view, exemplifies what is wrong with the current bankruptcy code. This article reports on a family with an annual income of $180,000. The family apparently fell on hard times and filed for bankruptcy seeking to discharge $140,000 in unsecured debt, but, upon filing, they listed as among their monthly expenses projected $600 for entertainment, $270 for cell phone expenses and so forth.

Under H.R. 833, this family would receive the same allowances for mortgage, food, clothing and utilities as they do under current law. However, they would be denied the cell phone and the entertainment allowances that most Americans who pay their bills on time do not enjoy.

Under the Conyers-Hyde amendment there would be no clear standard giving the judges the same discretion they have now, and this family and thousands in a similar situation could very well continue with the $600 entertainment and the $270 cell phone calls per month, all at the expense of the consumers who will ultimately pick up the tab.

Again, H.R. 833 imposes the clear, consistent national standards that will ensure that those that have the ability to repay their debts are in fact required to do so. This amendment eviscerates those standards, and I urge my colleagues to oppose it.

Mr. CONYERS. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, first I would point out to the gentleman that the court would merely disallow those claims that the gentleman rattled off from the newspaper. Just because someone files them does not mean they are going to get them. I cannot think of a Federal bankruptcy court that would allow that sort of thing.

Mr. Chairman, it is no answer to assert that ''glitches'', so-called, can be resolved through the bill's allowance for extraordinary circumstances, that has been raised more than once here, because establishing that a particular expense is extraordinary is neither simple nor cost free. These circumstances can only be established on

a motion to the court prepared by legal counsel.

We are talking about bankrupts. The motion must be detailed, documented and subject to creditor challenge. Moreover, the burden of proof lies with the debtor in establishing extraordinary circumstances. So if the debtor's motion fails, he is then subject to paying the creditor's fees and costs. Collectively, these risks provide a tremendous disincentive for debtors to claim extraordinary circumstances. To add insult to injury, the bill does not even provide for the deduction of the legal expenses needed to establish extraordinary circumstances.

The IRS standards should offend us all, every Member of this body. They have been rejected by us, abandoned by the IRS, and, yet, the credit card companies would have us apply them in bankruptcy. We, who are so strongly opposed to abusive IRS collection tactics in the income tax context, cannot be supportive of incorporating these same standards into bankruptcy law.

Mr. Chairman, this amendment goes to the heart of my concerns about the bill. If it is adopted, we may have a chance. I urge Members to give it their unfettered support.

Mr. GEKAS. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia (Mr. BOUCHER).

Mr. BOUCHER. Mr. Chairman, I thank the gentleman from Pennsylvania for yielding me time.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Illinois and the gentleman from Michigan. If adopted, the amendment would seriously undermine the needs-based test for the entry into Chapter 7 that is at the very core of this bankruptcy reform.

Our major goal in proposing bankruptcy reform is to assure that people who need bankruptcy protection, but who can afford to repay a substantial part of what they owe, receive their protection in Chapter 13 plans in which the court will supervise the repayment.

In the process of determining who can afford to repay a substantial part of their debt, the bill subtracts from the debtor's monthly income a number of items: All secured debt is subtracted; all priority debts, including child support and back taxes are subtracted; certain school tuition costs are subtracted; and living expenses based upon standards determined by the Internal Revenue Service are also subtracted.

The amendment that is now being considered would replace the certainty of the IRS standard with a discretionary standard for bankruptcy judges to determine what expenses are reasonably necessary. The certainty of the IRS standard should be retained, and, in support of that position, I would cite these arguments.

First, the Internal Revenue Service standards are generous. In a review of 2,100 bankruptcy filings in 1997 conducted by a major accounting firm, it was found that the living expenses under the IRS standard are, on average, 8 percent higher than the actual expenses reported by Chapter 7 filers. The expenses allowed under the standard are clearly more than adequate.

Secondly, discretion already exists for bankruptcy judges and trustees to move filers from Chapter 7 to Chapter 13 by the filing of a motion alleging that petitioners are substantially abusing Chapter 7 because they can repay a large part of the debt and really belong in Chapter 13. But, as a practical matter, these motions are rarely filed today by trustees or by bankruptcy judges.

□ 1615

The amendment now under consideration would simply move this complete discretion over whether to bring a substantial abuse motion to the living expense portion of the process.

Since judges and trustees have been reluctant to use their existing discretion to require a greater use of Chapter 13 and the lesser use of Chapter 7, there is little reason to have confidence that essentially the same discretion will be any better used under the Hyde-Conyers amendment than it is under the current process. If it is not, the core reform that we are seeking to achieve will not be achieved.

The better course is to reject this amendment and to retain the certainty of the IRS standard in determining reasonable living expenses.

Mr. GEKAS. Mr. Chairman, I yield 1 minute to the gentleman from Michigan (Mr. SMITH).

Mr. SMITH of Michigan. Mr. Chairman, the reason I am supporting this bill is because it has the tendency of making loans more available and it has the tendency of bringing interest rates down.

This amendment throws open the door for litigation every time there is a dispute as to whether a debtor's particular expenses are reasonably necessary. This will dramatically increase administrative burdens on the bankruptcy system.

It also leaves the door open to indecision based on individual judge interpretation. Passing this amendment and doing away with the bill's more definite guidelines means those interest rates will not come down; it means that the increased availability of those loans will not be forthcoming until the lenders have decided what judges are going to do with the discretion that is added by the Hyde amendment.

H.R. 833 does not incorporate the actual repayment test used by the IRS. Instead, it incorporates the categories identified by the IRS as necessary expenses. This is an important distinction because the means test of H.R. 833 is more flexible than anything used by the IRS.

The ability to consider "extraordinary circumstances" provided for under the bill is a better mechanism to establish fair and equitable reform than the amendment giving bankruptcy judges discretion to create their own tests of "reasonableness".

Allowing bankruptcy judges to create their own test is an invitation not only to the different treatment of debtors but also to confusion among creditors and those who work within the bankruptcy system.

I urge defeat of the Hyde amendment.

Mr. GEKAS. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Mrs. TAUSCHER).

Mrs. TAUSCHER. Mr. Chairman, I rise in opposition to this amendment. The Bankruptcy Reform Act would ensure that Americans who can reasonably repay some of their debt will do so. It is based on the principle of personal responsibility and intended to stem the tide of American bankruptcy filings.

The Hyde-Conyers amendment flies in the face of that fundamental principle. Instead of establishing a reasonable standard of living expenses, as the bill does, this amendment would give judges broad authority to determine, quote/unquote, reasonably necessary expenses.

This definition is ambiguous. It provides a loophole for bankruptcy filers to avoid repayment and maintains one of the deficiencies of the current system.

This legislation recognizes not everyone who files for bankruptcy is able to repay their debts but it employs a reasonable standard to make that determination. The Hyde-Conyers amendment would remove that reasonableness from the bill. I urge my colleagues to oppose the Hyde-Conyers amendment and support the Bankruptcy Reform Act.

Mr. HYDE. Mr. Chairman, I yield myself the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield 30 seconds to the gentleman from Illinois.

The CHAIRMAN. The gentleman from Illinois (Mr. HYDE) is recognized for 3 minutes.

(Mr. HYDE asked and was given permission to revise and extend his remarks.)

Mr. HYDE. Mr. Chairman, my colleagues are making a virtue out of what is a vice, and that is the inflexibility of the IRS standards. The cost of food in Omaha, Nebraska or Boise, Idaho, is different than in downtown Manhattan. So what is realistic about an inflexible standard? Why not give some wiggle room so that humanity can play out?

This could be a good bill. It is a great bill for the creditors, I can say. I have 75 enhancements here for the creditors. Why not throw a little small bone to the debtor?

Do not talk about "reasonably necessary" as too vague. Are my colleagues aware, those who have said that, that there is 15 years of litigation and decisional authority interpreting that? Of course. "Reasonable" is a word used in negligence law, in the exercise of reasonable care and caution. To hear some of my colleagues talk, I would think this was from outer space. That is nonsense.

We have to allow for regional differences, for family differences. A reasonably necessary standard is ascertainable.

I am as capitalist as anybody, I am as conservative as anybody, but it does not seem to me when there is a bill that is truly tilted towards the creditors, that giving a little flexibility for living standards for people who are bankrupt is a violation of one's credentials as a conservative.

The median income that the gentleman from Pennsylvania (Mr. GEKAS) mentioned of $51,000 sounds like a lot of money, but that is for a family of four, a family of four. That may be a lot of money in Boise, Idaho. It may be very little in New York.

Give some flexibility. The current law is what ought to obtain. My colleagues are trying to change it by putting the IRS standards in. It is the first time, and I dare say the last time, so much kind approbation will be showered on the IRS by this side of the aisle. I certainly do not join in that showering.

So this litigation, there will be litigation on the IRS standards, there will be as much litigation as anyone wants.

This could be a good bill. I support this bill, but for goodness sake give some humanity in the establishment of living standards while paying out Chapter 13.

Lastly, let me pay my respects to the creditor lobby. They are awesome.

Mr. GEKAS. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, we return to the recurring issue. The current state of bankruptcy is in a chaotic mess. One of the reasons is that an individual who wishes to file bankruptcy finds it very easy to do so. Very few standards are applied.

The system needed tightening up. Everybody in the world knows that. Creditors, and the credit lobby, really understand that; there is no question about it. We understand how they understand it. On the other hand, an objective onlooker, the lawmakers that we are, who are eager to tighten up the bankruptcy laws because it is good for our society, it is good for our economy, it saves money for consumers to prevent bankruptcies, it saves money for taxpayers to prevent bankruptcies, it helps the tax collecting authorities like State governments, school boards, municipal governments to be able to regain some of their lost taxes by reason of unwarranted bankruptcies, all of these societal needs are met in our bill.

What really is something that must be made clear to first the Members of Congress and then to the public is that the current system, that chaotic system, has too much flexibility. What the Hyde-Conyers amendment does is return too much flexibility to a system where we are trying to create standards and to tighten up on every corner of the bankruptcy field.

How ironic it is that on the one hand they remove the IRS standards because they are odious to many and then they reinsert standards to be set by a trustee panel. So all of a sudden we are back to establishing standards anyway.

What we have found throughout the test of the time that has been engulfed in bankruptcy reform, that the IRS standards provide the starting point and from there we have a better system at hand.

Mr. DELAY. Mr. Chairman, I rise today to urge my colleagues to vote no on this amendment. Bankruptcy reform must be allowed a chance to work.

The bankruptcy reform bill that is before us today is simply trying to jump-start a sense of personal responsibility in the area of consumer financial transactions.

Today's bankruptcy system has made it too easy for irresponsible people to pass on the burden of their financial debt to responsible people.

The greatness of this country is based on freedom. But with this freedom comes responsibility for your actions.

Because the stigma that was once associated with bankruptcy has disappeared, we see too many people using bankruptcy as a financial planning tool.

And, too many lawyers are getting rich selling that tool.

Gone is the notion that bankruptcy is to be a last-resort solution to a personal financial crisis.

Gone is the chance of receiving a fresh start only after agreeing to a repayment plan.

Instead, we see debtors routinely expecting others to pick up their tab.

That in fact is what happens when the creditor passes on his or her losses to other borrowers—everyone pays a portion of that debtor's bill.

Mr. Chairman, the bankruptcy bill under consideration today is based on the premise that those debtors who can afford to repay their debt should do so, rather that have it forgiven.

To accomplish this seemingly simple goal, an income-based means test is employed to determine if a debtor could do one of three things: have debt forgiven; reorganize and enter into a repayment plan; or refrain from filing for bankruptcy at all.

In order to differentiate amongst debtors and to end the abuses of the bankruptcy system, objective standards are needed to replace today's vague and ambiguous subjective guidelines in use by the bankruptcy courts.

Mr. Chairman, the amendment before us will undercut the basic objective of reforming the bankruptcy system by allowing judges to continue to make the same subjective decisions about repayment—the very same decisions that have not prevented recent abuse of the system.

The decision before us is clear: Vote ''yes'' only if you feel that the majority of your constituents should continue to pay the costs of these abuses.

But better yet, vote ''no'' to give bankruptcy reform a chance to instill a sense of personal responsibility in consumer financial transactions.

I urge my colleagues to vote ''no'' on this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. HYDE).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. GEKAS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. Pursuant to House Resolution 158, after this 15-minute vote on the Hyde amendment the Chair will resume proceedings on the three questions postponed earlier on which demands for recorded votes are pending. Any electronic vote after the first vote in this series will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 184, noes 238, not voting 11, as follows:

[Roll No. 110]

AYES—184

Abercrombie
Ackerman
Allen
Bachus
Baird
Baldacci
Baldwin
Barrett (NE)
Barrett (WI)
Bentsen
Berkley
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Brady (PA)
Brown (FL)
Brown (OH)
Camp
Capps
Capuano
Cardin
Carson
Chambliss
Clay
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Cummings
Danner
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Doyle
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Filner
Forbes
Ford
Fossella
Frank (MA)
Ganske
Gejdenson
Gilchrest
Gilman
Gonzalez
Green (TX)
Gutierrez
Hall (OH)
Hastings (FL)
Hill (IN)
Hilliard
Hinchey
Hinojosa
Hoeffel
Holt
Houghton
Hoyer
Hyde
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kleczka
Klink
Kucinich
LaFalce
LaHood
Lampson
Lantos
Larson
LaTourette
Leach
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Maloney (NY)
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHugh
McIntosh
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Miller, George
Minge
Mink
Moakley
Morella
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Payne
Pelosi
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ros-Lehtinen
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sawyer
Schakowsky
Scott
Serrano
Sherman
Shows
Snyder
Spratt
Stabenow
Stark
Strickland
Stupak
Thompson (MS)
Thurman
Tierney
Towns
Traficant
Udall (CO)
Udall (NM)
Vento
Visclosky
Wamp
Waters
Watt (NC)
Waxman
Weiner
Weldon (PA)
Wexler
Wilson
Wise
Woolsey
Wu

NOES—238

Aderholt
Andrews
Archer
Armey
Baker
Ballenger
Barcia
Barr
Bartlett
Barton
Bass
Bateman
Bereuter
Berry
Biggert
Bilbray
Bilirakis
Bliley
Blunt
Boehner
Bonilla

Bono
Boswell
Boucher
Boyd
Brady (TX)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Campbell
Canady
Cannon
Castle
Chabot
Chenoweth
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crane
Crowley
Cubin
Cunningham
Davis (FL)
Davis (VA)
Deal
DeLay
DeMint
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Etheridge
Everett
Ewing
Fletcher
Foley
Fowler
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Gekas
Gibbons
Gillmor
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green (WI)
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (MT)
Hilleary
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Hulshof
Hunter
Hutchinson
Isakson
Istook
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones (NC)
Kasich
Kelly
Kennedy
Kingston
Knollenberg
Kolbe
Kuykendall
Largent
Latham
Lazio
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Maloney (CT)
McCollum
McCrery
McInnis
McIntyre
McKeon
Menendez
Metcalf
Mica
Miller (FL)
Miller, Gary
Mollohan
Moore
Moran (KS)
Moran (VA)
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Ose
Oxley
Packard
Pascrell
Pastor
Paul
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Reynolds
Riley
Rivers
Roemer
Rogan
Rogers
Rohrabacher
Rothman
Roukema
Royce
Ryan (WI)
Ryun (KS)
Salmon
Sandlin
Sanford
Saxton
Scarborough
Schaffer
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Sweeney
Talent
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Thune
Tiahrt
Toomey
Turner
Upton
Velazquez
Walden
Walsh
Watkins
Weldon (FL)
Weller
Weygand
Whitfield
Wicker
Wolf
Young (AK)

NOT VOTING—11

Becerra
Berman
Brown (CA)
Gephardt
Luther
Millender-McDonald
Simpson
Slaughter
Watts (OK)
Wynn
Young (FL)

□ 1645

Messrs. PAUL, QUINN, LEWIS of California, BASS, PETERSON of Pennsylvania, and MOLLOHAN changed their vote from ''aye'' to ''no.''

Ms. McCARTHY of Missouri and Mr. EVANS changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated for:

Mr. BERMAN. Mr. Speaker, I was unable to cast a vote on the Hyde-Conyers amendment due to a family emergency. However, had I been present, I would have voted ''aye.''

Stated against:

Mr. DICKEY. Mr. Chairman, I inadvertently voted incorrectly on the Hyde-Conyers amendment. I would like the RECORD to reflect that my vote of ''yes'' should have been a vote of ''no.'' That was my intention.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to House Resolution 158, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: Amendment No. 3 offered by the gentleman from Virginia (Mr. MORAN); amendment No. 7 offered by the gentleman from Michigan (Mr. CONYERS); and amendment No. 8 offered by the gentleman from North Carolina (Mr. WATT).

The Chair will reduce to 5 minutes the time for any electronic vote in this series.

AMENDMENT NO. 3 OFFERED BY MR. MORAN OF VIRGINIA

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Virginia (Mr. MORAN) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 373, noes 47, not voting 13, as follows:

[Roll No. 111]

AYES—373

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baird
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berkley
Berry
Biggert
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Boswell
Boucher
Boyd
Brady (TX)
Brown (FL)
Brown (OH)
Bryant
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Capps
Capuano
Cardin
Carson
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Coyne
Cramer
Crane
Crowley
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeGette
DeLay
DeMint
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Ewing
Farr
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Fowler
Frank (MA)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Green (TX)
Green (WI)
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Herger
Hill (IN)
Hill (MT)
Hilleary
Hilliard
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Istook
Jackson (IL)
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kasich
Kelly
Kennedy
Kildee
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Knollenberg
Kolbe
Kucinich
Kuykendall
LaFalce
LaHood
Lampson
Lantos
Largent
Larson
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McGovern
McHugh
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meek (FL)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Minge
Mink
Moakley
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Ose
Oxley
Packard
Pallone
Pascrell
Pastor
Pease
Pelosi
Peterson (PA)
Petri
Phelps
Pickering
Pickett
Pitts
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun (KS)
Sabo
Salmon
Sanchez
Sanders
Sanford
Sawyer
Scarborough
Schakowsky
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Spence
Stabenow
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Talent
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Vento
Walden
Walsh
Wamp
Watkins
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
Whitfield
Wicker
Wise
Wolf
Woolsey
Wu
Young (AK)

NOES—47

Baldwin
Bonior
Bono
Borski
Brady (PA)
Burr
Canady
Cannon
Chenoweth
Conyers
DeFazio
Delahunt
DeLauro
Ehlers
Evans
Everett
Fattah
Goodling
Hefley
Hinchey
Jackson-Lee (TX)
Kilpatrick
Lee
Lipinski
Lofgren
Lowey
Martinez
McDermott
McInnis
Meehan
Meeks (NY)
Nadler
Owens
Paul
Payne

Peterson (MN)
Pombo
Ryan (WI)
Sandlin
Schaffer
Souder
Spratt
Taylor (NC)
Visclosky
Waters
Watt (NC)
Wilson

NOT VOTING—13

Becerra
Berman
Brown (CA)
Cox
Franks (NJ)
Gephardt
Luther
Saxton
Simpson
Slaughter
Watts (OK)
Wynn
Young (FL)

□ 1654

Ms. JACKSON-LEE of Texas, Mr. MEEKS of New York, and Mr. PAYNE changed their vote from ''aye'' to ''no.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT NO. 7 OFFERED BY MR. CONYERS

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Michigan (Mr. CONYERS) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 143, noes 278, not voting 12, as follows:

[Roll No. 112]

AYES—143

Abercrombie
Ackerman
Allen
Baird
Baldacci
Baldwin
Barcia
Barrett (WI)
Berkley
Bishop
Blagojevich
Bonior
Borski
Brady (PA)
Brown (FL)
Brown (OH)
Capuano
Carson
Clay
Clayton
Clyburn
Conyers
Coyne
Crowley
Cummings
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dingell
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gejdenson
Gonzalez
Green (TX)
Gutierrez
Hastings (FL)
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Houghton
Jackson (IL)
Jackson-Lee (TX)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kildee
Kilpatrick
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Larson
Lee
Lewis (GA)
Linder
Lowey
Maloney (NY)
Markey
Martinez
Mascara
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Minge
Moakley
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Payne
Pelosi
Phelps
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Saxton
Schakowsky
Scott
Serrano
Shows
Stark
Strickland
Stupak
Thompson (MS)
Thurman
Tierney
Towns
Traficant
Udall (CO)
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu

NOES—278

Aderholt
Andrews
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berry
Biggert
Bilbray
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boucher
Boyd
Brady (TX)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Castle
Chabot
Chambliss
Chenoweth
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Cramer
Crane
Cubin
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeLay
DeMint
Deutsch
Diaz-Balart
Dickey
Dicks
Dixon
Doggett
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ewing
Fletcher
Foley
Forbes
Fossella
Fowler
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green (WI)
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (IN)
Hill (MT)
Hilleary
Hobson
Hoekstra
Hooley
Horn
Hostettler
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Istook
Jefferson
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones (NC)
Kasich
Kelly
Kennedy
Kind (WI)
King (NY)
Kingston
Knollenberg
Kolbe
Kuykendall
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Lipinski
LoBiondo
Lofgren
Lucas (KY)
Lucas (OK)
Maloney (CT)
Manzullo
Matsui
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Miller, Gary
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Ose
Oxley
Packard
Pastor
Paul
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Reynolds
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Salmon
Sanchez
Sandlin
Sanford
Scarborough
Schaffer
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Stump
Sununu
Sweeney
Talent
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Thune
Tiahrt
Toomey
Turner
Udall (NM)
Upton
Walden
Walsh
Wamp
Watkins
Weldon (FL)
Weldon (PA)
Weller
Weygand
Whitfield
Wicker
Wilson
Wise
Wolf
Young (AK)

NOT VOTING—12

Becerra
Berman
Bilirakis
Brown (CA)
Gephardt
Luther
Simpson
Slaughter
Smith (MI)
Watts (OK)
Wynn
Young (FL)

□ 1704

Mr. DIXON changed his vote from ''aye'' to ''no.''

Mr. MINGE changed his vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated for

Mr. BERMAN. Mr. Speaker, I was unable to cast a vote on the Conyers amendment due to a family emergency. However, had I been present, I would have voted "aye."

Stated against

Mr. BILIRAKIS. Mr. Chairman, I missed rollcall Vote 112 because I was unfortunately detained and unable to make it to the floor. Had I been present, I would have voted ''no.''

AMENDMENT OFFERED BY MR. WATT OF NORTH CAROLINA

The CHAIRMAN (Mr. NETHERCUTT). The pending business is the demand for a recorded vote on the amendment offered by the gentleman from North Carolina (Mr. WATT) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 192, noes 230, not voting 11, as follows:

[Roll No. 113]

AYES—192

Abercrombie
Ackerman
Allen
Bachus
Baird
Baldwin
Barcia
Barrett (WI)
Bentsen
Bereuter
Berkley
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Bryant
Burr
Campbell
Canady
Capps
Capuano
Cardin
Carson
Chenoweth
Clay
Clayton
Clyburn
Coble
Conyers
Costello
Coyne
Crowley
Cummings
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Fossella
Gejdenson
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (OH)
Hastings (FL)
Hill (IN)
Hilliard
Hinchey
Hinojosa
Hoeffel
Holt
Hooley
Hyde
Inslee
Jackson (IL)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kildee
Kilpatrick
King (NY)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Larson
LaTourette
Lee
Levin
Lewis (GA)
Linder
Lipinski
Lofgren
Lowey
Maloney (NY)
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCrery
McDermott
McGovern
McHugh
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald

Miller (FL)
Miller, George
Minge
Mink
Moakley
Mollohan
Moran (VA)
Murtha
Myrick
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne
Pease
Pelosi
Petri
Phelps
Price (NC)
Rahall
Rangel
Reyes
Reynolds
Rivers
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Schakowsky
Scott
Serrano
Sherwood
Smith (NJ)
Snyder
Spratt
Stabenow
Stark
Strickland
Stupak
Tancredo
Thompson (MS)
Thurman
Tierney
Towns
Traficant
Turner
Udall (CO)
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weiner
Wexler
Whitfield
Wise
Wolf
Woolsey
Wu

NOES—230

Aderholt
Andrews
Archer
Armey
Baker
Baldacci
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Berry
Biggert
Bilbray
Bilirakis
Bliley
Blunt
Boehner
Bonilla
Bono
Boswell
Boucher
Brady (TX)
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Castle
Chabot
Chambliss
Clement
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crane
Cubin
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeLay
DeMint
Deutsch
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
Engel
English
Everett
Ewing
Fletcher
Foley
Forbes
Ford
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Green (WI)
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (MT)
Hilleary
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Isakson
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones (NC)
Kasich
Kelly
Kennedy
Kind (WI)
Kingston
Knollenberg
Kolbe
Kuykendall
LaHood
Largent
Latham
Lazio
Leach
Lewis (CA)
Lewis (KY)
LoBiondo
Lucas (KY)
Lucas (OK)
Maloney (CT)
McCollum
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Miller, Gary
Moore
Moran (KS)
Morella
Nethercutt
Ney
Northup
Norwood
Nussle
Ose
Oxley
Packard
Pascrell
Paul
Peterson (MN)
Peterson (PA)
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Saxton
Scarborough
Schaffer
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shows
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (TX)
Smith (WA)
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Sweeney
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Thune
Tiahrt
Toomey
Udall (NM)
Upton
Walden
Walsh
Wamp
Watkins
Weldon (FL)
Weldon (PA)
Weller
Weygand
Wicker
Wilson
Young (AK)

NOT VOTING—11

Becerra
Berman
Brown (CA)
Gephardt
Jackson-Lee (TX)
Luther
Simpson
Slaughter
Watts (OK)
Wynn
Young (FL)

□ 1715

Mr. PALLONE changed his vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated for:

Mr. BERMAN. Mr. Speaker, I was unable to cast a vote on the Watt amendment due to a family emergency. However, had I been present, I would have voted ''aye.''

Ms. JACKSON-LEE of Texas. Madam Speaker, during Rollcall Vote No. 113, the Watt amendment under bill H.R. 833 on May 5, 1999, I was unavoidably detained. Had I been present, I would have voted ''aye.''

The CHAIRMAN. It is now in order to consider amendment No. 11 printed in House Report 106–126.

AMENDMENT IN THE NATURE OF A SUBSTITUTE NO. 11 OFFERED BY MR. NADLER

Mr. NADLER. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute No. 11 offered by Mr. NADLER:

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 ''Bankruptcy Reform Act of 1999''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—CONSUMER BANKRUPTCY PROVISIONS

Subtitle A—Needs based bankruptcy

Sec. 101. Conversion.
Sec. 102. Dismissal or conversion.
Sec. 103. Notice of alternatives.
Sec. 104. Debtor financial management training test program.

Subtitle B—Consumer Bankruptcy Protections

Sec. 105. Definitions.
Sec. 106. Enforcement.
Sec. 107. Sense of the congress.
Sec. 108. Discouraging abusive reaffirmation practices.
Sec. 109. Promotion of alternative dispute resolution.
Sec. 110. Enhanced disclosure for credit extensions secured by a dwelling.
Sec. 111. Dual use debit card.
Sec. 112. Discouraging reckless lending practices.
Sec. 113. Protection of savings earmarked for the postsecondary education of children.
Sec. 114. Effect of discharge.
Sec. 115. Limiting trustee liability.
Sec. 116. Reinforce the fresh start.
Sec. 117. Discouraging bad faith repeat filings.
Sec. 118. Curbing abusive filings.
Sec. 119. Debtor retention of personal property security.
Sec. 120. Relief from the automatic stay when the debtor does not complete intended surrender of consumer debt collateral.
Sec. 121. Giving secured creditors fair treatment in chapter 13.
Sec. 123. Fair valuation of collateral.
Sec. 124. Domiciliary requirements for exemptions.
Sec. 125. Restrictions on certain exempt property obtained through fraud.
Sec. 126. Rolling stock equipment.
Sec. 127. Discharge under chapter 13.
Sec. 128. Bankruptcy judgeships.
Sec. 129. Additional amendments to title 11, United States Code.
Sec. 131. Application of the codebtor stay only when the stay protects the debtor.
Sec. 132. Adequate protection for investors.
Sec. 134. Giving debtors the ability to keep leased personal property by assumption.
Sec. 135. Adequate protection of lessors and purchase money secured creditors.
Sec. 136. Automatic stay.
Sec. 137. Extend period between bankruptcy discharges.
Sec. 139. Priorities for claims for domestic support obligations.
Sec. 142. Nondischargeability of certain debts for alimony, maintenance, and support.
Sec. 143. Continued liability of property.
Sec. 144. Protection of domestic support claims against preferential transfer motions.
Sec. 145. Clarification of meaning of household goods.
Sec. 147. Monetary limitation on certain exempt property.
Sec. 148. Bankruptcy fees.
Sec. 149. Collection of child support.
Sec. 150. Excluding employee benefit plan participant contributions and other property from the estate.
Sec. 151. Clarification of postpetition wages and benefits.
Sec. 152. Exceptions to automatic stay in domestic support obligation proceedings.
Sec. 153. Automatic stay inapplicable to certain proceedings against the debtor.
Sec. 154. Definition of domestic support obligation.
Sec. 155. Requirements to obtain confirmation and discharge in cases involving domestic support obligations.
Sec. 156. Exceptions to automatic stay in domestic support obligation proceedings.
Sec. 157. Exemption for right to receive certain alimony, maintenance, or support.
Sec. 158. Automatic stay inapplicable to certain proceedings against the debtor.

TITLE II—DISCOURAGING BANKRUPTCY ABUSE

Sec. 201. Reenactment of chapter 12.
Sec. 202. Meetings of creditors and equity security holders.
Sec. 203. Protection of retirement savings in bankruptcy.
Sec. 204. Protection of refinance of security interest.
Sec. 205. Executory contracts and unexpired leases.
Sec. 206. Creditors and equity security holders committees.

Sec. 207. Amendment to section 546 of title 11, United States Code.
Sec. 208. Limitation.
Sec. 209. Amendment to section 330(a) of title 11, United States Code.
Sec. 210. Postpetition disclosure and solicitation.
Sec. 211. Preferences.
Sec. 212. Venue of certain proceedings.
Sec. 213. Period for filing plan under chapter 11.
Sec. 214. Fees arising from certain ownership interests.
Sec. 215. Claims relating to insurance deposits in cases ancillary to foreign proceedings.
Sec. 216. Defaults based on nonmonetary obligations.
Sec. 217. Sharing of compensation.
Sec. 218. Priority for administrative expenses.

TITLE III—GENERAL BUSINESS BANKRUPTCY PROVISIONS

Sec. 301. Definition of disinterested person.
Sec. 302. Miscellaneous improvements.
Sec. 303. Extensions.
Sec. 304. Local filing of bankruptcy cases.
Sec. 305. Permitting assumption of contracts.

TITLE IV—SMALL BUSINESS BANKRUPTCY PROVISIONS

Sec. 401. Flexible rules for disclosure Statement and plan.
Sec. 402. Definitions.
Sec. 403. Standard form disclosure Statement and plan.
Sec. 404. Uniform national reporting requirements.
Sec. 405. Uniform reporting rules and forms for small business cases.
Sec. 406. Duties in small business cases.
Sec. 407. Plan filing and confirmation deadlines.
Sec. 408. Plan confirmation deadline.
Sec. 409. Prohibition against extension of time.
Sec. 410. Duties of the United States trustee.
Sec. 411. Scheduling conferences.
Sec. 412. Serial filer provisions.
Sec. 413. Expanded grounds for dismissal or conversion and appointment of trustee or examiner.
Sec. 414. Study of operation of title 11 of the United States Code with respect to small businesses.
Sec. 415. Payment of interest.
Sec. 416. Protection of jobs.

TITLE V—MUNICIPAL BANKRUPTCY PROVISIONS

Sec. 501. Petition and proceedings related to petition.
Sec. 502. Applicability of other sections to chapter 9.

TITLE VI—STREAMLINING THE BANKRUPTCY SYSTEM

Sec. 601. Creditor representation at first meeting of creditors.
Sec. 602. Audit procedures.
Sec. 603. Giving creditors fair notice in chapter 7 and 13 cases.
Sec. 604. Dismissal for failure to timely file schedules or provide required information.
Sec. 605. Adequate time to prepare for hearing on confirmation of the plan.
Sec. 606. Chapter 13 plans to have a 5-year duration in certain cases.
Sec. 607. Sense of the Congress regarding expansion of rule 9011 of the Federal Rules of Bankruptcy Procedure.
Sec. 608. Elimination of certain fees payable in chapter 11 bankruptcy cases.
Sec. 609. Study of bankruptcy impact of credit extended to dependent students.
Sec. 610. Prompt relief from stay in individual cases.
Sec. 611. Stopping abusive conversions from chapter 13.
Sec. 612. Bankruptcy appeals.
Sec. 613. GAO study.

TITLE VII—BANKRUPTCY DATA

Sec. 701. Improved bankruptcy statistics.
Sec. 702. Uniform rules for the collection of bankruptcy data.
Sec. 703. Sense of the Congress regarding availability of bankruptcy data.

TITLE VIII—BANKRUPTCY TAX PROVISIONS

Sec. 801. Treatment of certain liens.
Sec. 802. Effective notice to government.
Sec. 803. Notice of request for a determination of taxes.
Sec. 804. Rate of interest on tax claims.
Sec. 805. Tolling of priority of tax claim time periods.
Sec. 806. Priority property taxes incurred.
Sec. 807. Chapter 13 discharge of fraudulent and other taxes.
Sec. 808. Chapter 11 discharge of fraudulent taxes.
Sec. 809. Stay of tax proceedings.
Sec. 810. Periodic payment of taxes in chapter 11 cases.
Sec. 811. Avoidance of statutory tax liens prohibited.
Sec. 812. Payment of taxes in the conduct of business.
Sec. 813. Tardily filed priority tax claims.
Sec. 814. Income tax returns prepared by tax authorities.
Sec. 815. Discharge of the estate's liability for unpaid taxes.
Sec. 816. Requirement to file tax returns to confirm chapter 13 plans.
Sec. 817. Standards for tax disclosure.
Sec. 818. Setoff of tax refunds.

TITLE IX—ANCILLARY AND OTHER CROSS-BORDER CASES

Sec. 901. Amendment to add chapter 15 to title 11, United States Code.
Sec. 902. Amendments to other chapters in title 11, United States Code.

TITLE X—FINANCIAL CONTRACT PROVISIONS

Sec. 1001. Treatment of certain agreements by conservators or receivers of insured depository institutions.
Sec. 1002. Authority of the corporation with respect to failed and failing institutions.
Sec. 1003. Amendments relating to transfers of qualified financial contracts.
Sec. 1004. Amendments relating to disaffirmance or repudiation of qualified financial contracts.
Sec. 1005. Clarifying amendment relating to master agreements.
Sec. 1006. Federal Deposit Insurance Corporation Improvement Act of 1991.
Sec. 1007. Bankruptcy Code amendments.
Sec. 1008. Recordkeeping requirements.
Sec. 1009. Exemptions from contemporaneous execution requirement.
Sec. 1010. Damage measure.
Sec. 1011. SIPC stay.
Sec. 1012. Asset-backed securitizations.
Sec. 1013. Federal Reserve collateral requirements.
Sec. 1014. Effective date; application of amendments.

TITLE XI—TECHNICAL CORRECTIONS

Sec. 1101. Definitions.
Sec. 1102. Adjustment of dollar amounts.
Sec. 1103. Extension of time.
Sec. 1104. Technical amendments.
Sec. 1105. Penalty for persons who negligently or fraudulently prepare bankruptcy petitions.
Sec. 1106. Limitation on compensation of professional persons.
Sec. 1107. Special tax provisions.
Sec. 1108. Effect of conversion.
Sec. 1109. Allowance of administrative expenses.
Sec. 1110. Priorities.
Sec. 1111. Exemptions.
Sec. 1112. Exceptions to discharge.
Sec. 1113. Effect of discharge.
Sec. 1114. Protection against discriminatory treatment.
Sec. 1115. Property of the estate.
Sec. 1116. Preferences.
Sec. 1117. Postpetition transactions.
Sec. 1118. Disposition of property of the estate.
Sec. 1119. General provisions.
Sec. 1120. Appointment of elected trustee.
Sec. 1121. Abandonment of railroad line.
Sec. 1122. Contents of plan.
Sec. 1123. Discharge under chapter 12.
Sec. 1124. Bankruptcy cases and proceedings.
Sec. 1125. Knowing disregard of bankruptcy law or rule.
Sec. 1126. Transfers made by nonprofit charitable corporations.
Sec. 1127. Prohibition on certain actions for failure to incur finance charges.
Sec. 1128. Protection of valid purchase money security interests.
Sec. 1129. Trustees.

TITLE XII—GENERAL EFFECTIVE DATE; APPLICATION OF AMENDMENTS

Sec. 1201. Effective date; application of amendments.

TITLE I—CONSUMER BANKRUPTCY PROVISIONS

Subtitle A—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) by amending subsection (b) to read as follows:

''(b)(1) After notice and a hearing, a court, on its own motion or on a motion by the United States trustee, the trustee, or any part in interest who is eligible to bring a motion, may dismiss a case filed by an individual debtor under this chapter, or with the debtor's consent, convert such a case to a case under chapter 11 or 13 of this title if it finds that the granting of relief would be an abuse of the provisions of this chapter, the court shall consider whether—

''(A) the debtor has the ability to repay some portion of the debtor's unsecured nonpriority debt as determined under paragraphs (2) and (3);

''(B) the debtor has filed the petition in bad faith; or

''(C) the totality of the circumstances (including whether the debtor seeks to reject a personal services contract and the financial need for such rejection as sought by the debtor) of the debtor's financial situation demonstrates abuse.

''(2) In considering under paragraph (1)(A) whether the granting of relief would be an abuse of the provisions of this chapter, the court shall conclusively presume abuse does not exist if the debtor's current monthly income, when multiplied by 12, is less than or equal to 100 percent of the highest national or applicable State or Statistical Area median family income reported for a family of equal size, whichever is greater, or in the case of a household of 1 person, less than or

equal to 100 percent of the highest national or State or Metropolitan Statistical Area median household income for 1 earner, whichever is greater, as adjusted, if applicable, as provided in paragraph (6).

''(3) In considering under paragraph (1)(A) whether the granting of relief would be an abuse of the provision of this chapter, the court shall presume abuse exists if—

''(A) the debtor's current monthly income, when multiplied by 12, is less than or equal to 100 percent of the highest national or applicable State or Metropolitan Statistical Area median family income reported for a family of equal size, whichever is greater, or in the case of a household of 1 person, less than or equal to 100 percent of the highest national or State or Metropolitan Statistical Area median household income for 1 yearner, whichever is greater, as adjusted, if applicable, as provided in paragraph (6); and

''(B) the product of—

''(i) the debtor's current monthly income, reduced by allowable monthly expenses specified in paragraph (4) (which shall include, if applicable the continuation of actual expenses of a dependent child under the age of 18 for tuition, books, and required fees at a private elementary or secondary school, or comparable expenses stemming from the home education of such child, or the attendance of such child at a public elementary or secondary school, not exceeding $10,000) and monthly debt payments specified in paragraph (5), and

''(ii) multiplied by 36,

less estimated administrative expenses and reasonable attorneys' fees, is not less than $6,000 of the debtor's nonpriority unsecured claims in the case.

''(4) For the purposes of this subsection, the debtor's allowable monthly expenses shall be the expenses reasonably necessary—

''(A) for the maintenance or support of the debtor, the dependents of the debtor, and in a joint case, the spouse of the debtor if the spouse is not otherwise a dependent; and

''(B) if the debtor is engaged in business, for the payment of expenditures necessary for the continuation, preservation, and operation of such business.

Notwithstanding any other provision of this clause, the debtor's monthly expenses shall not include payments for debts described in paragraph (5).

''(5) For purposes of this subsection, the debtor's monthly debt payments shall include—

''(A) the total amount scheduled as contractually due on all secured debts in each month of the 36 months following the date of the petition and divided by 36; and

''(B) the debtor's expenses for payment of all priority claims, including priority domestic support obligations, calculated as the total amount of debts entitled to priority in each month of the 36 months following the date of the petition and divided by 36.

''(6) For the purposes of this subsection—

''(A) national or applicable State or Metropolitan Statistical Area median family income reported for a household of more than 4 individuals shall be that of a household of 4 individuals plus $583 per month for each additional member of that household;

''(B) a family or household shall consist of the debtor, the debtor's spouse, and the debtor's dependents, but not a legally separated spouse unless the spouse files a joint case with the debtor.

''(7) In any proceeding brought under this subsection, the presumption of abuse may be rebutted by demonstrating special circumstances that justify additional reasonable expenses or adjustments of current monthly total income. In order to establish such circumstances, the debtor shall be required to—

''(A) itemize each additional expense or adjustment of income; and

''(B) provide documentation of such expenses and a detailed explanation of the circumstances that warrant such expenses.

''(8)(A) As part of the schedule of current income and expenditures required under section 521, the debtor shall include—

''(i) a statement of the debtor's current monthly income and calculations that show whether a presumption arises under paragraph (1)(A) of this subsection; or

''(ii) a statement of the debtor's current monthly income showing that the debtor is a debtor described in paragraph (14) of this subsection.

''(B) The Supreme Court shall promulgate rules under section 2075 of title 28, United States Code, that prescribe a form for a statement under subparagraph (A) and may provide general rules on the content of such statement.

''(9) If a trustee 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 violated Rule 9011, the courts hall assess damages, which may include ordering—

''(A) the counsel for the debtor to reimburse the trustee for all reasonable costs in prosecuting a motion brought under section 707(b), including reasonable attorneys' fees;

''(B) the assessment of an appropriate civil penalty against the counsel for the debtor; and

''(C) the payment of the civil penalty to the trustee or the United States trustee.

''(10) The court may award a debtor all reasonable costs and other appropriate damages in contesting a motion brought by a party in interest (other than a trustee, bankruptcy administrator, or United States trustee) under this subsection (including reasonable attorneys' fees) if the court does not grant the motion and the court finds that—

''(A) the position of the party that brought the motion was not substantially justified; or

''(B) the party brought the motion solely for the purpose of coercing the debtor into waiving a right guaranteed to the debtor under this title.

''(11) A party in interest may not bring a motion under this section until the United States trustee has either filed a statement under section 704(b)(2)(A) or filed a motion under section 704(b)(2)(B).

''(12) If an attorney for a party in interest (other than a trustee, bankruptcy administrator, or United States trustee) brings a motion for dismissal or conversion under this subsection, and the court does not grant that motion and finds that the action of the counsel for the moving party in filing such motion under this chapter violated Rule 9011, the court shall assess damages, which may include ordering—

''(A) the counsel for the moving party to reimburse the debtor for all reasonable costs in defending a motion brought under section 707(b), including reasonable attorneys' fees;

''(B) the assessment of an appropriate civil penalty against the counsel for the moving party.

''(13) In making a determination whether to dismiss a case under this section, the court may not take into consideration whether a debtor has made, or continues to make, charitable contributions (that meet the definition of 'charitable contribution' under section 548(d)(3) and as described by section 548(a)(2)of this title to any qualified religious or charitable entity or organization (as that term is defined in section 548(d)(4)) of this title.

''(14) No court, United States trustee, bankruptcy administrator, or other party in interest shall bring a motion under subsection (b)(1)(A) if, as of the date of the order for relief, the debtor's current monthly income, when multiplied by 12, is less than or equal to 100 percent of the highest national or applicable State or Metropolitan Statistical Area median family income reported for a family of equal size, whichever is greater, or in the case of a household of 1 person, less than or equal to 100 percent of the highest national or State or Metropolitan Statistical Area median household income for 1 earner, whichever is greater, as adjusted, if applicable, as provided in paragraph(6);''.

(b) DEFINITION.—Section 101 of title 11, United States Code, is amended—

(1) by inserting after paragraph (10)the following:

''(10A) 'current monthly income'—

''(A) means the average monthly income from all sources which the debtor, or in a joint case, the debtor and the debtor's spouse, receive without regard to whether the income is taxable income, derived during the 180-day period preceding the date of determination;

''(B) includes any amount paid by any entity other than the debtor (or, in a joint case, the debtor and the debtor's spouse), on a regular basis to the household expenses of the debtor or the debtor's dependents (and, in a joint case, the debtor's spouse if not otherwise a dependent), but excludes—

''(i) payments to victims of war crimes or crimes against humanity;

''(ii) benefits received from the Department of Veterans Affairs in connection with service in the armed forces of the United States;

''(iii) income received on account of disability;and

''(iv) benefits received under the Social Security Act.'';

(2) by inserting after paragraph (17) the following:

''(17A) 'estimated administrative expenses' means 10 percent of projected payments under a chapter 13 plan;''.

(c) DUTIES OF CHAPTER 7 TRUSTEE.—Section 704 of title 11, United States Code, is amended—

(1) by inserting ''(a)'' before ''The trustee shall—''; and

(2) by adding at the end the following:

''(b)(1) With respect to an individual debtor under this chapter, the trustee shall review all materials filed by the debtor and, not later than 10 days after the first meeting of creditors, file with the court and the United States trustee a statement as to whether the debtor's case could be presumed to be an abuse under section 707(b).

''(2) Not later than 60 days after receiving a statement filed under paragraph (1), the United States trustee or bankruptcy administrator shall—

''(A) file a statement setting forth the reasons why the bankruptcy administrator does not believe that such a motion would be appropriate or would be prohibited because the debtor is a debtor of the kind described in section 707(b)(14) of this title; or

''(B) file a motion to dismiss or convert under section 707(b) if, based on the filing of such statement with the court, the United States trustee or bankruptcy administrator determines that the case should be presumed to be an abuse under section 707(b) and the debtor's current monthly income, when multiplied by 12, is less than or equal to 100 percent of the highest national or applicable State or State Metropolitan Statistical Area median family income reported for a family of equal size, whichever is greater, or in the case of a household of 1 person, less than or equal to 100 percent of the highest national or State or Metropolitan Statistical Area median household income for 1 earner,

whichever is greater. For the purposes of determining whether a motion would be appropriate to be filed, the United States trustee shall consider adjustments to current monthly income for income items received over the most recent 180 days that are not reasonably expected to be reflected in future income, or expenses likely to be due under a chapter 13 plan which are not included in the required statement of the debtor's expense. The debtor shall, at the request of the United States trustee, provide documentation for any current income items that are not reasonably expected to be reelected in future income, and a detailed explanation of the circumstances that warrant making such adjustments. If the United States trustee determines that, after accounting for these adjustments, the debtor's current monthly income, which multiplied by 12, is less than or equal to 100 percent of the higher of the national, State, or Metropolitan Statistical Area median family income reported for a family of equal or lesser size, or in the case of a household of 1 person, the national median household income for 1 earner, then the case shall be presumed not be an abuse of the previous of this chapter.

For the purpose of this subsection, the national or applicable State or Metropolitan Statistical Area median family income reported for a household of more than 4 individuals shall be that of a household of 4 individuals plus $583 per month for each additional member of that household.

''(3) Paragraph (2) shall not be construed to preclude the court or any other party who is eligible to file a motion under section 707(b) from bringing such a motion.''.

(d) MEETING OF CREDITORS AND EQUITY SECURITY HOLDERS.—Section 341 of title 11, United States Code, is amended by adding the following new subsection:

''(e) The initial notice of the meeting of creditors shall indicate whether the debtor's current monthly income is reported to be equal or greater than the applicable median income for purposes of subsection 707(b) of this title.''.

(e) GUIDELINES FOR ASSESSING INCOME.—Section 586 of title 28, United States Code, is amended by adding the following new subsection:

''(f) Not later than 1 year after the effective date of this subsection, the Director of the Executive Office for the United States Trustees shall issue guidelines to assist in making assessment of whether income is not reasonably necessary to be expended by a debtor for the maintenance or support of the debtor, the dependents of the debtor, and in a joint case, the spouse of the debtor if the spouse is not otherwise a dependent. The director shall consult with the Department of the Treasury, and others as needed in developing the guidelines.''.

(f) Section 104, title 11, United States Code, as amended by subsection ___ of this Act, is amended by striking out ''523(a)(2)(C), and 707(b)(3)'' each place it appears and inserting ''523(a)(2)(C), and 707(b)'' in lieu thereof.

(g) 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.''.

SEC. 103. NOTICE OF ALTERNATIVES.

Section 342(b) of title 11, United States Code, is amended to read as follows:

''(b) Before the commencement of a case under this title by an individual whose debts are primarily consumer debts, the clerk shall give to such individual written notice containing—

''(1) a brief description of—

''(A) chapters 7, 11, 12, and 13 and the general purpose, benefits, and costs of proceeding under each of those chapters; and

''(B) the types of services available from credit counseling agencies; and

''(2) statements specifying that—

''(A) a person who knowingly and fraudulently conceals assets or makes a false oath or statement under penalty of perjury in connection with a bankruptcy case shall be subject to fine, imprisonment, or both; and

''(B) all information supplied by a debtor in connection with a bankruptcy case is subject to examination by the Attorney General.''.

SEC. 104. DEBTOR FINANCIAL MANAGEMENT TRAINING TEST PROGRAM.

(a) DEVELOPMENT OF FINANCIAL MANAGEMENT AND TRAINING CURRICULUM AND MATERIALS.—The Director of the Executive Office for United States Trustees (in this section referred to as the ''Director'') shall consult with a wide range of individuals who are experts in the field of debtor education, including trustees who are appointed under chapter 13 of title 11 of the United States Code and who operate financial management education programs for debtors, and shall develop a financial management training curriculum and materials that can be used to educate individual debtors on how to better manage their finances.

(b) TEST—(1) The Director shall select 6 judicial districts of the United States in which to test the effectiveness of the financial management training curriculum and materials developed under subsection (a).

(2) For a 18-month period beginning not later than 270 days after the date of the enactment of this Act, such curriculum and materials shall be, for the 6 judicial districts selected under paragraph (1), used as the instructional course concerning personal financial management for purposes of section 111 of this title.

(c) EVALUATION.—(1) During the 1-year period referred to in subsection (b), the Director shall evaluate the effectiveness of—

(A) the financial management training curriculum and materials developed under subsection (a); and

(B) a sample of existing consumer education programs such as those described in the Report of the National Bankruptcy Review Commission (October 20, 1997) that are representative of consumer education programs carried out by the credit industry, by trustees serving under chapter 13 of title 11 of the United States Code, and by consumer counselling groups.

(2) Not later than 3 months after concluding such evaluation, the Director shall submit a report to the Speaker of the House of Representatives and the President pro tempore of the Senate, for referral to the appropriate committees of the Congress, containing the findings of the Director regarding the effectiveness of such curriculum, such materials, and such programs and their costs.

Subtitle B—Consumer Bankruptcy Protections

SEC. 105. DEFINITIONS.

(a) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—

(1) by inserting after paragraph (2) the following:

''(3) 'assisted person' means any person whose debts consist primarily of consumer debts and whose non-exempt assets are less than $150,000;'';

(2) by inserting after paragraph (4) the following:

''(4A) 'bankruptcy assistance' means any goods or services sold or otherwise provided to an assisted person with the express or implied purpose of providing information, advice, counsel, document preparation or filing, or attendance at a creditors' meeting or appearing in a proceeding on behalf of another or providing legal representation with respect to a proceeding under this title;''; and

(3) by inserting after paragraph (12A) the following:

''(12B) 'debt relief agency' means any person who provides any bankruptcy assistance to an assisted person in return for the payment of money or other valuable consideration, or who is a bankruptcy petition preparer pursuant to section 110 of this title, but does not include any person that is any of the following or an officer, director, employee or agent thereof—

''(A) any nonprofit organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986;

''(B) any creditor of the person to the extent the creditor is assisting the person to restructure any debt owed by the person to the creditor; or

''(C) any depository institution (as defined in section 3 of the Federal Deposit Insurance Act) or any Federal credit union or State credit union (as those terms are defined in section 101 of the Federal Credit Union Act), or any affiliate or subsidiary of such a depository institution or credit union;''.

(b) CONFORMING AMENDMENT.—In section 104(b)(1) by inserting ''101(3),'' after ''sections''.

SEC. 106. ENFORCEMENT.

(a) ENFORCEMENT.—Subchapter II of chapter 5 of title 11, United States Code, is amended by adding at the end the following:

''§ 526. Debt relief agency enforcement

''(a) A debt relief agency shall not—

''(1) fail to perform any service which the debt relief agency has told the assisted person or prospective assisted person the agency would provide that person in connection with the preparation for or activities during a proceeding under this title;

''(2) make any statement, or counsel or advise any assisted person to make any statement in any document filed in a proceeding under this title, which is untrue and misleading or which upon the exercise of reasonable care, should be known by the debt relief agency to be untrue or misleading;

''(3) misrepresent to any assisted person or prospective assisted person, directly or indirectly, affirmatively or by material omission, what services the debt relief agency can reasonably expect to provide that person, or the benefits an assisted person may obtain or the difficulties the person may experience if the person seeks relief in a proceeding pursuant to this title; or

''(4) advise an assisted person or prospective assisted person to incur more debt in contemplation of that person filing a proceeding under this title or in order to pay an attorney or bankruptcy petition preparer fee or charge for services performed as part of preparing for or representing a debtor in a proceeding under this title.''.

''(b) ASSISTED PERSON WAIVERS INVALID.—Any waiver by any assisted person of any protection or right provided by or under this section shall not be enforceable against the debtor by any Federal or State court or any other person, but may be enforced against a debt relief agency.

''(c) NONCOMPLIANCE.—

''(1) Any contract between a debt relief agency and an assisted person for bankruptcy assistance which does not comply with the material requirements of this section shall be treated as void and may not be enforced by any Federal or State court or by any other person.

''(2) Any debt relief agency shall be liable to an assisted person in the amount of any

fees or charges in connection with providing bankruptcy assistance to such person which the debt relief agency has received, for actual damages, and for reasonable attorneys' fees and costs if the debt relief agency is found, after notice and hearing, to have—

''(A) intentionally or negligently failed to comply with any provision of this section with respect to a bankruptcy case or related proceeding of the assisted person;

''(B) provided bankruptcy assistance to an assisted person in a case or related proceeding which is dismissed or converted because of the debt relief agency's intentional or negligent failure to file bankruptcy papers, including papers specified in section 521 of this title; or

''(C) intentionally or negligently disregarded the material requirements of this title or the Federal Rules of Bankruptcy Procedure applicable to such debt relief agency.

''(3) In addition to such other remedies as are provided under State law, whenever the chief law enforcement officer of a State, or an official or agency designated by a State, has reason to believe that any person has violated or is violating this section, the State—

''(A) may bring an action to enjoin such violation;

''(B) may bring an action on behalf of its residents to recover the actual damages of assisted persons arising from such violation, including any liability under paragraph (2); and

''(C) in the case of any successful action under subparagraph (A) or (B), shall be awarded the costs of the action and reasonable attorney fees as determined by the court.

''(4) The United States District Court for any district located in the State shall have concurrent jurisdiction of any action under subparagraph (A) or (B) of paragraph (3).

''(5) Notwithstanding any other provision of Federal law and in addition to any other remedy provided under Federal or State law, if the court, on its own motion or on the motion of the United States trustee or the debtor, finds that a person intentionally violated this section, or engaged in a clear and consistent pattern or practice of violating this section, the court may—

''(A) enjoin the violation of such section; or

''(B) impose an appropriate civil penalty against such person.

''(c) RELATION TO STATE LAW.—This section shall not annul, alter, affect or exempt any person subject to those sections from complying with any law of any State except to the extent that such law is inconsistent with those sections, and then only to the extent of the inconsistency.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, is amended by inserting after the item relating to section 527, the following:

''526. Debt relief agency enforcement.''.

SEC. 107. SENSE OF THE CONGRESS.

It is the sense of the Congress that States should develop curricula relating to the subject of personal finance, designed for use in elementary and secondary schools.

SEC. 108. DISCOURAGING ABUSIVE REAFFIRMATION PRACTICES.

(a) Section 524 of title 11, United States Code, is amended—

(1) in subsection (c)(2)(B) by adding at the end the following:

''(C)(i) such agreement contains a clear and conspicuous statement advising the debtor of the amount of the monthly payments, the total amount payable and number of payments if the payments are made according to schedule, the amount of the total payment attributable to principal, interest, late fees, and creditor's attorneys fees, the interest rate, and the ways in which terms differ from the original agreement; and

''(ii) if the debt is secured, the agreement is accompanied by a copy of the instrument creating the debt and any security interest or lien and the documents necessary to show perfection of the interest, and the agreement contains a clear and conspicuous statement that advises the debtor of the value of the collateral and the date on which the lien will be released if payments are made according to schedule;'';

(2) in subsection (c)(6)(B), by inserting after ''real property'' the following: ''or is a debt described in subsection (c)(7)''; and

(3) by adding at the end of subsection (c) the following:

''(7) in a case concerning an individual, if the consideration for such agreement is based on whole or in part on an unsecured consumer debt, or is based on whole or in part upon a debt for an item of personalty, the value of which at point of purchase was $500 or less, and in which the creditor asserts a security interest, the court approves such agreement as—

''(A) in the best interest of the debtor in light of the debtor's income and expenses;

''(B) not imposing an undue hardship on the debtor's future ability of the debtor to pay for the needs of children and other dependents (including court ordered support);

''(C) not requiring the debtor to pay the creditor's attorney's fees, expenses, or other costs relating to the collection of the debt;

''(D) not agreed upon by the debtor to protect property necessary for the care and maintenance of children or other dependents that would have nominal value on repossession;

''(E) not the product of coercive threats or actions by the creditor in the creditor's course of dealings with the debtor; and

''(F) not unfair because excessive in amount as compared to the value of the collateral;

(4) in subsection (d)(2) by striking ''subsections (c)(6)'' and inserting ''subsections (c)(6) and (c)(7)'', and after ''of this section,'' by striking ''if the consideration for such agreement is based in whole or in part on a consumer debt that is not secured by real property of the debtor'' and adding at the end ''as applicable''.

(b) Section 104 of title 11, United States Code, as amended by subsection ____ of this Act, is amended by striking out ''523(a)(2)(C), and 707(b)(3)'' each place it appears and inserting ''523(a)(2)(C), 524(c)(7), and 707(b)(3)'' in lieu thereof.

SEC. 109. PROMOTION OF ALTERNATIVE DISPUTE RESOLUTION.

(a) REDUCTION OF CLAIM.—Section 502 of title 11, United States Code, is amended by adding at the end the following:

''(k)(1) The court, on the motion of the debtor and after a hearing, may reduce a claim filed under this section based wholly on unsecured consumer debts by not more than 20 percent, if the debtor can prove by clear and convincing evidence that the claim was filed by a creditor who unreasonably refused to negotiate a reasonable alternative repayment schedule proposed by an approved credit counseling agency acting on behalf of the debtor, and if—

''(A) such offer was made within the period beginning 60 days before the filing of the petition;

''(B) such offer provided for payment of at least 60 percent of the amount of the debt over a period not to exceed the repayment period of the loan, or a reasonable extension thereof; and

''(C) no part of the debt under the alternative repayment schedule is nondischargeable, is entitled to priority under section 507 of this title, or would be paid a greater percentage in a chapter 13 proceeding than offered by the debtor.

''(2) The debtor shall have the burden of proving that the proposed alternative repayment schedule was made in the 60-day period specified in subparagraph (A) and that the creditor unreasonably refused to consider the debtor's proposal.''.

(b) LIMITATION ON AVOIDABILITY.—Section 547 of title 11, United States Code, is amended by adding at the end the following:

''(h) The trustee may not avoid a transfer if such transfer was made as a part of an alternative repayment plan between the debtor and any creditor of the debtor created by an approved credit counseling agency.''.

SEC. 110. ENHANCED DISCLOSURE FOR CREDIT EXTENSIONS SECURED BY A DWELLING.

(a) STUDY REQUIRED.—During the period beginning 180 days after the date of enactment of this Act and ending 18 months after the date of the enactment, the Board of Governors of the Federal Reserve System (in this section referred to as the ''Board'') shall conduct a study and submit to Congress a report (including recommendations for any appropriate legislation) regarding—

(1) whether a consumer engaging in an open-end credit transaction (as defined pursuant to section 103 of the Truth in lending Act) secured by the consumer's principal dwelling is provided adequate information under Federal law, including under section 127A of the Truth in Lending Act, regarding the tax deductibility of interest paid on such transaction; and

(2) whether a consumer engaging in a closed-end credit transaction (as defined pursuant to section 103 of the Truth in Lending Act) secured by the consumer's principal dwelling is provided adequate information regarding the tax deductibility of interest paid on such transaction.

In conducting such study, the Board shall specifically consider whether additional disclosures are necessary with respect to such open-end or closed-end credit transactions in which the amount of the credit extended exceeds the fair market value of the dwelling.

(b) REGULATIONS.—If the Board determines that additional disclosures are necessary in connection with transactions described in subsection (a), the Board, pursuant to its authority under the Truth in Lending Act, may promulgate regulations that would require such additional disclosures. Any such regulations promulgated by the Board under this section shall not take effect before the end of the 36-month period after the date of the enactment of this Act.

SEC. 111. DUAL USE DEBIT CARD.

(a) STUDY REQUIRED.—The Board of Governors of the Federal Reserve System (in this section referred to as the ''Board'') shall conduct a study of existing protections provided to consumers to limit their liability for unauthorized use of a debit card or similar access device.

(b) SPECIFIC CONSIDERATIONS.—In conducting the study required by subsection (a), the Board shall specifically consider the following—

(1) the extent to which existing provisions of section 909 of the Electronic Fund Transfer Act and the Board's implementing regulations provide adequate unauthorized use liability protection for consumers;

(2) the extent to which any voluntary industry rules have enhanced the level of protection afforded consumers in connection with such unauthorized use liability; and

(3) whether amendments to the Electronic Funds Transfer Act or the Board's implementing regulations thereto are necessary to

provide adequate protection for consumers in this area.

(c) REPORT AND REGULATIONS.—Not later than 2 years after the date of the enactment of this Act, the Board shall make public a report on its findings with respect to the adequacy of existing protections afforded consumers with respect to unauthorized-use liability for debit cards and similar access devices. If the Board determines that such protections are inadequate, the Board, pursuant to its authority under the Electronic Funds Transfer Act, may issue regulations to address such inadequacy. Any regulations issued by the Board shall not be effective before 36 months after the date of the enactment of this Act.

SEC. 112. DISCOURAGING RECKLESS LENDING PRACTICES.

(a) LIMITING CLAIMS ARISING FROM IRRESPONSIBLE 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 a semicolon; and

(3) by adding at the end the following:

''(10) the claim is for a consumer debt under an open end credit plan (as defined in section 103 of the Truth in Lending Act) and before incurring such debt under such plan the debtor was not informed in writing in a clear and conspicuous manner (or in the case of a worldwide web-based solicitation to open a credit card account under such plan, at the time of solicitation by the person making the solicitation to open such account)—

''(A) of the method of determining the required minimum payment amount, if a minimum payment is required that is different from the amount of any finance charge, and the charges or penalties, if any, which may be imposed for failure by the obligor to pay the required finance charge or minimum payment amount;

''(B) of repayment information that would apply to the outstanding balance of the consumer under the credit plan, including—

''(i) the required minimum monthly payment on that balance, represented as both a dollar figure and a percentage of that balance;

''(ii) the number of months (rounded to the nearest month) that it would take to pay the entire amount of that current balance if the consumer pays only the required minimum monthly payments and if no further advances are made;

''(iii) the total cost to the consumer, including interest and principal payments, of paying that balance in full if the consumer pays only the required minimum monthly payments and if no further advances are made; and

(iv) the following statement: 'If your current rate is a temporary introductory rate, your total costs may be higher.';

''(C) of the method for determining the required minimum payment amount to be paid for each billing cycle, and the charge or penalty, if any, to be imposed for any failure by the obligor to pay the required minimum payment amount;

''(D) of any charge that may be imposed due to the failure of the obligor to make payment on or before a required payment due date, the date that payment is due or, if different, the date on which a late payment fee will be charged, and that the terms and conditions of such charge will be stated prominently in a conspicuous location on each billing statement, together with the amount of the charge to be imposed if payment is made after such date; and

''(E) in any application or solicitation for a credit card issued under such plan that offers, during an introductory period of less than 1 year, an annual percentage rate of interest that—

''(i) is less than the annual percentage rate of interest which will apply after the end of such introductory period, of such rate in a statement that includes the following: 'The annual percentage rate of interest applicable during the introductory period is not the annual percentage rate which will apply after the end of the introductory period. The permanent annual percentage rate will apply after [insert applicable date] and will be [insert applicable percentage rate].' ; or

''(ii) varies in accordance with an index, which is less than the current annual percentage rate under the index which will apply after the end of such period, of such rate in a statement that includes the following: 'The annual percentage rate of interest applicable during the introductory period is not the annual percentage rate which will apply after the end of the introductory period. The permanent annual percentage rate will be determined by an index and will apply after [insert date]. If the index which will apply after such date were applied to your account today, the annual percentage rate would be [insert applicable percentage rate].' ;

''(11) such claim is for a debt that arose from a credit card account under an open end credit plan (as defined in section 103 of the Truth in Lending Act, for which account a creditor imposed a fee based on inactivity for the account during any period in which no advances were made if the obligor maintains any outstanding balance and is charged a finance charge applicable to such balance;

''(12) such claim is for a debt that arose from a credit card account for which a credit card that was issued to or on behalf of, any individual who has not attained 21 years of age except in response to a written request or application to the card issuer to open a credit card account containing—

''(A) the signature of the parent or guardian of such individual indicating joint liability for debts incurred by such individual in connection with the account before such individual reaches the age of 21; or

''(B) a submission by such individual of financial information indicating an independent means of repaying any obligation arising from the proposed extension of credit in connection with the account;

''(13) such claim is for a debt that arose on an account that a creditor cancelled, imposed a minimum finance charge for any period (including any annual period), imposed any fee in lieu of a minimum finance charge, or imposed any other charge or penalty with regard to such account or credit extended under such account solely on the basis that any credit extended has been repaid in full before the end of any grace period applicable with respect to the extension of credit, excluding a flat annual fee imposed on the consumer in advance of any annual period to cover the cost of maintaining a credit card account during such annual period without regard to whether any credit is actually extended under such account during such period, or the actual finance charge applicable with respect to any credit extended under such account during such annual period at the annual percentage rate disclosed to the consumer in accordance with this title for the period of time any such credit is outstanding;

''(14) such claim is for a debt that arose from an increase in any annual percentage rate of interest (other than an increase due to the expiration of any introductory percentage rate of interest or due solely to a change in another rate of interest to which such rate is indexed) applicable to any outstanding balance of credit under such plan may take effect before the beginning of the billing cycle which begins not less than 15 days after the obligor receives notice of such increase; and

''(15) that if an obligor referred to in paragraph (14) cancels the credit card account before the beginning of the billing cycle referred to in such paragraph—

''(A) if the an annual percentage rate of interest applicable after the cancellation with respect to such outstanding balance on such account as of the date of cancellation exceeds any annual percentage rate of interest applicable with respect to such balance under the terms and conditions in effect before the increase referred to in paragraph (14); and

''(B) the repayment of such outstanding balance after the cancellation is not subject to all other terms and conditions applicable with respect to such account before the increase referred to in such paragraph;

(b) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (9) the following:

''(9A) 'credit card' includes any dual purpose or multifunction card, including a stored-value card, debit card, check card, check guarantee card, or purchase-price discount card, that is connected with an open end credit plan (as defined in section 103 of the Truth in Lending Act) and can be used, either on issuance or upon later activation, to obtain credit directly or indirectly.''.

SEC. 113. PROTECTION OF SAVINGS EARMARKED FOR THE POSTSECONDARY EDUCATION OF CHILDREN.

Section 522 of title 11, United States Code, is amended—

(1) in subsection (b)(2)—

(A) in subparagraph (A) by striking ''and'' at the end;

(B) in subparagraph (B) by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(C) except as provided in paragraph (n), funds placed in an education individual retirement account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986) not less than 365 days before the date of entry of the order of relief but only to the extent such funds—

''(i) are not pledged or promised to any entity in connection with any extension of credit; and

''(ii) are not excess contributions (as described in section 4973(e) of the Internal Revenue Code of 1986).''; and

(2) by adding at the end the following:

''(n) For purposes of subsection (b)(3)(C), funds placed in an education individual retirement account shall not be exempt under this subsection—

''(1) unless the designated beneficiary of such account was a dependent child of the debtor for the taxable year for which the funds were placed in such account; and

''(2) to the extent such funds exceed—

''(A) $50,000 in the aggregate in all such accounts having the same designated beneficiary; or

''(B) $100,000 in the aggregate in all such accounts attributable to all such dependent children of the debtor.''.

SEC. 114. 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 any injunction under subsection (a)(2) which has arisen at the time of the failure.

''(j) An individual who is injured by the willful 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) the amount of actual damages; or

''(B) $1,000; and

''(2) costs and attorneys' fees.''.

SEC. 115. LIMITING TRUSTEE LIABILITY.

(a) QUALIFICATION OF TRUSTEE.—Section 322 of title 11, United States Code, is amended—

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

''The trustee in a case under this title is not liable personally or on such trustee's bond for acts taken within the scope of the trustee's duties or authority as delineated by other sections of this title or by order of the court, except to the extent that the trustee acted with gross negligence. Gross negligence shall be defined as reckless indifference or deliberate disregard of the trustee's fiduciary duty.''; and

(2) in subsection (c) by inserting ''for any acts within the scope of the trustee's authority defined in subsection (a)'' before the period at the end.

(b) ROLE AND CAPACITY OF TRUSTEE.—Section 323 of title 11, United States Code, is amended—

(1) in subsection (b) by inserting at the end the following: ''in the trustee's official capacity as representative of the estate'' before the period at the end; and

(2) by adding at the end the following:

''(c) The trustee in a case under this title may not be sued, either personally, in a representative capacity, or against the trustee's bond in favor of the United States—

''(1) for acts taken in furtherance of the trustee's duties or authority in a case in which the debtor is subsequently determined to be ineligible for relief under the chapter in which the trustee was appointed; or

''(2) for the dissemination of statistics and other information regarding a case or cases, unless the trustee has actual knowledge that the information is false.

''(d) The trustee in a case under this title may not be sued in a personal capacity without leave of the bankruptcy court in which the case is pending.''.

SEC. 116. REINFORCE THE FRESH START.

(a) RESTORATION OF AN EFFECTIVE DISCHARGE.—Section 523(a)(17) of title 11, United States Code, is amended—

(1) by striking ''by a court'' and inserting ''by any court'',

(2) by striking ''section 1915(b) or (f)'' and inserting ''subsection (b) or (f)(2) of section 1915'', and

(3) by inserting ''(or a similar non-Federal law)'' after ''title 28'' each place it appears.

SEC. 117. DISCOURAGING BAD FAITH REPEAT FILINGS.

Section 362(c) of title 11, United States Code, is amended—

(1) in paragraph (1) by striking ''and'' at the end;

(2) in paragraph (2) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

''(3) If a single or joint case is filed by or against an individual debtor under chapter 7, 11, or 13 (other than a case refiled under a chapter other than chapter 7 after dismissal under section 707(b) of this title), and if a single or joint case of the debtor was pending within the previous 1-year period but was dismissed, 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 will terminate with respect to the debtor on the 30th day after the filing of the later case. Upon motion by a party in interest for continuation of the automatic stay and upon notice and a hearing, the court may extend the stay in particular cases as to any or all creditors (subject to such conditions or limitations as the court may then impose) after notice and a hearing completed before the expiration of the 30-day period only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed. A case is presumptively filed not in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)—

''(A) as to all creditors if—

''(i) more than 1 previous case under any of chapter 7, 11, or 13 in which the individual was a debtor was pending within such 1-year period;

''(ii) a previous case under any of chapters 7, 11, or 13 in which the individual was a debtor was dismissed within such 1-year period, after the debtor failed to file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney), failed to provide adequate protection as ordered by the court, or failed to perform the terms of a plan confirmed by the court; or

''(iii) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under any of chapters 7, 11, or 13 of this title, or there is not any other reason to conclude that the later case will be concluded, if a case under chapter 7 of this title, with a discharge, and if a chapter 11 or 13 case, a confirmed plan which will be fully performed;

''(B) as 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 such case, that action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to actions of such creditor.

''(4) If a single or joint case is filed by or against an individual debtor under this title (other than a case refiled under a chapter other than chapter 7 after a dismissal under section 707(b) of this title), and if 2 or more single or joint cases of the debtor were pending within the previous year but were dismissed, the stay under subsection (a) will not go into effect upon the filing of the later case. On request of a party in interest, the court shall promptly enter an order confirming that no stay is in effect. If a party in interest requests within 30 days of the filing of the later case, the court may order the stay to take effect in the case as to any or all creditors (subject to such conditions or limitations as the court may impose), after notice and hearing, only if the party in interest demonstrates that the filing of the later case is in good faith as to the creditors to be stayed. A stay imposed pursuant to the preceding sentence will be effective on the date of entry of the order allowing the stay to go into effect. A case is presumptively not filed in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)—

''(A) as to all creditors if—

''(i) 2 or more previous cases under this title in which the individual was a debtor were pending within the 1-year period;

''(ii) a previous case under this title in which the individual was a debtor was dismissed within the time period stated in this paragraph after the debtor failed to file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney), failed to provide adequate protection as ordered by the court, or failed to perform the terms of a plan confirmed by the court; or

''(iii) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under this title, or there is not any other reason to conclude that the later case will be concluded, if a case under chapter 7, with a discharge, and if a case under chapter 11 or 13, with a confirmed plan that will be fully performed; or

''(B) as 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 such case, such action was still pending or had been resolved by terminating, conditioning, or limiting the stay as to action of such creditor.''.

SEC. 118. CURBING ABUSIVE FILINGS.

(a) IN GENERAL.—Section 362(d) of title 11, United States Code, is amended—

(1) in paragraph (2), by striking ''or'' at the end;

(2) in paragraph (3), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(4) with respect to a stay of an act against real property under subsection (a), by a creditor whose claim is secured by an interest in such real estate, if the court finds that the filing of the bankruptcy petition was part of a scheme to delay, hinder, and defraud creditors that involved either—

''(A) transfer of all or part ownership of, or other interest in, the real property without the consent of the secured creditor or court approval; or

''(B) multiple bankruptcy filings affecting the real property.

If recorded in compliance with applicable State laws governing notices of interests or liens in real property, an order entered pursuant to this subsection shall be binding in any other case under this title purporting to affect the real property filed not later than 2 years after that recording, except that a debtor in a subsequent case may move for relief from such order based upon changed circumstances or for good cause shown, after notice and a hearing. Any Federal, State, or local governmental unit which accepts notices of interests or liens in real property shall accept any certified copy of an order described in this subsection for indexing and recording.''.

(b) AUTOMATIC STAY.—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 inserting after paragraph (18) the following:

''(19) under subsection (a), of any act to enforce any lien against or security interest in real property following the entry of an order under section 362(d)(4) of this title as to that property in any prior bankruptcy case for a period of 2 years after entry of such an order. The debtor in a subsequent case, however, may move the court for relief from such order based upon changed circumstances or for other good cause shown (consistent with the standards for good faith in subsection (c)), after notice and a hearing; or

''(20) under subsection (a), of any act to enforce any lien against or security interest in real property—

''(A) if the debtor is ineligible under section 109(g) of this title to be a debtor in a bankruptcy case; or

''(B) if the bankruptcy case was filed in violation of a bankruptcy court order in a

prior bankruptcy case prohibiting the debtor from being a debtor in another bankruptcy case.''.

SEC. 119. DEBTOR RETENTION OF PERSONAL PROPERTY SECURITY.

Title 11, United States Code, is amended—

(1) in section 521—

(A) in paragraph (4) by striking '', and'' at the end and inserting a semicolon;

(B) in paragraph (5) by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(6) in an individual case under chapter 7 of this title, not retain possession of personal property as to which a creditor has an allowed claim for the purchase price secured in whole or in part by an interest in that personal property unless, in the case of an individual debtor, the debtor takes 1 of the following actions within 45 days after the first meeting of creditors under section 341(a)—

''(A) enters into an agreement with the creditor pursuant to section 524(c) of this title with respect to the claim secured by such property; or

''(B) redeems such property from the security interest pursuant to section 722 of this title.

''If the debtor fails to so act within the 45-day period, the stay under section 362(a) of this title is terminated with respect to the personal property of the estate or of the debtor which is affected, such property shall no longer be property of the estate, and the creditor may take whatever action as to such property as is permitted by applicable nonbankruptcy law, unless the court determines on the motion of the trustee brought before the expiration of such 45-day period, and after notice and a hearing, that such property is of consequential value or benefit to the estate, orders appropriate adequate protection of the creditor's interest, and orders the debtor to deliver any collateral in the debtor's possession to the trustee.''; and

(2) in section 722 by inserting ''in full at the time of redemption'' before the period at the end.

SEC. 120. RELIEF FROM THE AUTOMATIC STAY WHEN THE DEBTOR DOES NOT COMPLETE INTENDED SURRENDER OF CONSUMER DEBT COLLATERAL.

Title 11, United States Code, is amended as follows—

(1) in section 362—

(A) by striking ''(e), and (f)'' in subsection (c) and inserting in lieu thereof ''(e), (f), and (h)''; and

(B) by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following:

''(h) In an individual case pursuant to chapter 7, 11, or 13 the stay provided by subsection (a) is terminated with respect to personal property of the estate or of the debtor securing in whole or in part a claim, or subject to an unexpired lease, and such personal property shall no longer be property of the estate if the debtor fails within the applicable time set by section 521(a)(2) of this title—

''(1) to file timely any statement of intention required under section 521(a)(2) of this title with respect to that property or to indicate therein that the debtor will either surrender the property or retain it and, if retaining it, either redeem the property pursuant to section 722 of this title, reaffirm the debt it secures pursuant to section 524(c) of this title, or assume the unexpired lease pursuant to section 365(p) of this title if the trustee does not do so, as applicable; or

''(2) to take timely the action specified in that statement of intention, as it may be amended before expiration of the period for taking action, unless the statement of intention specifies reaffirmation and the creditor refuses to reaffirm on the original contract terms;

unless the court determines on the motion of the trustee filed before the expiration of the applicable time set by section 521(a)(2), and after notice and a hearing, that such property is of consequential value or benefit to the estate, orders appropriate adequate protection of the creditor's interest, and orders the debtor to deliver any collateral in the debtor's possession to the trustee. If the court does not so determine an order, the stay shall terminate upon the conclusion of the proceeding on the motion.''; and

(2) in section 521, as amended by sections 603 and 604—

(A) in paragraph (2) by striking ''consumer'';

(B) in paragraph (2)(B)—

(i) by striking ''forty-five days after the filing of a notice of intent under this section'' and inserting ''30 days after the first date set for the meeting of creditors under section 341(a) of this title''; and

(ii) by striking ''forty-five day'' the second place it appears and inserting ''30-day'';

(C) in paragraph (2)(C) by inserting ''except as provided in section 362(h) of this title'' before the semicolon; and

(D) by inserting after subsection (b) the following:

''(c) If the debtor fails timely to take the action specified in subsection (a)(6) of this section, or in paragraphs (1) and (2) of section 362(h) of this title, with respect to property which a lessor or bailor owns and has leased, rented, or bailed to the debtor or as to which a creditor holds a security interest not otherwise voidable under section 522(f), 544, 545, 547, 548, or 549 of this title, nothing in this title shall prevent or limit the operation of a provision in the underlying lease or agreement which has the effect of placing the debtor in default under such lease or agreement by reason of the occurrence, pendency, or existence of a proceeding under this title or the insolvency of the debtor. Nothing in this subsection shall be deemed to justify limiting such a provision in any other circumstance.''.

SEC. 121. GIVING SECURED CREDITORS FAIR TREATMENT IN CHAPTER 13.

Section 1325(a)(5)(B)(i) of title 11, United States Code, is amended to read as follows:

''(i) the plan provides that the holder of such claim retain the lien securing such claim until the earlier of payment of the underlying debt determined under nonbankruptcy law or discharge under section 1328 of this title, and that if the case under this chapter is dismissed or converted without completion of the plan, such lien shall also be retained by such holder to the extent recognized by applicable nonbankruptcy law; and''.

SEC. 123. FAIR VALUATION OF COLLATERAL.

Section 506(a) of title 11, United States Code, is amended by adding at the end the following:

''In the case of an individual debtor under chapters 7 and 13, such value with respect to personal property securing an allowed claim shall be determined based on the replacement value of such property as of the date of filing the petition without deduction for costs of sale or marketing. With respect to property acquired for personal, family, or household purpose, replacement value shall mean the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined.''.

SEC. 124. DOMICILIARY REQUIREMENTS FOR EXEMPTIONS.

Section 522(b)(2)(A) of title 11, United States Code, is amended—

(1) by striking ''180'' and inserting ''730''; and

(2) by striking '', or for a longer portion of such 180-day period than in any other place'' and inserting ''or if the debtor's domicile has not been located at a single State for such 730-day period, the place in which the debtor's domicile was located for 180 days immediately preceding the 730-day period or for a longer portion of such 180-day period than in any other place''.

SEC. 125. RESTRICTIONS ON CERTAIN EXEMPT PROPERTY OBTAINED THROUGH FRAUD.

Section 522 of title 11, United States Code, as amended by section 113, is amended—

(1) in subsection (b)(2)(A) by inserting ''subject to subsection (o),'' before ''any property''; and

(2) by adding at the end the following:

''(o) For purposes of subsection (b)(3)(A) and notwithstanding subsection (a), the value of an interest in—

''(1) real or personal property that the debtor or a dependent of the debtor uses as a residence;

''(2) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence; or

''(3) a burial plot for the debtor or a dependent of the debtor;

shall be reduced to the extent such value is attributable to any portion of any property that the debtor disposed of in the 730-day period ending of the date of the filing of the petition, with the intent to hinder, delay, or defraud a creditor and that the debtor could not exempt, or that portion that the debtor could not exempt, under subsection (b) if on such date the debtor had held the property so disposed of.''.

SEC. 126. ROLLING STOCK EQUIPMENT.

(a) IN GENERAL.—Section 1168 of title 11, United States Code, is amended to read as follows:

''§ 1168. Rolling stock equipment

''(a)(1) The right of a secured party with a security interest in or of a lessor or conditional vendor of equipment described in paragraph (2) to take possession of such equipment in compliance with an equipment security agreement, lease, or conditional sale contract, and to enforce any of its other rights or remedies under such security agreement, lease, or conditional sale contract, to sell, lease, or otherwise retain or dispose of such equipment, is not limited or otherwise affected by any other provision of this title or by any power of the court, except that the right to take possession and enforce those other rights and remedies shall be subject to section 362 of this title, if—

''(A) before the date that is 60 days after the date of commencement of a case under this chapter, the trustee, subject to the court's approval, agrees to perform all obligations of the debtor under such security agreement, lease, or conditional sale contract; and

''(B) any default, other than a default of a kind described in section 365(b)(2) of this title, under such security agreement, lease, or conditional sale contract—

''(i) that occurs before the date of commencement of the case and is an event of default therewith is cured before the expiration of such 60-day period;

''(ii) that occurs or becomes an event of default after the date of commencement of the case and before the expiration of such 60-day period is cured before the later of—

''(I) the date that is 30 days after the date of the default or event of the default; or

''(II) the expiration of such 60-day period; and

''(iii) that occurs on or after the expiration of such 60-day period is cured in accordance with the terms of such security agreement, lease, or conditional sale contract, if cure is permitted under that agreement, lease, or conditional sale contract.

''(2) The equipment described in this paragraph—

''(A) is rolling stock equipment or accessories used on rolling stock equipment, including superstructures or racks, that is subject to a security interest granted by, leased to, or conditionally sold to a debtor; and

''(B) includes all records and documents relating to such equipment that are required, under the terms of the security agreement, lease, or conditional sale contract, that is to be surrendered or returned by the debtor in connection with the surrender or return of such equipment.

''(3) Paragraph (1) applies to a secured party, lessor, or conditional vendor acting in its own behalf or acting as trustee or otherwise in behalf of another party.

''(b) The trustee and the secured party, lessor, or conditional vendor whose right to take possession is protected under subsection (a) may agree, subject to the court's approval, to extend the 60-day period specified in subsection (a)(1).

''(c)(1) In any case under this chapter, the trustee shall immediately surrender and return to a secured party, lessor, or conditional vendor, described in subsection (a)(1), equipment described in subsection (a)(2), if at any time after the date of commencement of the case under this chapter such secured party, lessor, or conditional vendor is entitled pursuant to subsection (a)(1) to take possession of such equipment and makes a written demand for such possession of the trustee.

''(2) At such time as the trustee is required under paragraph (1) to surrender and return equipment described in subsection (a)(2), any lease of such equipment, and any security agreement or conditional sale contract relating to such equipment, if such security agreement or conditional sale contract is an executory contract, shall be deemed rejected.

''(d) With respect to equipment first placed in service on or prior to October 22, 1994, for purposes of this section—

''(1) the term 'lease' includes any written agreement with respect to which the lessor and the debtor, as lessee, have expressed in the agreement or in a substantially contemporaneous writing that the agreement is to be treated as a lease for Federal income tax purposes; and

''(2) the term 'security interest' means a purchase-money equipment security interest.

''(e) With respect to equipment first placed in service after October 22, 1994, for purposes of this section, the term 'rolling stock equipment' includes rolling stock equipment that is substantially rebuilt and accessories used on such equipment.''.

(b) AIRCRAFT EQUIPMENT AND VESSELS.—Section 1110 of title 11, United States Code, is amended to read as follows:

''§ 1110. Aircraft equipment and vessels

''(a)(1) Except as provided in paragraph (2) and subject to subsection (b), the right of a secured party with a security interest in equipment described in paragraph (3), or of a lessor or conditional vendor of such equipment, to take possession of such equipment in compliance with a security agreement, lease, or conditional sale contract, and to enforce any of its other rights or remedies, under such security agreement, lease, or conditional sale contract, to sell, lease, or otherwise retain or dispose of such equipment, is not limited or otherwise affected by any other provision of this title or by any power of the court.

''(2) The right to take possession and to enforce the other rights and remedies described in paragraph (1) shall be subject to section 362 of this title if—

''(A) before the date that is 60 days after the date of the order for relief under this chapter, the trustee, subject to the approval of the court, agrees to perform all obligations of the debtor under such security agreement, lease, or conditional sale contract; and

''(B) any default, other than a default of a kind specified in section 365(b)(2) of this title, under such security agreement, lease, or conditional sale contract—

''(i) that occurs before the date of the order is cured before the expiration of such 60-day period;

''(ii) that occurs after the date of the order and before the expiration of such 60-day period is cured before the later of—

''(I) the date that is 30 days after the date of the default; or

''(II) the expiration of such 60-day period; and

''(iii) that occurs on or after the expiration of such 60-day period is cured in compliance with the terms of such security agreement, lease, or conditional sale contract, if a cure is permitted under that agreement, lease, or contract.

''(3) The equipment described in this paragraph—

''(A) is—

''(i) an aircraft, aircraft engine, propeller, appliance, or spare part (as defined in section 40102 of title 49) that is subject to a security interest granted by, leased to, or conditionally sold to a debtor that, at the time such transaction is entered into, holds an air carrier operating certificate issued pursuant to chapter 447 of title 49 for aircraft capable of carrying 10 or more individuals or 6,000 pounds or more of cargo; or

''(ii) a documented vessel (as defined in section 30101(1) of title 46) that is subject to a security interest granted by, leased to, or conditionally sold to a debtor that is a water carrier that, at the time such transaction is entered into, holds a certificate of public convenience and necessity or permit issued by the Department of Transportation; and

''(B) includes all records and documents relating to such equipment that are required, under the terms of the security agreement, lease, or conditional sale contract, to be surrendered or returned by the debtor in connection with the surrender or return of such equipment.

''(4) Paragraph (1) applies to a secured party, lessor, or conditional vendor acting in its own behalf or acting as trustee or otherwise in behalf of another party.

''(b) The trustee and the secured party, lessor, or conditional vendor whose right to take possession is protected under subsection (a) may agree, subject to the approval of the court, to extend the 60-day period specified in subsection (a)(1).

''(c)(1) In any case under this chapter, the trustee shall immediately surrender and return to a secured party, lessor, or conditional vendor, described in subsection (a)(1), equipment described in subsection (a)(3), if at any time after the date of the order for relief under this chapter such secured party, lessor, or conditional vendor is entitled pursuant to subsection (a)(1) to take possession of such equipment and makes a written demand for such possession to the trustee.

''(2) At such time as the trustee is required under paragraph (1) to surrender and return equipment described in subsection (a)(3), any lease of such equipment, and any security agreement or conditional sale contract relating to such equipment, if such security agreement or conditional sale contract is an executory contract, shall be deemed rejected.

''(d) With respect to equipment first placed in service on or before October 22, 1994, for purposes of this section—

''(1) the term 'lease' includes any written agreement with respect to which the lessor and the debtor, as lessee, have expressed in the agreement or in a substantially contemporaneous writing that the agreement is to be treated as a lease for Federal income tax purposes; and

''(2) the term 'security interest' means a purchase-money equipment security interest.''.

SEC. 127. 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) of this title;

''(2) of the kind specified in paragraph (2), (4), (3)(B), (5), (8), or (9) of section 523(a) of this title;

''(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. 128. BANKRUPTCY JUDGESHIPS.

(a) SHORT TITLE.—This section may be cited as the ''Bankruptcy Judgeship Act of 1999''.

(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. 129. ADDITIONAL AMENDMENTS TO TITLE 11, UNITED STATES CODE.

Section 507(a) of title 11, United States Code, is amended by inserting after paragraph (9) the following:

''(10) Tenth, allowed claims for death or personal injuries resulting from the operation of a motor vehicle or vessel if such operation was unlawful because the debtor was intoxicated from using alcohol, a drug or another substance.''.

SEC. 131. 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. 132. ADEQUATE PROTECTION FOR INVESTORS.

(a) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (48) the following:

''(48A) 'securities self regulatory organization' means either a securities association registered with the Securities and Exchange Commission pursuant to section 15A of the Securities Exchange Act of 1934 or a national securities exchange registered with the Securities and Exchange Commission pursuant to section 6 of the Securities Exchange Act of 1934;''.

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, as amended by section 118, is amended—

(1) in paragraph (19) by striking ''or'' at the end;

(2) in paragraph (20) by striking the period at the end and a inserting ''; or''; and

(3) by inserting after paragraph (20) the following:

''(21) under subsection (a), of the commencement or continuation of an investigation or action by a securities self regulatory organization to enforce such organization's regulatory power; of the enforcement of an order or decision, other than for monetary sanctions, obtained in an action by the securities self regulatory organization to enforce such organization's regulatory power; or of any act taken by the securities self regulatory organization to delist, delete, or refuse to permit quotation of any stock that does not meet applicable regulatory requirements.''.

SEC. 134. GIVING DEBTORS THE ABILITY TO KEEP LEASED PERSONAL PROPERTY BY ASSUMPTION.

Section 365 of title 11, United States Code, is amended by adding at the end the following:

''(p)(1) If a lease of personal property is rejected or not timely assumed by the trustee under subsection (d), the leased property is no longer property of the estate and the stay under section 362(a) of this title is automatically terminated.

''(2) In the case of an individual under chapter 7, the debtor may notify the creditor in writing that the debtor desires to assume the lease. Upon being so notified, the creditor may, at its option, notify the debtor that it is willing to have the lease assumed by the debtor and may, at its option, condition such assumption on cure of any outstanding default on terms set by the contract. If within 30 days of the notice from the creditor the debtor notifies the lessor in writing that the lease is assumed, the liability under the lease will be assumed by the debtor and not by the estate. The stay under section 362 of this title and the injunction under section 524(a) of this title shall not be violated by notification of the debtor and negotiation of cure under this subsection. Nothing in this paragraph shall require a debtor to assume a lease, or a creditor to permit assumption.

''(3) In a case under chapter 11 of this title in which the debtor is an individual and in a case under chapter 13 of this title, if the debtor is the lessee with respect to personal property and the lease is not assumed in the plan confirmed by the court, the lease is deemed rejected as of the conclusion of the hearing on confirmation. If the lease is rejected, the stay under section 362 of this title and any stay under section 1301 is automatically terminated with respect to the property subject to the lease.''.

SEC. 135. 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), 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 required under subparagraph (A) 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 the contract amount and shall reduce any amount payable under section 1326(a) of the title.

''(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 payments referred to in paragraph (1) shall not be less than the amount of any weekly, biweekly, monthly, or other periodic payment scheduled as payable under the contract between the debtor and creditor.

''(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.

''(e) On or before 60 days after the filling of a case under this chapter, a debtor retaining possession of personal property subject to a lease or securing a claim attributable in whole or in part to the purchase price of such property shall provide each creditor or lessor reasonable evidence of the maintenance of any required insurance coverage with respect to the use or ownership of such property and continue to do so for so long as the debtor retains possession of such property.''.

(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. 136. AUTOMATIC STAY.

Section 362(b) of title 11, United States Code, as amended by sections 118 and 132, is amended—

(1) in paragraph (20), by striking ''or'' at the end;

(2) in paragraph (21), by striking the period at the end and inserting a semicolon; and

(3) by inserting after paragraph (21) the following:

''(22) under subsection (a) of any transfer that is not avoidable under section 544 of this title and that is not avoidable under section 549 of this title; or

''(23) under subsection (a)(3), of eviction actions based on endangerment to property or person or the use of illegal drugs.''.

SEC. 137. EXTEND PERIOD BETWEEN BANKRUPTCY DISCHARGES.

Title 11, United States Code, is amended—

(1) in section 727(a)(8) by striking ''six'' and inserting ''7''; and

(2) in section 1328 by adding at the end the following:

''(f) Notwithstanding subsections (a) and (b), the court shall not grant a discharge of all debts provided for by the plan or disallowed under section 502 of this title if the debtor has received a discharge in any case filed under this title within 5 years of the order for relief under this chapter.''.

SEC. 139. PRIORITIES FOR CLAIMS FOR DOMESTIC SUPPORT OBLIGATIONS.

Section 507(a) of title 11, United States Code, is amended—

(1) by striking paragraph (7);

(2) by redesignating paragraphs (1) through (6) as paragraphs (2) through (7), respectively;

(3) in paragraph (2), as redesignated, by striking ''First'' and inserting ''Second'';

(4) in paragraph (3), as redesignated, by striking ''Second'' and inserting ''Third'';

(5) in paragraph (4), as redesignated, by striking ''Third'' and inserting ''Fourth'';

(6) in paragraph (5), as redesignated, by striking ''Fourth'' and inserting ''Fifth'';

(7) in paragraph (6), as redesignated, by striking ''Fifth'' and inserting ''Sixth'';

(8) in paragraph (7), as redesignated, by striking ''Sixth'' and inserting ''Seventh''; and

(9) by inserting before paragraph (2), as redesignated, the following:

''(1) First, allowed claims for domestic support obligations to be paid in the following order on the condition that funds received under this paragraph by a governmental unit in a case under this title be applied:

''(A) Claims that, as of the date of entry of the order for relief, are owed directly to a spouse, former spouse, or child of the debtor, or the parent of such child, without regard to whether the claim is filed by the spouse, former spouse, child, or parent, or is filed by a governmental unit on behalf of that person.

''(B) Claims that, as of the date of entry of the order for relief, are assigned by a spouse, former spouse, child of the debtor, or the parent of that child to a governmental unit or are owed directly to a governmental unit under applicable nonbankruptcy law.''.

SEC. 142. NONDISCHARGEABILITY OF CERTAIN DEBTS FOR ALIMONY, MAINTENANCE, AND SUPPORT.

Section 523 of title 11, United States Code, is amended—

(1) in subsection (a), by striking paragraph (5) and inserting the following:

''(5) for a domestic support obligation;'';

(2) in subsection (a)(15)—

(A) by inserting ''or'' after ''court of record,'';

(B) by striking ''unless—'' and all that follows through ''debtor'' the last place it appears; and

(3) in subsection (c), by striking ''(6), or (15)'' each place it appears and inserting ''or (6)''.

SEC. 143. CONTINUED LIABILITY OF PROPERTY.

Section 522 of title 11, United States Code, is amended—

(1) in subsection (c), by striking paragraph (1) and inserting the following:

''(1) a debt of a kind specified in paragraph (1) or (5) of section 523(a) (in which case, notwithstanding any provision of applicable nonbankruptcy law to the contrary, such property shall be liable for a debt of a kind specified in section 523(a)(5);''; and

(2) in subsection (f)(1)(A), by striking the dash and all that follows through the end of the subparagraph and inserting ''of a kind that is specified in section 523(a)(5); or''.

SEC. 144. PROTECTION OF DOMESTIC SUPPORT CLAIMS AGAINST PREFERENTIAL TRANSFER MOTIONS.

Section 547(c)(7) of title 11, United States Code, is amended to read as follows:

''(7) to the extent such transfer was a bona fide payment of a debt for a domestic support obligation; or''.

SEC. 145. CLARIFICATION OF MEANING OF HOUSEHOLD GOODS.

Section 101 of title 11, United States Code, is amended by inserting after paragraph (27) the following:

''(27A) 'household goods' includes tangible personal property normally found in or around a residence, but does not include motorized vehicles used for transportation purposes;''.

SEC. 147. MONETARY LIMITATION ON CERTAIN EXEMPT PROPERTY.

Section 522 of title 11, United States Code, as amended by section 125, is amended—

(1) in subsection (b)(2)(A) by striking ''subsection (o)'' and inserting ''subsections (o) and (p)'' before ''any property''; and

(2) by adding at the end the following:

''(p)(1) Except as provided in paragraphs (2) and (3), as a result of electing under subsection (b)(3)(A) to exempt property under State or local law, a debtor may not exempt any interest that exceeds $250,000 in value, in the aggregate, 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)(3)(A) by a family farmer for the principal residence of that farmer.

''(3) Paragraph (1) shall not apply to debtors if applicable State law expressly provides by a statute enacted after the effective date of this paragraph that such paragraph shall not apply to debtors.''.

SEC. 148. BANKRUPTCY FEES.

Section 1930 of title 28, United States Code, is amended—

(1) in subsection (a) by striking ''Notwithstanding section 1915 of this title, the'' and inserting ''The''; and

(2) by adding at the end the following:

''(f)(1) Pursuant to procedures prescribed by the Judicial Conference of the United States, the district court or the bankruptcy court may waive the filing fee in a case under chapter 7 of title 11 for an individual debtor who is unable to pay such fee in installments. For purposes of this paragraph, the term 'filing fee' means the filing fee required by subsection (a), or any other fee prescribed by the Judicial Conference under subsections (b) and (c) that is payable to the clerk upon the commencement of a case under chapter 7 of title 11.

''(2) The district court or the bankruptcy court may also waive for such debtors other fees prescribed pursuant to subsections (b) and (c).

''(3) This subsection does not restrict the district court or the bankruptcy court from waiving, in accordance with Judicial Conference policy, fees prescribed pursuant to such subsections for other debtors and creditors.''.

SEC. 149. COLLECTION OF CHILD SUPPORT.

(a) DUTIES OF TRUSTEE UNDER CHAPTER 7.—Section 704 of title 11, United States Code, as amended by section 102, is amended—

(1) by inserting ''(a)'' before ''The trustee'',

(2) in paragraph (9) by striking ''and'' at the end,

(3) in paragraph (10) by striking the period and inserting ''; and'', and

(4) by adding at the end the following:

''(11) if, with respect to an individual debtor, there is a claim for support of a child of the debtor or a custodial parent of such child entitled to receive priority under section 507(a)(1) of this title, provide the applicable notification specified in subsection (b).

''(b)(1) In any case described in subsection (a)(11), the trustee shall—

''(A)(i) notify in writing the holder of the claim of the right of such holder to use the services of a State child support enforcement agency established under sections 464 and 466 of the Social Security Act for the State in which the holder resides; and

''(ii) include in the notice under this paragraph the address and telephone number of the child support enforcement agency; and

''(B)(i) notify in writing the State child support agency of the State in which the holder of the claim resides of the claim;

''(ii) include in the notice under this paragraph the name, address, and telephone number of the holder of the claim; and

''(iii) at such time as the debtor is granted a discharge under section 727 of this title, notify the holder of such claim and the State child support agency of the State in which such holder resides of—

''(I) the granting of the discharge;

''(II) the last recent known address of the debtor; and

''(III) with respect to the debtor's case, the name of each creditor that holds a claim that is not discharged under paragraph (2), (4), or (14A) of section 523(a) of this title or that was reaffirmed by the debtor under section 524(c) of this title.

''(2)(A) If, after receiving a notice under paragraph (1)(B)(iii), a holder of a claim or a State child support agency is unable to locate the debtor that is the subject of the notice, such holder or such agency may request from a creditor described in paragraph (1)(B)(iii)(III) the last known address of the debtor.

''(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable to the debtor or any other person by reason of making such disclosure.''.

(b) DUTIES OF TRUSTEE UNDER CHAPTER 13.—Section 1302 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (4) by striking ''and'' at the end,

(B) in paragraph (5) by striking the period and inserting ''; and'', and

(C) by adding at the end the following:

''(6) if, with respect to an individual debtor, there is a claim for support of a child of the debtor or a custodial parent of such child entitled to receive priority under section 507(a)(1) of this title, provide the applicable notification specified in subsection (d).'', and

(2) by adding at the end the following:

''(d)(1) In any case described in subsection (b)(6), the trustee shall—

''(A)(i) notify in writing the holder of the claim of the right of such holder to use the services of a State child support enforcement agency established under sections 464 and 466 of the Social Security Act for the State in which the holder resides; and

''(ii) include in the notice under this paragraph the address and telephone number of the child support enforcement agency; and

''(B)(i) notify in writing the State child support agency of the State in which the holder of the claim resides of the claim; and

''(ii) include in the notice under this paragraph the name, address, and telephone number of the holder of the claim;

''(iii) at such time as the debtor is granted a discharge under section 1328 of this title, notify the holder of the claim and the State child support agency of the State in which such holder resides of—

''(I) the granting of the discharge;

''(II) the last recent known address of the debtor; and

''(III) with respect to the debtor's case, the name of each creditor that holds a claim that is not discharged under paragraph (2), (4), or (14A) of section 523(a) of this title or that was reaffirmed by the debtor under section 524(c) of this title.

''(2)(A) If, after receiving a notice under paragraph (1)(B)(iii), a holder of a claim or a State child support agency is unable to locate the debtor that is the subject of the notice, such holder or such agency may request from a creditor described in paragraph (1)(B)(iii) the last known address of the debtor.

''(B) Notwithstanding any other provision of law, a creditor that makes a disclosure of a last known address of a debtor in connection with a request made under subparagraph (A) shall not be liable to the debtor or any other person by reason of making such disclosure.''.

SEC. 150. EXCLUDING EMPLOYEE BENEFIT PLAN PARTICIPANT CONTRIBUTIONS AND OTHER PROPERTY FROM THE ESTATE.

(a) IN GENERAL.—Section 541(b) of title 11 of the United States Code is amended—

(1) by striking ''or'' at the end of paragraph (4)(B)(ii);

(2) by striking the period at the end of paragraph (5) and inserting ''; or''; and

(3) by inserting after paragraph (5) the following:

''(7) any amount or interest in property to the extent that an employer has withheld amounts from the wages of employees for contribution to an employee benefit plan subject to title I of the Employee Retirement Income Security Act of 1974, or to the extent that the employer has received amounts as a result of payments by participants or beneficiaries to an employer for contribution to an employee benefit plan subject to title I of the Employee Retirement Income Security Act of 1974.''.

(b) APPLICATION OF AMENDMENT.—The amendment made by this section shall not apply to cases commenced under title 11 of the United States Code before the expiration of the 180-day period beginning on the date of the enactment of this Act.

SEC. 151. CLARIFICATION OF POSTPETITION WAGES AND BENEFITS.

Section 503(b)(1)(A) of title 11, United States Code, is amended to read as follows:

''(A) the actual, necessary costs and expenses of preserving the estate, including wages, salaries, or commissions for services rendered after the commencement of the case, and wages and benefits attributable to any period of time after commencement of the case as a result of the debtor's violation of Federal law, without regard to when the original unlawful act occurred or to whether any services were rendered;''.

SEC. 152. EXCEPTIONS TO AUTOMATIC STAY IN DOMESTIC SUPPORT OBLIGATION PROCEEDINGS.

Section 362(b)(2) of title 11, United States Code, is amended—

(1) in subparagraph (A) by striking ''or'' at the end;

(2) in subparagraph (B) by adding ''or'' at the end; and

(3) by adding at the end the following:

''(C) under subsection (a) of—

''(i) the withholding of income for payment of a domestic support obligation pursuant to a judicial or administrative order or statute for such obligation that first becomes payable after the date on which the petition is filed; or

''(ii) the withholding of income for payment of a domestic support obligation owed directly to the spouse, former spouse or child of the debtor or the parent of such child, pursuant to a judicial or administrative order or statute for such obligation that becomes payable before the date on which the petition is filed unless the court finds, after notice and hearing, that such withholding would render the plan infeasible;''.

SEC. 153. AUTOMATIC STAY INAPPLICABLE TO CERTAIN PROCEEDINGS AGAINST THE DEBTOR.

Section 362(b)(2) of title 11, United States Code, as amended by section 153, is amended—

(1) in subparagraph (B) by striking ''or'' at the end;

(2) by inserting after subparagraph (C) the following:

''(D) the commencement or continuation of a proceeding concerning a child custody or visitation;

''(E) the commencement or continuation of a proceeding alleging domestic violence; or

''(F) the commencement or continuation of a proceeding seeking a dissolution of marriage, except to the extent the proceeding concerns property of the estate;''.

SEC. 154. DEFINITION OF DOMESTIC SUPPORT OBLIGATION.

Section 101 of title 11, United States Code, is amended—

(1) by striking paragraph (12A); and

(2) by inserting after paragraph (14) the following:

(14A) 'domestic support obligation' means a debt that accrues before or after the entry of an order for relief under this title that is—

''(A) owed to or recoverable by—

''(i) a spouse, former spouse, or child of the debtor or that child's legal guardian; or

''(ii) a governmental unit;

''(B) in the nature of alimony, maintenance, or support (including assistance provided by a governmental unit) of such spouse, former spouse, or child, without regard to whether such debt is expressly so designated;

''(C) established or subject to establishment before or after entry of an order for relief under this title, by reason of applicable provisions of—

''(i) a separation agreement, divorce decree, or property settlement agreement;

''(ii) an order of a court of record; or

''(iii) a determination made in accordance with applicable nonbankruptcy law by a governmental unit; and

''(D) not assigned to a nongovernmental entity, unless that obligation is assigned voluntarily by the spouse, former spouse, child, or parent solely for the purpose of collecting the debt.''.

SEC. 155. REQUIREMENTS TO OBTAIN CONFIRMATION AND DISCHARGE IN CASES INVOLVING DOMESTIC SUPPORT OBLIGATIONS.

Title 11, United States Code, is amended—

(1) in section 1129(a), by adding at the end the following:

''(14) If the debtor is required by a judicial or administrative order or statute to pay a domestic support obligation, the debtor has paid all amounts payable under such order or statute for such obligation that first become payable after the date on which the petition is filed.'';

(2) 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 or statute to pay a domestic support obligation, the debtor has paid all amounts payable under such order for such obligation that become payable after the date on which the petition is filed.''; and

(3) in section 1328(a) in the matter preceding paragraph (1), by inserting '', after a debtor who is required by a judicial or administrative order to pay a domestic support obligation certifies that all amounts payable under such order that are due on or after the date the petition was filed have been paid, and after a debtor who is required by a judicial or administrative order to pay a domestic support obligation, certifies that all amounts payable under such order that are due before the date on which the petition was filed if such amounts are due solely to a spouse, former spouse or child of the debtor or the parent of such child pursuant to a judicial or administrative order, unless the holder of such claim agrees to a different treatment of such claim'' after ''completion by the debtor of all payments under the plan''.

SEC. 156. EXCEPTIONS TO AUTOMATIC STAY IN DOMESTIC SUPPORT OBLIGATION PROCEEDINGS.

Section 362(b) of title 11, United States Code, as amended by sections 104 and 606, is amended—

(1) amending paragraph (2) to read as follows:

''(2) under subsection (a)—

''(A) of the commencement or continuation of an action or proceeding for—

''(i) the establishment of paternity as a part of an effort to collect domestic support obligations; or

''(ii) the establishment or modification of an order for domestic support obligations; or

''(B) the collection of a domestic support obligation from property that is not property of the estate; or

''(C) under subsection (a) of—

''(i) the withholding of income for payment of a domestic support obligation pursuant to a judicial or administrative order or statute for such obligation that first becomes payable after the date on which the petition is filed; or

''(ii) the withholding of income for payment of a domestic support obligation owed directly to the spouse, former spouse or child of the debtor or the parent of such child, pursuant to a judicial or administrative order or statute for such obligation that becomes payable before the date on which the petition is filed unless the court finds, after notice and hearing, that such withholding would render the plan infeasible;'';

(2) in paragraph (19), by striking ''or'' at the end;

(3) in paragraph (20), by striking the period at the end and inserting a semicolon; and

(4) by inserting after paragraph (20) the following:

''(21) under subsection (a) with respect to—

''(A) 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)(16) of the Social Security Act (42 U.S.C. 666(a)(16)) 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)) if such debt is payable solely to a spouse, former spouse or child of the debtor or the parent of such child pursuant to a judicial or administrative order or statute, unless the holder of such claim agrees to waive such withholding, suspension or restriction;

''(B) the interception of tax refunds, as specified in sections 464 and 466(a)(3) of the Social Security Act (42 U.S.C. 664 and 666(a)(3)) if such tax refund is payable solely to a spouse, former spouse or child of the debtor or the parent of such child pursuant to a judicial or administrative order or statute; or

''(C) the enforcement of medical obligations as specified under title IV of the Social Security Act (42 U.S.C. 601 et seq.).''.

SEC. 157. EXEMPTION FOR RIGHT TO RECEIVE CERTAIN ALIMONY, MAINTENANCE, OR SUPPORT.

Section 522(b)(3) of title 11, United States Code, as so redesignated and amended by sections 115 and 203, 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 inserting after subparagraph (D) the following:

''(E) the right to receive—

''(i) alimony, maintenance , support, or property traceable to alimony, maintenance , support; or

''(ii) amounts payable as a result of a property settlement agreement with the debtor's spouse or former spouse; or of an interlocutory or final divorce decree;

to the extent reasonably necessary for the support of the debtor or a dependent of the debtor.''.

SEC. 158. AUTOMATIC STAY INAPPLICABLE TO CERTAIN PROCEEDINGS AGAINST THE DEBTOR.

Section 362(b)(2) of title 11, United States Code, as amended by section 156, is amended—

(1) in subparagraph (A) by striking ''or'' at the end;

(2) by inserting after subparagraph (B) the following:

''(C) the commencement or continuation of a proceeding concerning a child custody or visitation;

''(D) the commencement or continuation of a proceeding alleging domestic violence; or

''(E) the commencement or continuation of a proceeding seeking a dissolution of marriage, except to the extent the proceeding concerns property of the estate;''.

TITLE II—DISCOURAGING BANKRUPTCY ABUSE

SEC. 201. REENACTMENT OF CHAPTER 12.

(a) REENACTMENT.—(1) Chapter 12 of title 11 of the United States Code, as in effect on September 30, 1999, is hereby reenacted.

(2) Paragraph (1) shall take effect on September 30, 1999.

(b) CONTENTS OF CHAPTER 12 PLAN.—Section 1222(a)(2) of title 11, United States Code, is amended to read as follows:

''(2) provide for the full payment, in deferred cash payments, of all claims entitled to priority under section 507, unless—

''(A) the claim is a claim owed to a governmental unit that arises as a result of the sale, transfer, exchange, or other disposition of any farm asset used in the debtor's farming operation, in which case the claim shall be treated as an unsecured claim that is not entitled to priority under section 507, but the debt shall be treated in such manner only if the debtor receives a discharge; or

''(B) the holder of a particular claim agrees to a different treatment of that claim; and''.

(c) SPECIAL NOTICE PROVISIONS.—Section 1231(d) of title 11, United States Code, is amended by striking ''a State or local governmental unit'' and inserting ''any governmental unit''.

(d) EXPANDED DEFINITION OF FAMILY FARMER.—Section 101(18) of title 11, United States Code, is amended—

(1) in subparagraph (A)—

(A) by striking ''$1,500,000'' and inserting ''$3,000,000'';

(B) by striking ''80'' and inserting ''50''; and

(C) by striking ''the taxable year preceding the taxable year'' and inserting ''at least 1 of the 3 taxable years preceding the taxable year''; and

(2) in subparagraph (B)—

(A) in clause (i), by striking ''80'' and inserting ''50''; and

(B) in clause (ii), by striking ''$1,500,000'' and inserting ''$3,000,000''.

(e) MEETINGS OF CREDITORS AND EQUITY SECURITY HOLDERS.—Section 341 of title 11, United States Code, is amended by adding at the end the following:

''(e) Notwithstanding subsections (a) and (b), the court, on the request of a party in interest and after notice and a hearing, for cause may order that the United States trustee not convene a meeting of creditors or equity security holders if the debtor has filed a plan as to which the debtor solicited acceptances prior to the commencement of the case.''.

SEC. 202. MEETINGS OF CREDITORS AND EQUITY SECURITY HOLDERS.

Section 341 of title 11, United States Code, is amended by adding at the end the following:

''(e) Notwithstanding subsections (a) and (b), the court, on the request of a party in interest and after notice and a hearing, for cause may order that the United States trustee not convene a meeting of creditors or equity security holders if the debtor has filed a plan as to which the debtor solicited acceptances prior to the commencement of the case.''.

SEC. 203. PROTECTION OF RETIREMENT SAVINGS IN BANKRUPTCY.

(a) IN GENERAL.—Section 522 of title 11, United States Code, as amended by sections 113, 125, and 147 is amended—

(1) in subsection (b)—

(A) in paragraph (2)—

(i) by striking ''(2)(A)'' and inserting:

''(3) Property listed in this paragraph is—

''(A) subject to subsections (o) and (p),'';

(ii) in subparagraph (B), by striking ''and'' at the end;

(iii) in subparagraph (C), by striking the period at the end and inserting ''; and''; and

(iv) by adding at the end the following:

''(D) retirement funds to the extent that those funds are in a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986.'';

(B) by striking paragraph (1) and inserting:

''(2) Property listed in this paragraph is property that is specified under subsection (d), unless the State law that is applicable to the debtor under paragraph (3)(A) specifically does not so authorize.'';

(C) in the matter preceding paragraph (2)—

(i) by striking ''(b)'' and inserting ''(b)(1)'';

(ii) by striking ''paragraph (2)'' both places it appears and inserting ''paragraph (3)'';

(iii) by striking ''paragraph (1)'' each place it appears and inserting ''paragraph (2)''; and

(iv) by striking ''Such property is—''; and

(D) by adding at the end of the subsection the following:

''(4) For purposes of paragraph (3)(D) and subsection (d)(12), the following shall apply:

''(A) If the retirement funds are in a retirement fund that has received a favorable determination pursuant to section 7805 of the Internal Revenue Code of 1986, and that determination is in effect as of the date of the commencement of the case under section 301, 302, or 303 of this title, those funds shall be presumed to be exempt from the estate.

''(B) If the retirement funds are in a retirement fund that has not received a favorable determination pursuant to such section 7805, those funds are exempt from the estate if the debtor demonstrates that—

''(i) no prior determination to the contrary has been made by a court or the Internal Revenue Service; and

''(ii) the retirement fund is in substantial compliance with the applicable requirements of the Internal Revenue Code of 1986.

''(C) A direct transfer of retirement funds from 1 fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986, pursuant to section 401(a)(31) of the Internal Revenue Code of 1986, or otherwise, shall not cease to qualify for exemption under paragraph (3)(D) or subsection (d)(12) by reason of that direct transfer.

''(D)(i) Any distribution that qualifies as an eligible rollover distribution within the meaning of section 402(c) of the Internal Revenue Code of 1986 or that is described in clause (ii) shall not cease to qualify for exemption under paragraph (3)(D) or subsection (d)(12) by reason of that distribution.

''(ii) A distribution described in this clause is an amount that—

''(I) has been distributed from a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986; and

''(II) to the extent allowed by law, is deposited in such a fund or account not later than 60 days after the distribution of that amount.''; and

(2) in subsection (d)—

(A) in the matter preceding paragraph (1), by striking ''subsection (b)(1)'' and inserting ''subsection (b)(2)''; and

(B) by adding at the end the following:

''(12) Retirement funds to the extent that those funds are in a fund or account that is exempt from taxation under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986.''.

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, as amended by sections 118, 132, 136, and 141 is amended—

(1) in paragraph (27), by striking ''or'' at the end;

(2) in paragraph (28), by striking the period and inserting ''; or'';

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

''(29) under subsection (a), of withholding of income from a debtor's wages and collection of amounts withheld, pursuant to the debtor's agreement authorizing that withholding and collection for the benefit of a pension, profit-sharing, stock bonus, or other plan established under section 401, 403, 408, 408A, 414, 457, or 501(a) of the Internal Revenue Code of 1986 that is sponsored by the employer of the debtor, or an affiliate, successor, or predecessor of such employer—

''(A) to the extent that the amounts withheld and collected are used solely for payments relating to a loan from a plan that satisfies the requirements of section 408(b)(1) of the Employee Retirement Income Security Act of 1974 or is subject to section 72(p) of the Internal Revenue Code of 1986; or

''(B) in the case of a loan from a thrift savings plan described in subchapter III of title 5, that satisfies the requirements of section 8433(g) of such title.''; and

(4) by adding at the end of the flush material following paragraph (29) the following: ''Paragraph (29) does not apply to any amount owed to a plan referred to in that paragraph that is incurred under a loan made during the 1-year period preceding the filing of a petition. Nothing in paragraph (29) may be construed to provide that any loan made under a governmental plan under section 414(d), or a contract or account under section 403(b), of the Internal Revenue Code of 1986 constitutes a claim or a debt under this title.''.

(c) EXCEPTIONS TO DISCHARGE.—Section 523(a) of title 11, United States Code, is amended—

(1) by striking ''or'' at the end of paragraph (17);

(2) by striking the period at the end of paragraph (18) and inserting ''; or''; and

(3) by adding at the end the following:

''(19) owed to a pension, profit-sharing, stock bonus, or other plan established under section 401, 403, 408, 408A, 414, 457, or 501(c) of the Internal Revenue Code of 1986, pursuant to—

''(A) a loan permitted under section 408(b)(1) of the Employee Retirement Income Security Act of 1974) or subject to section 72(p) of the Internal Revenue Code of 1986; or

''(B) a loan from the thrift savings plan described in subchapter III of title 5, that satisfies the requirements of section 8433(g) of such title.

Paragraph (19) does not apply to any amount owed to a plan referred to in that paragraph that is incurred under a loan made during the 1-year period preceding the filing of a petition. Nothing in paragraph (19) may be construed to provide that any loan made under a governmental plan under section 414(d), or a contract or account under section 403(b), of the Internal Revenue Code of 1986 constitutes a claim or a debt under this title.''.

(d) PLAN CONTENTS.—Section 1322 of title 11, United States Code, is amended by adding at the end the following:

''(f) A plan may not materially alter the terms of a loan described in section 362(b)(29) of this title.''.

SEC. 204. PROTECTION OF REFINANCE OF SECURITY INTEREST.

Subparagraphs (A), (B), and (C) of section 547(e)(2) of title 11, United States Code, are amended by striking ''10'' each place it appears and inserting ''30''.

SEC. 205. 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 in 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 such 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)(i) The court may extend the period determined under subparagraph (A) for 120 days upon motion of the trustee or the lessor for cause.

''(ii) If the court grants an extension under clause (i), the court may grant a subsequent extension only upon prior written consent of the lessor.''.

SEC. 206. 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. 207. AMENDMENT TO SECTION 546 OF TITLE 11, UNITED STATES CODE.

Section 546 of title 11, United States Code, is amended by inserting at the end thereof:

''(i) Notwithstanding section 545 (2) and (3) of this title, the trustee may not avoid a warehouseman's lien for storage, transportation or other costs incidental to the storage and handling of goods, as provided by section 7–209 of the Uniform Commercial Code.''.

SEC. 208. LIMITATION.

Section 546(c)(1)(B) of title 11, United States Code, is amended by striking ''20'' and inserting ''45''.

SEC. 209. AMENDMENT TO SECTION 330(a) OF TITLE 11, UNITED STATES CODE.

Section 330(a) of title 11, United States Code, is amended—

(1) in paragraph (3)—

(A) in subparagraph (A) after ''awarded'', by inserting ''to an examiner, chapter 11 trustee, or professional person''; and

(B) by redesignating subdivisions (A) through (E) as clauses (i) through (iv), respectively; and

(2) by adding at the end the following:

''(B) In determining the amount of reasonable compensation to be awarded a trustee, the court shall treat such compensation as a commission based on the results achieved.''.

SEC. 210. POSTPETITION DISCLOSURE AND SOLICITATION.

Section 1125 of title 11, United States Code, is amended by adding at the end the following:

''(g) Notwithstanding subsection (b), an acceptance or rejection of the plan may be solicited from a holder of a claim or interest if such solicitation complies with applicable nonbankruptcy law and if such holder was solicited before the commencement of the case in a manner complying with applicable nonbankruptcy law.''.

SEC. 211. PREFERENCES.

Section 547(c) of title 11, United States Code, is amended—

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

''(2) to the extent that such transfer was in payment of a debt incurred by the debtor in the ordinary course of business or financial affairs of the debtor and the transferee, and such transfer was—

''(A) made in the ordinary course of business or financial affairs of the debtor and the transferee; or

''(B) made according to ordinary business terms;'';

(2) in paragraph (7) by striking ''or'' at the end;

(3) in paragraph (8) by striking the period at the end and inserting ''; or''; and

(4) by adding at the end the following:

''(9) if, in a case filed by a debtor whose debts are not primarily consumer debts, the aggregate value of all property that constitutes or is affected by such transfer is less than $5,000.''.

SEC. 212. VENUE OF CERTAIN PROCEEDINGS.

Section 1409(b) of title 28, United States Code, is amended by inserting '', or a nonconsumer debt against a noninsider of less than $10,000,'' after ''$5,000''.

SEC. 213. PERIOD FOR FILING PLAN UNDER CHAPTER 11.

Section 1121(d) of title 11, United States Code, is amended—

(1) by striking ''On'' and inserting ''(1) Subject to paragraph (1), on''; and

(2) by adding at the end the following:

''(2)(A) Such 120-day period may not be extended beyond a date that is 18 months after the date of the order for relief under this chapter.

''(B) Such 180-day period may not be extended beyond a date that is 20 months after the date of the order for relief under this chapter.''.

SEC. 214. FEES ARISING FROM CERTAIN OWNERSHIP INTERESTS.

Section 523(a)(16) of title 11, United States Code, is amended—

(1) by striking ''dwelling'' the first place it appears;

(2) by striking ''ownership or'' and inserting ''ownership,'';

(3) by striking ''housing'' the first place it appears; and

(4) by striking ''but only'' and all that follows through ''such period,'', and inserting ''or a lot in a homeowners association, for as long as the debtor or the trustee has a legal, equitable, or possessory ownership interest in such unit, such corporation, or such lot,''.

SEC. 215. CLAIMS RELATING TO INSURANCE DEPOSITS IN CASES ANCILLARY TO FOREIGN PROCEEDINGS.

Section 304 of title 11, United States Code, is amended to read as follows:

''§ 304. Cases ancillary to foreign proceedings

''(a) For purposes of this section—

''(1) the term 'domestic insurance company' means a domestic insurance company, as such term is used in section 109(b)(2);

''(2) the term 'foreign insurance company' means a foreign insurance company, as such term is used in section 109(b)(3);

''(3) the term 'United States claimant' means a beneficiary of any deposit referred to in subsection (b) or any multibeneficiary trust referred to in subsection (b);

''(4) the term 'United States creditor' means, with respect to a foreign insurance company—

''(A) a United States claimant; or

''(B) any business entity that operates in the United States and that is a creditor; and

''(5) the term 'United States policyholder' means a holder of an insurance policy issued in the United States.

''(b) The court may not grant relief under chapter 15 of this title with respect to any deposit, escrow, trust fund, or other security required or permitted under any applicable State insurance law or regulation for the benefit of claim holders in the United States.''.

SEC. 216. DEFAULTS BASED ON NONMONETARY OBLIGATIONS.

(a) EXECUTORY CONTRACTS AND UNEXPIRED LEASES.—Section 365 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1)(A) by striking the semicolon at the end and inserting the following:

''other than a default that is a breach of a provision relating to—

''(i) the satisfaction of any provision (other than a penalty rate or penalty provision) relating to a default arising from any failure to perform nonmonetary obligations under an unexpired lease of real property (excluding executory contracts that transfer a right or interest under a filed or issued patent, copyright, trademark, trade dress, or trade secret), if it is impossible for the trustee to cure such default by performing nonmonetary acts at and after the time of assumption; or

''(ii) the satisfaction of any provision (other than a penalty rate or penalty provision) relating to a default arising from any failure to perform nonmonetary obligations under an executory contract, if it is impossible for the trustee to cure such default by performing nonmonetary acts at and after the time of assumption and if the court determines, based on the equities of the case, that this subparagraph should not apply with respect to such default;''; and

(B) by amending paragraph (2)(D) to read as follows:

''(D) the satisfaction of any penalty rate or penalty provision relating to a default arising from a failure to perform nonmonetary obligations under an executory contract (excluding executory contracts that transfer a right or interest under a filed or issued patent, copyright, trademark, trade dress, or trade secret) or under an unexpired lease of real or personal property.'';

(2) in subsection (c)—

(A) in paragraph (2) by adding ''or'' at the end;

(B) in paragraph (3) by striking ''; or'' at the end and inserting a period; and

(C) by striking paragraph (4);

(3) in subsection (d)—

(A) by striking paragraphs (5) through (9); and

(B) by redesignating paragraph (10) as paragraph (5); and

(4) in subsection (f)(1) by striking ''; except that'' and all that follows through the end of the paragraph and inserting a period.

(b) IMPAIRMENT OF CLAIMS OR INTERESTS.—Section 1124(2) of title 11, United States Code, is amended—

(1) in subparagraph (A) by inserting ''or of a kind that section 365(b)(1)(A) of this title expressly does not require to be cured'' before the semicolon at the end;

(2) in subparagraph (C) by striking ''and'' at the end;

(3) by redesignating subparagraph (D) as subparagraph (E); and

(4) by inserting after subparagraph (C) the following:

''(D) if such claim or such interest arises from any failure to perform a nonmonetary obligation, compensates the holder of such claim or such interest (other than the debtor or an insider) for any actual pecuniary loss incurred by such holder as a result of such failure; and''.

SEC. 217. SHARING OF COMPENSATION.

Section 504 of title 11, United States Code, is amended by adding at the end the following:

''(c) This section shall not apply with respect to sharing, or agreeing to share, compensation with a bona fide public service attorney referral program that operates in accordance with non-Federal law regulating attorney referral services and with rules of professional responsibility applicable to attorney acceptance of referrals.''.

SEC. 218. PRIORITY FOR ADMINISTRATIVE EXPENSES.

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

(1) by deleting ''and'' at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting ''; and'';

(3) by inserting the following after paragraph (6):

''(7) with respect to a nonresidential real property lease previously assumed under section 365, and subsequently rejected, a sum equal to all monetary obligations due, excluding those arising from or relating to a failure to operate or penalty provisions, for the period of one year following the later of the rejection date or date of actual turnover of the premises, without reduction or setoff for any reason whatsoever except for sums actually received or to be received from a nondebtor; and the claim for remaining sums due for the balance of the term of the lease shall be a claim under section 502(b)(6).''.

TITLE III—GENERAL BUSINESS BANKRUPTCY PROVISIONS

SEC. 301. DEFINITION OF DISINTERESTED PERSON.

Section 101(14) of title 11, United States Code, is amended to read as follows:

''(14) 'disinterested person' means a person that—

''(A) is not a creditor, an equity security holder, or an insider;

''(B) is not and was not, within 2 years before the date of the filing of the petition, a director, officer, or employee of the debtor; and

''(C) does not have an interest materially adverse to the interest of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the debtor, or for any other reason;''.

SEC. 302. 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)).

''(2)(A) Paragraph (1) shall not apply with respect to a debtor who resides in a district for which the United States trustee or bankruptcy administrator of the bankruptcy court of that district determines that the approved credit counseling services for that district are not reasonably 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 United States trustee or bankruptcy administrator that makes a determination described in subparagraph (A) shall review that determination not later than one year after the date of that determination, and not less frequently than every year 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 or that the exigent circumstances require filing before such 5-day period expires; 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 unless the debtor resides in a district for which the United States trustee or bankruptcy administrator of the bankruptcy court of that district determines that the approved instructional courses are not adequate to provide service to the additional individuals who would be required to compete the instructional course by reason of the requirements of this section. Each United States trustee or bankruptcy administrator that makes such a determination shall review that determination not later than 1 year after the date of that determination, and not less frequently than every year thereafter.''.

(c) CHAPTER 13 DISCHARGE.—Section 1328 of title 11, United States Code, as amended by section 137, is amended by adding at the end the following:

''(g) 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.

''(h) Subsection (g) shall not apply with respect to a debtor who resides in a district for which the United States trustee or bankruptcy administrator of the bankruptcy court of that district determines that the approved instructional courses are not adequate to provide service to the additional individuals who would be required to complete the instructional course by reason of the requirements of this section.

''(i) Each United States trustee or bankruptcy administrator that makes a determination described in subsection (h) shall review that determination not later than 1

year after the date of that determination, and not less frequently than every year thereafter.''.

(d) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, as amended by sections 604 and 120, is amended by adding at the end the following:

''(d) 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) 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

''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 a list of instructional courses concerning personal financial management that have been approved by—

''(1) the United States trustee; or

''(2) the bankruptcy administrator for the district.''.

(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.''.

(e) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—

(1) by inserting after paragraph (13) the following:

''(13A) 'debtor's principal residence' means a residential structure including incidental property when the structure contains 1 to 4 units, whether or not that structure is attached to real property, and includes, without limitation, an individual condominium or cooperative unit or mobile or manufactured home or trailer;'';

(2) by inserting after paragraph (27A), as added by section 318 of this Act, the following:

''(27B) 'incidental property' means property incidental to such residence including, without limitation, property commonly conveyed with a principal residence where the real estate is located, window treatments, carpets, appliances and equipment located in the residence, and easements, appurtenances, fixtures, rents, royalties, mineral rights, oil and gas rights, escrow funds and insurance proceeds;'';

(3) in section 362(b), as amended by sections 117, 118, 132, 136, 141 203, 818, and 1007,—

(A) in paragraph (28) by striking ''or'' at the end thereof;

(B) in paragraph (29) by striking the period at the end and inserting ''; or''; and

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

''(30) under subsection (a), until a prepetition default is cured fully in a case under chapter 13 of this title by actual payment of all arrears as required by the plan, of the postponement, continuation or other similar delay of a prepetition foreclosure proceeding or sale in accordance with applicable nonbankruptcy law, but nothing herein shall imply that such postponement, continuation or other similar delay is a violation of the stay under subsection (a).''; and

(4) by amending section 1322(b)(2) to read as follows:

''(2) modify the rights of holders of secured claims, other than a claim secured primarily by a security interest in property used as the debtor's principal residence at any time during 180 days prior to the filing of the petition, or of holders of unsecured claims, or leave unaffected the rights of holders of any class of claims;''.

(f) LIMITATION.—Section 362 of title 11, United States Code, is amended by adding at the end the following:

''(j) If one case commenced under chapter 7, 11, or 13 of this title is dismissed due to the creation of a debt repayment plan administered by a credit counseling agency approved pursuant to section 111 of this title, then for purposes of section 362(c)(3) of this title the subsequent case commenced under any such chapter shall not be presumed to be filed not in good faith.''.

(g) RETURN OF GOODS SHIPPED.—Section 546(g) of title 11, United States Code, as added by section 222(a) of Public Law 103–394, is amended to read as follows:

''(h) Notwithstanding the rights and powers of a trustee under sections 544(a), 545, 547, 549, and 553 of this title, if the court determines on a motion by the trustee made not later than 120 days after the date of the order for relief in a case under chapter 11 of this title and after notice and hearing, that a return is in the best interests of the estate, the debtor, with the consent of the creditor, and subject to the prior rights, if any, of third parties in such goods, may return goods shipped to the debtor by the creditor before the commencement of the case, and the creditor may offset the purchase price of such goods against any claim of the creditor against the debtor that arose before the commencement of the case.''.

SEC. 303. 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. 304. LOCAL FILING OF BANKRUPTCY CASES.

Section 1408 of title 28, United States Code, is amended—

(1) by striking ''Except'' and inserting ''(a) Except''; and

(2) by adding at the end the following:

''(b) For the purposes of subsection (a), if the debtor is a corporation, the domicile and residence of the debtor are conclusively presumed to be where the debtor's principal place of business in the United States is located.''.

SEC. 305. PERMITTING ASSUMPTION OF CONTRACTS.

(a) Section 365(c) of title 11, United States Code, is amended to read as follows:

''(c)(1) The trustee may not assume or assign an executory contract or unexpired lease of the debtor, whether or not the contract or lease prohibits or restricts assignment of rights or delegation of duties, if—

''(A)(i) applicable law excuses a party to the contract or lease from accepting performance from or rendering performance to an assignee of the contract or lease, whether or not the contract or lease prohibits or restricts assignment of rights or delegation of duties; and

''(ii) the party does not consent to the assumption or assignment; or

''(B) the contract is a contract to make a loan, or extend other debt financing or financial accommodations, to or for the benefit of the debtor, or to issue a security of the debtor.

''(2) Notwithstanding paragraph (1)(A) and applicable nonbankruptcy law, in a case under chapter 11 of this title, a trustee in a case in which a debtor is a corporation, or a debtor in possession, may assume an executory contract or unexpired lease of the debtor, whether or not the contract or lease prohibits or restricts assignment of rights or delegation of duties.

''(3) The trustee may not assume or assign an unexpired lease of the debtor of nonresidential real property, whether or not the contract or lease prohibits or restricts assignment of rights or delegation of duties, if the lease has been terminated under applicable nonbankruptcy law before the order for relief.''.

(b) Section 365(d) of title 11, United States Code, is amended by striking paragraphs (5), (6), (7), (8), and (9), and redesignating paragraph (10) as paragraph (5).

(c) Section 365(e) of title 11, United States Code, is amended to read as follows:

''(e)(1) Notwithstanding a provision in an executory contract or unexpired lease, or in applicable law, an executory contract or unexpired lease of the debtor may not be terminated or modified, and any right or obligation under such contract or lease may not be terminated or modified, at any time after the commencement of the case solely because of a provision in such contract or lease that is conditioned on—

''(A) the insolvency or financial condition of the debtor at any time before the closing of the case;

''(B) the commencement of a case under this title; or

''(C) the appointment of or taking possession by a trustee in a case under this title or a custodian before such commencement.

''(2) Paragraph (1) does not apply to an executory contract or unexpired lease of the debtor if the trustee may not assume or assign, and the debtor in possession may not assume, the contract or lease by reason of the provisions of subsection (c) of this section.''.

(d) Section 365(f)(1) of title 11, United States Code, is amended by striking the semicolon and all that follows through ''event''.

TITLE IV SMALL BUSINESS BANKRUPTCY PROVISIONS

SEC. 401. FLEXIBLE RULES FOR DISCLOSURE STATEMENT AND PLAN.

(a) Section 1125(a)(1) of title 11, United States Code, is amended by inserting before the semicolon following:

''and in determining whether a disclosure statement provides adequate information, the court shall consider the complexity of the case, the benefit of additional information to creditors and other parties in interest, and the cost of providing additional information''.

(b) Section 1125(f) of title 11, United States Code, is amended to read as follows:

''(f) Notwithstanding subsection (b)—

''(1) the court may determine that the plan itself provides adequate information and that a separate disclosure statement is not necessary;

''(2) the court may approve a disclosure statement submitted on standard forms approved by the court or adopted pursuant to section 2075 of title 28; and

''(3)(A) the court may conditionally approve a disclosure statement subject to final approval after notice and a hearing;

''(B) acceptances and rejections of a plan may be solicited based on a conditionally approved disclosure statement if the debtor

provides adequate information to each holder of a claim or interest that is solicited, but a conditionally approved disclosure statement shall be mailed not less than 20 days before the date of the hearing on confirmation of the plan; and

''(C) the hearing on the disclosure statement may be combined with the hearing on confirmation of a plan.''.

SEC. 402. DEFINITIONS.

(a) DEFINITIONS. Section 101 of title 11, United States Code, is amended by striking paragraph (51C) and inserting the following:

''(51C) 'small business case' means a case filed under chapter 11 of this title in which the debtor is a small business debtor; and

''(51D) 'small business debtor' means (A) a person (including affiliates of such person that are also debtors under this title) that has aggregate noncontingent, liquidated secured and unsecured debts as of the date of the petition or the order for relief in an amount not more than $4,000,000 (excluding debts owed to 1 or more affiliates or insiders), except that if a group of affiliated debtors has aggregate noncontingent liquidated secured and unsecured debts greater than $4,000,000 (excluding debt owed to 1 or more affiliates or insiders), then no member of such group is a small business debtor;''.

(b) CONFORMING AMENDMENT.—Section 1102(a)(3) of title 11, United States Code, is amended by inserting ''debtor'' after ''small business'' .

SEC. 403. STANDARD FORM DISCLOSURE STATEMENT AND PLAN.

The Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States shall, within a reasonable period of time after the date of the enactment of this Act, propose for adoption standard form disclosure statements and plans of reorganization for small business debtors (as defined in section 101 of title 11, United States Code, as amended by this Act), designed to achieve a practical balance between—

(1) the reasonable needs of the courts, the United States trustee, creditors, and other parties in interest for reasonably complete information; and

(2) economy and simplicity for debtors.

SEC. 404. UNIFORM NATIONAL REPORTING REQUIREMENTS.

(a) REPORTING REQUIRED.—

(1) Title 11 of the United States Code is amended by inserting after section 307 the following:

''§ 308. Debtor reporting requirements

''A small business debtor shall file periodic financial and other reports containing information including—

''(1) the debtor's profitability, that is, approximately how much money the debtor has been earning or losing during current and recent fiscal periods;

''(2) reasonable approximations of the debtor's projected cash receipts and cash disbursements over a reasonable period;

''(3) comparisons of actual cash receipts and disbursements with projections in prior reports; and

''(4) whether the debtor is—

''(A) in compliance in all material respects with postpetition requirements imposed by this title and the Federal Rules of Bankruptcy Procedure; and

''(B) timely filing tax returns and paying taxes and other administrative claims when due, and, if not, what the failures are and how, at what cost, and when the debtor intends to remedy such failures; and

''(5) such other matters as are in the best interests of the debtor and creditors, and in the public interest in fair and efficient procedures under chapter 11 of this title.''.

(2) The table of sections of chapter 3 of title 11, United States Code, is amended by inserting after the item relating to section 307 the following:

''308. Debtor reporting requirements.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect 60 days after the date on which rules are prescribed pursuant to section 2075, title 28, United States Code to establish forms to be used to comply with section 308 of title 11, United States Code, as added by subsection (a).

SEC. 405. UNIFORM REPORTING RULES AND FORMS FOR SMALL BUSINESS CASES.

(a) PROPOSAL OF RULES AND FORMS.—The Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States shall propose for adoption amended Federal Rules of Bankruptcy Procedure and Official Bankruptcy Forms to be used by small business debtors to file periodic financial and other reports containing information, including information relating to—

(1) the debtor's profitability;

(2) the debtor's cash receipts and disbursements; and

(3) whether the debtor is timely filing tax returns and paying taxes and other administrative claims when due.

(b) PURPOSE.—The rules and forms proposed under subsection (a) shall be designed to achieve a practical balance between—

(1) the reasonable needs of the bankruptcy court, the United States trustee, creditors, and other parties in interest for reasonably complete information;

(2) the small business debtor's interest that required reports be easy and inexpensive to complete; and

(3) the interest of all parties that the required reports help the small business debtor to understand its financial condition and plan its future.

SEC. 406. DUTIES IN SMALL BUSINESS CASES.

(a) DUTIES IN CHAPTER 11 CASES.—Title 11 of the United States Code is amended by inserting after section 1114 the following:

''§ 1115. Duties of trustee or debtor in possession in small business cases

''(a) In a small business case, a trustee or the debtor in possession, in addition to the duties provided in this title and as otherwise required by law, shall—

''(1) append to the voluntary petition or, in an involuntary case, file within 3 days after the date of the order for relief—

''(A) its most recent balance sheet, statement of operations, cash-flow statement, Federal income tax return; or

''(B) a statement made under penalty of perjury that no balance sheet, statement of operations, or cash-flow statement has been prepared and no Federal tax return has been filed;

''(2) attend, through its responsible individual, meetings scheduled by the court or the United States trustee, including initial debtor interviews and meetings of creditors convened under section 341 of this title;

''(3) timely file all schedules and statements of financial affairs, unless the court, after notice and a hearing, grants an extension, which shall not extend such time period to a date later than 30 days after the date of the order for relief, absent extraordinary and compelling circumstances;

''(4) file all postpetition financial and other reports required by the Federal Rules of Bankruptcy Procedure or by local rule of the district court;

''(5) subject to section 363(c)(2) of this title, maintain insurance customary and appropriate to the industry;

''(6)(A) timely file tax returns;

''(B) subject to section 363(c)(2) of this title, timely pay all administrative expense tax claims, except those being contested by appropriate proceedings being diligently prosecuted; and

''(C) subject to section 363(c)(2) of this title, establish 1 or more separate deposit accounts not later than 10 business days after the date of order for relief (or as soon thereafter as possible if all banks contacted decline the business) and deposit therein, not later than 1 business day after receipt thereof or a responsible time set by the court, all taxes payable for periods beginning after the date the case is commenced that are collected or withheld by the debtor for governmental units unless the court waives this requirement after notice and hearing; and

''(7) allow the United States trustee, or its designated representative, to inspect the debtor's business premises, books, and records at reasonable times, after reasonable prior written notice, unless notice is waived by the debtor.''.

(b) TECHNICAL AMENDMENT.—The table of sections of chapter 11, United States Code, is amended by inserting after the item relating to section 1114 the following:

''1115. Duties of trustee or debtor in possession in small business cases.''.

SEC. 407. PLAN FILING AND CONFIRMATION DEADLINES.

Section 1121(e) of title 11, United States Code, is amended to read as follows:

''(e) In a small business case—

''(1) only the debtor may file a plan until after 90 days after the date of the order for relief, unless a trustee has been appointed under this chapter, or unless the court, on request of a party in interest and after notice and hearing, shortens such time;

''(2) the debtor shall file a plan, and any necessary disclosure statement, not later than 90 days after the date of the order for relief, unless the United States Trustee has appointed under section 1102(a)(1) of this title a committee of unsecured creditors that the court has determined, before the 90 days has expired, is sufficiently active and representative to provide effective oversight of the debtor; and

''(3) the time periods specified in paragraphs (1) and (2) of this subsection and the time fixed in section 1129(e) of this title for confirmation of a plan, may be extended only as follows:

''(A) On request of a party in interest made within the respective periods, and after notice and hearing, the court may for cause grant one or more extensions, cumulatively not to exceed 60 days, if the movant establishes—

''(i) that no cause exists to dismiss or convert the case or appoint a trustee or examiner under subparagraphs (A) (I) of section 1112(b) of this title; and

''(ii) that there is a reasonable possibility the court will confirm a plan within a reasonable time;

''(B) On request of a party in interest made within the respective periods, and after notice and hearing, the court may for cause grant one or more extensions in excess of those authorized under subparagraph (A) of this paragraph, if the movant establishes:

''(i) that no cause exists to dismiss or convert the case or appoint a trustee or examiner under subparagraphs (A) (I) of section 1112(b)(3) of this title; and

''(ii) that it is more likely than not that the court will confirm a plan within a reasonable time; and

''(C) a new deadline shall be imposed whenever an extension is granted.''.

SEC. 408. PLAN CONFIRMATION DEADLINE.

Section 1129 of title 11, United States Code, is amended by adding at the end the following:

''(e) In a small business case, the debtor shall confirm a plan not later than 150 days after the date of the order for relief unless—

''(1) the United States Trustee has appointed, under section 1102(a)(1) of this title, a committee of unsecured creditors that the court has determined, before the 150 days has expired, is sufficiently active and representative to provide effective oversight of the debtor; or

''(2) such 150-day period is extended as provided in section 1121(e)(3) of this title.''.

SEC. 409. PROHIBITION AGAINST EXTENSION OF TIME.

Section 105(d) of title 11, United States Code, is amended—

(1) in paragraph (2)(B)(vi) by striking the period at the end and inserting ''; and''; and

(2) by adding at the end the following:

''(3) in a small business case, not extend the time periods specified in sections 1121(e) and 1129(e) of this title except as provided in section 1121(e)(3) of this title.''.

SEC. 410. DUTIES OF THE UNITED STATES TRUSTEE.

(a) DUTIES OF THE UNITED STATES TRUSTEE.—

Section 586(a) of title 28, United States Code, is amended—

(1) in paragraph (3)—

(A) in subparagraph (G) by striking ''and at the end'';

(B) by redesignating subparagraph (H) as subparagraph (I); and

(C) by inserting after subparagraph (G) the following:

''(H) in small business cases (as defined in section 101 of title 11), performing the additional duties specified in title 11 pertaining to such cases'';

(2) in paragraph (5) by striking ''and at the end'';

(3) in paragraph (6) by striking the period at the end and inserting ''; and''; and

(4) by inserting after paragraph (7) the following:

''(7) in each of such small business cases—

''(A) conduct an initial debtor interview as soon as practicable after the entry of order for relief but before the first meeting scheduled under section 341(a) of title 11 at which time the United States trustee shall begin to investigate the debtor's viability, inquire about the debtor's business plan, explain the debtor's obligations to file monthly operating reports and other required reports, attempt to develop an agreed scheduling order, and inform the debtor of other obligations;

''(B) when determined to be appropriate and advisable, visit the appropriate business premises of the debtor and ascertain the state of the debtor's books and records and verify that the debtor has filed its tax returns; and

''(C) review and monitor diligently the debtor's activities, to identify as promptly as possible whether the debtor will be unable to confirm a plan; and

''(8) in cases in which the United States trustee finds material grounds for any relief under section 1112 of title 11, the United States trustee shall apply promptly to the court for relief.''.

SEC. 411. SCHEDULING CONFERENCES.

Section 105(d) of title 11, United States Code, is amended—

(1) in the matter preceding paragraph (1) by striking '', may'';

(2) by amending paragraph (1) to read as follows:

''(1) shall hold such status conferences as are necessary to further the expeditious and economical resolution of the case; and''; and

(3) in paragraph (2) by striking ''unless inconsistent with another provision of this title or with applicable Federal Rules of Bankruptcy Procedure'', and inserting ''may''.

SEC. 412. SERIAL FILER PROVISIONS.

Section 362 of title 11, United States Code, as amended by section 302, is amended—

(1) in subsection (i) as so redesignated by section 122—

(A) by striking ''An'' and inserting ''(1) Except as provided in paragraph (2), an''; and

(B) by adding at the end the following:

''(2) If such violation is based on an action taken by an entity in the good-faith belief that subsection (h) applies to the debtor, then recovery under paragraph (1) against such entity shall be limited to actual damages.''; and

(2) by inserting after subsection (j), as added by section 302, the following:

''(k)(1) Except as provided in paragraph (2) of this subsection, the provisions of subsection (a) of thissection shall not apply in a case in which the debtor—

''(A) is a debtor in a case under this title pending at the time the petition is filed;

''(B) was a debtor in a case under this title which was dismissed for any reason by an order that became final in the 2-year period ending on the date of the order for relief entered with respect to the petition;

''(C) was a debtor in a case under this title in which a chapter 11, 12, or 13 plan was confirmed in the 2-year period ending on the date of the order for relief entered with respect to the petition; or

''(D) is an entity that has succeeded to substantially all of the assets or business of a debtor described in subparagraph (A), (B), or (C).

''(2) This subsection shall not apply—

''(A) to a case initiated by an involuntary petition filed by a creditor that is not an insider or affiliate of the debtor; or

''(B) after such time as the debtor, after notice and a hearing, demonstrates by a preponderance of the evidence, that the filing of such petition resulted from circumstances beyond the control of the debtor and not foreseeable at the time the earlier case was filed; and that it is more likely than not that the court will confirm a plan, other than a liquidating plan, within a reasonable time.''.

SEC. 413. EXPANDED GROUNDS FOR DISMISSAL OR CONVERSION AND APPOINTMENT OF TRUSTEE OR EXAMINER.

(a) EXPANDED GROUNDS FOR DISMISSAL OR CONVERSION.—Section 1112(b) of title 11, United States Code, is amended to read as follows:

''(b)(1) Except as provided in paragraphs (2) and (4) of this subsection, and in subsection (c) of this section, on request of a party in interest, and after notice and a hearing, the court shall convert a case under this chapter to a case under chapter 7 of this title or dismiss a case under this chapter, or appoint a trustee or examiner under section 1104(e) of this title, whichever is in the best interest of creditors and the estate, if the movant establishes cause.

''(2) The court may decline to grant the relief specified in paragraph (1) of this subsection if the debtor or another party in interest objects and establishes by a preponderance of the evidence that—

''(A) it is more likely than not that a plan will be confirmed within a time as fixed by this title or by order of the court entered pursuant to section 1121(e)(3), or within a reasonable time if no time has been fixed; and

''(B) if the cause is an act or omission of the debtor that—

''(i) there exists a reasonable justification for the act or omission; and

''(ii) the act or omission will be cured within a reasonable time fixed by the court not to exceed 30 days after the court decides the motion, unless the movant expressly consents to a continuance for a specific period of time, or compelling circumstances beyond the control of the debtor justify an extension.

''(3) For purposes of this subsection, cause includes—

''(A) substantial or continuing loss to or diminution of the estate;

''(B) gross mismanagement of the estate;

''(C) failure to maintain insurance that poses a material risk to the estate or the public;

''(D) unauthorized use of cash collateral harmful to 1 or more creditors;

''(E) failure to comply with an order of the court;

''(F) failure timely to satisfy any filing or reporting requirement established by this title or by any rule applicable to a case under this chapter;

''(G) failure to attend the meeting of creditors convened under section 341(a) of this title;

''(H) failure timely to provide information or attend meetings reasonably requested by the United States trustee or bankruptcy administrator;

''(I) failure timely to pay taxes due after the date of the order for relief or to file tax returns due after the order for relief;

''(J) failure to file a disclosure statement, or to file or confirm a plan, within the time fixed by this title or by order of the court;

''(K) failure to pay any fees or charges required under chapter 123 of title 28;

''(L) revocation of an order of confirmation under section 1144 of this title;

''(M) inability to effectuate substantial consummation of a confirmed plan;

''(N) material default by the debtor with respect to a confirmed plan; and

''(O) termination of a plan by reason of the occurrence of a condition specified in the plan.

''(4) The court may grant relief under this subsection for cause as defined in subparagraphs C, F, G, H, or K of paragraph 3 of this subsection only upon motion of the United States trustee or bankruptcy administrator or upon the court s own motion.

''(5) The court shall commence the hearing on any motion under this subsection not later than 30 days after filing of the motion, and shall decide the motion within 15 days after commencement of the hearing, unless the movant expressly consents to a continuance for a specific period of time or compelling circumstances prevent the court from meeting the time limits established by this paragraph.''.

(b) ADDITIONAL GROUNDS FOR APPOINTMENT OF TRUSTEE OR EXAMINER.—Section 1104 of title 11, United States Code, is amended by adding at the end the following:

''(e) If grounds exist to convert or dismiss the case under section 1112 of this title, the court may instead appoint a trustee or examiner, if it determines that such appointment is in the best interests of creditors and the estate.''.

SEC. 414. STUDY OF OPERATION OF TITLE 11 OF THE UNITED STATES CODE WITH RESPECT TO SMALL BUSINESSES.

Not later than 2 years after the date of the enactment of this Act, the Administrator of the Small Business Administration, in consultation with the Attorney General, the Director of the Administrative Office of United States Trustees, and the Director of the Administrative Office of the United States Courts, shall—

(1) conduct a study to determine—

(A) the internal and external factors that cause small businesses, especially sole proprietorships, to become debtors in cases under title 11 of the United States Code and that cause certain small businesses to successfully complete cases under chapter 11 of such title; and

(B) how Federal laws relating to bankruptcy may be made more effective and efficient in assisting small businesses to remain viable; and

(2) submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report summarizing that study.

SEC. 415. PAYMENT OF INTEREST.

Section 362(d)(3) of title 11, United States Code, is amended—

(1) by inserting ''or 30 days after the court determines that the debtor is subject to this paragraph, whichever is later'' after ''90-day period)''; and

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

''(B) the debtor has commenced monthly payments (which payments may, in the debtor's sole discretion, notwithstanding section 363(c)(2) of this title, be made from rents or other income generated before or after the commencement of the case by or from the property) to each creditor whose claim is secured by such real estate (other than a claim secured by a judgment lien or by an unmatured statutory lien), which payments are in an amount equal to interest at the then-applicable nondefault contract rate of interest on the value of the creditor's interest in the real estate; or''.

SEC. 416. PROTECTION OF JOBS.

The provisions of title 11 of the United States Code relating to small business debtors or to single asset real estate shall not apply in a case under such title if the application of any of such provisions in such case could result in the loss of 5 or more jobs.

TITLE V—MUNICIPAL BANKRUPTCY PROVISIONS

SEC. 501. PETITION AND PROCEEDINGS RELATED TO PETITION.

(a) TECHNICAL AMENDMENT RELATING TO MUNICIPALITIES.—Section 921(d) of title 11, United States Code, is amended by inserting ''notwithstanding section 301(b)'' before the period at the end.

(b) CONFORMING AMENDMENT.—Section 301 of title 11, United States Code, is amended—

(1) by inserting ''(a)'' before ''A voluntary''; and

(2) by amending the last sentence to read as follows:

''(b) The commencement of a voluntary case under a chapter of this title constitutes an order for relief under such chapter.''.

SEC. 502. APPLICABILITY OF OTHER SECTIONS TO CHAPTER 9.

Section 901(a) 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,''.

TITLE VI—STREAMLINING THE BANKRUPTCY SYSTEM

SEC. 601. 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 and activities related thereto 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. 602. AUDIT PROCEDURES.

(a) AMENDMENTS.—Section 586 of title 28, United States Code, is amended—

(1) in subsection (a) by amending striking paragraph (6) to read as follows:

''(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 to determine the accuracy, veracity, 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. Such audits shall be in accordance with generally accepted auditing standards and performed by independent certified public accountants or independent licensed public accountants.

''(B) Those procedures shall—

''(i) establish a method of selecting appropriate qualified persons to contract to perform those audits;

''(ii) establish a method of randomly selecting cases to be audited, except that not less than 1 out of every 250 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 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.

''(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)(A) The report of each audit conducted under this subsection shall be filed with the court and transmitted to the United States trustee. Each report shall clearly and conspicuously specify any material misstatement of income or expenditures or of assets identified by the person performing the audit. In any case where a material misstatement of income or expenditures or of assets has been reported, the clerk of the bankruptcy court shall give notice of the misstatement to the creditors in the case.

''(B) If a material misstatement of income or expenditures or of assets is reported, the United States trustee shall—

''(i) report the material misstatement, if appropriate, to the United States Attorney pursuant to section 3057 of title 18, United States Code; and

''(ii) if advisable, take appropriate action, including but not limited to commencing an adversary proceeding to revoke the debtor's discharge pursuant to section 727(d) of title 11, United States Code.''.

(b) AMENDMENTS TO SECTION 521 OF TITLE 11, U.S.C.—Section 521(a) of title 11, United States Code, as amended by section 603, is amended in paragraphs (3) and (4) by adding ''or an auditor appointed pursuant to section 586 of title 28, United States Code'' after ''serving in the case''.

(c) AMENDMENTS TO SECTION 727 OF TITLE 11, U.S.C.—Section 727(d) of title 11, United States Code, is amended—

(1) by deleting ''or'' at the end of paragraph (2);

(2) by substituting ''; or'' for the period at the end of paragraph (3); and

(3) by adding the following at the end the following:

''(4) the debtor has failed to explain satisfactorily—

''(A) a material misstatement in an audit performed pursuant to section 586(f) of title 28, United States Code; or

''(B) a failure to make available for inspection all necessary accounts, papers, documents, financial records, files, and all other papers, things, or property belonging to the debtor that are requested for an audit conducted pursuant to section 586(f) of title 28, United States Code.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

SEC. 603. GIVING CREDITORS FAIR NOTICE IN CHAPTER 7 AND 13 CASES.

(a) NOTICE.—Section 342 of title 11, United States Code, is amended—

(1) in subsection (c)—

(A) by striking '', but the failure of such notice to contain such information shall not invalidate the legal effect of such notice''; and

(B) by adding the following at the end: ''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 which is the current account number of the debtor with respect to any debt held by the creditor against the debtor, the debtor shall include such account number in any notice to the creditor required to be given under this title. If the creditor has specified to the debtor 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. For the purposes of this section, 'notice' shall include, but shall not be limited to, any correspondence from the debtor to the creditor after the commencement of the case, any statement of the debtor's intention under section 521(a)(2) of this title, notice of the commencement of any proceeding in the case to which the creditor is a party, and any notice of the hearing under section 1324 of this title.'';

(2) by adding at the end the following:

''(d) At any time, a creditor in a case of an individual debtor 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. After 5 days following receipt of such notice, any notice the court or the debtor is required to give the creditor shall be given at that address.

''(e) An entity may file with the court a notice stating its address for notice in cases under chapters 7 and 13. After 30 days following the filing of such 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 (d) with respect to a particular case.

''(f) Notice given to a creditor other than as provided in this section shall not be effective notice until it has been brought to the attention of the creditor. 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 such department or person, notice will not be brought to the attention of the creditor until received by such person or department. No sanction under section 362(h) of this title or any other sanction which a court may impose on account of violations of the stay

under section 362(a) of this title or failure to comply with section 542 or 543 of this title may be imposed on any action of the creditor unless the action takes place after the creditor has received notice of the commencement of the case effective under this section.''.

(b) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, as amended by sections 604, 120, and 302, 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 monthly income and current expenditures prepared in accordance with section 707(b)(2);

''(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) of this title indicating that such attorney or bankruptcy petition preparer delivered to the debtor any notice required by section 342(b) of this title; 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; and

''(vi) a statement disclosing any reasonably anticipated increase in income or expenditures over the 12-month period following the date of filing;'';

(3) by adding at the end the following:

''(e)(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 at a reasonable cost within 5 business days after such request.

''(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 such plan available to the creditor who requests such plan at a reasonable cost and not later than 5 days after such request.

''(f) 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 current monthly income and expenditures in the preceding tax year and current monthly income less expenditures for the month preceding the statement prepared in accordance with section 707(b)(2) 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.

''(g)(1) A statement referred to in subsection (f)(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 (h).

''(h)(1) Not later than 30 days after the date of enactment of the Consumer Bankruptcy Reform Act of 1999, 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 reasonable restrictions on creditor access to tax information that is required to be provided under this section to verify creditor identity and to restrict use of the information except with respect to the case.

''(3) Not later than 1 year after the date of enactment of the Consumer Bankruptcy Reform Act of 1999, 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) to provide timely and sufficient information to creditors concerning the case; and

''(B) if appropriate, includes proposed legislation—

''(i) to further protect the confidentiality of tax information or to make it better available to creditors; and

''(ii) to provide penalties for the improper use by any person of the tax information required to be provided under this section.

''(i) If requested by the United States trustee or a trustee serving in the case, the debtor provide a document that establishes the identity of the debtor, including a driver's license, passport, or other document that contains a photograph of the debtor and such other personal identifying information relating to the debtor that establishes the identity of the debtor.''.

(c) Section 1324 of title 11, United States Code, is amended—

(1) by inserting ''(a)'' before ''After''; and

(2) by inserting at the end thereof—

''(c) Whenever a party in interest is given notice of a hearing on the confirmation or modification of a plan under this chapter, such notice shall include the information provided by the debtor on the most recent statement filed with the court pursuant to section 521(a)(1)(B)(ii) or (f)(4) of this title.''.

SEC. 604. DISMISSAL FOR FAILURE TO TIMELY FILE SCHEDULES OR PROVIDE REQUIRED INFORMATION.

Section 521 of title 11, United States Code, as amended by section 603 is amended by inserting after subsection (a) the following:

''(b)(1) Notwithstanding section 707(a) of this title, 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 subsection (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 such 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 not to exceed 45 days to file the information required under subsection (a)(1) if the court finds justification for extending the period for the filing.''.

SEC. 605. ADEQUATE TIME TO PREPARE FOR HEARING ON CONFIRMATION OF THE PLAN.

(a) HEARING.—Section 1324 of title 11, United States Code, 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) The hearing on confirmation of the plan may be held not earlier than 20 days, and not later than 45 days, after the meeting of creditors under section 341(a) of this title.''.

SEC. 606. CHAPTER 13 PLANS TO HAVE A 5-YEAR DURATION IN CERTAIN CASES.

Title 11, United States Code, is amended—

(1) by amending section 1322(d) to read as follows:

''(d) If the current monthly income of the debtor and the debtor's spouse combined, when multiplied by 12, is not less than the highest national median family income last reported by the Bureau of the Census for a family of equal or lesser size or, in the case of a household of 1 person, not less than the national median household income for 1 earner, the plan may not provide for payments over a period that is longer than 5 years. If the current monthly income of the debtor and the debtor's spouse combined, when multiplied by 12, is less than the highest national median family income for a family of equal or lesser size, or in the case of a household of 1 person, the national median household income for 1 earner, the plan may not provide for payments over a period that is longer than 3 years, unless the court, for cause, approves a longer period, but the court may not approve a period that is longer than 5 years. Notwithstanding the foregoing, the national median family income for a family of more than 4 individuals shall be the national median family income last reported by the Bureau of the Census for a family of 4 individuals plus $583 for each additional member of the family.'';

(2) in section 1325(b)(1)(B) as amended by section 130—

(A) by striking ''three year period'' and inserting ''applicable commitment period''; and

(B) by inserting at the end of subparagraph (B) the following: ''The 'applicable commitment period' shall be not less than 5 years if the current monthly income of the debtor and the debtor's spouse combined, when multiplied by 12, is not less than the highest national median family income last reported by the Bureau of the Census for a family of equal or lesser size, or in the case of a household of 1 person, the national median household income for 1 earner. Notwithstanding the foregoing, the national median family

income for a family of more than 4 individuals shall be the national median family income last reported by the Bureau of the Census for a family of 4 individuals plus $583 for each additional member of the family.''; and

(3) in section 1329—

(A) by striking in subsection (c) ''three years'' and inserting ''the applicable commitment period under section 1325(b)(1)(B)''; and

(B) by inserting at the end of subsection (c) the following:

''The duration period shall be 5 years if the current monthly income of the debtor and the debtor's spouse combined, when multiplied by 12, is not less than the highest national median family income last reported by the Bureau of the Census for a family of equal or lesser size or, in the case of a household of 1 person, the national median household income for 1 earner, as of the date of the modification and shall be 3 years if the current monthly total income of the debtor and the debtor's spouse combined, when multiplied by 12, is less than the highest national median family income last reported by the Bureau of the Census for a family of equal or lesser size or, in the case of a household of 1 person, less than the national median household income for 1 earner as of the date of the modification. Notwithstanding the foregoing, the national median family income for a family of more than 4 individuals shall be the national median family income last reported by the Bureau of the Census for a family of 4 individuals plus $583 for each additional member of the family.''.

SEC. 607. SENSE OF THE CONGRESS REGARDING EXPANSION OF RULE 9011 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE.

It is the sense of the Congress that rule 9011 of the Federal Rules of Bankruptcy Procedure (11 U.S.C. App) should be modified to include a requirement that all documents (including schedules), signed and unsigned, submitted to the court or to a trustee by debtors who represent themselves and debtors who are represented by an attorney be submitted only after the debtor or the debtor's attorney has made reasonable inquiry to verify that the information contained in such documents is well grounded in fact, and is warranted by existing law or a good-faith argument for the extension, modification, or reversal of existing law.

SEC. 608. ELIMINATION OF CERTAIN FEES PAYABLE IN CHAPTER 11 BANKRUPTCY CASES.

(a) AMENDMENTS.—Section 1930(a)(6) of title 28, United States Code, is amended—

(1) in the 1st sentence by striking ''until the case is converted or dismissed, whichever occurs first''; and

(2) in the 2d sentence—

(A) by striking ''The'' and inserting ''Until the plan is confirmed or the case is converted (whichever occurs first) the''; and

(B) by striking ''less than $300,000;'' and inserting ''less than $300,000. Until the case is converted, dismissed, or closed (whichever occurs first and without regard to confirmation of the plan) the fee shall be''.

(b) DELAYED EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1999.

SEC. 609. STUDY OF BANKRUPTCY IMPACT OF CREDIT EXTENDED TO DEPENDENT STUDENTS.

Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall—

(1) conduct a study regarding the impact that the extension of credit to individuals who are—

(A) claimed as dependents for purposes of the Internal Revenue Code of 1986; and

(B) enrolled in post-secondary educational institutions,

has on the rate of cases filed under title 11 of the United States Code; and

(2) submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report summarizing such study.

SEC. 610. 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 by for good cause as described in findings made by the court.''.

SEC. 611. 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—

''(i) 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 such 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; and

''(ii) unless a prebankruptcy default has been fully cured pursuant to the plan at the time of conversion, in any proceeding under this title or otherwise, the default shall have the effect given under applicable nonbankruptcy law.''.

SEC. 612. BANKRUPTCY APPEALS.

Title 28 of the United States Code is amended by inserting after section 1292 the following:

''§ 1293. Bankruptcy appeals

''(a) The courts of appeals (other than the United States Court of Appeals for the Federal Circuit) shall have jurisdiction of appeals from the following:

''(1) Final orders and judgments entered by bankruptcy courts and district courts in cases under title 11, in proceedings arising under title 11, and in proceedings arising in or related to a case under title 11, including final orders in proceedings regarding the automatic stay of section 362 of title 11.

''(2) Interlocutory orders entered by bankruptcy courts and district courts granting, continuing, modifying, refusing or dissolving injunctions, or refusing to dissolve or modify injunctions in cases under title 11, in proceedings arising under title 11, and in proceedings arising in or related to a case under title 11, other than interlocutory orders in proceedings regarding the automatic stay of section 362 of title 11.

''(3) Interlocutory orders of bankruptcy courts and district courts entered under section 1104(a) or 1121(d) of title 11, or the refusal to enter an order under such section.

''(4) An interlocutory order of a bankruptcy court or district court entered in a case under title 11, in a proceeding arising under title 11, or in a proceeding arising in or related to a case under title 11, if the court of appeals that would have jurisdiction of an appeal of a final order entered in such case or such proceeding permits, in its discretion, appeal to be taken from such interlocutory order.

''(b) Final decisions, judgments, orders, and decrees entered by a bankruptcy appellate panel under subsection (b) of this section.

''(c)(1) The judicial council of a circuit may establish a bankruptcy appellate panel composed of bankruptcy judges in the circuit who are appointed by the judicial council, which panel shall exercise the jurisdiction to review orders and judgments of bankruptcy courts described in paragraphs (1)–(4) of subsection (a) of this section unless—

''(A) the appellant elects at the time of filing the appeal; or

''(B) any other party elects, not later than 10 days after service of the notice of the appeal;

to have such jurisdiction exercised by the court of appeals.

''(2) An appeal to be heard by a bankruptcy appellate panel under this subsection (b) shall be heard by 3 members of the bankruptcy appellate panel, provided that a member of such panel may not hear an appeal originating in the district for which such member is appointed or designated under section 152 of this title.

''(3) If authorized by the Judicial Conference of the United States, the judicial councils of 2 or more circuits may establish a joint bankruptcy appellate panel.''.

SEC. 613. GAO STUDY.

(a) STUDY.—Not later than 270 days after the date of the enactment of this Act, the Comptroller General of the United States shall conduct a study of the feasibility, effectiveness, and cost of requiring trustees appointed under title 11 of the United States Code, or the bankruptcy courts, to provide to the Office of Child Support Enforcement promptly after the commencement of cases by individual debtors under such title, the names and social security numbers of such debtors for the purposes of allowing such Office to determine whether such debtors have outstanding obligations for child support (as determined on the basis of information in the Federal Case Registry or other national database).

(b) REPORT.—Not later than 300 days after the date of the enactment of this Act, the Comptroller General shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate, a report containing the results of the study required by subsection (a).

TITLE VII—BANKRUPTCY DATA

SEC. 701. 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, 2000, 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 monthly income, and average income and average expenses of those debtors as reported on the schedules and statements that each such debtor files under sections 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, the number of cases dismissed for failure to make payments under the plan, the number of cases refiled after dismissal, and the number of cases in which the plan was completed, separately itemized with respect to the number of modifications made before completion of the plan, if any; and

''(iii) the number of cases in which the debtor filed another case within the 6 years previous to the filing;

''(G) the number of cases in which creditors were fined for misconduct and any amount of punitive damages awarded by the court for creditor misconduct; and

''(H) the number of cases in which sanctions under rule 9011 of the Federal Rules of Bankruptcy Procedure were imposed against debtor's counsel and damages awarded under such Rule.''.

(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. 702. UNIFORM RULES FOR THE COLLECTION OF BANKRUPTCY DATA.

(a) AMENDMENT.—Title 28 of the United States Code is amended by inserting after section 589a the following:

''§ 589b. Bankruptcy data

''(a) RULES.—The Attorney General shall, within a reasonable time after the effective date of this section, issue rules requiring uniform forms for (and from time to time thereafter to appropriately modify and approve)—

''(1) final reports by trustees in cases under chapters 7, 12, and 13 of title 11; and

''(2) periodic reports by debtors in possession or trustees, as the case may be, in cases under chapter 11 of title 11.

''(b) REPORTS.—All reports referred to in subsection (a) shall be designed (and the requirements as to place and manner of filing shall be established) so as to facilitate compilation of data and maximum possible access of the public, both by physical inspection at 1 or more central filing locations, and by electronic access through the Internet or other appropriate media.

''(c) REQUIRED INFORMATION.—The information required to be filed in the reports referred to in subsection (b) shall be that which is in the best interests of debtors and creditors, and in the public interest in reasonable and adequate information to evaluate the efficiency and practicality of the Federal bankruptcy system. In issuing rules proposing the forms referred to in subsection (a), the Attorney General shall strike the best achievable practical balance between—

''(1) the reasonable needs of the public for information about the operational results of the Federal bankruptcy system; and

''(2) economy, simplicity, and lack of undue burden on persons with a duty to file reports.

''(d) FINAL REPORTS.—Final reports proposed for adoption by trustees under chapters 7, 12, and 13 of title 11 shall, in addition to such other matters as are required by law or as the Attorney General in the discretion of the Attorney General, shall propose, include with respect to a case under such title—

''(1) information about the length of time the case was pending;

''(2) assets abandoned;

''(3) assets exempted;

''(4) receipts and disbursements of the estate;

''(5) expenses of administration;

''(6) claims asserted;

''(7) claims allowed; and

''(8) distributions to claimants and claims discharged without payment,

in each case by appropriate category and, in cases under chapters 12 and 13 of title 11, date of confirmation of the plan, each modification thereto, and defaults by the debtor in performance under the plan.

''(e) PERIODIC REPORTS.—Periodic reports proposed for adoption by trustees or debtors in possession under chapter 11 of title 11 shall, in addition to such other matters as are required by law or as the Attorney General, in the discretion of the Attorney General, shall propose, include—

''(1) information about the standard industry classification, published by the Department of Commerce, for the businesses conducted by the debtor;

''(2) length of time the case has been pending;

''(3) number of full-time employees as at the date of the order for relief and at end of each reporting period since the case was filed;

''(4) cash receipts, cash disbursements and profitability of the debtor for the most recent period and cumulatively since the date of the order for relief;

''(5) compliance with title 11, whether or not tax returns and tax payments since the date of the order for relief have been timely filed and made;

''(6) all professional fees approved by the court in the case for the most recent period and cumulatively since the date of the order for relief (separately reported, in for the professional fees incurred by or on behalf of the debtor, between those that would have been incurred absent a bankruptcy case and those not); and

''(7) plans of reorganization filed and confirmed and, with respect thereto, by class, the recoveries of the holders, expressed in aggregate dollar values and, in the case of claims, as a percentage of total claims of the class allowed.''.

(b) TECHNICAL AMENDMENT.—The table of sections of chapter 39 of title 28, United States Code, is amended by adding at the end the following:

''589b. Bankruptcy data.''.

SEC. 703. SENSE OF THE CONGRESS REGARDING AVAILABILITY OF BANKRUPTCY DATA.

It is the sense of the Congress that—

(1) the national policy of the United States should be that all data held by bankruptcy clerks in electronic form, to the extent such data reflects only public records (as defined in section 107 of title 11 of the United States Code), should be released in a usable electronic form in bulk to the public subject to such appropriate privacy concerns and safeguards as the Judicial Conference of the United States may determine; and

(2) there should be established a bankruptcy data system in which—

(A) a single set of data definitions and forms are used to collect data nationwide; and

(B) data for any particular bankruptcy case are aggregated in the same electronic record.

TITLE VIII—BANKRUPTCY TAX PROVISIONS

SEC. 801. TREATMENT OF CERTAIN LIENS.

(a) TREATMENT OF CERTAIN LIENS.—Section 724 of title 11, United States Code, is amended—

(1) in subsection (b), in the matter preceding paragraph (1), by inserting ''(other than to the extent that there is a properly perfected unavoidable tax lien arising in connection with an ad valorem tax on real or personal property of the estate)'' after ''under this title'';

(2) in subsection (b)(2), after ''507(a)(1)'', insert ''(except that such expenses, other than claims for wages, salaries, or commissions which arise after the filing of a petition, shall be limited to expenses incurred under chapter 7 of this title and shall not include expenses incurred under chapter 11 of this title)''; and

(3) by adding at the end the following:

''(e) Before subordinating a tax lien on real or personal property of the estate, the trustee shall—

''(1) exhaust the unencumbered assets of the estate; and

''(2) in a manner consistent with section 506(c) of this title, recover from property securing an allowed secured claim the reasonable, necessary costs and expenses of preserving or disposing of that property.

''(f) Notwithstanding the exclusion of ad valorem tax liens set forth in this section and subject to the requirements of subsection (e)—

''(1) claims for wages, salaries, and commissions that are entitled to priority under section 507(a)(3) of this title; or

''(2) claims for contributions to an employee benefit plan entitled to priority under section 507(a)(4) of this title,

may be paid from property of the estate which secures a tax lien, or the proceeds of such property.''.

(b) DETERMINATION OF TAX LIABILITY.—Section 505(a)(2) of title 11, United States Code, is amended—

(1) in subparagraph (A), by striking ''or'' at the end;

(2) in subparagraph (B), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(C) the amount or legality of any amount arising in connection with an ad valorem tax on real or personal property of the estate, if the applicable period for contesting or redetermining that amount under any law (other than a bankruptcy law) has expired.''.

SEC. 802. EFFECTIVE NOTICE TO GOVERNMENT.

(a) EFFECTIVE NOTICE TO GOVERNMENTAL UNITS.—Section 342 of title 11, United States Code, as amended by section 603, is amended by adding at the end the following:

''(g) If a debtor lists a governmental unit as a creditor in a list or schedule, any notice required to be given by the debtor under this title, any rule, any applicable law, or any order of the court, shall identify the department, agency, or instrumentality through which the debtor is indebted. The debtor shall identify (with information such as a taxpayer identification number, loan, account or contract number, or real estate parcel number, where applicable), and describe the underlying basis for the governmental unit's claim. If the debtor's liability to a governmental unit arises from a debt or obligation owed or incurred by another individual, entity, or organization, or under a different name, the debtor shall identify such individual, entity, organization, or name.

''(h) The clerk shall keep and update quarterly, in the form and manner as the Director of the Administrative Office of the United States Courts prescribes, and make available to debtors, a register in which a governmental unit may designate a safe harbor mailing address for service of notice in cases pending in the district. A governmental unit may file a statement with the clerk designating a safe harbor address to which notices are to be sent, unless such governmental unit files a notice of change of address.''.

(b) ADOPTION OF RULES PROVIDING NOTICE.—The Advisory Committee on Bankruptcy Rules of the Judicial Conference shall, within a reasonable period of time after the date of the enactment of this Act, propose for adoption enhanced rules for providing notice to State, Federal, and local government units that have regulatory authority over the debtor or which may be creditors in the debtor's case. Such rules shall be reasonably calculated to ensure that notice will reach the representatives of the governmental unit, or subdivision thereof, who will be the proper persons authorized to act upon the notice. At a minimum, the rules should require that the debtor—

(1) identify in the schedules and the notice, the subdivision, agency, or entity in respect of which such notice should be received;

(2) provide sufficient information (such as case captions, permit numbers, taxpayer identification numbers, or similar identifying information) to permit the governmental unit or subdivision thereof, entitled to receive such notice, to identify the debtor or the person or entity on behalf of which the debtor is providing notice where the debtor may be a successor in interest or may not be the same as the person or entity which incurred the debt or obligation; and

(3) identify, in appropriate schedules, served together with the notice, the property in respect of which the claim or regulatory obligation may have arisen, if any, the nature of such claim or regulatory obligation and the purpose for which notice is being given.

(c) EFFECT OF FAILURE OF NOTICE.—Section 342 of title 11, United States Code, as amended by section 603 and subsection (a), is amended by adding at the end the following:

''(i) A notice that does not comply with subsections (d) and (e) shall not be effective unless the debtor demonstrates, by clear and convincing evidence, that timely notice was given in a manner reasonably calculated to satisfy the requirements of this section was given, and that—

''(1) either the notice was timely sent to the safe harbor address provided in the register maintained by the clerk of the district in which the case was pending for such purposes; or

''(2) no safe harbor address was provided in such list for the governmental unit and that an officer of the governmental unit who is responsible for the matter or claim had actual knowledge of the case in sufficient time to act.''.

SEC. 803. NOTICE OF REQUEST FOR A DETERMINATION OF TAXES.

Section 505(b) of title 11, United States Code, is amended by striking ''Unless'' at the beginning of the second sentence thereof and inserting ''If the request is made substantially in the manner designated by the governmental unit and unless''.

SEC. 804. RATE OF INTEREST ON TAX CLAIMS.

(a) AMENDMENT.—Chapter 5 of title 11, United States Code, is amended by adding at the end the following:

''§ 511. Rate of interest on tax claims

''If any provision of this title requires the payment of interest on a tax claim or requires the payment of interest to enable a creditor to receive the present value of the allowed amount of a tax claim, the rate of interest shall be as follows:

''(1) In the case of ad valorem tax claims, whether secured or unsecured, other unsecured tax claims where interest is required to be paid under section 726(a)(5) of this title, secured tax claims, and administrative tax claims paid under section 503(b)(1) of this title, the rate shall be determined under applicable nonbankruptcy law.

''(2) In the case of all other tax claims, the minimum rate of interest shall be the Federal short-term rate rounded to the nearest full percent, determined under section 1274(d) of the Internal Revenue Code of 1986, plus 3 percentage points.

''(A) In the case of claims for Federal income taxes, such rate shall be subject to any adjustment that may be required under section 6621(d) of the Internal Revenue Code of 1986.

''(B) In the case of taxes paid under a confirmed plan or reorganization, such rate shall be determined as of the calendar month in which the plan is confirmed.''.

(b) CONFORMING AMENDMENT.—The table of sections of chapter 5 of title 11, United States Code, is amended by inserting after the item relating to section 510 the following:

''511. Rate of interest on tax claims.''.

SEC. 805. TOLLING OF PRIORITY OF TAX CLAIM TIME PERIODS.

Section 507(a)(8)(A) of title 11, United States Code, as so redesignated, is amended—

(1) in clause (i) by inserting after ''petition'' and before the semicolon '', plus any time, plus 6 months, during which the stay of proceedings was in effect in a prior case under this title''; and

(2) amend clause (ii) to read as follows:

''(ii) assessed within 240 days before the date of the filing of the petition, exclusive of—

''(I) any time plus 30 days during which an offer in compromise with respect of such tax, was pending or in effect during such 240-day period;

''(II) any time plus 30 days during which an installment agreement with respect of such tax was pending or in effect during such 240-day period, up to 1 year; and

''(III) any time plus 6 months during which a stay of proceedings against collections was in effect in a prior case under this title during such 240-day period.''.

SEC. 806. PRIORITY PROPERTY TAXES INCURRED.

Section 507(a)(8)(B) of title 11, United States Code, is amended by striking ''assessed'' and inserting ''incurred''.

SEC. 807. CHAPTER 13 DISCHARGE OF FRAUDULENT AND OTHER TAXES.

Section 1328(a)(2) of title 11, United States Code, is amended by inserting ''(1),'' after ''paragraph''.

SEC. 808. CHAPTER 11 DISCHARGE OF FRAUDULENT TAXES.

Section 1141(d) of title 11, United States Code, is amended by adding at the end the following:

''(6) Notwithstanding the provisions of paragraph (1), the confirmation of a plan does not discharge a debtor which is a corporation from any debt for a tax or customs duty with respect to which the debtor made a fraudulent return or willfully attempted in any manner to evade or defeat such tax.''.

SEC. 809. STAY OF TAX PROCEEDINGS.

(a) SECTION 362 STAY LIMITED TO PREPETITION TAXES.—Section 362(a)(8) of title 11, United States Code, is amended by striking the period at the end and inserting '', in respect of a tax liability for a taxable period ending before the order for relief.''.

(b) APPEAL OF TAX COURT DECISIONS PERMITTED.—Section 362(b)(9) of title 11, United States Code, is amended—

(1) in subparagraph (C) by striking ''or'' at the end;

(2) in subparagraph (D) by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(E) the appeal of a decision by a court or administrative tribunal which determines a tax liability of the debtor without regard to whether such determination was made prepetition or postpetition.''.

SEC. 810. PERIODIC PAYMENT OF TAXES IN CHAPTER 11 CASES.

Section 1129(a)(9) of title 11, United States Code, is amended—

(1) in subparagraph (B) by striking ''and'' at the end; and

(2) in subparagraph (C)—

(A) by striking ''deferred cash payments, over a period not exceeding six years after the date of assessment of such claim,'' and inserting ''regular installment payments in cash, but in no case with a balloon provision, and no more than three months apart, beginning no later than the effective date of the plan and ending on the earlier of five years after the petition date or the last date payments are to be made under the plan to unsecured creditors,'';

(B) by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(D) with respect to a secured claim which would be described in section 507(a)(8) of this title but for its secured status, the holder of such claim will receive on account of such claim cash payments of not less than is required in subparagraph (C) and over a period no greater than is required in such subparagraph.''.

SEC. 811. AVOIDANCE OF STATUTORY TAX LIENS PROHIBITED.

Section 545(2) of title 11, United States Code, is amended by striking the semicolon at the end and inserting '', except where such

purchaser is a purchaser described in section 6323 of the Internal Revenue Code of 1986 or similar provision of State or local law;''.

SEC. 812. PAYMENT OF TAXES IN THE CONDUCT OF BUSINESS.

(a) PAYMENT OF TAXES REQUIRED.—Section 960 of title 28, United States Code, is amended—

(1) by inserting ''(a)'' before ''Any''; and

(2) by adding at the end the following:

''(b) Such taxes shall be paid when due in the conduct of such business unless—

''(1) the tax is a property tax secured by a lien against property that is abandoned within a reasonable time after the lien attaches, by the trustee of a bankruptcy estate, pursuant to section 554 of title 11; or

''(2) payment of the tax is excused under a specific provision of title 11.

''(c) In a case pending under chapter 7 of title 11, payment of a tax may be deferred until final distribution is made under section 726 of title 11 if—

''(1) the tax was not incurred by a trustee duly appointed under chapter 7 of title 11; or

''(2) before the due date of the tax, the court has made a finding of probable insufficiency of funds of the estate to pay in full the administrative expenses allowed under section 503(b) of title 11 that have the same priority in distribution under section 726(b) of title 11 as such tax.''.

(b) PAYMENT OF AD VALOREM TAXES REQUIRED.—Section 503(b)(1)(B) of title 11, United States Code, is amended in clause (i) by inserting after ''estate,'' and before ''except'' the following: ''whether secured or unsecured, including property taxes for which liability is in rem only, in personam or both,''.

(c) REQUEST FOR PAYMENT OF ADMINISTRATIVE EXPENSE TAXES ELIMINATED.—Section 503(b)(1) of title 11, United States Code, is amended by adding at the end the following:

''(D) notwithstanding the requirements of subsection (a) of this section, a governmental unit shall not be required to file a request for the payment of a claim described in subparagraph (B) or (C);''.

(d) PAYMENT OF TAXES AND FEES AS SECURED CLAIMS.—Section 506 of title 11, United States Code, is amended—

(1) in subsection (b) by inserting ''or State statute'' after ''agreement''; and

(2) in subsection (c) by inserting '', including the payment of all ad valorem property taxes in respect of the property'' before the period at the end.

SEC. 813. TARDILY FILED PRIORITY TAX CLAIMS.

Section 726(a)(1) of title 11, United States Code, is amended by striking ''before the date on which the trustee commences distribution under this section'' and inserting ''on or before the earlier of 10 days after the mailing to creditors of the summary of the trustee's final report or the date on which the trustee commences final distribution under this section''.

SEC. 814. INCOME TAX RETURNS PREPARED BY TAX AUTHORITIES.

Section 523(a)(1)(B) of title 11, United States Code, is amended—

(1) by inserting ''or equivalent report or notice,'' after ''a return,'';

(2) in clause (i)—

(A) by inserting ''or given'' after ''filed''; and

(B) by striking ''or'' at the end;

(3) in clause (ii)—

(A) by inserting ''or given'' after ''filed''; and

(B) by inserting '', report, or notice'' after ''return''; and

(4) by adding at the end the following:

''(iii) for purposes of this subsection, a return—

''(I) must satisfy the requirements of applicable nonbankruptcy law, and includes a return prepared pursuant to section 6020(a) of the Internal Revenue Code of 1986, or similar State or local law, or a written stipulation to a judgment entered by a nonbankruptcy tribunal, but does not include a return made pursuant to section 6020(b) of the Internal Revenue Code of 1986, or similar State or local law; and

''(II) must have been filed in a manner permitted by applicable nonbankruptcy law; or''.

SEC. 815. DISCHARGE OF THE ESTATE'S LIABILITY FOR UNPAID TAXES.

Section 505(b) of title 11, United States Code, is amended in the second sentence by inserting ''the estate,'' after ''misrepresentation,''.

SEC. 816. REQUIREMENT TO FILE TAX RETURNS TO CONFIRM CHAPTER 13 PLANS.

(a) FILING OF PREPETITION TAX RETURNS REQUIRED FOR PLAN CONFIRMATION.—Section 1325(a) of title 11, United States Code, as amended by section 140, is amended—

(1) in paragraph (6) by striking ''and'' at the end;

(2) in paragraph (7) by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(8) if the debtor has filed all Federal, State, and local tax returns as required by section 1308 of this title.''.

(b) ADDITIONAL TIME PERMITTED FOR FILING TAX RETURNS.—(1) Chapter 13 of title 11, United States Code, as amended by section 135, is amended by adding at the end the following:

''§ 1308. Filing of prepetition tax returns

''(a) On or before the day prior to the day on which the first meeting of the creditors is convened under section 341(a) of this title, the debtor shall have filed with appropriate tax authorities all tax returns for all taxable periods ending in the 3-year period ending on the date of filing of the petition.

''(b) If the tax returns required by subsection (a) have not been filed by the date on which the first meeting of creditors is convened under section 341(a) of this title, the trustee may continue such meeting for a reasonable period of time, to allow the debtor additional time to file any unfiled returns, but such additional time shall be no more than—

''(1) for returns that are past due as of the date of the filing of the petition, 120 days from such date;

''(2) for returns which are not past due as of the date of the filing of the petition, the later of 120 days from such date or the due date for such returns under the last automatic extension of time for filing such returns to which the debtor is entitled, and for which request has been timely made, according to applicable nonbankruptcy law; and

''(3) upon notice and hearing, and order entered before the lapse of any deadline fixed according to this subsection, where the debtor demonstrates, by clear and convincing evidence, that the failure to file the returns as required is because of circumstances beyond the control of the debtor, the court may extend the deadlines set by the trustee as provided in this subsection for—

''(A) a period of no more than 30 days for returns described in paragraph (1) of this subsection; and

''(B) for no more than the period of time ending on the applicable extended due date for the returns described in paragraph (2).

''(c) For purposes of this section only, a return includes a return prepared pursuant to section 6020 (a) or (b) of the Internal Revenue Code of 1986 or similar State or local law, or a written stipulation to a judgment entered by a nonbankruptcy tribunal.''.

(2) The table of sections of chapter 13 of title 11, United States Code, is amended by inserting after the item relating to section 1307 the following:

''1308. Filing of prepetition tax returns.''.

(c) DISMISSAL OR CONVERSION ON FAILURE TO COMPLY.—Section 1307 of title 11, United States Code, is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d) the following:

''(e) Upon the failure of the debtor to file tax returns under section 1308 of this title, on request of a party in interest or the United States trustee and after notice and a hearing, the court shall dismiss a case or convert a case under this chapter to a case under chapter 7 of this title, whichever is in the best interests of creditors and the estate.''.

(d) TIMELY FILED CLAIMS.—Section 502(b)(9) of title 11, United States Code, is amended by striking the period at the end and inserting '', and except that in a case under chapter 13 of this title, a claim of a governmental unit for a tax in respect of a return filed under section 1308 of this title shall be timely if it is filed on or before 60 days after such return or returns were filed as required.''.

(e) RULES FOR OBJECTIONS TO CLAIMS AND TO CONFIRMATION.—It is the sense of the Congress that the Advisory Committee on Bankruptcy Rules of the Judicial Conference should, within a reasonable period of time after the date of the enactment of this Act, propose for adoption amended Federal Rules of Bankruptcy Procedure which provide that—

(1) notwithstanding the provisions of Rule 3015(f), in cases under chapter 13 of title 11, United States Code, a governmental unit may object to the confirmation of a plan on or before 60 days after the debtor files all tax returns required under sections 1308 and 1325(a)(7) of title 11, United States Code; and

(2) in addition to the provisions of Rule 3007, in a case under chapter 13 of title 11, United States Code, no objection to a tax in respect of a return required to be filed under such section 1308 shall be filed until such return has been filed as required.

SEC. 817. STANDARDS FOR TAX DISCLOSURE.

Section 1125(a) of title 11, United States Code, is amended in paragraph (1)—

(1) by inserting after ''records,'' the following: ''including a full discussion of the potential material Federal, State, and local tax consequences of the plan to the debtor, any successor to the debtor, and a hypothetical investor domiciled in the State in which the debtor resides or has its principal place of business typical of the holders of claims or interests in the case,'';

(2) by inserting ''such'' after ''enable''; and

(3) by striking ''reasonable'' where it appears after ''hypothetical'' and by striking ''typical of holders of claims or interests'' after ''investor''.

SEC. 818. SETOFF OF TAX REFUNDS.

Section 362(b) of title 11, United States Code, as amended by sections 118, 132, 136, and 203, is amended—

(1) in paragraph (29) by striking ''or'';

(2) in paragraph (30) by striking the period at the end and inserting ''; or''; and

(3) by inserting after paragraph (30) the following:

''(31) under subsection (a) of the setoff of an income tax refund, by a governmental unit, in respect of a taxable period which ended before the order for relief against an income tax liability for a taxable period which also ended before the order for relief, unless—

''(A) prior to such setoff, an action to determine the amount or legality of such tax liability under section 505(a) was commenced; or

''(B) where the setoff of an income tax refund is not permitted because of a pending action to determine the amount or legality of a tax liability, the governmental unit may hold the refund pending the resolution of the action.''.

TITLE IX—ANCILLARY AND OTHER CROSS-BORDER CASES

SEC. 901. AMENDMENT TO ADD CHAPTER 15 TO TITLE 11, UNITED STATES CODE.

(a) IN GENERAL.—Title 11, United States Code, is amended by inserting after chapter 13 the following:

''CHAPTER 15—ANCILLARY AND OTHER CROSS-BORDER CASES

''Sec.
''1501. Purpose and scope of application.
''SUBCHAPTER I—GENERAL PROVISIONS
''1502. Definitions.
''1503. International obligations of the United States.
''1504. Commencement of ancillary case.
''1505. Authorization to act in a foreign country.
''1506. Public policy exception.
''1507. Additional assistance.
''1508. Interpretation.
''SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND CREDITORS TO THE COURT
''1509. Right of direct access.
''1510. Limited jurisdiction.
''1511. Commencement of case under section 301 or 303.
''1512. Participation of a foreign representative in a case under this title.
''1513. Access of foreign creditors to a case under this title.
''1514. Notification to foreign creditors concerning a case under this title.
''SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING AND RELIEF
''1515. Application for recognition of a foreign proceeding.
''1516. Presumptions concerning recognition.
''1517. Order recognizing a foreign proceeding.
''1518. Subsequent information.
''1519. Relief that may be granted upon petition for recognition of a foreign proceeding.
''1520. Effects of recognition of a foreign main proceeding.
''1521. Relief that may be granted upon recognition of a foreign proceeding.
''1522. Protection of creditors and other interested persons.
''1523. Actions to avoid acts detrimental to creditors.
''1524. Intervention by a foreign representative.
''SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES
''1525. Cooperation and direct communication between the court and foreign courts or foreign representatives.
''1526. Cooperation and direct communication between the trustee and foreign courts or foreign representatives.
''1527. Forms of cooperation.
''SUBCHAPTER V—CONCURRENT PROCEEDINGS
''1528. Commencement of a case under this title after recognition of a foreign main proceeding.
''1529. Coordination of a case under this title and a foreign proceeding.
''1530. Coordination of more than 1 foreign proceeding.
''1531. Presumption of insolvency based on recognition of a foreign main proceeding.
''1532. Rule of payment in concurrent proceedings.

''§ 1501. 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);

''(2) an individual, or to an individual and such individual's spouse, who have debts within the limits specified in section 109(e) and who are citizens of the United States or aliens lawfully admitted for permanent residence in the United States; or

''(3) an entity subject to a proceeding under the Securities Investor Protection Act, a stockbroker subject to subchapter III of chapter 7 of this title, or a commodity broker subject to subchapter IV of chapter 7 of this title.

''SUBCHAPTER I—GENERAL PROVISIONS

''§ 1502. 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 chapter 9 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 under applicable nonbankruptcy law to be located within that territory, including any property subject to attachment or garnishment that may properly be seized or garnished by an action in a Federal or State court in the United States.

''§ 1503. 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.

''§ 1504. 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 1515.

''§ 1505. Authorization to act in a foreign country

''A trustee or another entity (including an examiner) 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.

''§ 1506. 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.

''§ 1507. Additional assistance

''(a) Subject to the specific limitations stated elsewhere in this chapter the court, upon recognition of a foreign proceeding, the court may 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.

''§ 1508. 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

''§ 1509. Right of direct access

''(a) A foreign representative may commence a case under section 1504 of this title by filing with the court a petition for recognition of a foreign proceeding under section 1515 of this title.

''(b) If the court grants recognition under section 1515 of this title, and subject to any limitations that the court may impose consistent with the policy of this chapter—

''(1) the foreign representative has the capacity to sue and be sued in a court in the United States;

''(2) the foreign representative may apply directly to a court in the United States for appropriate relief in that court; and

''(3) a court in the United States shall grant comity or cooperation to the foreign representative.

''(c) A request for comity or cooperation by a foreign representative in a court in the United States shall be accompanied by a certified copy of an order granting recognition under section 1517 of this title.

''(d) If the court denies recognition under this chapter, the court may issue any appropriate order necessary to prevent the foreign representative from obtaining comity or cooperation from courts in the United States.

''(e) Whether or not the court grants recognition, and subject to sections 306 and 1510 of this title, a foreign representative is subject to applicable nonbankruptcy law.

''(f) Notwithstanding any other provision of this section, the failure of a foreign representative to commence a case or to obtain recognition under this chapter does not affect any right the foreign representative may have to sue in a court in the United State to collect or recover a claim which is the property of the debtor.''.

''§ 1510. Limited jurisdiction

''The sole fact that a foreign representative files a petition under section 1515 does not subject the foreign representative to the jurisdiction of any court in the United States for any other purpose.

''§ 1511. Commencement of case under section 301 or 303

''(a) Upon 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) must be accompanied by certified copy of an order granting recognition. 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) prior to such commencement.

''§ 1512. 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.

''§ 1513. 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) does not change or codify present law as to the priority of claims under section 507 or 726 of this title, except that the claim of a foreign creditor under those sections shall not be given a lower priority than that of general unsecured claims without priority solely because the holder of such claim is a foreign creditor.

''(2)(A) Subsection (a) and paragraph (1) do not change or codify present law 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.

''§ 1514. 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) Such 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 under 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

''§ 1515. 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.

''§ 1516. Presumptions concerning recognition

''(a) If the decision or certificate referred to in section 1515(b) indicates that the foreign proceeding is a foreign proceeding as defined in section 101 and that the person or body is a foreign representative as defined in section 101, 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 or not they have been legalized.

''(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.

''§ 1517. Order recognizing a foreign proceeding

''(a) Subject to section 1506, after notice and a hearing 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 1502;

''(2) the foreign representative applying for recognition is a person or body as defined in section 101; and

''(3) the petition meets the requirements of section 1515.

''(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 1502 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 constitutes 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 case under this chapter may be closed in the manner prescribed under section 350.

''§ 1518. 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.

''§ 1519. 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 court rules on the petition, 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 authorized 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 1521(a).

''(b) Unless extended under section 1521(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.

''§ 1520. Effects of recognition of a foreign main proceeding

''(a) Upon recognition of a foreign proceeding that is a foreign main proceeding—

''(1) sections 361 and 362 with respect to the debtor and that property of the debtor that is within the territorial jurisdiction of the United States;

''(2) sections 363, 549, and 552 of this title apply to a transfer of an interest of the debtor in property that is within the territorial jurisdiction of the United States to the same extent that the sections would apply to property of an estate;

''(3) unless the court orders otherwise, the foreign representative may operate the debtor's business and may exercise the rights and powers of a trustee under and to the extent provided by sections 363 and 552; and

''(4) section 552 applies to property of the debtor that is within the territorial jurisdiction of the United States.''.

''(b) Subsection (a) does not affect the right to commence an individual action or proceeding in a foreign country to the extent necessary to preserve a claim against the debtor.

''(c) Subsection (a) 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.

''§ 1521. 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 an individual action or proceeding concerning the debtor's assets, rights, obligations or liabilities to the extent they have not been stayed under section 1520(a);

''(2) staying execution against the debtor's assets to the extent it has not been stayed under section 1520(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 1520(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, authorized by the court;

''(6) extending relief granted under section 1519(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, authorized 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.

''(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under paragraphs (1), (2), (3), and (6) of subsection (a).

''§ 1522. Protection of creditors and other interested persons

''(a) The court may grant relief under section 1519 or 1521, or may modify or terminate relief under subsection (c), only if the interests of the creditors and other interested entities, including the debtor, are sufficiently protected.

''(b) The court may subject relief granted under section 1519 or 1521, or the operation of the debtor's business under section 1520(a)(3) of this title, to conditions it considers appropriate, including the giving of security or the filing of a bond.

''(c) The court may, at the request of the foreign representative or an entity affected by relief granted under section 1519 or 1521, or at its own motion, modify or terminate such relief.

''(d) 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.

''§ 1523. Actions to avoid acts detrimental to creditors

''(a) Upon recognition of a foreign proceeding, the foreign representative has standing in a case concerning the debtor pending 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) relates to assets that, under United States law, should be administered in the foreign nonmain proceeding.

''§ 1524. 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

''§ 1525. Cooperation and direct communication between the court and foreign courts or foreign representatives

''(a) Consistent with section 1501, 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.

''§ 1526. Cooperation and direct communication between the trustee and foreign courts or foreign representatives

''(a) Consistent with section 1501, the trustee or other person, including an examiner, authorized 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, authorized by the court is entitled, subject to the supervision of the court, to communicate directly with foreign courts or foreign representatives.

''§ 1527. Forms of cooperation

''Cooperation referred to in sections 1525 and 1526 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

''§ 1528. 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 such 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 1525, 1526, and 1527, to other assets of the debtor that are within the jurisdiction of the court under sections 541(a) of this title, and 1334(e) of title 28, 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.

''§ 1529. 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 1525, 1526, and 1527, 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 1519 or 1521 must be consistent with the relief granted in the case in the United States; and

''(B) even if the foreign proceeding is recognized as a foreign main proceeding, section 1520 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 1519 or 1521 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 1520(a) shall be modified or terminated if inconsistent with the relief granted in 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 1528 and 1529, the court may grant any of the relief authorized under section 305.

''§ 1530. Coordination of more than 1 foreign proceeding

''In matters referred to in section 1501, with respect to more than 1 foreign proceeding regarding the debtor, the court shall seek cooperation and coordination under sections 1525, 1526, and 1527, and the following shall apply:

''(1) Any relief granted under section 1519 or 1521 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 1519 or 1521 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.

''§ 1531. 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 as such debts become due.

''§ 1532. 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 13 the following:

''15. Ancillary and Other Cross-Border Cases ..... 1501''.

SEC. 902. 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, 304, 555 through 557, 559, and 560 apply in a case under chapter 15''; and

(2) by adding at the end the following:

''(j) Chapter 15 applies only in a case under such chapter, except that—

''(1) sections 1505, 1513, and 1514 apply in all cases under this title; and

''(2) section 1509 applies whether or not a case under this title is pending.''.

(b) DEFINITIONS.—Paragraphs (23) and (24) of title 11, United States Code, are amended to read as follows:

''(23) 'foreign proceeding' means a collective judicial or administrative proceeding in a foreign country, including an interim proceeding, under a law relating to insolvency or adjustment of debt 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 a person or body 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 15 of title 11.''.

(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 15 of title 11, nothing in''.

(3) DUTIES OF TRUSTEES.—Section 586(a)(3) of title 28, United States Code, is amended by striking ''or 13'' and inserting ''13, or 15,'' after ''chapter''.

(4) Section 305(a)(2) of title 11, United States Code, is amended to read:

''(2)(A) a petition under section 1515 of this title for recognition of a foreign proceeding has been granted; and

''(B) the purposes of chapter 15 of this title would be best served by such dismissal or suspension.''.

(5) Section 508 of title 11, United States Code, is amended by striking subsection (a) and by striking out the letter ''(b)'' at the beginning of the second paragraph.

TITLE X—FINANCIAL CONTRACT PROVISIONS

SEC. 1001. TREATMENT OF CERTAIN AGREEMENTS BY CONSERVATORS OR —RECEIVERS OF INSURED DEPOSITORY INSTITUTIONS.

(a) DEFINITION OF QUALIFIED FINANCIAL CONTRACT.—Section 11(e)(8)(D)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(i)) is amended by inserting '', resolution or order'' after ''any similar agreement that the Corporation determines by regulation''.

(b) DEFINITION OF SECURITIES CONTRACT.—Section 11(e)(8)(D)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(ii)) is amended to read as follows:

''(ii) SECURITIES CONTRACT.—The term 'securities contract'—

''(I) means 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, 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 any 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) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan unless the Corporation determines by regulation, resolution, or order to include any such agreement within the meaning of such term;

''(III) means any option entered into on a national securities exchange relating to foreign currencies;

''(IV) means the guarantee by or to any securities clearing agency of any settlement of cash, securities, certificates of deposit, mortgage loans or interests therein, 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;

''(V) means any margin loan;

''(VI) means any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

''(VII) means any combination of the agreements or transactions referred to in this clause;

''(VIII) means any option to enter into any agreement or transaction referred to in this clause;

''(IX) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII), 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 clause, except that the master agreement shall be considered to be a securities contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII); and

''(X) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause.''.

(c) DEFINITION OF COMMODITY CONTRACT.—Section 11(e)(8)(D)(iii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(iii)) is amended to read as follows:

''(iii) COMMODITY CONTRACT.—The term 'commodity contract' means—

''(I) with respect to a futures commission merchant, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade;

''(II) with respect to a foreign futures commission merchant, a foreign future;

''(III) with respect to a leverage transaction merchant, a leverage transaction;

''(IV) with respect to a clearing organization, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization, or commodity option traded on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization;

''(V) with respect to a commodity options dealer, a commodity option;

''(VI) any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

''(VII) any combination of the agreements or transactions referred to in this clause;

''(VIII) any option to enter into any agreement or transaction referred to in this clause;

''(IX) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII), 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 clause, except that the master agreement shall be considered to be a commodity contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII); or

''(X) a security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause.''.

(d) DEFINITION OF FORWARD CONTRACT.—Section 11(e)(8)(D)(iv) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(iv)) is amended to read as follows:

''(iv) FORWARD CONTRACT.—The term 'forward contract' means—

''(I) a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade, or product or byproduct thereof, with a maturity date more than 2 days after the date the contract is entered into, including, but not limited to, a repurchase agreement, reverse repurchase agreement, consignment, lease, swap, hedge transaction, deposit, loan, option, allocated transaction, unallocated transaction, or any other similar agreement;

''(II) any combination of agreements or transactions referred to in subclauses (I) and (III);

''(III) any option to enter into any agreement or transaction referred to in subclause (I) or (II);

''(IV) a master agreement that provides for an agreement or transaction referred to in subclauses (I), (II), or (III), 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 clause, except that the master agreement shall be considered to be a forward contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), or (III); or

''(V) a security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (II), (III), or (IV).''.

(e) DEFINITION OF REPURCHASE AGREEMENT.—Section 11(e)(8)(D)(v) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(v)) is amended to read as follows:

''(v) REPURCHASE AGREEMENT.—The term 'repurchase agreement' (which definition also applies to a reverse repurchase agreement)—

''(I) mean 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 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;

''(II) does not include any repurchase obligation under a participation in a commercial mortgage loan unless the Corporation determines by regulation, resolution, or order to include any such participation within the meaning of such term;

''(III) means any combination of agreements or transactions referred to in subclauses (I) and (IV);

''(IV) means any option to enter into any agreement or transaction referred to in subclause (I) or (III);

''(V) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), or (IV), 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 repurchase agreement under this clause, except that the master agreement shall be considered to be a repurchase agreement under this subclause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), or (IV); and

''(VI) means a security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (III), (IV), or (V).

For purposes of this clause, 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 (as determined by regulation or order adopted by the appropriate Federal banking authority).''.

(f) DEFINITION OF SWAP AGREEMENT.—Section 11(e)(8)(D)(iv) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(vi)) is amended to read as follows:

''(vi) SWAP AGREEMENT.—The term 'swap agreement' 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 or transaction similar to any other agreement or transaction referred to in this clause that is presently, or in the future becomes, regularly entered into in the swap market (including terms and conditions incorporated by reference in such agreement) and that 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 clause;

''(IV) any option to enter into any agreement or transaction referred to in this clause;

''(V) a master agreement that provides for an agreement or transaction referred to in subclause (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 not a swap agreement under this clause, except that the master agreement shall be considered to be a swap agreement under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), or (IV); and

''(VI) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in subparagraph (I), (II), (III), or (IV).

Such term is applicable for purposes of this title only and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement 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 promulgated by the Securities and Exchange Commission or the Commodity Futures Trading Commission.''.

(g) DEFINITION OF TRANSFER.—Section 11(e)(8)(D)(viii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(viii)) is amended to read as follows:

''(viii) TRANSFER.—The term 'transfer' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest and foreclosure of the depository institutions's equity of redemption.''.

(h) TREATMENT OF QUALIFIED FINANCIAL CONTRACTS.—Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended—

(1) in subparagraph (A), by striking ''paragraph (10)'' and inserting ''paragraphs (9) and (10)'';

(2) in subparagraph (A)(i), by striking ''to cause the termination or liquidation'' and inserting ''such person has to cause the termination, liquidation, or acceleration'';

(3) by amending subparagraph (A)(ii) to read as follows:

''(ii) any right under any security agreement or arrangement or other credit enhancement related to 1 or more qualified financial contracts described in clause (i);''; and

(4) by amending subparagraph (E)(ii) to read as follows:

''(ii) any right under any security agreement or arrangement or other credit enhancement related to 1 or more qualified financial contracts described in clause (i);''.

(i) AVOIDANCE OF TRANSFERS.—Section 11(e)(8)(C)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(C)(i)) is amended by inserting ''section 5242 of the Revised Statutes of the United States (12 U.S.C. 91) or any other Federal or State law relating to the avoidance of preferential or fraudulent transfers,'' before ''the Corporation''.

SEC. 1002. AUTHORITY OF THE CORPORATION WITH RESPECT TO FAILED AND FAILING INSTITUTIONS.

(a) IN GENERAL.—Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended—

(1) in subparagraph (E), by striking ''other than paragraph (12) of this subsection, subsection (d)(9)'' and inserting ''other than subsections (d)(9) and (e)(10)''; and

(2) by adding at the end the following new subparagraphs:

''(F) CLARIFICATION.—No provision of law shall be construed as limiting the right or power of the Corporation, or authorizing any court or agency to limit or delay, in any manner, the right or power of the Corporation to transfer any qualified financial contract in accordance with paragraphs (9) and (10) of this subsection or to disaffirm or repudiate any such contract in accordance with subsection (e)(1) of this section.

''(G) WALKAWAY CLAUSES NOT EFFECTIVE.—

''(i) IN GENERAL.—Notwithstanding the provisions of subparagraphs (A) and (E), and sections 403 and 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, no walkaway clause shall be enforceable in a qualified financial contract of an insured depository institution in default.

''(ii) WALKAWAY CLAUSE DEFINED.—For purposes of this subparagraph, the term 'walkaway clause' means a provision in a qualified financial contract that, after calculation of a value of a party's position or an amount due to or from 1 of the parties in accordance with its terms upon termination, liquidation, or acceleration of the qualified financial contract, either does not create a payment obligation of a party or extinguishes a payment obligation of a party in whole or in part solely because of such party's status as a nondefaulting party.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 11(e)(12)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(12)(A)) is amended by inserting ''or the exercise of rights or powers'' after ''the appointment''.

SEC. 1003. AMENDMENTS RELATING TO TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS.

(a) TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS TO FINANCIAL INSTITUTIONS.—Section 11(e)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(9)) is amended to read as follows:

''(9) TRANSFER OF QUALIFIED FINANCIAL CONTRACTS.—

''(A) IN GENERAL.—In making any transfer of assets or liabilities of a depository institution in default which includes any qualified financial contract, the conservator or receiver for such depository institution shall either—

''(i) transfer to 1 financial institution, other than a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding—

''(I) all qualified financial contracts between any person or any affiliate of such person and the depository institution in default;

''(II) all claims of such person or any affiliate of such person against such depository institution under any such contract (other than any claim which, under the terms of any such contract, is subordinated to the claims of general unsecured creditors of such institution);

''(III) all claims of such depository institution against such person or any affiliate of such person under any such contract; and

''(IV) all property securing or any other credit enhancement for any contract described in subclause (I) or any claim described in subclause (II) or (III) under any such contract; or

''(ii) transfer none of the qualified financial contracts, claims, property or other credit enhancement referred to in clause (i) (with respect to such person and any affiliate of such person).

''(B) TRANSFER TO FOREIGN BANK, FOREIGN FINANCIAL INSTITUTION, OR BRANCH OR AGENCY OF A FOREIGN BANK OR FINANCIAL INSTITUTION.—In transferring any qualified financial contracts and related claims and property pursuant to subparagraph (A)(i), the conservator or receiver for such depository institution shall not make such transfer to a foreign bank, financial institution organized under the laws of a foreign country, or a branch or agency of a foreign bank or financial institution unless, under the law applicable to such bank, financial institution, branch or agency, to the qualified financial contracts, and to any netting contract, any security agreement or arrangement or other credit enhancement related to 1 or more qualified financial contracts, the contractual rights of the parties to such qualified financial contracts, netting contracts, security agreements or arrangements, or other credit enhancements are enforceable substantially to the same extent as permitted under this section.

''(C) TRANSFER OF CONTRACTS SUBJECT TO THE RULES OF A CLEARING ORGANIZATION.—In the event that a conservator or receiver transfers any qualified financial contract and related claims, property and credit enhancements pursuant to subparagraph (A)(i) and such contract is subject to the rules of a clearing organization, the clearing organization shall not be required to accept the transferee as a member by virtue of the transfer.

''(D) DEFINITION.—For purposes of this section, the term 'financial institution' means a broker or dealer, a depository institution, a futures commission merchant, or any other institution as determined by the Corporation by regulation to be a financial institution.''.

(b) NOTICE TO QUALIFIED FINANCIAL CONTRACT COUNTERPARTIES.—Section 11(e)(10)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(10)(A)) is amended by amending the flush material following clause (ii) to read as follows: ''the conservator or receiver shall notify any person who is a party to any such contract of such transfer by 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver, in the case of a receivership, or the business day following such transfer, in the case of a conservatorship.''.

(c) RIGHTS AGAINST RECEIVER AND TREATMENT OF BRIDGE BANKS.—Section 11(e)(10) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(10)) is further amended—

(1) by redesignating subparagraph (B) as subparagraph (D); and

(2) by inserting after subparagraph (A) the following new subparagraphs:

''(B) CERTAIN RIGHTS NOT ENFORCEABLE.—

''(i) RECEIVERSHIP.—A person who is a party to a qualified financial contract with an insured depository institution may not exercise any right such person has to terminate, liquidate, or net such contract under paragraph (8)(A) or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991 solely by reason of or incidental to the appointment of a receiver for the depository institution (or the insolvency or financial condition of the depository institution for which the receiver has been appointed)—

''(I) until 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver; or

''(II) after the person has received notice that the contract has been transferred pursuant to paragraph (9)(A).

''(ii) CONSERVATORSHIP.—A person who is a party to a qualified financial contract with an insured depository institution may not exercise any right such person has to terminate, liquidate, or net such contract under paragraph (8)(E) or sections 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a conservator for the depository institution (or the insolvency or financial condition of the depository institution for which the conservator has been appointed).

''(iii) NOTICE.—For purposes of this subsection, the Corporation as receiver or conservator of an insured depository institution shall be deemed to have notified a person who is a party to a qualified financial contract with such depository institution if the Corporation has taken steps reasonably calculated to provide notice to such person by the time specified in subparagraph (A) of this subsection.

''(C) TREATMENT OF BRIDGE BANKS.—The following institutions shall not be considered a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding for purposes of subsection (e)(9)—

''(i) a bridge bank; or

''(ii) a depository institution organized by the Corporation, for which a conservator is appointed either—

''(I) immediately upon the organization of the institution; or

''(II) at the time of a purchase and assumption transaction between such institution and the Corporation as receiver for a depository institution in default.''.

SEC. 1004. AMENDMENTS RELATING TO DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.

Section 11(e) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)) is further amended—

(1) by redesignating paragraphs (11) through (15) as paragraphs (12) through (16), respectively; and

(2) by inserting after paragraph (10) the following new paragraph:

''(11) DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.—In exercising the rights of disaffirmance or repudiation of a conservator or receiver with respect to any qualified financial contract to which an insured depository institution is a party, the conservator or receiver for such institution shall either—

''(A) disaffirm or repudiate all qualified financial contracts between—

''(i) any person or any affiliate of such person; and

''(ii) the depository institution in default; or

''(B) disaffirm or repudiate none of the qualified financial contracts referred to in subparagraph (A) (with respect to such person or any affiliate of such person).''.

SEC. 1005. CLARIFYING AMENDMENT RELATING TO MASTER AGREEMENTS.

Section 11(e)(8)(D)(vii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(vii)) is amended to read as follows:

''(vii) TREATMENT OF MASTER AGREEMENT AS 1 AGREEMENT.—Any master agreement for any contract or agreement described in any preceding clause of this subparagraph (or any master agreement for such master agreement or agreements), together with all supplements to such master agreement, shall be treated as a single agreement and a single qualified financial contract. If a master agreement contains provisions relating to agreements or transactions that are not themselves qualified financial contracts, the master agreement shall be deemed to be a qualified financial contract only with respect to those transactions that are themselves qualified financial contracts.''.

SEC. 1006. FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991.

(a) DEFINITIONS.—Section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4402) is amended—

(1) in paragraph (6)—

(A) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively;

(B) by inserting after subparagraph (A) the following new subparagraph:

''(B) an uninsured national bank or an uninsured State bank that is a member of the Federal Reserve System if the national bank or State member bank is not eligible to make application to become an insured bank under section 5 of the Federal Deposit Insurance Act;''; and

(C) by amending subparagraph (C) (as redesignated) to read as follows:

''(C) a branch or agency of a foreign bank, a foreign bank and any branch or agency of the foreign bank, or the foreign bank that established the branch or agency, as those terms are defined in section 1(b) of the International Banking Act of 1978;'';

(2) in paragraph (11), by adding before the period ''and any other clearing organization with which such clearing organization has a netting contract'';

(3) by amending paragraph (14)(A)(i) to read as follows:

''(i) means a contract or agreement between 2 or more financial institutions, clearing organizations, or members that provides for netting present or future payment obligations or payment entitlements (including liquidation or closeout values relating to such obligations or entitlements) among the parties to the agreement; and''; and

(4) by adding at the end the following new paragraph:

''(15) PAYMENT.—The term 'payment' means a payment of United States dollars, another currency, or a composite currency, and a noncash delivery, including a payment or delivery to liquidate an unmatured obligation.''.

(b) ENFORCEABILITY OF BILATERAL NETTING CONTRACTS.—Section 403 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4403) is amended—

(1) by amending subsection (a) to read as follows:

''(a) GENERAL RULE.—Notwithstanding any other provision of State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act or any order authorized under section 5(b)(2) of the Securities Investor Protection Act of 1970, the covered contractual payment obligations and the covered contractual payment entitlements between any 2 financial institutions shall be netted in accordance with, and subject to the conditions of, the terms of any applicable netting contract (except as provided in section 561(b)(2) of title 11).''; and

(2) by adding at the end the following new subsection:

''(f) ENFORCEABILITY OF SECURITY AGREEMENTS.—The provisions of any security agreement or arrangement or other credit enhancement related to 1 or more netting contracts between any 2 financial institutions shall be enforceable in accordance with their terms (except as provided in section 561(b)(2) of title 11) and shall not be stayed, avoided, or otherwise limited by any State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act and section 5(b)(2) of the Securities Investor Protection Act of 1970).''.

(c) ENFORCEABILITY OF CLEARING ORGANIZATION NETTING CONTRACTS.—Section 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4404) is amended—

(1) by amending subsection (a) to read as follows:

''(a) GENERAL RULE.—Notwithstanding any other provision of State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act and any order authorized under section 5(b)(2) of the Securities Investor Protection Act of 1970, the covered contractual payment obligations and the covered contractual payment entitlements of a member of a clearing organization to and from all other members of a clearing organization shall be netted in accordance with and subject to the conditions of any applicable netting contract (except as provided in section 561(b)(2) of title 11, United States Code).''; and

(2) by adding at the end the following new subsection:

''(h) ENFORCEABILITY OF SECURITY AGREEMENTS.—The provisions of any security agreement or arrangement or other credit enhancement related to 1 or more netting contracts between any 2 members of a clearing organization shall be enforceable in accordance with their terms (except as provided in section 561(b)(2) of title 11, United States Code) and shall not be stayed, avoided, or otherwise limited by any State or Federal law other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act and section 5(b)(2) of the Securities Investor Protection Act of 1970.''.

(d) ENFORCEABILITY OF CONTRACTS WITH UNINSURED NATIONAL BANKS AND UNINSURED FEDERAL BRANCHES AND AGENCIES.—The Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4401 et seq.) is amended—

(1) by redesignating section 407 as section 408; and

(2) by adding after section 406 the following new section:

''SEC. 407. TREATMENT OF CONTRACTS WITH UNINSURED NATIONAL BANKS AND UNINSURED FEDERAL BRANCHES AND AGENCIES.

''(a) IN GENERAL.—Notwithstanding any other provision of law, paragraphs (8), (9), (10), and (11) of section 11(e) of the Federal Deposit Insurance Act shall apply to an uninsured national bank or uninsured Federal branch or Federal agency except—

''(1) any reference to the 'Corporation as receiver' or 'the receiver or the Corporation' shall refer to the receiver of an uninsured national bank or uninsured Federal branch or Federal agency appointed by the Comptroller of the Currency;

''(2) any reference to the 'Corporation' (other than in section 11(e)(8)(D) of such Act), the 'Corporation, whether acting as such or as conservator or receiver', a 'receiver', or a 'conservator' shall refer to the receiver or conservator of an uninsured national bank or uninsured Federal branch or Federal agency appointed by the Comptroller of the Currency; and

''(3) any reference to an 'insured depository institution' or 'depository institution' shall refer to an uninsured national bank or an uninsured Federal branch or Federal agency.

''(b) LIABILITY.—The liability of a receiver or conservator of an uninsured national bank or uninsured Federal branch or agency shall be determined in the same manner and subject to the same limitations that apply to receivers and conservators of insured depository institutions under section 11(e) of the Federal Deposit Insurance Act.

''(c) REGULATORY AUTHORITY.—

''(1) IN GENERAL.—The Comptroller of the Currency, in consultation with the Federal Deposit Insurance Corporation, may promulgate regulations to implement this section.

''(2) SPECIFIC REQUIREMENT.—In promulgating regulations to implement this section, the Comptroller of the Currency shall ensure that the regulations generally are consistent with the regulations and policies of the Federal Deposit Insurance Corporation adopted pursuant to the Federal Deposit Insurance Act.

''(d) DEFINITIONS.—For purposes of this section, the terms 'Federal branch', 'Federal agency', and 'foreign bank' have the same meaning as in section 1(b) of the International Banking Act.''.

SEC. 1007. BANKRUPTCY CODE AMENDMENTS.

(a) DEFINITIONS OF FORWARD CONTRACT, REPURCHASE AGREEMENT, SECURITIES CLEARING AGENCY, SWAP AGREEMENT, COMMODITY CONTRACT, AND SECURITIES CONTRACT.—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:

''(B) any combination of agreements or transactions referred to in subparagraphs (A) and (C);

''(C) any option to enter into an 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 such master agreement provides for an agreement or transaction that is not a forward contract under this paragraph, except that such master agreement shall be considered to be a forward contract under this paragraph only with respect to each agreement or transaction under such 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), but not to exceed the actual value of such contract, option, agreement, or transaction on the date of the filing of the petition;'';

(B) in paragraph (46), by striking ''on any day during the period beginning 90 days before the date of'' and replacing it with ''at any time before'';

(C) by amending paragraph (47) to read as follows:

''(47) 'repurchase agreement' (which definition also applies to a reverse repurchase agreement) means—

''(i) an agreement, including related terms, which provides for the transfer of 1 or more certificates of deposit, mortgage-related securities (as 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 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' acceptance, securities, loans, or interests of the kind described above, at a date certain not later than 1 year after such transfer or on demand, against the transfer of funds;

''(ii) any combination of agreements or transactions referred to in clauses (i) and (iii);

''(iii) an option to enter into an agreement or transaction referred to in clause (i) or (ii);

''(iv) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), or (iii), together with all supplements to any such master agreement, without regard to whether such master agreement provides for an agreement or transaction that is not a repurchase agreement under this paragraph, except that such master agreement shall be considered to be a repurchase agreement under this paragraph 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 clause (i), (ii), (iii), or (iv), but not to exceed the actual value of such contract on the date of the filing of the petition; and

''(B) does not include a 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;'';

(D) in paragraph (48) by inserting ''or exempt from such registration under such section pursuant to an order of the Securities and Exchange Commission'' after ''1934''; and

(E) by amending paragraph (53B) to read as follows:

''(53B) 'swap agreement'

''(A) means—

''(i) any agreement, including the terms and conditions incorporated by reference in 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 an equity swap, option, future, or forward agreement; a debt index or a debt swap, option, future, or forward agreement; a credit spread or a credit swap, option, future, or forward agreement; or a commodity index or a commodity swap, option, future, or forward agreement;

''(ii) any agreement or transaction similar to any other agreement or transaction referred to in this paragraph that—

''(I) is presently, or in the future becomes, regularly entered into in the swap 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 on an economic index or measure of economic risk or value;

''(iii) any combination of agreements or transactions referred to in this paragraph;

''(iv) any option to enter into an agreement or transaction referred to in this paragraph;

''(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, and without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this paragraph, except that the master agreement shall be considered to be a swap agreement under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in clause (i), (ii), (iii), or (iv); or

''(B) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in subparagraph (A); and

''(C) is applicable for purposes of this title only and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement 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) '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, a group or index of securities, certificates of deposit or mortgage loans or interests therein (including an interest therein or based on the value thereof), or option on any of the foregoing, including an 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 a settlement of cash, securities, certificates of deposit mortgage loans or interests therein, group or index of securities, or mortgage loans or interests therein (including any interest therein or based on the value thereof), or option on any of the foregoing, including an 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 an agreement or transaction referred to in this paragraph;

''(vi) any combination of the agreements or transactions referred to in this paragraph;

''(vii) any option to enter into any agreement or transaction referred to in this paragraph;

''(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 paragraph, except that such master agreement shall be considered to be a securities contract under this paragraph only with respect to each agreement or transaction under such master agreement that is referred to in clause (i), (ii), (iii), (iv), (v), (vi), or (vii); or

''(ix) any security agreement or arrangement, or other credit enhancement, related to any agreement or transaction referred to in this paragraph, but not to exceed the actual value of such contract on the date of the filing of the petition; and

''(B) does not include any purchase, sale, or repurchase obligation under a participation in 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:

''(F) any other agreement or transaction that is similar to an 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 an 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 such master netting agreement, without regard to whether the master netting 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, but not to exceed the actual value of such contract on the date of the filing of the petition;''.

(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) 'financial institution' means—

''(A) a Federal reserve bank, or an entity (domestic or foreign) that is a commercial or savings bank, industrial savings bank, savings and loan association, trust company, or receiver or conservator for such entity and, when any such Federal reserve bank, receiver, conservator or entity is acting as agent or custodian for a customer in connection with a securities contract, as defined in section 741 of this title, such customer; or

''(B) in connection with a securities contract, as defined in section 741 of this title, an investment company registered under the Investment Company Act of 1940;'';

(2) by inserting after paragraph (22) the following:

''(22A) 'financial participant' means an 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 agreement or transaction 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) 'forward contract merchant' means a Federal reserve bank, or an entity 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 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) '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) '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, as amended by sections 118, 132, 136, 142, 203 and 818, 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 a mutual debt and claim under or in connection with 1 or more swap agreements that constitutes the setoff of a claim against the debtor for any payment or other transfer of property 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 held by, pledged to, and under the control of,

or due from such swap participant to margin guarantee, secure, or settle a swap agreement;'';

(D) in paragraph (30) by striking ''or'' at the end;

(E) in paragraph (31) by striking the period at the end and inserting ''; or''; and

(F) by inserting after paragraph (31) the following new paragraph:

''(32) 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 or any contract or agreement subject to such agreements that constitutes the setoff of a claim against the debtor for any payment or other transfer of property due from the debtor under or in connection with such agreements or any contract or agreement subject to such agreements against any payment due to the debtor from such master netting agreement participant under or in connection with such agreements or any contract or agreement subject to such agreements or against cash, securities, or other property held by, pledged or and under the control of, or due from such master netting agreement participant to margin, guarantee, secure, or settle such agreements or any contract or agreement subject to such agreements, to the extent such participant is eligible to exercise such offset rights 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, as amended by sections 120, 302, and 412, is amended by adding at the end the following:

''(l) LIMITATION.—The exercise of rights not subject to the stay arising under subsection (a) pursuant to paragraph (6), (7), or (17), or (31) 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, as amended by sections 207 and 302, 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''; and

(2) by adding at the end the following:

''(j) Notwithstanding sections 544, 545, 547, 548(a)(2)(B), and 548(b) of this title, the trustee may not avoid a transfer made by or to a master netting agreement participant under or in connection with any master netting agreement or any individual contract covered thereby that is made before the commencement of the case, except under section 548(a)(1)(A) of this title, and except to the extent the trustee could otherwise avoid such a transfer made under an individual contract covered by such master netting agreement.''.

(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 or any individual contract covered thereby takes for value to the extent of such transfer, except, with respect to a transfer under any individual contract covered thereby, to the extent such master netting agreement participant otherwise did not take (or is otherwise not deemed to have taken) such transfer for value.''.

(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 as follows:

''§ 555. 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 as follows:

''§ 556. 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 as follows:

''§ 559. 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 as follows:

''§ 560. 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.—(1) Title 11, United States Code, is amended by inserting after section 560 the following:

''§ 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 1 or more (or 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) If a debtor is a commodity broker subject to subchapter IV of chapter 7 of this title—

''(A) 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, contracts, or agreements listed in subsection (a) except to the extent the party has positive net equity in the commodity accounts at the debtor, as calculated under subchapter IV; and

''(B) another commodity broker may not net or offset an obligation to the debtor arising under, or in connection with, a commodity contract entered into or held on behalf of a customer of the debtor against any claim arising under, or in connection with, other instruments, contracts, or agreements listed in subsection (a).

''(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.''.

(2) CONFORMING AMENDMENT.—The table of sections of chapter 9 of title 11, United States Code, is amended by inserting after the item relating to section 560 the following:

''561. Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts.

(l) ANCILLARY PROCEEDINGS.—Section 304 of title 11, United States Code, as amended by section 215, is amended by adding at the end the following:

''(c) 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 case 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).''.

(m) COMMODITY BROKER LIQUIDATIONS.—Title 11, United States Code, is amended by inserting after section 766 the following:

''§ 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.''.

(n) STOCKBROKER LIQUIDATIONS.—Title 11, United States Code, is amended by inserting after section 752 the following:

"§ 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, financial 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.''.

(o) 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), 362(b)(19), 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), 362(b)(19), 555, 556, 559, 560, 561''.

(p) 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 at the end '', 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''.

(q) CONFORMING AMENDMENTS.—Title 11 of the United States Code is amended—

(1) in the table of sections of chapter 5—

(A) by amending the items relating to sections 555 and 556 to read as follows:

''555. Contractual right to liquidate, terminate, or accelerate a securities contract.

''556. Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract.''; and

(B) by amending the items relating to sections 559 and 560 to read as follows:

''559. Contractual right to liquidate, terminate, or accelerate a repurchase agreement.

''560. Contractual right to liquidate, terminate, or accelerate a swap agreement.''; and

(2) in the table of sections of chapter 7—

(A) by inserting after the item relating to section 766 the following:

''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.''; and

(B) by inserting after the item relating to section 752 the following:

''753. Stockbroker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.''.

SEC. 1008. 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:

''(H) RECORDKEEPING REQUIREMENTS.—The Corporation, in consultation with the appropriate Federal banking agencies, may prescribe regulations requiring more detailed recordkeeping with respect to qualified financial contracts (including market valuations) by insured depository institutions.''.

SEC. 1009. EXEMPTIONS FROM CONTEMPORANEOUS EXECUTION —REQUIREMENT.

Section 13(e)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)(2)) is amended to read as follows:

''(2) EXEMPTIONS FROM CONTEMPORANEOUS EXECUTION REQUIREMENT.—An agreement to provide for the lawful collateralization of—

''(A) deposits of, or other credit extension by, a Federal, State, or local governmental entity, or of any depositor referred to in section 11(a)(2), including an agreement to provide collateral in lieu of a surety bond;

''(B) bankruptcy estate funds pursuant to section 345(b)(2) of title 11, United States Code;

''(C) extensions of credit, including any overdraft, from a Federal reserve bank or Federal home loan bank; or

''(D) 1 or more qualified financial contracts, as defined in section 11(e)(8)(D),

shall not be deemed invalid pursuant to paragraph (1)(B) solely because such agreement was not executed contemporaneously with the acquisition of the collateral or because of pledges, delivery, or substitution of the collateral made in accordance with such agreement.''.

SEC. 1010. DAMAGE MEASURE.

(a) Title 11, United States Code, as amended by section 1007, is amended—

(1) by inserting after section 561 the following:

"§ 562. 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, commodity contract (as defined in section 761 of this title) 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, financial participant, master netting agreement participant, or swap participant liquidates, terminates, or accelerates 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.''; and

(2) in the table of sections of chapter 5 by inserting after the item relating to section 561 the following:

''562. Damage measure in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, or master netting agreements.''.

(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:

''(2) A claim for damages calculated in accordance with section 561 of this title shall be allowed under subsection (a), (b), or (c), or disallowed under subsection (d) or (e), as if such claim had arisen before the date of the filing of the petition.''.

SEC. 1011. SIPC STAY.

Section 5(b)(2) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78eee(b)(2)) is amended by adding after subparagraph (B) the following new subparagraph:

''(C) EXCEPTION FROM STAY.—

''(i) Notwithstanding section 362 of title 11, United States Code, neither the filing of an application under subsection (a)(3) nor any order or decree obtained by Securities Investor Protection Corporation from the court shall operate as a stay of any contractual rights of a creditor to liquidate, terminate, or accelerate a securities contract, commodity contract, forward contract, repurchase agreement, swap agreement, or master netting agreement, each as defined in title 11, to offset or net termination values, payment amounts, or other transfer obligations arising under or in connection with 1 or more of such contracts or agreements, or to foreclose on any cash collateral pledged by the debtor whether or not with respect to 1 or more of such contracts or agreements.

''(ii) Notwithstanding clause (i), such application, order, or decree may operate as a stay of the foreclosure on securities collateral pledged by the debtor, whether or not with respect to 1 or more of such contracts or agreements, securities sold by the debtor under a repurchase agreement or securities lent under a securities lending agreement.

''(iii) 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 in writing, arising under common law, under law merchant, or by reason of normal business practice.''.

SEC. 1012. ASSET-BACKED SECURITIZATIONS.

Section 541 of title 11, United States Code, as amended by section 150, is amended—

(1) by redesignating paragraph (5) of subsection (b) as paragraph (6);

(2) 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);''; and

(3) by adding at the end the following new subsection:

''(e) For purposes of this section, the following definitions shall apply:

''(1) 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) 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 residual interest in property subject to receivables included in such financial assets 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) 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) 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; and

''(5) 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. 1013. FEDERAL RESERVE COLLATERAL REQUIREMENTS.

The 3d sentence of the 3d undesignated paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 412) is amended by striking ''acceptances acquired under the provisions of section 13 of this Act'' and inserting ''acceptances acquired under section 10A, 10B, 13, or 13A of this Act''.

SEC. 1014. EFFECTIVE DATE; APPLICATION OF — –AMENDMENTS.

(a) EFFECTIVE DATE.—This title shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—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, but shall not apply with respect to cases commenced or appointments made under any Federal or State law before the date of enactment of this Act.

TITLE XI—TECHNICAL CORRECTIONS

SEC. 1101. DEFINITIONS.

Section 101 of title 11, United States Code, as amended by sections 102, 105, 132, 138, 301, 302, 402, 902, and 1007, 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 (55) (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 (55), including paragraph (54), as amended by paragraph (6) of this section, in entirely numerical sequence.

SEC. 1102. 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. 1103. 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. 1104. TECHNICAL AMENDMENTS.

Title 11 of the United States Code is amended—

(1) in section 109(b)(2) by striking ''subsection (c) or (d) of''; and

(2) in section 552(b)(1) by striking ''product'' each place it appears and inserting ''products''.

SEC. 1105. 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. 1106. 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. 1107. 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. 1108. 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. 1109. 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. 1110. PRIORITIES.

Section 507(a) of title 11, United States Code, as amended by section 323, is amended in paragraph (4), as so redesignated by section 142, by striking the semicolon at the end and inserting a period.

SEC. 1111. EXEMPTIONS.

Section 522(g)(2) of title 11, United States Code, is amended by striking ''subsection (f)(2)'' and inserting ''subsection (f)(1)(B)''.

SEC. 1112. EXCEPTIONS TO DISCHARGE.

Section 523 of title 11, United States Code, as amended by section 146, 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 (14A) 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)''; and

(5) in subsection (e), by striking ''a insured'' and inserting ''an insured''.

SEC. 1113. 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. 1114. 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. 1115. 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. 1116. PREFERENCES.

(a) IN GENERAL.—Section 547 of title 11, United States Code, is amended—

(1) in subsection (b), by striking ''subsection (c)'' and inserting ''subsections (c) and (i)''; and

(2) by adding at the end the following:

''(i) If the trustee avoids under subsection (b) a transfer made 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 transfer may be avoided under this section only with respect to the creditor that is an insider.''.

(b) APPLICABILITY.—The amendments made by this section shall apply to any case that is pending or commenced on or after the date of enactment of this Act.

SEC. 1117. 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. 1118. DISPOSITION OF PROPERTY OF THE ESTATE.

Section 726(b) of title 11, United States Code, is amended by striking ''1009,''.

SEC. 1119. GENERAL PROVISIONS.

Section 901(a) of title 11, United States Code, is amended by inserting ''1123(d),'' after ''1123(b),''.

SEC. 1120. 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. 1121. 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. 1122. 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. 1123. 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. 1124. 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. 1125. 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. 1126. TRANSFERS MADE BY NONPROFIT CHARITABLE CORPORATIONS.

(a) SALE OF PROPERTY OF ESTATE.—Section 363(d) of title 11, United States Code, is amended—

(1) by striking ''only'' and all that follows through the end of the subsection and inserting ''only—

''(1) in accordance with applicable nonbankruptcy law that governs the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust; and

''(2) to the extent not inconsistent with any relief granted under subsection (c), (d), (e), or (f) of section 362 of this title.''.

(b) CONFIRMATION OF PLAN FOR REORGANIZATION.—Section 1129(a) of title 11, United States Code, as amended by section 140, is amended by adding at the end the following:

''(15) All transfers of property of the plan shall be made in accordance with any applicable provisions of nonbankruptcy law that govern the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust.''.

(c) TRANSFER OF PROPERTY.—Section 541 of title 11, United States Code, as amended by section 1102, is amended by adding at the end the following:

''(f) Notwithstanding any other provision of this title, property that is held by a debtor that is a corporation described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code may be transferred to an entity that is not such a corporation, but only under the same conditions as would apply if the debtor had not filed a case under this title.''.

(d) APPLICABILITY.—The amendments made by this section shall apply to a case pending under title 11, United States Code, on the date of enactment of this Act, except that the court shall not confirm a plan under chapter 11 of this title without considering whether this section would substantially affect the rights of a party in interest who first acquired rights with respect to the debtor after the date of the petition. The parties who may appear and be heard in a proceeding under this section include the attorney general of the State in which the debtor is incorporated, was formed, or does business.

(e) RULE OF CONSTRUCTION.—Nothing in this section shall be deemed to require the court in which a case under chapter 11 is pending to remand or refer any proceeding, issue, or controversy to any other court or to require the approval of any other court for the transfer of property.

SEC. 1127. PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.

Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end the following:

''(i) PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.—A creditor of an account under an open end consumer credit plan may not terminate an account prior to its expiration date solely because the consumer has not incurred finance charges on the account. Nothing in this subsection shall prohibit a creditor from terminating an account for inactivity in 3 or more consecutive months.''.

SEC. 1128. PROTECTION OF VALID PURCHASE MONEY SECURITY INTERESTS.

Section 547(c)(3)(B) of title 11, United States Code, is amended by striking ''20'' and inserting ''30''.

SEC. 1129. TRUSTEES.

(a) SUSPENSION AND TERMINATION OF PANEL TRUSTEES AND STANDING TRUSTEES.—Section 586(d) of title 28, United States Code, is amended—

(1) by inserting ''(1)'' after ''(d)''; and

(2) by adding at the end the following:

''(2) A trustee whose appointment under subsection (a)(1) or under subsection (b) is terminated or who ceases to be assigned to cases filed under title 11 of the United States Code may obtain judicial review of the final agency decision by commencing an action in the United States district court for the district for which the panel to which the trustee is appointed under subsection (a)(1), or in the United States district court for the district in which the trustee is appointed under subsection (b) resides, after first exhausting all available administrative remedies, which if the trustee so elects, shall also include an administrative hearing on the record. Unless the trustee elects to have an administrative hearing on the record, the trustee shall be deemed to have exhausted all administrative remedies for purposes of this paragraph if the agency fails to make a final agency decision within 90 days after the trustee requests administrative remedies. The Attorney General shall prescribe procedures to implement this paragraph. The decision of the agency shall be affirmed by the district court unless it is unreasonable and without cause based on the administrative record before the agency.''.

(b) EXPENSES OF STANDING TRUSTEES.—Section 586(e) of title 28, United States Code, is amended by adding at the end the following:

''(3) After first exhausting all available administrative remedies, an individual appointed under subsection (b) may obtain judicial review of final agency action to deny a claim of actual, necessary expenses under this subsection by commencing an action in the United States district court in the district where the individual resides. The decision of the agency shall be affirmed by the district court unless it is unreasonable and without cause based upon the administrative record before the agency.

''(4) The Attorney General shall prescribe procedures to implement this subsection.''.

TITLE XII—GENERAL EFFECTIVE DATE; APPLICATION OF AMENDMENTS

SEC. 1201. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as provided otherwise in this Act, this Act and the amendments made by this Act shall take effect 180 days after the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—Except as otherwise provided in this Act, the amendments made by this Act shall not apply with respect to cases commenced under title 11 of the United States Code before the effective date of this Act.

MODIFICATION OF AMENDMENT IN THE NATURE OF A SUBSTITUTE NO. 11 OFFERED BY MR. NADLER

Mr. NADLER. Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be modified in the form I have placed at the desk.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification of amendment in the nature of a substitute No. 11 offered by Mr. NADLER:

Page 7, lines 19 and 24, strike ''less than or equal to'' each place it appears and insert ''greater than''.

Page 9, line 8, insert ''allowable'' after ''debtor's''.

Page 11, line 13, strike ''hall'' and insert ''shall''.

Page 16, lines 7 and 12, strike ''less than or equal to'' each place it appears and insert ''greater than''.

Page 17, line 6, strike ''less than or equal to'' and insert ''greater than''.

Mr. GEKAS (during the reading). Mr. Chairman, I ask unanimous consent that the modification be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. Is there objection to the modification?

Mr. GEKAS. Mr. Chairman, reserving the right to object, I may object, but I probably will not.

The gentleman from New York has offered through his counsel in consultation with me that these are simply technical amendments. They do not, I trust, constitute sloppy work on the part of anybody, it is simply that we want to make sure that your amendment is technically correct. Is that correct, may I ask?

Mr. NADLER. Mr. Chairman, if the gentleman will yield, I am informed by distinguished counsel that they were typos and errors in drafting, that he made no substantive changes.

Mr. GEKAS. No way that that was sloppy handwork of any type, is that correct?

Mr. NADLER. I do not think I would call the work of the staff sloppy. I would think in view of the haste it was hasty because of the committee schedule.

Mr. GEKAS. Mr. Chairman, further reserving the right to object, we will engage in a spelling bee on ''sloppy'' some other time.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Without objection, the modification is agreed to.

There was no objection.

The CHAIRMAN. Pursuant to House Resolution 158, the gentleman from New York (Mr. NADLER) and a Member opposed each will control 30 minutes.

The Chair recognizes the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Chairman, I yield myself such time as I may consume.

(Mr. NADLER asked and was given permission to revise and extend his remarks.)

Mr. NADLER. Mr. Chairman, I am reluctantly offering this substitute in the hope that it will open the door to rational discussion and an eventual compromise that will ensure both that people will be unable to game the system and that all parties, debtors and creditors alike, will be treated fairly in our bankruptcy courts. It is an attempt to foster dialogue and compromise and I hope it will not be misconstrued as my idea of an ideal bankruptcy bill.

I certainly do not agree with everything in the substitute, and I hope no one will pull sections out of it and say that I think this is a good idea. But I certainly do agree with the main changes we make from the Gekas bill.

In its current form, this bill provides ample loopholes for the wealthy, well-advised debtor to escape his or her obligations in bankruptcy but sets numerous traps for the middle and low-income debtor who will face unnecessary litigation and costs, unrealistic legal requirements and legal presumptions which bear no relation to reality. The bill will destroy businesses, it will destroy families and it will destroy lives. America is better than that.

We can get at that small percentage of people. The ABI, the American Bankruptcy Institute, estimated 3 percent of debtors can afford to repay 20 percent or more of their debt. The creditors said oh, no, they are wrong, it is double that, 6 percent. We can get at that small percentage, 3 or 6 percent of people who are abusing the system, without making costs skyrocket and without violating the rights of small debtors and creditors.

The substitute I am offering makes several major changes in the bill before us. It makes two changes in the so-called means test. First, it would look at a debtor's real income rather than his past income. The bill would average the previous 6 months of income and create a legal presumption that this is what the debtor will receive every month for the next 5 years, but we know this is wrong.

For example, people are making $50,000 at middle management at IBM and they are laid off, now they are making a much less amount of money. That is why they are going bankrupt. One cannot presume that they are making $50,000. This amendment would look at their real income and it looks forward, it does not look back.

Second, the means test does not look at your actual expenses, it looks at what some IRS bureaucrat thinks that the average expense in your part of the country ought to be. The substitute makes the same change here as the Hyde-Conyers amendment we voted on a few minutes ago would have done.

In the last Congress, the majority declared the IRS to be the great Satan and held hearings designed to show that these guys could not be trusted. We even passed legislation to reform the IRS which specifically directed the IRS to drop these guidelines and to fashion new ones with greater leniency because we thought these guidelines were inaccurate and too harsh.

Yet this bill would require that those same guidelines that we judged last year to be inflexible, inaccurate and too harsh should now be applied without any flexibility at all. We have been told that you could just put the debtor through a home computer and find out how much bankruptcy relief they are entitled to. The gentleman from Illinois (Mr. HYDE) is right, the IRS should not be entrusted with this task.

If the real circumstances do not match your income from the last 6 months and what the IRS says your landlord should be charging you, never mind what he actually does charge you, the bill allows you to go to court and plead extraordinary circumstances. In other words, to get the court to look at your real situation, you have to hire a lawyer and litigate a motion.

It is right in the bill, and it is the first roadblock in the path of someone with no money who really needs bankruptcy relief. How many people who really have no money are going to be able to afford to litigate the question of whether their daughter's braces are extraordinary circumstances? Why should they have to?

Any reasonable means test would say, what are your real means, what is your real income, what are your real expenses? Not what does the IRS think the average rent or the average mortgage payment in the Northeast ought to be, what is your mortgage payment? You cannot take the IRS estimate to the bank.

The substitute has the court look at reality from the very beginning of the case, no Alice in Wonderland. The substitute allows the debtor to bring to the court's attention at the beginning of the case changes in his or her circumstances which would make the 6-month lookback for income unrealistic. No special motions, no litigation. Part of the filing.

Unlike the bill, in addition to allowing people to pay for private school and counting that as part of his expenses, our bill would allow expenses for public school, if any, and for home schooling. Private school should not get a special preference over public schools and over home schooling.

We have also heard a great deal about the effect nondischargeability will have on families and child support. Let us talk about what this bill adds, why it is a problem and what this substitute would do.

The first addition to nondischargeability would make nondischargeable purchases in the aggregate of $250 or more in the 90 days before the bankruptcy filing, it would assume that that is for luxury goods or services. But it presumes that that $250 is for purchase of luxury goods. If you put your groceries, your gas and your dry cleaning on a credit card for 3 months for your family, do you think that would be more than $250?

Now, the credit card company would get to drag you to court and you would have to prove that it is not a luxury good. The presumption would be that it is a luxury good and should be nondischargeable in bankruptcy. You bought a new dishwasher. Could the old one have been fixed? Can you not do it by hand? Go prove it, at the cost of litigation.

But the main point is that this is a litigation trap for people who are really broke and cannot afford a lawyer to defend the discharge action.

The same with the other section which makes nondischargeable debts on a credit card incurred to pay nondischargeable debts. We have seen today that banks are sending live checks and preapproved credit cards to people, even kids, and saying use it for whatever you want. Now the same banks want to say, ''Hey, wait a minute, you paid your tax bill with your credit card. We want our debt on the credit card that you used to pay your tax to survive bankruptcy because you should not have paid it with your credit card.''

They do not have to prove any improper intent. They simply make the debt nondischargeable. The result, these credit card debts would survive a bankruptcy discharge and would compete with other more important nondischargeable debts after the case is over.

Your ex-wife wants to collect child support. Too bad. Let her go and compete with a lawyer for Chemical Bank, which would now be made nondischargeable. That is why advocates for women, for families with kids, for crime victims, Mothers Against Drunk Driving have spoken out so consistently against this provision of the bill.

The substitute also includes improvements to Chapter 11 which protects family farms. The substitute raises, to keep pace with inflation, the limit on who can file for Chapter 12, and it assures that proceeds from the sale of farm equipment are used to help reorganize the farm and not to go only to taxes. Like the bill, it also makes Chapter 12 permanent. It is the same language that is in the bipartisan bill introduced by the gentleman from Michigan (Mr. SMITH) and the gentleman from Minnesota (Mr. MINGE).

We have played politics with family farms too long. There is a crisis in the farm belt. They need these improvements to the law and they need Chapter 12 to be permanent. We should do it whether the big banks that hold farm mortgages like it or not.

There are a number of provisions in this bill for credit card disclosure, the same provisions that were in the amendment that the gentleman from Massachusetts (Mr. DELAHUNT) offered in committee, that the Committee on Rules refused to make permanent. I will just mention one.

Under this bill, the credit card companies tell you the interest rate is X and your minimum payment is $10, but they do not tell you that if you pay the minimum, how long it will take you to repay. It will take you 200 years to repay your debt. And what percentage of income you will pay, 300 percent. They would have to tell you those kinds of disclosures so you would know that.

The last piece I want to discuss concerns a matter that is very important to me, child support enforcement. As a member of the New York State Assembly, I wrote most of the State's child support enforcement laws.

□ 1730

There have been a great many fig leafs placed on this bill to make it appear as if the bill is not anti-family and would not very greatly damage child support enforcement, but the truth is it most certainly would.

There are two ways in which this bill would hurt child support enforcement. In Chapter 7 we are making credit card debts or many of them, as I have already mentioned, nondischargeable. So mom, after the bankruptcy is finished now, now has to compete with the bill collector or the attorney from Chemical Bank to collect the nondischargeable debt, because there is more debt that is now nondischargeable. She has got to compete for it.

But the sponsors of the bill say, no, no, no. We are giving child support a priority so she will not have to compete. But of course, as any bankruptcy attorney knows, priorities only exist in bankruptcy court. Once one has the discharge, they are no longer in bankruptcy court, the priorities are wiped out, the Federal jurisdiction is wiped out, the bankruptcy proceeding is over, and now she is still stuck trying to compete in the real world out there, perhaps in State court with Chemical Bank's attorney or whoever, to collect her child support as against their nondischarged credit card debt, and priorities do not exist and do not help us.

Second, the bill defines debts owed to the government for past-due child support as domestic support. In a Chapter 13 repayment proceeding the bill says we cannot approve, the judge cannot approve, a Chapter 13 repayment plan to pay the debts unless the plan includes payment of all the child support due. Period. But it defines the child support as debts owed to the government for past-due support as well as debts owed to the custodial parent, to mom, to care for the child.

So if the means test that is inserted into Chapter 13 finds that there is enough disposable income to pay the child support to mom but there is not enough disposable income to pay the child support to mom and pay the government the debts that are owed, we cannot confirm the Chapter 13 plan, there is no Chapter 13, they cannot go bankrupt. They are too rich for Chapter 7, they are too poor for Chapter 13, they cannot get any bankruptcy protection, and mom is left out there trying to collect her child support against every other debtor, every other creditor, with no protection at all.

The last issue of debtor coercion I want to address involves something called reaffirmation agreements. There has been a great deal of publicity about people being coerced into signing away their rights to a discharge or agreeing to waive that right without fully understanding what they are signing. This amendment would require court review for reaffirmations of unsecured debts and of very small amounts. It would also require disclosure to the debtor so he knows, so he understands, what he is agreeing to. Placing some limits on reaffirmations, requiring some disclosure and some court oversight, not in every case but in those cases that are most likely to result in abuses, is important. To the extent that reaffirmation is like nondischargeable debts, limit a debtor's post-discharge resources, they interfere with child support.

The bill would abolish the right to bring a class action. We all remember a few years ago when Sears Roebuck cheated over a million people through fraud into fraudulent reaffirmations. A class action suit was brought, and $168 million in damages was paid to over a million people. The average recovery was $150 per person. Sixty million dollars criminal penalty was assessed.

This bill says: We want to crack down on the little guy, but the big guys, if they are crooks, we do not want them to be subject to class action lawsuits. They cannot maintain a class action lawsuit, and so Sears Roebuck would get away with it if they only had delayed until this bill has passed.

This substitute would remove this provision. The only way one can sue the little guys, can sue the big guys, is through a class action suit.

I hope that Members will support the substitute instead of H.R. 833. The substitute is supported by the administration. It is a giant step toward a fair and balanced bill and a giant step away from the gridlock we experienced in the last Congress. If my colleagues want real and fair bankruptcy reform, support the substitute. If they do not want a bill that will be vetoed and leaving us with nothing at the end of the session, support the substitute.

Mr. Chairman, I reserve the balance of my time.

Mr. GEKAS. Mr. Chairman, I yield myself such time as I might consume.

I ask the Members to vote no on the Nadler substitute. What it does in its provisions one by one is erase the progress that we have made already indicated by the votes taken in this Chamber. For instance, one of the main objects, targets, of the Nadler substitute would be to eliminate the means test, the needs test which is so vital to a real reform in bankruptcy.

We have already voted on the Hyde-Conyers amendment. We indicated the will of the House of Representatives on that very same feature. Now the gentleman from New York (Mr. NADLER) asks us to repeat the consideration of that item. The vote naturally will be no. I ask for that repeat vote.

Mr. NADLER makes a big deal out of some of the provisions in his proposal that fly right in the face of what we have already accomplished and what we are trying to accomplish. For instance, we consulted for weeks and months with residential landlords who were vexed and are still vexed by the havoc, the absolute havoc that can be wreaked upon an investment by the automatic stay that would benefit debtors, and that is tenants who want to stay on, and on, and on without paying rent. The bill that we have gives relief to the residential landlords. That is a big step forward, and we really studied that provision and consulted with a lot of people and heard testimony to that effect. Mr. NADLER would wipe it out with this amendment. I think that is retrogressive, completely retrogressive, anti-reform.

Beyond that, the gentleman from New York makes a big cry out of the reaffirmation language that we have in the bill. He fails to note, and this is important for us to recall, that the credit unions who have supported our bill from the beginning to the end and who have lent their voices, loaned their voices to us on many different occasions on this bill, they like our language on reaffirmations.

If my colleagues like credit unions and the work they do and the loans they provide and the capitalization that they indulge, they will not support the Nadler substitute. They will be destroying the credit unions' reliance on our language on reaffirmations just for one item.

Mr. Chairman, there are 10 other flaws in this bill. I do not want to take up extra time. I will enumerate them for anyone who wants to corner me in the cloakroom for that purpose, but from time to time I will remind some of our Members of some of those flaws.

Mr. Chairman, I insert the following for the RECORD:

NATIONAL GOVERNORS ASSOCIATION,
GENERAL DEBATE NADLER
Washington, DC, May 5, 1999.

Hon. J. DENNIS HASTERT,
Speaker of the House,
House of Representatives, Washington, DC.
Hon. RICHARD A. GEPHARDT,
House Minority Leader,
House of Representatives, Washington, DC.

DEAR SPEAKER HASTERT AND MINORITY LEADER GEPHARDT: Our economy has been setting the right kind of records in the 1990s in terms of real economic growth, low inflation, declining welfare rolls, and falling unemployment rates. During the same period,

however, personal bankruptcy filings have repeatedly set the wrong kind of records, reaching new highs each of the last three years. Governors accordingly support revising federal bankruptcy laws to curb the increasing number of bankruptcy filings in our nation and to stem abuses to the bankruptcy system.

Specifically, Governors support efforts to prevent debtors from filing Chapter 7 bankruptcy in lieu of Chapter 13 when they are financially capable of repaying part or all of their unsecured debts. We also encourage Congress to place the highest possible priority on payment of domestic support obligations in bankruptcy proceedings. Preservation of states' existing rights to determine their own standards dealing with homestead exemptions is another important provision that needs to be included in any bankruptcy legislation that Congress passes this year.

We applaud the Judiciary Committee's recent efforts to address this issue. Passage of H.R. 833 by the House represents an important step to ensuring enactment of meaningful bankruptcy reform this year. We look forward to working with Congress to achieve this goal.

Sincerely,

GOVERNOR THOMAS R. CARPER.
GOVERNOR MICHAEL O. LEAVITT.
GOVERNOR GEORGE E. PATAKI,
Chairman,
Committee on Economic Development and Commerce.
GOVERNOR JEANNE SHAHEEN,
Vice Chair,
Committee on Economic Development and Commerce.

Mr. Chairman, I reserve the balance of my time.

Mr. NADLER. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Michigan (Mr. CONYERS), the ranking member of the Committee on the Judiciary.

(Mr. CONYERS asked and was given permission to revise and extend his remarks.)

Mr. CONYERS. Mr. Chairman, I first want to commend the gentleman from New York (Mr. NADLER) who has worked indefatigably on this bill. No one has put in more time than him, and as a result we have crafted a democratic substitute that I am proud to urge my colleagues' consideration of.

This amendment retains the vast majority of the provisions in the underlying bill, but at the same time responds to the most egregious and one-sided provision in the legislation. In addition to fixing the problems with the use of IRS expense standards, which is an anathema, and the bill's impact on jobs also would be corrected, the substitute also eliminates many of the problems the bill creates for single mothers and their children as well as the problem of credit card abuse.

So here we are. Here is an amendment that deals with the IRS expense standards, the small business loss of jobs, the problems created for single mothers and their children and the problem of credit card abuse. These four items are so critical to any kind of reasonable bill.

As the bill presently stands, it is a disaster for single mothers and their children. There has been a lot of conversation that it is not, but that is the bare truth revealed now at the end of a day's debate.

In addition to the overall impact of the bill on women struggling to raise families and make ends meet, the legislation will have a particularly harsh impact on the payment of alimony and child support. The problem arises from the fact that bankruptcy and insolvency are, by definition, a zero sum gain. By design, this bill will increase the amount of funds being paid to unsecured creditors, and it therefore comes as no surprise that such payments will often come at the expense of other less aggressive creditors, those without lawyers such as women and children owed child support or alimony. This problem is by no means insignificant given that an estimated 243,000 maybe to 325,000 bankruptcy cases per year involve child support and alimony orders.

And so, Mr. Chairman, for these Members who want to support real and balanced bankruptcy reform without unnecessarily piling on the middle class, the mothers and their children and without giving the credit industry a complete pass, I urge a yes vote for the democratic substitute now being debated.

Mr. GEKAS. Mr. Chairman, I yield 4 minutes to the gentleman from California (Mr. ROYCE).

Mr. ROYCE. Mr. Chairman, enacting a substitute bill on which there has been no hearings or public comment is no way to approach a task as important as reforming the Nation's bankruptcy system. Our bankruptcy laws play an important and necessary role in protecting Americans who really need these laws, and that is the key, need. But what our act intends to do is to make the existing bankruptcy system a needs-based system, addressing the flaw in the current system that encourages people to file for bankruptcy and walk away from debts regardless of whether they are able to repay any portion of what they owe, and it does this while protecting those who truly need protection.

Between September of 1997 and September of 1998 in my home State of California there were 203,000 personal bankruptcy petitions filed. This translates into one bankruptcy petition filed for every 56 households. Now that is almost three times the next highest State, New York. Moreover, the number of bankruptcies in California has more than doubled since 1990.

The cost to all of us is very great for the rest of the country. This is the cost borne not only by the business community but by the consumers who pay their bills responsibly and end up having these costs shifted to them.

Last year, the 55 of 56 households in my State who paid their bills on time were forced to pick up the $550 per household tab for those who walked away from their debts. That is a $550 bill that my colleagues and I pay when irresponsible spenders who can afford to pay all or some of their debt declare bankruptcy, and this is the problem that the Bankruptcy Reform Act addresses.

Therefore, Mr. Chairman, I rise today in strong support of the Bankruptcy Reform Act of 1999, of which I am a cosponsor, and in opposition to this substitute. The Bankruptcy Reform Act is almost identical to legislation passed by the House of Representatives last year by an overwhelming bipartisan vote. Unfortunately, that legislation ultimately stalled late in the year in the Senate. We have another opportunity today to pass this much-needed reform act and send the Senate a bill with strong bipartisan support, and I urge my colleagues to vote for this bill and defeat this substitute amendment.

□ 1745

Mr. NADLER. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts (Mr. MEEHAN).

Mr. MEEHAN. Mr. Chairman, I rise today in support of the Conyers-Nadler-Meehan-Berman substitute bankruptcy amendment. There have been debates on bankruptcy reform both last session and this year. I have been alarmed by the rise in the number of consumer bankruptcies in this country and have been convinced that changes need to be made in the bankruptcy system.

We can all agree that debtors should be obliged to pay more of their debts to their creditors. I fully support the concept of means testing to determine which debtors can pay at least some of their debts. In fact, last year I offered a means test amendment to the bankruptcy bill that would have done just that.

Today I am a cosponsor of this substitute bill, which includes a key provision, an improved means test, over the one used in the underlying bill.

The means test used in H.R. 833 uses an elaborate standard in tests to determine which debtors would be shifted to Chapter 13 and which would remain in Chapter 7. In all of those convoluted and exacting calculations, the test leaves out one fundamental element: Fairness.

The bankruptcy system was designed to provide a fresh start for those who have fallen on hard times, frequently through little fault of their own.

Let us look at who is declaring bankruptcy. In 1997, 280,000 older Americans filed for bankruptcy, two-thirds due to an unsuspected illness or job loss. 300,000 bankruptcy cases involved child support or alimony orders, as women could not collect what they were owed or tried to stabilize their post-divorce economic condition.

We can all agree that these debtors are entitled to a fresh start and should not be forced to repay their debts for

the rest of their lives and beyond by leaving debts for their heirs.

This substitute provides fairness by including a realistic means test which takes into account the real world circumstances of the debtor. Yet the amendment ensures that debtors who can repay their debts will repay their debts.

Unlike the underlying bill, this amendment also understands that blame should not be solely shouldered by the debtors. This amendment considers the fact that the increasing availability of consumer credit corresponds with the increased number of bankruptcy filings.

Moving more debtors into repayment plans, even if done correctly, is not the sole solution to the increased number of bankruptcies. Credit card applications with large limits are routinely sent to the poor, to college students, to family pets, and even dead people, and this significantly contributes to the number of bankruptcies.

In 1997, over 250,000 Americans filed for bankruptcy before their 25th birthday; 250,000. How can people so young have a line of credit so large that they cannot repay it? Because credit card companies are sending them all kinds of promises for spring break if they put it on a credit card.

Mr. Chairman, let us have fair bankruptcy reform.

Mr. GEKAS. Mr. Chairman, I yield 3 minutes to the gentleman from Tennessee (Mr. BRYANT), a member of the committee.

(Mr. BRYANT asked and was given permission to revise and extend his remarks.)

Mr. BRYANT. Mr. Chairman, before I get into my remarks, I want to express my personal appreciation for the way the gentleman from Pennsylvania (Mr. GEKAS) has chaired the committee and has managed this bill throughout the years that I have been involved, especially over the last couple of weeks when we have been in markup with intense debate and good healthy debate on both sides; as well as thanking the ranking member, the gentleman from New York (Mr. NADLER) for the outstanding job that he has done certainly representing the view that he has and I think is exemplified by this amendment, which I must oppose.

This amendment effectively undermines many of the most important provisions of this Bankruptcy Reform Act that have been part of the House approach to bankruptcy reform since the last Congress.

This amendment should be opposed for many reasons. The Nadler amendment would do little, if anything, to address the abuse of the bankruptcy system that has become increasingly prevalent. For instance, this amendment would strike from the bill key provisions that aim to prevent debtors from loading up on debt just before declaring bankruptcy, thereby obtaining a discharge of this debt. Such loading up has occurred more frequently as bankruptcy planning becomes more common in this day and age.

In addition, this amendment would eliminate from the bill's needs-based test the use of clear, objective standards. By doing so, the Nadler amendment would reverse the bill's efforts to bring significant administrative efficiencies to the already overburdened U.S. bankruptcy system.

Moreover, by eliminating the clear objective standards for debtors to follow in applying the bill's needs-based formula, this amendment would harm debtors by subjecting them to endless litigation, and I might add expensive litigation, of which expenses may be taken into account in that formula.

Furthermore, H.R. 833 already contains provisions that address the vast majority of concerns that this amendment claims to address. For instance, H.R. 833 already addresses issues related to reaffirmation agreements and would impose significant new disclosure requirements on credit cards and other lenders.

Finally, there has been no prior congressional consideration of most, if not all, of the provisions of this amendment.

I would urge my colleagues to oppose this, since enacting a substitute bill on which there have been no hearings or public comment is no way to approach a task as important as reforming this Nation's bankruptcy code.

Mr. NADLER. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, the gentleman from Pennsylvania (Mr. GEKAS) talked about a provision in the bill, in his bill, which would allow landlords to evict debtors without obtaining permission of the bankruptcy court, and that that substitute would eliminate that provision, which it would do.

Every other creditor has to get permission of the bankruptcy court to have an exemption from the automatic stay. Advocates of battered women and those involved in rehabilitating debtors have expressed concerns that these unsupervised evictions would pose a threat to the debtor's safety and to the safety of his family, and would pose a threat to debtors' ability to remain productive wage earning citizens.

There is a fundamental question. Why should a property owner be in a different position to be exempt from an automatic stay, a different position than any other creditor? We do not see an answer to that question. Every creditor has the same provisions. There is no reason why one creditor should be in a preferred position, and that is why the provision is in the substitute.

Mr. GEKAS. Mr. Chairman, I yield 3 minutes to the gentleman from Arkansas (Mr. HUTCHINSON).

Mr. HUTCHINSON. Mr. Chairman, I thank the gentleman from Pennsylvania (Mr. GEKAS) for yielding and I want to congratulate him on the outstanding work that he has done on this particular bill and in the leadership he has provided in the committee.

I think we have had a very good process through the Committee on the Judiciary. This is not an example of where every amendment that was offered by the Democrats was defeated on a party line vote or vice versa. There was really an open debate and there were many amendments that my Democrat colleagues offered that were adopted, and I think that it is a good product that came through that bill. It is the kind of process I think we need to have more of in the Committee on the Judiciary.

As I look at this entire issue of bankruptcy reform, I believe that bankruptcy is important in America and that we should not do anything to destroy that system which was really a hallmark of our country, where people came to this country getting away from debtor's prison, moving to the United States of America for a fresh start. That is an important part of our country, to give debtors a fresh start when there is not any alternative.

I for one would not want to do anything to erode that important part of our country's history and our country's legal system. So I believe the fresh start is important. This bill, H.R. 833, preserves that important right.

I think we all have to concede that there has been some abuse in the system. Certainly the gentleman from New York (Mr. NADLER) agrees with that because he has offered a bill before this committee.

Look at the facts that historically bankruptcies have been filed because of a loss of job or extraordinary circumstances. We almost have full employment in America and yet bankruptcies still are going up at almost 20 percent. So this bill preserves the recourse of bankruptcy for those who truly need it.

Ernst & Young did a study that I thought was very significant, and in that study it looked at the 10 percent of the people who filed bankruptcy that would be impacted by a needs-based system, and the study indicated that those 10 percent of filers would have an average income of almost $52,000. So clearly we are looking at people who have an ability to pay a portion of their debt over a period of time based upon that income.

That study assured me that this approach is reasonable, that it is going after those who abuse the system and not those who are legitimately claiming to look to the system for their legitimate relief.

Also, the means test that is provided here gives something that is very important to the bankruptcy judge, and that is discretion. Again, I looked at the bill and on page 10 it says that the judge, under extraordinary circumstances, can revise the means test to make sure that the debtor would not be forced into repaying a portion of the debt when they have some special circumstance that would justify a complete discharge from bankruptcy.

Then finally, I think this bill is important because the claim is that perhaps we should have individual responsibility, but those have open-ended credit responsibilities; credit card companies should have more disclosure. It does require this, and so it balances individual responsibility with the recognition that there are legitimate circumstances that require bankruptcy.

Mr. NADLER. Mr. Chairman, I yield 2½ minutes to the distinguished gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Chairman, I want to first thank the gentleman from New York (Mr. NADLER) for this time and also for his very diligent and hard work on this issue, to really clarify these very important issues which are very complicated and very important to consumers in this country.

Mr. Chairman, I rise to support the Democratic substitute and in opposition to H.R. 833. I too am troubled by the increase in bankruptcy filings since 1980. I am very concerned about the rise in individual consumer debt, but I am disappointed that we are failing to bring legislation that is balanced between creditors and debtors.

As drafted, many of the provisions of H.R. 833 are unfair to middle- and low-income debtors. At the same time, the bill fails to close loopholes that currently protect the wealthiest debtors.

H.R. 833 focuses on the perceived abuse of the bankruptcy system by debtors without adequately addressing the abuses by creditors, and takes a rigid approach to a citizen's ability to discharge debt.

A majority of people surveyed by Consumer Federation of America believe credit card companies share the blame with debtors for the rising tide of personal bankruptcies, yet nowhere in H.R. 833 is there mention of preventing or curbing credit card companies from targeting people with low incomes.

Credit card companies are actively targeting vulnerable potential new members. We have seen an increase in the number of bank card mailings sent out to potential new members. From 1992 to 1998, the numbers mailed increased by 255 percent. It comes as no surprise that the amount of per person debt also increased 225 percent in 6 years.

When credit card companies consolidate, cardholders are left without any protection from rate increases. Credit cards are not like mortgages or car loans that may be resold but their rates do not change. Not credit cards. In fact, new owners of credit card businesses are free to impose whatever interest rates the traffic will bear and are subject to few remaining State fee ceilings.

□ 1800

With increased consolidation of credit card companies, payment periods have really been shortened, grace periods for late payments have been eliminated, and stiff penalties of up to $29 are now incurred by cardholders on a regular basis.

I strongly support the Democratic alternative offered by the gentleman from New York (Mr. NADLER), the gentleman from Michigan (Mr. CONYERS), and the gentleman from Massachusetts (Mr. MEEHAN), which is a moderate and balanced approach to behavior.

It offers a realistic means test, allows child support to precede other debts, requires credit card companies to provide information so borrowers may avoid bankruptcy, and eliminates new rules for making credit card debts nondischargeable. It leaves intact prebankruptcy debt run-ups and fraudulently-incurred debt nondischargeable, and includes bipartisan farm bankruptcy legislation.

Mr. GEKAS. Mr. Chairman, I am pleased to yield 6 minutes to the gentleman from Virginia (Mr. GOODLATTE), who has been extraordinarily helpful in every stage of the bankruptcy reform effort.

Mr. GOODLATTE. Mr. Chairman, I thank the gentleman from Pennsylvania for his kind words, and for his leadership in this excellent piece of legislation that I rise today to strongly support, H.R. 833, the Bankruptcy Reform Act, and to oppose the Nadler substitute, which would take us back to the current situation where we reward people who act irresponsibly and penalize hardworking consumers who make every effort to pay their bills on time; pay their own bills, and pay a portion of someone else's bills when that person files bankruptcy and does not take responsibility for their actions.

With a record high 1.4 million bankruptcy filings last year, every American must pay more for credit, goods, and services when others go bankrupt. I worked to pass H.R. 3150 last year, which passed the House by a vote of 300 to 125 in the final conference report, which this legislation is very similar to, and am pleased to cosponsor this legislation this year because it is high time that we relieve consumers from the burden of paying for the debts of others.

The Bankruptcy Reform Act of 1999 restores personal responsibility, fairness, and accountability to our bankruptcy laws, and will be of great benefit to consumers.

For too long our bankruptcy laws have allowed individuals to walk away from their debts, even though many are able to repay them. That is not fair to millions of hardworking families who pay their bills, mortgages, car loans, student loans, and credit card bills every month.

The loopholes in our bankruptcy laws have led to a 400 percent increase in personal bankruptcy filings since 1980, at a cost of $40 billion per year. These costs have been passed directly to consumers, costing the average household that pays its bills an average of $400 each year.

Under the current system, some irresponsible people filing for bankruptcy run up their credit card debt immediately prior to filing, knowing that their debts will soon be wiped away. These debts, however, do not just disappear, they are passed along to hardworking folks who play by the rules and pay their own bills on time.

The Bankruptcy Reform Act ends this practice by requiring bankruptcy filers to pay back nondischargeable debts made in the period immediately preceding their filing. In addition, new debts for luxury goods incurred during this period would be presumed nondischargeable.

While ending the abuses of our bankruptcy laws, the Bankruptcy Reform Act is strongly pro-consumer in other ways, as well. This legislation, for example, helps children by strengthening protections in the law that prioritize child support and alimony payments.

Additionally, the bill protects consumers from bankruptcy mills that encourage folks to file for bankruptcy without fully informing them of their rights and the potential harms that bankruptcy can cause.

Mr. Chairman, the gentleman from Pennsylvania (Mr. GEKAS) outlined some of the problems that we have with the Nadler substitute. I would like to point out some others. The so-called refinements of the gentleman from New York (Mr. NADLER) are simply inexplicable, or even worse, inane.

For instance, we allow the debtor's income to be adjusted upward in a fixed amount on an annual basis if the number of individuals in the debtor's household exceeds four. The substitute of the gentleman from New York (Mr. NADLER) takes that annual figure and converts it into a monthly figure.

As a result, he would allow an adjustment in that in an amount that is 12 times greater than the amount contemplated in our bill. Thus, for a family of let us say eight members, their income could be as high as $79,000 per year and still not be subject to their so-called needs-based test.

The substitute is also substantively flawed. We spent many months examining the current consumer bankruptcy law and crafting ways to reintroduce balance into the bankruptcy system.

One important principle that we wanted to achieve was to allow greater creditor participation in the system. The substitute in many respects undercuts that principle. One example is the provision on page 12 of the substitute that would prohibit a creditor from filing a Section 707(b) motion until the United States Trustee has acted. This provision is simply unfair to creditors, and effectively resuscitates current law, which prevents creditors from filing these motions.

Another substantive flaw in the substitute is its provision for determining a debtor's income. It excepts from the income side of the needs-based formula a series of items that, under current law, are considered as income. If we do not take into consideration all of the debtor's income, but we do take into

consideration all of the debtor's expenses, the result is a mathematical imbalance that frustrates the purpose of the formula.

The substitute contains what is in effect a back door effort to amend the Truth-in-Lending Act. Section 112 would disallow a claim for the creditor's failure to comply with any of a very long series of requirements spelled out in that section. Without even reading this section, one can simply tell from its near seven pages that the substitute essentially wants to establish an entire new set of requirements for lenders that do not even exist under the Truth-in-Lending Act.

This tactic is simply wrong. The Truth-in-Lending Act already imposes various penalties for violations of its provisions. The effect of this substitute would be to establish two sets of standards that lenders would have to comply with, one for purposes of the Truth-in-Lending Act and the other for purposes of establishing a claim in bankruptcy.

Mr. Chairman, bankruptcy should remain available to folks who truly need it, but those who can afford to repay their debts should not be able to stick other folks with the tab. Enactment of this carefully-crafted legislation by the gentleman from Pennsylvania (Mr. GEKAS) and opposition to the legislation by the gentleman from New York (Mr. NADLER) would send a big signal towards those who would abuse our bankruptcy system that the free ride is over.

I want to commend my colleague, the gentleman from Pennsylvania (Mr. GEKAS) for his outstanding work on this issue, and I urge my colleagues to support this fair and reasonable bill.

Mr. NADLER. Mr. Chairman, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman from New York for yielding time to me, I thank him for his leadership.

Mr. Chairman, it fascinates me to hear this debate go in the direction that it is going. That is that this country is falling under the weight of debt, that we are a country of abusers of debt or debtors who do not want to pay their debt.

It is well known in hearings that we have had on the Committee on the Judiciary on this very topic that out of the credit card debt that this Nation has, only 4 percent of it is in default. People do pay their bills. Now, as those who score credit, they may pay their bills a little slower than the creditors may like, but they do pay their bills.

In the present bill, the underlying legislation unfortunately does not seek a level of bipartisanship. It has aspects of mean-spiritedness, and that is why I am supporting the Nadler-Conyers-Meehan substitute, because it fairly addresses the concerns we have. It provides a realistic means test which takes into account the debtor's actual income and expenses.

Frankly, Mr. Chairman, the National Bankruptcy Review Commission never supported the means test. The means test, of course, is a barrier, a bar, a closed door to those who are seeking debt relief. It suggests that everyone runs to the courthouse to try and file a Chapter 7 as opposed to a Chapter 13.

Knowing many people who tragically have had to file bankruptcy in light of the economic situation my State of Texas faced with the falling oil prices in the 1980s, I know that those people were not in any way championing running away from debt. They were, if you will, enormously saddened by losing their homes and other assets that they had, but they went to the bankruptcy court in order to get a fresh start, or in many instances, to try to find out how to repay their debt.

Mr. Chairman, this is a wrongheaded, misdirected piece of legislation, and the Nadler amendment helps to fix the dilemma between child support that should be paid to help the custodial parent versus having to have the custodial parent fight the government in order to get their monies, with some sort of misguided effort to pay back the government if that person was on welfare.

When we first started out with this legislation, we indicated how important it was for that woman who had that child to make sure she does not have to fight against big government or big corporations to get child support.

It also provides a balance by requiring credit card lenders to behave responsibly. It was a terrible shame that we did not allow an amendment in the rules process that would put the burden of responsibility on the solicitation or the oversolicitation on the credit card companies.

The Nadler-Conyers-Meehan substitute, Mr. Chairman, is a fair and direct response to the minimal concern that we have that some credit or debt use or lack of payment may be abused. I would offer that we support this, and that we vote no on the underlying bill.

As we reject this rule, I would like to voice my support for an amendment that was jointly offered by myself with Congressman NADLER to the Rules Committee.

We all know that this bill, as it currently reads, has garnered a great deal of negative commentary from women's and children's organizations, and appropriately so. That is because the provisions in this bill which change the rules on dischargeability, skew the delicate balance between creditors and debtors, and remain silent on consumer protection issues hurt families—especially those headed by a single parent.

Our amendment would make this bill more amenable to families. It is an omnibus child support amendment because it carries a full set of technical corrections and substantive revisions.

Our amendment would fix Section 1112, which under the current version of the bill, could be interpreted to require that all debts to a custodial parent and the government be paid before a trustee can approve a repayment plan. This amendment remedies that provision by allowing a repayment plan to be drafted that only provides funding for the custodial parent. The result is that funds can flow to children without being held up by government debt.

Our amendment also makes changes to Section 1113, eliminating its provision that allows residential landlords to escape the automatic stay provisions contained in this section. This was done at the request of women's advocacy groups, who feared that landlords would have too much discretion in times of alleged domestic violence and divorce. We must make sure in these delicate times that our courts do not completely abdicate their responsibility to ensure the safety and well-being of the people seeking their assistance.

This Omnibus Child Support amendment also contains other exceptions to the automatic stay mechanism that are aimed to make the bankruptcy process smarter in domestic support cases. It allows a continuation of an action, notwithstanding the automatic stay, in order to determine some facts vitally important in these cases, such as paternity. It also allows certain issues to be resolved that immediately pay dividends to women and children. These issues include: the establishment of modification of a domestic support order; wage garnishment; the interception of tax refunds; and the enforcement of medical obligations under the federal child support program. All of these issues are vitally important, and our system should allow them to move forward in these cases so as to prevent them from becoming part of the bankruptcy quagmire.

Finally, our amendment contains an important provision originally penned by Congressman SHAW last session. It provides that funds received by a creditor, which have been converted from dischargeable to non-dischargeable debt under the new provisions in this bill, be held in trust for five years. Furthermore, during that time, the creditor must make every effort to pay those funds to individuals who have a claim of domestic support against the debtor. Simply said, this provision makes sure that scarce funds that are being parsed by this bill will always be available to the women and children that deserve them rather than to the credit card companies. It is a common sense solution to a problem that needs to be addressed if we are to have an acceptable bankruptcy reform bill.

Mr. NADLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we have heard in the last few minutes echoes of the propaganda of the credit card industry. But the facts are, we have heard that lots of people can pay their bills and are not. The American Bankruptcy Institute, in the first nonbipartisan study that was not bought and paid for by the credit card industry, said and concluded earlier this year that 3 percent of bankruptcy filers could afford to pay 20 percent or more of their bills.

The creditors say that is not true, it is twice as much. All right, granted, maybe 6 percent, between 3 and 6 percent can afford to pay 20 percent or more of their bills. So let us not continue to hear this slander against American citizens as deadbeats.

We also heard that because all these people are not paying their bills to the credit card companies, the average American pays $400 or $500 more in credit card fees. The fact is, credit card fees 10 years ago were 16, 17, 18 percent. Interest rates have come down, mortgage rates have come down, the prime rate has come down, car loan fees have come down, but credit card rates are still 16, 17, 18, 19 percent, and they will stay there, no matter what we do with this bill.

This bill will not result in any pass-through to consumers. It will simply mean more profits for the credit card companies. If Members think differently, I have a few bridges in my home district I would like to sell to Members.

Secondly, we have heard about the means test. This substitute imposes a fairer means test, a means test that looks at real income; not what you used to make before you were fired and laid off, which is why you went bankrupt, but what you are making now and likely to make; and real expenses, not what the IRS thinks the rent ought to be, but what the rent actually is. That is the only fair means test.

Do not forget, the means test is used in Chapter 13 for everybody, not just in Chapter 7 with a safe harbor. The bill provides no class actions against the greatest malefactors. Let Sears Roebuck get away with stealing $168 million from people in bankruptcy. The substitute says no, if you are cracking down on the little guys, crack down on tort feasors and crooks who are big guys. Do not stop the class action.

The bill says we are going to, or it does not say so, but the effect is to murder child support enforcement. We know some people, that the supporters of this bill say they have fixed it, but they have not fixed it. The so-called priority does not survive the bankruptcy and the discharge, post-discharge. Mom still has to compete with Chemical Bank's attorney, because the priority does not survive the bankruptcy proceeding.

And in Chapter 13, if you cannot pay the government, if the means test says you do not have enough money to pay the government, then you cannot confirm the plan and you cannot pay the child support.

That is why the only people concerned with child support in any way who are supporting this bill are the people in charge of collecting money for the government, the Fort Dietrick people, the Attorneys General, not the people concerned with the women.

This bill murders small businesses. We have a way of saving that in this provision, and ditto for farmers. We heard the gentleman from Virginia (Mr. GOODLATTE) say it is a balanced bill. It is not a balanced bill. The substitute makes it more balanced. The administration says they will veto it because it is not a balanced bill.

The gentleman from Illinois (Mr. HYDE), who is not exactly a noted liberal, says this bill is imbalanced. He says, ''I asked staff to give me a list of what the creditors are getting out of this bill. I have pages and pages and pages of advantages that the creditor community is getting from this bill. I was going to read a list of what the creditors were getting under this bill. I will not do it, I assume you know, but there are 12 or 13 pages of single-spaced printed changes that benefit the creditors.''

□ 1815

Very imbalanced. That is why this bill is opposed. It is opposed by all the labor unions, by the Leadership Conference on Civil Rights, by the National Partnership for Women and Families, the National Women's Law Center, the consumer groups; and all the bankruptcy groups that know about bankruptcy, the Bankruptcy Conference, the Commercial Law League, and the National Association of Bankruptcy Trustees and Bankruptcy Attorneys.

Mr. Chairman, I urge support for the substitute to make this a more balanced bill, and I yield back the balance of my time.

Mr. GEKAS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we have debated these issues very thoroughly, and the ultimate decision still rests with the Members of the House, of course. We have voted on several portions of this substitute amendment in different fashions starting from last year and ending with even the votes that were cast today. So we urge again that the Members vote ''no'' on the substitute amendment.

One thing that has rankled me in this whole debate from the beginning was the blitheness with which people who are opposed to the bankruptcy reform measure that we have produced criticize and bash and ridicule and attack the credit industry. Now, no one is an apologist or should be an apologist for the credit industry as such, but to make them the villain is really unfair and misleads the American public.

What we have got to understand is that this economy of ours that is so wonderful, that is the wonder of the world, actually the envy of the world, is based substantially on the extension of credit. Every household in our Nation is a beneficiary of the credit system. Every piece of merchandise, every automobile, every item that uplifts the life of even the lowest of the lowest household in our country has credit extension to thank for its uplifting in the economic sphere of our country. So when we consider the credit industry, recognize that they make things hum. They are the ones that have spread the American goods and services across the world.

So let us look at the good that our competitive free enterprise system has done through this global extension of credit of which we are the beneficiaries, and then look for abuses, perhaps by debtors and then by creditors, but do not, I beg of my colleagues, continue to vilify the creditors as being the cause of people going bankrupt. That is disingenuous, unfair and should be rejected out of hand.

I ask the Members to vote ''no'' on the Nadler amendment.

Mr. MEEKS of New York. Mr. Chairman, I rise today to support the Democratic Substitute—the Nadler amendment. Specifically, I would like to point out that this amendment eliminates a provision of H.R. 833 which would have allowed landlords to evict debtors once they have filed for bankruptcy. This provision is key because of the assistance it gives to battered women as they seek financial support for themselves and for their children.

Many times, battered women must file for bankruptcy in order to not get evicted from the homes they once shared with their spouses. They may have no financial means because they are not the sole providers of their family's income. When their spouse leaves the home, these women have no choice but to file for bankruptcy in order to delay eviction. We must not roll back provisions that have assisted women who are victims of domestic violence. We must help them reconstruct their life by first making certain they maintain a place to live.

Since the Bankruptcy code was enacted, the automatic stay that becomes effective upon the filing of a bankruptcy petition has always prohibited a landlord from evicting a tenant unless the landlord obtains permission from the bankruptcy court.

The stay serves several purposes: In chapter 13, a tenant has a right to assume a lease and to cure a default. In chapter 7, the debtor receives a short ''breathing spell''—which is very much needed in domestic violence cases.

The right to avoid eviction is extremely important to tenants who would suffer the hardships of moving and having to find new housing and to tenants in rent controlled or rent-subsidized apartments, who would lose valuable property rights.

I urge my colleagues to support the Nadler amendment because of provisions that will assist the helpless and the needy as in the case of battered women.

Mr. DELAHUNT. Mr. Chairman, I rise in support of the Nadler-Conyers-Meehan-Berman substitute.

I am particularly pleased to see that the substitute incorporates a series of consumer credit disclosure provisions which Mr. LAFALCE and I had attempted to offer as a free-standing amendment in an effort to bring some balance to this legislation.

We all know there are some individuals who abuse the bankruptcy system. And we all agree that people who let their financial affairs get out of control should take responsibility for the consequences of their actions.

But responsibility is a two-way street. And instead of encouraging responsible use of credit cards and reduction of credit card debt, the credit card lenders who have promoted this legislation have done all they can to induce consumers to take on ever-increasing amounts of debt. They have increased interest rates and fees on current accounts—often providing inadequate or misleading disclosures. They have imposed penalties on responsible

debtors who pay off their card balances without incurring interest charges. They have engaged in relentless marketing efforts that target students with no credit histories and consumers already heavily in debt.

We cannot deal with the rise in consumer bankruptcies if we ignore the causes. And there is a strong correlation between the bankruptcy rate and these kinds of irresponsible lending practices. If we are to fix the problem, we must demand greater responsibility not only from debtors but from creditors as well.

The substitute would do this by disallowing claims in bankruptcy arising from various reckless lending practices. Those practices include the failure to provide complete and conspicuous disclosure of credit terms—including low temporary ''teaser'' rates; the imposition of unjustifiable penalties and fees against cardholders who pay their monthly balances on time or who do not engage in account transactions that result in finance charges; the issuance of credit cards to minors without the signature of a parent or guardian or proof of independent means of repayment; the failure to highlight due dates and penalties for late payments in monthly billing statements, and to inform cardholders of the consequences of paying only the minimum due each month; and the failure to permit consumers to respond to interest rate increases by canceling their credit cards and paying off their balances under the old rate.

These are reasonable measures that would help sever the link between irresponsible credit card lending and the rise in bankruptcy filings. That is what needs to occur, Mr. Chairman, and I urge support for the substitute.

Mr. GEKAS. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time has expired.

The question is on the amendment in the nature of a substitute, as modified, offered by the gentleman from New York (Mr. NADLER).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. NADLER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 149, noes 272, not voting 12, as follows:

[Roll No. 114]

AYES—149

Abercrombie
Ackerman
Allen
Baird
Baldwin
Barrett (WI)
Berkley
Bishop
Blagojevich
Bonior
Borski
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson
Clay
Clayton
Clyburn
Conyers
Costello
Coyne
Crowley
Cummings
Danner
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Dixon
Doggett
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Gejdenson
Gonzalez
Green (TX)
Gutierrez
Hall (OH)
Hastings (FL)
Hilliard
Hinchey
Hinojosa
Hoeffel
Holt
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Larson
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Maloney (NY)
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Millender-McDonald
Miller, George
Minge
Mink
Moakley
Nadler
Napolitano
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Payne
Pelosi
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schakowsky
Scott
Serrano
Shows
Spratt
Stabenow
Stark
Stupak
Thompson (MS)
Thurman
Tierney
Towns
Traficant
Udall (CO)
Udall (NM)
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weiner
Wexler
Wise
Woolsey
Wu

NOES—272

Aderholt
Andrews
Archer
Armey
Bachus
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berry
Biggert
Bilbray
Bilirakis
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boucher
Boyd
Brady (TX)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cox
Cramer
Crane
Cubin
Cunningham
Davis (FL)
Davis (VA)
Deal
DeLay
DeMint
Deutsch
Diaz-Balart
Dickey
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ewing
Fletcher
Foley
Forbes
Fossella
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green (WI)
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (IN)
Hill (MT)
Hilleary
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Isakson
Istook
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones (NC)
Kasich
Kelly
Kennedy
King (NY)
Kingston
Knollenberg
Kolbe
Kuykendall
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Maloney (CT)
Manzullo
McCollum
McCrery
McHugh
McInnis
McIntosh
McIntyre
McKeon
Menendez
Metcalf
Mica
Miller (FL)
Miller, Gary
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Ose
Oxley
Packard
Pastor
Paul
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Reynolds
Riley
Rivers
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Royce
Ryan (WI)
Ryun (KS)
Salmon
Sanchez
Sandlin
Sanford
Saxton
Schaffer
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spence
Stearns
Stenholm
Strickland
Stump
Sununu
Sweeney
Talent
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Thune
Tiahrt
Toomey
Turner
Upton
Walden
Walsh
Wamp
Watkins
Weldon (FL)
Weldon (PA)
Weller
Weygand
Whitfield
Wicker
Wilson
Wolf
Young (AK)

NOT VOTING—12

Becerra
Berman
Brown (CA)
Cooksey
Gephardt
Luther
Scarborough
Simpson
Slaughter
Watts (OK)
Wynn
Young (FL)

□ 1837

Mr. TERRY and Mr. BALDACCI changed their vote from ''aye'' to ''no.''

Mr. DINGELL changed his vote from ''no'' to ''aye.''

So the amendment in the nature of a substitute, as modified, was rejected.

The result of the vote was announced as above recorded.

Stated for:

Mr. BERMAN. Mr. Speaker, I was unable to cast a vote on the Nadler substitute due to a family emergency. However, had I been present, I would have voted ''aye.''

The CHAIRMAN (Mr. NETHERCUTT). The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. KOLBE) having assumed the chair, Mr. NETHERCUTT, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 833) to amend title 11 of the United States Code, and for other purposes, pursuant to House Resolution 158, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute, adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Speaker, I offer a motion to recommit the bill, H.R. 833, with instructions.

The SPEAKER pro tempore. Is the gentleman from Michigan opposed to the bill?

Mr. CONYERS. Yes, I am, in its present form, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. CONYERS moves to recommit the bill (H.R. 833) to the Committee on the Judiciary, with instructions to report the bill back to the House forthwith, with the following amendment:

Page 15, line 19, insert ''and benefits received under the Social Security Act'' after ''humanity''.

The SPEAKER pro tempore. The gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes in favor of his motion to recommit.

Mr. CONYERS. Mr. Speaker, my motion to recommit is simple. It excludes Social Security and Medicare benefits from the definition of ''income'' for purposes of the bill's means test.

As the law currently stands, any senior is eligible for bankruptcy relief. The bill, however, would force millions of seniors living on fixed incomes into mandatory repayment plans. This is because there is no exclusion from the definition of ''income'' for payments received for Social Security, retirement, for disability insurance, for supplemental security income, or for unemployment insurance.

As a matter of fact, there is no exclusion for third-party medical payments made on behalf of seniors. What does it mean? That anytime a senior becomes ill and receives substantial Medicare benefits, they could be denied basic bankruptcy relief.

□ 1845

This amendment has strong support among senior citizens. It is supported by the National Committee to Preserve Social Security and Medicare and the National Council of Senior Citizens. I have letters I would like to introduce into the RECORD.

This amendment by no means cures the worst problems in the bill, the use of IRS standards and its impact on child care and jobs, to name a few. But it does help fix a problem for seniors. I urge its adoption.

Mr. Speaker, I include the following material for the RECORD:

NATIONAL COMMITTEE TO PRESERVE SOCIAL SECURITY AND MEDICARE,
Washington, DC, May 3, 1999.

On behalf of the millions of members and supporters of the National Committee to Preserve Social Security and Medicare, I strongly urge you to oppose H.R. 833, the bankruptcy reform legislation, when it comes up for a vote this week. We, too, are concerned about the increase in bankruptcy filings since 1980 and the rise in consumer debt per household. However, in its current form H.R. 833 would seriously weaken bankruptcy protections for vulnerable older and disabled Americans, while doing nothing to prevent credit card companies from targeting people with low incomes.

Debtors would be subject to an income-based means test intended to steer people away from Chapter 7, which allows consumers to liquidate their assets and divide them among their creditors in exchange for being discharged from the majority of their debts. Instead, debtors who are projected to have $5,000 in disposable income over the next five years will have to file for Chapter 13 bankruptcy, which requires a repayment plan.

A debtor's disposable income would be determined by subtracting allowable expenses such as housing costs and taxes from an individual's overall income. As reported by the Judiciary Committee, Social Security, disability and veteran's benefits are not exempted from overall income. At the same time an amendment to include medical expenses and the costs of caring for an elderly parent in the list of allowable expenses also failed, although private school tuition was allowed.

In 1997, an estimated 280,000 older Americans filed for bankruptcy. Since 1993, more than a million people aged 50 and older have turned to the bankruptcy courts to receive help in dealing with financial catastrophes. Our nation's senior have worked hard and played by the rules. Most older American's filing for bankruptcy are not profligate spenders. Instead, the two major reasons why people over 50 are in financial difficulty are lost jobs and medical problems.

Many people in their late 50s and early 60s have serious medical conditions and no health insurance. Even among those eligible for Medicare, skyrocketing drug costs and other out-of-pocket medical expenses can spell economic disaster. Among bankruptcy filers age 65 and older, 37 percent are pushed into financial collapse by medical debts. Another 33 percent of those over 65 explain that losing a job has made this difference between getting by and bankruptcy.

If H.R. 833 is enacted, a senior who has just $100/per month in ''disposable income'' would meet the means test and be unable to file under Chapter 7. Since out-of-pocket medical costs would not generally be considered allowable expenses, this person could easily be placed in a situation of having to pay a credit card company instead of purchasing his blood-pressure medicine.

We believe that most Americans, particularly most seniors, want to pay their debts. Bankruptcy reform should not punish vulnerable older Americans who face financial catastrophe because of a job loss or medical crisis. I hope that you will oppose H.R. 833 when it is brought to the House floor this week.

Sincerely,

MARTHA A. MCSTEEN,
President.

NATIONAL COUNCIL OF SENIOR CITIZENS,
Silver Spring, MD, May 5, 1999.

Hon. JOHN CONYERS, JR.,
U.S. House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE CONYERS: The National Council of Senior Citizens supports your motion to recommit H.R. 833. This legislation is pernicious and destructive of the core economic rights of seniors and working families. It would force millions of seniors to make mandatory payments based on a definition of income that would include payments for social security, disability, unemployment compensation, supplemental security income and other income security and welfare needs. We believe that such payments or resources should be excluded from a reasonable definition of income for Federal bankruptcy purposes.

For million of seniors, these payments are the difference between depravation and survival. They do not fit the definition of disposable income.

In recent years, fewer than a quarter of a million seniors have annually filed for bankruptcy protection. They are not noted as abusers of bankruptcy systems nor as profligate spenders using credit cards or other forms of credit purchasing.

However, persons between the ages of 55 and 65 represent the most rapidly growing group of Americans without health insurance. Medical crisis is the most important single cause of credit problems after job loss.

H.R. 833 would force seniors to put credit card debts ahead of housing needs, family needs, and costs associated with chronic or disabling illness or disease. No provision citing ''extraordinary circumstances'' claims or potential court relief will take away the sense of panic which will strike seniors if current reasonable protections are stripped away for the convenience of predatory financial organizations.

We urge the recommitment and defeat of H.R. 833.

Sincerely,

STEVE PROTULIS,
Executive Director.

Mr. GEKAS. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. Mr. Speaker, for the information of the Members, we are prepared to accept the motion to recommit with the change as to Social Security. It is a welcome change to the language already in the bill. We ask that the Members vote in favor of recommittal, and then vote ''yes'' on final passage.

Mr. CONYERS. Mr. Speaker, I thank the subcommittee chair.

Mr. Speaker, I yield to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, this was an amendment that I offered in committee. I thank the chairman for acknowledging the importance of the question of protecting Social Security. With that, I hope we will claim unanimous victory in protecting our senior citizens and making sure that they do not have to choose between medicine and food.

The SPEAKER pro tempore (Mr. KOLBE). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was agreed to.

Mr. GEKAS. Mr. Speaker, pursuant to the instructions of the House, I report the bill, H.R. 833, back to the House with an amendment.

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amendment:

Page 15, line 19, insert ''and benefits received under the Social Security Act'' after ''humanity''.

The SPEAKER pro tempore. The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CONYERS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 313, nays 108, not voting 13, as follows:

[Roll No. 115]

YEAS—313

Aderholt
Andrews
Archer
Armey
Bachus
Baird
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berkley
Berry
Biggert
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boucher
Boyd
Brady (TX)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Castle
Chabot
Chambliss
Chenoweth
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Cramer
Crane
Crowley
Cubin
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeLay
DeMint
Deutsch
Diaz-Balart
Dickey
Dicks
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Etheridge
Everett
Ewing
Fletcher
Foley
Forbes
Fossella
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green (WI)
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (IN)
Hill (MT)
Hilleary
Hinojosa
Hobson
Hoekstra
Holden
Holt
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Istook
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kaptur
Kasich
Kelly
Kennedy
Kind (WI)
King (NY)
Kingston
Kleczka
Knollenberg
Kolbe
Kuykendall
LaHood
Lampson
Largent
Larson
Latham
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Maloney (CT)
Maloney (NY)
Manzullo
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McHugh
McInnis
McIntosh
McIntyre
McKeon
Meeks (NY)
Menendez
Metcalf
Mica
Miller (FL)
Miller, Gary
Minge
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Myrick
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Ortiz
Ose
Oxley
Packard
Pallone
Pascrell
Pastor
Paul
Pease
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Ramstad
Rangel
Regula
Reyes
Reynolds
Riley
Rivers
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Royce
Ryan (WI)
Ryun (KS)
Salmon
Sandlin
Sanford
Saxton
Scarborough
Schaffer
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Strickland
Stump
Sununu
Sweeney
Talent
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Thune
Tiahrt
Toomey
Turner
Upton
Velazquez
Walden
Walsh
Wamp
Watkins
Weldon (FL)
Weldon (PA)
Weller
Weygand
Whitfield
Wicker
Wilson
Wise
Wolf
Wu
Young (AK)

NAYS—108

Abercrombie
Allen
Baldacci
Baldwin
Barrett (WI)
Bonior
Borski
Brady (PA)
Brown (FL)
Brown (OH)
Capuano
Carson
Clay
Clayton
Clyburn
Conyers
Coyne
Cummings
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dingell
Dixon
Doggett
Doyle
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Filner
Ford
Gejdenson
Green (TX)
Gutierrez
Hall (OH)
Hastings (FL)
Hilliard
Hinchey
Hoeffel
Jackson (IL)
Jackson-Lee (TX)
Jones (OH)
Kanjorski
Kildee
Kilpatrick
Klink
Kucinich
LaFalce
Lantos
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Markey
Martinez
Mascara
Matsui
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Millender-McDonald
Miller, George
Mink
Moakley
Murtha
Nadler
Oberstar
Obey
Olver
Owens
Payne
Pelosi
Rahall
Rodriguez
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sawyer
Schakowsky
Scott
Serrano
Stark
Stupak
Thompson (MS)
Thurman
Tierney
Towns
Traficant
Udall (CO)
Udall (NM)
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weiner
Wexler
Woolsey

NOT VOTING—13

Ackerman
Becerra
Berman
Brown (CA)
Gephardt
Hutchinson
LaTourette
Luther
Simpson
Slaughter
Watts (OK)
Wynn
Young (FL)

□ 1907

Mr. HILLIARD changed his vote from ''yea'' to ''nay.''

Mr. MEEKS of New York and Mr. LAMPSON changed their vote from ''nay'' to ''yea.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. LATOURETTE. Mr. Speaker, if I were present, I would have voted ''yea'' on final passage of H.R. 833, the Bankruptcy Reform Act.

Stated against:

Mr. BERMAN. Mr. Speaker, I was unable to cast a vote on final passage of H.R. 833 due to a family emergency. However, had I been present, I would have voted ''nay.''

PERSONAL EXPLANATION

Ms. SLAUGHTER. Mr. Speaker, I was unable to be present for rollcall votes 108, 109, 110, 111, 112, 113, 114, and 115.

Had I been present, I would have voted ''yes'' or ''aye'' on rollcall votes 108, 110, 111, 112, 113, and 114 and ''no'' or ''nay'' on rollcall votes 109 and 115.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN THE ENGROSSMENT OF H.R. 833, BANKRUPTCY REFORM ACT OF 1999

Mr. GEKAS. Madam Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 833, the Clerk be authorized to correct section numbers, cross-references, and punctuation, and to make such stylistic, clerical, technical, conforming, and other changes as may be necessary to reflect the actions of the House in amending the bill.

The SPEAKER pro tempore (Mrs. NORTHUP). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

SUPPORT A RESOLUTION CONCERNING THE CONFLICT IN THE BALKANS AND HOW THAT CONFLICT SHOULD BE CONDUCTED

(Mr. BATEMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BATEMAN. Madam Speaker, we have stumbled through, I think, inept decision-making into a conflict in the Balkans. Last Wednesday we debated that issue. At the end of the day we had declared no policy, approved no policy, condemned no policy. I think that is an evasion of our moral, if not constitutional, responsibility.

So today, I will introduce a resolution which seeks to declare a policy with reference to that conflict and how it should be conducted, as well as how the cost of it should be borne and shared among our allies, and how we should deal with the question of indicted war criminals as a part of any agreement, and termination of that conflict. I solicit the review and hopefully the co-patronage of this resolution by my colleagues.

The United States Congress has been debating whether and to what extent our country should be involved in the conflict between NATO and the Federal Republic of Yugoslavia. I cannot find words strong enough to condemn the miserable performance of the Congress thus far. No American to date knows whether the Congress of the United States approves or condemns the policy of the Commander in Chief. Our fellow citizens will not know, because we as their collective national leadership have steadfastly refused to either approve or disapprove, condemn or condone, any policy. We have done this even in the context of a solemn debate by some about our constitutional responsibility and the War Powers Act.

Last week we ensured that the House of Representatives would bear no responsibility

for the military action against Yugoslavia. We declared no policy, we disapproved of no policy. We didn't accept the reality that our nation has led the NATO alliance into a conflict. By a majority vote, we asserted that our Commander in Chief could not commit ground forces—whatever that means—without our specific prior approval. We then by a tie vote failed to approve even the continuation of the ongoing conflict into which we had been injected by our President.

I cannot tell you how much I have agonized over the sorry, inept, and clumsy failure of those who determine our national security policy in this latest phases of the ongoing Balkan crisis. Even the prior Administration, so confident during the Gulf War, failed to lead when it could and should have in the Balkans.

Without direction or credible leadership we have become deeply embroiled in this conflict. We are without any clear delineation of the reason or importance of our being involved or of what represents a successful conclusion to the conflict. We are in this conflict with an announced policy that we will not commit ground forces, a position that serves our enemy's interest but undermines our objectives, whatever they are. I submit that it is the height of irresponsibility for the Congress of the United States to abdicate their responsibility to either approve or disapprove a Kosovo policy.

If the President and his, to use the most charitable reference, ''national security team'' have produced a national policy disaster, we should say so. We should not evade the issue. If the administration is correct in its assertion that the barbarism attributed to the leadership of Yugoslavia demands a military response, we should endorse this conclusion.

There are those whose political judgement tells them Congress should not act on this matter, because if we do, we might have to assume responsibility. I categorically object to any such notion. Our President may have failed to call upon the Congress to support his policy in the Balkans, but the Congress has a duty to speak out anyway. We have a constitutional duty whether the President ask us for our approval or not. Perhaps the constitutional duty is higher when the President seeks to evade us and his policy is muddled.

Last Wednesday, I voted no on all four resolutions regarding the conflict against the Federal Republic of Yugoslavia. I seriously considered voting no even on the Rule regarding our debate, because under the Rule, we could not make, approve or disapprove any policy. We trivialized the role of the Congress and that is fraught with dire consequences for the future.

The Congress of the United States makes policy and our politics ought to crystallize conflicting views of good or bad policy. Last week we failed in this. For this reason I am offering a joint resolution regarding the conflict in the Balkans.

The resolution is critical of how we came to the sorry choices before us, but recognizes that our country is confronted with certain realities which it must confront. The choice the resolution makes is to give congressional authorization to the ongoing military conflict against the regime of Slobodan Milosevic. It does not presume to give political guidance to how the conflict is waged and bespeaks a concern only that it be waged with sound military judgement, consistent with the earliest victory and least casualties.

Most importantly, it enunciates a policy and identifies goals, which if correct fully justify our involvement and leadership into this conflict. If not correct, clearly the resolution should not be supported and should fail. How dare we, on a matter of such consequence, stand by and declare neither war nor even any policy. Are not our armed forces entitled to know that their Congress approves or disapproves of what they are doing on the orders of our Commander in Chief? Certainly they must hope that the elected representatives of our people will not choose to abdicate their responsibility.

The resolution I offer speaks to the financial burden of this conflict in the bosom of Europe, and asserts a policy that the costs should be fairly allocated among the entire NATO alliance.

My resolution also asserts that any agreement that concludes this unhappy chapter in our history should exempt no one from prosecution who is or may be indicted by the appropriate judicial authority as a war criminal.

It is not an easy resolution. It is not meant as political confrontation. It nonetheless confronts all of us with the inescapable duty to declare a policy and decide whether we should be involved in, go forward with, or repudiate our involvement in the ongoing conflict with Yugoslavia.

Oh, yes the choices are not easy, but how dare we not even make a choice and deign to call ourselves the elected representatives of our people.

I solicit your advice and would appreciate your cosponsorship of this resolution.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 1999, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

(Mr. BURTON of Indiana addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

EXCHANGE OF SPECIAL ORDER TIME

Mrs. CAPPS. Madam Speaker, I ask unanimous consent to claim the time of the gentleman from Illinois (Mr. LIPINSKI).

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

NATIONAL NURSES WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Mrs. CAPPS) is recognized for 5 minutes.

Mrs. CAPPS. Madam Speaker, as one of only three nurses in Congress, it is my great honor today to rise in support of National Nurses Week.

My training and education as a nurse and my 20 years in my profession in the schools of Santa Barbara in the public school district have given me a unique perspective on my new duties in Congress. As a nurse, I have learned to recognize the importance of so many issues which affect families every day, families in my community, in my congressional district, families across this great country.

□ 1915

Nurses are good listeners. They withhold superficial, quick judgments and take the time to assess situations before them, before they act accordingly. Nurses use common sense skills to put the common good before individual interests.

My nursing background has had the strongest influence on my priorities in Congress. As a nurse, I feel that it has been my duty and also my privilege to speak out on behalf of patients and health care providers on what is the critical task before us today. We know what is before us in the world where life and death situations take place, and we also see so clearly the current shortcomings in our health care environment.

I sought a seat on the Committee on Commerce which oversees health care so that I could be a part of this discussion. In the age of managed care, where values are often driven by profit motives over health care needs, nurses have been presented with critical new challenges.

I have stood with nurses in my district in their frustration over staffing ratios in our hospitals, in our communities. I have been with nurses as they have shed tears over having to discharge frail elderly patients before they are really ready to go home into home situations where there is not adequate health care and support.

Nurses know that we should not compromise a patient's quality of care to save a few dollars. Nurses understand the real benefits of real managed care reform.

I have been working hard with Republicans and Democrats to pass a common sense Patients' Bill of Rights, legislation which will put patients, nurses, doctors and other providers back in charge of their own health care and holds HMOs accountable when they deny critical, sometimes lifesaving, treatment.

Nurses know these basic rights can mean the difference between life and death and between a quality of life that they have spent their profession and their training to uphold. They can and they should and we are speaking out.

The Subcommittee on Health and Environment, on which I am privileged to serve, has held only one hearing so far on managed care reform. In that hearing I called for greater participation of nurses. Nurses can and will make valuable additions in this discussion and in the debate before us.

In Congress, there is also other legislation originally drafted by a nurse that will protect nurses and other health care workers in all States. The

Healthcare Worker Protection Act builds on a California health care initiative by ensuring that all nurses and others in hospitals and treatment centers have safe needle devices and information available on how to use them. We must make sure these workers are protected at all costs.

As a nurse in Congress, I am working hard to promote these important issues, but Congress will only be successful in passing meaningful health care legislation when the contributions of those on the front lines, on the every day front lines, are recognized and brought into the discussion.

Madam Speaker, the profession of nursing also gives people a unique perspective on other critical issues. As a nurse in a school setting I have seen what children need for successful learning, growth and development. I know firsthand that children learn better in small class sizes and in classrooms that are not deteriorating.

From this background, I know that health insurance which covers regular checkups, immunizations and prescription drugs for children is the best preventive medicine. I know that clean water and clean air are not merely environmental issues; they are health issues.

In addition to essential contributions to quality health care, nurses are the heart and soul of so many of our communities. There are over 2.5 million nurses across this great land and they stand for, to me, the heart and soul of our values and what binds us together in our communities.

We need to pay attention to what our nurses are saying. Despite their busy schedules and hectic work environments, nurses take the time to reach out to our communities, educating neighbors to increase awareness and promote healthy lifestyles.

Nurses' efforts in my own community on the central coast of California have raised awareness on the harmful consequences of drinking and driving, taught parents how to properly install safety seats and educated our children about underaged alcohol abuse.

As we discuss the positive contributions of nurses during National Nurses Week, we need to work to ensure that these voices of compassion and experience are included in our health care policy debate today.

CHURCHES IN INDIANA COME TOGETHER TO AID REFUGEES IN KOSOVO

The SPEAKER pro tempore (Mrs. NORTHUP). Under a previous order of the House, the gentleman from Indiana (Mr. SOUDER) is recognized for 5 minutes.

Mr. SOUDER. Madam Speaker, having visited the Balkans, and I was privileged to be included in the trip with Senator STEVENS and Chairman YOUNG a few weeks ago, I have been aggressively against this war which I do not believe is winnable in the traditional sense. And it is time to get a negotiated settlement and it is time to cut off the funding, but I wanted to share a couple of things tonight about the terrible things that have happened to the people there.

These are pictures that I took in Vranje, just north of Skopje, in Macedonia. This shows just one of what I call the long white road to the mountains. These are actually the shorter mountains. They rise higher up. It is impossible to get ground troops through this area, which many armies throughout hundreds of years have learned is impossible.

This street goes on and on, miles and miles, and this is just one of the camps. There were 23,000 people, we were told, in that camp when we first came in. 8,000 additional people were added just that day.

These Albanian men were at the back of the place because they kept asking us, ''Are the Apaches going to save us? Are they going to wipe out the tanks?'' Of course, we had to tell them no, that is not what Apaches are designed to do, but we wondered where they were getting that information.

They have radios throughout the camp that are constantly broadcasting to them that there is this hope that they are suddenly going to go back.

These are some of the people trying to make do. These tents, this size tent from USAID basically had supposedly four to eight people; many of them I saw far more that. They get a couple of cans of food, some bread and fruit each day, but they are desperately trying to make a fire or something to heat it up.

As these camps are expanded to 30,000, 50,000 people and upwards, it is just not going to work; nor are the restroom facilities, the water facilities. Here people are desperately trying to stay clean.

In the Macedonian camps they are coming mostly out of the cities. They were often booted out in the middle of the night. Most of the people are well dressed. The clothes had not come from the U.S. This is not able to be sustained over a long period of time.

This photograph was taken at the back of the camp. I had gotten separated from the other Senators and Congressmen during the trip, as well as the interpreter, and this man was trying to talk to me by going like this. This girl had just come into the camp the night before but spoke some English, said, ''May I help you try to translate?''

What he tried to tell me is he saw 20 people get their throats slit just before he left; saw the mass grave before they torched his house and he got out. That was just one of the many stories we heard.

He and all the others around them, when they were asked, first, do you want to go back? ''Yes.'' If we get rid of Milosevic, you are going to have to live under the Serbs. ''No, no, we are not going to live under the Serbs. We are going to get rid of Milosevic,'' was what they said, ''all Serbs and Milosevic.'' We heard that all through the camp. We said, what will you do if you get back? You have to try to live together. ''No, we are going to kill them.''

We have now the stories from like this man of the throats slit, and it is not something that is going to lead to this kind of humanitarian peaceful settlement that some people are dreaming of.

This girl here had just come into the camp the night before as well. We stopped her. We saw she had diapers. And she broke down crying. I will never be a professional photographer because I could not snap the picture when her tears were coming down, but she is separated from her family. She is worried about her little child and so on.

Now, I say that because I want to illustrate some of the things that have been happening in my district. No matter what a person's position is on the war, their heart has to go out to the refugees here or in the other countries where they have been displaced.

I am pleased in my district that a number of churches and people have reached out. We tried to make the point while we were over in Europe to the ambassadors of seven nations, to NATO, that Europe has to pick up the bulk of these funds, but we in America are going to have some obligations as well.

One story from Pastor Rick Hawks, who heads a large church in Fort Wayne, The Chapel, has coordinated with 8 churches: The Chapel; Broadway Christian; Church of the Good Shepherd in Leo; Blackhawk Baptist, also in Fort Wayne, Indiana; Fellowship Missionary Church in Fort Wayne; North Park Community Church; Wallen Baptist Church.

We also had in my home church, Emmanuel Community Church, Abigail Roemke coordinated this. They had so many clothes and toiletries and stuff come in that it overwhelmed the distribution system that they originally had planned. They had far more than they could actually get directly there in that group.

Also Pastor Ron Hawkins' church, First Assembly of God, put together a group that has two registered nurses, Nancy Grostefon and Dawn Rice, and Dr. David Smith, a pediatric surgeon, to spend two weeks working in two camps, and they raised the money through their church to underwrite these nurses and this doctor going over.

In Fort Wayne we also have a large Macedonian population. George Labamoff in the Fort Wayne-based Macedonian Tribune, the oldest continually published Macedonian newspaper in the world, put together the Macedonian Relief Fund. They have also have an effort to try to raise money for the refugees in the countries.

Lastly, I wanted to read as much as I can of this letter. I visited an alternative school in Columbia City on

Monday. One of the things that they were doing was also collecting clothes and materials to send over to Kosovo. The teacher wrote me, saying, ''Teaching current events to young people with little or no background in geography or history is a challenge. So I try to make every lesson relevant by working from what they do know. And at-risk kids, just like at-war kids, know suffering and deprivation. Twenty-five percent of my students have lost a parent to unnatural causes. Twelve percent have been homeless.''

The point here, and I will insert the full thing in the RECORD, is these kids know what it is like to suffer, and because of that they collected clothes to help.

I hope all Americans understand we have a long-term responsibility here to those who have been harmed, regardless of our position on the war.

Madam Speaker, I have a series of articles that I would like to put in the RECORD in association with this special order.

[From the Journal Gazette, Apr. 20, 1999]

SUPPLIES SHORT IN BALKANS

(By Brian Meyer)

Fort Wayne residents will be asked today to donate clothing and toiletry items to some of the 600,000 Kosovo refugees fleeing Yugoslavia.

The Rev. Rick Hawks, pastor of The Chapel in Fort Wayne, has scheduled a news conference for 10:30 a.m. today to announce a citywide campaign to provide relief for Kosovo refugees. Donations of clothing, shoes, socks, outerwear, blankets, linens and toiletries will be accepted at seven local churches until May 3. Hawks said the Fort Wayne campaign, called ''Clothes for Kosovo,'' followed his discussions with Dick and Barb Kelley, former Fort Wayne residents now affiliated with the Slavic Gospel Association in Rockford, Ill. Donations from Fort Wayne will be shipped to Rob and Pam Provost, missionaries working in the Albanian capital of Tirana.

''At this point, there's a shortage of everything,'' Hawks said. ''Clothing, personal-hygiene items.

''We aren't dealing with anything perishable, just things like clothes and blankets.''

Seven Fort Wayne churches will serve as collection sites: The Chapel, 2505 W. Hamilton Road, Broadway Christian Church, 910 Broadway, Church of the Good Shepherd, 14711 Wayne St., Leo, Blackhawk Baptist Church, 7400 E. State Blvd, Fellowship Missionary Church, 2536 E. Tillman Road, North Park Community Church, 7160 Flutter Road, and Wallen Baptist Church, 1001 W. Wallen Road.

Hawks said the local campaign is also seeking volunteers to help sort and box the donated goods; anyone wishing to volunteer can call The Chapel at 625–6200.

''The most labor-intensive thing is that everything has to be sorted, and there has to be a quick quality check,'' Hawks said. ''And then everything has to be boxed accordingly.''

Hawks said he is hoping to acquire enough donations to fill a tractor-trailer rig. The Chapel will pay the $5,000 to ship the donated materials to Albania.

''We think we'll fill that (truck rig) quite easily,'' Hawks said.

[From the News-Sentinel]

LOCALS COORDINATE EFFORTS

(By Jennifer L. Boen)

Angie Stump and Bob Boughton are anguished by pictures of Kosovo residents fleeting to refuge with just the clothes on their backs.

''It's really heartbreaking to see what's going on there,'' said Boughton, a Tokheim Corp. employee in Fort Wayne, ''but it's really good to help someone less fortunate.''

The desire to help is compelling Tokheim employees, local churches and others in the Fort Wayne area to organize assistance.

Well-meaning people and organizations eager to help refugees or victims of disaster are well-advised to coordinate their efforts through relief agencies to ensure they are helping, not hindering the effort, said Stephen Apatow, executive director of the Humanitarian Resource Institute.

The nonprofit, nonpartisan organization works closely with the United Nations High Commission for Refugees and coordinates relief efforts.

Efforts can easily be wasted:

World Relief, which handled tons of donations for Hondurans after Hurricane Mitch last year, said critical deliveries of food, building materials and other goods were impeded by the pileup at shipping ports of clothes and other noncritical items.

Donated clothing piled 17-feet deep covered a 5-acre collection site after Hurricane Andrew hit Florida in 1992. Much of the clothing eventually was buried or incinerated.

Cases of antibiotics donated by U.S. pharmaceutical companies were shipped to rural Honduran clinics without Spanish labeling. Health-care providers, without instructions in their language, could not use the medicine.

In Honduras, clothing donations were so abundant they destroyed the business of small vendors there.

Thus, the United Nations agency has some good advice for those with good intentions:

Before sending donations, work through national or international groups that have workers on site where the relief is needed, said Jennifer Dean, associate public information officer for the High Commission for Refuges.

It is precisely why Stump, union counselor and project organizer for UAW Local 1539 at Tokheim, is working with the Salvation Army. The Salvation Army and the American Red Cross both have workers in refugee camps.

The Salvation Army has issued national news bulletins listing what people should and should not donate. Because at least 45 tons of clothing awaits distribution, the agency is not accepting more at this time, said Maj. Ken Reed, Fort Wayne director.

''It is important that organizations have the logistics thoroughly worked out for transportation and delivery of in-kind donations, said Apatow.

''They need to have logistics set up for transport before the goods are collected.''

It's also better to buy the building materials, tents, medical supplies and food from retailers close to the people who need them, said Apatow and Dean. It saves shipping costs that could be better spent on direct service.

The cost savings could be enormous.

For example, the Chapel is organizing a clothing drive for Kosovo refugees among several Fort Wayne churches.

Coordiantor Abigail Roemke said it would cost $5,000 to ship an 8-by-8-by-50-foot container of clothing overseas. The Chapel has made a connection to help distribute the clothes: Rob Provost, an American living in Albania who is director of Abraham Lincoln Center school in Tirana, Albania's capital.

Provot's school is working with Slavic Gospel Association and Samaritan's Purse to assist Kosovo refugees. And Samaritan's Purse has a contract with the United Nations relief agency to set up a refugee tent camp near Tirana.

The clothes will go to evangelical churches in Albania for distribution, Roemke said.

Relief organizers urge taking advantage of the enormous purchasing power of organizations such as the Salvation Army and the Red Cross. ''Buying things in bulk is much less expensive,'' Dean said.

Immediatly and lower costs are two good reasons to buy relief items as close as possible to the affected countries, and there's a third:

The countries Kosovo refugees are fleeing to are poor. ''They are facing an enormous strain on their own resources,'' Dean said.

It is why the United Nations agency is buying things locally (overseas) as much as possible. ''We are paying bakeries to make the bread for refugees,'' she said, helping both refugees and their new communities.

The American Red Cross wants monetary donations only for the Kosovo refugees, said Jean Wagaman, interim executive director of the Northeast Indiana Chapter.

''The Red Cross estimates we need $1 million each week to meet the needs of the refugees,'' she said. The organization is helping provide shelter, food, health care and first-aid teams.

For the U.N. High Commission for Refugees and other organizations, the best way for people to help is to donate money.

''We do not want to discourage anyone who wants to help,'' Dean said. ''All the enthusiasm of the caring and help is wonderful.''

But getting the right kind of help is important, Apatow said. Make monetary donations for Kosovo relief through these organizations:

The American Red Cross—send to American Red Cross International Response Fund, P.O. Box 37243, Washington, D.C. 20013; or to the local chapter, marked Kosovo Relief, 1212 E. California Road, Fort Wayne, IN 46825. Secure credit card contributions can be made over the Internet at www.redcross.org. Call 1–800–HELP–NOW, or 1–800–435–7669, for more information and to make a donation.

Salvation Army—send to 3100 N. Meridian St., Indianapolis, IN 46208; mark check ''Kosovo relief;'' credit card donations can be made by calling 1–800–SAL–ARMY, or 1–800–725–2769.

To donate clothing at one of eight area churches participating in the Chapel's ''Clothes for Kosovo'' campaign, call Abigail Roemke at 625–6200; Contact Rob Provost on the Internet at www.lincoln_intl.org.

The Salvation Army is accepting the following donations for military personnel dispatched to the Kosovo region through PROJECT SACKS:

Individual-size bottles of anti-bacterial soap; Packaged candy (nothing that melts); Packaged snacks, peanuts, snack-sized bags of potato chips, crackers and cookies; Writing materials, cards, paper and envelopes; Games, playing cards, pocket-sized crossword puzzle books and word-search books; First-aid supplies, adhesive bandages, medical tape, gauze pads and pocket-size Bibles.

[From the Journal Gazette, Apr. 30, 1999]

CITY TEAM WILL ASSIST KOSOVARS

(By Joe Boyle)

It's a matter of faith for three local medical professionals who are leaving in two weeks for Albania to help Kosovar refugees.

Registered nurses Nancy Grostefon and Dawn Rice, and Dr. David Smith, a pediatric

surgeon, will be on a Health Care Ministries medical team working in refugee camps on the Kosovo-Albania border.

''The team itself, the way it came together, was providential,'' said Marilyn Tolbert, missions director for First Assembly of God Christian Center, 3301 Coliseum Blvd E.

The team will spend two weeks working at two camps, with a total of 800 to 2,000 refugees in each, said the Rev. Ron Hawkins, the church's pastor.

The Assemblies of God has traditionally been very active in overseas missions, Tolbert said, and the local church has sent people on different kinds of missions before.

But, she said, this is the first time the local church has sent a medical mission into a refugee situation.

And for some of the team members, a chance to minister through an overseas mission is a dream come true.

''It's been a desire of mine since I was in high school,'' said Grostefon, a cardiac critical care nurse from Parkview Hospital. ''It's a God thing.''

Grostefon said she's been preparing for the trip by watching many TV news reports and reading newspaper articles about the Albanian refugee camps, which, according to some reports, now hold more than 370,000 displaced people.

Despite the fact that she's traveling to the fringe of a war zone, Grostefon said her family has supported her decision.

''My kids are excited, and my husband knows this has been a desire in my heart,'' she said.

Rice, who is executive director of the Fort Wayne Sexual Assault Treatment Center, brings another special skill to the mission.

''Rape in wartime is not new,'' she said. ''It's not new to this war, and it won't be held back from the next war.''

Rice said helping rape victims from a war is different than treating rape victims in the city because evidence collection isn't a major part of the program.

But what's similar is tending to the injuries of the assault. Rice said she hopes to help with both the psychological and physical injuries the victims suffer.

And for Rice, it's a chance to do something instead of watching it on television.

''It's so easy to watch what goes on and say, 'I hope someone takes care of them','' she said.

It's not just the three team members who are hoping to make a difference.

Geoff Thomas, media coordinator for the Lutheran Health Network, said Lutheran and St. Joseph hospitals are excited to help the refugees through aiding the team.

The hospitals donated handmade quilts, T-shirts for children, thermometers, stethoscopes, latex and non-latex gloves, bandages, sutures, surgical kits and Ibuprofen, which Thomas said is a hot commodity in the camps.

[From the News-Sentinel, Apr. 29, 1999]

MEDICAL TEAM GOING TO ALBANIA

(By Jennifer L. Boen)

''I'm being carried by God's hand,'' says nurse Dawn Rice, who is preparing for a two-week medical work trip to Albania.

Rice is the director of the Fort Wayne Sexual Assault Treatment Center and is experienced at helping people through trauma. But knowing how to help the Kosovar women who have been raped and tortured is something she can't fully grasp.

''I don't know what to expect,'' she said. ''All these people will have post-traumatic stress syndrome . . . the terrible things that are going on there.''

Rice is part of a team that includes Fort Wayne pediatric surgeon Dr. David Smith of Lutheran Children's Hospital, and Nancy Grostefon, a Parkview Hospital intensive care nurse.

The three will fly to Athens, Greece, on May 14 and travel by land to a refugee camp just north of Tirana, the Albanian capital. They plan to return to Fort Wayne on June 2.

The team is sponsored and supported by First Assembly of God, 3301 Coliseum Blvd. E, and will be working under the auspices of the denomination's Health Care Ministries division, based in Springfield, Mo.

Also being sent from Fort Wayne will be a semi-truckload of supplies and medicine donated by local hospitals. Bandages, thermometers, stethoscopes, medical gloves, quilts and other items are being donated by Lutheran Health Network.

Parkview Hospital is donating surgical and medical supplies, as well as antibiotics, diaper rash cream and vitamins. Van Wert Community Hospital in Ohio also is donating supplies and medicine.

This is the first time a medical team is being sent from the church, said Marilyn Tolbert, chairwoman of the church's mission committee.

''We've always wanted to do a medical trip,'' Tolbert said. The mission committee had contacted Health Care Ministries earlier in the year and was told all openings for people to participate in medical trips were filled.

Just two weeks ago, however, Health Care Ministries contacted the church and asked for a team of people to go to Albania. Church member Michelle Denton took on the task of finding the right people.

''The type of people they want there are people who are skilled in dealing with trauma,'' said Tolbert. ''. . . These three were ready and willing to go.''

They will be working out of tents and giving medical care to refugees who have crossed the Yugoslavia-Albania border, she said. Rice hopes to help train other medical personnel to identify those women who have been raped and give guidance on how to treat for sexually transmitted diseases. ''A female may be able to help better than a male,'' she said.

Smith has been on several previous medical work trips, but it is a first-time experience for Rice and Grostefon.

Other local individuals and businesses are helping make the trip possible. Root's Camp 'n Ski Haus and GI Joe's Army Surplus have donated equipment and supplies. Brateman's Inc. donated boots. American Freightways is donating the shipping for the supplies to Springfield. An organization called Convoy of Hope is packing and shipping the supplies.

''We have so much,'' said Tolbert. ''The poorest of us in this area are worlds beyond people there. We don't have a clue.''

The Rev. Ann Steiner Lantz is director of chaplains at Parkview and chairwoman of the hospital's mission and community outreach committee. She is coordinating the hospital's involvement in the project.

''This is part of our mission and our Judeo-Christian heritage,'' she said. ''It's the right thing to do.''

''What we're doing is a drop in the bucket,'' Lantz said. ''But if everyone does a little, we can help a whole lot.''

Donations to help with the cost of sending the medical team from Fort Wayne can be sent to First Assembly of God, 3301 Coliseum Blvd. E., Fort Wayne, IN 16805.

[From the News-Sentinel]

LETTERS TO THE EDITOR

(By George Lebamon)

A group of prominent Macedonians from around North America and Europe, aided by the Fort Wayne-based Macedonian Tribune, the oldest continuously published Macedonian newspaper in the world, have formed the Macedonian Relief Fund. The fund will provide financial assistance to agencies in Macedonia to deal with the impact of the NATO-Yugoslavia conflict.

Chris Evanoff, a Macedonian American entrepreneur in the Detroit area, will chair the effort. He will be assisted by people around the country, including myself.

''Nearly 150,000 Kosovar refugees have flooded the tiny country of Macedonia in less than a week, creating a humanitarian catastrophe of unprecedented proportions,'' Evanoff said. That total could increase to nearly a quarter of a million refugees, he added. He also noted, ''Macedonia was assured by NATO nations that sufficient assistance would be available to care for these unfortunate victims of war and ethnic cleansing. The delay in getting aid to the region has crippled the Macedonian economy and its capacity to sustain relief efforts.''

The refugee crisis so far has cost the Macedonia republic more than $250 million. Total costs this year could exceed $1.5 billion.

There are about 500,000 Macedonians in North America. The group has established a Macedonian Relief Fund account at Comerica Bank in Detroit. Contributions in the form of checks, credit card payments and wire transfers can be mailed to: The Macedonian Relief Fund, c/o Comerica Bank, 28801 Groesbeck, Roseville, MI 48066. Information requests can be e-mailed to mtfw@macedonian.org. The group has also set up a Web site at www.macedonianrelieffund.org to provide additional information.

MACEDONIAN RELIEF FUND FOR THE KOSOVO REFUGEE CRISIS

The Macedonian Tribune, in cooperation with Macedonians in the United States and Canada, is initiating a relief effort to provide resources to the people of Macedonia who are sharing what little they have with tens of thousands of refugees from Kosovo.

Since 1991, Macedonia has feared a humanitarian catastrophe if a crisis in Kosovo developed. Regrettably, this catastrophe has been realized. The strain of tens of thousands of refugees has crippled Macedonia, destabilizing its economy and progress toward a democratic, free society. Not only are refugees suffering, but so are the people of Macedonia as their factories have been closed and work has come to a halt.

Donations can be mailed to the Macedonian Relief Fund, c/o Comercia Bank, 28801 Groesbeck, Roseville, MI 48066. Reference bank account # 1851014603. To wire donations, use transit/routing # 072000096, refer to the bank account number and Comercia.

You can donate by check or with Visa or Master Card. No donation is too small, none too large.

MARSHALL CENTER
ALTERNATIVE HIGH SCHOOL,
Columbia City, IN, May 2, 1999.

DEAR CONGRESSMAN SOUDER: I am pleased to have been requested to forward details of my students' Kosovo clothing drive to you. I welcome this opportunity to illustrate the scholastic merit of an unconventional learning activity:

Teaching current events to young people with little or no background in geography or history is a challenge. (Most of the alternative students cannot locate Europe on a map, and one of them even thought NATO was a country.) So I try to make every lesson relevant by working from what they do know. And at-risk kids, just like at-war kids, ''know'' suffering and deprivation.

Twenty-five percent of my students have lost a parent to unnatural causes. Twelve percent have been homeless. Most have survived on rice or beans or cereal for extended periods. All have lost friends to violence, and all have been outcasts most of their lives.

Do they understand the politics of this (or any) war? No. But they understand what it means to be orphaned, to be vagrant, to be hungry, to mourn, and to be hated. They fully understand what it means to be a refugee.

So they collect clothes to help others—and end up helping themselves in the process. In the process, they are working cooperatively with adults (employees in the building, their parents, community members) they normally consider adversaries. They are earning respect for a job well-planned and efficiently executed: In just two weeks a mere dozen students have collected enough clothing, shoes, socks, and undergarments for about 3600 refugees. Remarkably, these students who anticipate failure and disapproval at every turn are succeeding at something meaningful.

While they may never compose a thesis comparing and contrasting the present conflict with events in the Balkans leading up to WWII, they have learned to advertise a campaign, schedule and share tasks, meet deadlines, calculate weight and cubic yard measurements, arrange transportation and more.

I'm glad you inquired about the project. We appreciate your knowledge and support as you debate the merit of alternative education programs. We need critical resources to raise citizens as well as test scores.

Sincerely,

REBECCA R. ROADY,
Teacher.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DAVIS) is recognized for 5 minutes.

(Mr. DAVIS of Illinois addressed the House. His remarks will appear hereafter in the Extension of Remarks

EXCHANGE OF SPECIAL ORDER TIME

Mr. BERRY. Madam Speaker, I ask unanimous consent to claim the special order time of the gentleman from Illinois (Mr. DAVIS).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

PRESCRIPTION DRUG FAIRNESS ACT FOR SENIORS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. BERRY) is recognized for 5 minutes.

Mr. BERRY. Madam Speaker, I would like to speak this evening about the Prescription Drug Fairness Act for Seniors. This legislation will help the problem that our Nation's seniors have had to deal with for years, and that is the outrageous prices of prescription drugs in this country.

The district that I represent has the highest number of senior citizens that live only on Social Security of any district in the country. When I hold meetings in the First Congressional District of Arkansas, I hear about two issues, and that is the agriculture crisis and the high cost of prescription drugs, especially for seniors.

I also get letters from Arkansas seniors who tell me every day that they cannot afford to pay for all their needs; specifically, all their medicine and all their food.

I also get letters from Arkansas seniors who tell me that their drug bills are massive. Seniors are not following their doctors' orders. Some of them have been given prescriptions which they cannot afford to fill. Others have filled prescriptions which they cannot afford to take as directed.

Because they cannot pay the rent, pay the electrical bills, buy food and take very expensive prescription drugs, they either stop taking them or they take less than is prescribed by their doctor. They are doing things that in the long run are harmful to their health. I find it amazing that we tell our seniors that they can live longer if they take this pill or that pill but then if they cannot afford the medication that keeps them alive we do not do anything about it.

The Prescription Drug Fairness for Seniors Act of 1999 is a chance for us to do something about it. It is a chance to step forward and show our seniors that we care about their well-being.

Madam Speaker, this legislation allows seniors, Medicare beneficiaries, to purchase prescription drugs at reduced prices. It allows pharmacies to purchase prescription drugs at the best price available to the Federal Government. It is estimated to reduce prescription drug prices for seniors by over 40 percent.

The average American under 65 takes only four prescriptions a year. The average senior citizen over 65 takes an average of 14 prescriptions a year. Our seniors suffer from more than one chronic condition: hypertension, diabetes, arthritis, glaucoma, circulatory problems, and many others. Medicare beneficiaries spend over $700 per year on average for prescription drugs and many seniors spend much more than that, some as much as $700 a month.

Are the pharmaceutical companies hurting for profits? Certainly not. They are the most profitable businesses in existence. Last year they had a net profit of $24.5 billion, or 17 percent of their revenues.

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Certainly we have no objection to the drug companies being profitable, and hope they continue doing so. Here is a letter that a senior in my district sent to me about this very problem.

She said, ''I want to thank you for introducing a bill to investigate the extreme cost of prescription drugs. As I attempt to control blood pressure, cholesterol, treat a thyroid deficiency, and restless leg syndrome, it costs me over $100 a month. I have had to cut out my arthritis medicine that costs $125 a month that the doctor prescribed, and I have had to return to aspirin, which my doctor insists I should not take with these other medications.

''Please do what you can to get the cost of prescriptions back down to a reasonable level. I have had numerous people tell me that they cannot afford the medicines that are prescribed for them.''

Madam Speaker, sadly enough, this letter is not something that should surprise anyone here, because I am sure that if we talk to most of the constituents in Members' districts, they will tell us they have received similar letters and they have talked to many seniors that have the same problem.

What do we do? Do we continue to stand by and allow our seniors to be taken advantage of, robbed, by the pharmaceutical manufacturing companies? Fortunately, we have a bill that has 108 cosponsors that will help those seniors who find themselves choosing between food and medicine.

I call on all my colleagues to stand up for our seniors and sign on to this bill. It is a good bill. It is a step in the right direction. It does the right thing as it concerns the senior citizens of this country.

EXCHANGE OF SPECIAL ORDER TIME

Mr. HAYWORTH. Madam Speaker, I ask unanimous consent to use the special order time of the gentleman from Kansas (Mr. MORAN).

The SPEAKER pro tempore (Mrs. NORTHUP). Is there objection to the request of the gentleman from Arizona?

There was no objection.

TRUE BIPARTISANSHIP NEEDED TO SAVE MEDICARE AND HELP AMERICA'S NEEDIEST SENIORS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. HAYWORTH) is recognized for 5 minutes.

Mr. HAYWORTH. Madam Speaker, I listened with great interest to my friend, the gentleman from Arkansas, detail a genuine problem. And as the citizen honored to represent the Sixth Congressional District of Arizona, home to many of America's seniors who endured a Great Depression, who took part in World War II, who built our American economy into the envy of the world, and who now, in their golden years, have time to enjoy a quality of life unparalleled, I still understand that for many there are genuine problems.

How unfortunate it is, then, Madam Speaker, that when those of us in our commonsense, conservative majority move in a bipartisan manner to offer real choices to help the neediest seniors in our society, to offer alternative plans out from the auspices and away from the auspices of big government and bureaucratic solutions, how unfortunate it is that those who claim to

want a bipartisan remedy turn a deaf ear, Madam Speaker, I think particularly to the latest effort to help us save and strengthen Medicare: to a bipartisan Commission, with noteworthy Americans from coast-to-coast, and in particular representatives of both parties, the Senator from Louisiana, Mr. BREAUX, and my colleague on the Committee on Ways and Means, the gentleman from California (Mr. THOMAS), who took a long, hard look at Medicare, especially in the wake of the courageous steps this Congress took in the face of withering propaganda which the press accurately described as Mediscare, intent on scaring our seniors and obscuring the choices, and yet, despite that, we came back, we saved Medicare, and yet we want to strengthen it in additional ways.

How interesting it was, Madam Speaker, to observe the labors of that bipartisan commission, and how wonderful it was to see Senator BREAUX and the gentleman from California (Mr. THOMAS) truly fashion a bipartisan solution. How sad it is to report, Madam Speaker, the unfortunate efforts of some to avoid a solution, to avoid helping the neediest seniors, and instead, attempt to invent an issue.

Madam Speaker, in a few short days a Star Wars prequel will be released, it may already have been in the theaters, with wonderful flights of fantasy and fiction, but Madam Speaker, we have not a prequel but a sequel about to be unfurled, Mediscare II.

Because in the wake of the bipartisan solution that Senator BREAUX, the gentleman from California (Mr. THOMAS), and others from both sides of the aisle fashioned, the word went out from the White House: A supermajority of 11 members of this Commission had to vote to approve the Commission's recommendations to take those good ideas and move them into the realm of sound public policy.

Sadly, Madam Speaker, the word went out from the other end of Pennsylvania Avenue, from our president, that by actually embracing the bipartisan solution, some in this Chamber of the liberal persuasion would be deprived of an issue, an issue to drive a wedge among Americans, an issue to again scare seniors.

Thus, Mediscare II took flight, because 10 members of the Commission voted for this commonsense solution to help the neediest seniors, but the presidential appointees from this body refused to vote for the program.

How ironic it was, Madam Speaker, that our president, one who has come to this Chamber again and again and offered words of reconciliation and the term ''bipartisanship,'' how sad it is that he sent those instructions, and how unfortunate it is that our president, the afternoon the Medicare Commission's recommendations were voted down, had the audacity to appear on television and say again, we have to solve the Medicare question in a bipartisan way.

Madam Speaker, we spoke yesterday of teachers, and our first teachers are our parents. A fundamental lesson most Americans learn is that we should do what we say, live up to our words, and mean what we say.

How unfortunate it is that our president continues to be engulfed not in a credibility gap, but sadly, in a credibility canyon, where his words and his deeds, whether personal, political, or in terms of policy, fail to reconcile with his actions; the latest example, of course, being this Mediscare II.

And I appreciate the words of my friend, the gentleman from Arkansas. But let me also say that we should really work in a bipartisan fashion. I would welcome my friends on the left to truly embrace a bipartisan solution.

But as we have heard from pundits in this town and nationwide, some folks here are not interested in solving problems. Some folks here do not want to embrace a solution that would strengthen Medicare and save social security. Some folks would rather have an issue that they believe can hang like a sword of Damocles over the commonsense, conservative majority.

Madam Speaker, we all confront many challenges in Washington, and we are thankful for the give and take on this floor. But Madam Speaker, to those who would embrace the cynical politics of overpromising and failing to truly live up to their mission, I believe history will render a harsh verdict.

I believe the very people they claim to want to help are the people who will suffer the most. We will hear more Orwellian speeches from the left in the days to come. How mindful it is of George Orwell's novel 1984, and the phrase, ''Ignorance is strength.''

I do not believe that is true. I believe the facts will reign, and I look forward to working in a truly bipartisan fashion to save Medicare and help our neediest seniors.

PROCEED WITH CAUTION BEFORE BANNING SCIENTIFIC TIES WITH INDIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Madam Speaker, I rise today to draw my colleagues' attention to legislation that has been introduced in the other body that could have the potentially destructive effects of cutting off important exchanges between American scientists and their counterparts from other countries.

The legislation in question, offered by Senator SHELBY, would impose a moratorium on visiting scientists from so-called sensitive countries in American nuclear labs. The Senator's proposal comes on the heels of recent reports of compromises to our national security with regard to the Peoples' Republic of China.

While I agree that Chinese espionage activities should cause us to be more vigilant with regard to that country, I am concerned that this proposed legislation casts a wide net and would give too much discretion to officials at the Department of Energy. The result could be a cutting off of positive scientific exchanges that do not affect our national security, depriving all of us of valuable knowledge and disrupting the types of scientific contacts that actually promote security and cooperation.

One country, Madam Speaker, that could be affected by this legislation is India. While the Senate legislation does not mention any countries by name, a recent report in the newspaper India Abroad quotes an Energy Department official that the list of seven sensitive countries includes, in addition to China and Russia, India and Pakistan.

The official indicated that different criteria were used for putting countries on the list, and that India and Pakistan were included because they are not signatories to the Nuclear Nonproliferation Treaty.

Madam Speaker, I, too, am deeply concerned about the persistent pattern of China's theft of our nuclear secrets. I have come to this floor on several occasions to call for more safeguards against Chinese espionage, as well as to focus more attention on China's documented actions with regard to nuclear proliferation, which include providing nuclear and missile technology to unstable countries like Pakistan.

But in the case of India, we clearly do not have the facts to support the conclusion that India is involved in the same types of activities as China. Thus, I would urge Members of the Senate and the House, as well as the administration, not to jump to any conclusions about India without the facts.

What we know, Madam Speaker, is that U.S.-India relations have suffered in the past year because of the nuclear tests conducted by India last May. But one key fact that is often overlooked is that India's nuclear program is essentially indigenous, developed by India's own scientists.

Export controls on supercomputers and other dual use technology have been in effect against India for years, forcing India to develop its own highly advanced R&D infrastructure.

Another very important point, Madam Speaker, is that India has kept its nuclear technology to itself, out of the hands of rogue regimes and international sponsors of terrorism. This is in marked contrast to China, which has not only stolen our technology, but has shared very sensitive information with unstable countries in Asia and the Middle East.

Madam Speaker, I fully agree that we need to be more wary of China. This is an authoritarian country, a one-party state, the Communist party, with a terrible record on human rights and a record of intimidation and aggression against its neighbors.

Indeed, Madam Speaker, some of India's recent actions, including the nuclear tests and the test-firing of the

Agni intermediate-range missile, which have caused diplomatic problems with the U.S., have to be seen in the context of China. India shares a long border with China, the two countries have fought a border war started by China, and India is directly threatened by China's provision of weapons technology to Pakistan.

The bottom line, Madam Speaker, is that India is not China. India is a democracy with multiple political parties. So we need to be careful before we go on a witch hunt against countries, particularly India, which do not pose the same type of security risk posed by China.

The legislation introduced in the Senate is too open-ended, in my mind, allowing the Department of Energy overly broad discretion. At a time when there is an emerging bipartisan consensus that we should lift the sanctions that have been imposed on India, this legislation could end up imposing another punitive sanction that will further set back our relations, to the detriment, in my opinion, of both countries.

The question, should we protect our sensitive nuclear secrets from potentially hostile countries, like China, that have already been shown to have stolen those secrets, I think the answer is absolutely yes, Madam Speaker. But let us not cut off cooperation and scientific exchanges with countries, like India, that have not been stealing our secrets and which could be partners for a more stable and secure world.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Carolina (Mr. DEMINT) is recognized for 5 minutes.

(Mr. DEMINT addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. BLUMENAUER) is recognized for 5 minutes.

(Mr. BLUMENAUER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Montana (Mr. HILL) is recognized for 5 minutes.

(Mr. HILL of Montana addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. SANCHEZ) is recognized for 5 minutes.

(Ms. SANCHEZ addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado (Mr. SCHAFFER) is recognized for 5 minutes.

(Mr. SCHAFFER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Hawaii (Mrs. MINK) is recognized for 5 minutes.

(Mrs. MINK of Hawaii addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

(Mr. JONES of North Carolina addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. BRADY) is recognized for 5 minutes.

(Mr. BRADY of Texas addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

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KOSOVO WAR IS ILLEGAL

The SPEAKER pro tempore (Mrs. NORTHUP). Under a previous order of the House, the gentleman from Texas (Mr. PAUL) is recognized for 5 minutes.

Mr. PAUL. Madam Speaker, it is time to stop the bombing. NATO's war against Serbia left the Congress and the American people in a quandary, and no wonder. The official excuse for NATO's bombing war is that Milosevic would not sign a treaty drawn up by NATO, which would have taken Kosovo away from the Serbs after the KLA demanded independence from Serbia.

This war is immoral because Serbia did not commit aggression against us. We were not attacked and there has been no threat to our national security. This war is illegal. It is undeclared. There has been no congressional authorization and no money has been appropriated for it. The war is pursued by the U.S. under NATO's terms, yet it is illegal even according to NATO's treaty as well as the U.N. charter. The internationalists do not even follow their own laws and do not care about the U.S. Constitution.

The humanitarian excuse for the war is suspect. Economic interests are involved, as they so often are in most armed conflicts. NATO's vaguely stated goals have not been achieved. For the most part, the opposite has. Let me give my colleagues a few examples.

Number one. Milosevic is now more powerful than ever; the Serb's more unified.

Number two. Russia is now alienated from the west. Their hold on a nuclear arsenal is ignored. Along with Russia's economic desperation and political instability, NATO is pushing Russia into a new alliance against the west.

Number three. Innocent Serbs and Albanian citizens are routinely being killed by our bombs.

Number four. Civilian targets are deliberately hit, including water, power and sewer plants, fuel storage and TV stations.

Number five. An economic embargo is now being instituted to starve children and prevent medications from reaching the sick, just as we have been doing for a decade against Iraq.

Number six. This war institutionalizes foreign control over our troops. Tony Blair now tells Bill Clinton how to fight a NATO war, while the U.S. taxpayers pay for it.

Number seven. Greater instability in the region has resulted.

Number eight. We are once again supporting Osama bin Laden and his friends in the KLA.

Number nine. We have bombed Bulgaria. By mistake, of course. Sorry.

Number ten. Our weapons are being depleted, our troops spread too thin, resulting in further undermining of our national defense.

Number eleven. Billions of dollars are thrown down a rat hole and Congress is about to vote for more.

Number twelve. The massive refugee problem, which is essentially a result of NATO's bombing, continues.

Up until now, general defense funds have been spent to wage this war without permission. The President wants to catch up and is asking for $6 billion, but Congress, in its infinite wisdom, wants to give him $13 billion for a war Congress rejects. Once we directly fund the war we will be partners in this misadventure. The votes last week were symbolic. They had no effect of law, but appropriations do.

Saying the new appropriations will be used to beef up a neglected defense does not make it so. Defense funds are fungible. The President has proven this by waging a war for a month without any authorization or appropriation. Congress will no more control the next $13 billion than the money the President has already spent on the war.

Appropriating funds to fight a war, even without a declaration, provides a much more powerful legal and political endorsement of the war than the public statements made against it by nonbinding resolutions passed by the House last week. Declaring war and funding war are two powerful tools of the Congress to restrain a president from waging an unwise and illegal war. If the President pursues an undeclared war and we fund it, we become partners, no matter what justification is given for the spending.

Only chaos can come from ignoring the strict prohibition by the Constitution of a president unilaterally waging war. If a president ignores the absence of a declaration, and we are serious, the only option left to Congress is the power of the purse, which is clearly the responsibility of the Congress. We should not fund this illegal and immoral NATO war.

H.J. RES. 9, THE LINE ITEM VETO CONSTITUTIONAL AMENDMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. ENGLISH) is recognized for 5 minutes.

Mr. ENGLISH. Madam Speaker, for many of us who came to Congress in 1994, elected on a platform of fiscal responsibility and reform, it is a source of wonder and considerable pride that America now has something that a generation of national leaders had only dreamt of, and that is a balanced Federal budget.

The current surplus is a major public benefit, opening long-term vistas of a debt-free America with a higher growth rate, lower interest rates and a cornucopia of economic opportunity. It was achieved through the disciplined efforts of a fiscally conservative Congress dedicated to reining in Washington's spending counterculture.

We now know we can balance the budget, but we can only realize the long-term benefits of a balanced Federal budget if we keep it balanced. This will require changes in the way that Congress appropriates tax dollars.

As Members of Congress, we need to look at real budgetary reform which will promote accountability in the appropriations process when we consider how to spend taxpayers' dollars. With this in mind, my friend, the gentleman from Maine (Mr. JOHN BALDACCI), and I have introduced House Joint Resolution 9, a proposed constitutional amendment that would provide a line item veto to the President of the United States in his consideration of any appropriation. This is important, bipartisan, and fiscally responsible legislation that deserves the prompt attention of this House.

For too long presidents have had to adopt an all-or-nothing approach when considering action on bills containing appropriations. This presents a predicament for them when good policies and necessary investments are overloaded by unnecessary spending proposals.

This line item veto has had a long history in the U.S. Congress. The first proposal was introduced in 1876. President Grant endorsed the mechanism in response to the common practice of Congress attaching riders to appropriations bills. In 1938, the House approved a line item veto amendment to the independent offices appropriations bill by voice vote, but the amendment was rejected by the other body.

It did not come until 1996, in this reform Congress, that the line item veto act was finally signed into law by the President, and this law became effective in 1997. Unfortunately, after the President first invoked this new authority in August of 1997, the Supreme Court weighed the constitutionality of this law when it upheld a District Court ruling declaring the line item veto law unconstitutional.

Those of us who support the line item veto have come to recognize that in order to authorize a line item veto, a constitutional amendment must be passed, and that is why I stand before my colleagues today. My legislation will correct an imbalance in our budgetary process long recognized, permitting a president committed to cutting unnecessary spending to do so surgically, using a scalpel instead of a broad sword.

Madam Speaker, the line item veto is a powerful weapon in the cause of fiscal responsibility. It flushes out special interests, pork barrel spending buried in the depths of large appropriations and forces them to be considered individually, on their own merits, in the light of day. It allows a determined chief executive to challenge specific expenditures no matter how powerful their champions of the legislative process.

Currently, constitutions in 43 States, including my own commonwealth of Pennsylvania, provide for a line item veto, usually confined to appropriations bills. These constitutions allow the governor the power to eliminate discrete spending provisions in legislation that comes to his desk for his signature. Governors have successfully utilized this power on the State level and it is now time to give this power to the President to cut unnecessary spending.

Already, Madam Speaker, this amendment has been endorsed by a number of prominent national organizations, including the National Taxpayers Union, the U.S. Chamber of Commerce, Citizens for a Sound Economy and Citizens Against Government Waste. More importantly, in my view, the line item veto enjoys broad support from millions of taxpayers who are frustrated by the ponderous size and unbridled waste of the Federal Government. Their call to action deserves to be heard.

Madam Speaker, I invite my colleagues to join me in supporting this reform legislation and supporting this important amendment in restoring accountability to the process.

VACATION OF SPECIAL ORDER

Mr. TALENT. Madam Speaker, I ask unanimous consent to take the time of the gentleman from Kentucky (Mr. WHITFIELD).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

SUPPLEMENTAL DEFENSE BILL NEEDED TO SUPPORT AMERICA'S MILITARY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri (Mr. TALENT) is recognized for 5 minutes.

Mr. TALENT. Madam Speaker, tomorrow we have a chance to be true or false to the interests of our country and the men and women in America's military service when we consider the supplemental defense bill to add $7 billion to defense spending this year.

It is about time that we considered such a measure. For the last 10 years we have reduced military spending by 31 percent; by almost a third. At the same time, the number of engagements we have asked our men and women in America's military to be involved in has increased by a factor of three.

We deployed them 10 times during the Cold War around the world. We have deployed them 26 times in the last 8 years. Essentially, we have never reduced operational tempo, the business of the force, since Desert Storm. We have continued to ask them to do more and more with less and less, and they are at the breaking point.

First, they robbed the future to pay for the present in order to deal with that. They deferred maintenance. They reduced pay raises and retirement. They allowed health care to decline in the service. They postponed military construction and they slashed modernization.

When that was not enough, they robbed parts of the present to pay for other parts of the present. They sacrificed the important to the urgent. So now we have a shortage of spare parts. We have reduced training for our men and women in the military. We have a huge shortfall in ammunition, and we cannibalize the troops that are deployed here at home in order to support deployments abroad. We take people and spare parts and machines away from units that are here in the United States in order to support units abroad.

It has gotten so bad, Madam Speaker, that at the end of last year the Joint Chiefs of Staff came and testified before the Senate Committee on Armed Services that we are $148 billion short over the next 6 years in what we need to maintain minimal standards of readiness. And tomorrow we have a chance to make a modest downpayment on what we need to do to protect America's greatness and to provide for our men and women in the military.

Nobody disputes these figures, Madam Speaker. The administration does not. Nobody here will stand up tomorrow and argue that we do not need to spend this money to maintain readiness. They will have a lot of excuses why we should not vote for the bill tomorrow, just as we have had excuses year after year after year.

We heard one of them a little while ago. We cannot pay for this extra military spending because that would pay for the war in Kosovo. No, it will not. That is going to pay for the money that otherwise will be sucked away from the military by the war in Kosovo.

If my colleagues want to stop the war in Kosovo, wait for the military appropriations bill and put a rider on it that says the money cannot be used in Kosovo. Do not starve the rest of the military in order to fund one of the deployments that has caused the military to go hollow in the first place.

Another excuse we will hear is that we cannot take the money out of Social Security. Madam Speaker, by the most conservative estimates we will have over $800 billion in surpluses over the 10 years, even apart from the money that comes from Social Security.

My father is 87 years old. He gets Social Security. He fought in the Navy in the second world war. The generation that saved private Ryan, my father's generation, is not going to begrudge the men and women of America's military what they need now to provide for our security, especially when it does not even affect Social Security.

The excuse I like the most is that we do not have an emergency. That is why we do not need this supplemental now. Well, whether we have an emergency kind of depends on one's point of view. Standing here in this chamber, it is nice and warm and safe, no, we do not have an emergency.

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But if they are in an AWACS unit and they are working 80 hours a week and they have for years because they need two people in that unit to do their job and there is only them to do it, maybe they would think there is an emergency.

If they are on their second tour of duty on an aircraft carrier and they have been at sea for 9 months and they have not seen their kids and their wife wants to divorce them, maybe they would think there is an emergency.

If they are an infantryman in the Korean Peninsula and they know that if the attack comes they are not going to have the modern anti-tank weapons they need so they are going to have to stand out there in the middle of the open, look that tank in the eye and fire, rather than fire and get back to cover, maybe they would think there is an emergency.

Mr. Speaker, my first year in the Committee on Armed Services we had a hearing. A retired military person testified; and he said, ''The military life is a difficult one. We sacrifice a lot. We are willing to put our lives on the line. It is not easy, but we are proud to do it.'' Then he looked up at us in the Committee on Armed Services and he said something that applies to the whole Congress. He said, ''But we count on you. We count on you to protect us.''

Mr. Speaker, we have let them down year after year after year after year. Tomorrow we have a chance to stop letting them down. Let us end the excuses. Let us do what we all admit now we need to do. Let us make a modest down payment on what we need to do to allow these men and women to protect us and to protect our families and protect our future. Vote for the supplemental bill tomorrow.

History is watching. The dictators of the world are watching. And these men and women who count on us are watching.

''BELIEVERS IN READING'' HONORING KAREN TAYLOR AND NATIONAL TEACHER APPRECIATION WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri (Mr. HULSHOF) is recognized for 5 minutes.

Mr. HULSHOF. Mr. Speaker, this week is National Teacher Appreciation week and our attention is focused on education. As the elected Representative of Missouri's Ninth Congressional District, I have the distinct honor of representing sixteen colleges and universities, and a plethora of public and private schools which help prepare students to enter these educational institutions.

Mr. Speaker, I stand before you today to honor all of the hard working individuals who work in these educational institutions in central and northeastern Missouri. Each and every one deserves accolades for their role in providing excellence in education.

Today, however, I would like to point the national spotlight to highlight one of many devoted teachers who have dedicated their lives to provide quality education in Missouri's Ninth Congressional District.

Last month, Mr. Stan Taylor of Columbia, Missouri, stopped by my district office to request a congratulations letter be sent to his wife, Karen, on her retirement from the Columbia Public School system. Karen began teaching in 1961 in a rural, one room school house called East Center School in Kirksville, Missouri. She had the tremendous responsibility for teaching all grades, first through twelve, at East Center School.

In 1967, Karen began teaching within the Columbia Public School District, and for the last twenty years she has taught second grade elementary school at Rock Bridge Elementary School in Columbia, Missouri.

Mr. Speaker, as I learned of Karen's dedication to improve education in Missouri's Ninth District, I felt if befitting that I recognize her special efforts, and in doing so, I honor all of those like her who have dedicated their professional lives to help enhance the education of their students.

Not surprisingly, I do not stand alone in placing this honor. On May 22nd, the Missouri Teachers Association and more than 300 people—family, friends, colleagues and former students—will help celebrate Karen's educational efforts at Rock Bridge Elementary School during a reception to commemorate her retirement after twenty years of teaching in the Columbia Public School system.

Mr. Speaker, I would like to close with Mr. Taylor's words about his wife. He wrote that the most important lesson Karen stressed to her students was the power of knowledge through reading. Every day she would read to her students. It was her goal throughout her thirty year teaching career to encourage every student to become believers in the importance of reading. Thank-you Karen, for your devotion to your students and for providing excellent education for many generations of children. I stand here today to honor you and all those who share your commitment towards excellence in education. May we all celebrate National Teacher Appreciation Week with those who have given us the priceless gift of education.

HOME SCHOOLING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado (Mr. TANCREDO) is recognized for 5 minutes.

Mr. TANCREDO. Mr. Speaker, this week we are celebrating Teacher Appreciation Week. There have been a number of speeches on this floor. I have, in fact, come to this microphone before to extol the virtues of the teachers of America, the public school, the private school teachers who work so hard and contribute so much to the well-being of the children of this Nation.

Today, however, Mr. Speaker, I want to rise in recognition of a particular part of that educational establishment that is not often recognized. And it was brought to my attention again, although I have long been aware of its existence, but it was brought to my attention again by a card I received in the mail not too long ago.

Here it is, a little handwritten, handdrawn and colored-in star here. It says, ''thank you, thank you, thank you.'' It goes all the way around, ''thank you very much.'' It is from a young man named Jerrod Padinama. It says:

> Dear Mr. Tancredo, thank you for giving us the privilege of home schooling. My home school co-op is studying the Constitution, and it is fun. I am 9 years old. I am in the third grade. I am praying for you.
> Jerrod Padinama.

Well, Jerrod, thank you for your prayers. I sincerely appreciate them.

But I tell my colleagues, this is really a very touching little card I received, and I have been holding on to it because I wanted to reference it in a way. The neat part is that this young man would take the time to send me this little card and draw it in. But in a way it is a sad commentary because he has to tell me ''thank you'' for letting me be home schooled.

And he does know intuitively, I suppose, and certainly his parents are well aware of the fact that often there are attempts in this body and certainly in legislatures all over the country and States all over the Nation to actually restrict the ability of parents to actually teach their children at home. And they have to say ''thank you'' to us for letting them have a right that, frankly, is as natural as breathing, a right of a parent to teach their child at home.

This is as if this is a strange anomaly, this is something weird that we do in this country that they have to be allowed to do by the legislature. And that is the only kind of negative part of this thing I see. Because, otherwise, it is a very beautiful thing.

I just wanted to point out that home schooling certainly preceded any other kind of schooling we had in the United States of America; and it did very, very well, and it continues to do very, very well. And it is an expanding phenomena. Many, many people are participating in this. It is growing astronomically, almost beyond, really, ways to describe it.

I find in my own State of Colorado that there are thousands and thousands of parents who are taking on the responsibility of teaching their children at home.

Mr. Speaker, recently I received a copy of an article that was written by a gentleman by the name of Steven Archer, and he details a study that was just done by Larry Rudner, who is the leading statistician at the University of Maryland. He studied home schoolers, and what it comes down to is this.

He said,

> Regarding the results of this research, Rudner said, the bottom line of the study is that the 20,000 home-school students I studied were doing extremely well in terms of their scores on the Iowa Test of Basic Skills.
>
> In fact, the median test scores for home-schooled children who participated in this study were in the 75th and 85th percentile range. This is exceptional compared to the national average which, by definition, is the 50th percentile based on the performance of children in the public schools, which, Rudner explained, deviates little from that value. Home schoolers also did significantly better than their private school counterparts based on Catholic school norms where the median scaled scores were in the 65th to 75th percentile range.
>
> According to Rudner, major findings in the study include the following:
>
> Almost one-quarter of home-school students are enrolled one or more grades above their age-level peers in public and private schools.

It goes on, Mr. Speaker, but I would just say that it verifies what we already know about home schooling and that is that it works, it works in an academic sense, it works in a social sense. And I want to take the opportunity here today to thank Jerrod for his card, to thank Jerrod's parents for giving him the opportunity to be home schooled, and to thank all those thousands and thousands, perhaps millions, of parents around the country who are doing the same for their children.

KOSOVO

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 1999, the gentleman from California (Mr. CUNNINGHAM) is recognized for 60 minutes as the designee of the majority leader.

Mr. CUNNINGHAM. Mr. Speaker, I yield to the gentleman from Arizona (Mr. JOHN SHADEGG) who has, I think, a good health care proposal and is one of our leaders in Congress on health care issues.

PATIENTS' HEALTH CARE CHOICE ACT

Mr. SHADEGG. Mr. Speaker, I thank the gentleman for yielding. And I presume he is going to discuss with us a little bit later some issues about national defense, and I will await hearing his topic and hearing his remarks.

Mr. Speaker, today, on behalf of myself and 13 other colleagues, I have introduced the Patients' Health Care Choice Act, H.R. 1687. We are embroiled in a great debate about health care reform in this Nation, and it is appropriate that we should be embroiled in that debate, and there is a great deal of discussion about how we ensure that Americans get quality health care. But, as a part of that discussion, we have left out a big piece of the debate.

We have talked a lot on this floor about patient protection legislation. I want to make it very clear. I do think that we need HMO reform. I do believe that we need to do something to ensure that Americans get the health care that they purchase and that they pay for and that they deserve.

But I want to make it equally clear that the entire problem cannot be solved by a mega-regulatory piece of legislation which puts a Band-Aid on the current problems in health care, which addresses the short-term problems we have and ignores the long-term problems with our health care system. And be sure, there are long-term problems.

The Patients' Health Care Choice Act is a bill that takes a long-range look at the health care industry and says that we can do it better. Fundamentally, it operates on the premise that giving Americans greater choice in their health care options, that giving them greater access to health care and improving the incentives for them to purchase and consume health care services in a responsible fashion will do far more to improve our health care system in America than a whole new set of complex government regulations that try to mandate the marketplace and tell businesses how to run their businesses.

Let me talk about those three issues that I have just addressed, greater choice and health care options. Today, most Americans get their health insurance through their employer; and that has been a good system. It has enabled millions of Americans to get health care. But, regrettably, it does not give those Americans the kind of choice that we have everywhere else in the market.

If any one of us wants to go buy an automobile, we have dozens we can take our pick from. If we want to buy a pair of shoes or a new suit or a new home, we have virtually unlimited choices; and this is a great aspect of the American economy.

But one of the drawbacks of the health care system that we have in America today is that many Americans, indeed more than half of the Americans who are insured, are given two choices or less. And indeed many of those, and the statistics are disputed, many in fact get only one choice: Their employer says, ''You may have this plan.''

This bill, the Patients' Health Care Choice Act, says we ought to be giving Americans a much broader choice. Let them pick the kind of health care plan they want. Let them pick the plan that suits their needs and their family's needs. Let them shop with their feet and make market decisions about their health care.

Now, how can we do that? Well, I will explain how this bill does that.

But there is a second aspect of our health care system that is equally broken, and that is access to health care. Let me explain that.

Beginning during World War II, many employers wanted to be able to give their employees additional incentives to work for them and they wanted to do that by giving them raises. The government, however, had instituted wage and price controls. As a result of those wage and price controls, employers were prohibited from giving their employees additional raises.

So, the mind of man being ingenious, they came up with the idea of saying to their employees, ''We will give you health care benefits.'' And as a result of a ruling of the IRS and a ruling of the Tax Code, what we established during World War II was a policy which has driven employer-based health insurance. And that policy says that if their employer provides them health coverage, that health care coverage is a deductible expense to the employer. That is, he can deduct it from his tax return before he pays taxes on that tax return or before she pays taxes on the earnings of that business but, most importantly, it is excluded from income to the employer. That is to say, it is unlike wages, which would be taxed when received by the employee. Instead, health care benefits are excluded from income.

Now, what has that meant? What it has meant is that many, many businesses offer very, very strong health care plans that have many aspects to them and give Americans health care. That is very, very good. But there has been an unintended consequence of that, one I already mentioned, and that is now we have got employers purchasing health care, not individual employees, and that is taking away choice, as I already mentioned.

But another consequence of the current structure is that all of those Americans not fortunate enough to be working for an employer that offers them health insurance coverage are left out of the system.

Let me try to explain that. If they are a lucky American and they work for an employer who provides them health care insurance, they are getting that health care from their employer and they are getting a tax subsidy because their employer's cost is subsidized. It is a deductible expense to the employer, and it is not income to them.

But what about those uninsured Americans? Today, in America, there are 43 million uninsured Americans. How do we treat them under our Tax Code? The answer is we kind of give them the back of the hand.

Now what we say to them is they are not going to get a subsidy from the government for their health insurance. They are not going to get a tax write-off. What we are going to do is say to them, we are going to punish them. If

they decide to go out and do something prudent and take some of their hard-earned dollars and buy a health insurance plan, we are going to punish them because we are going to say that they have to pay for that plan with after-tax dollars, dollars on which they already paid taxes.

What that means to the average American whose employer does not provide them health coverage is that their cost of health coverage is somewhere between 30 and 50 percent higher than their peer that works for an employer who provides health coverage. I suggest that that is absolutely irrational and insane.

Let me make a point at this particular instance. In America, I believe we have reached a consensus some years ago, maybe 5, maybe 8, maybe 10, that no American should go without basic health care. If that is our belief, if our public policy in this Nation is that people should not go without health care, then how can we have a policy that says, if they are lucky enough to work for an employer that provides health care, the government will subsidize it with a deduction to that business; but if, by pure happenstance, they are either unemployed or they are employed by an employer who cannot offer them or does not offer them health insurance coverage, we are going to punish them and we are going to say they ought to go out and buy insurance but, if they do, we are going to charge them 30 to 50 percent more because the government will not help.

Well, the Patients' Health Care Choice Act takes a giant step towards helping those people by providing a refundable tax credit for those people. It is a refundable tax credit set at a modest level, but its purpose is to put on an equal footing to create equity between those Americans who get their health insurance from their employer and those Americans not lucky enough to do that.

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What would this tax credit mean and who would be eligible for it? Any American who does not get health insurance coverage from their employer would be eligible for the tax credit. The tax credit would be set, is set, at an amount roughly equal to the tax benefit that employers now get, the tax subsidy that those who are employed now get for their coverage.

All one would have to do to qualify for the tax credit would be to go out and buy at least a catastrophic policy. You would then apply to the government, you would certify that you have bought the policy and you would immediately get the tax credit.

Is the tax credit difficult to administer? It is not. It works through the withholding system, so that you could withhold from your wages, or you would get a benefit in a withholding of your wages to allow you to pay for your health insurance as you go and let you buy that health care as you move forward. We honestly believe that is a giant step forward for Americans.

I do not know how I am doing on time, but let me just finish with the last portion of the bill because I think it is critically important. The third piece of the bill is to institute some major improvements to both the group insurance market and the individual insurance market by instituting health marts, association health plans, and a new concept called individual membership associations.

Health marts are organizations that are set up, and association health plans are similar to those, to create new pooling mechanisms so that companies could go together and create pooling mechanisms to offer their employees greater choice. Individual membership associations are a new concept in the law, and they do essentially the same thing, only they move away from relying solely on employer-based health insurance.

What they say is that new organizations, like for example the American Automobile Association, or any other association, the Daughters of the American Revolution, in my home State of Arizona the Arizona State University Alumni Association or the University of Arizona Alumni Association, could sponsor a health care plan, pool together a large number of Americans and have a group health care plan called an individual membership association. Those health care plans would provide new pooling mechanisms and help bring down the cost of insurance.

The last aspect of this bill that I think is critically important goes to the issue of choice, is that as I mentioned at the beginning, many, many Americans are trapped in one health care plan. Their employer offers them only one plan and that is the plan they get to pick from. Sadly, that does not give people the kind of options they want.

The final piece of this bill, to encourage the creation of a market and to give people choice, is a provision in the bill which says that at the employer's decision, employees could be allowed to opt out of their company's health care plan.

Let us say right now you are an employee of a company and you are being offered a health care plan. Let us say hypothetically after this legislation goes into effect, you say that you would rather go shop in the private market, you would rather go look and see if you wanted to join a health mart or see if you wanted to go to an association health plan or see if you wanted to join one of the insurance plans offered by an individual membership association.

What you would do is you would go to your employer and you would say, ''I would like to consider opting out of my employer-sponsored plan.'' The employer would then calculate his or her actual cost of insuring you. In reality we know that younger people cost a lot less to insure than older people. So an employer might do a calculation. To insure a single young woman 21 years old might be as little as $850 a year. By contrast, to insure her counterpart, a 58-year-old secretary, might be two or three or four or five times that amount of money.

The employer would make this calculation based on an actuarial basis, looking at the employee's age, sex, and geographical location, and come up with a figure. That figure for a young employee might be $800; for an older employee it might be $4,000. They would then say to the employee, ''This is the amount of money you have to shop.''

If the employee then went out and shopped and found a health care plan which better suited his or her needs or his or her family's needs, that amount of money could be spent by that employee to purchase that amount of insurance. Now, we do require that the money must be spent to purchase insurance. However, if you are lucky enough to go out and buy, for example, a catastrophic policy and have some savings, the legislation allows you to roll that savings into a medical savings account or a medical IRA for future health care needs.

What we will have done by achieving this is we will have truly made health care personal and portable for those Americans who choose to opt out of their employer's plan. We, the cosponsors of this legislation, the Patients' Health Care Choice Act, H.R. 1687, believe that giving Americans choice will create the right kind of market incentives that will improve quality and bring down cost, and will do so in a fashion that will benefit the entire system.

We also believe it will be tremendously beneficial to small employers with a relatively small number of employees who do not want to be in the business of procuring health insurance for their employees. They would have the option of allowing their employees to opt out and creating this new system.

We have dealt with the problem which will be raised, the issue of adverse selection, by allowing the employer to make this actuarial calculation, so that people will not have a motivation to opt out of their employer's system for any reason other than they would like to have a choice. We believe fundamentally that choice and market incentives will improve health care.

We would end the problem that plagues our current system of overconsumption. Right now, the current system, because your employer pays for the plan and you consume it, has created a great incentive for overconsumption. The average employee, understanding that somebody else or believing that somebody else, their employer, has already paid for the benefits, they tend to overutilize the system.

I recently had a conversation with a leader in the Senate who indicated to

me that he had recently had a conversation with a family member who had a cold. The family member said, ''I'm going to go see the doctor tomorrow about this cold.'' This leader said, ''Well, jeeze, why are you going to go see the doctor about the cold?'' The individual said, ''Well, I already paid for it, and it's free.''

Of course that is not true. They did not already pay for that particular visit, and of course no visit to a doctor is free. But that is the mind set we have gotten into in America, where we have made people not individually responsible for purchasing their own health care acting in an irresponsible fashion.

I believe this legislation takes us in the right direction. I am extremely pleased that as we introduced it today, the House majority leader, the gentleman from Texas (Mr. ARMEY), was an original cosponsor of the bill and had some very nice things to say about this legislation. He said, ''I am proud to be an original cosponsor of the Patients' Health Care Choice Act,'' and he complimented the tax credit provision of it which will deal with the problem of uninsured Americans by giving them a tax credit to go out and buy health care coverage.

I am also extremely pleased that the American Medical Association, in a letter sent to me on April 29 of this year after having reviewed our draft legislation, specifically said, ''Your proposed bill will make a significant step in the right direction.'' I think that is because the bill does many of the things that the American Medical Association says need to be done.

We need to make health care personal, we need to make it portable, we need to change the system where one person, employers purchase health care, but others, individual employees, consume that health care. We can restore the marketplace here, we can do things that will benefit people in a very positive fashion, and we can do that through this legislation.

I am extremely excited about it. I am thrilled to have the encouragement of the AMA and of many leaders here in the Congress. I look forward to working on this legislation, the Patients' Health Care Choice Act of 1999, H.R. 1687, I am thrilled that we can move this kind of legislation forward to give Americans a long-term solution to the health care problem.

Mr. CUNNINGHAM. If the gentleman would answer one question.

Mr. SHADEGG. Surely.

Mr. CUNNINGHAM. I do not feel that our colleagues on the other side of the aisle, the answer in their Patients' Bill of Rights was to have unlimited lawsuits, which in my opinion would drive up the cost of health care and destroy our HMOs, versus what you are planning to do is to make changes, to make sure that people have access and adequate care. Is that correct?

Mr. SHADEGG. That is exactly right. The whole theory behind the Patients' Bill of Rights is between a combination of complex government regulations, and going at the issue of ERISA reform by allowing lawsuits, we can solve the problem. That is not going to solve the problem.

Our legislation says, let us create a marketplace. If people want to buy a plan where the plan is less expensive because they have given up their right to sue their plan, let them do that. On the other hand, if people want to pay a little bit more for a plan and recognize that in paying more, they are getting the right to sue their plan, that seems to me to give them an option. In addition to which I think this Congress is going to move forward on thoughtful legislation for HMO reform which will not open the door to unlimited lawsuits. I agree with the gentleman, the last thing we want to do is create a litigation frenzy.

Mr. CUNNINGHAM. I thank the gentleman for his leadership on the health care issues. I am on the Labor-HHS appropriations committee. I think it is absolutely exciting seeing the revolutionary research that is being done all the way from cancer to Alzheimer's to Parkinson's, diabetes. Many of us want to double that research budget over the next 5 years. We are going to have trouble doing that by some of the things that I am going to talk about here today. But I thank the gentleman for his leadership.

Mr. Speaker, I am RANDY ''DUKE'' CUNNINGHAM. I represent the 51st Congressional District in north county, San Diego. I come here tonight, as someone once said, with a very heavy heart.

I would say, Mr. Speaker, unlike many of my colleagues in this body and the other body, I spent the majority of my adult life in the military. I come with a lot of experience. I have flown in three fighter squadrons. I was both a student and an instructor at the Navy fighter weapons school, which most people call Top Gun, where we devised the tactics and invasions of countries of our potential enemies. I served on Seven Fleet Staff, where we planned and my preliminary job was planning the invasion and the defense of Southeast Asia countries. I flew 300 combat missions in Vietnam. I was shot down on the 10th of May, 1972, and I was very fortunate, unlike my colleague SAM JOHNSON in this body, was not taken prisoner of war but had a helicopter rescue me before the enemy got to me. I was commanding officer of an adversary squadron that flew Russian and Chinese tactics, forces against our fighters and allied fighters. And I am a student of history, not only of the capabilities but the planning, the strengths and weaknesses in the deployment of air, land and sea forces. That was my job in the military.

I come tonight first of all to speak on Kosovo. Many people will tell you about the problems. They will tell you about the travesties that are taking place, on both sides in my opinion, but they will not give you any solutions.

Mr. Speaker, what I would like to do tonight is first give in my opinion what some of those solutions are instead of committing ground troops or continuing the air war, because as I give the solutions, Mr. Speaker, I think my colleagues will see that the causes and the problems come in fold. I would like to start first of all by starting at what I consider the beginning of the end.

The first was Rambouillet. Rambouillet was an agreement. I would ask you, Mr. Speaker, would you take this agreement in hand? First of all, if you were going to allow a foreign power to occupy what you considered your country. Secondly, that that foreign power would hold that country, yours, in its hand for 3 years and then turn it over to a country like Albania that since 1880 has not only tried to take Kosovo in expansionism but also Macedonia, Montenegro and even parts of Greece. That is why the Greeks are so petrified.

The ad hoc air campaign is no strategy. It is a disaster in my opinion. The strategy of bombing until they capitulate is poor foreign policy and is not a strategy. For us that have fought in wars, unlike many of my colleagues in this body, it is easy to kill but it is very, very difficult to work to live.

What would you do, then, Mr. Congressman, if you had the power? First of all, halt the bombing. Jesse Jackson, who I disagree with most of the time, has shown more leadership than the President or many of the leaders in this body and the other body in my opinion. Jesse Jackson has said that a diplomacy with no diplomacy is no diplomacy; that bombing and forcing an enemy to capitulate with no other dialogue is wrong. I agree.

First of all, Russian military, 70 percent of the Russian military, according to our CIA. I would say, Mr. Speaker, nothing I am going to say here tonight is secondhand. It is firsthand, face to face, either with our intelligence agencies, our military or sources directly related to Kosovo.

□ 2030

But 70 percent of the Russian military support the overthrow of the Yeltsin government. These are the hard-line Communists, the hard-line Communists that want to see Yeltsin leave and communism returned to the former Soviet Union. These are the same Communists that strongly support Milosevic, and it is part of the problem.

So how do you resolve that? Let us solve Russia's problem, and the United States and Kosovo and the Albanians at the same time.

The Serbians, the Yugoslavians have said that they would allow Russian troops to act as peacekeepers because they trust them. The Greeks, the Scandinavians, the Italians and maybe even the Ukrainians, but let us keep out the United States, Britain and Germany, who is Yugoslavia's bitter enemy since Hitler's days. They do not trust them,

and they are not about to let them on what they consider their homeland.

Kosovo, as per Rambouillet, you have got to start over. The President had a total disregard for the gut feeling of what Kosovo means to the Yugoslavian people and to the Albanians as well. It was a no-win situation, and let us start over. You may have a vote on Kosovo, but it will have to remain, if you want peace in that part of the world, it will have to remain part of the greater Serbia.

You can have a cantonization program, much like they have in the Scandinavian countries to where they have an area for the French, where they have French speakers in French schools, and for the Germans, and for the Swiss, and on and on. That is accepted by the Orthodox Catholic Church of both Greece and greater Serbia and over 200,000 Serbian Americans.

Milosevic, once there is stability with the peacekeeping troops that he trusts and that the Albanians trust, then Milosevic has got to withdraw his troops and his armor prior to Rambouillet. It does not mean they have to give up full power or autonomy, but they have got to remove the threat to the Albanians and to themselves in the long run.

The KLA who is supported, and this is not secondhand, not just in the newspapers, but looking George Tenet, head of the CIA, eye to eye, face to face, and George Tenet told me. He says:

> Duke, the KLA is supported by Osama Bin Laden, the terrorist that blew up our embassies. Izetbegovic, a Muslim leader in Sarajevo, has over 12,000 Mujahideen and Hamas that surround him, Mr. Speaker, 12,000. They have emigrated from Iran, Iraq, and Afghanistan and Syria, the fundamentalist Muslims. These are the Jihad, the real bad people in this world. They know that some day that NATO and the United States will pull out of both Bosnia and Kosovo, and they have surrounded themselves with people they think will give them the strength. Unfortunately, the strength is a threat to world peace and a threat to the United States and the free world, in my opinion.

So, the President has got to look the President of Albania in the eye and say: We want every single one of those Mideast Mujahideen and Hamas out of the country within a short time. He has got to look Izetbegovic in the eye and say: I want every single one of the Mujahideen and Hamas and other fundamentalist terrorists out of Bosnia, out of Kosovo and out of Europe. Besides that, the President has got to look the President of Albania in the eye and say: You have got to stop your expansionism toward Kosovo, toward Macedonia, toward Montenegro and toward Greece.

When there is stability and not before there is stability can you even start considering bringing back in the refugees. There will have to be some kind of outside source to determine which refugees should come back to Kosovo.

One of the problems the Serbs created themselves is tearing up the papers of the Albanians. Why? Because over 60 percent of the Albanians in Kosovo are there illegally. They have crossed the border, they are not citizens, and to separate now the citizens from the noncitizens, I think the Serbs have made it even more difficult. But yet that has got to be accomplished, in my opinion; and it is going to have to be done thoughtfully.

In the meantime, we are going to have to take a look at the millions of people, in my opinion, that the United States, NATO and Milosevic himself have caused through forced evacuation, that those people starving, they are hungry. If you look into the eyes of the children, they do not have the slightest clue of what is going on.

These are not the Albanians that I am talking about, the terrorists. These are people like you and me with families that just want to live and survive.

But I would also say there is the Yugoslavians the same way, that to identify an entire race as evil is wrong. We have gone down that road in history too often, and each time it has been disastrous.

So we have to aid the citizens on both sides at least with minimal conditions because what are you going to do? You going to bring them back into Kosovo in tents, with no food, and there has got to be a general plan and a central clearinghouse.

The United States should provide leadership, technology and intelligence in its part of the cost. Europe countries, Russia, Greece, Ukraine, Italy, France, Britain and the others, need to pick up the slack and to put the pieces of the puzzle back together; and NATO needs to pay its fair share. The United States is paying for 90 percent of this war. That is wrong. There are 18 other nations in this war, and they should have burden sharing equal to ours.

One of the other problems, Mr. Speaker, is that the President talks about wanting to save Social Security and Medicare and education. Every penny of that surplus that he is talking about comes out of Kosovo. We have already spent $16 billion in Bosnia. We still spend $25 million a year in Haiti building roads and bridges. That all comes out of the military budget, and that has got to change. We are in over 150 countries. Our military is so spread out and so distraught that we are only saving about 23 percent of our enlisted and 30 percent of our pilots. That means your experience, not only your troops working on your maintenance, but your aviators and your personnel are without leadership in many cases and/or expenses.

We have been in Korea over 50 years. Bosnia, we were supposed to be there 1 year, and it is $16 billion. We are still in Saudi Arabia. It has got to stop, and this all needs to be part of the solution as well as strength through peace.

Mr. Speaker, let me go back and tell you in my opinion what some of the causes, and there is a saying:

If you smell the roses, look for the coffins.

In Vietnam it is: Where have all the flowers gone?

As I mentioned, Rambouillet was a disaster, a shortsighted attempt at foreign policy, and I quote Henry Kissinger and Larry Eagleburger:

Was an offer that the President either knew or could not accept, that the Yugoslavians could not accept to give up Kosovo even if Milosevic had said I will give up Kosovo. The Serbian people with their nationalism have been fighting in Kosovo since 1385, that one in three Serbs during World War II gave up their lives against 700,000 Germans on April 5, 1941. The Germans bombed Belgrade and along with a half a million Croatians and a quarter million Muslims have fought with Nazi Germany. One in three Serbs died defending Kosovo, and they either kicked out or killed every single one of the Muslims, of the Croatians and the Nazis, and in doing that they paid for that country in their blood in their opinion. And I think before you ever have a solution, before you ever have a foreign policy, you have got to look in the eyes of all the sides affected, not just one side, or that diplomacy will fail. It will be a no-win situation.

The President basically tried to put a horse's head in bed with the Serbian people, Milosevic. Milosevic sent him the rest of the horse back because the President had not a clue on the gut feeling of the Yugoslavian people as far as Kosovo.

This is the home of the Orthodox Catholic Church. It is their Jerusalem, and they will not give it up. So Kosovo has got to go off the table and remain part of greater Serbia, but yet it can be cantonized.

The military, the Pentagon, told the President. I can name the guys that I flew with in these wars that are now in the Pentagon. They looked me eye to eye and said:

Duke, we told the President not to get into this air war, not to do it, because, A, the goals could not be achieved with air strikes alone, and the unwillingness to conduct ground troops and to insert them into the war, that we would make things worse, that we would kill a lot of innocent people, we would stretch our military beyond belief, we would make ourselves vulnerable in North Korea and Iraq and other places in the world and that we would accelerate an increased forced evacuation of refugees. And that is exactly, Mr. Speaker, what we have done.

When you ask the people where were you when the Serbs came: We were in our homes; they told us to get out. They were not evacuating, they were not refugees, but our bombing forced acceleration of that, and there are millions of people that in my opinion this President and Milosevic are responsible for that would not be there today, and this is a sad thing to say about your own country, Mr. Speaker, and the lack of planning and understanding and leadership.

You think in the planning to just conduct air strikes, something I did for

20 years, that the President would have looked at the weather to commence air strikes when the weather is predicted to be overcast and bad weather, which you cannot conduct your air strikes safely for 2 weeks. Do you think they might have checked the weather?

When Chernomyrdin was on his way to the United States knowing how Russia supports the Serbs, do you think they might have notified Russia? Instead Chernomyrdin had to turn around his airplane and go back to Russia. To me, that is ludicrous. It is not something that you would plan.

And this ad hoc air circus warfare that is stepped up little by little with very little planning is not the way to win a war, and I would ask you, Mr. President, to think about what we have done.

Mr. Speaker, do you know the total number of people killed in Kosovo prior to our bombing? It is amazing. People will say 10,000, 20,000. It is 2,012. Prior to us bombing, this great massive killing, 2,012.

Tudjman, the head of the Croatians, slaughtered 10,000 Serbs in 1995 and ethnically cleansed out of Croatia 750,000 Yugoslavians. Where were we then? And on a scale 2,012, and one-third of those were Serbs killed by the KLA. Was there an apartheid? Yes. Ninety percent, not all Albanians, made up of other nations.

As my colleagues know, there was over 100,000 Serbs that left Kosovo because of the harassment by the KLA. There was fighting on both sides. And before you can have diplomacy, you have got to understand the only problem is not Milosevic. The KLA is a problem. Tudjman is a problem. Our lack of understanding of European problems is the problem.

And again what I tell you is not secondhand; it is firsthand.

□ 2045

General Clark, face-to-face, when I was in Brussels, said, DUKE, NATO only wanted to bomb one day and quit; to me, face-to-face, not in a newspaper, not from an Intel source, that NATO only wanted to bomb one day and quit.

Secretary Cohen said, well, DUKE, our biggest problem is the media. If we have the media coming down on us, we are lost. In other words, the spin has got to come. Because I asked, why did they continue? Because the President got ahold of Blair from Britain, and the German Chancellor, and pushed the bombs to what we are doing now, and that is why I think it really is a Clinton-Gore war.

For us to disregard the Pentagon, to not have the knowledge of what Kosovo meant, to push NATO into this, and now they are into it, and then to say NATO speaks with one voice after last week in their meeting, if they are speaking with one voice, why is Hungary still shipping oil to Serbia, a NATO country? Why is France still shipping oil? Why is France trading nuclear weapons to Iran? These are part of NATO nations and they are speaking with one voice?

I think that is wrong. The policy to bomb into submission is a lack of policy.

Again, I would like to thank Jesse Jackson, who I disagree with most of the time, and his son serves here on the other side of the aisle, but I want to say Mr. Jackson gave more leadership and more thought toward this problem than the President of the United States, and I want to personally thank him for that.

It is easy to fight, we have the power, but it is difficult to work and live, and I quote Jesse Jackson: There is fear on both sides. The understanding, the diplomacy.

When I was a youngster, I worked in a hay field and I sat on a bench and I had a Persian cat jump up in my lap, and I was petting the cat. Just a few minutes later a Siamese cat came on the other side. Of course, the two cats tensed up but I was going to make them friends. I was smarter than those cats, and I knew their attitudes could be changed.

I moved those cats closer and closer and they would tighten, and I would pet them. They would tighten and I would pet them, and I would move them closer. I sat there out of the hay fields with no shirt on and those cats hit each other and I was a shredded mess.

If one tries to bring refugees into a country where they want to kill each other and put the United States in the middle, it is going to be a disaster.

The Serbs fear the KLA. The Albanian people fear the Serbs. The Serbs feel that the country is theirs. The Albanians feel that portions of the country is theirs. Again, before we can have any diplomacy, the President has to understand, when the liberal level attempts to use a vehicle like the military that they neither understand nor have supported in the past, they are bound to fail.

They have a strange dichotomy, Mr. Speaker. They have a vehicle which they loath at times, and at the same time they use this vehicle to serve foreign policy. They are inept, and I would say that the Strobe Talbotts, the Jane Fondas, the Tom Haydens, the Ramsey Clarks are bound to fail because they do not have the gut inclinations on what the use of the military is, and especially when they deny what their warfighters say and go on.

Let us look at NATO today. It is not Ronald Reagan and Margaret Thatcher. Let us look at the makeup. France is a socialist communist coalition. Italy, a former, and I say ''former'', communist; they say he is a quick study for democracy. Germany, a Greenpeace socialist. Tony Blair, a liberal left labor party. And then the President with his military record.

I contend that this is not leadership in foreign policy with the use of that vehicle that will be successful, especially if they turn their heads away from their advisors, the people that know what they are doing in conflict. They are out of their element and disaster is inevitable.

I asked General Clark, face-to-face, I said, how many sorties, how many flights, is the United States making? We have got 19 nations in this. With his eyes he looked at me and he said, DUKE, to the sortie we are flying 75 percent of the air strikes. That does not include the B–2s, the C–17 logistics, the tanking and the other missions. That puts us up over 86 percent. Ninety percent of the weapons dropped are from the United States. There are 18 other nations, Mr. Speaker, in this.

Our supplemental coming up tomorrow should be a check from NATO. Billions of dollars for a European war and we are paying for it, and we are taking the money out of the things that we are trying to support like medical research and Social Security and Medicare and education to fight this war.

There are many of us who think that we should not be there, and that there is a better way. Eighteen other nations. I think that is wrong.

I talked to Stavros Dimas, he is number two in the Greek parliament on the minority side. They are absolutely petrified of Albanian expansionism because, like I said, in the early 1800s they wanted even parts of Greece. History, in 1389 when Kosovo was one, and I mentioned that on April 5, 1941, 700,000 German troops invaded Kosovo and Belgrade was bombed. The Chetniks, who were mostly the guerilla fighters, the partisans and the loyalists, were led by a general named Miholevic, not Milosevic but Miholevic, and they killed or kicked out every single German out of Kosovo.

The CIA, George Tenet, again, told me that the KLA is supported by Osama bin Laden, the Mujahideen and Hamas from Middle East countries. And these are the people that some of my colleagues want to arm?

They say, oh, no, no, no, that is not true. That is not true. There cannot be any KLA sympathizers to Mujahideen and Hamas.

Well, I would tell my friends that they are wrong and it is backed up eyeball-to-eyeball with George Tenet.

Mr. Speaker, I have a tape here. I cannot play it on the floor because it is illegal to use electronics on the floor of the House, and I will not play it, but what is in this tape is some 36 surface-to-air missiles fired at a strike in January of 1972. My flight had over 36 SAMS fired at it. I lost two good friends this day. I lost two other good friends and pilots in a strike up by Quang Tri City.

Part of the supplemental that we are going to fight for tomorrow has these stand-off weapons, the stand-off weapons that have kept many of our pilots safe but yet because of Iraq, because of other places the President has gotten us into, four times in Iraq, the Sudan, Somalia, Haiti, that we are running out of these stand-off weapons like the

Tomahawk. We call it a TLAM. The conventional air launch cruise missile we call a CALCM, these run at about $2 million apiece. The Tomahawk runs at about a million. The Joint STARS, which is a joint surveillance large aircraft that gives us the intelligence and the information we need on the ground, we are short of those. We have lost two F–16s. We have lost two Apaches. We lost an F–117 fighter.

I would say, Mr. Speaker, we are going to lose more aircraft, and if we commit ground forces into Kosovo, even if we force Milosevic to capitulate, we then buy Kosovo. If you look at the history, General Shelton said this is absolutely the most difficult land and area environment to attack in the world. It is one of the easiest to defend.

A single rocket launcher can knock out a tank and these narrow roads can tie up a whole column of tanks. Guerilla warfare, which they are used to fighting, they have been fighting there for 800 years. Yes, I think we can overcome the Serbian forces but if we do, A, at what cost? B, we have just bought Kosovo. And then what? I think it is a disaster.

So, Mr. Speaker, I think with the history of the area, that with the lack of understanding by the White House, the lack of diplomacy with Russia and the threat of Russia becoming involved, it is very evident that we are in a very dangerous situation.

I have here, Mr. Speaker, an article that I would like to submit. It says, Head of U.S. Air Command Warns of Strained Forces. They warned of strained forces long before Kosovo ever took place.

We had 14 of 24 jets at Top Gun down for parts; 137 parts were missing. Eight of them were down for engines. The 414th, which is the Air Force aggressor squadron in fighter weapons school, was about the same way. Oceana, a training base, had 4 of 35 jets up, only 4, which trained our new pilots, because they are sending the parts forward.

I do not guess Iraq is important anymore because the no-fly zone, we are letting that skid. Or the threat to North Korea is not there.

There is another article here that I would like to submit, Mr. Speaker, that says if we were forced to go into North Korea or these other areas, that we could no longer fight a two-conflict battle, which is what our national security policy has been.

This is a very difficult time for my colleagues on both sides of the aisle. We will find a mix of people on both sides of this issue from both sides of the aisle. I like to bring to it an understanding, not only of the diplomacy that is needed but the understanding that is needed before we can ever have a peace.

The President's position of just bomb until Milosevic quits will not work, in my opinion. Even if there is a short halt in the peace, it will escalate again, and I think that is wrong.

I look at other problems not only in Kosovo but around the world with foreign policy.

I would ask, Mr. Speaker, on Sunday, read the New York Times about the lab secrets that were stolen for China in our nuclear labs. It was found out. The gentleman pleaded guilty. He actually took secrets on our missile technology and submarine technology to China. He gave it to the PLA, the communist People's Liberation army, showed it to them and then burned it and came back. He has confessed. But is he up for treason? No. The judge would not handle it. He got a 1-year sentence and he is out this year from a prison in California. Treason?

Colonel Liu, who is General Liu's daughter, the head of technology transfer for the People's Liberation Army in China, Colonel Liu met with John Huang. John Huang introduced Colonel Liu to the President, gave the President, the Clinton and Gore campaign, $300,000.

Loral gave the Clinton-Gore campaign a million dollars. Hughes gave the Clinton-Gore campaign a million dollars. The following week the President waived, against the Department of Defense, the Department of Energy, the National Security Agency, waived and let the Chinese have, and what did he let them have, Mr. Speaker? Secondary and tertiary missile boost capability, which we were briefed by the CIA that Korea was 10 years away from striking the United States. Guess what? They magically have that now after we gave it to China.

The laboratories, what was stolen? The President was briefed in 1996 that we had a spy at our laboratories, at our nuclear labs, and they did nothing. What did they steal? They stole the W–88 warhead, which is a small nuclear warhead. And what did the President waive, against the Department of Defense and national security advisors?

□ 2100

The MIRVing capability, which now allows China to put eight nuclear warheads on a single missile. If that is not bad enough, the targeting devices, before, yes, they could hit the United States, or if they were targeting Chicago, they may hit Peoria. But now they could hit the fourth window on the third apartment on 32nd Street, with that accuracy.

When we have that kind of foreign policy mixed with Kosovo, mixed with the threat to this country with Iraq and Iran, then I think this country needs to take a sidestep and readjust not only its foreign policy but its trade policy as well.

Mr. Speaker, it brings me a lot of sadness to come to the well tonight to speak in this manner. But this is not an easy situation for any of us. Let us get out of Kosovo. There is a much better way, a peaceful way, to achieve this and to work.

I do not think there will be peace in the Middle East in my lifetime, there may not be peace in Northern Ireland in my lifetime, but we have to keep working in that direction. But it does not mean that we have to put troops in Northern Ireland or the Middle East, or keep them in Korea or in Saudi Arabia, because we have a lot of things in our country that we need to do like social security, like Medicare, like education, like medical research.

Mr. Speaker, I include for the RECORD the following articles:

[From the Washington Post, Apr. 27, 1999]

ANALYSIS: WARNINGS OF AIR WAR DRAWBACKS

(By Bradley Graham)

With NATO leaders still wedded to a strategy of pounding Yugoslavia only from the air, a top alliance commander warned yesterday that the relentless bombing could end up setting the country's economy back several decades and still not produce the desired results.

General Klaus Naumann, outgoing head of NATO's military committee, told reporters that alliance leaders came out of their summit conference here this weekend determined to pursue and intensify the month-old bombing campaign. U.S. military commanders differ, however, over when to start using two dozen AH–64A Apache attack helicopters now on station in Albania, he said. Some officers fear the low-level aircraft are still to vulnerable to Yugoslav anti-aircraft missiles.

With consideration of ground forces put off for the time being, Naumann said he and Gen. Wesley K. Clark, the alliance's top military officer, still look to the air campaign to force President Slobodan Milosevic to withdraw Yugoslav forces from the embattled Serbian province of Kosovo, largely because of a sense that no responsible head of government would allow his country to be reduced to rubble.

''Of course, we may have one flaw in our thinking,'' he added. ''Our flaw may be that we think he may have at least a little bit of responsibility for his country and may act accordingly, since otherwise he may end up being the ruler of rubble.''

Naumann indicated he favors using the Apache gunships against Yugoslav artillery emplacements along Kosovo's border with Albania, saying the Apaches stand a better chance of finding and destroying these targets with less harm to ethnic Albanian refugees in the area that higher-flying NATO warplanes now in use. But yesterday's crash of an Apache in Albania, during what defense officials described as a training accident, only heightened concerns among some Pentagon officers about putting the Apaches into action in a risky environment.

[From the Military Readiness Review, April, 1999]

KOSOVO AND THE NATIONAL MILITARY STRATEGY: THE COST OF DOING MORE WITH LESS

(Written and produced by Floyd Spence Chairman, House Armed Services Committee)

''The [U.S. military] must be able to defeat adversaries in two distant, overlapping major theater wars from a posture of global engagement and in the face of WMD and other asymmetric threats. It must respond across the full spectrum of crises, from major combat to humanitarian assistance operations. It must be ready to conduct and sustain multiple, concurrent smaller-scale contingency operations.''—The National Military Strategy of the United States.

The National Military Strategy of the United States requires that the U.S. armed

services be prepared to fight and win two major theater wars at the same time they conduct multiple, concurrent smaller-scare contingency operations and maintain a posture of global engagement around the world. The sustained reduction in military force structure and defense budgets since the end of the Cold War has seriously called into question whether the U.S. military is able to execute the national military strategy. Since 1989, the Army and the Air Force have been reduced by 45 percent, the Navy by 36 percent and the Marine Corps by 12 percent while operational commitments around the world have increased by 300 percent.

Strained by the already high pace of day to day operations, as well as on-going contingency operations in Iraq and Bosnia, the U.S. military now faces a rapidly escalating commitment in Kosovo. Indeed, the build-up of aircraft for Operation Allied Force in the Balkans will soon approach the size of the air fleet required in a major theater war—in essence, Kosovo has become a third major theater of war. The U.S. military is already feeling the strain in critical areas:

Aircraft Carriers. The aircraft carrier USS Theodore Roosevelt, originally scheduled for deployment to the Gulf region, has been assigned to the Balkans and arrived on station April 5. The gap in the Persian Gulf has been filled by the USS Kitty Hawk, normally stationed in the Far East. She arrived in the Gulf on April 1, and will be relieved by the USS Constellation in June. With no carrier deployed in the Far East in the foreseeable future, the Air Force has been compelled to put its fighter aircraft in the region on higher alert in an effort to partially compensate for the loss of the carrier-based Navy aircraft. The Navy has 12 aircraft carriers in the fleet to cover commitments world-wide. With five currently in shipyards and the rest either recently returned from deployment or just beginning pre-deployment training, Secretary of the Navy Richard Danzig recently testified that the service's carrier fleet is ''being stretched.''

Conventional Fighter and Attack Aircraft. Including the aircraft aboard the USS Theodore Roosevelt, and the 82 additional aircraft just approved for deployment, approximately 500 total U.S. aircraft are currently involved in Operation Allied Force. This includes over 200 fighters and attack aircraft. General Wesley Clark, NATO's Supreme Allied Commander, recently requested some 300 additional U.S. aircraft in order to intensify the air campaign. If approved, it will bring the total number of U.S. aircraft in the region to 800. In addition, the European Command recently removed 10 F–15 fighters and 3 EA–6B Prowler electronic warfare aircraft from Incirlik Air Base in Turkey and deployed them in Aviano Air Base in Italy. Press reports indicate that in an April 1, 1999, meeting, the Joint Chiefs of Staff expressed concern that General Clark's growing requirements for aircraft and other equipment will mean higher risks in other hot spots around the world.

F–117 Fighters. The Air Force has deployed 24 F–117 aircraft to the Balkans to support Operation Allied Force. Because of their stealth capabilities, F–117s are in high demand for the type of operations currently being conducted over Yugoslavia. However, the United States has a total of only 59 F–117s to cover all requirements world-wide.

Joint Surveillance Target Attack Radar System (Joint STARS). JSTARS is a modified Boeing 707 aircraft equipped with a long-range air-to-ground surveillance system designed to locate, classify and track ground targets in all weather conditions. Currently, the United States has just five JSTARS in the inventory. Two are supporting operations in the Balkans, placing a strain on the remaining three aircraft that must respond to all other commitments around the world.

EA–6B Prowler. The EA–6B is used to collect tactical electronic information on enemy forces and to jam enemy radar systems. It is also equipped with the HARM anti-radiation missile that is used to destroy enemy radar systems. The EA–6B is found in Navy, Marine Corps and joint Navy/Air Force squadrons. With a total of only 123 in the inventory, nearly 20 are currently deployed to support operations in Yugoslavia. Combined with the on-going deployments in support of Operations Northern and Southern Watch in Iraq and other commitments around the world, the EA–6B fleet is considered by DoD to be ''fully committed'' at the present time.

KC–135/KC–10 Aerial Refuelers. Currently the Air Force has over 50 KC–135 aircraft and approximately 15 KC–10 aircraft supporting operations in the Balkans. The refueler fleet is heavily committed on a day-to-day basis during normal peacetime operations. As a result, the active Air Force relies heavily on the Guard and Reserve, who fly 56% of the refueling missions for the Air Force. Normally, the Air Force meets its world-wide commitments using volunteers from the Guard and Reserve. However, as the operation intensifies, Air Force will be unable to meet commitments with volunteers alone. The pending Presidential Guard and Reserve call-up is likely to contain a high percentage of KC–135/KC–10 crews. On April 26, 1999, the Secretary of Defense announced that an additional 30 KC–135/KC–10 aircraft and crews, both active and Reserve, will deploy to the region.

Conventional Air Launched Cruise Missiles (CALCM). Prior to Operation Desert Fox against Iraq in December 1998, the Air Force had approximately 250 CALCMs, the non-nuclear version of the Air Launched Cruise Missile (ALCM) that are launched from U.S. bombers. The Air Force fired 90 against Iraq during Operation Desert Fox. In Operation Allied Force, 78 have been fired during the first three weeks of operations leaving approximately 80 in the inventory. The Congress recently approved an emergency reprogramming of $51.5 million in FY 1999 funding to convert an additional 92 ALCMs to CALCMs. In the White House's recent emergency supplemental budget request, CALCMs were designated as the Air Force's number one shortfall.

Tomahawk Land Attack Missile (TLAM). The TLAM has become the Administration's weapon of choice to strike heavily defended or high value targets while posing no risk to American pilots. During Operation Desert Fox strikes against Iraq, 330 TLAMs were fired from Navy ships. To date, approximately 178 additional TLAMs have been fired against targets in Yugoslavia. The type of TLAM that is being depleted most rapidly, the Block IIIC model, is the most advanced and therefore the most in demand by military commanders. Further, the U.S. shut down the last remaining TLAM production line in fiscal year 1998 and production of the follow-on missile system is not planned until fiscal year 2003. The White House's emergency supplemental appropriations bill identified TLAM shortfalls as an urgent priority, and included funds to convert older cruise missiles to the more advanced Block IIIC model.

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HEAD OF U.S. AIR COMMAND WARNS OF STRAINED FORCES—GENERAL SAYS WAR STRETCHES U.S. FORCES

(By Bradley Graham)

The general who oversees U.S. combat aircraft said yesterday the Air Force has been sorely strained by the Kosovo conflict and would be hard-pressed to handle a second war in the Middle East or Korea.

Gen. Richard Hawley, who heads the Air Combat Command, told reporters that five weeks of bombing Yugoslavia have left U.S. munition stocks critically short, not just of air-launched cruise missiles as previously reported, but also of another precision weapon, the Joint Direct Attack Munition (JDAM) dropped by B–2 bombers. So low is the inventory of the new satellite-guided weapons, Hawley said, that as the bombing campaign accelerates, the Air Force risks exhausting its prewar supply of more than 900 JDAMs before the next scheduled delivery in May.

''It's going to be really touch-and-go as to whether we'll go Winchester on JDAMs,'' the four-star general said, using a pilot's term for running out of bullets.

On a day the Pentagon announced deployment of an additional 10 giant B–52 bombers to NATO's air battle, Hawley said the continuing buildup of U.S. aircraft means more air crew shortages in the United States. And because the Air Force tends to send its most experienced crews, Hawley said, the experience level of units left behind also is falling. With NATO's latest request for another 300 U.S. aircraft—on top of 600 already committed—Hawley said the readiness rating of the remaining fleet will drop quickly and significantly.

His grim assessment underscored questions about the U.S. military's ability to manage a conflict such as the assault on Yugoslavia after reducing and reshaping forces since the Cold War. U.S. military strategy no longer calls for battling another superpower, but it does require the Pentagon to be prepared to flight two major regional wars at about the same time.

As the number of U.S. planes involved in the conflict over Kosovo approaches the level of a major regional war, the operation is exposing weaknesses in the availability and structure of Air Force as well as Army units, engendering fresh doubts about the military's overall preparedness for the world it now confronts. If another military crisis were to erupt in the Middle East or Asia, Hawley said reinforcements are still available, but he added: ''I'd be hard-pressed to give them everything that they would probably ask for. There would be some compromises made.''

The Army's ability to respond nimbly to foreign hot spots also has been put in question by the month it has taken to deploy two dozen AH–64A Apache helicopters to Albania. While Army officials insist the helicopter task force moved faster than any other country could have managed, the experience appeared to highlight a gap between the Pentagon's talk about becoming a more expeditionary force and the reality of deploying soldiers.

Massing forces for a ground invasion of Yugoslavia, officials said, would require two or three months. Because U.S. military planners never figured on fighting a ground war in Europe following the Soviet Union's demise, little Army heavy equipment is prepositioned near the Balkans. Nor are there Army units that would seem especially designed for the job of getting to the Balkans quickly with enough firepower and armor to attack dug-in Yugoslav forces over mountainous terrain.

''What we need is something between our light and heavy forces, that can get somewhere fast but with more punch,'' a senior Army official said.

Yugoslav forces have shown themselves more of a match for U.S. and allied air power than NATO commanders had anticipated. The Serb-led Yugoslav army has adopted a duck-and-hide strategy, husbanding air defense radars and squirreling away tanks,

confounding NATO's attempts to gain the freedom for low-level attacks to whittle down field units. Yugoslav units also have shown considerable resourcefulness, reconstituting damaged communication links and finding alternative routes around destroyed bridges, roads and rail links.

''They've employed a rope-a-dope strategy,'' said Barry Posen, a political science professor at the Massachusetts Institute of Technology. ''Conserve assets, hang back, take the punches and hope over time that NATO makes some kind of mistake that can be exploited.''

Hawley disputed suggestions that the assault on Yugoslavia has represented an air power failure, saying the full potential of airstrikes has been constrained by political limits on targeting.

''In our Air Force doctrine, air power works best when it is used decisively,'' the general said. ''Clearly, because of the constraints, we haven't been able to see that at this point.''

NATO's decision not to employ ground forces, he added, also has served to undercut the air campaign. He noted that combat planes such as the A–10 Warthog tank killer often rely on forward ground controllers to call in strikes.

''When you don't have that synergy, things take longer and they're harder, and that's what you're seeing in this conflict,'' the general said.

At the same time, Hawley, who is due to retire in June, insisted the course of the battle so far has not prompted any rethinking about U.S. military doctrine or tactics, nor has it caused any second thoughts about plans for the costly development of two new fighter jets, the F–22 and Joint Strike Fighter. Despite the apparent success U.S. planes have demonstrated in overcoming Yugoslavia's air defense network, Hawley said the next generation of warplanes is necessary because future adversaries would be equipped with more advanced anti-aircraft missiles and combat aircraft than the Yugoslavs.

If the air operation has highlighted any weaknesses in U.S. combat strength, Hawley said, it has been in what he termed a desperate shortage of aircraft for intelligence-gathering, radar suppression and search-and-rescue missions. While additional planes and unmanned aircraft to meet this shortfall are on order or under development, Hawley said it will take ''a long time'' to field them.

In the meantime, he argued, the United States must start reducing overseas military commitments. He suggested some foreign operations have been allowed to go on too long, noting that the U.S. military presence in Korea has lasted more than 50 years, and U.S. warplanes have remained stationed in Saudi Arabia and Turkey, flying patrols over Iraq, for more than eight years.

''I would argue we cannot continue to accumulate contingencies,'' he said. ''At some point you've got to figure out how to get out of something.''

The Air Force blames a four-fold jump in overseas operations this decade, coming after years of budget cuts and troop reductions, for contributing to an erosion of military morale, equipment and training. The Air Force has tried various fixes in recent years to stanch an exodus of pilots and other airmen in some critical specialties.

It has boosted bonuses, cut back on time-consuming training exercises and tried to limit deployment periods. It also has requested and received hundreds of millions of dollars in extra funds for spare parts.

Additionally, it announced plans last August to reorganize more than 2,000 warplanes and support aircraft into 10 ''expeditionary'' groups that would rotate responsibility for deployments to such longstanding trouble zones as Iraq and Bosnia.

But Hawley's remarks suggested that the growing scale and uncertain duration of the air operation against Yugoslavia threaten to undo whatever progress the Air Force has made in shoring up readiness. Whenever the airstrikes end, he said, the Air Force will require ''a reconstitution period'' to put many of its units back in order.

''We are going to be in desperate need, in my command, of a significant retrenchment in commitments for a significant period of time,'' he said. ''I think we have a real problem facing us three, four, five months down the road in the readiness of the stateside units.''

MEDICARE MUST NOT BE PRIVATIZED

The SPEAKER pro tempore (Mr. ISAKSON). Under the Speaker's announced policy of January 6, 1999, the gentleman from Ohio (Mr. BROWN) is recognized for 60 minutes as the designee of the minority leader.

Mr. BROWN of Ohio. Mr. Speaker, I am joined tonight by my friends, the gentleman from Florida (Mr. DEUTSCH), the gentleman from Texas (Mr. GREEN), the gentleman from New Jersey (Mr. PALLONE).

For the next hour we are going to talk about efforts that the majority party has tried to improve Medicare in this system, perhaps the single best government program of our lifetime, that has brought half the population in this country, really has provided health care for half the senior population.

In 1965 when Medicare was created, only about half of America's elderly had health insurance. Today 99-plus percent of America's elderly do.

Mr. Speaker, many in Congress have been on a campaign to scare America's seniors into believing that Medicare is going bankrupt. They say that Medicare must be improved in order to save it. Once again, Medicare privatizers are wrong. The Trustees of the Medicare Trust Fund have just reported that Medicare will remain solvent through the year 2015, up from its earlier projection just a year ago of 2008.

Republicans in Congress, the Washington, D.C. think tanks, and their media supporters who want to privatize Medicare are wringing their hands over the Trustees' latest report. They believe these new projections will lead Congress to do nothing toward reforming social security and Medicare. With the programs projected to last longer, they tell us we cannot rest on our laurels.

The real threat to Medicare, however, is not its alleged pending bankruptcy. The real threat is a proposal just rejected by the National Medicare Commission to privatize Medicare and to deliver it to the private insurance market.

Under a proposal soon to be introduced called premium support, Medicare would no longer pay directly for health care services. Instead, it would provide each senior with a voucher good for part of the premium for health care, for private health care coverage. Medicare beneficiaries could use this voucher to buy into the fee-for-service plan sponsored by the Federal Government, or could join a private plan.

To encourage consumer price sensitivity, the voucher would track to the lowest cost private plan. Ostensibly, seniors would shop for the plan that best suits their needs, paying the balance of the premium or paying extra if they want higher quality. The proposal would create a system of health coverage, but it would abandon Medicare's fundamental principle, its fundamental principle of egalitarianism.

Today the Medicare program is income-blind. All seniors have access to the same level of care. The idea that vouchers would empower seniors to choose a health plan that best suits their needs is simply a myth. The reality is that seniors will be forced to accept whatever plan they can afford.

The goal of the Medicare Commission was to ensure the program's long-term solvency. The premium support proposal will not do that. Supporters of the voucher plan say it could shave 1 percent per year from the Medicare budget over the next few decades. That is still not enough to prevent insolvency, and it is surely based on much too optimistic projections of private sector performance.

Bruce Vladeck, a former administrator of the Medicare program and the Medicare Commission, a bipartisan Commission Member, doubted the Commission plan would save the Federal Government $1. That same proposal under a legislative plan, under a legislative title, will not succeed, either.

Efforts to privatize Medicare are, of course, nothing new. Medicare beneficiaries have long been able to enroll in private managed care plans. Their experience, however, does not bode well for a full-fledged privatization effort. These managed care plans are already calling for higher government payments. They are dropping out of unprofitable markets, and they are cutting back on benefits to senior citizens.

Managed care plans obviously are profit-driven, and they simply do not tough it out when those profits are not realized. We learned this the hard way last year when 96 Medicare HMOs unceremoniously dropped 400,000 Medicare beneficiaries because the HMOs did not meet their profit objectives.

Before the Medicare program was launched in 1965, more than one-half of the Nation's seniors were uninsured. Private insurance was the only option for the elderly. But these insurers did not want senior citizens to join their plans because they knew that seniors use their coverage. The private insurance market surely has changed considerably since then, but it still avoids high-risk enrollees and, whenever possible, dodges the bill for high-cost medical services.

The problem is not necessarily malice or greed, it is the expectation that

private insurers can serve two masters, the bottom line and the common good. Logically, looking at the bottom line, our system leaves 43 million people without health insurance, 11 million of whom are children. Only Medicare can insure the elderly and disabled population because the private market had failed to do so.

If we privatize Medicare, we are telling America that not all seniors deserve the same level of health care. We are betting on a private insurance system that puts its own interests ahead of health care quality and a balanced Federal budget.

Look at efforts to privatize in other parts of government, efforts to privatize our public pension system. The mission of a private pension system is to make a profit. The mission of a public pension system, like social security, is to provide a decent amount of money, a decent standard of living, for people as they are older.

The mission of a private prison is the bottom line, to make a profit. The mission of a public prison is public safety, punishment, and rehabilitation.

The mission of a privatized national park system, as many Republicans in this body have proposed, is to make a profit in commercialization. The purpose of a public national park system is to provide green space, to provide entertainment, to provide places for Americans to go and enjoy life with their families in secluded areas in national parks.

The point is, privatization of the greatest part of our health care system, Medicare, the mission of privatization for insurance companies is the bottom line, is to make a profit. But the purpose of our public health care system, our Medicare system, is to provide a decent amount of health care so that older people can live their lives more productively, can live their lives longer, can live their lives in a more healthy sort of way.

Mr. Speaker, Republicans earlier this evening, two of my friends from Arizona, talked about choice and how the great thing about privatization of Medicare is choice. The fact is, under Medicare fee-for-service, people have choice in this system. They can choose their doctor, they can choose their hospital. Managed care privatization of Medicare is taking away that choice, and ultimately it will reduce quality.

The goal is simple: Let us keep Medicare the successful public program that it always has been.

Mr. Speaker, I yield to my friend, the gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. First of all, Mr. Speaker, I want to thank my colleague, the gentleman from Ohio (Mr. BROWN) for organizing this special order. It goes without saying that along with social security, the Medicare program is the cornerstone of the Federal government's commitment to America's seniors, and the importance of the program to the millions who are covered by it cannot be overstated. I do not think there is any question that we in Congress have to continue to search for ways to strengthen Medicare.

I just wanted to say a few words today to agree with my colleague, the gentleman from Ohio (Mr. BROWN) about the proposal put forward by the cochairs of the recently disbanded Bipartisan Commission on Medicare. The cochairs' proposal fortunately did not pass the Commission because it did not achieve the required majority in the voting process, and I am glad that it did not, because I think that the cochairs' proposal of this Commission would drastically change Medicare as we know it.

The problem is that there is really nothing we can do to stop the proponents of this proposal from introducing the bill in Congress. Here on the House side, the gentleman from California (Mr. BILL THOMAS), who was one of the principal authors of that proposal that failed in the Medicare Commission, has vowed to move forward and pass this ill-conceived scheme.

The centerpiece of this scheme is changing Medicare from a program with a guaranteed benefits package to a program without a guaranteed benefits package.

Proponents of this plan would do this by converting Medicare into what they call a premium support program. I would caution, and I know my colleague from Ohio said, that seniors should beware of this proposal. Premium support is just a fancy phrase that the plan's supporters like to use to hide the fact that they want to turn Medicare into a voucher program. It is nothing more than a voucher program.

Under this proposal, the Federal Government would pay a set amount towards the cost of a beneficiary's health care. Any expense that exceeded what the Federal Government contributes would have to be paid by the beneficiary. Seniors may still choose fee-for-service under this scheme, but their premiums will be more expensive.

I think this was designed deliberately. The goal of the proponents of this proposal is to eliminate fee-for-service as we know it and basically replace it with a managed care-dominated system.

Ironically, the voucher plan's proponents want to put seniors out of fee-for-service into managed care because they think the competition between managed care plans will drive health care costs down. But the information we have on the cost of health care in recent years indicates that the Federal Government is doing a better job of controlling health care costs than the private sector.

The figures we have, for example, for the first 6 months of fiscal year 1999 indicate that this trend is continuing. Medicare funding has actually declined by $2.6 billion, compared to the first 6 months of last year.

What I am basically putting forward is that under this voucher plan, the costs of fee-for-service would see a sharp increase. According to an independent Medicare actuary, the voucher proposal would be an 18 to 30 percent increase in the cost of the traditional fee-for-service program.

So there should not be any doubt here, the price increase would bully seniors into managed care programs, and then we have a track, essentially, for our seniors. Once seniors make the switch to managed care, they will not only lose their freedom to choose their doctor, they will also lose the guaranteed benefits package today's Medicare beneficiaries enjoy. A voucher system is simply not going to provide the guarantee.

What we are seeing essentially with this proposal that has been put forward by the Medicare Commission, and I stress again, it failed the Medicare Commission, is that we are going to see increasing costs, out-of-pocket expenses for seniors. We are going to see them pushed out of fee-for-service and into a managed care plan.

The problem is that if we look at what has been happening across the country in terms of managed care plans, we know that many people are not satisfied with their managed care plans, even when they are available, and that many seniors, after a few months or a few years in the managed care plan, find that the HMOs drop them because they claim that they cannot afford to continue with the seniors in the managed care plan. So we have seen cases and cases across the country, particularly in my home State of New Jersey, where seniors have simply been dropped from HMOs or managed care plans.

Why in the world do we want to push more and more American seniors into the managed care plans when people have not been happy with many of them, they have not had adequate protections, and, in many cases, they have simply been dropped?

I am very concerned that what we are doing with this voucher plan that is being proposed is simply changing Medicare to the point where it will not be the type of quality program that we have had in the past.

The other thing I wanted to mention, and then I would yield back to my colleague, is that the other aspect of this voucher plan that disturbs me a great deal is this idea of increasing the age of eligibility for Medicare from 65 to 67.

We know there has been a steady increase in the number of uninsured Americans. That is probably the greatest threat we see today is the number of people who are uninsured. The most rapidly growing group of the uninsured are people between the ages of 55 to 65. If we raise the eligibility, we are only exacerbating this problem and denying even more people coverage at a time when they most need it.

If I could just say, in conclusion, the fact of the matter is that the Medicare program has been enormously successful and does not need to be changed in

the manner suggested by this voucher proposal. The voucher proposal is a solution in search of a problem, and it ignores six key principles that most Democrats on the Medicare Commission supported, that I support, and I think must be protected as Congress and the President consider ways to improve and strengthen the current Medicare program. I just want to list them briefly, if I could.

First, any revision of Medicare must protect the right of individuals to choose their doctor by continuing the traditional fee-for-service program.

Second, any revision of Medicare should not increase the number of uninsured or reduce access to health insurance.

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Third, any revision of Medicare must not increase burdens on beneficiaries and should do more to help low-income beneficiaries.

Fourth, Medicare must always cover a well-defined set of benefits that cannot be reduced or eliminated.

Fifth, Medicare must provide comprehensive prescription drug coverage for all its enrollees; and

Sixth, 15 percent of the budget surplus should be set aside to extend the life of the Part A Hospital Trust Fund to 2020 and to combine the Part A and Part B Trust Funds to eliminate solvency as an issue in Medicare.

I am afraid, I say to my colleague from Ohio and my other colleagues here on the Committee on Commerce, that if we look at this voucher proposal that is being put forth by the cochairs of this Medicare Commission, it does not satisfy these different enumerated guarantees or principles that we should be aspiring to. These principles will ensure Medicare is preserved and protected for the current and future generations.

I know my fellow Democrats want to accomplish that goal, and hopefully we will be able to withstand some of the efforts that are being put forward, primarily by the other side of the aisle, to change Medicare—from to what it has traditionally been: a good program, a quality program that covers all seniors.

Mr. BROWN of Ohio. I thank the gentleman from New Jersey. I want to add that the leadership of the gentleman from New Jersey (Mr. PALLONE), especially in his efforts to fight Republican efforts to privatize Medicare, have been very, very important in our so far successful efforts to do that.

One point, before calling on the gentleman from Florida (Mr. DEUTSCH), and that is that the gentleman from New Jersey (Mr. PALLONE) repeatedly has talked about the success of Medicare; that it is a program that almost no one in this country, except for some insurance company executives, some Wall Street analysts, and some Washington political pundits and their representatives in the Republican Party say that that Medicare is that broke. There are not huge demands from across the country in any of our districts clamoring for Medicare to be so radically changed.

Sure, it needs some changes; sure, it needs some fixes; but it is not a broken program. It is serving people in this country very well. And this kind of radical surgery proposed by Republicans is dead wrong.

Mr. PALLONE. If the gentleman will yield, I would like to say one more thing before he yields to another colleague.

This Sunday coming up is Mother's Day. A few years ago I was on the floor talking about Medicare at the time when there was an effort by the Republicans on the other side to try to cut back significantly on the funding. And one of my colleagues on the Republican side was talking about how his mother was frustrated and did not need Medicare because it was not a good program.

And I was shocked because, as the gentleman said, everyone that I talk to, including my own mother who is on Medicare, tells me just the opposite. They think Medicare is very valuable. What they would like to see is maybe expanded coverage.

I sort of thought it was ironic that it was close to Mother's Day, as it is again today, and we had these opposite points of view about the Medicare program. But, frankly, I get no one who suggests to me that they want to see a radical overhaul of Medicare.

One of the things I want to talk about later, after my other colleagues have spoken, is a report that just came out by OWL, I guess the Older Women's League, that talks about Medicare and women, and this was in preparation for Mother's Day. It has some significant insights into the problems that elderly women face.

Mr. BROWN of Ohio. I thank the gentleman from New Jersey, and now I want to yield to my friend, the gentleman from Florida (Mr. DEUTSCH), a prominent member of the Subcommittee on Health and Environment of the Committee on Commerce, and thank him for his help.

Mr. DEUTSCH. Mr. Speaker, I appreciate the opportunity to be here this evening and really focus in on Medicare and what it faces in the future and, in a sense, what it has done in its past.

Medicare's creation is not ancient history. We are talking about a program in effect for less than 30 years at this point in time. And the bad old days, which many people still remember, not in terms of reading about but hearing about, it almost seems like ancient history to us, of America prior to Medicare; of seniors literally across the country not having health care coverage, period. In a sense, effectively dying by not having health care coverage. That does not happen today.

In fact, Medicare, as a government program, is really government at its best; government coming in and dealing with incredibly serious problems on a societal level, on a community level in the United States of America and changing the world. That in fact is what Medicare as a program has done. Over 30 million people are presently on Medicare. It is the largest health care system in the world, and it has changed the world.

One of the things I think is interesting to reflect on, just as we are talking about this issue, is does anyone seriously believe that Medicare would have been created if my Republican colleagues were in the majority of the United States Congress? I do not think that is a serious question because I think we know the answer to it.

And, in fact, the reality of what is occurring, and we have talked about some of the battles that we have shared in fighting to save Medicare over the last several years, is that Medicare really has been and continues to be attacked. In fact, literally there is an attempt to destroy it on a continual basis.

That is what this whole voucher concept is about. And hopefully we will have a chance to really discuss it at some length this evening, but the voucher concept is an attempt to destroy Medicare. It would destroy the Medicare system because it would fundamentally alter the Medicare system.

That is the intention of the proponents of the voucher system. They are not going to come flat out and say we are proposing vouchers to destroy Medicare, but the reality of what their proposal will do is, in fact, destroy the Medicare system.

Again, I think we really need to talk about it in a detailed way so people understand what really the Republicans, in general, are talking about as their solution to destroying Medicare.

Medicare is presently a defined benefit plan. The statute specifically delineates what benefits a beneficiary, those 30 million people, get under Medicare. They get 80 percent of reasonable cost. Under Part B they get hospitalization coverage with a deductible; under Part A they get certain home health care benefits, nursing home benefits, specific benefits that are delineated under the Medicare statute.

And, in fact, we have added, occasionally. Just in the last Congress we have added some preventive coverage, and we have pushed and we have pushed. And, in fact, if anything, what we ought to be talking about is adding additional benefits. One of the issues that this Congress should address is the issue of prescription drug medication being covered under Medicare. That is a critical issue for us to pass in this Congress. It is a gap in the Medicare system that we do not provide coverage. In fact, I think we can make a very strong case that providing coverage will have a positive cost effect in terms of the Medicare Trust Fund.

But that is the present Medicare system. In fact, the way it is set up, regardless of how much hospitalization

costs, that is the coverage that a Medicare beneficiary gets. Obviously, people also have the option, in most communities in the country, most urban centers in the country, of choosing Medicare HMOs, if those are available to them.

But what is the voucher system? The voucher system is a totally different concept. It says we believe that each person should get X dollars, whatever that X dollars is, for their health care coverage under Medicare. Theoretically, someone can then take that voucher and go shopping in the private sector for health care coverage. The theory of our colleagues is that the private sector is going to do better than this present system and they are going to provide individuals with more coverage.

Do not be fooled. Because the whole concept of the voucher system, the way it has been proposed continuously, is a set amount of dollars. Now, from a strict budgeting point of view, if our only concern was outlays of dollars, then we could see supporting the voucher system. But if our concern is really impact on people's lives, we just cannot be.

But once that voucher system is set up and we pick that dollar amount, and today it might be a good dollar amount, and we can really debate that dollar amount, but what about tomorrow, and what about the next day, and what about the day after that? And the reality is that no matter what the dollar amount in the voucher is, there will be a health care provider who will bid for that service.

So the voucher today is $4,000. Next year it might be $3,500, or even next year it might be $4,000. It will be below the average cost of Medicare beneficiaries today. And there will always be a private-for-profit provider of care who will bid for that. But what we are saying, effectively, is that we are creating a two-tier health care system, because the wealthiest of the wealthy in America will not have to opt into that type of process.

What will happen is the voucher system, inevitably, from a policy perspective, will force the vast majority of Medicare beneficiaries into substandard HMOs. That is the result of the voucher system that is proposed. And that is not Medicare. That is minimalist health care. That is a tragedy of monumental proportions for this country.

I know the four of my colleagues here, and really almost everyone on our side of the aisle, will fight with our last ounce of strength, and I know the President is committed, to prevent that from happening. And I look forward to really entering into a dialogue with those of us who are here this evening and really defining this a little bit more.

I yield back to my colleague from Ohio.

Mr. BROWN of Ohio. Mr. Speaker, I want to thank my colleague from Florida, and I want to now introduce another good friend, the gentleman from Texas (Mr. GENE GREEN), who has been a member of the Subcommittee on Health and Environment for 3 years now and has done a good job.

Mr. GREEN of Texas. Mr. Speaker, I want to thank my colleague for requesting this special order. I think it is so important that we recognize the Medicare issue.

Here we have a Member from Ohio, our ranking member on our Subcommittee on Health and Environment who requested this hour, a Member from Florida, a Member from New Jersey, and myself, I am from Texas, and it shows how it is not just a regional problem.

The Medicare program has been so important since 1965, and I am glad we are taking time out at the end of the day to talk about it and to hopefully raise the level of intensity for not only senior citizens who are now Medicare beneficiaries but those of us who will grow into being Medicare beneficiaries over the next few years and realize the benefits of the current program.

My colleague, the gentleman from Florida (Mr. PETER DEUTSCH), mentioned that Medicare does not pay for everything. In fact, it does pay for 80 percent. There are a lot of things Medicare should not pay for, but it does not pay for all the things that maybe health care should. One in particular, prescription medication, has risen now to a new level of importance, because prescriptions in 1999 are such that we do provide delivery. It saves ultimately on going to the doctor or the hospital, whereas in 1965 or 1975, some of the advances in medications were not there.

So perhaps we should reflect and say, okay, let us do what we can do on prescription medications and provide some type of copay for Medicare beneficiaries and not necessarily force seniors into managed care, an HMO, simply because they are paying $300 or $400 a month for prescriptions.

In some cases in my own district I have seniors who are paying that much, and their minimum benefits on Social Security are just a little bit less than that. So thank goodness the family is still together, the husband and the wife, and maybe the wife is the minimum beneficiary and they are paying her whole Social Security check just for their prescription medication.

Medicare is such an important program. Again, it started in 1965, and I was proud that in 1965 it was Lyndon Johnson from Texas who originally proposed it, although it was not a new program. It had frankly been around since the depression, but it was enacted in 1965 as a national health care insurance program for people over 65. It was expanded in 1972 under a Republican administration to cover the disabled and the need for continuing dialysis, for permanent kidney failure, or a received kidney transplant. So over the years Medicare has been expanded to include disabilities.

The United States public and private spending on health care far exceeds that of other industrialized nations by roughly a trillion dollars. Medicare comprised 11 percent, more than $200 billion of our Federal spending, and is funded by a combination of both general funds and payroll taxes. Current workers are taxed 1.45 percent of their earnings and our employers are taxed 1.45, where the self-employed are at 2.9 percent. This tax makes up 89 percent of the income for the Medicare Trust Fund Part A. And I would challenge any other Federal program to have that kind of taxpayer supported program.

We will talk tomorrow about the supplemental defense spending, what is going on in Kosovo. I always like to give the example that if we did not appropriate $1 for the Pentagon tomorrow, we would not be able to handle our commitments to NATO or buy another missile or another tank or pay another service personnel, but the hospital portion of Medicare Part A, 89 percent is funded by the taxpayers directly.

□ 2130

It does not come out of necessarily general revenue. It is for the trust fund. Medicare Part B is a split between 75 percent and 25 percent, general fund 75 percent and 25 percent from the beneficiaries. So we see that Medicare is not just general funds, it is a tax support. And that was created in the late 1980s and 1990s.

The deductible for Medicare Part A is $768 per patient for Medicare Part A. That is a deductible. So it does not pay for everything. Medicare Part B, the premium that seniors pay is $45 a month, with a $100 a year deductible. Actually, beneficiaries pay a co-pay of 20 percent of the approved amount because Medicare pays for 80 percent and that 20 percent is the responsibility of the senior citizen. They can buy them a Medigap coverage that is regulated by State insurance commissions or they can pay that 20 percent themselves.

The reason I think we are here tonight, and I do look forward to the dialogue that we have, and I could talk all evening about the benefits of the current program in the fee-for-service program, but the Medicare Commission I think had a great many shortcomings.

I do not want to take anything away from Senator BREAUX and his efforts to try and come up with a compromise. But the concern I had was the premium support proposal that they did come up with. That is not something I could vote for on the floor of this House. And I was glad that the Medicare Commission failed to get the number of votes that they needed to. It would increase premiums for millions of beneficiaries. It would cause the traditional program to rise, the premium, from 18 percent to 30 percent.

In rural districts, of course my district is very urban, but in rural areas

Medicare beneficiaries would pay differential premiums for the same traditional Medicare for the first time. And also, the premium support system, with what has happened with the managed care proposal issue now, we have managed care companies withdrawing from rural areas predominantly, so we could even see that as not as an option for rural areas in our country.

It was a lose-lose situation for urban beneficiaries because urban beneficiaries who generally have access to managed care would not be protected against the higher traditional program premiums. They would also likely pay more for private plans, such as plans that would raise premiums for beneficiaries to compensate for Government payments that do not cover the local cost.

And an unclear commitment on defined benefits. Again, we have a defined benefit program instead of a defined premium program. And again, the concern that we also hear is unfunded mandates for the States. Traditional Medicare premiums would rise under this proposal, and Medicaid cost for some States would actually go up for the low-income beneficiaries.

So that is the concern. And again, I know the Commission worked long and hard. Both Members of the House and Senate were on it, along with private citizens. But I was glad they were not able to come up with a plan because the plan they ultimately came close to was one that we would be fighting here every day to try to keep from happening.

Again, I thank the gentleman for asking for this time. Medicare is so important to not only my district and our Nation but to all our districts that we need to again continue this dialogue and raise the intensity so people know Medicare is challenged. It is in good shape until 2015 now. But it is still something we have to guard against every day to see that the reforms do not literally do what we in Texas call throw the baby out with the bath water.

Sure, we can have some reforms. But let us not lose the traditional support that Medicare has for senior citizens.

Mr. BROWN of Ohio. Mr. Speaker, I think that both the gentleman from Texas (Mr. GREEN) and the gentleman from Florida (Mr. DEUTSCH) both touched on the history of Medicare and who really was responsible for this program, and I think it begs the question of whom do we trust to make changes in Medicare?

In 1965, Medicare, with an overwhelming Democratic majority in Congress, the Congress passed the program setting up Medicare. Many Republicans opposed it. In fact, Bob Dole, who was then the leader of the other body and later was the Republican nominee for President in 1996, was in 1995 bragging to a conservative group on whom he counted for the Republican nomination for President, bragging about who he was one fighting against Medicare against its creation in 1965 as a Member of the House of Representatives at that point because he knew it would not work and he wanted to defeat it.

Literally the same day, then Speaker Gingrich said he wanted to see Medicare wither on the vine. It is the same group of people that opposed Medicare in 1965. The conservative wing of the Republican party which now dominates the Republican party are the people that really do not like Medicare.

In 1993, when Medicare was in some trouble, this Congress and I know the four of us all supported the efforts of this Congress to make some relatively minor changes in Medicare, some cuts to some providers that were probably making too much money at the time and some minor changes in the program of some significance but, by and large, did not affect Medicare beneficiaries particularly but made the program a good deal fiscally stronger in 1993. Again, every Republican in this institution voted against it then.

Then, 2 years later, Republicans tried to cut Medicare $270 billion. At the same time, they were giving a tax break mostly to wealthy taxpayers of roughly the same number of dollars and it was another assault on Medicare. And every time we turn our backs or we forget to watch or we are not vigilant, we see the conservative wing, not all Republicans, but the conservative wing of the Republican party which dominates that party in the 1990's go after Medicare.

And before we think about radical surgery on this program, the program of Medicare, we need to think whom do we trust? Do we trust the people that never liked Medicare to begin with, the far right of the Republican party? Do we trust them to make changes, the voucher program that the gentleman from Florida (Mr. DEUTSCH) talked about? Or do we trust people who supported this program, people like us that have supported it all along, mainstream Democrats, the President who supports it? Do we trust this group of people to make some minor changes to continue to keep Medicare strong?

Mr. DEUTSCH. Mr. Speaker, if the gentleman would yield, it really is a philosophical chasm between us and them in a sense, or at least part of them and most of us, that we really believe that Government can be a useful vehicle to help solve problems, to change the world; and I think, philosophically, probably maybe a majority of my colleagues on the other side of the aisle believe that Government would mess up a two-car funeral and Government should not be involved.

We can create a voucher system where effectively Government is not involved in this process even though Government is paying the money. But it is a totally different concept of the role of Government. I think none of us believe that Government can solve every problem. But I think what we do believe is that Government can be a force to literally make people's lives better.

I think part of this history discussion, for people who are watching us this evening, and if they do not know it themselves, talk to their parents or their grandparents and ask them about the time, it is only 30 years ago or a little bit over 30 years ago when Medicare did not exist in America.

I tell my colleagues, there is an analogy of it as well if we go back of when Social Security did not exist in America. I mean, it is not an accident that Social Security was created under a Democratic administration of Franklin Roosevelt.

I mean, do any of my colleagues really believe that, philosophically, that would have occurred in a Republican administration? And there is a real parallel I think in terms of that. And it is not ancient history before Social Security existed in America.

Mr. PALLONE. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from New Jersey.

Mr. PALLONE. Mr. Speaker, I just wanted to say, I mean, I totally agree with what the gentleman from Florida (Mr. DEUTSCH) said and my colleague from Ohio (Mr. BROWN).

I think that the problem that we face with this Breaux-Thomas voucher proposal is the following: Right now, because Medicare applies to everyone over 65 and is a program that most people can rely on and is a quality program, there is substantial support for it, I think, all over the country. But, as my colleague from Ohio points out, the Republicans traditionally were not very supportive of Medicare from the beginning.

And that statement about Medicare withering on the vine that Speaker Gingrich made I think is exactly what would happen with this Breaux-Thomas voucher plan, it would wither on the vine. Because once this voucher plan went into effect, people would be paying more and getting less.

So they are going to be paying more out of pocket because they are just going to get a set amount of money which is not going to cover a lot of expenses. And as they pay more out of pocket and find that the benefits of the program, which are very vague under Breaux-Thomas so it is not clear what kind of benefits they are going to get, as they find that they are going to pay more and get less in terms of benefits or alternatively and at the same time be pushed into managed care, which they do not like or where they cannot choose their doctor or they end up getting dropped, because, as my colleagues know, in many States managed care has dropped seniors after a bit of time, they are going to become very dissatisfied with the Medicare program.

And the kind of consensus that we have now that says that this is a good quality program will disappear. And then we are going to have a race, if you will, to see what is going to replace it. And I think it, essentially, destroys the program so that people will not

have faith in it anymore. They will be looking for an alternative.

I do not want to be so cynical, because maybe I am being a little too cynical. But if we look at that whole philosophy of withering on the vine, that is essentially what would happen to this program.

The irony of it is that Breaux-Thomas does nothing to solve the long-term solvency of Medicare. I think the information we have is that it extends Medicare for 1 or 2 years, at the most.

President Clinton and the Democrats have said, we want at least 15 percent of the budget surplus to go towards extending the life of the Medicare program. The Republican leadership has refused to do that. They are not really interested in extending the life of the program. They just want to change it radically with this voucher system. And I think ultimately it would wither on the vine.

Mr. BROWN of Ohio. Mr. Speaker, I yield to my colleague from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, I want to agree with my colleagues from New Jersey and from Florida.

Medicare was originally created because of the failure of the free enterprize system for insurance. If I owned an insurance company, I would not want to sell insurance to someone over 65, although we do have some who only want to take the healthiest, as we know, because we cannot afford the premiums.

Any actuary will tell us what is the quote of a premium for someone over 65, $1,500 a month, $2,000 a month, because they are ill. That is why Government had to step in, free enterprise could not take up the need for some type of health care for senior citizens.

In fact, under the current system, almost half of all seniors have an income of below $15,000 a year. Approximately 10 million widows have an income of less than $8,000 a year. So this is not a program for the rich, as we sometimes hear we have all these rich seniors.

Despite all the out-of-pocket costs that seniors already have to pay, 52 percent of Medicare's costs now go to 5 percent of the most sickest senior citizens. So we are not talking about a program for the wealthy. We are talking about a program for seniors who make less than or earn $15,000 a year under their pension plans or Social Security.

Let me talk a little bit about raising the age to 67. That may be something that the actuaries can say, well, we are living longer. I do not know if we are living that necessarily healthier longer. Because I can tell my colleagues, in my own district, again, maybe it is the difference between someone who is predominantly a white-collar worker and somebody who is a blue-collar worker, I have a very industrialized district. They load the airplanes at Intercontinental Airport. They load the ships at the Port of Houston. They work in the petrochemical facilities. Those folks cannot wait, they are just barely waiting now until they are 65 so they can get Medicare.

And also private business. If they have an early retirement and they have some type of retiree health plan, let us see what some of our large employers are going to do in the country by saying, by the way, their collective bargaining agreement is going to have to last 2 more years because once they become 65 their retiree health plan goes into Medicare.

So raising it to 67 may be great for some folks. But if my colleagues have a district where people literally work with their hands, they are not necessarily getting healthier.

Again, following my colleague from New Jersey when he said the proposed Commission plan only extended the life, at the maximum, of 2 years.

Mr. DEUTSCH. Mr. Speaker, if the gentleman would continue to yield, it is really interesting also just talking about the present situation of Medicare. I think we would agree that this is another area where benefits really should be expanded, not cut back.

I think what we really should be doing, and we have been involved in supporting legislation to this effect, although it has not passed, is giving options to buy into Medicare for that age group that my colleague from New Jersey talked about as people who retire early.

We have a phenomenon in America now that, yes, people are living longer and some working longer. But some are not working longer. And really the worst situation to be in is either by choice or by forced circumstances, maybe by health, of retiring early and not having retirement benefit of health care coverage and trying to buy private coverage in that 60-to-65 age group, where private coverage could literally be potentially 50 percent of someone's income.

□ 2145

It is an incredible box that we are in. Previously we have tried to expand that coverage, because that is another area where appropriately from what Medicare should be doing, we should be expanding the coverage to people who retire before 65, and not talking about raising the eligibility to 67.

Mr. BROWN of Ohio. If I could reclaim my time for a moment, following up on what you are saying and what the gentleman from Texas (Mr. GREEN) said about people that work with their hands, that start working, a neighbor of mine is a carpenter. He started working when he was about 18, he is about my age, in his mid 40's. He cannot quite lift as much as he used to be able to.

If we let Republicans raise the Medicare age to 67, then they will look at the actuarial tables and they will say the average person is living another year longer and raise it to 68. It is simply not fair to the large number of people in this country who do not dress like this when they come to work, whose bodies really do not allow them to work until they are 67 or 68. It really shows how out of touch people are in this institution and in this city, and especially on that side of the aisle that really do think, well, because people are living longer, we will raise the Social Security age, the Medicare age, because people are living to be 80 and they can take care of themselves.

The fact is, as the gentleman from Florida (Mr. DEUTSCH) is implying, people between the ages of 55 and 64, the age that we want to move Medicare coverage and include them, those in that age group, there are so many people in that age group that are losing their health care coverage because they are getting laid off, their company is downsizing, their company is moving to Mexico or somewhere else.

There are people that have many more health demands, many more health needs as they are 60 years old compared to when they are 50 years old. They are getting their health care cut off from their employer when they lose their job or when their employer cuts benefits when they are 59 years old, right at the time they most begin to need their health care.

For this body to endorse moving the age up to 67 is absolutely absurd. We should be thinking of moving the opposite direction, especially since the President's plan and the plan that all of us have worked on actually pays for itself in the cost of the premium between the ages of 55 and 64. It is no giveaway program, as Medicare is not, anyway. But particularly this part of it, expanding it to 55 to 64, voluntarily pays for itself and will make a difference in the lives of literally hundreds of thousands if not millions of Americans in that age group who no longer have the health insurance coverage they figured that they would have from their employer until their 65th birthday, until they could move into Medicare.

Mr. PALLONE. I totally agree with the gentleman. I think you were hinting earlier about the fact that really what this is is like a social contract. In other words, people were told when they started out working at 18 that when they got to be the age of 65, that Medicare would be there. I think it is grossly unfair after they have depended upon that to say all of a sudden now the age is going to be higher. Because we know that in fact what is happening is that many people in that near elderly group, as you mentioned, are the very ones that do not have any health care coverage.

In the beginning I talked about women, because this Older Women's League put out this report in conjunction with Mother's Day coming up this Sunday. A lot of the people that are in that near-elderly category that do not have health care coverage or insurance are women, because what happens a lot of times is that the spouse who is not

working, for example, is not covered when there is a buyout or somebody gets laid off at that age, and there is a tremendous amount of people that are in that category that are women.

The other thing I just wanted to say very briefly is that instead of worrying about the aspect of this that how we are going to make benefits less for people, as the gentleman from Florida (Mr. DEUTSCH) said, we do not want to do that. What we want to do is look at the gaps that exist in Medicare and try to fill them.

We know that when Medicare started in the 1960s, at least this is what I have been told historically, that prescription drug coverage was not that important because people did not rely on prescription drugs that much. The preventive care that comes with prescription drugs really was not available all that much. Also the long-term care, adult day care, which is another gap that Medicare does not pay for, that did not exist then because people did not live as long or they had a situation where they maybe were at home and the family would take care of them.

The reality is that the gaps in Medicare have resulted because of the changes in life-style, of people living longer. It is absurd to suggest that in order to accomplish and deal with that, you should simply raise the age. You should try to cover those gaps by providing prescription drugs, providing for long-term care, providing for adult day care.

It is particularly important for women. I do not mean to keep stressing that, but I keep thinking about the fact that Mother's Day is coming up. I think about my own mother, and the fact that there are so many women that particularly benefit from Medicare and that these gaps are particularly important to them, and raising the age even makes it worse for them.

Mr. DEUTSCH. I could not agree with the gentleman more, literally listing some of the areas where we ought to legislatively increase benefits. That is really what the debate should be about. I think this year our focus, and I think really the President's focus is really trying to get that prescription drug coverage which is a necessary component of Medicare. That is our number one priority.

I could add and agree with the gentleman on five other things that are probably just as high but I think the focus this year is trying to get that additional coverage. I think some of the things that the gentleman also mentioned, this is sort of a high class problem we have.

First of all, we have dealt with the actuarial issues and it is a good thing people are living longer. That is a high class problem that we have in America. We can deal with it, we have dealt with it, in some of the changes that we talked about in 1994. I keep thinking as we are talking, particularly in that pre-65 age group, where if we went from 65 to 67.

One of the things about health insurance is statistically people who do not have health insurance actually get sick at a higher rate than people who do have health insurance. In effect, whether you have health insurance or not, statistically you have got a chance of getting sick.

What is going to happen when you do not have health insurance? What happens in America today? What happens to real people in that category, 65, younger than 65, retired, for whatever reason, as you said, without health insurance in America? What is happening to those people? The reality is not a lot of good things, things that we know for a fact we can do better as a country.

We have made changes where we can do things. It is going to be an approach of saying, hey, here is a problem, how are we dealing with it? As my colleague from Ohio mentioned, there is a plan out there, there is legislation out there to do that without costing the system any money. That is an actuarially based system, which I think is something that people again need to hear and really need to understand.

Medicare is not welfare for health. Medicare is not a giveaway program. Medicare is a forced retirement system. It is Social Security for health. Every working American is paying into the Medicare Trust Fund today, this week, in their paycheck, a certain amount of money that is going into a trust fund that is Social Security for health.

That is what we are getting back. It is not an entitlement, it is an insurance plan. That is a big difference. It is a forced insurance plan, yes. You do not have a choice in our salaries, or working people in America in their salaries, whether to choose to pay the Medicare payroll tax or not. You have got to pay that payroll tax. But that is going into a plan that we as Americans control, this body, this Chamber and our colleagues on the other side of this building control.

I think also, just as we are coming to the close of this hour, to reiterate, is people out there in the real world, in America, who live with Medicare understand the system. With all of its faults and foibles, it is a darn good system. It is not Cadillac coverage but it is a darn good Chevy. It has worked really well for over 30 million people in this country.

It is an incredibly successful system. It has done innovative things over the last 10 years to make itself even more successful. We could talk about some of the specific changes, probably not this evening but another night, that we have done in terms of whether it is DRGs or whether it is issues regarding that which have really saved the system incredibly, tens of billions of dollars to make it even better, to provide more benefits for people.

Mr. BROWN of Ohio. The comments of the gentleman from Florida about people without insurance actually are sicker, get sicker is particularly applicable to prescription drugs. We all have heard stories in our district similar to the one in the city of Elyria in my district, a woman who is paying $400 for her prescription drugs, her Social Security is about $800 a month, she has no prescription drug coverage. What she does with her prescriptions is she typically takes half the dosage that she needs. If she is supposed to take four pills a day, she will take two or take four half pills a day so her prescription will last twice as long. She is more likely to get sick and end up back in the hospital, more likely to suffer and more likely to cost the Medicare system more money because the system is not paying for prescription drugs and not dealing with some of the preventive care and wellness care and less expensive care, like prescription drugs, than emergency room or hospital stays. That is one reason, putting even the humanitarian element aside, looking at the importance of taking care of this woman and hundreds of thousands like her around the country. The health of the Medicare system long-term will be in better fiscal shape if we can do some of these things like prescription drugs, put a better system out there for America's elderly and make it more fiscally sound at the same time.

Mr. GREEN of Texas. I know we are getting close to the end of the hour, and there are things that can be done with modernizing and making Medicare more efficient. Of course we talk about prescription medication. It can save ultimately people from going to the hospital if they can take the full dosage instead of trying to self-diagnose and lower their amount. The President's plan of dedicating 15 percent of the surplus to Medicare. Let me say, and I know the dollars and the numbers are on our side, but let us realize the humanity of it. I use this example at my town hall meetings in Houston. My dad will be 84 years old this year. I did not know his father. His father died before I was born. He is part of the success of Medicare. If we can talk about our constituents, talk about our family, and instead of looking at what we can do to say, well, how do we need to save money in Medicare, let us also look at what impact that will have on our own constituents, on our own family. By living to 84 years, that is successful. He is a product of the benefits of our system, Medicare. His father did not have Medicare when he passed away in the late 1940s. We need to remember that. The better quality of life for our senior citizens, they have paid their dues, the World War II generation that my dad is part of. Let us remember those folks, that they are the ones that this was created for. It was created for that. Let us not forget those folks that are still providing for our country, that we want to make sure that they will have Medicare and a good Medicare program when they retire.

Mr. PALLONE. I just wanted to follow up on what my colleague from

Florida said also about low-income people, low-income seniors not being aware and therefore not applying for some of the low-income protection programs like the QMB or the SLMB programs that we have. Under Medicare and Medicaid, if you are below a certain income, you can apply through Medicaid so that you actually get certain prescription drugs covered and certain other benefits covered. But one of the things that is in this Older Women's League report that I mentioned for Mother's Day is that half the elderly women who are eligible for those low-income protection programs never apply for them because they are not aware of them. And also because they do not want to go to the welfare offices where they have to go from what I understand in order to get them because they do not want to be part of a welfare program. One of the reforms that was suggested by OWL is that individuals be able to apply directly through Medicare or Social Security for those low-income protection benefits. Again that is a kind of reform that we should be looking at, something that is going to help people with prescription drugs and some of these other protections rather than worrying about how we are going to save money by raising the age of eligibility.

Mr. DEUTSCH. I just want to quickly mention, because I think what the gentleman said is really important, sort of almost as a public service announcement for whoever is watching us this evening, that there are benefits in Medicare that unfortunately not enough people take advantage of. We have put into Medicare some preventive coverage. Mammogram screening. Right now less than 50 percent of Medicare beneficiaries who are eligible for it take advantage of it. It is free, with no copayment, no deductible. We really need to push that, because that also has its positive humanitarian, human side, preventing one but also the monetary side as well.

Mr. BROWN of Ohio. Preventive care for prostate cancer, for breast cancer, for osteoporosis, for diabetes, a whole host of new preventive care programs paid for by Medicare all in the last 2 or 3 years. That is something people should certainly take advantage of.

Mr. PALLONE. Those were put in as a result or with the balanced budget process.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. OSE). The Chair would remind the Members to direct their comments to the chair and not to the members or viewing audience outside the Chamber.

Mr. BROWN of Ohio. In closing, I think, Mr. Speaker, the commitment for all of us, all four of us that have been here tonight, the gentleman from Florida (Mr. DEUTSCH), the gentleman from Texas (Mr. GREEN), the gentleman from New Jersey (Mr. PALLONE) is start with the 15 percent budget surplus, put it in Medicare, put those over the next half dozen, dozen years, hundreds of billions of dollars into Medicare. The trust fund already is solid until 2015.

□ 2200

We can even do better than that. Make sure the preventive care is explained as well as the gentleman from Florida (Mr. DEUTSCH) did, and we continue to talk about that, and expand Medicare 55 to 64, and especially programs like prescription drugs.

I thank my colleagues for joining us tonight.

DISCUSSION ON KOSOVO

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 1999, the gentleman from Colorado (Mr. MCINNIS) is recognized for 60 minutes.

Mr. MCINNIS. Mr. Speaker, I would note that I will be happy to yield to the gentlewoman from the Committee on Rules when the time is appropriate.

Mr. Speaker, good evening.

I am pleased that I have an opportunity to visit with all of my colleagues this evening about an issue that is very dear to my heart, an issue that I am going to spend the next, say, 45 or 50 minutes talking to you on several different areas that I think we should review, an issue that is not only dear to my heart but dear to everybody's heart that is sitting on this floor.

As my colleagues know, I have never been at a stage in life where I had children that were of the age that could now serve in the military. My wife, Lori, and I are very privileged to have three children: Daxon, Daxon is 22 years old; Tessa, who is 21 years old; and Andrea, who is 17 years old. As my colleagues can guess, my concern today is about the military action that is being taken in that land far away called Kosovo or Yugoslavia.

I thought we would start out by covering several points. I want to give you just somewhat of a brief history, talk about what are the real interests of the United States.

At this point in time, Mr. Speaker, I would be happy, so that we could go ahead and take care of the rule, to yield to the gentlewoman for the rule.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1664, KOSOVO AND SOUTHWEST ASIA EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT, 1999

Mrs. MYRICK, from the Committee on Rules, submitted a privileged report (Rept. No. 106–127) on the resolution (H. Res. 159) providing for consideration of the bill (H.R. 1664) making emergency supplemental appropriations for military operations, refugee relief, and humanitarian assistance relating to the conflict in Kosovo, and for military operations in Southwest Asia for the fiscal year ending September 30, 1999, and for other purposes, which was referred to the House Calendar and ordered to be printed.

Mr. MCINNIS. MR. SPEAKER, WELL, WE WILL GO BACK TO THE KOSOVO DISCUSSION, BUT I DO, FIRST OF ALL, WANT TO ACKNOWLEDGE THE COMMITTEE ON RULES.

As my colleagues can see, it is after 10 o'clock at night back here in the East, and that Committee on Rules is still working hard. They put in a lot of late hours, and I know they are appreciated by the Members on this floor.

Let us go back to my outline about what I am going to discuss this evening on Kosovo and Yugoslavia.

First of all, we are going to talk a little on the brief history, just give you summary.

I am not a historian, I am not a teacher or a professor, so I am not going to go into great detail, but I do want to summarize kind of the scenario or the historical perspective that I think is important for me to get to the other points of this speech. We are going to talk about what are the interests of the United States.

As my colleagues know, before the United States enters any type of military action, we need to define, we need to have a clear interpretation and a clear definition of why it is that we are doing what we are doing, what is it about the authority. Do you have the authority to invade the sovereign territory of another country? Under what conditions does that authority exist, and do we meet those conditions?

Talk about what the European responsibility is in this situation, what the cost is to the American taxpayers, and I think you will be surprised by the numbers that I give you this evening as to what it is going to cost the American taxpayers to complete this action over the next 2 to 3 years.

We should talk about the humanitarian effort. Clearly, no matter where you fall on the side of the policy that is now being followed by this country in regards to Kosovo, we can all agree on one thing, and that is that there is a just cause for a humanitarian effort. We will talk a little bit about the humanitarian effort.

We will also talk about the deployment of ground troops. I have read the press lately, I have read and been briefed and so on that there is an urge to put ground troops in over there. Let us talk a little about that this evening.

What are the logistics involved? What do ground troops really mean? What kind of numbers of ground troops are we going to have to have to go into this situation, not just to keep the peace, but do we ever stand a chance of making the peace? And tonight my colleagues will see that I distinguish between keeping the peace and making the peace.

We will talk a little bit about NATO, what the military facts are of NATO,

and I want to visit about what I think how this conflict will probably end, what my best guess is, what the wild card is. We know what the wild card is out there. We are going to talk a little more about the Russians; that is the key, that is the wild card; talk about the refugee problem, and of course we will emphasize our support for the troops.

But let us talk a little about and let us look first at the map and talk a little bit about the history.

This is Yugoslavia, just an outline right here.

To give you an example, right there where the red dot is, that is Belgrade. Probably as we are speaking, as I am speaking right now, there are bombing missions or sorties being taken over the community or the city of Belgrade.

The important region down here, this is Kosovo, right here where I am circling with the red dot. That is called Kosovo.

The reason that I brought the map is that my colleagues need to understand there are some individuals who are talking about an occupation of this portion of Yugoslavia. By going in there with a military force some have even suggested a partition, partition out this area called Kosovo away from the sovereign mother country of Yugoslavia.

What is key about that is to remember that in any country and with any of us sitting in these Chambers one of the things of which we have the strongest fundamental views about is our religion. This is a key issue here. Remember that in Yugoslavia the Serbs, many of the monuments of their religion, the birthplace of their religion, is in this very territory down here that some people are suggesting to separate from the main country and to put under some type of partition or under some type of occupation by a foreign force.

That is a key issue, to see whether we can resolve it by the occupation, and that is how are you going to address this religious difference? What are you going to say to those people? What are you going to say to the Serbs, the Serb citizens, by the way, not the leadership, but the Serbs and the citizens of Yugoslavia, that they cannot go down to the territory and visit their religious monuments. It is a point we ought to remember.

Remember that in this country, and we have left the map now. We probably will not have to come back to where we may come back a little later on to talk about Macedonia and Albania and so on. But the history of this country, I have heard many people talk about this is a genocide. I have no disagreement with these individuals when we talk about the tragedies that are going on, but I want to point out that this is different than Hitler.

I have seen a lot of comparisons to Hitler. There are atrocities, but remember the atrocities and the historical perspective have occurred on both sides. We are in between two bad characters.

Now I am not talking about the innocent citizens of the country. I am talking about the leaders of the KLA, the Kosovo liberation organization, and I am talking about Milosevic and Yugoslavia, the leaders, the dictators, over in that country. They are both bad characters.

And when we talk about the genocide, that would infer a Hitler type of situation where we went to an innocent population, the Jewish population. They were not engaged in a civil war. He just wiped them out because they were Jewish.

In this particular country there is killing going on in both sides. It has been for hundreds of years. Take a look at the history 1389. The Serbs and the Turks engaged in the battle over the disputed territory here in Kosovo. In Yugoslavia, the Serbs lost that battle, but to this day they still celebrate it as a holiday.

This conflict has lots of history. This conflict has guilty parties, so to speak, on all sides.

I am going to talk a little more extensively about the KLA as we get into it, but what we are intervening in here is not a genocide. We are intervening in a war of which we know very little about, a civil war. To me, it makes as much sense as having the Mexican Army come across the borders of the United States to try and resolve the battle between the North and the South. How well do you think that would have gone over? What did the Mexican Army really understand about the conflict between the North and the South? What does the United States really understand on the historical conflict in Yugoslavia?

I think our understanding is limited. I think their understanding, it is their home territory, it is their religion, it is a battle that has been going on for a long time.

Take a look at the historical perspective of the United States. How successful have we been in our history when we have intervened in the civil war of another country? We have never been successful in that kind of intervention.

Now there are times, if you get a mass of enough force, that we are able to step between two warring parties; for example, Cyprus. On the island of Cyprus we have something called the green line. It is the line that separates the Greeks from the Turks. We have been there for 27 years under the auspices of the United Nations. Have we made the peace between the Greeks and the Turks? No. We stood between them. We have kept them apart from each other.

What will happen in my opinion the day that we will pull U.N. forces or American forces or a peacekeeping force out from between these parties? They are going to go back to doing what they have done for a long, long time. In my opinion, they do not like each other any better today than they did 30 years ago when we put the green line in. So the green line is able to keep peace between the parties as long as we are willing to continue this long-term commitment, but they have never made peace between the parties.

Is the United States or NATO going to be able to make the peace between these parties?

You will note during my conversation that I keep referring to the United States. Well, the United States is, in fact, operating under the auspices of NATO. But take a look at what the proportions are. The United States by far is carrying a minimum of 90 percent, in my opinion, a minimum of 90 percent of the cost, 90 percent of the forces, 90 percent of the bombs, 90 percent of the equipment. So when I talk about the United States, I understand that this is a NATO operation. But I also think it is fair for us to determine what proportion the United States is carrying, and I think it is also fair for us to explain to the American people, whom I think already know, that the United States by far has the heaviest weight on their shoulders.

Well, is the United States going to be able to go into this country, into this dispute that involves hundreds of years of history, that involves religion, that involves atrocities on both sides? Is the United States militarily going to be able to go in and make the peace? I do not think so. Is the United States willing to go in and give the kind of long-term, expensive commitment, expensive not just in dollars but, even more importantly, in human lives to try and keep the peace? I do not know. I do not think so once we have a clear understanding of just how difficult this will be and what the small chances of success are.

Now I do, as I mentioned earlier, believe that the United States has a very clear role from a humanitarian aspect. As my colleagues know, that is one of the things we can be awful proud about in this country. I am darn proud to be an American. I am very, very proud of our forefathers, of our children and of the obligations that this country voluntarily takes on to help people in need. This country's greatness is in part built on our humanitarian efforts throughout history for other countries, but there is a large difference between humanitarian effort and the military effort.

Let me talk about the next issue that I think we need to talk about, and what are the interests of the United States? Of course, the United States, we are God-loving people. We are people who, generally, we do believe in peace. We oppose oppression. The question here is, how do we distinguish between an action in Yugoslavia and, say, an action in the Sudan or Rwanda?

Now granted Sudan and Rwanda are not on the CNN news every hour or every half an hour and have not been for the last several months, but I can tell you that the atrocities that are being committed in those countries

greatly exceed the atrocities that were being committed in Yugoslavia before we started the invasion.

In fact, you will see that the punishment being dealt up unfairly in Yugoslavia to the Albanians, to the Kosovo Albanians, was actually much, much less prior to the NATO invasion, much, much less than any of these other countries, but the United States must make a very conscious decision on where the interests of this country are that are necessary for us to enter into a conflict.

□ 2215

One of them is we do not like to see people being killed. We do not like it anywhere. We value human life at the very highest of the rungs on the ladder. It is supreme to us, human life. But we cannot be the world's police officer. We cannot go to Rwanda tomorrow. We cannot go to Sudan.

The question is: What is the difference here? Why are we over there in Yugoslavia? What justifies that any more than acting or failing to act in the Sudan or in Rwanda? Is it a national security interest? Is the Yugoslav Army capable of a military threat to the continental United States? The answer is, no.

Is it a threat to the European continent? I have heard over and over and over again about how this is going to spread throughout Europe; this is how the world war started. It is not how World War I started by the way. And this is going to lead to World War III if we do not quickly get in there and contain this situation.

I disagree with that very, very strongly. I do not see this as a threat to the European continent, meaning that it is going to flow throughout its borders and create a war on the European continent. If, in fact, that is true, the Europeans ought to frankly pick up a little heavier load on this particular mission.

Maybe the Europeans ought to handle the military aspect of this mission and let the United States handle the humanitarian aspect of it.

I frankly do not think the Europeans are carrying their fair share of the load here. Once again, it is the good old United States that is carrying the load. So we do not have a national security threat; we do not have a threat to the European continent. Do we have an economic, a world economic threat? Do we have even a more specific economic threat as a result of the actions occurring in Yugoslavia? The answer to that is, no, as well.

Once we address what kind of interests that we have, then we have to address how do we get out of it? What is the exit strategy? What is the end game? Do we have one here?

I think it is very confusing out there. I think NATO is confused by it. I think the American public is confused about it. I can talk to any one of my colleagues out here and I do not think any one of us have a unified exit strategy.

Now what are we going to do? That question keeps coming up, now what are we going to do? Where do we go from this point? How well did we think out the fact that hundreds of thousands of refugees would be coming across these borders; in fact, the possibility of creating now a political upheaval in some of these other countries?

We have to figure out what our national interests are. I have a pretty simple test to do that. I think that before the United States puts our young men and women in harm's way, we need to, as elected officials, as representatives of the people of this country, we have an awesome responsibility, we have a fiduciary responsibility, to the people of this country, before we commit those young people to harm's way, I think we need to do this test, and this is how I do it, this is the burden I put upon myself: Can I look to the parents of one of these young people right in the eye and tell them that the loss of the life of their young child was necessitated by the best interests of this country, that this young person giving the ultimate supreme sacrifice, their life, was necessary to protect the national interest of the United States of America?

My own feeling, my own deep personal belief, I do not think we can meet that standard. I cannot meet that standard because I fail to see what are the national interests.

As I mentioned earlier, clearly there are atrocities, and I do not want a misinterpretation coming here, there are atrocities that are being committed. The question is, what role should the United States play? I think the role of the United States would much better be defined and much easier justified and would fall within the realm of our national interests for us to carry out the humanitarian mission, not to be the 90 percent partner, 90 percent partner, on a military action; 90 percent meaning we pick up the bulk of it.

Now we have heard some people say, well, yes but the United States just has the heavy load on the beginning. Then as this action proceeds, the other members of NATO will pitch in and carry their fair share, but the United States really needs to carry the burden because they have the equipment, they have the soldiers, they have the money.

I can say this, Mr. Speaker, in my opinion, with all due respect to our European colleagues, they are going to sit back and say, hey, let the United States do it; let the taxpayers of the United States pay for it; let the United States put its troops in harm's way; let the United States supply the airplanes; let the United States supply the arsenals; let the United States go in and rebuild what the United States has bombed; let the United States put in what I think is going to be necessary, a miniature Marshall Plan to rebuild all of the destruction and try and create some kind of an economy over there if, in fact, we can get the refugees back in there.

This partnership ratio, in my opinion, is not going to change as long as we sit on our hands and are content with carrying 18 other partners, with us carrying 90 percent of the load. It should not work that way. This is a partnership.

So we need to figure out, do we have national interests that, in fact, dictate, mandate, require, that we enter into a military action? Well, we certainly did not going into it. I would love to debate any one of my colleagues, anybody in here, to really justify it. Now, remember, we have a humanitarian mission justified but a military mission, based on the history of this country, based on our lack of success, this country's lack of success in the intervention of any civil war, I would like to debate whether we have that national interest going in.

Now, of course, the question arises, has the national interest been created now that we are in? Should we just drop NATO? Does it hurt the alliance, the defense alliance, for the United States to all of a sudden stop operations?

Well, there is a debate there, and that is a logical question to ask. It is a question I do not fully know the answer to, but I do think that the United States can step forward without jeopardizing the alliance, the importance of the NATO alliance. I am a NATO supporter as far as the concept of that alliance.

I do not think we jeopardize that alliance at all for us to step up to our European neighbors and say, hey, the balance is going to change here; you are going to start to carry a heavier burden on your shoulders, European colleagues, European partners, and we are going to start to focus more on the humanitarian effort. That kind of shift, in my opinion, needs to take place.

Let us talk about the legal authority. Remember what we had here in Yugoslavia? See the red dot there? What is that following? There is a little tiny line. That little tiny line is what humans have decided to use as a designation of what? Of a border, of a boundary. Someone wants to find a border, as a line drawn in the sand, to see how close they could get to it without going on to the other side of it.

Well, that is what this is. This is a sovereign country. Every party involved in this conflict acknowledges that this right here, Yugoslavia, it is a sovereign country and that to go into the region called Kosovo, borders have to be crossed; the sovereign territory of another country has to be crossed.

NATO has never gone, without invitation, across a sovereign territory of another country, but they did this time.

Now remember not too many years ago the Persian Gulf War? Remember the quotes from our leaders back then? How could Iraq possibly think it is a violation of international law for Iraq to invade the sovereign territory of Kuwait? So the United States went to war

with Iraq because Iraq violated that boundary, a boundary very similar to this in definition; violated that boundary, invaded a sovereign country.

So the United States, justifiably I might add, went to war to push Iraq back across this sovereign territory. Once the United States pushed Iraq back out of Kuwait and back into its own boundaries, the United States ceased the action because the theory of the action was simply to defend the sovereign nation, not exclusively but somewhat simply to defend those boundaries of Kuwait.

What kind of precedent do we set by allowing NATO to invade the sovereign territory of Yugoslavia and maybe even carve out a part of the country and say we are taking this part of the country from them? What kind of precedent do we set?

What happens, for example, if Quebec, in its effort to seek independence, decides to secede from Canada? Does that give the United States justification to bomb Canada? How are we going to address that. That is not a far-fetched scenario.

What if some of the people in Mexico want Texas either to be independent or go back to Mexico? Does that give Mexico the right to bomb the United States?

Sure, a lot of people who are very supportive of the action, the military action, who say do not dare question the policy of the administration, they will say this does not compare, but I am saying, and I put out there to all of my colleagues the question, think about it, try and think historically where we have been successful in a civil war; try and think of other factors or other similar situations in the country, like in the world, like Quebec and Canada, and ask the questions what if, what kind of precedent, what kind of history are we setting with the action that we have undertaken?

Let us move on. I have talked about what I think the European responsibility is. I think that a lot of our colleagues, a lot of our partners in NATO, need to pick up a bigger load. I have said that repeatedly during my comments but it does bear repeating again. The United States is a good guy. It is a good country. It is a great country. We truly have been the leaders of the free world for a long time.

I think our country is very capable and I think our country has a responsibility on humanitarian aid when we see tragedies, by the way on both sides of this conflict, tragedies on both sides of this conflict, we have a humanitarian responsibility.

How do we measure out just how much weight we put in the backpack that the United States is expected to carry compared to the Europeans?

I frankly think a lot of our partners in NATO are getting a free ride. It is not their planes that are at substantial risk. Take a look at the money that this country will pay now.

Speaking of money, and we are going to talk about cost here in a minute, remember there are lots of ways to shift numbers about but when we get to the bottom line, the bottom line is this is an action by the United States of America. The United States is going to pay a bigger part of it, and I think it is time to have another partnership meeting. I think in that partnership meeting it is time to say to our partners that they are going to have to carry a larger share of the burden here. We are happy to help on the humanitarian effort but from a military point of view, they have to participate more; they have to take a bigger chunk of this.

When I talk about military, I am not just talking about the bombing raids, the missions, the sorties we are carrying out over there. I am talking about the time after. Once this thing reaches a cease-fire, and I think it will at some point reach a cease-fire, I am talking about rebuilding that territory that has been destroyed by NATO bombs, or by the Yugoslavia Army. How is that rebuilt and whose obligation is it then? Is it once again going to be 90 percent of the United States of America? I propose that it probably will be, unless we have an administration and a Congress that is strong in saying to NATO, look, to rebuild this, to put in a mini Marshall Plan, there are other countries that are going to have to participate in a very substantial way.

The United States cannot be expected to spend a hundred billion dollars at a minimum to put this country back on track.

Let us talk about the cost because I just mentioned a hundred billion dollars. I mentioned that earlier in my comments. Now I am putting aside the cost of human lives. Obviously the most painful, the most regrettable and the toughest cost out there is the loss of a human life.

With all due respect, we lost two of our military people last night in a helicopter accident. We had our first two fatalities in this action. I regret those losses and to me they are, and to I am sure every colleague I have here, republican and democrat, it is a loss that is substantial to us. Every time we lose a human life in an action like this, it is a substantial loss.

Let us talk not about that cost, but let us talk about the dollars. For a moment let us talk about the less important cost, which is the dollars; let us just go to that category and talk about it. Are we in this country prepared to spend at least a hundred billion, billion not million, billion dollars on this action?

□ 2230

That is what I think it is going to cost.

Let us talk about the cost for a minute. I estimate, and now, there are lots of accounting shifts that go on out there in government books. They will say, there is a carrier out there, for example, that we have assigned to this mission, but we do not really assign the costs of the carrier to this action because we would have had to pay for this carrier to be somewhere, anyway. So we do not add this up.

There are all kinds of little tricks that go on. Some of them are legitimate, so maybe the word ''tricks'' is not correct, maybe ''maneuvers.'' There is all kinds of maneuvering that goes on to allocate these costs in different slots.

The fact is, I think if we looked at a true cost accounting of what this action is incurring, I would say it is about $1 billion a week, $1 billion a week. Tomorrow on this House floor we are going to have a very healthy debate on supplementing, on the first down payment or one of the first down payments to pay for this project.

The expense is not just, as I mentioned earlier, our military mission. When the bombs stop falling, this deal is not over. In fact, we just signed on to a long-term contract. One of the first things that will be demanded is that America, is that the United States, through the auspices of NATO or some other organization, perhaps they will bring the United Nations into this, has an obligation to rebuild, to go in there and build those bridges, to go in there and build an economy.

Remember, these refugees who have left this country, why have they left the country? One, because of NATO bombs; two, because of the Yugoslavian army and the slaughter that is going on over there as a result of a wartime action, now; three, their bridges have been destroyed, their drinking water has been contaminated, they do not have any communication abilities, they do not have heating capabilities. They do not have roads, bridges. You name it, it has been destroyed. Somebody has to rebuild it. Guess who it is going to fall upon?

In my opinion, it will fall upon NATO, and NATO, of course, will look at the United States and say, look, really, you are a wealthy country. You really should pay for this. And part of it I think we should. I think we should help the refugees. I think we do have an obligation to help get that country on its feet. But I do not think that obligation extends to the percentage of 90 percent. I do not agree with that.

But let us take a look. If it remains at about that 90 percent, or we continue to carry the large, unproportionate burden of this, the costs of this action will exceed $100 billion. I can tell the Members, we could do a lot with Medicare, we could do a lot with social security, we could do a lot with education with an extra $100 billion.

I have addressed the humanitarian effort. I want to tonight acknowledge everyone from the Red Cross to the different religious organizations to all of the people throughout this country who have collection boxes at local grocery stores to send clothes and books and food to the refugees and to the innocent citizens that are involved in

this conflict. That is what has made America great. That is what will continue to keep America great.

As strongly as I question the policy of military intervention, I feel that strong about humanitarian intervention. It is appropriate for us to be in there on a humanitarian effort. Our country can handle it. Our country can carry it out. Our country can put a lot of smiles on these refugees' faces. We can clothe them, we can feed them, and we can help them rebuild their country. But where our expertise will get the biggest return is not the military intervention but the humanitarian intervention.

During the discussions we have had, we hear a lot of people talk about or debate whether or not we should have ground troops. By listening to some of the government officials or by reading some of the articles in the media, we would think we could put ground troops in there tomorrow if we decided.

Let us talk about ground troops. First of all, it would be a huge mistake for the United States to put in ground troops that were not of sufficient quantity and strength to expect a ground war over there. Going into Yugoslavia is not going to be like going into Iraq, where you have a flat desert where you can see your enemies for a long ways.

It is not like the Colorado mountains. My district is in the State of Colorado, but it is probably very much like the Blue Ridge mountains in Virginia. I have been over there. I have seen it. This is rugged territory. This is their home territory.

As I mentioned earlier, this is the birthplace of the Serbs' religion. This is not going to be an easy place to occupy. In order to do that, we cannot send in 28,000 troops and accomplish the job. If we send in 28,000, we will be grossly undermanned, we will take many, many casualties, and we will wish to God we had sent in three, four, or five times that amount of force.

In order for us to really sustain the kind of military ground operation that would be necessary, I would say that at a minimum we need to send in 100,000 ground troops, and probably, more likely than not, closer to 200,000 than 100,000.

Are we prepared to move those kinds of troops into Yugoslavia? Putting aside the political argument or the dispute whether or not they should be there, take a look at the logistical challenges that we face.

It is an immense project to move just a division, and a division, a light army division, has say 10,000 to 12,000 soldiers. What they call a heavy division contains about 17,000 troops, 17,000 in a heavy division and then 5,000 to 15,000 more troops in support facilities.

The equipment necessary to move a division would stretch 700 miles. If we put all of the equipment that is necessary to support a division bumper to bumper, we could probably run a line 700 miles. We have to move that equipment from the United States or from other military bases throughout the world into that region.

Take a look at how long it took to move the Apache helicopters over there. What did we have, 24 helicopters? It took a month, 6 weeks? It was not because we were reluctant to move them over there, it is because it took a lot of manpower, it took a lot of mechanical, logistical planning to get those 24 Apache helicopters over there. Take that factor and multiply it by several hundred, if you want to move a division. Just assume several divisions. We are going to have to put several divisions in place if we want to have a successful military intervention on the ground. We cannot ignore that.

Now, where do we stage it? This is a large staging operation to move that equipment over there. A lot of people say, let us go to Albania. Albania seems to be a logical location to put the equipment in. The difficulty is that Albania is a very, very poor country. Their airport does not have radar. Their harbor does not have the capability for cranes to reach in and lift tanks out of ships. We cannot move all of this equipment by aircraft. It would take significant infrastructure placement in Albania for us to utilize that as a staging area.

The other countries are not very excited, and maybe Macedonia will come around, but the other countries are not very excited about the United States or NATO staging a military action out of their country.

So the number one problem we have is, aside from the political commitment or the commitment to put those troops in there in the first place, is logistically, where do we start? Where is headquarters? Who has the logistical capability to help us move that equipment from throughout the world, most of it coming from the United States of America, into that area, servicing that equipment, fueling that equipment, manning that equipment, and then dispersing that equipment where we need to have it dispersed for a successful ground operation? I think it would take several months for us to get that capability in place.

Now, once that is mentioned, keep in mind that we just do not have unlimited equipment in the United States. When we dedicate that type of equipment to support that large a ground force in this country, we have to get it from somewhere. Where do we get it from? We get it from other military bases, other U.S. military bases.

My point is this: We are diluting the military force in this country to address this particular problem. I do not agree with the policy, but let us just, for the sake of the argument, say that the policy is correct, so we move all of that equipment over there. We have to keep in mind what kind of dilution do we now have in Korea, for example? What kind of dilution do we have in the United States? Are we taking the very best equipment away from our main forces in the United States?

We know that the President has already called up the reserves, so we know that our military forces, our troop numbers, are being significantly diluted. The President asked for 30,000 more troops, 28,000 or 30,000 more. It is my opinion if we were to launch a massive ground invasion, which I think would be the safest route to go, if in fact we agree with ground troops in there, and I do not, and I do not agree with the policy, but if that decision were made, I think it is very realistic for us to expect that the President would have to call up draftees.

Is this country prepared to reengage in the draft? The draft is already in existence. As we know, 18-year-old males have to register for it. Is this administration, is this Congress, prepared to draft individuals to put that kind of force in place in Yugoslavia while maintaining our strength in Korea, while maintaining our strength in the mainland United States, while maintaining our strength throughout the other areas in Europe?

That is a significant question for us to ask ourselves, what kind of dilution can we afford? Even if we want to go in there with ground forces, even if we think this cause justifies an American military action, we still must stand back and say, can we afford or to what extent can we afford to dilute our current military forces? That is an important question.

As we know, or maybe Members have not read in the newspapers, for the first time in I don't know how many years we no longer have a carrier in the Pacific arena. We moved that carrier. Orders were given to that carrier to move over to assist in this operation. That is dangerous.

Take a look at the deploying of our military forces. In my opinion, some of these cuts have gone way too deep. In my opinion, our military could not sustain, contrary to what the administration says to us, our military cannot sustain two simultaneous major actions at once. It could not do it because the military has been so downsized. Now, to further dilute it for this kind of action, even if it is a just action, we have to assess that responsibility and what the cost of doing that is.

I wanted to very quickly cover the members of NATO. We have Belgium, Canada, the Czech Republic, Denmark, France, Germany, Greece, Hungary, Iceland, Italy, Luxembourg, the Netherlands, Norway, Poland, one of the new members, Portugal, Spain, Turkey, the United Kingdom, and the United States of America.

Let me say, in that list of NATO members, they are all well-intended. I am not sure that our fellow partners, as I mentioned earlier, are carrying their fair share, but I will say that, for example, the United Kingdom, I think they have been tremendous. I think proportionately they are probably carrying their fair share.

But some of these other NATO members are going to have to step up to the

plate. In my opinion, the United States of America is going to begin to question this policy more and more, especially when they see lives of American soldiers, we lost two of them last night, when that begins to become unproportionate, and even one death in my opinion is unproportionate; when they begin to see, the American taxpayers, what these tax dollars are costing, when they begin to see what the dilution is to our current military, I think some serious questions are going to be asked: What are the other members of NATO going to carry? What is their burden? What is their responsibility?

NATO, remember, was formed as a defense alliance. This is not a defensive action. Some people will say it is to defend a spread throughout the European continent. I do not think it is, I think it is an offensive action.

But nonetheless, we are there. How do we resolve this conflict? What do we do to get out of this conflict? Well, we are in it. While we are in it, I think we have an obligation to support our troops with the best equipment we can possibly get over to them. Granted, it dilutes us. We have to keep a very keen eye on how to work that. But as long as we have one American soldier over there, we have to make sure they are properly equipped and we support the troops. We may disagree with the policy, but we have to give the support to those troops.

I think at some point Russia is going to play a key part in bringing a cease-fire to this situation over there. It is my opinion that Russia was not involved in the earlier stages to the extent that Russia should be involved.

Why do we say Russia? I know there is a lot of resentment or a lot of ill will towards Russia. Some people will say, they are bygones, they are minute players in this. They are just the player we need, in my opinion, to bring a cease-fire. They have credibility with the Serbs, they have some credibility with the United States, they have credibility with the United Nations, and they have some credibility with members of NATO.

Russia may just be the player at the right time and in the right place to bring this thing to a cease-fire. I think what will eventually happen is that the air war, which apparently right now is being stepped up, and I can say that, while I disagree with the policy of being there, while we are there, we might as well carry out the mission that the President has sent those troops over there for.

So while this is going on, the sustained bombing, I think Russia will eventually, through negotiations that could be going on right now, bring us to a cease-fire. But there are several elements of that cease-fire that are going to be necessary to carry it out.

One, there is going to be a huge, a huge financial obligation put on the members of NATO, primarily the United States, one, to help bail Russia out of its economic problems; and two, to rebuild Kosovo, and to rebuild the infrastructure and put an economy in place that will sustain that country.

□ 2245

So that is where I think this action is heading. I do not think this conflict will spread like Vietnam spread, but I hope I do not later eat my words.

By the way, speaking of Vietnam, I want to say to all of my colleagues, that some people have said to those of us who question the policy of putting ground troops in Kosovo, who question the policy of the United States' extent of military involvement, they say to us, look, any kind of action outside our boundaries, we must speak as one voice; do not dare question the administration's policies.

We have an obligation to question a policy if we in our heart do not think that policy is right, and that is exactly what I intend to continue on doing. Granted, outside our borders we are a very strong country, and within our borders we are a very strong country. But what makes us as strong as we are is that we have the checks and balances in this country; that we are free to speak, to question authority. And that is exactly what has made us as strong as we are.

Now, the wild card we have to worry about is if this bombing continues and if Russia is ignored. And to the administration's credit, I do not think they are ignoring Russia. I think the administration and NATO, and, frankly, NATO got in way over its head as far as the refugees were concerned. They never expected these refugees to come over, they never expected to have problems with balance of power in the countries which these refugees go into. NATO did not know what to do with them.

I think NATO is looking for a way out. And I think the administration is treating Russia with respect, and I give the administration credit for that. But we have to be very tender with Russia, because at some point Russia may say, all right, we are going to go ahead and sail Russian oil tankers through our so-called oil blockades. And what will NATO do? What NATO will do is they will not stop that ship. If Russia decides they are going to start supplying the Serbs with weapons or, worse, they are going to put a few Russian troops in Belgrade and say, do not bomb Belgrade any more, Mr. President, that is the wild card of Russia.

That is why I emphasized that Russia is an important player. They may not have the military significance that they used to have, they may not be the threat from a ground force standpoint or from an operating naval standpoint that they used to be, although clearly maybe they are even more of a threat from a nuclear capability because of our concern of an accidental launch, but they still have all those missiles, so they are a player. It is appropriate to get them right in the middle of this.

I want to talk for a moment and then I will wrap it up. I know I have gone on for a while here, but I have because I feel so deeply about this, but I want to talk about the Kosovo Liberation Army, the KLA.

In 1998, remember this is 1999, in 1998 the United States State Department listed the Kosovo Liberation Army on the international terrorist list. It is amazing to see the spin that is being put on these people in this Kosovo Liberation Army.

Remember that the latest flareup started when the KLA, that is what we will call them, the KLA started sniping and assassinating Serb police officers. So the Serbs, in a typical over-response, started shooting innocent civilians. The KLA in our country would be known as terrorists. Our State Department defined them as terrorists a year ago. But take a look at what is happening on the spin. All of a sudden the KLA are no longer terrorists, now they are being known as rebels or as freedom fighters.

The Washington Times this week, I think in Monday's publication, did a detailed article about how the Kosovo Liberation Army is running a heroin operation, the selling of drugs, to finance their military goals. We are about to jump in bed with these folks. We have taken sides with these folks. We have to be very, very careful before we hold hands with a partner like the Kosovo Liberation Army.

Let me wrap it up, because I would like to yield to my colleague, the gentleman from Pennsylvania (Mr. WELDON).

My summary will be this: Number one, what is the policy of the United States? What are the national interests that require our investment, require our commitment in this country? What is the history of Yugoslavia? Is it a Civil War, is it a genocide? We should ask ourselves what is the authority, what is the precedent we are setting out there? Are our European partners carrying their responsibility? Are they carrying a fair share of the burden? Are we supporting an organization that, in fact, are drug dealers, the Kosovo Liberation Army; that is, in fact, guilty of the same atrocities or many of the same atrocities as the Yugoslavian troops? And if we are, how do we make that distinction?

Of great importance to this country: Are we diluting our military forces to an extent that we are putting our country in danger of another military risk because we have shifted these assets too much in this direction? How will the conflict end? What role should Russia play?

Mr. Speaker, this is a very serious conflict. We lost two American soldiers last night. They died. We have a lot of decisions to make. This is a very serious situation for each and every one of us, and the final test, before I yield to the gentleman, the final test is could any one of us, as an elected official, as a government authority, knock on the

door of a family and say to the father, the mother, or the spouse or the children, say to them that their loved one lost their life in this conflict and that the loss of their life was necessary for the national interests of this country?

If my colleagues cannot now answer that question in the affirmative, then they ought to be questioning this policy the same way I do.

Mr. Speaker, I yield to the gentleman from Pennsylvania (Mr. WELDON).

Mr. WELDON of Pennsylvania. Mr. Speaker, I thank my distinguished colleague for yielding to me, and I thank him for his efforts on behalf of the understanding of the situation in Kosovo. I would add that I think I have some pretty provocative answers to the questions he raised, and I think we have good news on the horizon, perhaps as soon as the coming days, if not tomorrow.

Let me first of all start out, Mr. Speaker, by saying that we have been calling for Russia's involvement in the Balkan crisis in Kosovo for about 5 weeks. It was 5 weeks ago that I was first approached by Russian leaders from the Duma who asked me to open new channels with the administration to see if we could find some common ground for a solution to this crisis. I got information from them, I started working with the National Security Council, the White House, Leon Fuerth's office, the State Department, as well as Democrat Members of Congress so that no one could say we were doing something in a partisan way.

Those discussions and faxes went back and forth for about 3 weeks, and they culminated 2 weeks ago in a request by the Russians for me to bring a delegation to Budapest and then to travel down to Belgrade to jointly meet with Milosevic to convince him that he should, in fact, come to terms with the requirements that NATO has laid down.

I asked the Russians to put that request in writing, Mr. Speaker. They did that. I asked them to meet five specific requests that I had. The first was to put the request in writing for us to be involved, the second was to identify the Russian leadership that would be involved in discussions with us. The third was to give me a date and time certain for a meeting with Milosevic. The fourth was to meet with our POWs. We had not met with them yet. And the fifth was to travel with me to a refugee camp where they could see the devastation caused by Milosevic. The Russians agreed to all five points. They put it in writing.

We then went to the State Department, the gentleman from Maryland (Mr. STENY HOYER) and I, a week ago this past Thursday. We met for an hour and a half with Strobe Talbott. We explained the opportunity. We said we were prepared to take a bipartisan delegation to Budapest and then down to Belgrade to meet with Milosevic. The State Department said, please don't go.

We were rebuffed by the State Department, but they did open the door for us to meet in a neutral city with the leadership of the Russian Duma. With that being said, over the weekend I continued discussions with the Russians and suggested that they pick a city and that on Friday of last week we meet in that city and discuss the issue to see if we could find common ground.

The Russians decided that Vienna would be that city. I sent a letter to all 435 Members of the House a week ago Monday outlining in three pages what we had done, and I invited Members to join with us. Eleven Members came forward, 6 Republicans and 5 Democrats, from liberals like the gentleman from Vermont (Mr. BERNARD SANDERS) to conservatives like the gentleman from Pennsylvania (Mr. JOSEPH PITTS) and the gentleman from Maryland (Mr. ROSCOE BARTLETT).

The 11 of us left on Thursday night, Mr. Speaker, and we traveled all night by air. We arrived in Vienna on Friday morning. We immediately went into meetings with the President of the Austrian Parliament to get a feel for what he thought should occur as an independent nation. And then, Mr. Speaker, we started meeting with the Russians.

We started in the afternoon, went into the evening, continued over dinner, and came back Saturday morning. And during our discussions with the Russian leadership, which included the broad basis of Russia's political spectrum, Russia has 7 major political parties and 90 percent of those political factions were represented in our discussions. The leader was Vladimir Ryshkov, who was the First Deputy Speaker and Chairman of Chernomyrdin's party. He was in direct contact with Victor Chernomyrdin throughout our discussion. We had Vladimir Luhkin, the former Soviet Ambassador to the U.S., who represents the Yabloko faction. We also had the third ranking Communist in the State Duma, Alexander Shapanov, representing Seleznyov and the Communists, as well as the region and Agrarian members of the Duma.

Ninety percent of the leadership in Russia's political spectrum was represented in our discussions with the 11 Members of Congress. But also, Mr. Speaker, we had two Serbs there. We had the largest financial contributor to Milosevic, who sat through our meetings as an adviser to the Russians in our discussions. Dragomir Karic, whose family, in fact, owns a significant amount of business interests in both Serbia and Russia sat through the meetings and kept in phone contact with Milosevic himself.

Now, Mr. Speaker, these meetings were not to negotiate. Our purpose in going to Vienna was to see if we could find common ground on which negotiation could take place. We prepared a document and went through that document line by line. During the time of going through that document, Mr. Speaker, both the representative of Milosevic and the Russians were asking our delegation to travel to Belgrade, because they thought there was an opportunity for us to bring at least one of the POWs out, perhaps two of the POWs, as well as to meet with Milosevic and to get him to accept the report that we were working on.

Mr. Speaker, at 1 o'clock on Saturday, this past Saturday, we reached agreement with the Russians; an historical agreement. The Russians agreed to a multinational peacekeeping force that had weapons. The Russians agreed to have Milosevic remove the Serbs from Kosovo. The Russians agreed that we use the term ethnic cleansing. And even though the Russians agreed, and we still did not have the support of Milosevic, they took the document we signed and faxed it to Milosevic at 1:30 on Saturday afternoon.

Milosevic responded if we were to go to Belgrade he would publicly embrace the framework of our agreement and would, in fact, support what we and the Russians came up with. We then called the State Department. I talked to the head of NIS Affairs, Russian Affairs, Steve Sestanovich, told him about the offer that was being made to us, he had Tom Pickering, the Under Secretary of State, call me back. I read our document to each of them.

Pickering told me that he did not think it was advisable that we go to Belgrade, even though I told him that Milosevic's representative and the Russians were telling us that if we went we would bring out all three of our POWs; and if we went, Milosevic would publicly embrace the document that we had agreed to.

Mr. Speaker, that was 2 p.m. on Saturday. When we told the Russians and Milosevic's rep that we could not go because our government did not trust Milosevic, and after one of our Democrat Members had talked to Podesta in the White House, I told the Russians and I told the representative of Milosevic that we would not travel to Belgrade. That was at 2 p.m., Mr. Speaker.

In fact, in that telephone conversation from Pickering, he said this to me: ''Why do you think that Milosevic would be open and candid with you and live up to what he is telling you about giving you the three POWs and agreeing to the document that you have in fact signed with the Russians?'' He said, ''After all, there have been other attempts to free the hostages. In fact, the mission being held by Jesse Jackson right now has been a failure. Milosevic has decided he will not give the POWs to Jesse Jackson's mission.''

That was at 2 p.m., Mr. Speaker. We told them we would not go. And 2½ hours later the Milosevic government announced on CNN that they would release the hostages to the Jackson delegation within a matter of 3 or 4 hours.

Mr. Speaker, those are the facts and the time lines. We have reached agreement with Russia, and that agreement with Russia is very close to what Milosevic will accept. Now we must

push this document, as we are doing. We sent copies to the Pope, the head of the Muslim faith, the head of the Orthodox religion, the U.N. Secretary General Kofi Annan, the parliamentary leaders of every other country, as well as Ukraine and Russia, and tomorrow, Mr. Speaker, there will be an announcement.

The announcement that I predict will occur tomorrow, Mr. Speaker, is that Russia and NATO will announce that they have reached agreement on a multinational force; the beginning of the end of the conflict, partly because of the work of this Congress and people like my colleague and people on the other side like the gentleman who is going to speak next, who have been talking about the need to end this bombing, to end this hostility that is causing us problems with Russia and look for a way to solve this crisis peacefully.

Mr. Speaker, I include for the CONGRESSIONAL RECORD the document signed by the members of the Russian Duma and by the Members of Congress who were in attendance at the meetings I referred to earlier.

REPORT OF THE MEETINGS OF THE U.S. CONGRESS AND RUSSIAN DUMA, VIENNA, AUSTRIA, 30 APRIL–1 MAY, 1999

All sessions centered on the Balkan crisis. Agreement was found on the following points:

I. The Balkan crisis, including ethnic cleansing and terrorism, is one of the most serious challenges to international security since World War II.

II. Both sides agree that this crisis creates serious threats to global and regional security and may undermine efforts against nonproliferation.

III. This crisis increases the threat of further human and ecological catastrophes, as evidenced by the growing refugee problem, and creates obstacles to further development of constructive Russian-American relations.

IV. The humanitarian crisis will not be solved by bombing. A diplomatic solution to the problem is preferable to the alternative of military escalation.

Taking the above into account, the sides consider it necessary to implement the following emergency measures as soon as possible, preferably within the next week. Implementation of these emergency measures will create the climate necessary to settle the political questions.

1. We call on the interested parties to find practical measures for a parallel solution to three tasks, without regard to sequence: the stopping of NATO bombing of the Federal Republic of Yugoslavia, withdrawal of Serbian armed forces from Kosovo, and the cessation of the military activities of the KLA. This should be accomplished through a series of confidence building measures, which should include but should not be limited to:

a. The release of all prisoners of war.

b. The voluntary repatriation of all refugees in the Federal Republic of Yugoslavia and unhindered access to them by humanitarian aid organizations. NATO would be responsible for policing the Federal Republic of Yugoslavia's borders with Albania and Macedonia to ensure that weapons do not reenter the Federal Republic of Yugoslavia with the returning refugees or at a later time.

c. Agreement on the composition of the armed international forces which would administer Kosovo after the Serbian withdraw. The composition of the group should be decided by a consensus agreement of the five permanent members of the U.N. Security Council in consultation with Macedonia, Albania, the Federal Republic of Yugoslavia, and the recognized leadership of Kosovo.

d. The above group would be supplemented by the monitoring activities of the Organization for Security and Cooperation in Europe (OSCE).

e. The Russian Duma and U.S. Congress will use all possiblities at their disposal in order to successfully move ahead the process of resolving the situation in Yugoslavia on the basis of stopping the violence and atrocities.

2. We recognize the basic principles of the territorial integrity of the Federal Republic of Yugoslavia, which include:

a. wide autonomy for Kosovo

b. a multi-ethnic population

c. treatment of all Yugoslavia peoples in accordance with international norms

3. We support efforts to provide international assistance to rebuild destroyed homes of refugees and other humanitarian assistance, as appropriate, to victims in Kosovo.

4. We, as members of the Duma and Congress, commit to active participation as follows:

Issue a Joint U.S. Congress-Russian Duma report of our meetings in Vienna. Concrete suggestions for future action will be issued as soon as possible.

Delegations will agree on timelines for accomplishment of above tasks.

Delegations will brief their respective legislatures and governments on outcome of the Vienna meetings and agreed upon proposals.

Delegations will prepare a joint resolution, based on their report, to be considered simultaneously in the Congress and Duma.

Delegations agree to continue a working group dialogue between Congress and the Duma in agreed upon places.

Delegations agree that Duma deputies will visit refugee camps and Members of Congress will visit the Federal Republic of Yugoslavia.

Members of Congress:

_____ _____, Neil Abercombie, Jim Saxton, Bernie Sanders, Roscoe Bartlett, Corrine Brown, Jim Gibbons, Maurice Hinchey, Joseph R. Pitts, Don Sherwood, Dennis J. Kucinich.

Duma Deputies:

_____ _____, _____ _____, _____ _____ _____ _____.

□ 2300

KOSOVO

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 1999, the gentleman from California (Mr. SHERMAN) is recognized for 60 minutes.

Mr. SHERMAN. Mr. Speaker, I want to thank the gentleman from Pennsylvania (Mr. WELDON) for his hard work. It did not just start recently. He has been building bridges between the United States Congress and the Russian Duma for many years. And I think he speaks well of the need for us to break out of this stranglehold that our policy is in where it seems like not only are we reluctant to compromise, we may even be reluctant to take ''yes'' for an answer.

I would like to focus my remarks on my recent trip, along with a delegation from this Congress, to the Balkans. Putting it into context, there were three different groups from this House that went to the Balkans over the weekend.

The gentleman from Pennsylvania (Mr. WELDON) reported from his group. A second group, a group of only one Member of this House, the gentleman from Illinois (Mr. BLAGOJEVICH), our colleague from Chicago, went with Reverend Jesse Jackson with a delegation that included Rabbi Steven Jacobs of my district in the San Fernando Valley in California; and they, as everyone knows, secured the release of the three American soldiers.

The delegation that was the largest of the three visiting the Balkans has received the least coverage, perhaps because we were kind of the most establishment oriented trip. Our itinerary was put together with the full involvement of the administration and the Department of Defense. But given the importance of what is going on in Kosovo, I would like to take the next 40 minutes, perhaps even an hour, to report on my observations on that trip.

Our delegation was led by the gentleman from Texas (Mr. ARMEY) the majority leader and included, I believe, 17 or more Members of this House. I want to point out that this speech will not only be a description of what we saw in some of my observations but will also act as a convenient pretext for me to once again address this House about our policy in Kosovo and some of the steps I think that we ought to be taking in order to bring this conflict to a conclusion.

Mr. Speaker, our trip began here in Washington at 6 a.m. at the Rayburn House Office Building just across the street from this House. And we proceeded to Ramstein, Germany, the site of our large Air Force base there, in fact, the largest group of Americans living anywhere outside the United States.

There we were briefed by General John Jumper and his professional staff, and we were indeed impressed by every part of that plan and operation, from the intelligence to weather. And in fact, I came out of that briefing believing, as I did not believe when I went into it, that perhaps there is some chance that bombing alone will bring Milosevic to his knees.

But we should not kid ourselves. That is still only a chance. And furthermore, bringing Milosevic to his knees and bringing Serbia to its knees, and I will talk about this a little later, is itself not a total victory for what we set out to do. Because this is not a war to acquire territory or secure strategic position. This is a war that we engaged in to achieve a humanitarian result. And clearly, looking at the carnage in the Balkans, it is hard to call this, even if it were to end tomorrow, a victorious humanitarian effort.

I should point out that certainly those of us at that meeting came away with the belief, I think most of us did

at least, that the interference or delay involved in NATO being involved in selecting targets has been reduced substantially and that our military is now carrying out the air war in a manner very close to the manner that they would carry it out if there was no political involvement or diplomatic involvement in their decisions at all.

We then, after a night's sleep, proceeded that morning to Tirana, Albania. We landed at the international airport, the only significant airport in that country. But to give my colleagues an idea of how poor and undeveloped Albania was and is, Tirana International Airport prior to this war was dealing with an average of seven flights a week, one flight on the average day for the entire country of Albania.

The Albanians have basically turned their country over to NATO and the United States both for our humanitarian efforts to provide refugee camps and military efforts to provide bases for us to carry the war to Serbia.

I want to first focus on discussions regarding the camps. We need to build more. Over half the Kosovars are still inside Kosovo, and every day thousands stream over that border. Yet it will be months before that stream necessarily comes to an end, even if it continues at the rate of 4,000 or 5,000 or even 10,000 every day.

Now, we will be passing from this House a supplemental appropriations bill, a bill which I am told by my colleague and friend the gentleman from New Jersey (Mr. SMITH) who heads the Subcommittee on Human Rights of the Committee on International Relations, on which I serve, that that bill may very well not contain the funds we need to build two more camps in Albania.

Well, we will need to build far more than two camps. And when I say, ''we,'' I mean not only the United States but NATO and the other countries of goodwill. Japan has chipped in I think a modest insufficient amount, but even that amount will be helpful in building more refugee camps. And when we look at this supplemental, we should look forward to a conference committee which will hopefully add whatever funds are necessary to make a full American effort toward building camps now.

Because we clearly misjudged this effort at the beginning and we did not expect a large number of refuges. We were behind the curve in preparing to absorb those refuges. There is no reason for us to be behind the curve still. We should be building camps as quickly as possible. We should not be over optimistic and assume that we will bring Milosevic to our terms in a few days, for it is that kind of optimism that has led to some of the difficulties we face now.

□ 2310

I should point out that one of the biggest problems as far as accommodating new refugees is the fact that humanitarian organizations, both governmental and nongovernmental, both the private charities, often called NGOs have a tradition in dealing with refugee camps, that they never pay money to rent the land on which those camps will be constructed. This tradition is founded on the belief that when you build a refugee camp that is supposed to be there for weeks, it may be there for decades. But Albania is a mountainous country, there is very little flat land. What land is there is being farmed. And it is absurd to think that we will slow down the process of providing even basic tent shelter for the refugees that are still streaming across the border because of some tradition of not going to this farmer or that farmer and renting their farm so that a camp can be constructed. I should also point out that it is somewhat deceptive how the initial refugees were dealt with and might lead us to the conclusion that we can go at a moderate rate at building refugee facilities.

You see, Mr. Speaker, many of the refugees that came at the beginning of this conflict had close relatives to northern Albania who opened their homes and many of the towns in Albania took every available public building and opened it up to refugees. Mosques, local gymnasiums are now full. So every new refugee needs a place to stay that has to be provided through humanitarian effort. And so we need to move forward and recognize that we are going to have to build these camps more quickly than we have in the past.

One issue that has come up that I had a chance to discuss with the prime minister of Albania, Mr. Majko, is the idea of resettling refugees in western Europe and in the United States. Our hearts go out to these refugees. It would take a hard-hearted Member of this House to criticize the administration in opening up our country to 20,000 Albanian refugees from Kosovo. However, I do think that I should point out to this House my discussions with the prime minister of Albania in which he made it clear that he was willing to make available his country to provide refugee camps for all of the refugees. There is no shortage of land or space or political willingness to accommodate these refugees subject to the need to rent farmland to build the camps. Moreover, he actually opposed the resettling of these refugees in western Europe and the United States, pointing out that as long as the Kosovars live close to Kosovo, the pressure will continue and the likelihood will continue that they will return to Kosovo. In contrast, we only have to look at Bosnia, where after years of terrible struggle, peace has been restored and the Bosnian Muslims can now live in security. But 70 percent of those Bosnian Muslims who left Bosnia have not returned, even though security has been provided, even though it is possible to live and to make a living, they have not returned and show no likelihood of returning. And so any Albanian nationalist, and the prime minister of Albania certainly fits in this category, would want to keep the Albanian Kosovars in the Balkans, a few miles or at least 50 or 100 miles from Kosovo rather than see these people relocated to far distant areas. Keep in mind that Milosevic's objective is to cleanse the Balkans of Albania or at least of the Kosovars and perhaps we make that easier if we absorb refugees or urge our western European allies to do likewise.

As far as the logistics, I think that if we put the same effort into building camps that we are going to have to put into absorbing refugees from other countries, that we could build the camps necessary. But whether we absorb another 20,000 refugees to the United States or not is a drop from one bucket into another bucket. For 20,000 Kosovars is but 1 percent of those who may become refugees if this matter continues as it has. And 20,000 refugees to the United States is but a small portion, perhaps only 20 percent of the refugees that we will absorb every year, not to mention that it is an infinitesimal fraction of our great country's population. So whether 20,000 Kosovars come here or not is but 1 percent of the Kosovars, and we have to focus on the other 99 percent.

While I am mentioning my discussions with the Albanian prime minister, I should mention one very interesting idea, and this is one idea to solve two problems. The first problem is that as winter arrives, it is possible that the Kosovars will still be refugees. If this is the case, we need more than simple tents to provide shelter. In addition, we would hope that perhaps before this winter, the Kosovars returned to Kosovo, where they will find decimated and burned-out villages and perhaps no place to stay. What the ambassador of Albania suggested, and this is a matter that I look forward to discussing with the Manufactured Housing Institute and other experts, is that we acquire portable housing, something more solid than a tent, that we erect it in Albania for the refugees, and that it be designed so that when peace comes to Kosovo or even part of Kosovo, that we can tear this housing down and reassemble it so the Kosovars will have a place to live even if their particular village has been burned to the ground during this ethnic cleansing.

After our meeting with the Albanian prime minister, we went to visit the American Apache helicopters and more importantly the men and women of the United States who are there to man those helicopters. I was very much impressed with the quality of our military forces. The generals, the officers and even the enlisted men are well aware of their mission and of the complexities. Walking the streets of America, you hear people say, ''Well, let's just get it over with right away.'' Or, ''Let's pull out right away.'' Or, ''What

are we doing somewhere unless we can get our way all the way?''

These military men and women that I talk to understand the complexity of the world and understand the complexity of their mission. They recognize that whether it is the Balkans or perhaps some other crisis at some other time, they may be called upon to provide modulated levels of force, peacekeeping, warmaking, retaliatory strikes or humanitarian efforts as necessary to achieve our diplomatic and humanitarian purposes. And they do not insist that the world be made simple, for they recognize how complex it is.

We were briefed by Lieutenant General Hendrix and we learned some very interesting facts. The first is about the mountains that separate northern Albania from Kosovo. The general assured us that the Apache helicopters under his command could go over those mountains, many of them over 9,000 feet high, and into Kosovo, and that he thought it was important that they be trained, that they go through some ground exercises before they were deployed. We questioned the general because there was some concern that in order to get these Apache helicopters into Kosovo, that they would need to fly through the two or three passes that are in these mountains that separate Albania from Kosovo.

□ 2320

Mr. Speaker, I think we all recognized that any force going through the passes is going to have a tough time since that is the easiest place for the Serbs to set up defense. He assured us that those Apache helicopters could indeed either go through the passes, if that was visible, or instead go over the mountains.

But keep in mind that just 2 days after we left, after we had a chance to talk to the brave men and women who pilot those helicopters and who serve the United States by operating those helicopters, that one of those helicopters crashed and two of them lost their lives, and when I began, right as of the time I began trying to put together my thoughts for this speech, the names of those two first casualties had not yet been released, and so I do not know whether it was one of the young men that I spoke to who lost their lives and taught us what the ultimate, showed us what the ultimate sacrifice was and also showed us that this is not a casualty-free war.

Now it is true that this helicopter was not lost in combat, but it was lost in a training mission done on an accelerated basis under hazardous conditions, hazardous conditions that were necessary in order to prepare for imminent combat. These two soldiers are the first casualties of this war.

As I mentioned, there are mountains that we had a chance to see, albeit from a distance, on the Albania-Kosovo border. Now that is particularly important when we think of the possibility of deploying ground forces.

It is true that the KLA lightly-armed guerrilla fighters are slipping over that border now and carrying on operations, but we did not win Desert Storm by sending a few lightly-armed guerrilla fighters up against Saddam Hussein's Army. Even after that Army was subject to a level of bombardment that may be impossible in the terrain of the Balkans we sent in a very heavily armed armored force.

And those who talk about starting a ground war must explain to this Congress how that ground operation will operate.

Will it be airborne?

And what are the casualties of parachuting into hostile territory?

Will it be some lightly-armed force, and what are the casualties of sending a lightly-armed force against a heavily-armed adversary?

Will we be trying to put heavy armor through mountain passes, and if so, how easy will it be for the Serbs to set up defenses to that armor?

Or finally, is it possible that we will convince some country other than Albania to be the jumping-off point for any ground action?

As to that last point, as I said, Albania has turned its territory over to NATO, both for military and humanitarian operations, but I do not expect any other country that borders Yugoslavia to do the same thing. For no other country has all without complaint even accepted refugees. The former Yugoslav Republic of Macedonia has accepted refugees but has made it very clear that after accepting almost 200,000 they are not necessarily willing to accept more, and I think those who observe diplomatic affairs in the Balkans would have great doubts that American soldiers or NATO soldiers based in that republic or based in Hungary or Romania would ever be allowed to assemble and attack Serbia from those countries.

Mr. Speaker, I should point out that I put this speech together because I thought it was important to report on our trip, how that report would still be current and worthy of the attention of our colleagues. I have not had the time I would have liked to make this speech as concise as possible.

But continuing with the description of our trip, we then, after visiting with General Hendrix and his men and women, we then went on to be briefed by Colonel Bray of Task Force Hope. Both of these generals and their forces are deployed there at Tirana International Airport where the first thing they have to do is provide security around the perimeter lest some sapper or commando or terrorist force seek to destroy them on the ground.

In any case Task Force Hope is America at its best using our helicopter and other logistical efforts to take humanitarian supplies from Tirana in central Albania to northern Albania where most of the refugees unfortunately still are, the part of Albania that borders Kosovo, and so the part that initially receives the refugees.

What was driven home to us by this Operation Task Force Hope, Mr. Speaker, is that this is a humanitarian effort. If you are waging a war against a country because of some strategic reason that if you beat the country and achieve your strategic objective you could call it a complete victory. If you are waging war for money and gold, then if you capture the money and gold you can call it a victory.

This war is not part of the Cold War or not fighting for some strategic advantage over a larger adversary. This war is not a war of imperialism. This war is a humanitarian effort, and that is why it is so important to end it as soon as possible.

An even total victory 3 months from now is less important than a reasonable outcome reached today because every day Kosovars are killed, every day they die of exposure before they are able to reach refuge on the other side of the border, and while the Serbs are our adversaries in this conflict, humanitarianism is not served by their destruction.

We are unfortunately treated to the videos of the collateral damage, and I will discuss later whether we can believe all those videos, but clearly there are civilian Serbs being killed every day by our bombing, and if not every day, then every second or every third day.

And over $100 billion is the estimate of the damage that we have done to Serbia, and clearly that country's ability to provide for its people and to cure its sick will be diminished and lives will be lost as a result of the huge scale of the economic destruction.

Mr. Speaker, that was our visit to Albania. We then boarded military transport for the former Yugoslav Republic of Macedonia with its capital at Skopje. When we landed at Skopje Airport, it became apparent immediately that the former Yugoslav Republic of Macedonia or FYRO Macedonia, was a much more developed country than Albania with, for example, a much larger airport.

□ 2330

We visit almost immediately from that airport, we went by bus just a few miles and after that trip we were a few miles away from the Kosovo border, which gives you an idea how close that airport and the capital of the former Yugoslav Republic of Macedonia is to the Serbian border, just a few miles away.

When the buses stopped, they took us to the Stenkovec refugee camp, Stenkovec 1, and that is a camp that is visited by many of those dignitaries or visitors who visit refugee camps. In fact, just 2 days after we left, Tony Blair was at the same camp.

What we saw at that refugee camp was, if anything, heartening. We went there expecting to see the worst. We saw, I think, the best we could have expected. The people there were well fed

and there was a huge store of food visible for future consumption. There were smiles on the faces of almost everyone I talked to. Think of that. These people have lost everything and they smile and they joke, and there was even a little entertainment off to the side of the camp, not for our benefit but for theirs, where they sung, singing and smiling.

I have friends, I myself feel this way, the market goes down by 50 points and we are in a bad mood. These people have lost everything and they smile.

Perhaps the best symbolic moment was I visited one tent. They invited me in for some refreshment. This is a refugee camp where people have genuinely found refuge, but it is getting warm. They live in tents. They have been there for a month. There are more on the way. We have to recognize that while there may be smiles today, there could be the natural trouble of too many people and too little space with too little sanitation and too much heat in the coming weeks and months.

That is why, as I will say it again, we must go forward and build more camps as quickly as possible to prevent the current camps from becoming overcrowded.

Many of the families I visited, they had over 6, 7, sometimes 10 people in a single tent, 12 feet by 12 feet. The fact that this camp remains calm and the people smile is a testament to the goodwill of the Kosovars and to a level of resilience that is remarkable.

I could go on about the camp, but there is one other thing I want to mention and that is I went there looking for verification of the stories of atrocities. I spent two hours at that camp. My colleagues, about 18 of them, spread out throughout the camp. Each was assigned our own translator, and I would say one out of 20 or 1 out of 40 or 50 of the residents of the camp spoke English at a sufficient level to communicate.

So I went around the camp asking whether they could put me in touch or introduce me to a refugee who had personally seen rape or murder. We were not able to find, at least I was unable to find, a refugee with such a story, either one who spoke English or one who could speak to me through the translator.

The story we heard instead, again and again and again, was that Serb paramilitary told people in this or that town or this or that neighborhood to get out and get out quickly, often on as little as 20 minutes notice, and the people decided to leave. Clearly, the stories of rape and murder from other towns and villages inspired such immediate compliance with such an outrageous order.

I should point out that the refugees we met came chiefly from eastern Kosovo, and it is quite possible that in the more rural parts of western Kosovo, where naturally rural people are even more tied to the land, more reluctant to accept an order to evacuate not just their homes but the farms, the soil that they have lived on for generations and centuries, perhaps in those areas there are greater levels of atrocity.

We then left Skopje for Aviano Air Force base in Italy, the most active base for our planes and other NATO planes to conduct this air campaign. There, we talked to more than one staff or general officer about the stories of collateral damage for just, I believe it was, 2 days ago a bus had allegedly been hit by U.S. bombs and scores of people, or a score of people, were killed allegedly.

I use the word allegedly. We never hear the word allegedly on CNN or on any of the news networks, because what the Serbs do is they take western reporters out to a site, there is a crater, there is a destroyed vehicle, there are dead individuals in civilian clothing. It is reported as uncontroverted fact that that crater was created by a NATO bomb, that that vehicle was destroyed by that particular bomb and that those bodies are people who were in the vehicle at the time when it was hit by such a bomb, none of which is verified by forensic experts. I will say that our people in the military are justifiably skeptical of the Serb propaganda effort.

While we are talking about a propaganda effort, I should say that we have been remiss in our own propaganda effort, and here I am simply echoing the views of my colleague and friend, the gentleman from California (Mr. ROYCE) who came with us on this trip. For years, the gentleman from California (Mr. ROYCE) has been trying to get Radio Free Europe and similar outlets controlled by the U.S. Government to broadcast in Serb into Serbia.

Finally, finally, they have started broadcasting on radio only, but keep in mind over half the Serbs have television satellite dishes. We could, should, have not, and must listen to the gentleman from California (Mr. ROYCE) when he says that we need to be broadcasting our message on television, because this war is a war fought in the air but not just by military airplanes but also by television broadcast. This war may be decided by propaganda as much as it is decided by bombs.

Then having been in four countries already that day, we flew at the end of Saturday to Brussels, Belgium, where we stayed overnight. We then proceeded to NATO headquarters, where we heard from General Clark, who is NATO's chief commander, and Secretary General Javier Solano, who is the chief officer, in a way the President, of NATO.

□ 2340

There, every effort was made to convince us of three things:

First, that we are winning, and I remain unconvinced. The most I am convinced of is that there is a possibility that after more bombing we will eventually achieve our stated goals, though this is hardly a humanitarian victory, and that there is even a greater likelihood that we cannot achieve NATO's stated goals through bombing alone.

Second, each of the speakers tried to convince us that the European allies of NATO were doing their fair share. This is hardly the case. Eighty-five percent of the airplane flights, the sorties being put forward in this air war, are American.

If we stretch the numbers as hard as we can, and being a CPA I have seen them stretched, but I am almost willing to give an honorary CPA certificate to those in NATO who have worked these numbers over very hard, we can argue that 50 percent of the total effort, refugee, military plane strikes and support military effort, that somehow maybe 50 percent is being borne by the Europeans. Even that is an outrageously small percentage.

General Clark argued to us that, well, 50 percent of NATO's GDP is found in the United States, and 50 percent of the wealth of NATO is found in the other countries, the European countries of NATO. So if America is half of the economic strength of NATO, why should America do anything less than 50 percent of the total refugee and military effort?

By this logic, America, with an equal GDP to Europe, or at least the European members of NATO, should do half of all of what needs to be done in Europe; ninety-nine percent of everything that needs to be done in the Americas, like taking out General Noriega out of Panama. We should do the overwhelming work of what is necessary in Asia, the vast majority of the work necessary in Africa, and bear virtually all the burden in the Middle East.

For us to do half of what needs to be done in Europe is absurd unless the Europeans are willing to do half of what needs to be done outside of Europe. But the ability of Europe to do its fair share is limited, limited by small defense budgets, in which America has acquiesced, or rather, our State Department has acquiesced; furthermore limited by how those budgets are spent.

In order to ensure that they have a large trade surplus with the United States, not as large as Japan and China, but a large one, nevertheless, European countries insist on not buying American military planes, not buying American electronic military technology, but building it in Europe, no matter how poorly it performs, no matter how little they will be able to do to defend our values, our shared values in Europe.

So a desire to spend less and to spend it less efficiently has hobbled Europe's ability to participate in this war, a war that we are carrying on to end ethnic cleansing in Europe.

Finally, at NATO they insisted upon reviewing again and again the five NATO points of negotiation. Basically, those points require the Serbs to completely surrender all of Kosovo to

NATO. I think this is not exactly a compromise position.

But I will point out that the prime minister of Great Britain, Tony Blair, has made comments that can be interpreted as setting forth an even more extreme objective, as he has called, somewhat obliquely, for the arrest and trial of Milosevic. Now, if that could be done with the wave of a wand, I would wave that wand immediately. No one, very few people on this planet, deserve a trial for war crimes more than Mr. Milosevic.

The rhetoric gets so extreme that people say, how can we live in a world where murderers rule countries? It is time for America to get realistic in its rhetoric. Half the world is run by murderers. Let us recount just a few.

The government of Sudan, which has killed 1.9 million of its own people, and has probably killed more people in a genocidal war against its own citizens in southern Sudan than all of the Kosovars total, 1.9 million; not to mention the well-known genocide of Tutsis in Rwanda; the recent killings on Borneo.

But perhaps the best example of the fact that murderers run countries is the fact that we welcomed with open arms, not just as a negotiating partner but I think the administration called him a strategic partner, the prime minister of the People's Republic of China, pretending that that government does not include some old men still in power who played a role in the cultural revolution that killed millions; who were there to order the deaths and executions at Tiananmen Square; who were ordering the continued oppression and were there to order the death of millions of people in Tibet.

The fact of the matter is that we are not powerful enough, and I do not have a magic wand, we are not powerful enough to arrest and try all of the murderers that run countries, so it is interesting to talk about some rambo-style effort to arrest Milosevic.

But in reality, arresting him would require deploying NATO troops and fighting all the way to Belgrade, and then fighting to whatever mountain hideout Milosevic sought shelter in. We are talking at that point of thousands and thousands, perhaps tens of thousands, of dead and wounded American and NATO troops.

Those who talk glibly of arresting Milosevic should reflect on what is involved in that level of defeat, a level of defeat that we did not inflict upon Saddam Hussein.

We, instead of trying to increase our objectives in this war, should seek the minimum objectives consistent with the real reason we are there: to stop the killing of the Kosovars, and to make sure that Kosovars have a place in Kosovo to live in security where they can build lives. We should demand no more and we should demand no less.

This does not mean that Serbia has to surrender all of Kosovo to NATO. It does not mean that Milosevic must be turned over for trial, because, as wondrous as those results would be, the additional deaths not only of NATO troops, but every day this war goes on more people are killed, not in the refugee camps, where they are well taken care of, but in Kosovo itself.

We have to stop the killing and reach a peace agreement, consistent with the real objectives of this campaign, as quickly as possible.

In fact, the two sides' stated positions are not that far apart. We heard just before I began this long speech, and I apologize for its length, from our colleague, the gentleman from Pennsylvania (Mr. CURT WELDON), who described a possible settlement to which Russian Duma members agreed and which we have reason to believe Milosevic will agree.

That agreement calls for a multilateral force that will be there to protect the Kosovars. We should explore that opening instead of saying no, no matter what Milosevic proposes; that he has to accept our five points unilaterally, unconditionally, or we keep the bombing continuing.

□ 2350

We ought to explore the possibility that there would be two separate peacekeeping forces. And I say that because the biggest sticking point between the parties is about who is going to be in the peacekeeping force. The Serbs propose that it be under a U.N. flag. America has indicated maybe the U.N. flag is acceptable.

Both sides have agreed that the killing should stop. Both sides have even said the Kosovars should go home. The disagreement is over the makeup of the force. The Serbs want to see a lightly armed force of Russians, Greeks and others who have not waged war against them recently, and America and NATO insist on a NATO-led force that is heavily armed.

One possibility is to have two peacekeeping forces patrolling two different separate peacekeeping regions within Kosovo. One region could be patrolled by Russians, Greeks, and others acceptable to the Serbs. And it could be said that the Kosovars would be reluctant to return to that region, and I will get to that in a bit, but that first region could include the areas of Kosovo which are most sacred to the Serbs and are the reason or the stated reason they are fighting so hard to retain that territory.

That area, which I would think would be maybe 20 percent of Kosovo, could include the famous monasteries, or at least the most important famous monasteries. The City of Pec, where the Serbian Orthodox church began, could be included. We could negotiate, others could decide, whether the mines in northern Kosovo would be included, and of course the battlefield at Kosovo Polje, the famous battlefield where the Serbs were defeated by the Turks in the 14th Century, could all be included in an area where Serbs would feel they had not given up their rights, where the territory would be patrolled only by friends, or at least countries with whom they continue to have cordial relations.

The other 80 percent of Kosovo should be patrolled by heavily armed, NATO-led, perhaps U.N.-flag-flying troops where Kosovars could feel very safe. This would allow them to return to Kosovo and, with some American and European economic aid, to rebuild their lives.

If we insist on totally crushing all Serb claims to Kosovo, we insist that this war will go on until they are forced to give up. And I am not sure that is even 2 or 3 months away, and I am not sure that that does not involve ground troops over those Almadian mountains, and I am not sure that it can be done at a level of casualties that are acceptable to the NATO countries involved.

Because keep in mind, if a multilateral NATO military ground force is deployed, perhaps a British unit suffers casualties or a German unit or an Italian unit or an American unit, and the country that sent those particular soldiers demands an end to hostilities, then we will have the domino effect as each NATO nation says, well, if one NATO nation is pulling out, the others must. So it is important that we try to set our objectives consistent with the real humanitarian reason for our being involved in the Balkans.

Finally, Mr. Speaker, I would like to address an issue that has been addressed on this floor several times, and that is the role that Congress should play in making our foreign policy.

Now, Mr. Speaker, our constitution clearly provides that it is Congress that can declare war. And I believe that once and if we declare war, at that point all Americans should support that war, and Congress at that point has signed the blank check and should butt out and let the Commander in Chief proceed. But unless that happens, we have a decision-making process. If we are not at war, if we have not declared war, if it is not an all-out war, then there is a decision-making process as to what level of hostilities should exist and what we should demand for peace.

Mr. Speaker, I am told that dictatorship is efficient; that dictatorship is silent and secret and does not show its enemies what it is thinking. But, Mr. Speaker, that is not our government. Even decisions within the administration are subject to public input, public discussion and a press leak every day. But our Constitution does not vest all power in the administration. And contrary to popular belief, virtually every U.S. Supreme Court decision says that it is Congress, not the President, that has the primary role of determining what our foreign policy is, though not, of course, of determining how our troops should be deployed.

So, Mr. Speaker, I know that there are those who have come to this floor

and said that our enemies would tremble in fear if they thought that one man could deploy 100,000 American soldiers without the consent of this Congress. But, Mr. Speaker, I would tremble in fear, the founders of this Republic would tremble in fear, if they thought that one man could send 100,000 or more men and women into battle without the approval of the United States Congress.

I call upon the President to modify his equivocal letter. There was a letter addressed to the Congress just a couple weeks ago saying, in essence, that ground troops would not be deployed without congressional approval. But those of us who looked very carefully at that letter realized that it did not say what it seemed to say at first reading, and that in fact the President had not promised what he should promise, and that is that before deploying American troops in a battle that may cost hundreds or thousands of lives, that he should come to this Congress and ask for approval.

Mr. Speaker, believe it or not, I have even other observations from my trip. This issue deserves a full debate. There is, believe it or not, even more to be said, but I notice that it is nearly midnight, it is time for this House to adjourn, and so I will yield back.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. CARSON (at the request of Mr. GEPHARDT) for today before 12:30 p.m. on account of official business.

Mr. LUTHER (at the request of Mr. GEPHARDT) for today after 4:00 p.m. on account of family matters.

Mr. BECERRA (at the request of Mr. GEPHARDT) for today on account of official business.

Mr. SIMPSON (at the request of Mr. ARMEY) for May 4 and 5 on account of a death in the family.

Mr. YOUNG of Florida (at the request of Mr. ARMEY) for today on account of family medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:)

Mr. LIPINSKI, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. BLUMENAUER, for 5 minutes, today.

Mrs. CAPPS, for 5 minutes, today.

Mr. BERRY, for 5 minutes, today.

Ms. SANCHEZ, for 5 minutes, today.

Mrs. MINK of Hawaii, for 5 minutes, today.

(The following Members (at the request of Mr. PAUL) to revise and extend their remarks and include extraneous material:)

Mr. BURTON of Indiana, for 5 minutes, on May 12.

Mr. PAUL, for 5 minutes, today.

Mr. ENGLISH, for 5 minutes, today.

Mr. WHITFIELD, for 5 minutes, today.

Mr. HULSHOF, for 5 minutes, today.

Mr. GOSS, for 5 minutes, on May 6.

Mr. TALENT, for 5 minutes, today.

Mr. TANCREDO, for 5 minutes, today.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 453. An act to designate the Federal building located at 79 West 9th Street in Juneau, Alaska, as the ''Hurff A. Saunders Federal Building.''

S. 460. An act to designate the United States courthouse located at 401 South Michigan Street in South Bend, Indiana, as the ''Robert K. Rodibaugh United States Bankruptcy Courthouse.''

ADJOURNMENT

Mr. SHERMAN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 59 minutes p.m.), the House adjourned until tomorrow, Thursday, May 6, 1999, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

1847. A letter from the Administrator, Grain Inspection, Packers and Stockyards Administration, Department of Agriculture, transmitting the Department's final rule—Official Testing Service for Corn Oil, Protein, and Starch (RIN: 0580–AA62) received April 12, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1848. A letter from the Administrator, Farm Service Agency, Department of Agriculture, transmitting the Department's final rule—1998 Marketing Quotas and Price Support Levels for Fire-Cured (type 21), Fire-Cured (types 22–23), Maryland (type 32), Dark Air-Cured (types 35–36), Virginia Sun-Cured (type 37), Cigar-Filler (type 41), Cigar-Filler and Binder (types 42–44 and 53–55), and Cigar Binder (types 51–52) Tobaccos (RIN: 0560–AF 20) received April 13, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1849. A letter from the Administrator, Environmental Protection Agency, transmitting a report to Congress on the 1993 Survey of Certified Commercial Applicators of Non-Agricutural Pesticides; to the Committee on Agriculture.

1850. A letter from the Deputy Under Secretary of Defense, Office of the Director Of Defense Research and Engineering, transmitting the Annual Report of the Scientific Advisory Board of the Strategic Environmental Research and Development Program; to the Committee on Armed Services.

1851. A letter from the Assistant to the Board, Board of Governors of the Federal Reserve System, transmitting the System's final rule—Availability of Funds and Collection of Checks [Regulation CC; Docket No. R–1027] received March 25, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

1852. A letter from the Managing Director, Federal Housing Finance Board, transmitting the Board's final rule—Prohibition on Payment of Fee in Lieu of Mandatory Excess Capital Stock Redemption [No. 99–21] (RIN: 3069–AA83) received April 9, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

1853. A letter from the Chairman, Federal Trade Commission, transmitting the Twenty-First Annual Report to Congress on the administration of the Fair Debt Collection Practices Act, pursuant to 15 U.S.C. 1692m; to the Committee on Banking and Financial Services.

1854. A letter from the Secretary of Education, transmitting Final Regulations—Federal Family Education Loan Program, pursuant to 20 U.S.C. 1232(f); to the Committee on Education and the Workforce.

1855. A letter from the Assistant General Counsel for Regulations, Department of Education, transmitting the Department's final rule—Federal Family Education Loan Program (RIN: 1840–AC55) received April 13, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

1856. A letter from the Assistant General Counsel for Regulations, Department of Education, transmitting the Department's final rule—Preparing Tomorrow's Teachers to Use Technology [CFDA No. 84.342] received March 24, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

1857. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Revisions to Reference Method for the Determination of Fine Particulate Matter as PM25 in the Atmosphere [AD–FRL–6326–5] (RIN: 2060–AI48) received April 13, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

1858. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Hazardous Air Pollutants: Amendment to Regulations Governing Equivalent Emission Limitations by Permit [AD–FRL–6326–4] (RIN: 2060–AI28) received April 13, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

1859. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Kentucky [KY111–9914a; FRL–6326–1] received April 13, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

1860. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval of the Clean Air Act, Section 112(1), Delegation of Authority to Puget Sound Air Pollution Control Agency in Washington; Amendment [FRL–6326–2] received April 13, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

1861. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Virginia; Reasonably Available Control Technology for Major Sources of Nitrogen Oxides [VA024–5042; FRL–6318–5] received April 13, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

1862. A letter from the Secretary of Energy, transmitting a report recommending

renewal, repeal, or modification of the Price-Anderson Act; to the Committee on Commerce.

1863. A letter from the Director, Defense Security Assistance Agency, transmitting the Department of the Air Force's proposed lease of defense articles to Singapore (Transmittal No. 07–99), pursuant to 22 U.S.C. 2796a(a); to the Committee on International Relations.

1864. A letter from the Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Air Force's Proposed Letter(s) of Offer and Acceptance (LOA) to Australia for defense articles and services (Transmittal No. 99–07), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

1865. A letter from the Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Air Force's Proposed Letter(s) of Offer and Acceptance (LOA) to Egypt for defense articles and services (Transmittal No. 99–13), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

1866. A letter from the Acting Director, Defense Security Cooperation Agency, transmitting a copy of Transmittal No. 05–99 which constitutes a Request for Final Approval for a Project Agreement with Sweden for research into methods to develop and demonstrate the priniciple of altering the original path of an artillery shell in flight to a specific and desired coordinate, pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

1867. A letter from the Acting Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Army's Proposed Letter(s) of Offer and Acceptance (LOA) to the Netherlands for defense articles and services (Transmittal No. 99–10), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

1868. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's final rule—Amendments to the International Traffic In Arms Regulations—received April 5, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

1869. A letter from the Comptroller General, transmitting a list of General Accounting Office reports from the previous month; to the Committee on Government Reform.

1870. A letter from the Board Members, Railroad Retirement Board, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1998, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform.

1871. A letter from the Secretary of the Treasury, transmitting the Financial Report of the United States Government for Fiscal Year 1998 (Financial Report), pursuant to 31 U.S.C. 331(e)(1); to the Committee on Government Reform.

1872. A letter from the Chairman, Tennessee Valley Authority, transmitting a copy the report of the Consumer Product Safety Commission in compliance with the Government in the Sunshine Act during the calendar year 1998, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Reform.

1873. A letter from the Director, Fish and Wildlife Service, Department of the Interior, transmitting the Department's final rule—Endangered and Threatened Wildlife and Plants; Emergency Rule to List the Sierra Nevada District Population Segment of California Bighorn Sheep as Endangered (RIN: 1018–AF59) received April 19, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1874. A letter from the Deputy Assistant Administrator For Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries Off West Coast States and in the Western Pacific; Western Pacific Crustacean Fisheries; 1999 Harvest Guideling [Docket No. 990304061–9061–01; I.D. 022599B] (RIN: 0648–AL63) received March 23, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

1875. A letter from the Secretary of the Interior, transmitting a report of the U.S. Fish and Wildlife Service and the Biological Resources Division of the U.S. Geological Survey, Department of the Interior, on the administration of the Marine Mammal Protection act of 1972; to the Committee on Resources.

1876. A letter from the Secretary of Housing and Urban Development, transmitting the Department of Housing and Urban Development's 1996 Annual Report to Congress on the State of Fair Housing in America, the racial and ethnic composition of participants in HUD programs, and the enforcement efforts of the Fair Housing Initiatives Program, pursuant to Public Law 102—550, section 504 (106 Stat. 3781); to the Committee on the Judiciary.

1877. A letter from the Assistant General Counsel for Regulations, Department of Housing and Urban Development, transmitting the Department's final rule—Implementation of the Housing for Older Persons Act of 1995 [Docket No. FR–4094–F–02] (RIN: 2529–AA80) received April 8, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

1878. A letter from the Director, Federal Emergency Management Agency, transmitting notification that funding under title V of the Stafford Act, as amended, will exceed $5 million for the response to the emergency declared on September 28, 1998 as a result of Hurricane Georges, pursuant to 42 U.S.C. 5193; to the Committee on Transportation and Infrastructure.

1879. A letter from the Program Support Specialist, Aircraft Certification Service, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Avions Pierre Robin Model R2160 Airplanes [Docket No. 98–CE–82–AD; Amendment 39–11104; AD 99–07–20] (RIN: 2120–AA64) received April 9, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1880. A letter from the Program Support Specialist, Aircraft Certification Service, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; AlliedSignal Inc. TFE731–40R–200G Turbofan Engines [Docket No. 99–ANE–08–AD; Amendment 39–11103; AD 99–07–19] (RIN: 2120–AA64) received April 9, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1881. A letter from the Chief, Office of Regulations and Administrative Law, Coast Guard Headquarters, Department of Transportation, transmitting the Department's final rule—Special Local Regulations for Marine Events; Atlantic Ocean, Ocean City, Maryland [CGD 05–98–088] (RIN: 2115–AE46) received April 9, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1882. A letter from the Program Support Specialist, Aircraft Certification Service, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Aerospatiale Model ATR42 Series Airplanes [Docket No. 98–NM–175–AD; Amendment 39–11115; AD 99–08–09] (RIN: 2120–AA64) received April 12, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1883. A letter from the Program Support Specialist, Aircraft Certification Service, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 747–100, -200, -300, -SP, and -400F Series Airplanes [Docket No. 97–NM–325–AD; Amendment 39–11116; AD 99–08–10] (RIN: 2120–AA64) received April 12, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1884. A letter from the Program Support Specialist, Aircraft Certification Service, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 747 Series Airplanes [Docket No. 98–NM–292–AD; Amendment 39–11125; AD 99–08–19] (RIN: 2120–AA64) received April 12, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1885. A letter from the Program Support Specialist, Aircraft Certification Service, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Dornier Model 328–100 Series Airplanes [Docket No. 98–NM–157–AD; Amendment 39–11114; AD 99–08–08] (RIN: 2120–AA64) received April 12, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1886. A letter from the Program Analyst, Office of the Chief Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 29521; Amdt. No. 1924] received April 12, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1887. A letter from the Program Analyst, Office of the Chief Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 29522; Amdt. No. 1925] received April 12,199, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1888. A letter from the Program Analyst, Office of the Chief Counsel, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 29520; Amdt. No. 1923] received April 12, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1889. A letter from the Acting Associate Administrator for Procurement, National Aeronautics and Space Administration, transmitting the Administration's final rule—Application of Earned Value Management— received April 5, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Science.

1890. A letter from the Acting Associate Administrator for Procurement, National Aeronautics and Space Administration, transmitting the Administration's final rule—Electronic Funds Transfer—received April 9, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Science.

1891. A letter from the Acting Associate Administrator for Procurement, National Aeronautics and Space Administration, transmitting the Administration's final rule—Designation of Contracts for Notification to the Government of Actual or Potential Labor Disputes—received March 18, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Science.

1892. A letter from the Regulatory Policy Officer, Bureau of Alcohol, Tobacco & Firearms, transmitting the Bureau's final rule—Delegation of Authority [T.D. ATF–409] (RIN: 1512–AB87) received April 12, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1893. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Electronic Funds Transfer—Temporary Waiver of Failure to Deposit Penalty for Certain Taxpayers [Notice 99–12] received March 23, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1894. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Administrative, Procedural, and Miscellaneous [Revenue Procedure 99–22] received March 25, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1895. A letter from the Chief, Regulations Branch, U.S. Customs Service, transmitting the Service's final rule—Warehouse Withdrawals; Aircraft Fuel Supplies; Pipeline Transportation Of Merchandise In BOND [T.D. 99–33] (RIN: 1515–AB67) received April 6, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1896. A letter from the Acting Chief, Regulations Branch, U.S. Customs Service, transmitting the Service's final rule—Exportation Of Used Motor Vehicles [T.D. 99–34] (RIN: 1515–AC19) received April 7, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1897. A letter from the Director, Office of Personnel Management, transmitting notification that the Office of Personnel Management has approved a proposal for a personnel management demonstration project for the Naval Research Laboratory, pursuant to Public Law 103—337, section 342(b) (108 Stat. 2721); jointly to the Committees on Government Reform and Armed Services.

1898. A letter from the Chairman, Federal Election Commission, transmitting its FY 2000 Budget Request for consideration by Congress; jointly to the Committees on House Administration and Appropriations.

1899. A letter from the Director, Office of Insular Affairs, Department of the Interior, transmitting a report entitled ''Impact of the Compacts of Free Association on the United States Territories and Commonwealths and on the State of Hawaii,'' pursuant to 48 U.S.C. 1681 nt.; jointly to the Committees on Resources and International Relations.

1900. A letter from the Secretary of Energy, transmitting a report on the Clean Coal Technology Demonstration Program; jointly to the Committees on Appropriations, Science, and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mrs. MYRICK: Committee on Rules. House Resolution 159. Resolution providing for consideration of the bill (H.R. 1664) making emergency supplemental appropriations for military operations, refugee relief, and humanitarian assistance relating to the conflict in Kosovo, and for military operations in Southwest Asia for the fiscal year ending September 30, 1999, and for other purposes (Rept. 106–127). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. RUSH:

H.R. 1684. A bill to amend the Consumer Credit Protection Act and other banking laws to protect consumers who avail themselves of payday loans from usurious interest rates and exorbitant fees, perpetual debt, the use of criminal actions to collect debts, and other unfair practices by payday lenders, to encourage the States to license and closely regulate payday lenders, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. BOUCHER (for himself and Mr. GOODLATTE):

H.R. 1685. A bill to provide for the recognition of electronic signatures for the conduct of interstate and foreign commerce, to restrict the transmission of certain electronic mail advertisements, to authorize the Federal Trade Commission to prescribe rules to protect the privacy of users of commercial Internet websites, to promote the rapid deployment of broadband Internet services, and for other purposes; to the Committee on Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GOODLATTE (for himself and Mr. BOUCHER):

H.R. 1686. A bill to ensure that the Internet remains open to fair competition, free from government regulation, and accessible to American consumers; to the Committee on the Judiciary, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SHADEGG (for himself, Mr. HOSTETTLER, Mr. LARGENT, Mr. WAMP, Mr. DOOLITTLE, Mr. ARMEY, Mr. SMITH of Michigan, Mr. GRAHAM, Mrs. EMERSON, Mr. TANCREDO, Mr. NORWOOD, Mr. SALMON, Mr. WELDON of Florida, and Mr. COBURN):

H.R. 1687. A bill to amend the Internal Revenue Code of 1986 to allow individuals a refundable credit against income tax for health insurance costs, to allow employees who elect not to participate in employer subsidized health plans an exclusion from gross income for employer payments in lieu of such participation, and for other purposes; to the Committee on Commerce, and in addition to the Committees on Ways and Means, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ABERCROMBIE:

H.R. 1688. A bill to amend the Internal Revenue Code of 1986 to restore the deduction for the travel expenses of a taxpayer's spouse who accompanies the taxpayer on business travel; to the Committee on Ways and Means.

By Mr. ANDREWS:

H.R. 1689. A bill to prohibit States from imposing restrictions on the operation of motor vehicles providing limousine service between a place in a State and a place in another State, and for other purposes; to the Committee on Commerce.

By Mr. ANDREWS (for himself and Mr. FOLEY):

H.R. 1690. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income of individual taxpayers discharges of indebtedness attributable to certain forgiven residential mortgage obligations; to the Committee on Ways and Means.

By Mr. CANADY of Florida (for himself, Mr. EDWARDS, Mr. HYDE, Mr. WEINER, Mr. SENSENBRENNER, Mr. HUTCHINSON, Mr. GREEN of Texas, Mr. SMITH of Texas, Mr. ROGAN, Mr. PETERSON of Minnesota, and Mr. CANNON):

H.R. 1691. A bill to protect religious liberty; to the Committee on the Judiciary.

By Mrs. CAPPS:

H.R. 1692. A bill to direct the Secretary of the Interior to study the suitability and feasibility of including the Gaviota Coast of California in the National Park System; to the Committee on Resources.

By Mr. EHRLICH (for himself, Mr. WELDON of Pennsylvania, Mr. CUNNINGHAM, Ms. HOOLEY of Oregon, Mrs. MORELLA, and Mr. ENGLISH):

H.R. 1693. A bill to amend the Fair Labor Standards Act of 1938 to clarify the overtime exemption for employees engaged in fire protection activities; to the Committee on Education and the Workforce.

By Mr. FRANK of Massachusetts (for himself and Mr. NEAL of Massachusetts):

H.R. 1694. A bill to provide Public Safety and Community Policing Renewal Grants, and for other purposes; to the Committee on the Judiciary.

By Mr. GIBBONS:

H.R. 1695. A bill to provide for the conveyance of certain Federal public lands in the Ivanpah Valley, Nevada, to Clark County, Nevada, for the development of an airport facility, and for other purposes; to the Committee on Resources.

By Mr. GIBBONS:

H.R. 1696. A bill to direct the Secretary of the Interior to convey the Griffith Project to the Southern Nevada Water Authority; to the Committee on Resources.

By Mr. GILMAN (for himself, Mr. OBERSTAR, Mrs. JOHNSON of Connecticut, and Mr. INSLEE):

H.R. 1697. A bill to provide for the review and classification of physician assistant positions in the Federal Government, and for other purposes; to the Committee on Government Reform.

By Mr. HILL of Montana (for himself, Mr. LATOURETTE, Mrs. EMERSON, Mr. MCHUGH, and Mr. WATKINS):

H.R. 1698. A bill to amend the Federal Meat Inspection Act to provide that a quality grade label issued by the Secretary of Agriculture may not be used for imported meat and meat food products; to the Committee on Agriculture.

By Mr. HILL of Montana:

H.R. 1699. A bill to direct the Secretary of the Treasury to issue war bonds to pay for Operation Allied Force and related humanitarian operations; to the Committee on Ways and Means.

By Mr. HOSTETTLER (for himself, Mr. WELDON of Pennsylvania, Mr. MCINTOSH, Mr. BARTLETT of Maryland, Mr. GREEN of Wisconsin, Mr. ADERHOLT, Mr. PITTS, and Mr. BURTON of Indiana):

H.R. 1700. A bill to provide that a national missile defense system shall not be subject to an otherwise applicable statutory requirement that a major defense acquisition program not proceed beyond low-rate initial production before completion of initial operational test and evaluation and that an environmental impact statement prepared for the construction of any element of such a system shall not be subject to judicial review; to the Committee on Armed Services, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MCDERMOTT:

H.R. 1701. A bill to suspend temporarily the duty on certain polyethylene base materials; to the Committee on Ways and Means.

By Mrs. MINK of Hawaii (for herself, Mr. GEORGE MILLER of California, Mr. ANDREWS, Ms. WOOLSEY, and Mr. PAYNE):

H.R. 1702. A bill to amend title 18, United States Code, to ban using the Internet to obtain or dispose of a firearm; to the Committee on the Judiciary.

By Mr. NEAL of Massachusetts:

H.R. 1703. A bill to amend the Internal Revenue Code of 1986 to prevent the conversion of ordinary income or short-term capital gain into income eligible for the long-term capital gain rates, and for other purposes; to the Committee on Ways and Means.

By Mr. NUSSLE (for himself, Mr. LATHAM, Mrs. MINK of Hawaii, and Mr. SHOWS):

H.R. 1704. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit to primary health providers who establish practices in health professional shortage areas; to the Committee on Ways and Means.

By Mr. PALLONE:

H.R. 1705. A bill to amend the Clean Air Act to waive the oxygen content requirement for reformulated gasoline and to phase-out the use of MTBE, and for other purposes; to the Committee on Commerce.

By Mr. PAUL (for himself, Mr. SOUDER, Mr. NORWOOD, Mr. MCINTOSH, Mr. FLETCHER, and Mr. TANCREDO):

H.R. 1706. A bill to prohibit the Federal Government from planning, developing, implementing, or administering any national teacher test or method of certification and from withholding funds from States or local educational agencies that fail to adopt a specific method of teacher certification; to the Committee on Education and the Workforce.

By Mr. RAMSTAD (for himself, Mr. GUTKNECHT, Mr. MINGE, Mr. VENTO, Mr. SABO, Mr. LUTHER, Mr. PETERSON of Minnesota, Mr. OBERSTAR, and Mr. RAHALL):

H.R. 1707. A bill to amend the Internal Revenue Code of 1986 to provide that the conducting of certain games of chance shall not be treated as an unrelated trade or business; to the Committee on Ways and Means.

By Mr. RAMSTAD (for himself and Mrs. THURMAN):

H.R. 1708. A bill to amend the Internal Revenue Code of 1986 to provide a simplified method for determining a partner's share of items of a partnership which is a qualified investment club; to the Committee on Ways and Means.

By Mr. RANGEL:

H.R. 1709. A bill to authorize the President to award a gold medal on behalf of the Congress to Jesse L. Jackson, Sr. in recognition of his outstanding and enduring contributions to the Nation; to the Committee on Banking and Financial Services.

By Mr. SALMON (for himself, Mr. HAYWORTH, Mr. GARY MILLER of California, Ms. PRYCE of Ohio, Mr. MCINTOSH, Mr. SENSENBRENNER, Mr. LARGENT, Mr. FORBES, Mr. PICKERING, Mr. CUNNINGHAM, Mr. LATOURETTE, Mr. SHADEGG, Mr. HOSTETTLER, Mr. HILL of Montana, and Mrs. WILSON):

H.R. 1710. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for expenses of attending elementary and secondary schools and for contributions to such schools and to charitable organizations which provide scholarships for children to attend such schools; to the Committee on Ways and Means.

By Mr. SHUSTER (for himself, Mr. OBERSTAR, Mrs. FOWLER, and Mr. TRAFICANT) (all by request):

H.R. 1711. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to authorize programs for predisaster mitigation, to streamline the administration of disaster relief, to control the Federal costs of disaster assistance, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. STUPAK (for himself, Mrs. LOWEY, and Mr. BROWN of Ohio):

H.R. 1712. A bill to amend the Federal Water Pollution Control Act to authorize an estrogenic substances screening program; to the Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. THOMAS:

H.R. 1713. A bill to amend the Internal Revenue Code of 1986 to treat certain dealer derivative financial instruments, hedging transactions, and supplies as ordinary assets; to the Committee on Ways and Means.

By Mr. BATEMAN:

H.J. Res. 51. A joint resolution authorizing the use of United States Armed Forces against the regime in power in the Federal Republic of Yugoslavia to meet certain objectives; to the Committee on International Relations.

By Mr. HAYES:

H. Con. Res. 96. Concurrent resolution expressing the sense of the Congress that the President, working with the other member nations of the North Atlantic Treaty Organization (NATO), should use all available diplomatic means to negotiate a fair, equitable, and peaceful settlement between warring factions in Yugoslavia without the introduction of ground elements of the United States Armed Forces; to the Committee on International Relations.

By Mr. KENNEDY of Rhode Island (for himself, Mrs. LOWEY, Mr. LANTOS, Ms. MCKINNEY, Mr. EVANS, and Mr. HALL of Ohio):

H. Con. Res. 97. Concurrent resolution urging the prohibition on military assistance and arms transfers to the Government of Indonesia until the President certifies that the Government of Indonesia is no longer arming, financing, or supporting paramilitary units in East Timor and has taken certain other actions relating to East Timor, and for other purposes; to the Committee on International Relations.

By Mr. TOWNS:

H. Con. Res. 98. Concurrent resolution expressing the sense of the Congress regarding the regulatory burdens imposed by the Health Care Financing Administration on suppliers of durable medical equipment under the Medicare Program; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WELDON of Pennsylvania (for himself, Mr. ABERCROMBIE, Mr. BARTLETT of Maryland, Ms. BROWN of Florida, Mr. GIBBONS, Mr. HINCHEY, Mr. SAXTON, Mr. KUCINICH, Mr. PITTS, Mr. SANDERS, Mr. SHERWOOD, Mr. HAYES, Mr. CONYERS, and Mr. WHITFIELD):

H. Con. Res. 99. Concurrent resolution expressing the sense of the Congress that the congressional leadership and the Administration should support the efforts and recommendations of the United States Congress-Russian Duma meeting in Vienna, Austria, held April 30 to May 1, 1999, in order to bring about a fair, equitable, and peaceful settlement between warring factions in Yugoslavia; to the Committee on International Relations.

By Mr. GALLEGLY:

H. Res. 160. A resolution congratulating the Government and the people of the Republic of Panama on successfully completing free and democratic elections on May 2, 1999; to the Committee on International Relations.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

47. The SPEAKER presented a memorial of the Senate of the State of New Hampshire, relative to Senate Resolution number 2 urging the President of the United States and Congress to prohibit federal recoupment of state tobacco settlement recoveries; to the Committee on Commerce.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 8: Mr. LATOURETTE.

H.R. 53: Mr. SHIMKUS and Mr. HORN.

H.R. 172: Ms. LEE.

H.R. 179: Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 206: Mr. ALLEN.

H.R. 212: Mr. BEREUTER.

H.R. 218: Mr. BLUNT, Mr. ENGLISH, and Mr. GILLMOR.

H.R. 262: Mr. CRAMER, Ms. DELAURO, Mr. JACKSON of Illinois, Mr. FARR of California, Mr. WALSH, and Mr. MORAN of Virginia.

H.R. 274: Mr. MATSUI, Mrs. CUBIN, Mr. WICKER, Mr. SHERMAN, Mr. MCGOVERN, Mr. KILDEE, Mr. COSTELLO, and Mrs. FOWLER.

H.R. 315: Mr. ABERCROMBIE, Ms. NORTON, Mr. FATTAH, and Mrs. CLAYTON.

H.R. 329: Mr. GRAHAM.

H.R. 346: Mr. HILL of Montana.

H.R. 347: Mrs. MYRICK.

H.R. 351: Mr. NETHERCUTT and Mr. CALVERT.

H.R. 354: Mrs. TAUSCHER, Mr. CANNON, Mr. SUNUNU, Mr. HOBSON, Mr. FOLEY, and Mr. VENTO.

H.R. 371: Mr. WATTS of Oklahoma, Mr. PASTOR, Mr. KOLBE, Ms. EDDIE BERNICE JOHNSON of Texas, and Mr. TAYLOR of North Carolina.

H.R. 372: Mr. OBERSTAR, Ms. WOOLSEY, Mr. FROST, Ms. MCKINNEY, and Mr. WISE.

H.R. 380: Mr. ROGERS, Mr. EHRLICH, Mr. MURTHA, Mr. HOEFFEL, and Mr. WOLF.

H.R. 423: Mr. HORN.

H.R. 424: Mr. GUTIERREZ.

H.R. 516: Mr. WAMP.

H.R. 523: Mrs. KELLY.

H.R. 555: Ms. VELAZQUEZ and Mr. RODRIGUEZ.

H.R. 557: Mr. GARY MILLER of California and Mr. CASTLE.

H.R. 564: Mr. ARMEY.

H.R. 588: Mr. FORBES.

H.R. 608: Mr. LEWIS of Kentucky.

H.R. 623: Mr. MORAN of Kansas.

H.R. 625: Mr. MCGOVERN, Mr. CAPUANO, Mr. ABERCROMBIE, Mr. HOLDEN, Mr. TAYLOR of North Carolina, and Mr. QUINN.

H.R. 682: Mr. ISTOOK.

H.R. 688: Mr. PACKARD, Mr. DEMINT, Mr. SUNUNU, Mr. SCARBOROUGH, and Mr. TAYLOR of North Carolina.

H.R. 691: Mr. UDALL of New Mexico.

H.R. 692: Mr. POMBO.

H.R. 699: Mr. HINCHEY.

H.R. 714: Mr. CROWLEY, Mr. DEFAZIO, Mr. EVANS, Mr. KUCINICH, and Mrs. MINK of Hawaii.

H.R. 721: Mr. HOSTETTLER and Mr. MCNULTY.

H.R. 732: Ms. LEE, Mr. HALL of Ohio, Mr. MALONEY of Connecticut, Mr. LARSON, Mr. LEACH, Ms. HOOLEY of Oregon, Mr. CONYERS, Mr. FARR of California, Ms. STABENOW, and Mr. MATSUI.

H.R. 750: Mr. SABO.
H.R. 765: Ms. DUNN, Mr. PHELPS, Mr. WYNN, Mr. HILLEARY, Mr. CLYBURN, Mr. BAIRD, and Mr. GILCHREST.
H.R. 772: Mr. OWENS, Mrs. NAPOLITANO, and Mr. GUTIERREZ.
H.R. 775: Mr. CALVERT.
H.R. 777: Ms. MILLENDER-MCDONALD, Mr. BISHOP, Mrs. CLAYTON, and Ms. NORTON.
H.R. 803: Mr. GIBBONS, Mr. KOLBE, and Mr. FROST.
H.R. 804: Ms. WOOLSEY.
H.R. 828: Ms. DANNER and Mr. HOLDEN.
H.R. 838: Mr. GARY MILLER of California.
H.R. 842: Mr. YOUNG of Florida and Mr. GOSS.
H.R. 844: Mr. COYNE, Mr. KNOLLENBERG, Mr. COLLINS, Mr. COX, Mr. GIBBONS, Mr. PASTOR, Mr. STARK, Ms. STABENOW, Mr. LUCAS of Kentucky, Mr. KOLBE, Mr. WATKINS, Mr. OSE, and Mr. DAVIS of Florida.
H.R. 845: Mrs. CHRISTENSEN and Mr. BERMAN.
H.R. 868: Ms. KILPATRICK.
H.R. 872: Mr. WAXMAN, Mr. STARK, and Mr. CAPUANO.
H.R. 875: Mrs. MORELLA.
H.R. 902: Mr. WYNN and Mr. BORSKI.
H.R. 903: Mr. HOEKSTRA, Mr. EVERETT, Mr. LIPINSKI, Mr. HYDE, Mr. COLLINS, Mr. MORAN of Kansas, Mr. HASTINGS of Washington, Mr. ROYCE, and Mr. MICA.
H.R. 919: Ms. KILPATRICK and Mr. WEYGAND.
H.R. 922: Mr. MANZULLO, Mr. SKEEN, and Mr. GARY MILLER of California.
H.R. 932: Mr. WYNN.
H.R. 948: Mr. GARY MILLER of California.
H.R. 959: Mr. RODRIGUEZ, Mr. CAPUANO, and Mr. BORSKI.
H.R. 961: Mr. MATSUI and Ms. RIVERS.
H.R. 998: Mr. CHAMBLISS, Mr. NEY, and Mr. MCINTYRE.
H.R. 1041: Mr. SENSENBRENNER.
H.R. 1044: Mr. EWING and Mr. JOHN.
H.R. 1046: Mr. DEUTSCH and Mr. ENGLISH.
H.R. 1071: Mr. HASTINGS of Florida, Mr. CUMMINGS, Mr. KILDEE, and Mr. RODRIGUEZ.
H.R. 1085: Mr. BRADY of Pennsylvania.
H.R. 1098: Ms. RIVERS, Mr. WELDON of Pennsylvania, and Mr. HILL of Montana.
H.R. 1111: Mrs. KELLY.
H.R. 1129: Mr. HINOJOSA, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. ACKERMAN, Mr. WYNN, Mr. RAHALL, Mr. WAXMAN, Ms. ROYBAL-ALLARD, Mr. DEFAZIO, and Mr. RUSH.
H.R. 1172: Mr. CRAMER, Mr. WYNN, Mr. DICKS, Mr. MEEHAN, Mr. GILCHREST, Mr. LIPINSKI, Mr. MICA, Mr. CANADY of Florida, Mrs. CHRISTENSEN, Mr. HASTINGS of Florida, Mr. HOEFFEL, and Mr. VENTO.
H.R. 1195: Mr. UPTON, Mr. MALONEY of Connecticut Mr. SENSENBRENNER, Mr. SHAW, Mr. COOK, and Mr. NETHERCUTT.
H.R. 1215: Mr. CUNNINGHAM.
H.R. 1256: Mr. FORBES and Mr. RADANOVICH.
H.R. 1260: Ms. DUNN, Mr. METCALF, and Ms. STABENOW.
H.R. 1278: Mr. SANDLIN.
H.R. 1281: Mr. LEWIS of Kentucky.
H.R. 1300: Mr. JEFFERSON, Mr. HOLDEN, Mr. LATOURETTE, Mr. LAHOOD, and Mr. RANGEL.
H.R. 1317: Mr. GREEN of Wisconsin.
H.R. 1342: Mr. HOLT, Mr. HOEFFEL, Ms. DELAURO, Mr. MOAKLEY, and Mr. MATSUI.
H.R. 1344: Mr. HOEKSTRA and Ms. DANNER.
H.R. 1355: Mr. SABO.
H.R. 1358: Mr. FROST.
H.R. 1363: Mr. GILMAN.
H.R. 1366: Mr. DIXON AND Mr. GARY MILLER of California.
H.R. 1373: Mr. GREEN of Wisconsin and Mr. ROHRABACHER.
H.R. 1385: Mr. KUCINICH, Mr. WEYGAND, Mr. KIND, Mr. FROST, Mr. SANDLIN, Mr. JENKINS, Mr. FOSSELLA, Mr. CLEMENT, Mr. TAYLOR of North Carolina, and Mr. BOEHLERT.
H.R. 1402: Mr. CAMP, Mr. SNYDER, Mr. LAHOOD, Ms. MCKINNEY, Mr. HASTINGS of Florida, Mr. STUMP, Mr. LUCAS of Oklahoma, Mr. CONDIT, Mr. SMITH of Michigan, Mr. BILIRAKIS, Mr. MORAN of Kansas, Mr. WEXLER, Mr. WELDON of Florida, Mr. BURTON of Indiana, Mr. COOK, Mr. BACHUS, Mr. FROST, and Mr. BOUCHER.
H.R. 1430: Mr. BRADY of Pennsylvania.
H.R. 1459: Mr. PAUL and Ms. WOOLSEY.
H.R. 1476: Mr. HOLDEN.
H.R. 1484: Ms. LEE and Ms. MCKINNEY.
H.R. 1494: Mr. BACHUS and Mr. HILL of Montana.
H.R. 1560: Mr. LATHAM.
H.R. 1587: Ms. BROWN of Florida.
H.R. 1590: Mrs. CLAYTON and Mr. HOEFFEL.
H.R. 1593: Mr. CUNNINGHAM.
H.R. 1594: Mr. ROHRABACHER, Mrs. MINK of Hawaii, Mr. OLVER, and Mr. CROWLEY.
H.R. 1600: Mrs. CLAYTON and Ms. KAPTUR.
H.R. 1627: Mr. LARGENT.
H.R. 1643: Mr. DELAHUNT, Mr. YOUNG of Alaska, Mr. TIERNEY, Mr. LOBIONDO,
H.R. 1644: Mr. PRICE of North Carolina, Mr. ABERCROMBIE, Ms. DELAURO, Mr. FALEOMAVAEGA, Mr. HINCHEY, Mr. JACKSON of Illinois, Mr. UNDERWOOD, Mr. WALSH, Mrs. EMERSON, Mr. CRAMER, Ms. VELÁZQUEZ,, Ms. SCHAKOWSKY, Mr. RANGEL, Mr. TIERNEY, and Mr. SABO.
H.R. 1649: Mr. ARMEY, Mr. BUYER, Mr. COLLINS, and Mr. HOSTETTLER.
H.R. 1657: Mr. MOORE.
H.R. 1671: Mr. CARDIN, Mr. CUMMINGS, Mr. EHLERS, Mr. WYNN, Mr. SHOWS, Mrs. CLAYTON, Mr. OLVER, Mr. UNDERWOOD, Mr. FROST, Mr. KING, Mr. GUTIERREZ, Mr. CUNNINGHAM, Ms. DANNER, Mr. GILLMOR, and Mr. BORSKI.
H.R. 1675: Mr. OWENS, Mr. MARTINEZ, and Mr. GEORGE MILLER of California.
H.J. Res. 1: Mr. CALVERT.
H.J. Res. 42: Mr. SANDERS, Mr. BROWN of California, and Mr. LIPINSKI.
H.J. Res. 47: Mr. ENGLISH, Mr. SHOWS, Ms. DELAURO, Mrs. JOHNSON of Connecticut, and Mr. BARRETT of Wisconsin.
H. Con. Res. 8: Mr. SUNUNU and Mr. HYDE.
H. Con. Res. 17: Mr. FRANK of Massachusetts, Ms. ESHOO, Mr. THOMPSON of California, and Ms. MCKINNEY.
H. Con. Res. 60: Mr. MEEKS of New York, Mr. KUYKENDALL, Mr. ANDREWS, Mr. ABERCROMBIE, Mrs. CHRISTENSEN, Mr. SANDLIN, and Mr. GORDON.
H. Con. Res. 76: Mr. MOORE, Mr. KUYKENDALL, Mrs. KELLY, and Mrs. BIGGERT.
H. Res. 41: Mr. FRANK of Massachusetts.
H. Res. 97: Mr. LANTOS.
H. Res. 144: Mr. HINOJOSA, Ms. VELÁZQUEZ, and Mrs. CAPPS.
H. Res. 147: Ms. LEE, Mrs. TAUSCHER, Ms. JACKSON-LEE of Texas, Mr. GEORGE MILLER of California, Ms. NORTON, Ms. MILLENDER-MCDONALD, Mrs. MORELLA, and Mr. FOLEY.

PETITIONS, ETC.

Under clause 3 of rule XII, petitions and papers were laid on the clerk's desk and referred as follows:

12. The SPEAKER presented a petition of Detroit City Council, relative to a resolution urging the federal communications commission to restore approval for low-power FM radio broadcasting; to the Committee on Commerce.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 1664

OFFERED BY: MR. DEUTSCH

AMENDMENT NO. 1: After chapter 4 of the bill, add the following new chapter:

CHAPTER 4A

DEPARTMENT OF JUSTICE

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

ENFORCEMENT AND BORDER AFFAIRS

For an additional amount for ''Salaries and Expenses, Enforcement and Border Affairs'' to support increased detention requirements for Central American criminal aliens and to address the expected influx of illegal immigrants from Central America as a result of Hurricane Mitch, $80,000,000, which shall remain available until expended and which shall be administered by the Attorney General: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

DEPARTMENT OF DEFENSE—MILITARY

MILITARY PERSONNEL

RESERVE PERSONNEL, ARMY

For an additional amount for ''Reserve Personnel, Army'', $8,000,000: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That of such amount, $5,100,000 shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

NATIONAL GUARD PERSONNEL, ARMY

For an additional amount for ''National Guard Personnel, Army'', $7,300,000: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That of such amount, $1,300,000 shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

NATIONAL GUARD PERSONNEL, AIR FORCE

For an additional amount for ''National Guard Personnel, Air Force'', $1,000,000: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For an additional amount for ''Operation and Maintenance, Army'', $69,500,000: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OPERATION AND MAINTENANCE, NAVY

For an additional amount for ''Operation and Maintenance, Navy'', $16,000,000: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for ''Operation and Maintenance, Marine Corps'', $300,000:

Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for ''Operation and Maintenance, Air Force'', $8,800,000: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

For an additional amount for ''Operation and Maintenance, Defense-Wide'', $46,500,000: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC AID

For an additional amount for ''Overseas Humanitarian, Disaster, and Civic Aid'', $37,500,000: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

AGENCY FOR INTERNATIONAL DEVELOPMENT

INTERNATIONAL DISASTER ASSISTANCE

Notwithstanding section 10 of Public Law 91–672, for an additional amount for ''International Disaster Assistance'' for necessary expenses for international disaster relief, rehabilitation, and reconstruction assistance, pursuant to section 491 of the Foreign Assistance Act of 1961, as amended, $25,000,000, to remain available until expended: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

CENTRAL AMERICA AND THE CARIBBEAN EMERGENCY

DISASTER RECOVERY FUND

Notwithstanding section 10 of Public Law 91–672, for necessary expenses to address the effects of hurricanes in Central America and the Caribbean and the earthquake in Colombia, $621,000,000, to remain available until September 30, 2000: *Provided*, That the funds appropriated under this heading shall be subject to the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961, as amended, and, except for section 558, the provisions of title V of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (as contained in division A, section 101(d) of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277)): *Provided further*, That up to $5,000,000 of the funds appropriated by this paragraph may be transferred to ''Operating Expenses of the Agency for International Development'', to remain available until September 30, 2000, to be used for administrative costs of USAID in addressing the effects of those hurricanes, of which up to $1,000,000 may be used to contract directly for the personal services of individuals in the United States: *Provided further*, That up to $2,000,000 of the funds appropriated by this paragraph may be transferred to ''Operating Expenses of the Agency for International Development Office of Inspector General'', to remain available until expended, to be used for costs of audits, inspections, and other activities associated with the expenditure of the funds appropriated by this paragraph: *Provided further*, That funds appropriated under this heading shall be obligated and expended subject to the regular notification procedures of the Committees on Appropriations: *Provided further*, That funds appropriated under this heading shall be subject to the funding ceiling contained in section 580 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1999 (as contained in Division A, section 101(d) of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277)), notwithstanding section 545 of that Act: *Provided further*, That none of the funds appropriated under this heading may be made available for nonproject assistance: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

DEPARTMENT OF THE TREASURY

DEBT RESTRUCTURING

Notwithstanding section 10 of Public Law 91–672, for an additional amount for ''Debt Restructuring'', $41,000,000, to remain available until expended: *Provided*, That up to $25,000,000 may be used for a contribution to the Central America Emergency Trust Fund, administered by the International Bank for Reconstruction and Development: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

RECONSTRUCTION AND CONSTRUCTION

For an additional amount for ''Reconstruction and Construction'', $5,611,000, to remain available until expended, to address damages from Hurricane Georges and other natural disasters in Puerto Rico: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the amount provided shall be available only to the extent that an official budget request that includes designation of the entire amount as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That funds in this account may be transferred to and merged with the ''Forest and Rangeland Research'' account and the ''National Forest System'' account as needed to address emergency requirements in Puerto Rico.

H.R. 1664

OFFERED BY: MRS. FOWLER

AMENDMENT NO. 2: At the end of chapter 2, insert the following new section:

SEC. 213. (a) ADDITIONAL APPROPRIATION FOR CONTINUATION OF ES–3 AIRCRAFT.—In addition to amounts appropriated or otherwise made available elsewhere in this Act for the Department of Defense or in the Department of Defense Appropriations Act, 1999, $94,400,000 is appropriated as follows:

(1) For ''Military Personnel, Navy'', $29,000,000, to remain available until September 30, 2000, to be used for ES–3 aircraft squadron staffing.

(2) For ''Operation and Maintenance, Navy'', $30,000,000, to remain available until September 30, 2000, to be used for ES–3 aircraft operations and maintenance.

(3) For ''Aircraft Procurement, Navy'', $31,500,000, to be used for procurement of critical avionics and structures for ES–3 aircraft.

(4) For ''Aircraft Procurement, Navy'', $3,900,000, to be used for procurement of critical avionics spares for ES–3 aircraft.

(b) EMERGENCY DESIGNATION.—The entire amount made available in this section is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985. Such amount shall be available only to the extent that an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in such section 251(b)(2)(A), is transmitted by the President to the Congress.

(c) STUDY.—The Secretary of Defense shall conduct a study to examine alternative approaches to upgrading the ES–3 aircraft sensor systems for the life cycle of the aircraft. The study shall include comparative costs and capabilities, and shall be submitted to the Congress by October 1, 1999.

H.R. 1664

OFFERED BY: MR. ISTOOK

AMENDMENT NO. 3: At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. 503. None of the funds appropriated in this Act may be used for the deployment of ground elements of the United States Armed Forces in the Federal Republic of Yugoslavia.

H.R. 1664

OFFERED BY: MR. ISTOOK

(To the Amendment Offered by Mr. Istook of Oklahoma)

AMENDMENT NO. 4: At the end of the matter proposed to be inserted by the amendment, add the following new subsection:

(b) EXCEPTIONS.—The limitation established in subsection (a) shall not apply to—

(1) any deployment specifically authorized by law enacted after this Act;

(2) any mission specifically limited to rescuing United States military personnel or United States citizens in the Federal Republic of Yugoslavia; or

(3) any mission specifically limited to rescuing military personnel of another member nation of the North Atlantic Treaty Organization in the Federal Republic of Yugoslavia as a result of operations as a member of an air crew.

In the matter proposed to be inserted by the amendment, insert after the section designation the following: ''(a) PROHIBITION ON USE OF FUNDS FOR DEPLOYMENT OF UNITED STATES GROUND FORCES IN FEDERAL REPUBLIC OF YUGOSLAVIA.—''.

H.R. 1664

OFFERED BY: MR. ISTOOK

AMENDMENT NO. 5: At the appropriate place in the bill insert the following new section:

None of the funds appropriated by this Act may be used to initiate or conduct military operations by the United States Armed Forces except in accordance with the war powers clause of the Constitution (article 1, section 8).

H.R. 1664

OFFERED BY: MR. ISTOOK

AMENDMENT NO. 6: At the appropriate place in the bill insert the following new section:

''None of the funds appropriated by this Act shall be available for the implementation of any plan to invade Yugoslavia with ground forces of the United States, except in time of war.''

H.R. 1664

OFFERED BY: MR. ISTOOK

AMENDMENT NO. 7: At the appropriate place in the bill insert the following new section:

None of the funds in this act may be used to invade Yugoslavia with ground forces in contravention of the War Powers Resolution (Title 50 U.S.C. Chapter 33).

H.R. 1664

OFFERED BY: MR. SMITH OF MICHIGAN

AMENDMENT NO. 8: At the end (before the short title), add the following new section:

SEC. 502. Such funds borrowed from the Social Security Trust Fund surplus to finance this Act shall be repaid.

Whenever there is an on-budget surplus for a fiscal year, the Secretary of the Treasury is authorized and directed to use such funds to retire public debt until $12,947,495,000 of such debt is retired.

H.R. 1664

OFFERED BY: MR. SOUDER

AMENDMENT NO. 9: Page 4, line 24, strike ''$5,219,100,000'' and insert ''$1,919,000,000''.

Page 6, line 15, after the dollar amount insert the following ''(plus an additional $825,000,000)''.

Page 6, line 23, after the dollar amount insert the following ''(plus an additional $825,000,000)''.

Page 7, line 6, after the dollar amount insert the following ''(plus an additional $825,000,000)''.

Page 7, line 14, after the dollar amount insert the following ''(plus an additional $825,000,000)''.

H.R. 1664

OFFERED BY: MR. SOUDER

AMENDMENT NO. 10: Page 5, line 5, strike ''of such amount $1,311,800,000'' and insert ''such amount''.

H.R. 1664

OFFERED BY: MR. SOUDER

AMENDMENT NO. 11: At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. 503. None of the funds appropriated in this or any other Act may be used for military operations in the Federal Republic of Yugoslavia, except operations specifically limited to rescuing United States military personnel or United States citizens.

H.R. 1664

OFFERED BY: MR. SOUDER

AMENDMENT NO. 12: At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. 503. None of the funds appropriated in this Act for ''Operational Rapid Response Transfer Fund'' may be used for military operations in the Federal Republic of Yugoslavia, except operations specifically limited to rescuing United States military personnel or United States citizens.

H.R. 1664

OFFERED BY: MR. SOUDER

AMENDMENT NO. 13: At the end of the bill (before the short title), insert the following new section:

SEC. 503. None of the amounts appropriated by this Act may be obligated until the President submits to Congress a certification that the United States has entered into a negotiated settlement to end hostilities in the Federal Republic of Yugoslavia (Serbia and Montenegro) or otherwise with respect to Kosovo.

H.R. 1664

OFFERED BY: MR. SOUDER

AMENDMENT NO. 14: In chapter 2, strike section 201 (relating to additional transfer authority).

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 106th CONGRESS, FIRST SESSION

Vol. 145 WASHINGTON, WEDNESDAY, MAY 5, 1999 No. 64

Senate

The Senate met at 9:30 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, a very present Help in trouble, You do not send natural catastrophes but help us to endure them. Our minds and hearts are focused on the tragic deaths and the destruction left in the aftermath of the series of tornadoes that wracked the Oklahoma City area and sections of Kansas, leaving more than 45 people dead and homes and neighborhoods razed. Especially we pray for the families who lost loved ones and had their homes destroyed. Care for them with Your sustaining comfort and strength. Bless the police, emergency workers, doctors, and medical personnel who are seeking to help those who are suffering. Strengthen Senators DON NICKLES and JIM INHOFE of Oklahoma and SAM BROWNBACK and PAT ROBERTS of Kansas as they give leadership in this emergency.

We commit to You the work of the Senate today. Guide the Senators in all that they do and say, discuss, and decide. As crises at home and abroad mount, grant them clear minds, steady hearts and wills to seek and to know You and do Your will. Through our Lord and Savior. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

SCHEDULE

Mr. ALLARD. Mr. President, this morning the Senate will immediately begin a rollcall vote on the Byrd resolution, S. Res. 94, commending Rev. Jesse Jackson for his role in the return of our POWs. Following the vote, the Senate will be in a period of morning business until 11 a.m., with Senators COVERDELL and DORGAN in control of that time. At 11 a.m. the Senate will resume consideration of the Sarbanes substitute amendment to S. 900, the financial modernization bill, with a vote on the Gramm motion to table occurring at approximately 12 noon. Additional amendments are expected and therefore Senators can expect votes throughout today's session of the Senate.

I thank my colleagues for their attention.

I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDENT pro tempore. The able Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I ask unanimous consent that I may proceed for 2 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

PRAYERS FOR THE PEOPLE OF OKLAHOMA AND KANSAS

Mr. BYRD. Mr. President, I thank the Chaplain for his prayer. This is a nation which, in the words of Benjamin Franklin, believes in the scriptures and particularly that scripture to which Franklin called the attention of the other framers of the Constitution in Philadelphia in 1787:

> Except the Lord build the house, they labour in vain that build it: except the Lord keep the city, the watchman waketh but in vain.

We, the colleagues of the Senators from Oklahoma and Kansas, share their concern about the people who have lost lives, loved ones, and property. Our hearts go out to their constituencies and to them as well as they serve their people every day.

COMMENDING THE REVEREND JESSE JACKSON

Mr. BYRD. Mr. President, let me read the resolving clause of the resolution on which we are about to vote.

> (1) The Senate commends the Reverend Jesse Jackson for his successful efforts in securing the release of Sergeant Ramirez, Sergeant Stone, and Specialist Gonzales and for his leadership and actions arising from his deep faith in God; and
>
> (2) The Senate joins the families of Sergeant Ramirez, Sergeant Stone, and Specialist Gonzales in expressing relief and joy of their safe release.

Mr. President, I yield the floor.

Mr. DASCHLE. Mr. President, Two days ago, when that military transport plane touched down at Andrews Air Force Base and we saw our three American soldiers safe again at last, I said, instinctively, ''thank you.''

''Thank you, God, and thank you, Jesse Jackson, for bringing Steven Gonzales, Andrew Ramirez and Christopher Stone safely home from their captivity in Serbia.'' Millions of people all across our country, I suspect, said much the same thing. I am pleased today to repeat those words here, in the United States Senate, and to support this resolution honoring Reverend Jackson and the others in his delegation who played such a critical role in securing the release of our service men.

''When I was in prison, you visited me.'' That was one of the ways Jesus said we could recognize those who do his work. In daring to visit our soldiers in prison in Serbia, Reverend Jackson and the delegation of religious leaders who accompanied him surely were following Jesus's teachings as they understood them. Our nation owes them a debt of gratitude.

Some have questioned the wisdom of the delegation's trip. There has been speculation about what effect their going to Serbia could have on political or military tactics. Frankly, I don't want to get into that debate. This was not a political or military mission. It was a humanitarian mission.

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

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Much praise rightly goes to Reverend Jackson, who organized the trip. I also want to acknowledge another member of the delegation: Congressman ROD BLAGOJEVICH, a second-term Congressman from Chicago's North Side, and the only Serbian-American in the House of Representatives.

There are moments in history where a person emerges who seems almost to have been born to fulfill a critical role. On this mission, ROD BLAGOJEVICH was that person. Not only is he a man of significant political and moral courage, he is also the son of Yugoslav immigrants. His father spent four years in a Nazi POW camp during World War II. He learned to speak Serbo-Croation as a child, and still speaks it.

I remember when I first was elected to the House. I sought out several of my political heroes to ask them ''How can a young Congressman make a difference—a real difference—in people's lives?'' ROD BLAGOJEVICH has found an answer to that question. Steven Gonzales, Andrew Ramirez and Christopher Stone are united today with their families, in large measure because of the courage he, and Reverend Jackson, and the other religious leaders in their delegation displayed in going to Serbia.

Today's Washington Post contains an interesting account of their mission, from the time it was first conceived by Reverend Jackson through their triumphant return home. I ask unanimous consent that a copy of that article be printed in the RECORD.

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

[From the Washington Post, May 5, 1999]

MISSION ACCOMPLISHED: THE CONGRESSMAN WHO PULLED STRINGS FOR POWS' RELEASE

(By Kevin Merida)

The interview begins with a little shake-rattle-and-roll. Rod Blagojevich doing Elvis Presley.

''I'm all shook up, unh-hunh-hunh.''

Blagojevich is a huge fan of The King (''Do you think he's still alive?''), and he's feeling loose. It's not often—let's say never—that a second-term congressman from the North Side of Chicago can thrust himself onto the international stage, help rescue three Americans held captive and claim a patch of glory. That would be the patch right behind Jesse Jackson's. Meaning he's in all the brought-back-our-boys camera shots, but not prominently placed. But he's okay with that. Blagojevich is the boyish-looking dude with the mop of brown hair combed to the left, a cross between John Travolta and Henry Winkler. He sometimes takes his meals at Ben's Chili Bowl on U Street. No one recognizes him there. Maybe someone will recognize him now.

Without Rod Blagojevich (pronounced bla-GOYA-vich), there might not have been a trip to Belgrade, no meeting with President Slobodan Milosevic, no tearful family reunions this week for U.S. soldiers Christopher Stone, Andrew Ramirez and Steven Gonzales. Blagojevich was the arranger, working his contacts in the Serbian American community when it looked like the trip was dead. Those contacts ultimately cleared a path to Milosevic himself.

Not that the whole country is applauding. Some administration officials carped—anonymous carping is the best fun of all—that the unofficial Jackson peace mission only undercut the NATO bombing campaign and could potentially fracture the allies. Not to mention that it might damage President Clinton's credibility at home on the war. Pundits spouted: PR props for the Serb-led Yugoslav government.

''If Mother Teresa had been one of those prisoners and we had gotten her out, we would have been criticized,'' Blagojevich says. ''I guess if you're not being criticized, you're not important. But it's thrilling to be in the mix. It sure beats digging a ditch for a living.''

Blagojevich, 42, a Democrat, is the only House member of Serbian descent, which is perhaps the key part of this story. He grew up speaking both English and Serbo-Croatian. Still does. His father, Rade, was an immigrant to this country. A Yugoslavian army officer, Rade Blagojevich was captured by the Nazis in World War II and spent four years in a German POW camp. He eventually made his way to the United States and married a Chicago-born woman whose parents had emigrated from Bosnia-Herzegovina.

Together they tried to raise Rod and his brother as Americans, but as Americans with a rich understanding of their ancestry. Often, their mother would pull in one direction and their father would tug in the other.

It was one thing to play the tamburitza, a ukulele-like instrument; it was another thing to sport the white-socks-and-sandals look that his dad thought was authentically Yugoslav.

''I don't want to wear that,'' he told his father. ''I'm going to get laughed out of the neighborhood if I wear that. That's a bad look.''

Blagojevich parents have passed away, but it is with their memory in mind and all that he has learned about Serb culture over the years that he injected himself into this war. He felt he had a unique perspective to offer. Ironically, some in the Serbian community here have been disappointed in him for not being more active in Serbain American affairs.

Shortly after the soldiers were captured on March 31, Blagojevich telephoned national security adviser Samuel ''Sandy'' Berger and White House chief of staff John Podesta to offer his help. Nothing grew out of those calls. He then read in the newspapers that Jackson wanted to take a delegation of American religious leaders over to visit the soldiers and try to win their release. Jackson was having trouble getting guarantees from Milosevic that the delegation could even see the GIs.

Blagojevich approached Rep. Jesse Jackson Jr. (D–Ill.) on the House floor and mentioned that he had some contacts who might be able to help. The younger Jackson put Blagojevich in contact with his father. Blagojevich got to work. Soon, he was talking directly to Yugoslavian deputy premier Vuk Draskovic. Things were working out. Draskovic had assured the group's safety and a visit with the soldiers. The soldiers would be allowed to talk to their families. He'd get it in writing. The trip was back on. Except on the eve of departure, the maverick Draskovic was axed.

Blagojevich recalls the Rev. Jackson's reaction to that development as they were hashing out last-minute details for the trip in Washington. He lapses into his Jackson impersonation. ''Blagojevich, our boy just got fired. You got any others out there?''

Actually, Blagojevich did.

Once in Belgrade, it was Jackson who set the agenda, Jackson who commanded the spotlight. Blagojevich, as he put it, ''worked the corridors'' and took advantage of his ''cultural connection'' and ability to speak the language.

As Blagojevich explained his role in a conversation in his office yesterday, he pulled out two business cards. Nebojsa Vujovic, spokesman for the Federal Ministry of Foreign Affairs, Federal Republic of Yugoslavia. They had a common friend in Chicago. Bogoljub Karic, minister without portfolio, Republic of Serbia. He had met with this guy in his congressional office two days before the bombing campaign. He later saw the same man on TV emerging from a Milosevic cabinet meeting.

While all the attention was focused on Jackson, Blagojevich says, ''it was proper and part of the strategy to be working these other guys. He and I were working different angles.''

Jackson and Blagojevich both were in the three-hour meeting with Milosevic on Saturday morning that produced the release of the American prisoners the next day. Jackson then met with Milosevic privately.

The trip produced some light moments amid all the intensity and emotion—Blogojevich, a member of the House Armed Services Committee, greeted Sgt. Stone by promising him a raise—but there were no light moments with Milosevic.

''I detected absolutely no warmth toward me,'' Blagojevich says. ''In fact, I detected a decided lack of warmth.''

A lack of warmth? Could it be that Milosevic remembered that this Chicago congressman had pronounced him guilty of ''ethnic cleansing'' and compared his tactics to those of Nazi leaders?

Once back home, Jackson, Blagojevich and others met at the White House Monday evening with Clinton. Secretary of State Madeleine Albright was there. Berger was there. Vice President Gore dropped by for a moment.

Jackson gave a detailed explanation and interpretation of what the delegation heard and saw in Belgrade. He said that Milosevic's gesture deserved to be matched. He talked of other leaders who were so far apart, but had talked to each other and had become closer over time. Sadat and Begin.

''Then I was up,'' recalled Blagojevich, who told Clinton that the Serbs weren't backing down. He pitched his proposal for a partition of Kosovo, which would give Serbs control of the northern region where most of the Orthodox cathedrals and historic sites important to them are located. An autonomous homeland would be created in the south for the ethnic Albanians driven out by Milosevic's forces.

''I like Clinton. I'm happy I voted to impeach him. I do think he needs to step up to the plate and take charge of this. With all due respect, I think Madeleine Albright and Sandy Berger are running the show.''

Blagojevich says he is ''extremely skeptical'' that the bombing campaign will be successful. The NATO allies have underestimated the Serbs' resolve, he believes. ''Despite the bombs, daily life goes on.'' The timing for a negotiated solution is right, he thinks.

The administration apparently thinks not.

''They were on a mission of peace and it was successful,'' says National Security Council spokesman David Leavy of the Jackson-led group, ''but the fundamental reality remains the same. There are a million Kosovars who are not going home to their families.''

However the war ends, the Jackson-Blagojevich bond has strengthened.

''I feel like I'm a second cousin now,'' Blagojevich says.

The younger Jackson puts the relationship in context: Blagojevich's father-in-law, Alderman Dick Mell, is a longtime Chicago machine boss. Blagojevich's district, 1 percent black, is a bastion of white ethnic pride. For

many years, it was represented by Dan Rostenkowski. It is not a district in which Jesse Jackson and Jesse Jackson Jr. are exactly popular.

''Us relating to Rod and Rod relating to us is something taboo,'' Rep. Jackson explains, noting that although he and Blagojevich and their wives have grown close personally, he understands that the North Side member takes flak for the association.

''You being part of that Jackson thing is really going to cost you your career,'' says Jackson Jr., imitating his friend's critics. ''But after this trip, he is now officially an honorary South Sider. Apparently, it was a great growing experience for both him and Reverend Jackson.''

After his 15 minutes of fame at Jackson's side, Blagojevich's only question is this: ''When do I take my seat on the back bench again?''

Mr. MCCAIN. Mr. President, I will vote for this resolution because I share in the happiness and relief that the families of Sergeant Ramirez, Sergeant Stone, and Specialist Gonzales, and all Americans feel now that these fine young men have been released from captivity. We are all thankful that they are home, safe from harm.

I do not believe, however, that private diplomacy that is at odds with our country's objectives in this war and public relations stunts by Mr. Milosevic deserve our praise. I cannot commend the participation of any American in his propaganda.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. ALLARD). Under the previous order, leadership time is reserved.

COMMENDATION OF THE EFFORTS OF THE REVEREND JESSE JACKSON

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to vote on adoption of S. Res. 94, which the clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 94) commending the efforts of the Reverend Jesse Jackson to secure the release of the soldiers held by the Federal Republic of Yugoslavia.

The PRESIDING OFFICER. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FITZGERALD (when his name was called). Present.

Mr. HELMS (when his name was called). Present.

Mr. SESSIONS (when his name was called). Present.

Mr. THOMAS (when his name was called). Present.

Mr. WARNER (when his name was called). Present.

Mr. REID. I announce that the Senator from North Dakota (Mr. DORGAN) and the Senator from New York (Mr. MOYNIHAN) are necessarily absent.

I also announce that the Senator from Louisiana (Ms. LANDRIEU) is absent attending a funeral.

I further announce that, if present and voting, the Senator from Louisiana (Ms. LANDRIEU) would vote ''aye.''

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 92, nays 0, as follows:

[Rollcall Vote No. 99 Leg.]

YEAS—92

Abraham	Edwards	Lott
Akaka	Enzi	Lugar
Allard	Feingold	Mack
Ashcroft	Feinstein	McCain
Baucus	Frist	McConnell
Bayh	Gorton	Mikulski
Bennett	Graham	Murkowski
Biden	Gramm	Murray
Bingaman	Grams	Nickles
Bond	Grassley	Reed
Boxer	Gregg	Reid
Breaux	Hagel	Robb
Brownback	Harkin	Roberts
Bryan	Hatch	Rockefeller
Bunning	Hollings	Roth
Burns	Hutchinson	Santorum
Byrd	Hutchison	Sarbanes
Campbell	Inhofe	Schumer
Chafee	Inouye	Shelby
Cleland	Jeffords	Smith (NH)
Cochran	Johnson	Smith (OR)
Collins	Kennedy	Snowe
Conrad	Kerrey	Specter
Coverdell	Kerry	Stevens
Craig	Kohl	Thompson
Crapo	Kyl	Thurmond
Daschle	Lautenberg	Torricelli
DeWine	Leahy	Voinovich
Dodd	Levin	Wellstone
Domenici	Lieberman	Wyden
Durbin	Lincoln	

ANSWERED ''PRESENT''—5

Fitzgerald	Sessions	Warner
Helms	Thomas	

NOT VOTING—3

Dorgan	Landrieu	Moynihan

The resolution (S. Res. 94) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 94

Whereas on March 31, 1999, Staff Sergeant Andrew A. Ramirez, Staff Sergeant Christopher J. Stone, and Specialist Steven M. Gonzales were taken prisoner by the armed forces of the Federal Republic of Yugoslavia while on patrol along the Macedonia-Yugoslav border;

Whereas Sergeant Ramirez, Sergeant Stone, and Specialist Gonzales conducted themselves throughout their ordeal with dignity, patriotism, and faith;

Whereas the Reverend Jesse Jackson led a delegation of religious leaders to the Federal Republic of Yugoslavia that succeeded in negotiating the release of Sergeant Ramirez, Sergeant Stone, and Specialist Gonzales; and

Whereas the Reverend Jesse Jackson has previously succeeded in securing the release of hostages held in Syria, Cuba, and Iraq: Now, therefore, be it

Resolved, That—

(1) the Senate commends the Reverend Jesse Jackson for his successful efforts in securing the release of Sergeant Ramirez, Sergeant Stone, and Specialist Gonzales, and for his leadership and actions arising from his deep faith in God; and

(2) the Senate joins the families of Sergeant Ramirez, Sergeant Stone, and Specialist Gonzales in expressing relief and joy at their safe release.

Mr. NICKLES. Mr. President, I ask unanimous consent to proceed as if in morning business for 10 minutes.

The PRESIDING OFFICER (Mr. CRAPO). Without objection, it is so ordered.

MIDWEST TORNADOES

Mr. NICKLES. Mr. President, yesterday, Senator INHOFE and myself, Congressmen J.C. WATTS, FRANK LUCAS and STEVE LARGENT, as well as the Governor of Oklahoma, and James Lee Witt, Director of FEMA, toured the Oklahoma tornado disaster.

I have been in the Senate, I guess, 19 years now, and I have looked at the damage of several tornadoes in the State for the last many years. But I have never seen this type of devastation nor this level and this extent before. This may be the most devastating tornado that we have had in total damages in our State history. It has certainly produced one of the largest tornadoes, probably the largest number of tornadoes. I read one press account that said there were 45 tornadoes in the State of Oklahoma on Monday. One particular tornado was much larger than the others. Many reports said it was a quarter of a mile wide, or maybe half a mile wide, and at some points it was maybe a mile wide and stayed on the ground for a long period of time—some people said maybe as much as 2 hours.

What we did see was a tremendous amount of damage—a devastating amount of damage that destroyed, it was estimated, 1,500 or 2,000 homes. We will find out. Unfortunately, it has taken 40-some lives. I say unfortunately. I think Oklahoma is very fortunate. I think the fatality toll could have been in the hundreds if not thousands, because we looked at homes that were just totally demolished as if a bomb had gone inside each one of those homes and absolutely exploded the homes. There was nothing but just some elements of rubble. To think that people survived in many of these homes is truly a blessing, truly a miracle that I think we will find recounted day after day.

Needless to say, we are moved by the tragedy, and also by the compassion that is being expressed by so many people from across the country.

We were there to say that we wanted to help, that our government would help, that we will do everything that we can. Our government steps in in times of tragedy and national disasters to help lend assistance. And we will do that.

I will also say that won't be enough. It will take a lot of support from individuals, from churches, from communities, from families and friends to try to replace these homes and these families, and to make them whole again. And they will. They will survive. They are very solid.

One of the things I will never forget was seeing this area that is totally demolished and one house which hardly had anything left standing, and there was an American flag flying very high with people very proud.

Mr. President, it makes me proud to be an Oklahoman. It makes me proud to be an American, and proud to represent the great people of Oklahoma.

With that, Mr. President, I yield the remainder of my time to my colleague from Oklahoma, Senator INHOFE.

Mr. INHOFE addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Thank you, Mr. President. I thank my colleague, the senior Senator from Oklahoma.

Mr. President, in Oklahoma we have gone through tragedies that are indescribable. The Murrah Federal Office Building was the most significant terrorist attack on domestic soil in the history of America. It is one that you can't describe standing here on the Senate floor. I have been there. And I remember so well the thundering march, the cadence of the fire trucks as they were going to try to extract so many people out of the building, and all types of volunteers.

We saw the same thing yesterday. It was indescribable. I note the story of a horse that was picked up and taken a quarter of a mile in the air, and dropped on top of a car, then a car on top of a house, and the twisted ''I'' beams. The power, the indescribable power that was there.

James Lee Witt—I am very complimentary of James Lee Witt, a man I have known long before he was Director of FEMA. As chairman of the committee that has jurisdiction over FEMA, I work very closely with him. And I tell you right now, he had his hands on there. He was personally involved in it. He explained to us that this is the most significant tornado that he had seen in terms of the devastating damage and power that was there.

You always remember one or two things. I recall in the helicopter ride going across a little town called Moore, OK. Everything was devastated in that town, except right across the street from the most devastating part of this tornado stood the First Baptist Church of Moore, OK. It had been untouched.

As my senior Senator from Oklahoma said, we are so appreciative of everyone coming together, for all of the comments of our colleagues since we have been back, the prayers that we had this morning from the Senate Chaplain and others, and people like the Governor of Oklahoma, the mayor of Oklahoma City throughout yesterday, the police departments and the fire departments, all of the volunteers, and certainly FEMA bringing this all together.

We are very thankful, and we in Oklahoma will be bound to that. We ask for your continued prayers for the families, for those who lost their lives, and for the families of those who lost their lives.

I thank very much all of the government coming together to help us rebuild the damage that has been done.

Mr. President, I yield the floor.

Mr. BROWNBACK addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I ask unanimous consent to speak as if in morning business for a period of up to 5 minutes.

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

KANSAS TORNADOES

Mr. BROWNBACK. Mr. President, the State of Kansas was also hit by the same system that hit Oklahoma which caused so much tragedy and damage. I would like to speak for a few minutes on that.

We had a number of families that had homes destroyed. We had five people killed in Kansas, hundreds were injured, and thousands of people lost their homes and businesses. I know they are in the hearts and minds of all Americans today, and we will stand ready to assist in that in any way we can.

The devastation that these tornadoes left in their paths is just shocking.

I want to show you a picture of the aftermath. This was actually taken of the damage that took place in Moore, OK. You can just see the devastating power that is in one of these systems that can rise up so fast and cause so much destruction. In Wichita, the trail of destruction was 15 miles long and 5 miles wide.

As I mentioned previously, five Kansans lost their lives, and more than 70 people were injured from the fatal twisters.

More than 500 homes have been damaged or destroyed, leaving many people homeless.

I have the second picture that I wanted to show people, a view of what has taken place. This is an aerial view of the Lake Shore Trailer Park in South Wichita. You can see where the path of the tornado was, where it was the most intense going through with just absolute destruction in the wake of that path of where it went through.

More than 50,000 people have been left without power.

Sedgwick County, KS, where Wichita is located, has reported that over 1,100 structures were destroyed, and more than 7,100 structures were damaged.

In the town of Haysville, right next to Wichita, 27 businesses have been wiped out, and virtually eliminating the business district of this Wichita suburb.

The father of one of my staffers—the person who is actually my scheduler—is the principal of Chisolm Life Skills Center in Wichita. His entire school was demolished by this tornado.

We are very proud of the rapid response of people who have reached out to help us through this terrible tragedy—the State and local authorities in Kansas, the rescue personnel, the Kansas National Guard, FEMA, and citizens of the Wichita area. They have really reached out in that typical Midwestern tradition of helping others when they are having difficulty.

I am also pleased to report that the President has responded quickly to the situation in both Kansas and Oklahoma by ordering Federal relief to those counties hit by these devastating tornadoes. The American Red Cross and the Salvation Army have provided 800 numbers for those wishing to help victims of these disasters.

I have pictures of a couple of victims. This apartment complex was destroyed in the wake of the path of the tornado. This is a picture of Suzie Dooley and her daughter, Sarah, who is 13, and their family dog, Wilma, trying to gather themselves after losing their mobile home near 55th Street, South, in Wichita. Their faces show the destruction they have been through, but also the hope and thanks they are alive and were not injured in the process.

The Red Cross and Salvation Army are offering shelter for people in Wichita who need help. The Red Cross has an 800 number, 800–HELP–NOW, to contact to provide help. We can provide a local phone number. They are on the Internet at www.DisasterRelief.org. Funds can be sent to the American Red Cross in Wichita. The Salvation Army has an 800 number as well.

I know the nature of Kansans and Americans is to help one another in a time of need. I will work with Federal and State authorities to provide fast and effective relief to families and communities harmed by this natural disaster.

I know I speak for my Senate colleague, my fellow Senator from Kansas, Senator PAT ROBERTS, in saying we will continue to keep the victims and their families in our actions, thoughts, and prayers as we hope much of the rest of the country will in this very difficult time.

I yield the floor.

Mr. COVERDELL. Mr. President, I am sure all of our colleagues express our deep sympathy to the Senators from Oklahoma and Kansas and the communities that were so devastated by these storms.

We have all seen these disasters happen, and then the inspiration that Senator NICKLES alluded to, with everyone coming together. Clearly, this takes a lot of effort and a long time to dig out.

Our prayers will be with these Senators and these citizens of the fine States of Oklahoma and Kansas.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, I add my words to those who talked about the tragedy in Oklahoma this morning. I remember watching television last night and seeing the power and the destructive might of those storms that swept across Oklahoma and parts of Kansas as well.

I have a feeling for what the people are going through, as a result of the disasters that hit North Dakota in 1997. We had the worst flood in 500 years in Grand Forks, ND, and we had 95 percent of the town evacuated, the largest mass evacuation of a city in the United States since the Civil War. I know the trauma those people are facing, and I know the difficulty of recovery.

Our hearts go out to the people in Oklahoma and Kansas who have been so affected. I hope they know that we are prepared to respond and to help. We in North Dakota remember very well how people reached out a helping hand to our State, so many people from around the country who actually came to North Dakota to help us rebuild—the Red Cross, the other organizations, the Salvation Army. We had a woman from California who came to town and gave $2,000 to every family that had been affected, a gift of tens of millions of dollars.

We remember very well the Federal Government's rapid response, the agencies of the Federal Government that moved to assist the people who were affected. FEMA did an absolutely superb job under the leadership of James Lee Witt. We will never forget it. The Department of Housing and Urban Development, under the leadership of Secretary Cuomo, did a superb job, and we will never forget their help. The SBA was quick to move in to help businesses. We know all of those agencies will be ready to respond in Oklahoma and Kansas as well.

I hope that we see the Congress respond. I believe the people in Oklahoma and Kansas deserve the same kind of rapid and full response that we received in North Dakota. Frankly, I hope they don't face some of the delays we faced in trying to get a congressional response, because when people are devastated, they should not have to wait for help. This Government is big enough and strong enough and this country is generous enough to move to help immediately.

Mr. President, again, our hearts go out to the people in Oklahoma and Kansas who have lived through this trauma; and to those who have lost relatives and loved ones, we share their deep sorrow.

TEACHER APPRECIATION WEEK

Mr. COVERDELL. Mr. President, this week is Teacher Appreciation Week. Yesterday was National Teacher Day.

For a number of our colleagues, education is such a core subject—both of the 105th Congress and now in the 106th Congress—Members want to express themselves on this subject.

I am joined today by the distinguished Senator from Mississippi with some opening remarks about Teacher Appreciation Week.

I yield up to 4 minutes to the Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, let me congratulate my friend, the distinguished Senator from Georgia, for organizing this special order and allowing this opportunity to speak on the subject of Teacher Appreciation Week.

TRIBUTE TO TINA SCHOLTES, MISSISSIPPI'S TEACHER OF THE YEAR

Mr. COCHRAN. Mr. President, I am proud to cosponsor the Senate Resolution proclaiming this week Teacher Appreciation Week.

This week, in every state, students and parents are taking time to thank the school teachers, and we should too. They are the true heroes in our nation's effort to enrich the lives of all our citizens through education.

I want to pay tribute today to a special Mississippi teacher. She is Mississippi Teacher of the Year, Mrs. Tina Fisher Scholtes, of Sudduth Elementary School in Starkville, Mississippi. Tina has been an elementary school teacher for sixteen years. She has spent the past fourteen years teaching first grade in Starkville.

First grade lays the foundation for formal education. Every parent hopes their child will begin school with an excellent teacher. Tina Scholtes is without a doubt an excellent teacher. Being an excellent teacher requires hard work, along with respect for children and an understanding of the learning process. Tina has those attributes and more. She also cares about outcomes. She wants all her students to succeed.

Beyond the Masters Degree she earned at Mississippi State University, Tina has completed professional development for teaching reading and mathematics; the special needs of teaching deaf students; National Board Certification; and training other teachers. Her resume is evidence of her capacity for gaining knowledge and sharing it with others. While continuing her first grade teaching, she has returned to Mississippi State University where as a clinical instructor she directs the activities of student teachers.

Tina has brought new teaching techniques into the schools where she has taught. She serves as a mentor to new teachers and has developed school wide curriculum reforms. She also has used local television programs to provide early childhood education lessons to parents.

Another indication that she is a dedicated teacher is her participation in the Parent Teacher Association where she served as President while teaching at Emerson Elementary School. Tina recognizes the importance of teachers participating in the community and is active in her church, and in other community activities.

I was very pleased that Tina Scholtes took time to visit my office when she was in Washington recently for the National Teacher of the Year recognition events.

I congratulate her on all her successes. The first graders in Starkville, Mississippi are lucky, indeed, to begin their lives as students with Tina Scholtes, and we are all grateful to her for being such a good example for other teachers to follow.

Mr. COVERDELL. Mr. President, I yield up to 4 minutes to the distinguished chairman of the Labor-Education Committee, Senator JEFFORDS.

The PRESIDING OFFICER. Senator JEFFORDS is recognized.

Mr. JEFFORDS. Mr. President, it is a pleasure to participate in honoring our teachers in National Teacher Appreciation Week.

I think we all remember those early years of our lives when we started school. I still remember the first day of first grade. I remember going to school in my father's hand and fearing what was going to happen to me. I remember Mrs. Anderson who greeted us all individually at the door and how immediately I warmed up to her. It was then I realized this really wasn't going to be as bad as I thought. I can even remember where my seat was that year.

Ms. Maughn, in second grade, was another wonderful person. The teacher I remember more was Viola Burns, my third grade teacher. That was the beginning of World War II. She realized I needed a little further work so she had me read Time magazine and come back to her to talk about it. I also had her in the sixth grade. She was an incredible individual who helped shape my life.

Then fourth grade was ''teacher unappreciation year''—I don't want to remember that. We rebelled. We ran through five teachers before we settled down. I wiped that from my memory. I feel sorry for those five teachers.

I think everyone has memories and understands what an incredible help a teacher can be in our lives.

My mother was a music and art teacher; my sister, a third grade teacher; my niece is a teacher; the man across the street was the principal of our high school.

Those schools are gone. My former elementary school is now a private school, a Christian church school; middle school is the fire station; my high school is now the middle school.

I still remember the teachers. It is not brick and mortar but the teachers that make a difference. Dindo Rivera goes around the country talking about the changes in education and how important it is. If an office worker had fallen asleep 20 years ago, woke up and walked through a modern office, they would be in incredible despair. They wouldn't know what to do. They wouldn't know how to answer the phone.

But he goes on to say that if a teacher had the same experience of falling asleep and waking up now, that teacher would walk into the classroom and find that not much had changed. But the world has changed and our teachers cannot be made the scapegoats. We should not indicate that it is their problem. We, as a nation, have to recognize the teachers need help and we have to give it to them. That means we have to develop professional training. We have to be sure our colleges are producing teachers who are well qualified. At the same time, we have to recognize that our Nation will not prosper if we do not realize it is the teachers who make the difference. We are increasing standards and doing all these things to envelop them with modern technology

which is difficult to understand, especially if you don't have more than 10 minutes in a day to even think about those things.

I think it is incredibly important we all remember the teachers, especially this year, since the Elementary and Secondary Education Act is up for reauthorization. This is our moment, at a critical time in our history, when we must take a look at the problems and the demands and the difficulties that are presented to our teachers and devise the means to help them help us become the Nation we all want to be.

Let's think about our teachers today, remember what they did for us, and think about what we can do for them.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from Idaho.

Mr. CRAPO. Mr. President, I want to personally thank you for arranging for us to take this time out of our busy schedules to recognize teachers during Teacher Appreciation Week.

Providing the brightest future for our nation's children is one of the most important things we will do here on the floor of the Senate. After parents and families, America's teachers play the leading role in helping our children reach their potential. Therefore, it gives me great pleasure to join in tribute to our nation's outstanding educators and recognize a few of the top teachers in my home state of Idaho.

We all know the impact of teachers. Five days a week, for 9 months of every year, nearly 3 million teachers in this country help mold our children's future. I believe in the quality education our teachers, administrators, and others provide in Idaho. That is why my children continue to reside in the great State of Idaho. My wife Susan and I made the decision nearly 7 years ago when I was first elected to Congress that she and our children would remain in Idaho. We wanted our children to continue to receive the quality education they now experience in Idaho's public school system.

That quality education takes many faces. I want to show you one of them this morning. Judy Bieze lives in Coeur d'Alene, Idaho and teaches first grade at Hayden Meadows Elementary in nearby Hayden Lake.

Mrs. Bieze was honored this year by the State of Idaho as Teacher of the Year. But she is more than that; she is also a local softball coach and a Sunday school teacher, so I guess that makes her a teacher 7 days a week.

During each school year Mrs. Bieze gives individual attention to her students by profiling each one as the ''Special and Unique'' person of the week. She also encourages parents to volunteer in the classroom and to take an active role in their child's learning.

It is the ability to give of herself that makes Mrs. Bieze special. Her superintendent says she ''exemplifies the initiative and dedication we seek in our educators.'' Mrs. Bieze characteristically deflects that praise and credits her students. She says she—in her words—is ''truly blessed'' as ''the recipient of their unrestrained love, curiosity and enthusiasm for six hours each day.'' If only we could be holding more speeches on the floor of this Senate that deal with issues like love, curiosity and enthusiasm. Mrs. Bieze, we salute you.

I would be remiss in not mentioning some of Idaho's other outstanding teachers. Just last week, Idaho's PTA honored Jeff Durner, a fifth-grade teacher at Jefferson Elementary in Boise. The PTA credits Mr. Durner for helping children ''become the best they can be.''

The Idaho Education Association credits a sixth-grade teacher from my hometown of Idaho Falls as being worthy of special recognition. Zoe Ann Jorgenson has helped develop a special program in her district that groups children based on their needs, not on their age. She says many parents have chosen to keep their children in public schools, rather than move them to private classrooms, based on this innovative and unique program.

Mrs. Jorgenson believes the system should be made to fit the children, not that children be forced to fit the system. She says that parents are looking for choices within the structure of the public school system, and she wants to offer them those choices.

Finally, Idaho Parents Unlimited says a special education teacher formerly from Blackfoot, and now from Meridian, ID deserves credit for trailblazing programs for students that are sometimes forgotten in our school systems.

Barbara Jones earned the title of Special Education Consulting Teacher. One parent in Blackfoot described her as ''a true gift to my son as well as myself.'' Ms. Jones is now helping both fellow teachers and students learn how special needs can offer special rewards.

We all have a stake in this process, because our children's success in education depends on the support they receive at home, and the future of our nation depends on the leaders we are raising today.

Some define leadership as what we do with our opportunities. I am proud to praise these fine Idaho educators who have moved the bar higher—for our children.

Mr. CRAIG. Mr. President, I rise today to recognize teachers across America for the vital work they do. I come from a family of educators, so I have seen firsthand the grueling work teachers go through every day—not for their own gain, but because they care about each and every one of our children. Teachers are not the highest paid people, they are not in the most glamorous profession—but they are, and should be, among the most respected people in our country. That is why it was so important that we declared this week as the 14th Annual Teacher Appreciation Week and that we recognized May 4, 1999, as National Teacher Day.

Mr. President, the resolution that we passed yesterday states that education is key to the very foundation of American freedom and democracy we all enjoy, that teachers have a profound impact on the development of our children, and that much of the success we enjoy here in the United States can be attributed to our teachers. The resolution also states that while ''many people spend their lives building careers, teachers spend their careers building lives.''

Mr. President, I want to take a couple of minutes to recognize a teacher from my home state of Idaho who has truly spent her career building lives. Judy Bieze teaches first grade in Coeur d'Alene, Idaho. Judy got her start with a bachelor's degree in elementary education from Illinois State University, began teaching elementary students in 1971, and hasn't stopped since. For the past 14 years, she has blessed the children of Idaho.

She is an active member of the National Council of Teachers of Mathematics, the International Reading Association, the Panhandle Reading Council, and the Association for Supervision and Curriculum Development. She is a lead teacher in her school and has received numerous grants to do everything from providing books for parents and children to check out and read to underwriting a district-wide inservice training in spelling.

Somewhere amongst all of this, Judy finds time to teach some of Idaho's children. In fact, Judy humbly reflects that her greatest accomplishments come in 6- and 7-year-old bodies.

It is no wonder. Judy practices some techniques in her classes which some may call innovative, while others call them back to the basics. For instance, during the course of the year she takes time to recognize each child in her class as the ''Special and Unique'' person and works each day to recognize each child's accomplishments. Furthermore, she believes that parents must be actively involved in their child's education. From encouraging parents to be involved in classroom activities to weekly letters home to detail what their child has been doing in school, Judy recognizes that parents are first and foremost in a child's education.

Judy has stated that each day she is ''rewarded by the large and small accomplishments of the children entrusted to my care.'' Last year, Judy's peers recognized these accomplishments and her commitment to the education of our children by choosing Judy Bieze as the Idaho State Teacher of the year for 1998–1999.

Judy believes that each child is a unique, unrepeatable miracle. On behalf of the great state of Idaho, I am glad that Judy chose to come to Idaho and work her miracles with our children. I am proud of the work she does, and am pleased that I have the opportunity to recognize her accomplishments today. It is my hope that other

teachers will see what she has done, see how she cares for our children, and strive to follow her lead. With teachers like Judy leading the pack, I have great confidence in the future of our country.

The PRESIDING OFFICER (Mr. CRAPO). The Chair recognizes the Senator from Tennessee.

Mr. FRIST. Mr. President, I ask unanimous consent to speak as in morning business for 6 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. CONRAD. Reserving the right to object, and I will not object.

The PRESIDING OFFICER. The Chair recognizes the Senator from North Dakota.

Mr. CONRAD. Mr. President, I ask unanimous consent we get 4 additional minutes on this side as well.

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

Mr. FRIST. Mr. President, it is expected the Senate will soon consider a resolution that highlights the week of May 2 to 8 as National Teacher Appreciation Week. We have had a wonderful 2 weeks in this Nation's Capital. Last week the President signed the Ed-Flex bill which returned much of the control—local accountability, local flexibility—to local schools and school districts. This week we honor our teachers.

I rise today to honor the many outstanding teachers across the Nation and especially in my home State of Tennessee. In particular, I would like to highlight the achievements of Ms. Delise Teague, the 1999 Tennessee Teacher of the Year, whom I had the honor to meet, as you can see in this photo, just several weeks ago. This is Delise in the picture.

First, I would like to cite some of the research which paints a clear picture about the quality of a teacher being so critical to the future of our children and their education. Tennessee is one of the few States with data systems in place which make it possible to link teacher performance to student achievement. Researchers have the capability of examining the impact teachers have in terms of their effectiveness, how well they are teaching, and what students actually learn. Data from these studies show the least effective teachers produce gains of approximately 14 percentile points for low-achieving students. However, the most effective teachers produce gains that average 53 percentile points.

The data also reveal that these effects are cumulative over time. In fact, students with three quality teachers in a row, scored over twice as high on math tests as those students with teachers who are less qualified. Thus, we have anecdotal evidence and scientific evidence that a quality teacher has a tremendous impact on students.

One such outstanding teacher is Delise Teague, shown here in this portrait, who teaches English at McNairy Central High School in Selmer, TN. She knows firsthand the impact a quality teacher can have on a student. Using her words, she notes, ''I cannot take personal credit for my success as a classroom teacher. Great teachers shared the light with me. I am simply passing it on.''

She adds it was her first Sunday School teacher whose influence ''served to fan the flame of learning that had been sparked at home by loving parents and an abundance of books.'' She will further tell you that she had several teachers in the public school system who played a key role in her own education and in her decision to pursue a career in teaching. The teachers who motivated Delise in her education were the ones who saw her untapped potential and challenged her. This is a lesson that Delise applies in her own classroom. She challenges her students and believes in their potential to succeed.

In fact, Courtney Carroll, a student at McNairy Central High School, wrote, ''Miss Teague is loved and respected by her students because she truly wants each person who enters her classroom to be successful.''

Delise coaches the varsity softball team and freshman basketball team. She has served on the Technology Literacy Grant Committee, the National Honor Society Selection Committee, and as a student teacher supervisor/mentor. She is active in her community and takes on projects such as distributing fruit baskets for the elderly and providing gifts through the project Angel Tree for underprivileged children and contributing to Saint Jude's Children's Hospital through fundraising efforts.

She is just one wonderful example of the many dedicated teachers in our Nation's schools. In my own past I think of June Bowen, who taught me seventh grade English, and Mary Helen Lowry, who passed away this year, who taught me English through high school. I am so pleased to be able to participate in this effort to honor our Nation's teachers by promoting National Teacher Appreciation Week.

As parents and community members, we should all take a few minutes to celebrate this great cause for our children's future. I yield the floor.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, I thank all my colleagues honoring National Teacher Day and Teacher Appreciation Week. I appreciate very much the work Senator FRIST has done on behalf of reform in education.

Mr. President, I am pleased to join my colleagues today to recognize May 2–8, 1999, as the 14th Annual Teacher Appreciation Week, and to commend thousands of dedicated teachers across the nation for their determined efforts to shape the intellect of our children.

The foundation of American freedom and democracy is a strong, effective system of education where every child has the opportunity to learn in a safe and nurturing environment.

America's first rate education system depends on a partnership between parents, principals, teachers and children. The success of our nation for much of the 20th century—is the result of the hard work and dedication of teachers across the land.

While many people spend their lives building careers, teachers spend their careers building lives. Our nation's teachers serve our children beyond the call of duty as coaches, mentors, and advisors without regard to fame or fortune. Across the land nearly 3 million men and women experience the joys of teaching young minds the virtues of reading, writing and arithmetic.

As part of the 14th Annual Teacher Appreciation Week, I'd like to pay special tribute to Andrew Baumgartner of Augusta, Georgia—who was recently named the 1999 National Teacher of the Year.

Mr. Baumgartner, who teaches kindergarten at A. Brian Merry Elementary School in Augusta, has been a teacher for 23 years. His motivation and source of inspiration comes in part from the belief that it was his duty to give something back to society, and he has done so through his teaching.

To achieve his goal of getting kids to learn, Mr. Baumgartner creates a sense of adventure in his classroom. He has used his creativity and imagination to bring the magic of reading and learning to the minds of his kids.

The award, sponsored by the Council of Chief State School Officers and Scholastic, Inc., will send Mr. Baumgartner on a promotional tour as 1999 National Teacher of the Year, where he will share his innovative ideas with other teachers around the nation. I wish Mr. Baumgartner the best of luck during this tour and am confident that he will inspire other teachers with his creativity and willingness to do whatever it takes to get kids to learn.

In closing Mr. President, I call on all my colleagues—on both sides of the aisle—to take a moment this week to give a special thanks to the nearly 3 million important American men and women—like Andy—who have contributed to the emotional and intellectual development of children across the land.

Mr. ABRAHAM. Mr. President, I rise in recognition of Teacher Appreciation Week. During this week we have a special opportunity to thank the dedicated professionals who open our children's eyes to the world of discovery and learning, the world that will open the door to a brighter future for them and for all of Michigan.

Five days a week, for nine months out of every year, America's 2.7 million teachers help to mold our children's future, the future of Michigan, and the future of America. Across Michigan and across the United States, tomorrow's business leaders, inventors, doctors, and even teachers are building the

foundation of learning and experience that will shape their lives and careers.

This week, Mr. President, Michiganites like all Americans are taking time to pay tribute to our teachers, some of the most important people in our children's lives. After parents and families, teachers pay the most important role in helping our children reach their potential. No teacher can take the place of loving and attentive families, but the school experience plays a crucial role in shaping our children's character.

After the tragic events in Colorado, I hope all of us will take the time to think about the difficult job our teachers have, in these troubled times, giving children the structure and habits as well as the knowledge they need to become good citizens and productive adults.

I have always supported calls for better computer technology in our classrooms. And it is true that our children need to learn to use tools that will expand their access to information. But a qualified, highly trained teacher remains the most important education tool in any classroom. Today's technological innovations can help teachers capture our children's attention and bring the world to their eyes and fingertips. But no machine can take the place of a dedicated teacher who genuinely cares about a child's future. With the rapid advance of education technology, we must ensure that our teachers are trained in the most effective educational use of this technology, and that none of us are distracted from the basics of a good education by glittering machines.

Unfortunately, Mr. President, there are disturbing statistics about how well our teachers are prepared to enter the classroom. More than 25 percent of new teachers nationwide enter school without adequate teaching skills or without training in their subject according to the National Commission on Teaching and America's Future. One in seven teachers has not fully met State standards.

We must do more to ensure that our teachers are fully prepared to meet the increasing challenges of their profession. We must take advantage of every opportunity to provide today's teachers with access to proven training programs while simultaneously recruiting and training qualified and dedicated young people to become tomorrow's great educators.

Most importantly, Mr. President, we must applaud and show our appreciation to the teachers who go that extra mile for our kids, capturing their attention, helping them gain the knowledge and skills they need, and providing examples of dedication and skill that should inspire us all.

Mr. DOMENICI. Mr. President, I rise today to salute one of our nation's most precious resources, our teachers and in particular New Mexico's teacher of the year, Stan Johnston of Los Alamos High School.

I would submit, teachers are the key to America's future. Christa McAuliffe, the teacher and astronaut put it in perfect perspective. She said, ''I touch the future, I teach.''

Building upon her statement I would say: it is a simple fact that the future is prejudiced in favor of those who can read, write, and do math. A good education is a ticket to the secure economic future of the middle class. As the earning gap between brains and brawn grows ever larger almost no one doubts the link between education and an individual's prospects.

And today the Senate is acknowledging those on the front lines with our students, the unsung heroes, their teachers. Somewhere in this great country of ours a teacher has a future leader of the United States in his classroom. Who knows; it could be one of the students in Stan Johnston's English and Study Skills class at Los Alamos High School in New Mexico.

My point is simple, after parents and families, teachers play an important role in helping our children reach their potential. After our children leave home each morning, it becomes the responsibility of America's almost 3 million teachers to ensure our children are prepared for the future because in our nation's classrooms resides the future.

Hopefully, the future doctors who will find the cure for cancer, mental illness, and heart disease are right now in our classrooms. But, most importantly we have the next generation of our country now attending classes throughout our schools.

In conclusion, I would like to thank you and a job well done to all of our teachers and in particular, Stan Johnston of Los Alamos High School. Again, thank you and please continue the superb work you are doing on behalf of our country.

Mr. HATCH. Mr. President, of all the occupations in America, teachers may deserve their own ''appreciation day'' the most. And, perhaps no occupation influences the future of our country more. I am delighted to join my colleagues today in paying tribute to those teachers all over America who have made a real difference.

One special teacher who made a real difference in my life was Mr. McElroy.

When I was a young boy, I played my violin in the school orchestra. On the day of one of our most important performances, the student who was supposed to play a solo on the bass got sick and was unable to perform. My music director, Mr. McElroy came to me and convinced me that, even though I had never played the bass, I could perform the solo.

I had terrible doubts about my ability to step in and do the job. But Mr. McElroy had confidence in me, even if I didn't. And he worked with me and encouraged me and coached me for most of that afternoon. That night I was able to play the solo without making a mistake.

As I think back on it, this was one experience that taught me that if I applied myself I could meet a challenge. When, in 1976, everyone believed I was a long-shot to win the nomination and, indeed, the election to become Utah's senator, I should have told them about Mr. McElroy.

I know that right now, in a classroom in Utah—maybe in the room of Diane Crim, who teaches math at Salt Lake's Clayton Intermediate School and is Utah's 1998 Teacher of the Year—another young student is learning these important lessons thanks to a dedicated and caring teacher.

Teaching is not just a job, it's a calling. It is a calling to impart knowledge, to mete out discipline, to inspire, to motivate.

Last week, our entire nation mourned the loss of a devoted teacher, Dave Sanders. The testimony of his students to his caring, whether in the classroom or on the basketball court, is a tribute better than any we here in the Senate could pay. I hope that the students he taught at Columbine High School will go on to practice the lessons he taught and be the kind of citizens in the community that he hoped they would be.

Mr. President, Mr. McElroy, Diane Crim, and Dave Sanders all represent the best of the teaching profession. There are thousands of others we could mention here today who have helped our children learn the keys for living such as reading, math, science, and history. But, more than that, they have helped reinforce essential values like hard work, perseverance, team work, and integrity. I am pleased to join in honoring these teachers today.

I yield the floor.

Mr. CONRAD. Mr. President, I also want to comment on the National Teacher Appreciation Week, because I think all of us can look back in our own backgrounds and remember what a difference teachers made in our lives.

I can remember very well the teachers who made a contribution to my life, to my growing up: Mrs. Goplin, who taught American history and who really shared a great love for understanding the Constitution of the United States, always told us that this is one of the greatest documents in human history. I will never forget those words of Mrs. Goplin.

She was exactly right. Our Constitution is one of the greatest documents in human history, and how lucky we are to live in a country that has constitutional guarantees of freedom for the American people and says to each and every American, you have certain rights, rights that protect you from the overreach of government, because our forefathers had known in Europe that government can become oppressive and that government can make demands on its citizenry that are not fair, that are not reasonable. We are so lucky to have these protections.

I remember other teachers: My third grade teacher, Mrs. Offerdahl, who is still alive in a nursing home in North Dakota, what a great woman. She

came every morning to that class with a sparkle in her eye and a love for learning and a love for teaching. She made a difference not only in my life but in the lives of hundreds and hundreds of students whom she taught over a very long career in the Bismarck, ND, school system—Mrs. Offerdahl.

And Mrs. Senzek, who was my fifth grade teacher, a highly intelligent woman, somebody who was absolutely committed to improving the educational standards of the kids in Bismarck, ND. My sixth grade teacher, Miss Barbie, who was a very sophisticated woman, somebody who loved reading and imparted that love to students.

I think back to how fortunate we were to have people of that quality and that caring who provided education to us and at great sacrifice to themselves. I can say every one of these women whom I have mentioned could have made much more money doing something else, but they were dedicated to teaching young people, and they made enormous financial sacrifices to do it.

There are so many other teachers along the way whom I remember. Mrs. Hook was my second grade teacher. She was a woman of real majesty, really almost a regal person, very tall, very erect, very dignified, somebody who commanded respect.

These are people who made an impression that has lasted a lifetime, lasted a lifetime for me, but I know lasted a lifetime for other students in the Bismarck public school system as well.

Mr. President, I add our words of praise to all the teachers across this country who make a difference in the lives of kids. Other than family members, other than parents, perhaps there is no more important relationship than what teachers do in terms of training our kids. So, today, we say thank you, thank you for everything you have done. You have made a difference.

CRISIS IN AMERICAN AGRICULTURE

Mr. CONRAD. Mr. President, I want to talk about another crisis that is occurring in this country. It is not receiving the attention as are the storms in Oklahoma, the tornadoes, and the tremendous damage that has been wreaked in those States by this set of storms, but it is a crisis nonetheless. It is almost a stealth crisis. It is a crisis in American agriculture, and I can tell you, it is causing trauma, too.

In my State, we have just seen a series of headlines in the major newspapers that tell the story. I thought I would bring them to the attention of my colleagues today so hopefully we can reflect not only on the tragedy in Oklahoma and Kansas, but we can reflect on the tragedy that is happening in central America, and I mean the central America of North Dakota and South Dakota, Montana, Nebraska, and Kansas—States that have been hard hit by a virtual depression in agriculture.

It is causing real trauma, Mr. President. These headlines tell the story. This headline sums it up: ''The rural depression.'' There is a real depression in the heartland of America. Prices, the lowest we have seen in 50 years, are causing literally thousands of farmers to exit agriculture.

Here is another headline which recently ran in papers back home: ''Farm prices, farm numbers both fall.''

And this headline that says: ''Another farm dies; does Washington really care?'' That is the question we are going to be asking today and we are going to continue to ask as we see this crisis grow and develop affecting more and more farm families and starting to affect the small towns of our State as well. In fact, this headline says it well: ''AG Crisis Is Bigger Than N.D.'' This is an editorial from the largest paper in our State pointing out that not only is North Dakota affected but other farm States as well.

This is a headline which ran recently: ''State Loses Farmers.'' And one headline which ran, again, in the biggest paper in our State: ''Crop Prices Are the Problem.'' And indeed they are. ''Crop Prices Are the Problem.'' This article says, ''Crop prices, that's the big thing wrong with the region's farm picture this year.'' And they are exactly right.

When I mentioned the crisis has moved from the farmstead to the streets of North Dakota, this headline tells that story: ''Farm Downturn Leaves Main Street Reeling. Three family-run businesses in Michigan, North Dakota closed, with little hope of reopening.''

There is the crisis that is receiving enormous attention in Oklahoma and Kansas—and it should have enormous attention. Those people deserve for others to understand what is happening and the suffering they are experiencing.

There is another crisis as well, and that is the crisis in farm country. Those people are suffering. And they deserve attention as well.

Let me just show another chart which goes right to the heart of the problem we are facing. This shows what has happened to farm prices from 1946 to 1998 for wheat and barley. You can see from the prices—this is 1998—it has even gotten worse. We go out to 1999, and these prices continue to decline in real terms. We have the lowest prices now for these commodities in 52 years. This is a crisis by any definition.

I just want to conclude by going back to what one of the articles said in the papers back home. This says: ''Banks' Survey Shows Farm Income Dwindling.'' In this article they say, ''The vice is tightening on farm borrowers in the Upper Great Plains. The outlook for farm income is grim unless commodity prices increase.''

Mr. President, that is exactly the case. We face a tightening noose around the necks of literally thousands of farm families, and it is time for a response from the Federal Government. We need to pass the disaster supplemental. We need to make the last disaster program we passed whole, because we now know it will cost $1.5 billion more to keep the promise which was made in that disaster program. We need to once again shore up the transition payments that are promised farmers under the new farm bill at this time of price collapse.

Those are steps we can take, we need to take, we must take. In addition, we should reform crop insurance, because we know that program does not work when you have multiple years of disaster.

I just close by saying once again, I hope America is listening and understands that there are tragedies occurring across the United States. We have a tragedy in Oklahoma, a tragedy in Kansas, and we ought to respond.

There are also tragedies that are occurring below the radar screen. They are not getting the attention of the national press. They are a crisis nonetheless, and we ought to respond to them as well.

I thank the Chair and yield the floor.

Mr. President, I know my colleague from Montana is waiting to speak.

I inquire of the Parliamentarian, how much time do we have remaining on our side?

The PRESIDING OFFICER. Five minutes 15 seconds are remaining.

Mr. CONRAD. I just ask my colleague from the State of Montana if he would like that additional 5 minutes. I would be happy to yield to him at this point.

The PRESIDING OFFICER. Would the Senator from Montana——

Mr. GRAMM. Reserving the right to object, may I hear the request again?

The PRESIDING OFFICER. The inquiry was whether the Senator from Montana desires time.

Mr. BAUCUS. Mr. President, I appreciate the inquiry of the Senator from North Dakota. I would, but I want to accommodate the manager of the bill, too. I would like, at some time in the next hour or two, to speak for 15 minutes.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. To accommodate the Senator, why don't we just take 5 minutes off each side. We are going to have the vote at noon, so we will have less time. Senator SARBANES and I had an opportunity to plow this ground in some depth, so why don't we yield to the distinguished Senator 10 minutes now, and then we will begin the debate on the financial services modernization bill.

Mr. BAUCUS. If I might try once more for 15.

Mr. SARBANES. I yield the Senator another 5 minutes.

Mr. BAUCUS. Thank you very much.

The PRESIDING OFFICER. So the RECORD is clear, the Senator from Montana will have 15 minutes—10 minutes

from the Democratic side, 5 minutes from the majority side.

The Senator from Montana is recognized for 15 minutes.

Mr. BAUCUS. Mr. President, I ask unanimous consent to speak in morning business.

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

Mr. BAUCUS. Mr. President, I thank very much not only my good friend from North Dakota but my good friend from Texas, Senator GRAMM, and my good friend from Maryland, Senator SARBANES.

CHINA'S WTO ACCESSION

Mr. BAUCUS. Mr. President, I rise this morning to offer some thoughts on the negotiations towards China's WTO accession, in the aftermath of Premier Zhu Rongji's visit to the United States.

This, I submit, is a question of fundamental importance to America's trade interests. China is now our fourth largest trading partner—after Canada, Japan, and Mexico—a major market, and the source of our most unbalanced trade relationship in the world. And it is perhaps still more important to America's strategic interests in Asia. Today, I would like to review the progress thus far and its implications for these interests.

Let me begin, however, with some context about WTO accessions and the commitments they require.

The WTO really began with the creation of the General Agreement on Tariffs and Trade, otherwise known as the GATT, in 1948. At that time, 23 nations were members. Each of them agreed to a set of tariff cuts and agreed to apply the new tariffs to all other GATT members. This is the famous, or infamous, principle of ''MFN,'' or ''Most Favored Nation.''

Since then, since 1948, 111 other economies—membership is no longer restricted to countries, as Hong Kong and the European Union are now members—have joined to make up today's 134-member WTO.

The original tariff agreements are also joined by agreements on sanitary and phytosanitary standards—that is, health standards—intellectual property, technical barriers to trade, and other issues. And 30 more economies have applied to join, the largest being China.

As these economies join, they must also lower their trade barriers, live up to WTO's intellectual property and agricultural inspection commitments, and so forth. For existing members, however, the only requirement is the one they adopted back in 1948: that we apply MFN—or today normal trade relations—tariffs to the new members. That is the only commitment that current members have to make.

So as we consider the commitments China has and will make to be a WTO member, we must also remember that these are fundamentally one-way concessions. Let me repeat, to enter the WTO, China has committed to a set of one-way concessions.

Nothing in any WTO accession will mean American concessions on market access; the use of our trade laws to address dumping, subsidies, or import surges; or controls on American technology exports. Likewise, if we should choose to tighten export controls at some point in the future, nothing in the WTO accession would prevent us from doing so.

Let me now turn to the commitments China has made and to the issues which remain.

To enter the WTO, China and the existing members must do two things: draft a ''Protocol'' covering a set of fair trade policies, and agree on a set of market access concessions.

These are the issues which the American negotiating team addressed in the months and weeks before Premier Zhu's visit. And the results are striking. China has made a significant set of concessions in both areas. The work is not done, but let me review for the Senate some of the major elements.

Under the protocol, China has made the following commitments: It will end the practice of requiring technology transfer as a condition for investment. That is very big. This includes refusing to enforce tech transfer provisions of existing contracts. The United States is guaranteed the right to continue using nonmarket economy methods for fighting dumping and unfair subsidies.

China will end investment practices intended to take jobs from other countries, for example, local content requirements which stop auto plants from importing U.S. parts; export performance clauses requiring production to be exported rather than sold on the Chinese market, and so on. And China has agreed to a product-specific safeguard which will strengthen our ability to fight sudden import surges.

It is important in the weeks and months ahead to ensure that these provisions have acceptable duration. But it is also clear both that we will be able to use the WTO to strengthen our guarantees of fair trade, and also that we will be able to use our own domestic trade laws for the same purpose. These are fundamental parts of any successful WTO accession.

The American negotiators have also won an impressive set of commitments in market access. Let me offer a few examples: In agriculture, China has already begun by lifting its infamous ban on Pacific Northwest wheat, American beef, and also on citrus products. And when it enters the WTO, it will accompany this by major tariff cuts. For example, beef tariffs will fall from 45 percent to 12 percent, and adoption of tariff-rate quotas in bulk commodities; that is, minimum guarantees of imports into China.

The wheat tariff-rate quota, for example, has the potential to lift China's imports from 2.4 million metric tons a day to 7.3 tons for the first year China is in the WTO and more afterwards. China will also give up any rights to export subsidies, a far cry from, say, Europe which has massive export subsidies; China going much, much further than Europe is today.

In industrial goods, China will grant full distribution rights, retailing, repair, warehousing, trucking and more in almost all products over 3 years. And it will allow American companies to import and export freely. These are concessions that will fundamentally transform an economy which now operates by requiring both Americans and Chinese to use Chinese Government middlemen in these areas. It will make large tariff cuts to an average of 7.1 percent, and it will give up the quota policies at the heart of several industrial policy ventures.

Another concession of special interest to my State of Montana is deep cuts in wood products, from levels reaching 18 percent today down to 5 and 7 percent after WTO membership. And in services, China has made commitments in every sector. They are especially strong, as I noted, in distribution, but also extend to telecommunications, to finance, to audiovisual, environmental services, law, franchising, direct sales and more. These are very significant concessions which go most of the way to creating a commercially meaningful agreement.

The U.S. negotiators deserve immense credit for their tremendous achievements of the past months, absolutely amazing, perhaps even more for their willingness to refuse bad offers in the past years and remain firm in the commitment to strong accession in all areas.

Several issues, however, remain unresolved. I am especially and very strongly concerned that we are not accepting any rapid phaseout of nonmarket economy dumping rules or import surge provisions. We can also improve on the market access commitments in several of the service sectors. However, we should also understand that there is a point at which we should say yes. We should not set a goal of transforming China's trade regime into Hong Kong's by next New Year's Day. Rather, we should expect a good, commercially meaningful accession, and we are almost there now.

Finally, let me say a few words about the broader interests involved. A WTO accession is a set of unilateral trade concessions; in this case, made by China. As such, it is in our economic and our commercial interest. It will create opportunities while making trade fairer for our working people and farmers. But it is also a piece of a larger strategy designed to create a more stable, a more prosperous and more peaceful Asia-Pacific region.

China's economic integration into the Pacific region since the opening under President Nixon in 1972 has been immensely important to our long-term national interests. We can see that very clearly in the Asian financial crisis, for example.

When I came to Congress, China was a revolutionary power, which would have used this recent currency crisis to spread disorder, spread revolution throughout Southeast Asia and the Korean peninsula. But today it is a beneficiary of Thai, Singapore, Korean and Malay investment, and these countries are also China's markets. China has responded to the crisis by contributing to their recovery through currency stability and several billion dollars in contributions to IMF recovery packages.

The WTO accession will deepen and strengthen this process. At the same time, it will move China toward the rule of law, give Chinese working people, students and families more frequent, more open contact with foreigners and, thus, contribute to our work toward a China which has more respect of the law and more respect for human rights.

Mr. President, the U.S. negotiators thus far have done an excellent job. They have already offered American farmers a ray of hope during a very difficult year. We are very close to accessions that will make trade with China fundamentally more fair for our country. It will then be up to the Senate, to our colleagues, to take the final step by making the normal trade relations we now offer to China permanent.

I thank the Chair. I yield the floor, and I suggest the absence of a quorum.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. HUTCHINSON). If the Senator will withhold, morning business is closed.

FINANCIAL SERVICES MODERNIZATION ACT OF 1999

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 900, which the clerk will report.

The legislative assistant read as follows:

A bill (S. 900) to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, insurance companies, and other financial service providers, and for other purposes.

Pending:

Sarbanes (for DASCHLE/SARBANES) amendment No. 302, in the nature of a substitute.

The PRESIDING OFFICER. The time until 12 noon shall be divided between the Senator from Texas and the Senator from Maryland, with 23 minutes for Senator GRAMM and 17 minutes for Senator SARBANES.

The Senator from Texas.

Mr. GRAMM. Mr. President, I yield 3 minutes to the distinguished Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. MACK. I thank the Chair.

Mr. President, I thank Senator GRAMM for yielding me the time. I have a comment or two with respect to the process that we have gone through in putting this legislation together.

I commend Senator GRAMM. I can't think of a time in my now 17 years in the Congress where I have had a chairman of a committee that has spent as much time with the other members of the committee, walking through a particular piece of legislation, each aspect of it, making sure that each of us was prepared and educated on the various issues. There are some difficult issues that face us—the whole issue of CRA, unitary thrifts, the mixing of banking and commerce, the issue of operating subsidiaries versus affiliates, all of them complicated.

I can remember not too many years ago when there was this sense in America that the model which should be followed was the Japanese banking system that people looked at and said, we ought to look at Japan, the dynamic economy they were producing in the late 1980s. I think about how much things have changed in those 10 years.

Mr. SARBANES. Will the Senator yield on that point very briefly?

Mr. MACK. I will be glad to yield for a moment.

Mr. SARBANES. I remember people would say that the Japanese had all the largest banks in the world and they were saying, look. And now look at the situation.

Mr. MACK. It is a dramatic change, and here we are. We have been talking about this legislation for all those years and we haven't made the modifications we needed to make. I hope we will be successful this time.

I rise in support of the underlying bill and in opposition to the Sarbanes substitute. We all know that legislation to overhaul the bank regulatory structure is long overdue, and I join many of my colleagues in thanking the chairman for his hard work in writing this bill and bringing it to the floor.

I will begin by quoting the words of the Senate Banking Committee report, which I believe presents a strong case for financial modernization. It states:

The argument for legislation to rationalize our financial structure is strong. Regulatory and court decisions have eliminated many of the barriers between commercial and investment banking. The barriers separating commercial banks from investment banks have been perforated in both directions. Finally, changes in the technology and practice of financial intermediation have rendered the restrictions of Glass-Steagall increasingly ineffective and obsolete.

There is nothing particularly remarkable about that language, Mr. President. In fact, those same arguments will be made by many of my colleagues here today. But what is remarkable about the statement I just read is that it comes from a committee report on banking legislation in 1991. Just as I believed those words to be significant 8 years ago, I believe them to be even more so today. Unfortunately, there was no overhaul of our banking system in 1991. And despite much hard work and a clear need for action, there has been none since. We are long overdue for this debate and I am pleased the Senate is addressing this important issue.

Freedom and free enterprise have allowed our corporate and financial institutions to respond to changing times and to adapt to a changing financial environment. But this ability has reached its limits within the confines of present law. For our financial institutions to continue to grow, to compete, and to evolve, we must give them a new legislative climate in which to operate. That is the purpose of the bill before us today.

Mr. President, our banking system is truly a model for the world. Emerging economies from Asia to Africa to Central Europe look to the United States for the blueprint and technical expertise to build an effective financial infrastructure. This is happening because we have found a remarkable balance between community banks and global institutions, between the regulators and the regulated, between the States and the Federal Government, and between ordinary people and the money they need to finance their hopes and dreams. In recent years, we have witnessed a wave of high-profile mergers, as institutions across the sectors hope to create ''synergy'' from offering a broad range of financial products to an expanding global customer base. For their part, many smaller, community-based institutions are using the new regulatory authorities to offer their customers one-stop shopping for individual financial needs—from ordinary retail banking to insurance products and securities instruments.

All of this is very important to the continued financial well-being of our Nation and to the global competitiveness of our financial services industry. However, the expansions I speak of are not taking place with the approval of the Congress and are not occurring through any action on our part to change the law. Rather, these things are happening because—as the 1991 report mentioned—court decisions and the broadened interpretations of present law by the banking regulators have allowed them to take place in an ad hoc manner. In order to access the right to affiliate with other sectors, financial companies have to jump over increasingly complicated regulatory hurdles in order to adapt and survive. It is high time Congress weighed in on this important trend. It is high time we cleared the way for these affiliations and repealed the underlying web of Depression-era restrictions on our banking industry.

That is what we accomplish in the bill before us today, Mr. President. This legislation allows companies to diversify holdings by lifting the prohibitions on affiliations among banks, insurance companies, and securities firms, thus allowing them to compete fully in a free-market environment. If Congress fails to act, we will once

again limit the potential of our financial sector and we will continue to impose needless and unnecessary regulatory burdens on individual financial institutions. The other body is moving with its own legislation. The Senate needs to act now to ensure that our financial sector is on solid footing for the new century.

The bill before us repeals the Depression-era Glass-Steagall law prohibiting affiliations between commercial and investment banks. It allows banks and insurance companies to affiliate under the same corporate umbrella. It contains provisions outlining the appropriate regulation of bank sales of insurance, and it allows banks with assets of less than $1 billion to engage in a broader range of financial services through operating subsidiaries. Of course, Mr. President, the relationships between these entities are carefully constructed to ensure institutional safety and soundness and that the taxpayer-insured deposits of retail banking institutions are protected.

The structure provided for in this legislation will end the ad hoc expansion and administration of our banking sector and provide the industry with a clear roadmap for the 21st century. In my view, it will lead to greater stability, enhanced safety and soundness, and improved choices for customers and consumers.

So I urge my colleagues to support passage of this important bill and defeat the Sarbanes substitute.

With that, I yield the floor.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. LOTT. What is the parliamentary situation?

The PRESIDING OFFICER. The time is under the control of the Senator from Texas and the Senator from Maryland.

Mr. LOTT. I yield myself time out of my leader time.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. LOTT. Mr. President, I will be brief because we have to get back to this Financial Services Modernization Act. I know the two managers managing this are working on it studiously, and we will be having votes later today. It looks to me as if we can make good progress.

MARY BETH BOYER BLACK, MISSISSIPPI'S 1999 TEACHER OF THE YEAR

Mr. LOTT. Mr. President, I join my other colleagues here today in recognizing National Teacher Appreciation Week. I am the son of a schoolteacher. My mother taught school for 19 years, between first and the sixth grade. She finally had to leave teaching because in those days teachers basically could not make enough money to live on. She wound up in bookkeeping and broadcasting. I also worked for a university for 3 years, and I have a very serious appreciation for our teachers and the jobs they do.

I have stayed in touch, over the years, with my second-, third-, and fourth-grade teachers at Duck Hill, MS. I don't know why, but I particularly remember those three and have always appreciated them. I guess we remember the ones who teach us to write and do the basic reading. They were wonderful women and wonderful people, and they inspired me in many ways.

So in appreciation of this National Teacher Appreciation Week, I will quote from the Bible. It says:

> Train up the child in the way he should go, and when he's old, he will not depart from it.

Those were the words of Solomon. That is good advice from Solomon.

So today I want to pay particular attention to our Mississippi Teacher of the Year, Mary Beth Black. She teaches chemistry, physics, and advanced placement physics. I remember those courses. They are the reason I didn't go into pharmacy or med school. Biology, chemistry, physics—I took all the college preparatory courses, and I look back now and I know that I was wasting space. I was really never destined to major in the sciences. But it is so important that we have teachers who inspire students in that area. If we are going to be competitive in the future, in the next millennium, and participate in the world economy, we are going to have to have students who are good in science, physics, computer sciences, and the sciences in general.

In order for them to learn what they need to know and to be inspired in that field, you need great teachers like this teacher, the ''Teacher of the Year'' in Mississippi, who teaches at Emory, MS, a wonderful lady with a wonderful record.

She points, interestingly enough, to her second-grade teacher who, she noted, inspired her when she was 7 years old—that she knew when she was 7 she could be anything she chose to be: She could be a brain surgeon, she could drive a fire truck, or go to the Moon. But this second-grade teacher inspired her to want to be a teacher. She always wanted to be a teacher—and to be more than just a teacher, to be an inspiration to young people.

She said:

> Second grade can be challenging. My problem was cursive writing or ''real writing'' as we second graders called it. No matter how hard I tried, my loops and swoops and tilts were never as good as my peers.

''Until now,'' she said, ''school had been great.'' But in this instance it got to be a problem and a challenge. But her second-grade teacher, Mrs. Hurt, worked with her and taught her and then became an inspiration to her.

So today I give thanks and appreciation to all of our teachers across our great country, and in my State of Mississippi to the ''Mrs. Hurts'' who taught in those small, sometimes one- and two-classroom buildings as my mother did, who not only taught the course but inspired a generation of more teachers such as Mary Beth Black, Mississippi's Teacher of the Year.

An 18th-century American historian, Henry Brooks Adams, said: ''A teacher affects eternity; (she) can never tell where (her) influence stops.''

So our teachers influence our young people, and they affect the future of our country and the world. Thanks to all of them.

I yield the floor.

FINANCIAL SERVICES MODERNIZATION ACT OF 1999

The Senate continued with the consideration of the bill.

Mr. DASCHLE addressed the Chair.

Mr. SARBANES. Mr. President, I yield such time as the minority leader may consume.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, I thank the distinguished ranking member, the Senator from Maryland. I thank him and the Democratic members of the Banking Committee for the tremendous leadership and patience that, in particular, Senator SARBANES has demonstrated in getting us to this point.

I also want to acknowledge the efforts of all my colleagues on the Senate Banking Committee, and especially the fellow Democrats of the Banking Committee, who have put so much effort and energy and diligence into bringing us to this very important debate, and ultimately this vote which we will shortly have.

I might add, as I know the distinguished Senator from Maryland has already noted, that every Democratic member of the Senate Banking Committee is a cosponsor of the substitute we will be voting on shortly. Together, my colleagues on the committee have produced a proposal to give financial service companies new freedoms and new flexibility—without risking the financial well-being of our economy or of individuals. It is a balanced, responsible proposal—one the President can sign—and, on behalf of the entire Democratic caucus, I thank them for producing it.

Let me be very clear, Mr. President. Senate Democrats support financial services modernization. We want to see a bill passed. There is no good reason that can't happen this year—in fact, this week.

This should not be a partisan issue. Historically, it has not been one.

Our substitute is based on last year's H.R. 10. The Senate Banking Committee passed H.R. 10 on a vote of 16 to 2—16 to 2. Republicans on the Senate Banking Committee supported H.R. 10 last year. So did virtually every major financial services industry group.

In the House, the House Banking Committee passed a very similar bill this year. Again, the vote was overwhelmingly bipartisan—51 to 8.

Until recently, Democrats and Republicans have agreed overwhelmingly that the path laid out in our substitute was the right path. That has all changed. Reform has suffered a major setback this year. In the Senate Banking Committee, the majority forced through a new, harshly partisan bill on a party line vote of 11 to 9. This new bill shattered the consensus that so many people worked so long and so hard to create.

In place of the broad support enjoyed by H.R. 10, the committee bill is opposed now by every Democrat on the Banking Committee. It is also opposed by every civil rights group. It is opposed by community groups, community organizations, and local governmental officials.

Instead of a clear path to enactment—which is what we would have had had we stayed with the bipartisan approach to H.R. 10—financial services reform is now on two tracks. There is the veto track. And make no mistake, S. 900 is on this track. It will be vetoed if the President receives it in its current form. Then there is the enactment track. That is the track our substitute and the bipartisan House Banking bill are on.

We are not saying, ''It is our way, or no way.'' Neither side should ever issue such an ultimatum. That is not the way of the Senate. We have discussed with the majority leader our desire to find a bipartisan way to get the financial services modernization bill back on the enactment track. We have agreed to a floor procedure which will enable us to finish this bill in an expeditious manner.

We do not want to delay this bill any longer. That has already happened. It has already been delayed. As I said, we want to pass financial services modernization this year, and perhaps even this week. So the choice for the Senate is clear. It is partisan brinkmanship, or bipartisan accomplishment.

We stand ready on this side of the aisle to deliver a bill that the President can sign. He has cited four serious flaws in S. 900 which he has said will force him to veto the bill. Our substitute corrects all four flaws.

First and foremost, our substitute does not gut CRA—the Community Reinvestment Act—as S. 900 does. The CRA has proven a huge success in expanding access to credit and investment in low- and moderate-income communities. Investment capital is the lifeblood of these communities. That capital must continue to be available to qualified borrowers in all communities. We cannot draw red lines around the American dream. Democrats will not support a bill that undermines the effectiveness of the CRA.

The second major difference between our substitute and the underlying bill is the way the two proposals deal with the separation of banking and commerce.

For nearly 70 years, since the collapse of the banking industry during the Great Depression, U.S. law has separated banking from other commercial activities. An army of experts—from Chairman Greenspan to Secretary Rubin to former Federal Reserve Chairman Paul Volcker—believe that separation must be maintained.

But you don't have to look in the history books to understand why mixing banking and other commercial activities is risky business. Look at the recent currency crisis that started in Asia and spread to some of our Latin American neighbors. If anything, the globalization of our economy makes a reasonable separation between banking and other commercial activities even more important now than it was when those laws were first enacted.

Unfortunately, as the distinguished Senator from Maryland has observed, the underlying bill weakens the separation of banking and commerce in a number of ways. Our alternative does not. It reflects the careful compromises developed last year. It preserves the separation between banks and other commercial activities without in any way limiting the flexibility financial service companies need in today's economy. It strikes the right balance between opportunity and responsibility.

Let me interject here that, should our substitute fail, my colleague from South Dakota, Senator JOHNSON, intends to offer a related amendment. It would close a loophole which commercial companies currently use to mix banking and commerce by acquiring existing unitary thrift holding companies. I will strongly support his effort.

A third difference between our substitute and S. 900 has to do with consumer protection. H.R. 10—the bill the Banking Committee passed out last year with overwhelming support—included a number of consumer protections having to do with such things as risk disclosure and licensing of personnel. Those protections were essential for its passage last year. They remain essential to the American people. They have all been stripped out of the underlying bill—every one of them. They are all included in the Democratic alternative. They must be included in any financial services bill this Congress passes, or the President will veto it.

There is a fourth way in which our bill differs from both the committee bill and from last year's bill. It involves what financial activities can take place in subsidiaries of banks, and under what conditions.

As the legislative process has progressed, the Treasury Department has agreed to significant additional safeguards regarding the financial activities of banks' operating subsidiaries. Our alternative incorporates these safeguards. At the same time, it would permit banks to structure certain new activities in these so-called ''op-subs'' as they see fit. Again, it balances opportunity and responsibility.

Mr. President, that is where we stand—the juncture of two tracks: The veto track, and the enactment track.

S. 900—as it is currently written—will put us on the veto track. We know that:

It undermines the Community Reinvestment Act.

It breaches the separation of banking and commerce.

It ignores consumer protection.

And, it fails to strike a responsible balance on the question of bank operating subsidiaries.

The failure to proceed on a bipartisan track has placed this bill at risk. Unless we negotiate with each other once again in good faith, I must say this bill will be vetoed.

If that happens, it would represent a serious failure on the part of this Senate.

More important, it would deprive American businesses, and the American people, of important tools and safeguards they need in this new global economy.

We appeal to our colleagues: Let's get this bill back on track. Let's adopt this alternative. Let's pass financial services modernization. This year. This week. We can do it. I hope we will.

Mr. GRAMM. Mr. President, I thank the distinguished Democrat leader for the effort he has made to get the Senate to this point. Obviously, when we have votes on contentious issues, ultimately Members come to the floor and vote. Somebody wins and somebody loses. I think on many of the votes we are going to have, neither of us knows what the outcome will be.

We are beginning a process that will go through conference. We have a bill in the House that is very different. I think we all want to write a bill that the White House can sign.

Yesterday, the President came out with six conditions for signing the bill, two of which your substitute does not comply with. Obviously, we are going to have to work with the White House on a continuing basis.

I want to assure you, Mr. Leader, I will also sit down, roll up my sleeves, and try to work. Maybe we can't solve these problems, but if it is possible to solve them, I want to do it.

I thank the Senator for his help.

Mr. President, how much time remains on both sides?

The PRESIDING OFFICER. The Senator from Texas has 11 minutes, and the Senator from Maryland has 7 minutes 24 seconds.

Mr. GRAMM. I yield 5 minutes to the distinguished Senator from Wyoming.

Mr. ENZI. Mr. President, I thank the chairman of the Banking Committee. I thank him for the time. I also thank him for the leadership and direction and focus he has had on this issue and his willingness to talk to others about the issues.

I rise to oppose the substitute amendment offered by the ranking member of the Banking Committee. Most of the reasons for my opposition

lie within the great expansion of the Community Reinvestment Act, or CRA.

For example, the amendment would allow the Federal banking agencies to take actions, including divestiture, forcing people to sell off parts of their business if an institution fails to maintain a satisfactory or better CRA rating. Currently, the enforcement action authorized for the banking agencies is the ability to deny the noncompliant banks' application to acquire another facility.

The substitute would expand the reach of CRA to noninsured institutions or wholesale financial institutions, and they don't even deal with consumers. Previously it had been argued that banks and thrifts convey an economic benefit as a result of deposit insurance, and thus the CRA is justifiably imposed on those institutions. But now, for the first time, this amendment would expand CRA to the non-FDIC-insured institutions.

It would allow a Federal banking agency to take enforcement action, such as the cease and desist order, civil monetary penalties, or even criminal sanctions, all for not complying with the CRA. That is an expansion. These penalties could even be extended to an officer or director of the holding company or bank.

In addition to extraordinary CRA expansion, I found several other problems with the substitute amendment. First, it reduces the authority of State insurance commissioners and creates the National Association of Registered Agents and Brokers, NARAB. The insurance agents in Wyoming oppose the NARAB provision because they believe it is the precursor to Federal regulation of insurance and Federal bureaucracy.

The substitute amendment also reduces the ability of the bank to engage in trust and fiduciary activities. On the other hand, S. 900 allows a bank to engage in traditional trust and fiduciary activities, just as they have done for so many years.

Additionally, it is apparent that there is not consensus in the substitute bill, and it differs from the product of last year. I voted for H.R. 10 last year. I will not vote for this substitute. It is not the same bill. The most significant difference lies in the operating subsidiary provisions. Last year, H.R. 10 only passed the House by one vote. Just last week the House Commerce Committee held a hearing on H.R. 10, which is nearly identical to the substitute amendment, and the Members on both sides of the aisle were very critical of the bill.

I strongly encourage my colleagues to oppose the substitute amendment. It does not represent a consensus, and it is certainly more burdensome and expansive on the affected industries. It is not the product of compromise.

I yield back the remainder of my time.

Mr. SARBANES. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The Senator from Texas controls 7 minutes 37 seconds, and the Senator from Maryland has 7 minutes 24 seconds.

Mr. SARBANES. I thank the Chair.

Mr. President, I rise in very strong support of the substitute amendment, which is the provisions contained in S. 753, introduced by Senator DASCHLE and all of the Democratic members of the Senate Banking, Housing, and Urban Affairs Committee.

We have been at this for a long time—those on the committee and other Members who have been interested in the issue of financial services modernization. We have been seeking to find a way to pass a bill to protect safety and soundness, to protect consumers, to ensure that CRA not be undercut or eroded; and that permits financial service institutions within the realm of financial services, in effect, to enter into new arrangements in terms of affiliations and the activities they can conduct.

This is something that has been urged on us. Those in the industry think it would be helpful to them. Some of this has been taking place without statute, but it is uncertain, unsure. It happens through regulation; it happens through court decision. I think most people think if we could arrive at a statutory framework in which to place these developments that that would be a desirable objective.

That is why we introduced S. 753. That is why we are offering it as a substitute amendment to the committee bill. It essentially tracks the language of the bill that was reported last year on a vote of 16–2 from the committee with one exception with respect to operating subsidiaries. This substitute permits banks to conduct some activities in an operating subsidiary—not all of the activities they can now engage in—and that reflects, in part, an effort by Secretary Rubin to try to reach an accommodation to ensure that some of the concerns that were raised are addressed.

There is a conflict, a difference of view here, a very strong difference of view here between Secretary Rubin and Chairman Greenspan, both of whom are saying to have a bill we have to have a good bill, and their definition of a good bill, each of them, is one that corresponds to their views, particularly on this important issue of the op-sub versus the affiliate, as far as carrying on activities.

In this regard, I point out as we listen to Secretary Rubin that we are also listening, of course, to the possibilities of a Presidential veto. We can't get a bill into law without the President's signature—that is obvious and clear—and the President has taken a very strong position on this legislation. In fact, he has sent a letter to the committee stating in the clearest possible terms that he would veto the committee bill if it was presented to him in its current form. That is when we began the markup in the committee. The committee has issued a statement of administration policy in which they say:

> Nevertheless, because of crucial flaws in the bill, the President has stated that if the bill were presented to him in its current form, he would veto it.

We have had extended debate on the differences between the committee bill and the substitute amendment. Senator GRAMM and I and others are participating in that. I am frank to say I thought the minority leader, Senator DASCHLE, just laid out a very clear, concise, extremely well-stated position with respect to the differences between these approaches.

We differ in banking and commerce. The substitute seeks to, in effect, reaffirm, make clearer, the division between banking and commerce. We differ, as I indicated, with respect to the operating subsidiary issue, which of course involves the sharp difference between the Secretary of the Treasury and the Chairman of the Federal Reserve. We differ very strongly on CRA. It is asserted that the substitute expands CRA. In fact, what the substitute seeks to do is to ensure that if banks move into securities and insurance, that those banks should have a satisfactory CRA rating before they can undertake such a merger or affiliation.

It requires the banks to be in compliance with CRA. It in effect says that a bank with an unsatisfactory CRA rating is not going to be able to use this additional power now being given to them to move into securities and to move into insurance. At the moment, they do a limited amount of that activity. But if they are going to actually go into it in a full-scale way, which is what this legislation offers—which both pieces of legislation offer to the banks, we do not differ on that proposition; both as a part of the financial services modernization approach are prepared to permit that—but we feel very strongly that they should be in compliance, the banks should be in compliance with CRA, if they intend to do that.

A number of very important groups in the community support the substitute. I will have printed in the RECORD letters from civil rights organizations—from Hispanic organizations, which have been very strong in perceiving that CRA has made a big, big difference in their community in terms of home ownership and in terms of investment, and that there has been very significant benefit for Native American organizations that report on what has happened on the Indian reservations, from farm and rural groups, and from over 200 mayors, all of whom prefer the substitute amendment.

I ask unanimous consent those letters be printed in the RECORD.

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

LEADERSHIP CONFERENCE
ON CIVIL RIGHTS

Washington, DC, March 18, 1999.

Hon. PHIL GRAMM,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR GRAMM: We are writing to express our deep concern over your public mischaracterizations of the Community Reinvestment Act (CRA), and over the treatment of CRA in the Financial Services Modernization Act of 1999 as reported out of the Senate Banking Committee on March 4.

The Leadership Conference on Civil Rights is the nation's oldest, largest, and most diverse coalition of organizations committed to the protection of civil rights in the United States. As leaders of the civil rights community, we take strong issue with your description of CRA as a vehicle for ''fraud and extortion''[1] and to your characterization of CRA as ''perhaps the greatest national scandal in America.''[2] To the contrary, we agree with President Clinton that the Community Reinvestment Act is ''a law that has helped to build homes, create jobs, and restore hope in communities across America.''[3]

CRA has proven to be an effective means of encouraging federally insured financial institutions to extend prudent and profitable loans in underserved urban and rural communities. CRA has been credited with the dramatic increase in homeownership rates among minority, and low- and moderate-income individuals. Since 1993, the number of home mortgage loans extended to African-Americans has increased by 58%, to Hispanics by 62%, and to low- and moderate-income borrowers by 38%.[4] CRA has similarly served as the impetus for revitalizing distressed rural and urban communities through small business and small farm lending and community development investments.

Data from federal bank regulators reveal that the CRA has not been used arbitrarily to block or delay bank applications to the regulators. Community groups and others rarely file adverse comments to bank applications based on CRA. Less than 1% of bank applications have received adverse comments.[5] Moreover, assertions that banks provide commitments to community groups and others because they are afraid that regulators will deny or substantially delay the processing of their application is not supported by the record. Bank applications that receive adverse comments are denied only 1% of the time.[6] In addition, few applications are substantially delayed due to an adverse CRA comment.

Despite the strong record of CRA success and the lack of evidence of abuse, the bill that was reported out of the Senate Banking Committee seriously weakens CRA in three ways. First, it does not require that all banks in a bank holding company have a ''satisfactory'' CRA rating to exercise the new powers provided by the legislation. This would substantially roll back CRA by permitting banks that are not meeting the credit needs of their communities to benefit from the expanded powers to affiliate with securities and insurance firms.

Second, the bill would provide a ''safe harbor'' from public comment on CRA performance for banks with a ''satisfactory'' CRA rating. Under the bill, an institution receiving at least a satisfactory CRA rating during the previous 36-month period would be deemed in compliance with CRA and immune from public comment unless individuals present ''substantial verifiable information'' to the contrary arising since the last examination. Since over 95% of banks receive a satisfactory rating, the provision would fundamentally undercut the right of community groups and others to comment on a bank's CRA performance.[7] Community group participation in the CRA process has been critical to the success of CRA. Public comment on other aspects of a bank's performance, such as management or financial resources, would not face similar limitations on the scope of information that may be introduced nor be subject to the same burden of proof.

Third, the bill exempts banks with less than $100 million in assets from CRA. This represents 63% of all banks.[8] If enacted the provision will have devastating consequences for rural communities because small banks are often the only source of credit in rural areas. Despite claims that small banks by their nature serve the credit needs of local communities, data from regulators reveal that these institutions have disproportionately poor CRA records.

We would note that the financial services bill reported out of the House Banking Committee last week on a bipartisan vote of 51–8 did not contain any of these shortcomings in regard to CRA. This is in sharp contrast to the 11–9 party line vote by which the Senate Banking Committee reported out its bill, in significant measure because of the controversial CRA provisions.

Fair access to credit, which is the purpose of CRA, is a critical civil rights issue. As the President has said, ''CRA is working, and we must preserve its vitality as we write the financial constitution for the 21st century.''[9] As reported out of the Senate Banking Committee, the Financial Services Act of 1999 would drastically weaken CRA. Unless this shortcoming is addressed, we would urge strong opposition to this legislation.

Sincerely,

Dr. Dorothy I. Height, Chairperson, Leadership Conference on Civil Rights; Barbara Arnwine, Executive Director, Lawyers' Committee for Civil Rights Under Law; Andrew H. Mott, Executive Director, Center for Community Change; Wade Henderson, Executive Director, Leadership Conference on Civil Rights; Karen Narasaki, Executive Director, National Asian Pacific American Legal Consortium; JoAnn K. Chase, Executive Director, National Congress of American Indians.

Shanna L. Smith, Executive Director, National Fair Housing Alliance; Hugh B. Price, President and Chief Executive Officer, National Urban league; Hilary Shelton, Washington Bureau Director, National Association for the Advancement of Colored People; Raul Yzaguirre, President, National Council of La Raza; Manuel Mirabal, President and Chief Executive Officer, National Puerto Rican Coalition, Inc.

FOOTNOTES

[1] Congressional Record, September 30, 1998.

[2] Congressional Record, October 5, 1998.

[3] Letter from President Clinton to Senator Phil Gramm, March 2, 1999.

[4] Home Mortgage Disclosure Act data cited in Secretary Robert Rubin's letter to Senator Phil Gramm, February 23, 1999.

[5] Comptroller of the Currency, Office of Thrift Supervision, Federal Deposit Insurance Corporation, and Federal Reserve Board.

[6] Id.

[7] Federal Financial Institutions Examination Council.

[8] Federal Deposit Insurance Corporation.

[9] See supra note 3.

APRIL 8, 1999.

Hon. PAUL S. SARBANES,
Senate Hart Office Building, U.S. Senate, Washington, DC.

DEAR SENATOR SARBANES: The undersigned organizations write to express strong opposition to the Financial Services Modernization Act of 1999 as reported out of the Senate Banking Committee on March 4th. The Act would restructure the financial services industry in the United States by allowing broad affiliations among banks, insurance companies, and security firms. Currently, the law strictly limits ownership among different financial entities and between financial companies and commercial corporations. The Act seeks to ease these restrictions, without commensurate expansion of the Community Reinvestment Act (CRA) to cover insurance companies, securities firms, mortgage companies, and other financial entities allowed to affiliate with banks. The Act would undermine one of the most effective revitalization vehicles for underserved low-income and minority communities, including Hispanic American communities across the country.

We have found, and research confirms, that all too often the credit and financial needs of these communities are severely underserved. Historically, many financial institutions have avoided investing in these communities due to their perceived higher level of risk. Unfortunately, ''perceived higher level of risk'' is often code for ''low-income'' or ''minority.'' But the facts show that low-income and minority communities are not inherently riskier than other communities. In fact, most financial institutions find them to be quite profitable, once they begin investing in them. Unfortunately, without the CRA, many financial institutions have not and would not be encouraged to do so.

As the data show, Hispanics are the fastest-growing population in the United States. We are a growing force in the expansion of homeownership and small business development, two leading indicators of the economic well-being of this country. For example, between 1987 and 1992, Hispanic-owned business grew by 76%, compared to 26% for U.S. businesses overall. According to a 1997 Harvard study, ''the number of Hispanic homeowners has shown the most spectacular rise'' in recent years compared to that of Whites and of other minority groups. Population projections forecast Hispanics to be the largest minority group in the U.S. by the year 2005, causing the U.S. economy to be increasingly dependent on the continued prosperity of the Hispanic American community. Without the CRA, this growth may be impeded.

As reported out of the Senate Banking Committee, the Financial Services Modernization Act of 1999 would hinder that growth by weakening the CRA in the following three ways. First, a ''satisfactory'' CRA rating is not required in order for financial institutions to enjoy the new powers afforded to them by the legislation, thereby allowing banks to exercise their privilege, even if they are not meeting the credit needs of the communities where they do business.

Second, banks receiving a ''satisfactory'' CRA rating would be given a ''safe harbor'' from public comment on CRA performance. Since over 95% of banks receive a ''satisfactory'' rating, this would undermine the effectiveness of the law by restricting a community's right to voice its experience with banks. While a ''satisfactory'' rating provides a helpful guide to a bank's overall performance, it may not provide an accurate picture at the neighborhood level.

Third, the Act proposes to exempt all small rural banks (those with less than $100 million in assets) from CRA, thereby releasing 76% of all rural banks from their CRA obligations. As with the safe harbor provision, this undermines the spirit and the effectiveness of the law by exempting most rural banks. This would have particularly adverse consequences in low-income rural communities where often the only source of

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Footnotes at end of letter.

credit is a small bank. Moreover, researchers have found that small banks have disproportionately poor CRA records compared to larger banks, thereby highlighting the need for CRA in rural communities and small towns.

CRA is one of the strongest incentives to encourage investment in low-income and minority communities. Over the last twenty-two years, neighborhoods across the country have benefited from CRA-encouraged investments. This has resulted in increases in homeownership and business development, leading to the rebirth of many American neighborhoods. However, many communities remain underserved by capital and investment vehicles. For this reason, reinforcement, not weakening, of CRA is critically needed. We urge you to support the continued strengthening of America's communities by vigorously opposing the Financial Services Modernization Act of 1999 as reported out of Committee, and supporting amendments that would strengthen the Bill's CRA protections. Thank you.

Sincerely,

Rick Dovalina, National President, League of United Latin American Citizens; Arturo Vargas, Executive Director, NALEO Educational Fund; Ruth Pagani, Executive Director, National Hispanic Housing Council (NHHC); Juan Figueroa, President and General Counsel, Puerto Rican Legal Defense and Education Fund (PRLDEF); Antonia Hernandez, President and General Counsel; MALDEF; Raul Uzaguirre, President and Chief Executive Officer, National Council of La Raza (NCLR); Manual Mirabal, President and Chief Executive Officer, National Puerto Rican Coalition (NPRC).

NATIONAL CONGRESS OF AMERICAN INDIANS,
Washington, DC, April 14, 1999.

Hon. PHIL GRAMM,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR GRAMM: On behalf of the National Congress of American Indians (''NCAI''), we are writing to express our serious concern over the treatment of the Community Reinvestment Act (''CRA'') in the Financial Services Modernization Act of 1999. NCAI is the oldest, largest and most representative national Indian organization devoted to promoting and protecting the rights of tribal governments and their citizens.

The CFA has proven to be an effective means of encouraging federally insured financial institutions to extend prudent and profitable loans in traditionally underserved areas including Indian Country. Specifically, the CRA has helped focus attention to the challenges of extending credit to reservations under current law and has acted as a catalyst to reservation based economic development. Since the implementation of the CRA, Native American groups and banks have negotiated agreements for lending more than $155 million within Indian Country.

In its current form, we believe the Financial Services Modernization Act of 1999 would seriously erode the effectiveness of the CRA, a law that has certainly helped to build homes, create jobs and restore hope in many of our communities. We are particularly concerned that the bill reported by your committee would exempt small rural banks from coverage by the CRA and would create a ''safe harbor'' under CRA for banks with satisfactory or better ratings thus making it much more difficult for the public to comment on problems with a bank's CRA performance in conjunction with an expansion application filed by a bank. We are also concerned that your bill does not require that all banks in a bank holding company have a ''satisfactory'' CRA rating to exercise the new powers provided by the legislation. This would substantially roll back the CRA by permitting banks that are not meeting the credit needs of communities to benefit from the expanded powers to affiliate with securities and insurance firms.

We strongly urge you to reconsider these provisions of the bill. As reported out of the Senate Banking Committee, the Financial Services Act of 1999 drastically weakens the CRA and unless this shortcoming is addressed, we would urge strong opposition to the legislation.

Sincerely,

W. RON ALLEN,
President.

(Also signed by 17 representatives of tribes and tribal organizations.)

THE UNITED STATES CONFERENCE OF MAYORS
Washington, DC, April 29, 1999.

DEAR SENATOR: The Community Reinvestment Act (CRA) has played a critical role in encouraging federally insured financial institutions to invest in the cities of our country. Legislation reported out of the Senate Banking Committee on March 4, the Financial Modernization Act of 1999, would dramatically weaken CRA. We strongly urge you to oppose this legislation unless CRA is preserved and strengthened.

The United States Conference of Mayors is the nation's largest nonpartisan organization dedicated to ensuring the economic stability of the nation's largest cities. As mayors, we recognize that CRA has been an essential tool in revitalizing cities around this nation. In fact, there is now increasing recognition that the strength and economic health of whole regions require strong and vibrant cities. Creating new economic activity—new businesses, new jobs, new homeowners—is key to the revival of urban areas and their surrounding regions, CRA has been a key component to creating this new economic activity.

Private sector investment encouraged under CRA has helped to stabilize communities suffering from economic decline. CRA has similarly helped to spur bank and thrift investment in multi-family rental housing development and rehabilitation, small business expansion, and community economic development. CRA is a crucial complement to FHA Insurance, The HOME program, Community Development Block Grants, and the low-income housing tax credit. These programs, which have built or financed the purchase of millions of units of affordable rental and ownership homes, work so effectively because they leverage tens of millions of private dollars.

In light of the success of CRA and our experiences with community revitalization efforts, we are very troubled by allegations that have been made that CRA has ''since been corrupted into a system of legalized extortion.'' In contrast to the description of community based organizations as ''racketeers'' and ''thugs'' many of us have participated in successful partnerships with private institutions and members of the community. These relationships have resulted in a tremendous infusion of capital into underserved communities as well as increased banking services.

The bill that was reported out of the Senate Banking Committee would have dire consequences for the nation's cities if it were enacted. First, the failure to require that banks seeking to affiliate with securities and insurance firms have a ''satisfactory'' CRA rating would permit banks to ignore the credit needs of their communities and benefit from the powers provided in the legislation. This is a substantial rollback of CRA and would most certainly reduce the flow of capital in these areas—returning us to a time when banks and thrifts redlined communities with credit worthy borrowers.

In addition, the bill provides a ''safe harbor'' from public comment on CRA performance to banks with a ''satisfactory'' or better CRA rating. This provision effectively eliminates public comment on a bank's CRA performance. As you are undoubtedly aware, the opportunity to comment on a bank's performance is a right given to every member of the public. Public comment participation in the CRA process is considered a critical component of the law's success. The public often raises community investment issues which have been overlooked by regulators. This provision singles out CRA comments for unfair treatment. Unlike CRA comments, individuals seeking to comment on other aspects of a bank's performance would not face limitations on the scope of information that they may introduce or be required to carry a burden of proof. Moreover, data from regulators indicated that the comment process has not been abused.

Finally, the bill exempts small banks in rural areas (assets less than $100 million in assets) from CRA obligations. These institutions represent 76% of banks and thrifts in rural communities. This provision would seriously compromise the capital needs of rural residents who depend almost exclusively on small banks and thrifts to meet their credit needs. Residents in these communities rely on CRA to encourage banks to make mortgage, small farm, and small business loans.

Prior to the enactment of CRA, banks, and thrifts routinely redlined low- and moderate-income neighborhoods in our nation's cities. The modest requirement in CRA that financial institutions meet the credit needs of their communities has lead to the successful channeling of billions of dollars into localities.

As reported out of the Senate Banking Committee, the Financial Services Act of 1999 would severely weaken CRA and our nation's cities. Unless the onerous CRA provisions are addressed and CRA is preserved and strengthened, we would urge strong opposition to the Senate bill.

Sincerely,

Richard Arrington, Jr., Birmingham, AL
Patrick Henry Hays, North Little Rock, AR
Robert Mitchell, Casa Grande, AZ
Alex J. Harper, San Luis, AZ
Neil Giuliano, Tempe, AZ
George Miller, Tucson, AZ
Richard F. Archer, Sierra Vista, AZ
Marilyn R. Young, Yuma, AZ
Ralph Appezzato, Alameda, CA
Garry Fazzino, Palo Alto, CA
Mary Rocha, Antioch, CA
Shirley Dean, Berkeley, CA
Eunice M. Ulloa, Chino, CA
Judy Nadler, Santa Clara, CA
Chris Christiansen, Covina, CA
George Pettygrove, Fairfield, CA
Larry R. Green, Glendora, CA
Chris B. Silva, Indio, CA
Roosevelt F. Dorn, Inglewood, CA
Cathie Brown, Livermore, CA
Donald E. Lahr, Santa Maria, CA
David Smith, Newark, CA
William E. Cunningham, Redlands, CA
Willie L. Brown, Jr., San Francisco, CA
Harriett Miller, Santa Barbara, CA
Gary Podesto, Stockton, CA
Robert R. Nolan, Upland, CA
Wally Gregory, Visalia, CA
Robert Frie, Arvada, CO
Wellington E. Webb, Denver, CO
John DeStefano, Jr., New Haven, CT

Dannel P. Malloy, Stamford, CT
Anthony A. Williams, Washington, DC
Gerald Broening, Boynton Beach, FL
Alex Penelas, Miami-Dade County, FL
Mara Giulianti, Hollywood, FL
Ralph L. Fletcher, Lakeland, FL
Richard J. Kaplan, Lauderhill, FL
James F. Fielding, Port St. Lucie, FL
Alex G. Fekete, Pembroke Pines, FL
Joe Schreiber, Tamarac, FL
Bill Campbell, Atlanta, GA
Bob Young, Augusta, GA
Patsy Jo Hilliard, East Point, GA
Felix F. Ungacta, Hagatna, Guam
Stephen K. Yamashiro, Hawaii, HI
Lee R. Clancey, Cedar Rapids, IA
H. Brent Coles, Boise, ID
Gregory R. Anderson, Pocatello, ID
Neil Dillard, Carbondale, IL
Richard Daley, Chicago, IL
Jerry P. Genova, Calumet City, IL
Angelo A. Ciambrone, Chicago Heights, IL
Lydia Reid, Mansfield, IL
Stanley F. Leach, Moline, IL
Barbara Furlong, Oak Park, IL
R. David Tebben, Pekin, IL
Ross Ferraro, Carol Stream, IL
Stephen J. Luecke, South Bend, IN
Joseph R. Zickgraf, Columbia City, IN
James P. Perron, Elkhart, IN
Duane W. Dedelow, Jr., Hammond, IN
Paul W. Helmke, Fort Wayne, IN
Carol Marinovich, Kansas City, KS
David L. Armstrong, Louisville, KY
Waymond Morris, Owensboro, KY
Edward G. ''Ned'' Randolph, Jr., Alexandria, LA
Ruth Fontenot, New Iberia, LA
Walter Comeaux, Lafayette, LA
Marc Morial, New Orleans, LA
John Barrett, III, North Adams, MA
Nicholas J. Costello, Amesbury, MA
Thomas M. Menino, Boston, MA
David Ragucci, Everett, MA
Patrick J. McManus, Lynn, MA
Richard C. Howard, Malden, MA
Thomas V. Kane, Portland, ME
James L. Barker, Garden City, MI
Dennis Archer, Detroit, MI
Woodrow Stanley, Flint, MI
Aldo Vagnozzi, Farmington Hills, MI
Robert B. Jones, Kalamazoo, MI
David C. Hollister, Lansing, MI
Jack E. Kirksey, Livonia, MI
Linsey Porter, Highland Park, MI
Walter Moore, Pontiac, MI
Donald F. Fracassi, Southfield, MI
Sharon Sayles Belton, Minneapolis, MN
Chuck Canfield, Rochester, MN
Joseph L. Adams, University City, MO
Larry R. Stobbs, St. Joseph, MO
Harvey Johnson, Jr., Jackson, MS
Jack Lynch, Butte, MT
Patrick McCrory, Charlotte, NC
George W. Liles, Concord, NC
Jerry Ryan, Bellevue, NE
Ken Gnadt, Grand Island, NE
James Anzaldi, Clifton, NJ
Anthony, Russo, Hoboken, NJ
Sara B. Bost, Irvington, NJ
Margie Semler, Passaic, NJ
Albert McWilliams, Plainfield, NJ
Thalia C. Kay, Pemberton Township, NJ
Douglas Palmer, Trenton, NJ
Lavonne Bekler Johnson, Willingboro Township, NJ
Jan Laverty Jones, Las Vegas, NV
Sandra L. Frankel, Brighton, NY
Anthony M. Masiello, Buffalo, NY
James C. Galie, Niagara Falls, NY
William F. Glacken, Freeport, NY
James A. Garner, Hempstead, NY
Roy A. Bernardi, Syracuse, NY
Edward A. Hanna, Utica, NY
Ernest D. Davis, Mount Vernon, NY
Donald L. Plusquellic, Akron, OH
Richard D. Watkins, Canton, OH
Michael B. Keys, Elyria, OH
Paul Oyaski, Euclid, OH
Beryl E. Rothschild, University Heights, OH
William L. Pegues, Warrensville Heights, OH
Thomas J. Longo, Garfield Heights, OH
Debora A. Mallin, Bedford Heights, OH
Marilou W. Smith, Kettering, OH
David Berger, Lima, OH
Joseph F. Koziura, Lorain, OH
Cicil E. Powell, Lawton, OK
M. Susan Savage, Tulsa, OK
Bill Klammer, Lake Oswego, OR
Vera Katz, Portland, OR
Donald T. Cunnigham, Jr., Bethlehem, PA
Timothy M. Fulkerson, New Castle, PA
Joyce A. Savocchio, Erie, PA
Stephen R. Reed, Harrisburg, PA
Ted LeBlanc, Norristown, PA
Edward Rendell, Philadelphia, PA
Charles H. Robertson, York, PA
William Miranda Marin, Caguas, PR
James E. Doyle, Pawtucket, RI
Vincent A. Cianci, Jr., Providence, RI
James E. Talley, Spartanburg, SC
Jon Kinsey, Chattanooga, TN
Kirk Watson, Austin, TX
David W. Moore, Beaumont, TX
Ronald Kirk, Dallas, TX
Jack Miller, Denton, TX
Mary Lib Saleh, Euless, TX
Charles Scoma, North Richland Hills, TX
Lee P. Brown, Houston, TX
Michael D. Morrison, Waco, TX
Kenneth Barr, Fort Worth, TX
Deedee Corradini, Salt Lake City, UT
William E. Ward, Chesapeake, VA
Paul D. Fraim, Norfolk, VA
Peter Clavelle, Burlington, VT
Mark Asmundson, Bellingham, WA
Lynn Horton, Bremerton, WA
Paul Schell, Seattle, WA
Paul F. Jadin, Green Bay, WI
John D. Medinger, La Crosse, WI
Susan J. Bauman, Madison, WI
Maricolette Walsh, Wauwatosa, WI
John Lipphardt, Wheeling, WV

APRIL 29, 1999.

FAMILY FARM AND RURAL ORGANIZATIONS SUPPORT COMMUNITY REINVESTMENT ACT: OPPOSE THE FINANCIAL SERVICES MODERNIZATION ACT OF 1999

DEAR SENATOR: As organizations working with and representing rural residents, we write to register our strong opposition to the Financial Services Modernization Act of 1999 as reported out of the Senate Banking Committee in late March. We are very concerned that the bill substantially undercuts the existing Community Reinvestment Act (CRA) and totally ignores the need to modernize CRA to meet the dramatic changes in financial services across the country.

Rural America remains in desperate need of affordable credit. CRA has been a law that has significantly expanded access to credit in rural areas of our country. Despite this increased access, there remain widening gaps and unmet needs in ensuring credit access to all rural residents. A recent Small Business Administration (SBA) report analyzing the June 1998 Federal Reserve Data shows a 4.6% decline in the number of small farm loans. The value of total farm loans was $74.5 billion. Of great concern is the statistic that reveals a troubling trend; the value of very large farm loans (over $1 million) increased by 25% while ''small'' farm loans (under $250,000) increased a mere 3.9%. Larger loans are going to fewer operations.

Rural areas continue to suffer from a serious shortage of affordable housing. Farmers are facing the worst financial conditions in more than a decade due to declining commodity prices. Rural Americans continue to need the tools of the CRA to ensure accountability of their local lending institutions. CRA helps to meet the credit demand of millions of family farmers, rural residents, and local businesses.

We strongly oppose three provisions in the Senate Banking Committee reported bill which would have particularly negative consequences for our communities.

First, the bill contains a ''safe harbor'' for banks that have achieved a ''satisfactory'' CRA rating in each of its examinations in the prior 36-month period. This provision would make banks and thrifts immune to public comment during pending expansion applications unless individuals or groups are able to provide ''substantial verifiable information'' that the bank is not in compliance with CRA. This provision would essentially eliminate the public's opportunity to comment on a bank's performance in meeting the credit needs of its communities. More than 95% of banks consistently receive 'satisfactory' or higher ratings. Rural residents play an important role in bringing CRA performance issues to the attention of regulators and making banks responsive to community needs. This provision would deny citizens and community based organizations the opportunity to comment on the credit needs of their community.

Two, the bill exempts from CRA banks and thrifts with less than $100 million in assets located in non-metropolitan areas. These institutions represent 76% of banks and thrifts in rural communities. This provision would seriously compromise the capital needs of rural residents who depend almost exclusively on small banks and thrifts to meet their credit needs. Banks and thrifts in rural areas face little competition from other financial services institutions.

In addition, despite assertions from the industry, many small banks do not by their nature serve the credit needs of their communities. In fact, data from the regulators show that small banks do not invest more in their communities, on average than larger banks. In addition, small banks have a disproportionately high share of less than satisfactory CRA ratings. A Congressional Research Service study of data from 1997 to mid-1998, found that banks with less than $100 million in assets received 70% of the below ''satisfactory'' CRA ratings.

In addition, arguments that CRA subjects small banks to intrusive and time consuming compliance requirements are unfounded. The CRA regulations were revised in 1995 in part to reduce compliance burdens on small banks. The new rules provide for a streamlined examination for banks with less than $250 million in assets including an exemption from data collection and reporting requirements. Small bank ratings now focus exclusively on lending and lending related activities. The need to reduce an already minimal regulatory burden on small banks should not outweigh the credit needs of residents of rural communities.

Third, unlike last year's H.R. 10 voted out of the Senate Banking Committee and this year's House Banking Committee version of financial modernization, the Senate Banking Committee reported bill fails to require that banks have a ''satisfactory'' CRA rating in order to affiliate with securities and insurance firms. In the absence of this requirement, a bank could ignore the credit needs of its communities and still benefit from the new affiliations and powers provided under this legislation.

The Small Business Administration (SBA) report on bank holding company lending in rural communities reaffirms this concern. While the 57 largest bank holding companies held 68.6 percent of all domestic bank assets in June 1998, they made just 10.7% or 160,000 of all the outstanding farm loans. These loans totaled just .18 percent of total assets in these bank holding companies. This increasing concentration and consolidation in

financial services comes at a time when the community role in determining whether this expansion is appropriate is being reduced.

In closing, CRA has been a valuable tool for over twenty years to encourage financial institutions to help meet the credit needs of rural communities across this nation. Access to affordable capital is important to restoring economic prosperity in our nation's rural areas. In its current form, the Financial Services Modernization Act of 1999 permits banks to ignore the needs of our communities and remove one of the few tools that has resulted in a level of accountability. We urge you to vote against the Financial Services Modernization Act of 1999 unless these objections are addressed. Please contact (202) 543–5675 with any questions.

Sincerely,

American Corn Growers Association
Center for Rural Affairs
Federation of Southern Cooperatives
Intertribal Agriculture Council
Iowa Citizens for Community Improvement
Land Loss Prevention Project (NC)
Missouri Rural Crisis Center
National Black Caucus of State Legislators
National Catholic Rural Life Conference
National Family Farm Coalition
National Farmers Union
National Neighborhood Housing Network
National Rural Housing Coalition
North American Farm Alliance
Presbyterian Church (USA), Washington office
Rural Coalition
Sin Fronteras Organizing Project
United Methodist Church, General Board of Church and Society
Wisconsin Rural Development Center

Mr. SARBANES. Finally, let me simply say, as the Democratic leader indicated, unless we can get the substitute in place, we are on a veto track with S. 900. The substitute will eliminate the veto problem. So, for those who want legislation, who want to see financial services modernization enacted into law, I urge them to vote for the substitute.

I assume the chairman will probably make a motion to table.

Mr. GRAMM. I will.

Mr. SARBANES. Therefore, I urge Members to vote against the motion to table the substitute, thereby giving us the opportunity to then go forward and adopt the substitute.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, let me begin by noting that not one single organization which represents anyone who makes a living in any industry directly affected by this bill supports the Sarbanes substitute. The Sarbanes substitute is opposed by insurance companies, by those who represent the companies; it is opposed by the American Bankers Association, by the Bankers Roundtable, and by the Independent Bankers of America. It is opposed by every organization that represents any facet of the securities industry. This substitute is literally a substitute which has no support by anyone who is going to be directly affected by these laws.

What are the major problems with it? There are more problems than I can possibly outline in 6 minutes, so let me just take a couple of them. We all know Alan Greenspan. We know he is the most respected person in America on economic matters. We all know if there is anybody on this planet who can lay any legitimate claim to the current level of prosperity in America, it is Alan Greenspan, because of his banking and monetary policies.

We also know that Alan Greenspan is not someone who goes out looking for a fight. If he has to say something that anybody does not want to hear, he tends to go all around the barn before he says it. You need to know those things to understand how strongly Chairman Greenspan feels in his opposition to the Sarbanes substitute. In fact, he has said, ''I and my colleagues''—and by ''colleagues'' he means every member of the Board of Governors of the Federal Reserve, most of whom were appointed by Bill Clinton—''are firmly of the view that the long-term stability of the U.S. financial markets and the interests of the American taxpayer would be better served by no financial modernization bill rather than one that allows the proposed new activities to be conducted by the bank. . ..''

Alan Greenspan says in the strongest way possible, in the most passionate terms that he has ever spoken on any issue in his public life: You would be better not to pass a bill than to pass the Sarbanes substitute.

Why? Because the Sarbanes substitute lets banks engage in these expanded financial services within the bank, thereby putting at risk the taxpayer through FDIC insurance. By performing these services in banks, they get an implicit subsidy from FDIC insurance, from the discount window, from the Federal wire, that will make banks able—not because they are more efficient, but because of this subsidy—ultimately able to dominate the securities industry and all other industries which would be affected. We would end up with a banking system that looks very much like the Japanese banking system, totally dominating our financial markets. Alan Greenspan is opposed to that. It is very dangerous for the American economy. It is dangerous for the taxpayer. I urge my colleagues to reject this substitute.

A second issue I want to talk about is CRA. The current bill preserves CRA. The current bill makes two modest changes. One, it says that if a bank has a long-term history of compliance—has been in compliance three years in a row and is currently in compliance—that if a protest group or individual wants to inject themselves into the process, they can do it. They can say whatever they want to say. But the regulator can't hold up the bank's action in the name of CRA, given their long history of compliance and given that they are currently in compliance, unless the protester has more than a scintilla of evidence; unless the protester can present such relevant evidence as a reasonable mind might accept as adequate to support the claim; unless the protester has real, material—not seeming or imaginary—evidence. In other words, if you are going to stop a bank from doing something that it has been found qualified to do, you have to present some evidence—hardly, a demanding constraint.

Second, we exempt very small rural banks from CRA. Why? We exempt very small rural banks from CRA for a very simple reason:

Ms. MIKULSKI. Mr. President, I rise in support of the Sarbanes substitute amendment to the Financial Services Modernization Act. I salute him for his leadership in seeking financial services reform that prepares us for the new century.

I agree that we should reform our financial services. There is no doubt that changes in law have lagged behind changes in our banking and financial services industries.

This amendment is a great improvement over the underlying bill. It would provide greater protections for consumers. It would also maintain the Community Reinvestment Act—which is so important in enabling low income communities to help themselves.

However, I would like to raise a number of what I call ''flashing yellow lights'' or warning signals that we should be aware of before enacting financial services modernization. We should proceed with caution to avoid irrevocable changes when the savings of hard working families and the viability of our communities could be put in jeopardy.

For example, financial services reform would make it easier for banks, securities firms and insurance companies to merge into oligopolies. The savings of many would be controlled by a few. Americans will know less about where their deposits are kept and how they are used.

What would be the effect of these mergers on consumers? I am concerned that these mega institutions could lead to higher fees and fewer choices for consumers.

Marylanders used to have savings accounts with local banks where the teller knew their name and their family. We have already seen the trend toward mega-mergers, accompanied by higher fees, a decline in service, and the loss of neighborhood financial institutions. This legislation accelerates that trend.

In addition, what would be the affect of this legislation on the alarming increase in foreign takeovers of US banks? I support increased globalization, but what will happen when home town banks are taken over by companies that have no roots or commitments to the community?

With a globalization of financial resources, the local bank could be bought by a holding company based outside the United States. Instead of the friendly neighborhood teller, consumers would be contacting a computer operator in a country half-way around the globe through an 800 number. Their account could be subject to

risks that have nothing to do with their job, their community or even the economy of the United States. I know that impersonalized globalization is not what banking customers want when they talk about modernization of financial services.

So I will support the Sarbanes amendment. It goes further in answering my concerns. But I hope we will be able to address these concerns more fully as we move forward with this legislation. they generally do not have a city to serve, much less an inner city.

Third, in the last 9 years, Federal regulators have performed 16,380 CRA evaluations of these banks—evaluating them annually. These banks report that it costs them between $60,000 and $80,000 a year to comply with CRA. Yet, at the end of 9 years and 16,380 evaluations, just three small rural banks have been found to be substantially out of compliance. One million—excuse me, one trillion. Excuse me, let me be sure I have my figure here. At the end of this process, with small banks having spent perhaps $1,310,400,000,000 complying with paperwork in the name of evaluating community lending, we have found just three banks out of compliance. Not only does the substitute eliminate this provision that ends this senseless wasting of small bank resources that cost local communities and deny them access to credit, but it imposes confiscatory penalties that would make a bank, if it fell out of compliance with CRA, potentially subject to a $1 million fine, not just on the bank but on the bank officer or on the bank director.

We have two letters here, one from the Independent Bankers and one from the ABA, raising the point that one of the toughest things to do now in this period of massive lawsuit liability is to get good people to serve on a bank board. Both the Independent Bankers of America and the ABA have written urging us not to adopt a provision that would make it virtually impossible for small banks, especially, to get qualified officers and board members because of the liability costs. I urge my colleagues to reject this substitute.

The PRESIDING OFFICER. Under the previous order, the hour of 12 noon having arrived, the Senator from Texas is recognized to make a motion to table.

Mr. SARBANES. Mr. President, I ask for 1 minute so I can pose a question to the Senator from Texas.

The PRESIDING OFFICER. Is there objection?

Mr. GRAMM. Mr. President, I want 1 minute to respond.

Mr. SARBANES. How does the Senator get this $1 trillion figure?

Mr. GRAMM. We have had 16,380 examinations of small, rural institutions since 1990. Those small, rural institutions report to us that it costs them about $80,000 a year to keep the records to comply with these examinations, and that is where the number came from.

Mr. SARBANES. My arithmetic—first of all, I do not concede the figures. In any event, even if I accept them, it is 1 billion, not 1 trillion.

Mr. GRAMM. If it is a billion or a trillion, it is a lot of money.

Mr. SARBANES. A lot of money, but there is a big difference between a billion and a trillion. That is one of the problems with this debate, I underscore.

Mr. GRAMM. I have my trusty calculator, and I will make the calculation again. But lest my colleague be correct, let me just restate it in his terms. The term is, does it make sense to make little banks spend $1.3 billion to comply with keeping paperwork when in 9 years, only three banks out of 16,000 audits have been substantially out of compliance? Is that not overkill? Is that not bankrupting every small bank in America? The answer is yes.

Mr. GRAMM. I move to table the pending substitute, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FITZGERALD (when his name was called). Present.

Mr. REID. I announce that the Senator from North Dakota (Mr. DORGAN), is necessarily absent.

I also announce that the Senator from Louisiana (Ms. LANDRIEU), is absent attending a funeral.

I further announce that, if present and voting, the Senator from Louisiana (Ms. LANDRIEU), would vote ''no.''

The PRESIDING OFFICER (Mr. BURNS). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 54, nays 43, as follows:

[Rollcall Vote No. 100 Leg.]

YEAS—54

Abraham	Frist	McConnell
Allard	Gorton	Murkowski
Ashcroft	Gramm	Nickles
Bennett	Grams	Roberts
Bond	Grassley	Roth
Brownback	Gregg	Santorum
Bunning	Hagel	Sessions
Burns	Hatch	Shelby
Campbell	Helms	Smith (NH)
Chafee	Hutchinson	Smith (OR)
Cochran	Hutchison	Snowe
Collins	Inhofe	Specter
Coverdell	Jeffords	Stevens
Craig	Kyl	Thomas
Crapo	Lott	Thompson
DeWine	Lugar	Thurmond
Domenici	Mack	Voinovich
Enzi	McCain	Warner

NAYS—43

Akaka	Byrd	Feinstein
Baucus	Cleland	Graham
Bayh	Conrad	Harkin
Biden	Daschle	Hollings
Bingaman	Dodd	Inouye
Boxer	Durbin	Johnson
Breaux	Edwards	Kennedy
Bryan	Feingold	Kerrey
Kerry	Mikulski	Sarbanes
Kohl	Moynihan	Schumer
Lautenberg	Murray	Torricelli
Leahy	Reed	Wellstone
Levin	Reid	Wyden
Lieberman	Robb	
Lincoln	Rockefeller	

ANSWERED ''PRESENT''—1

Fitzgerald

NOT VOTING—2

Dorgan Landrieu

The motion was agreed to.

Mr. LOTT. Mr. President, I ask unanimous consent that notwithstanding the agreement of May 4, Senator SARBANES now be recognized to offer a CRA amendment with all other provisions of the previous consent agreement still intact.

I further ask that a vote occur in relation to the CRA amendment at 7 p.m. tonight, and if debate has been completed prior to that time, the amendment may be laid aside in order for Senator GRAMM, or his designee, to offer an additional amendment.

Mr. SARBANES. Mr. President, reserving the right to object, I think the agreement should be ''or a designee,'' and Senator BRYAN is going to offer the amendment.

Mr. LOTT. I modify it to say Senator SARBANES or his designee.

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

Mr. LOTT. Mr. President, for the information of all Senators, Members should be aware that votes will occur today on the CRA issue and possibly other banking issues. If debate is completed before the 7 o'clock hour, there are other amendments that could be considered. There will certainly be one at 7 o'clock on this CRA issue.

If the Senate is able to complete this banking bill by the close of business on Thursday, then I would be prepared to announce at that time that there would be no votes on Friday. So if we can get this work completed—and it looks as if we may be able to; the managers are working together. And we have a couple of issues that will have to be debated and considered carefully, plus there are other amendments that won't take as long to be debated. This could be completed by Thursday night. If that is the case, we will not have any votes on Friday. If we are not able to finish it Thursday night, we may have to go over until Friday and complete it. I wanted Members to be aware of that possibility.

I yield the floor.

Mr. SARBANES. Mr. President, I yield to the distinguished Senator from Nevada.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

AMENDMENT NO. 303

(Purpose: To make amendments relating to the Community Reinvestment Act of 1977, and for other purposes)

Mr. BRYAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative assistant read as follows:

The Senator from Nevada [Mr. BRYAN], for himself, Mr. DODD, and Mr. KERRY, proposes an amendment numbered 303.

Mr. BRYAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 14, strike lines 8 and 9 and insert the following: ''are well managed;

''(C) all of the insured depository institution subsidiaries of the bank holding company have achieved a rating of 'satisfactory record of meeting community credit needs', or better, at the most recent examination of each such institution under the Community Reinvestment Act of 1977; and

''(D) the bank holding company has filed''.

On page 14, line 20, strike ''and (B)'' and insert '', (B), and (C)''.

On page 18, between lines 4 and 5, insert the following:

''(5) LIMITATION.—A bank holding company shall not be required to divest any company held, or terminate any activity conducted pursuant to, subsection (k) solely because of a failure to comply with subsection (*l*)(1)(C).

On page 66, strike lines 7 and 8 and insert the following: ''bank is well capitalized and well managed;

''(E) each insured depository institution affiliate of the national bank has achieved a rating of 'satisfactory record of meeting community credit needs', or better, at the most recent examination of each such institution under the Community Reinvestment Act of 1977; and

''(F) the national bank has received the''.

On page 66, line 12, strike ''subparagraph (D)'' and insert ''subparagraphs (D) and (E)''.

On page 66, line 16, insert before the period '', except that the Comptroller may not require a national bank to divest control of or otherwise terminate affiliation with a financial subsidiary based on noncompliance with paragraph (1)(E)''.

On page 96, strike line 23 and all that follows through page 98, line 4.

On page 104, strike line 20 and all that follows through page 105, line 14.

Redesignate sections 304 through 307 and sections 309 through 311 as sections 303 through 309, respectively.

Amend the table of contents accordingly.

Mr. BRYAN. Mr. President, we are about ready to debate an important issue dealing with the Community Reinvestment Act. Let me say that I think there has been considerably more heat than light generated in the debate surrounding this issue. I thought it might be helpful to my colleagues to explain how the provisions of this act work, what is involved, what is not involved, the provisions that currently exist in the bill we are debating, and the contents of the amendment.

The Community Reinvestment Act has been in operation now for 21 years. The act itself is triggered in either of two circumstances—one, as part of a periodic review, and that depends upon the size of the institution. It applies only to insured depository institutions, so we are talking about banks and thrifts. It also is triggered when a depository institution files an application for a charter conversion, for merger, acquisition, or requesting authority for additional branches.

Those applications, then, are reviewed by the appropriate bank regulator, or the thrift regulator, whether that be the OCC, the Federal Reserve, or the OTC. Notice is then given, and the community groups have an opportunity to comment on the application. So you have a periodic review, which may be annually or a longer period of time, or you have the circumstances in which an insured depository institution seeks either a charter conversion, a merger, an acquisition, or additional branches.

Notice is given. Now, 97 percent of all depository institutions—banks or thrifts—get a satisfactory CRA rating. The penalties that can be provided are that, No. 1, an application could be denied, an application could be accepted subject to certain conditions, or the application can be approved without conditions. I think it is important to understand who is making the decision here. It is not the community groups that have a veto power. These are decisions that are essentially made by bank regulators—regulators that have traditionally evinced no hostility to the banking industry. And even an institution which gets the lowest rating—substantial noncompliance is the lowest rating you can get—may still have its application approved. So nothing in the language of CRA compels a regulator to disapprove an application, even if the financial institution that is applying for the relief sought gets the lowest evaluation possible.

What is the history in the last 21 years of the act? There have been some 86,000 applications filed over the last 21 years and, of those, only 660 have received adverse comments. So less than 1 percent of all of the applications relating to CRA that have been received have been subject to objections or adverse comments by any of the regulating groups over a period of 21 years.

What has CRA accomplished? Well, it has accomplished a great deal. In point of fact, the CRA, over the years, has resulted in a substantial increase in lending and other financial activity within the inner-city and minority groups in America. CRA encourages banks to meet the credit needs of the entire community, including low- and moderate-income areas.

Over the last 21 years, the CRA has been one of the strongest incentives to encourage investment in low-income and minority communities.

Under the law, federally insured financial institutions have made billions of dollars in profitable market rate loans and investments in underserved urban and rural areas. And it has done so without creating a large Federal bureaucracy, or jeopardizing the safety and soundness of any financial institution.

CRA has been an important tool in improving access to credit for minority and low- to moderate-income Americans.

The dramatic increase in home ownership rates for minorities is attributable in large part to increased focus on banks' CRA performance. Between 1993 and 1997, the number of conventional home mortgage loans extended increased for African Americans by 72 percent; for Hispanics, 45 percent; for Asian Americans, 31 percent; for Native Americans, 30 percent; for low- and moderate-income census tracks by 45 percent.

Small business owners in low- and moderate-income communities have seen a substantial increase in their access to credit under the law.

Under the emphasis of CRA, banks have made loans to African Americans, Native Americans, Hispanic and Asian Americans, and, according to the Small Business Administration, loans to African-American-owned firms increased by 145 percent between 1992 and 1997. In 1997 alone, banks made more than $34 billion in loans to entrepreneurs located in low- and moderate-income areas.

These loans have financed businesses which have been critical to revitalizing the distressed communities.

Mr. President, it seems to me that has a desirable result for every mayor of every major community in America struggling to revitalize the inner core of his or her State. That is the experience in my own State. That is the experience, I suggest, of every State.

As a result of CRA, we are seeing more money being invested and loaned in inner cities with minority businesses.

That, it seems to me, makes sense, and good public policy.

Who, then, objects to CRA?

We are dealing with a piece of legislation that will substantially transform the way in which modern financial institutions will be regulated—banking, securities and insurance.

Mr. President, those groups are in support of CRA, and they are in support of the amendment which I have offered.

Indeed, in the last session of the Congress, H.R. 10, which contains CRA provisions virtually identical to the ones that are contained in the Bryan amendment, were passed by the House of Representatives, and emerged from a Senate Banking Committee by a vote of 16 to 2—broad bipartisan support.

In this Congress, the financial institution restructuring bill that is making its way through the other body was approved by a vote of 51 to 8—51 to 8—and the CRA provisions contained in that piece of legislation are essentially identical to the provisions that the Bryan amendment addresses.

Banks are supportive, the insurance industry is supportive, and the securities industry—the major players are supportive. Moreover, banks have found not only that it is good public policy, but it makes sense financially.

The National Association of Home Builders, which has participated in an enormous growth in the rate of new housing starts, and has seen a remarkable increase in the percentage of home

ownership in America, has this to say about CRA.

The National Association of Home Builders:

Therefore, the NAHB, the National Association of Home Builders, supports any amendments offered to remove or replace the provisions in S. 900—

That is the bill that we are debating—

that deals with a much more restrictive and a roll-back provision of CRA.

The Home Builders go on to say:

While the CRA may not be the perfect solution to ensuring housing credit is available to all communities, financial institutions of all sizes, through their compliance with CRA, have provided crucial community development loans and affordable housing production loans that have benefited millions of people across the United States. We see no public good served by a weakening or a reduction in the CRA requirements.

I will explain shortly how S. 900, the bill before us, would substantially weaken the CRA provisions, and the position taken by the Home Builders, and others, is to support the amendment which is presently before the body.

Mr. President, the distinguished chairman of the committee and I have a difference of opinion. And he will have an opportunity, I am sure, to articulate his point of view. The chairman—it is entirely appropriate for him to do so—sent out letters to various groups to get their comments.

A letter from a small banker dated March 26 of this year responds to that—a copy of which was made available to those of us who serve on the committee—a letter addressed to:

Dear Senator Gramm: I received a copy of your letter to Scott Jones—

Mr. Jones is the President of the American Banking Association—

regarding the proposed exemption from CRA requirements for small banks. While I appreciate your efforts on our behalf, I have to say that this exemption ''Don't mean jack to me.''

That is a quote. That is his language.

We have two bank charters, and have always received an outstanding rating. The burden is not onerous, especially under the revised requirements now in effect for the past two or three years. The information I gather to determine in-area versus out-of-area loans is useful to me outside of the CRA requirements. I probably spend less than 5 hours a year on the issue. I don't think it is worth squandering any political capital you have to eliminate the CRA.

That is the essential text of the letter that our distinguished chairman received. That small banker made reference to some provisions in CRA that were changed in 1996.

Mr. President, recognizing that a small bank has a much smaller staff to deal with compliance issues, substantial changes were made in the CRA requirements for small banks. Essentially, we are talking about institutions under $250 million.

No. 1, with respect to CRA, those small banks have no CRA reporting requirements.

Let me reemphasize that. They have no CRA reporting requirements.

And the standards which are applied to larger banks that are involved in a lending, a service, and an investment criteria are not applicable to small banks. Indeed, small banks do not have to compile any data. They don't have to submit any reports.

They have to have records available so that when the bank examiner comes in pursuant to this periodic request, or if a small bank requests some activity which triggers the application of CRA, they simply say to the bank examiner, ''Our records are contained in the file cabinet over there.'' There is no reporting requirement and no affirmative burden on their part other than to have the records which, as the small banker who wrote the letter to our distinguished chairman pointed out, a bank would want to have for itself independent and separate and apart from the CRA requirements.

So, indeed, there has been an acknowledgment and an attempt to streamline the requirements that small bankers are subject to. And that has been acknowledged by the correspondent who wrote to our distinguished chairman.

What do we have in the current bill? The current bill does a couple of things which, in my view, roll back the provisions of CRA.

It says, in effect, that if a financial institution has a CRA rating of satisfactory or above for a period of 36 months, 3 years, it would be deemed in compliance for purposes of CRA, and for any one of the applications for either a merger, an acquisition, or grant of extension, there would be no opportunity for community groups to comment.

That would roll back the provisions.

Mr. GRAMM. Will the Senator yield?

Mr. BRYAN. I am happy to yield to the Senator.

Mr. GRAMM. I know the Senator, and I know he would not want to state something that is incorrect. I will be brief.

The amendment says if a bank has a long history of compliance, they have been in compliance for 3 years in a row, they are currently in compliance, in order for the regulator to prevent them from taking the action that they are allowed to take by being in compliance, that a person who protests has to present some substantial evidence.

''Substantial evidence'' is defined in the law as more than a scintilla. It does not in any way say they are deemed to be in compliance, other than that they are innocent until proven guilty if they have a good record. Anybody can protest, anybody can file a complaint, but the regulator can't stop the process or delay it unless the challenging party presents some ''substantial evidence.''

This isn't for everybody. It is only for the banks that have a long history of compliance.

I didn't want to have any confusion. That is exactly what it says.

I thank the Senator.

Mr. BRYAN. I thank the chairman.

The chairman states correctly the contents of the bill. However, let me say in response to the Senator's position, we have in effect a 97-percent compliance rate. Mr. President, 97 percent of the financial institutions in the country receive satisfactory or better. In the entire history of the Community Reinvestment Act, with some 86,000 applications, we have had fewer than 1 percent of those protested in any way.

In terms of balance, to give community groups an opportunity not only to comment but to register concerns, it strikes me that the Senator's provisions impose limitations that do not currently exist in the law. I know the able chairman well understands, even if there were a finding under current law that the particular financial institution has the lowest possible rating—substantial noncompliance—that does not preclude the bank regulator from approving the application.

CRA is not an onerous burden. Under the current law, which would remain in place with the Bryan amendment, a bank that seeks a merger approval or charter provision change or a new branch, even if that bank had a substantial noncompliance, the lowest rating possible in the CRA, under the law, nothing precludes the bank regulator from approving that application.

I understand the concern of the Senator from Texas in terms of balancing the equities here. It strikes me that we ought not to put that additional burden of proof on community groups who may want to file some legitimate concerns they have about a proposed merger, acquisition, or a branch extension.

I think the record reflects, of 86,000 applications, we have had fewer than 1 percent, 660, that have availed themselves of this. I respectfully submit, in response to the comments of my friend from Texas, that is not, in my judgment, unduly burdensome.

The Senator also provides in his version of S. 900 a small bank exemption. The effect of that would be to eliminate about 37 percent of all of the banks in the country from the current provisions of CRA. Again, I think it is a balance. It is not the purpose of the Senator from Nevada nor of those who support the Bryan amendment to want to impose an onerous, unreasonable, unfair burden upon a financial institution. However, I must say, I think the track record would indicate that is not the case.

Responding to a legitimate concern of small banks, as I pointed out, in 1996 the rules were changed so that small banks do not have a reporting requirement. All they must do is maintain records so that the bank examiner who comes in periodically to review, or whenever the application is filed that triggers the CRA review to look at the records, can make sure in effect that the bank is lending in the community. It strikes me that is good public policy. Indeed, banks have profited from that activity.

Those are the two provisions that the Senator's version of S. 900 would contain. Also, it would eliminate CRA from the new activities which would be permitted under the provisions of this law.

The thrust of this legislation is to provide a regulatory framework that deals with the reality of the marketplace. Many of those who do not serve on the Banking Committee have heard Glass-Steagall mentioned frequently in the course of financial modernization discussions. This is a Depression-era piece of legislation. I like it. It neatly compartmentalizes banking regulation, insurance regulation, and security regulation. It makes a lot of sense. In the aftermath of the financial collapse of the 1920s and the Great Depression that followed, a number of abuses were pointed out. This legislation was in response to those abuses. It served the Nation effectively for many decades.

As a result of court decisions and actions taken by bank regulators, today much of Glass-Steagall has been effectively emasculated and the marketplace is dictating new products that involve combinations of insurance, securities, and banking functions. I agree with the distinguished chairman that we need a piece of legislation which effectively deals with that. In effect, what we are doing is establishing that modern framework. We have established essentially a system of functional regulation.

It appears from the testimony we have received from the Banking Committee and others who have offered comment that the new financial world will deal not so much in terms of mergers and acquisitions but will seek to avail itself of the new financial services that banks will be able to participate in under the provisions of S. 900, the financial restructuring bill we are debating. Those services involve, essentially, securities and insurance functions.

This is testimony offered before the House Banking Committee by Treasury Secretary Rubin. I think he makes a point far more effectively than I.

> Banking industry experts agree that most of the consolidations within the banking community have occurred and that the new frontier will involve mergers among banks, securities and insurance firms.

As a side point, that is the kind of activity which the S. 900 restructuring bill will authorize.

According to Treasury Secretary Rubin, if we wish to preserve the relevance of CRA at a time when the relative importance of bank mergers may decline and the establishment of nonbank financial services will become increasingly important, the authority to engage in newly authorized activities should be connected to a satisfactory CRA rating.

That is the philosophical underpinning. We will be dealing with a new world, a new financial structure, and that, we believe, is appropriate in light of the changes in market conditions.

What are the requirements that would be imposed upon a depository institution under the provisions of this amendment which would seek to avail itself of these new activities—insurance and securities? No. 1, as a condition precedent, a depository institution would have to have a satisfactory rating. That is not, it seems to me, an unreasonable provision.

What kind of action must the regulator consider? If the institution has a satisfactory CRA rating and all other regulatory issues nonrelated to CRA are in place, that application could be approved, it could be subjected to certain conditions, or it could be denied. An agreement could be entered into between the financial institution and the regulator if, indeed, there were some concerns about maintaining the CRA, and the regulator would have the ability to do several things if there were a noncompliance with the agreement entered into.

On balance, what we are talking about is preserving the relevance of CRA in this new financial world we are talking about that will deal with mergers and acquisitions involving brokerage and insurance type of services which are not currently authorized under the regulatory framework.

So I think, just by way of concluding, what we are talking about is not a bold or reckless expansion of CRA. We are really talking about, No. 1, maintaining the status quo with respect to CRA and its traditional functions as it deals with the mergers and the acquisition and charter changes and the new branch request, which is the current part of the law. And we are simply saying, with respect to these new services, these new opportunities which financial institutions will be allowed to participate in, which as Secretary Rubin points out is where the action is going to be, that is where the field of play is. To say that with respect to those new activities no CRA would be applicable, no requirement would be in place, is, in effect, to roll back the application of CRA to the range of financial services that banks are currently allowed to participate in.

In my judgment, this is a reasonable and fair amendment. Bankers support it. Securities firms support it. Insurance companies support it. It enjoys a broad range of support.

Let me emphasize to my colleagues that, unlike some issues which have tended to divide us in terms of partisan differences, the House of Representatives, in considering banking legislation and financial restructuring—the same type of legislation we are debating here today—in a vote of 51 to 8 approved CRA provisions which essentially track the Bryan amendment. In the last Congress, when we came within a gnat's eyelash of getting financial restructuring legislation enacted, it was approved by a bipartisan majority in the House and it cleared the Senate Banking Committee on a vote of 16 to 2.

So this should not be, and I hope it will not be, a partisan vote.

In the 21 years that CRA has been around, 86,000 applications have been received that were triggered by the provisions of the existing law. And in fewer than 1 percent—fewer than 1 percent—have objections or adverse comments been made.

I think the amendment is fair. It strikes a middle ground. It acknowledges the concerns of small banks with the changes that were made in 1996. I hope my colleagues on both sides of the aisle will support this legislation.

I see the Senator from Maryland——

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

Mr. BRYAN. I am happy to yield to the Senator from Maryland.

The PRESIDING OFFICER (Mr. BUNNING). The Senator from Maryland.

Mr. SARBANES. First of all, I commend the able Senator from Nevada for an extremely fine statement in support of this amendment which I very strongly back.

The Senator made reference—I think it is an extremely important point—to the fact that the decisions with respect to complying with CRA are made by the regulators. As I understand it, community groups or anyone else can come in and make comments when some of these steps are to be taken for which an institution would have to meet CRA muster, and some of those comments, I assume, can be right on point, others may wander about. But whatever the case, it is not the people who comment who make the judgment; it is the regulators who make the judgment. So they can take it into account, give it some weight, give it no weight—isn't that correct?

Mr. BRYAN. The Senator from Maryland is absolutely correct. It is the regulators, whether it is the OTS, or Federal Reserve, or the OCC.

As the Senator from Maryland knows, because of his longstanding membership on the committee, much can be said about bank regulators. I do not believe anybody would indicate or suggest the record would indicate that there is a hostility by the regulators to the institutions they regulate. In effect, the regulators have the opportunity to consider the CRA issues presented among a range of other issues—capital adequacy, a whole host of things that may be unrelated.

As the Senator from Maryland knows—and I think this is something that needs to be pointed out—even if the institution which has the application has the lowest possible rating—substantial noncompliance, which, in effect, means they have done virtually nothing—the regulator can still approve the application. They can still approve it. So there is no requirement under the existing law with respect to the kinds of mergers, acquisitions, charter changes, and branch expansions that requires a financial institution to even have a satisfactory rate.

So this is hardly an onerous provision, I say to my friend from Maryland.

Mr. SARBANES. The Senator from Texas interrupted the Senator to make the point on this ''comments'' question, the safe harbor issue, that if we previously had a satisfactory rating or better, they could not take into account people's comments, unless they had substantial, verifying information, and then we are being told that a lot of cases were read that indicated that ''substantial'' means a scintilla of evidence.

The Senator was a distinguished attorney general for the State of Nevada for a number of years before he became the Governor. Wouldn't he read the phrase ''substantial, verifiable information'' as a more exacting standard than ''scintilla'' of evidence?

Mr. BRYAN. The Senator from Maryland makes a good point. I think any fair reading, in terms of the standards of proof, is that a ''substantial'' standard is much higher than a scintilla.

In effect, what this provision would do is raise the bar substantially, I say to my friend from Maryland, for community investment groups being able to, in effect, make their case for the consideration—the consideration of the regulator.

I come back to the point. Even if they make their case that, indeed, the bank has not been responsible, has not done what it ought to do under CRA, the regulator may disregard that and still grant that approval. So it strikes me that by posing a standard before they even get into the ball game of ''substantial,'' you indeed cut off access to much of the input the community groups ought to have before a regulator makes a decision.

Mr. SARBANES. It is interesting. The current system I think is seen by most people as working fairly well. In fact, many fine financial institutions do not complain about it. They are prepared to continue to work under the current system, and many of them have even said they see strong positive value in it. So it seems to me this is an effort to institute an important change that would really cut off open comment.

You see, none of this is done, as I understand it, in the committee bill with respect to management or capital or any of the other issues the regulators look at when they undertake to consider one of these mergers or affiliations. It is being applied only to CRA. I mean CRA is being singled out for the application of this kind of prescreening, as it were, of people's ability to come in and make their comments.

Mr. BRYAN. The Senator makes a good point. That is absolutely correct. As the Senator knows, as a practical matter, although CRA is triggered generically in two circumstances—one, part of a periodic review; the other, when applications are made for charter changes or new branches or mergers or acquisitions—as a practical matter, the only opportunity community groups have is in this application process which the Senator has described.

That is the only opportunity. So if you foreclose them by a standard that is unreasonable and difficult to meet, you have, for all intents and purposes, foreclosed community groups from registering any effective concerns that they have.

Mr. SARBANES. I think that is an extremely important point. The chairman has said they have court opinions. I have not seen these cases that interpret ''substantial'' to mean ''a scintilla of evidence.''

Mr. GRAMM. More than a scintilla.

Mr. SARBANES. The chairman corrects me and says ''more than a scintilla.'' I don't know how much more, but more than a scintilla.

In any event, isn't it the case that no full hearings have been held on CRA? We come to the floor, and we get all of these assertions about abuses of one sort or another, sort of radical changes in a program that is seen as having been the lifeblood, enabling communities to renew themselves. To my knowledge, we have not had within the committee any sort of comprehensive hearings to examine those questions; is that the Senator's understanding?

Mr. BRYAN. That is the understanding of the Senator from Nevada, we have had no hearings at all.

I must tell the Senator from Maryland that the financial institutions in my State are supportive of CRA. If we want to take anecdotal evidence, I have to say financial institutions in my State have indicated, one, it is good public policy, and, two, they have financially benefited. But there is no record before us, based upon any hearings or testimony—and I must say I think that there is opportunity for hearings to be held. When we are dealing with some other regulatory relief issues in the Banking Committee, that might be an appropriate time to bring people in so we can build a record.

My understanding is that we have had nothing to that effect and, indeed, this Senator has been on the committee now for 11 years. Financial institutions in my own State are very supportive of the provisions.

Mr. SARBANES. Isn't it also the case, I ask the Senator, that in the mid-1990s, when a number of banks were complaining about the regulatory burden associated with CRA, Secretary Rubin undertook a major effort to address the question of regulatory burden and made very substantial changes in the requirements, which were greeted by the various banking associations at the time as being very forthcoming in dealing with this question of overregulation?

Mr. BRYAN. The Senator from Maryland is correct. Recognizing that small banks are in a different situation than larger banks in terms of staff capability, the Secretary did precisely that. In January 1996, these new provisions went into effect, and they are appropriate, in my judgment, and they are dramatic.

No small bank under the size of $250 million has to report CRA. There is no reporting requirement for CRA that is incumbent upon a small bank, as defined in the provisions.

The responsibility of the small bank is simply to make available to the bank examiner, when he or she comes in periodically or when the examiner is reviewing the records for an application, the fact that the bank is serving the community.

Moreover, the standards which are required for a larger bank dealing with a lending standard, a service standard and investment standard are inapplicable to small banks.

In trying to balance the inequities here, as I know the distinguished Senator from Maryland is interested in doing and all of us share in a very bipartisan way, dealing with the very special concerns of small banks has been addressed, we have eliminated the reporting requirement and have simply said, if I might respond to my friend from Maryland, that when the bank examiner comes in, the only obligation on the part of the financial institution is to direct the bank examiner to the file drawer and say, ''Those are our records.'' The bank examiner examines those records, and that is the burden that is imposed.

I must say, in terms of the balance, as the Senator from Maryland knows, coming from a State which has major metropolitan areas that fight urban decay, as does every major community in America, CRA is one of the most effective redevelopment tools for the inner cities in America that we have. It has poured hundreds of millions of dollars of new investments into the inner cities. That benefits not just the inner cities, but that benefits all of us.

The tragedy that occurred in Littleton, CO, 2 weeks ago occurred in a suburban area, but I think it is increasingly apparent to America, whether you live in the inner city or live in the suburbs, the problems that our inner cities have in America spread like a contagion. So it is in the best interest of every American, wherever he or she lives, that those inner cities which face all the problems of urban decay, crime, and drugs, that what we can do to help to build those inner cities and strengthen the hands of mayors, Democrats, Republicans, nonpartisan, is important public policy, and CRA has done the job. That is why the U.S. Conference of Mayors, as the distinguished ranking member knows, has been so strongly supportive of the provisions in the BRYAN amendment that we offer today.

Mr. SARBANES. The Senator has been very patient. Will he indulge me for one further question?

Mr. BRYAN. The Senator from Nevada is happy to do so.

Mr. SARBANES. The Senator's amendment, I think, has an extremely important provision which says that if a banking institution wishes to go into securities or into insurance, which would be permitted in a comprehensive way for the first time by this legislation, that banking institution must

pass the CRA test in order to do that. It is asserted that this is a, I think the language was used by my colleague, the chairman, a massive expansion of CRA.

I take a very different view of that. It seems to me it is only keeping CRA abreast of the developments that are taking place with respect to financial modernization, because heretofore banks could not reach out and do—they did some of those activities within the bank of a very limited nature that had been permitted either by regulation or by court opinion but which were highly controversial and contested, and one of the things this bill is intended to do is to resolve those questions in terms of the structure of the financial services industry. Both the Senator and I are supportive of trying to do that.

It seems to me that if the bank is now going to be permitted to move out to do these other activities, it is not some massive expansion of CRA. That CRA requirement would be placed upon the bank before they could move to do those other activities. Otherwise, it seems to me, over time, you will erode CRA, as institutions begin to shift their assets out from under the banking activity into the securities and the insurance activities.

This amendment, the proposal the Senator has, does not extend CRA to the securities and insurance affiliates; am I correct on that point?

Mr. BRYAN. The Senator is correct.

Mr. SARBANES. Which in fact has been strongly urged by a number of the community groups that are supportive of CRA. They in effect want to extend it out. If that were to be done, I would recognize that as an expansion, and we could fight that issue, as it were. But that is not what is in this amendment.

This amendment puts the requirement only on the bank, if it seeks to go out and do those activities. That seems to me to be perfectly reasonable. In fact, it seems to me failure to do that is really a setback or an erosion of CRA.

I ask the Senator his view on that question.

Mr. BRYAN. I share the observation and the conclusion reached by the distinguished ranking member. That is precisely the case. As the Senator from Maryland knows, we are dealing with a changing dynamic in the financial marketplace. That really is the catalyst that brings us into this financial restructuring debate.

The Senator may have been off the floor when I shared the observation that the Treasury Secretary made, which reflects the view that the Senator has expounded upon. He says, in effect:

> [I]f we wish to preserve the relevance of CRA at a time when the relative importance of bank mergers may decline and the establishment of non-bank financial [services] will become increasingly important, the authority to engage in newly authorized activities should be connected to. . .CRA.

He is saying that much better than I. He is saying, in effect: Look, this marketplace is shifting, it is moving. From what we have seen historically, since CRA has been in effect, with the traditional consolidation and mergers of one bank with another, that is not likely to be where the dynamic is in the marketplace in the future. We have already seen it.

What we are going to see are consolidations and mergers with other aspects of the financial services community—insurance and securities. And if you say that CRA has no reference or application to those applications, in effect you are relegating CRA to the dustbin of history; by and large, it is no longer as relevant as it is currently.

So, in effect, what we are trying to do is simply keep CRA as relevant in the new financial world as we have in the old financial world. I do not view this as an extension of CRA. It simply reflects a change in the marketplace that we are likely to see with respect to the way the financial services are provided to Americans.

Mr. SARBANES. In fact, unless we do this, you could have a bank in substantial noncompliance with respect to the CRA test which would then be able to reach out and exercise these additional powers?

Mr. BRYAN. That is precisely the case.

Mr. SARBANES. I thank the Senator. I thank him very much for his strong opening statement on this important amendment.

Mr. BRYAN. I thank the Senator for his comments, which I think helped elucidate a number of comments which are going to be important in this debate.

I yield the floor. I note that the Senator from Minnesota may wish to speak.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. GRAMS. I thank the Chair.

Mr. President, I want to take time today to first outline my support for the bill overall, and then also to talk a little bit about the current pending business, and that is the question concerning CRA.

As a member of the Senate Banking Committee, I rise in strong support of S. 900, the Financial Services Modernization Act of 1999, and urge my colleagues to take the committee's recommendation to pass this very important piece of legislation.

The Glass-Steagall Act—which prohibits commercial banks from affiliating with companies predominantly engaged in the securities busines—was passed at a different point in time and in a dramatically different economy. In response to the numerous commercial bank failures during the depression, the Glass-Steagall Act was enacted as part of President Roosevelt's economic recovery package. One premise leading to the law which has since been proven incorrect, by the way—was that commercial banks which were involved in securities underwriting failed at a higher rate than other banks due to losses in their securities business when Wall Street collapsed. Subsequent studies have proven that these very same banks actually fared better than other banks which had not diversified by offering broad securities products. Unfortunately, as with most of the flawed legislation on our books, the law was not sunset and has hindered America's financial institutions—banks and securities firms alike—since its enactment in the 1930s.

Although commercial banks in recent years have been able to conduct limited securities underwriting activities through Section 20 affiliates, S. 900 appropriately repeals the Glass-Steagall prohibitions on common ownership of commercial banks and securities firms and will allow these activities to be conducted without the arbitrary restrictions which govern these activities currently.

The Bank Holding Company Act also includes similar restrictions in Section 4(c)(8) which have prevented safe, sound, and well managed commercial banks from affiliating with insurance companies. Although insurance is unquestionably a financial product, banks have been prohibited from underwriting insurance, and insurance companies have been restricted from fully entering the business of banking. This bill removes the Bank Holding Company Act restrictions and it preempts State laws which prohibit these affiliations.

Although there always seems to be broad agreement that the time for reform is now, every recent effort has failed because the devil has been in the details of how to regulate the new entities. S. 900 successfully incorporates a wide array of negotiated agreements between the interested industries to provide functional regulation—meaning regulation by product and not by the entity offering it. Under the bill's regulatory structure, banking products will be regulated by bank regulators, securities activities will be regulated by the Securities and Exchange Commission, and insurance will continue to be regulated by State insurance commissioners. This system will ensure that the experts in each area will oversee the activities to protect the consumer and to ensure that all parties are playing on a level playing field.

As part of this system of functional regulation, the bill retains the current system of State regulation of insurance. While I strongly support State regulation of insurance, I believe there is a role for some Federal oversight. I believe that because Congress delegates the authority to regulate the insurance activities of national banks, it also has the responsibility to ensure that State regulation does not result in bloated, burdensome, and unresponsive regulation. Also, I will be holding hearings this year in the Securities Subcommittee to explore where any flaws exist and will work hard to address them with all of the interested parties.

Another major area of functional regulation contained in S. 900 is the regulation of securities activities. The bill provides a workable compromise which eliminates the bank's existing broker-dealer exemption and substitutes a system of targeted exemptions which protect traditional banking products while requiring other securities activities to be offered by a broker-dealer. Also, the bill requires the SEC and the Federal Reserve Board to work together to determine how future products will be regulated.

There has been some talk around Washington that an amendment may be offered to delete these bank exemptions and give the SEC complete authority to determine how future products will be regulated.

Let me be clear that if this amendment is offered, it is done so for only one reason—and that would be to kill the bill. If the bank exemptions are eliminated and traditional activities, such as trust activities, are not statutorily protected, the entire banking industry will unite against this bill. Again, I urge my colleagues to oppose any amendments which significantly alter the bill's securities provisions.

When repealing current law affiliation restrictions, the question is also raised about what activities the new broader bank holding companies will be able to conduct. The bill contains a standard—financial in nature—by which all activities of a bank holding company must comply. This provision maintains the current separation of banking and commercial activities, while providing appropriate flexibility, again, subject to Federal Reserve Board oversight. Some have criticized even the narrow flexibility which is provided in this bill. However, without this flexibility many financial companies will not be able to take advantage of the new structure contained in the bill and will continue to expand their activities outside of the bank holding company model and, thus, outside the oversight that the structure would ensure. Also, while on the topic of banking and commerce, I want to briefly touch on the unitary thrift holding company. There are three thrift related provisions either in S. 900 or which are expected to be considered as floor amendments. First, as reported by the Committee, the bill prevents the formation of any new unitary thrift holding companies after February 28, 1999. This provision will protect any applications which were ''in the pipeline'' at that time, on the date the bill was unveiled but will prevent any new unitary charters, thus providing a finite universe of unitary charters.

Mr. President, another provision which is included in the base text of the bill extends the assessment differential between banks and thrifts on the payment of interest on bonds that were issued by the Financing Corporation as part of the savings and loan crisis. In 1996, Congress enacted legislation requiring thrifts to make a one-time assessment into the Saving Association Insurance Fund or better known as SAIF, to fully capitalize the then-undercapitalized fund. This assessment was included predominantly because it was scored as a revenue gain under budget rules, and it could be used as the offset that Congress needed to grant the President added spending that he was demanding in return for his support of the balanced budget plan.

In order to lighten the blow to thrifts and to ensure that the FICO bond interests payments were made in a timely and also in a dependable manner, Congress for the first time spread the assessment for FICO interest to the commercial banks. Under that legislation, banks were to be assessed at a rate one-fifth of that which thrifts are assessed until January 1, 2000, at which time all institutions would be assessed at the same rate.

The bill before us today extends for 3 years the period during which there will be an assessment differential. Not surprisingly, the thrift industry adamantly opposed this provision. It is expected that Senator JOHNSON will be offering an amendment, which I intend to support, which strikes the FICO assessment extension and eliminates the thrifts' ability to affiliate with nonfinancial firms.

Although this amendment presents an unpopular choice for thrifts, I believe that it is in the best interest of the thrifts in my State because it will positively impact their bottom line while only slightly impacting their ability to affiliate.

I should note that if the Johnson amendment were approved outside of the underlying modernization bill, it would be much more burdensome, because thrifts would then be limited to selling only to banks or to other thrifts. However, the bill's expansion of the ability of bank holding companies to affiliate with insurance companies and securities firms passes through to thrifts and will now permit nonunitary thrifts to also sell to banks, sell to securities firms, or insurance companies.

Now I want to take a moment to discuss the issue which will likely be the most contentious during the debate on this bill. That is the Community Reinvestment Act or CRA. During consideration of this bill, the Banking Committee approved two balanced amendments designed to bring rationality to a law which has ventured far from what I believe was its original purpose. CRA was enacted in 1977 to encourage financial institutions to help meet the credit needs of the local communities in which they were chartered. Although noble sounding, CRA has drifted far afield from that original purpose. S. 900 includes a small bank exemption, approved on a bipartisan vote of the committee, which exempts banks with assets of under $100 million and which are outside of a metropolitan statistical area for the CRA.

Although I have received a number of calls of opposition from constituents in urban areas in my State, which will not be affected by this exemption, I do think it is important to listen to what some of the bankers in rural Minnesota are also saying. I am sure this is true not only in Minnesota but in rural banks across the country.

Although these bankers are often vilified, I believe that they play a very crucial role in ensuring that affordable financial services are widely available in the rural America.

Just take, for example, the comments of John Schmid of the Security State Bank in Sebeka, MN. John writes:

> We are a small rural Minnesota bank with assets of $21 million—$21 million, this is not a large money center bank—and our town population is 680 souls. We could not exist if we did not support and reinvest as much as we could in our town and surrounding area.

Gregory Morgan of First National Bank of Montgomery, MN, also tells a similar story. He writes:

> Our bank is 36 years old, founded on the idea of serving the entire community of Montgomery and as such, we have been successful. Our efforts of living and breathing community reinvestment are not driven by having to be in compliance with some law written in Washington but rather by listening and serving our friends and neighbors throughout the Montgomery area.

Yet another constituent committed to his hometown is Romane Dold, of Currie State Bank. Romane writes:

> We are a small community bank located in a town of 300 people. Our assets are $17 million. Our bank has always adhered to the regulations of CRA and, in fact, received an ''Outstanding'' rating in our most recent exam. The problem that we have with the regulations is that it just is not necessary. Our bank has been in this town since 1931 and quite honestly, if we hadn't been reinvesting in this community for over 60 years we wouldn't be here. CRA has just been another ''little burden'' that we have to contend with to appease some regulator.

Finally, the message Kieth Eitreim of Jasper State Bank in Jasper, MN, shared also proved that CRA is a bottom-line issue, costing small rural communities precious dollars, a lot of money. His bank is

> . . .an $18 million bank located in a town of 600 people in southwestern Minnesota. CRA is a requirement that does absolutely nothing to protect the people of my community except to cost them money. The last exam we had lasted 3 days and proved what we already knew. We service our community. If we did not, we would not be in business.

Mr. SARBANES. Will the Senator yield on that point?

Mr. GRAMS. I will yield to the Senator.

Mr. SARBANES. I am quite prepared to concede that there are a lot of small banks that do, in fact, service their community, as the Senator has indicated by the quotes. We have never held extended hearings on this issue, but the material from the Federal Deposit Insurance Corporation says that 57 percent of small banks and thrifts have a loan-to-deposit ratio below 70 percent and that 17 percent of those have levels less than 50 percent. Conceding that there are small banks who

really pay attention to their community, it is obvious that there are also small banks which are not doing that.

In fact, the Madison Wisconsin Capital Times, in an editorial a couple of years ago, said:

> Many rural banks establish a very different pattern than reinvesting in their communities where local lending takes a lower priority than making more assured investment like Federal Government securities. Thus, such banks drain local resources of the very localities that support them, making it much harder for local citizens to get credit.

I do not gainsay the examples that the Senator cited. But clearly, there are examples on the other side. And CRA, of course, is directed to get not at the good or the best actors, but the ones that are not addressing needs. The statistics from the regulators seem to indicate, and this editorial that we have—and we have other comments to the same effect—seems to indicate that there is a problem.

Mr. GRAMS. I understand the concern, and I know those numbers have been raised in the questions.

I also know, if you look at the other side of the story, I have talked to some of these small bankers who say they live in a town or work in a town of 300 people. And if you look out in the rural parts of the country today, most of the population in these small towns is growing in age. So his concern was, although we make all these loans available, there are not many home mortgages being sought. There are not many automobiles being bought. There are not many washers and dryers for which loans are being asked. There isn't the demand for the loan.

You have to expect that these bankers are going to have to put the money to some use, if there is nobody out there asking for the loan. The question I have for the Senator is, how many of those loans have been asked for and then denied?

The story I have—and I don't have this information in front of me—is that he said it is awfully hard to loan money to my community when there is no request for loans. What do I do, let the money sit in the safe overnight? No, he has to invest it, maybe in some of these other government or other financial institutions or financial mechanisms.

I think there are two sides of that story. It is not that these banks are turning down loans. In many cases, in these small communities in rural parts of the country, there is no demand for these loans. The bank is a good, safe place to keep it, but not always to be able to use the bank's facilities.

Mr. SARBANES. That is a reasonable point. It ought to be examined in a set of careful hearings, because, in fact, the particular institution may confront that problem, although it may be overlooking loan possibilities, which has frequently been the case and is certainly the case in many instances in which areas people were neglected in terms of the availability of credit. We have never done those kinds of hearings. We have never really looked at this problem in some sort of objective, comprehensive way.

And we hear all these kinds of ad hoc stories, as it were. But, you know, there are counter-ad hoc stories. I am frank to say I don't think we ought to be making the kind of significant changes in the CRA that are in the committee bill without having gone through the sort of process I am talking about.

I thank the Senator for yielding.

Mr. GRAMS. Mr. President, by putting a face on the businesspeople working day in and day out trying to help America's rural communities strive and survive, I hope we can eliminate the vilification which is cast upon them. We are talking about banks under $100 million. As the gentleman from Sebeka said: 680 people is not a major financial center, and we have done the best we can to meet the requirements. We would not be in existence and would not be able to survive in our community if we didn't reinvest and if we had turned down these loans.

There is a commonsense way to look at it. According to the stories we have heard and the bankers we have talked to, a lot of times these are banks with three or four employees. Many times they are asked to have a full-time employee just to work on government regulations, which takes a lot of money that could be used for loans, et cetera, out of the bank, and, as one banker said, it does absolutely nothing for his community. That is where we have to look at some of this. This is common sense.

By using their words to show that they are meeting their communities' needs, not because Washington tells them to do so or says they have to, but, again, because it is in their best interest and it is in the best interest of their community and their town, it proves the need for the small bank exemption.

The Committee also included a provision which has mistakenly been deemed a ''safe harbor.'' Unlike a safe harbor, which gives an institution a free ride, the rebuttable presumption included in S. 900 simply gives meaning to the work of the regulators during CRA exams. CRA's stated purpose is to require each appropriate federal banking regulator to use its authority when examining financial institutions to encourage such institutions to help meet the credit needs of the local communities. By providing a rebuttable presumption, the bill gives the regulator the benefit of the doubt that they are meeting the requirements of CRA by encouraging action by the institution during the exam. However, the bill provides a safety that if someone feels that the regulator has not properly assessed the institution, provided the individual can prove the regulators failure, it can still protest an action. Thus, this amendment simply protects federal banking regulators against harassment by individuals who simply want to criticize their work.

Finally, Mr. President, I regret to have to include a negative comment in this statement about an otherwise outstanding bill. However, I believe that the operating subsidiary provisions included in S. 900 are inadequate and should be amended. As the Senator who worked on a bipartisan basis last year with Senator REED of Rhode Island to draft a compromise operating subsidiary amendment, I have vested a great deal of time studying the pluses and minuses of this option. I have come to the conclusion that it is appropriate for national banks to conduct full financial activities, with the exception of insurance underwriting and real estate development. I enthusiastically support the op sub amendment of Senator SHELBY which will be offered to this bill. It is identical to the amendment I authored last year and again this year in Committee. The amendment provides adequate safeguards to ensure that the sub poses no greater risk to the bank than a holding company affiliate. Another benefit of this amendment is to provide competition among regulators. A recent conversation I had with a banking lawyer convinced me that this amendment is prudent public policy. The attorney shared with me that in his dealings with the Federal Reserve Board and the Office of the Comptroller of the Currency, one of the agencies have been cooperative in helping his client work through issues and find creative ways to deal with their problems while the other has done nothing to help. If we were to eliminate the competition, regulators would have no incentive to be responsive to the institutions they regulate and American banks would have no where to turn if they are unhappy with their treatment.

Mr. President, in closing I again urge my colleagues to support this important legislation so that we can move the bill through conference and to the President for his signature.

I yield the floor.

The PRESIDING OFFICER (Mr. VOINOVICH). The Senator from Illinois.

Mr. DURBIN. I thank the Chair.

Mr. President, the bill which is before the Senate, S. 900, is known in the shorthand form as the Financial Modernization Act. It is a 150-page bill which has been the subject of debate and deliberation on Capitol Hill for almost 10 years—a 10-year effort by the House and the Senate to try to modernize the laws and regulations in Washington relative to banks and financial services. Of course, anyone who has paid any attention understands that while we have been debating, there has been a revolution taking place.

I am reminded that just a few years ago we passed major reform in the area of telecommunications—years of hearings, extraordinary testimony from expert witnesses, the best staff work, the best lawyers, the best efforts by the

Members of the House and Senate—and we delivered the Telecommunications Act modernizing regulation when it came to this industry.

Now, a few years later, we take a look at that work product. I was amused to find someone who came to my office and reported to me that they had found in that 1,000-page bill only two references to the Internet. Think of that. We modernized our telecommunications law and almost overlooked the most amazing phenomena that is taking place in telecommunications.

I hope we don't make the same mistake here. I hope in our effort to modernize financial institutions that we are thoughtful, that we modernize them in a way that is good for everyone—consumers and families in America as well as the owners of those institutions.

Twenty-two years ago we took a look at banking in America. We decided that we had some interest as a nation in making certain that the banks served the communities where they were located. That is not a radical notion, is it—to say if you have a bank in a town that is holding the savings and checking accounts of individuals and families and businesses, that when that bank does business it should do business in that same community where the people live, where the businesses are located, where the farmers have their farms, and where the ranchers have their ranches.

We found that some banks were, in effect, in a parasitic capacity. They were drawing out the resources of communities and regions and not putting the money back in. In its worse situation, you would find in some of the urban areas redlining, where banks would take the money out of a community and refuse to write mortgages for the people who wanted to build homes, or to modernize their homes. They wouldn't put money into the small businesses in the same communities where they were drawing the money.

In 1977, we decided there was a need for legislation called the Community Reinvestment Act. It speaks for itself—that the banks reinvest in the communities where they are located. It is not a radical concept. In fact, I think it is a rational concept. It is one that, frankly, has served us very well for 22 years. Now, as part of Senate bill 900, there is an effort to radically change community reinvestment.

I don't know what the experience of other Senators might be. But I can tell you what my experience has been in my hometown of Springfield, IL. I have lived in that town for about 30 years, practiced law there, and raised a family. There was a time when I not only knew the name of every bank downtown, but I knew the bank presidents. I might not have socialized with them, but I sure knew where they were. I knew where they lived, and I knew who their families were. I had a feeling that those banks were going to be around for a long time. You could just tick them off: The First National Bank, the Illinois National Bank, The Springfield Marine Bank.

But over a span of 10 or 15 years a dramatic change has taken place. I think a lot of Americans find themselves in the same situation that I am in. I struggle to remember the latest names of these latest banks. Which one is the First National Bank? Which one is the Planters and Growers Bank? I can't keep up with it. It seems every 6 or 12 months there is a change, and not just a change in name, there is a change in ownership. The bank that used to be run downtown in Springfield may be run out of someplace in Ohio, New York, or Europe.

If Members ask whether or not we need this law of 1977, this Community Reinvestment Act, to make certain that as these changes are taking place in the banking industry—whoever owns them, wherever their home might be—that they still serve the communities where they draw their money from, I think is still a very sound concept.

Yet this bill, S. 900, suggests it is a concept that should be largely abandoned, because in three specific areas there are changes in the law.

First, it eliminates the requirement that all banks within a holding company have and maintain satisfactory Community Reinvestment Act ratings as a condition for exercising new financial powers. To put it in common English, if you want to take your bank and holding company and expand it in some direction, we are going to take a look to see if you have been good citizens in the communities where you are located.

I think that is a reasonable suggestion. That is the law. But this bill changes it. This bill removes that requirement and says you can't take a look at their records and see if they have been helping local farmers and businesspeople, families, with mortgages.

Does that make sense, at a time when bank ownership is becoming further and further removed from the people who bank, that we are going to somehow absolve them of responsibility to the neighborhoods, the communities, the towns, the counties around them? I don't think that makes any sense at all.

The second thing, the so-called safe harbor provision. If an institution had a good conduct ribbon for 36 months under the Community Reinvestment Act, this bill basically says leave those banks alone, don't ask any more questions.

I don't think that makes sense either.

The Community Reinvestment Act examinations take place about once every 18 to 24 months. In fact, for the smaller institutions, they have been streamlined more dramatically. I don't think we ought to say that after some 3 years of good conduct we are no longer going to ask basic questions as to whether or not you are making an investment in your community.

The final provision, which the previous speaker, the Senator from Minnesota, addressed from his point of view, was whether or not a bank—rural bank in this instance—with less than $100 million in assets should be required to meet the requirements of the Community Reinvestment Act. An argument can be made, and has been made by some, that these are smaller institutions and, as such, should not be burdened by regulators and paperwork, let them do their business, they are good neighbors, and things will work out.

Yet in the report filed with this bill, we find the statistics do not bear out that point of view. Let me read:

> Over 76 percent of rural U.S. banks and thrifts have assets less than $100 million.

We are talking about more than three-fourths of the bank and thrift institutions in the smalltown areas.

> It is asserted these small rural banks by their nature serve the credit needs of their local neighbors. However, small banks have historically received the lowest Community Reinvestment Act ratings. Institutions with less than $100 million in assets accounted for 92 percent of institutions receiving noncompliance ratings under the CRA.

What many do is take the money from the community and then do not lend it back into the communities. They turn around and buy government securities instead of lending it to the businesses and families that need those assets to make investments in the communities.

I don't think the small bank exemption is the way to go. I think the provision in the CRA change relating to that overlooks the fact that just a few years ago we put in new regulations to streamline CRA investigations in smaller banks, banks of less than $250 million in assets. We exempted many small banks from reporting requirements and eliminated a lot of documentation and paperwork. We need to continue to focus on banks of all sizes to make sure they are doing the right thing.

After 22 years of the Community Reinvestment Act, what do we have to show for it? Has it worked? I think, quite honestly, it has worked very well. My State of Illinois is very diverse, with a large city like Chicago and many small towns. In the Chicago area, thanks to a strong economy and CRA, the number of home loans to low-income borrowers almost doubled between 1990 and 1996, enabling 30,000 families to become homeowners. Is it of value to those families that those banks put the money back into the community? I think it obviously is.

I want to take a look at some of the other areas of my State. Voice of the People, in the Chicago Uptown area, has provided quality, affordable housing for low-income families. The racially and economically diverse community of Uptown Chicago, on the far north side of town, partnered with the

Uptown National Bank of Chicago and completed the International Homes project, a development of 28 town homes constructed on five vacant lots within a four-square-block area in Uptown. This made homeownership possible for 28 lower-income minority and immigrant families. Half of these first-time homeowners are families earning under 50 percent of median income.

At the same time, down in my old hometown of East St. Louis is Winstanley/Industry Park Neighborhood Organization, a new nonprofit corporation representing 8,000 people. For those not familiar with it, my old hometown has had a tough time for the last 20 or 25 years. They struggled to keep the community together and to survive. The Winstanley/Industry Park Neighborhood Organization has been a plus. It is a mixed-use area comprised of residential, commercial, and abandoned industrial sites. What they have tried to do is to work with Magna Bank of Illinois to change the area. They have created a farmers market, community owned and operated, which was developed by this organization. What makes the market particularly unique is 14 of the 16 vendors are local residents.

If your bank were located somewhere in Europe and you came into the branch in your hometown and said, ''We have some people here who are struggling to make a living; they are low income and they want a chance to start a farmers market,'' is it more likely that you are going to get a sympathetic response from someone who knows the community, has a responsibility to the community, rather than someone who is just hammering away at the bottom line? I think the answer is obvious.

A residential loan counseling program of the same organization has launched a response to the victimization of over 1,400 lower-income families who were being misled by unscrupulous realtors into home purchase agreements known as bond-for-deed. The realtors who engaged in this often held the title to the properties throughout the length of the contract without recording the transaction and without hazard insurance for the purchaser. Most of these agreements contain no terms and have open-end type mortgage balances. This organization counseling program helped these same residents, lower-income families, refinance with conventional mortgages on their own homes.

Finally, West Humboldt Park is a low-income, predominantly minority neighborhood on Chicago's west side. It is plagued by poverty, illiteracy, welfare dependence, street and domestic violence, alcohol and substance abuse, and a lack of job opportunity. In 1989, Orr High School and the 12 neighborhood elementary schools formed a partnership with Bank of America—then Continental Bank—establishing a community network of schools in West Humboldt. The partnership has grown to include over 25 programs providing education and social services. They include Boys and Girls Clubs, the creation of the BUILD project, which is a group of parents who are really trying to keep the streets safe for their kids.

It amazes me that in our efforts to modernize the laws involving banks and thrift institutions, one of the first casualties proposed in the Republican majority bill before the Senate is to eliminate the Community Reinvestment Act. A party which dedicates itself to the premise that local control is best is virtually ready to give it away. To say that when it comes to local control of banking assets so critical for building and rebuilding a community, it will no longer hold them responsible, I think that is shortsighted.

For 22 years, the Community Reinvestment Act has worked. I hope we defeat this provision if we can muster a direct vote on it. If not, defeat the bill if it continues to push the things which are not in the best interests of consumers and families across America.

I yield the floor.

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

Mr. GRAMM. Mr. President, I want to respond to the amendment that has been offered. I apologize if anybody has the idea, listening to this debate, that there is not another side to the argument. We had several people who had time constraints and wanted to speak. Senator SARBANES and I are being held hostage here, in managing the bill. So as a courtesy to others, we have let them speak first. But I now want to give a comprehensive response to this issue. Let me begin.

Mr. SARBANES. Will the Senator yield for a minute?

Mr. GRAMM. I am happy to yield.

Mr. SARBANES. How long would the Senator expect to go?

Mr. GRAMM. I think it is going to take me probably a minimum of about 30 minutes to go through the entire group of issues.

Mr. SARBANES. Could we then put Senator BAYH and Senator EDWARDS in line to speak after you finish?

Mr. GRAMM. I do not know that any Republican has spoken on this issue. Did Senator ENZI speak?

To this point, if I might say, the distinguished Senator from Nevada spoke at length. You engaged in a lengthy colloquy with him. We then had a nonrelevant speaker.

Mr. SARBANES. Senator GRAMS spoke for you.

Mr. GRAMM. By nonrelevant I do not mean the Senator was irrelevant on the issue. It had no relevance to this issue. It was about another issue completely. Senator GRAMS really talked about the bill itself.

So it is my turn to speak. I intend to speak and answer the points that have been raised. Then I would like to continue going side to side. We only have one other person here. I do not know if he is going to speak at any great length.

Mr. SARBANES. Then I guess our colleagues know in about 30 minutes they could hope to get recognition to speak.

I thank the Senator.

Mr. GRAMM. Mr. President, I think it is important for people to step back and look at what is being proposed. I have to break the discussion down into two parts. No. 1, what it is that Senator SARBANES would do with his amendment, and, second, what it is he would undo with his amendment.

Mr. SARBANES. Senator BRYAN.

Mr. GRAMM. So let me explain what he would do with his amendment, then explain what he would undo, and then explain why both what he would do and what he would undo is bad.

First of all, let me begin with current law in CRA, then what I am going to do is go through what the Senator's amendment would do. I am then going to talk about the history of CRA and within that history I am going to try to explain the problems that we are trying to fix in the underlying bill. Then I want to talk at some length about those problems and about the underlying bill. I think I will have covered the whole waterfront.

Let me remind our colleagues the current Community Reinvestment Act basically has two provisions. The first provision is that bank regulators have to consider how a bank has been meeting local credit needs only when a bank applies to open a new bank, branch or to merge. Second, bank regulators may deny application based on a CRA record. So basically, in terms of the existing CRA law, the way it was written, there is no violation for simply failing to comply. The enforcement mechanism is that if you apply to open a new branch or open a bank or to merge, then the bank regulator—whichever one you are subject to, based on your charter—looks to see if you are meeting the needs of your community. And community reinvestment, I would like to remind our colleagues, is focused on lending. The primary focus of community reinvestment is lending in the communities where you take deposits.

A bank regulator can deny an application based on your CRA record. There is no penalty involved other than the denial of the application. That is current law in CRA. What the substitute that has been offered by Senator BRYAN would do—I have ''The Sarbanes Substitute,'' because Senator SARBANES offered this in committee and we assumed he would offer it today, but it is the same provision—is this:

The Bryan substitute would add eight more requirements to CRA than the are required under current law. In fact, this would be a good opportunity to ask unanimous consent to have printed in the RECORD a letter from Chairman Greenspan that outlines what the CRA provisions of this substitute are, what the CRA provisions of the bill are, and exactly what they would do. Because, as I am sure all of

our colleagues are aware, what tends to happen in these debates is people set up straw men. In this case the straw man is that somehow the underlying bill undoes CRA —that is straw man 1. Straw man 2 is that the substitute virtually leaves CRA as it is.

The reality, as I will paint in some detail, is that the underlying bill tries to deal with two clear abuses in CRA: One, an integrity provision; and, two, a relevancy provision. It in no way does violence to the basic idea of CRA. And the second reality as compared to the straw man is that this substitute is the most massive expansion of CRA in its history and would literally impose a penalty structure that goes far beyond anything ever contemplated in CRA when it was adopted in 1977, or that has ever been discussed since. In fact, our colleague keeps wondering where the hearings are concerning the two modest changes that we have made in the underlying bill, without ever raising the question: Where are the hearings on which these massive punitive penalties would be based? Where is the abuse that they seek to address? The point is, the rhetoric of Senator SARBANES applies more to his substitute than it does the underlying bill.

So let me ask unanimous consent that the letter from Alan Greenspan with regard to the CRA provisions of the substitute and the CRA provisions of the underlying bill be printed in the RECORD.

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

BOARD OF GOVERNORS OF THE
FEDERAL RESERVE SYSTEM,
Washington, DC, April 7, 1999.

Hon. PHIL GRAMM,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: You have asked for an analysis of how the financial modernization bills recently passed by the House Committee on Banking and Financial Services (H.R. 10) and the Senate Committee on Banking, Housing, and Urban Affairs affect the Community Reinvestment Act of 1977 (CRA). Enclosed is a memorandum from the Board's General Counsel discussing the impact of these bills on the CRA.

That memo indicates that H.R. 10 would affect the CRA in three principal ways. It would require at least a ''satisfactory'' CRA performance rating as a precondition for engaging in the new financial activities, provide for the enforcement of this requirement, including through penalties and divestiture, and apply the CRA to uninsured wholesale financial institutions. Currently, the CRA does not require that an institution's CRA record be considered in connection with proposals to engage in nonbanking activities, authorize enforcement of the Act outside the applications process, or apply to uninsured depository institutions.

The bill recently passed by the Senate Committee on Banking, Housing, and Urban Affairs does not contain similar provisions. The Senate bill, however, does contain two CRA-related provisions not contained in H.R. 10: an exemption from the CRA for small insured depository institutions that are located outside metropolitan areas and a rebuttable presumption regarding an institution's compliance with the CRA.

I hope this information is helpful.

Sincerely,

ALAN GREENSPAN,
Chairman.

Enclosure.

MEMORANDUM REGARDING THE EFFECT OF RECENT LEGISLATIVE PROPOSALS ON THE COMMUNITY REINVESTMENT ACT

Chairman Phil Gramm has asked for an analysis of how H.R. 10, as passed by the House Committee on Banking and Financial Services last month, and the bill passed by the Senate Committee on Banking, Housing, and Urban Affairs on March 4, 1999, would affect the Community Reinvestment Act of 1977 (''CRA'').

H.R. 10 would primarily impact the CRA in the following three ways.

1. The CRA currently applies only to federally insured depository institutions. H.R. 10 would subject the newly established uninsured wholesale financial institutions to the CRA.

2. The CRA currently requires that the Federal banking agencies consider the CRA performance of an insured depository institution in connection with proposals by the institution, or the institution's holding company, to acquire or establish a deposit-taking facility (e.g., open a branch or acquire or merge with another insured depository institution). It does not require that an institution's CRA record of performance be considered in connection with proposals to engage in, or acquire a company engaged in, nonbanking activities. H.R. 10 would allow a financial holding company to engage in new financial activities only if all of the company's subsidiary depository institutions have and maintain at least a ''satisfactory'' CRA rating. Thus, H.R. 10 would link CRA performance to the ability of a banking organization to engage in, or acquire a company engaged in, a nonbanking activity. More than 95 percent of the depository institutions examined for CRA compliance in 1997 received a ''satisfactory'' or better CRA rating.

3. Current law does not authorize a Federal banking agency to take any type of enforcement action against an insured depository institution that has a less than satisfactory CRA rating, other than denying proposals by the institution (or the institution's holding company) to establish or acquire a deposit-taking facility. Thus, current law does not permit the Federal banking agencies to take actions, including enforcement actions or divestiture proceedings, outside the applications process if an institution fails to maintain a ''satisfactory'' CRA rating on an ongoing basis. *See* Memorandum from Walter Dellinger, Assistant Attorney General, U.S. Department of Justice, to Eugene A. Ludwig, Comptroller of the Currency, 18 U.S. Op. Office of Legal Counsel No. 39 (Dec. 15, 1994).

H.R. 10 would require that the subsidiary depository institutions of a financial holding company maintain at least a ''satisfactory'' CRA rating for the holding company to continue to engage in the new financial activities. If a subsidiary depository institution fails to maintain such a rating, the financial holding company and subsidiary depository institution must execute an agreement with the appropriate Federal banking agencies to correct the deficiency and such agencies could impose limitations on the activities of the financial holding company or subsidiary depository institution until the subsidiary's rating is restored. The failure by a financial holding company or subsidiary depository institution to comply with these requirements would constitute a violation of the Bank Holding Company Act. In such circumstances, the appropriate Federal banking agency could take enforcement action (e.g., issue a cease and desist order, assess civil monetary penalties or, in the case of the Board, seek criminal sanctions) against the financial holding company, the subsidiary depository institution, or an individual participating in the violation (such as an officer or director of the holding company or depository institution). Finally, if the subsidiary depository institution's CRA rating is not restored to at least the ''satisfactory'' level by its next examination (or such longer period as the Board determines to be appropriate), H.R. 10 would authorize the Board to require that the financial holding company divest the subsidiary depository institution or, alternatively, cease engaging in new financial activities.

Section 121 of H.R. 10 also would permit a national bank to control an operating subsidiary engaged in financial activities permissible for a financial holding company, but only if the national bank and its depository institution affiliates have and maintain at least a ''satisfactory'' CRA rating.[1] National banks and affiliated depository institutions that did not maintain such a rating could be subject to the same type of corrective measures as discussed above for financial holding companies.

The bill passed by the Senate Banking Committee does not contain provisions similar to those discussed above. The Senate bill, however, would exempt from the CRA any insured depository institution that has $100 million or less in total assets and that is located outside a Metropolitan Statistical Area. Data indicate that approximately 3,871 insured banks and thrifts, representing approximately 37 percent of all insured banks and thrifts and 2.7 percent of the assets of all such institutions, would meet these criteria, as of December 31, 1998. In addition, under the Senate bill, an insured depository institution would be presumed to be in compliance with the CRA until its next examination if the institution received at least a ''satisfactory'' rating at its most recent CRA performance examination and at each CRA examination in the preceding three years. This presumption would not attach if the appropriate Federal banking agency receives substantial verifiable information, arising since the date of the institution's most recent CRA examination, that demonstrates the institution is not in compliance with the CRA.

Mr. SARBANES. Will the Senator yield? I understood the Greenspan letter compared the provisions in the House bill with the committee bill, not the provisions of the substitute.

Mr. GRAMM. They are virtually identical, but I stand corrected. In fact, let me yield to you to tell us the difference.

Mr. SARBANES. They are not identical. There are some significant differences between the two, and I will develop them after the Senator finishes his presentation.

But as I understand it, your request to the Fed and their response was to compare the House bill with the committee bill. Am I correct in that?

Mr. GRAMM. I think that is correct. I stand corrected. I would like it printed in the RECORD, but I would be happy

[1] Part 5 of the OCC's regulations, which purports to allow subsidiaries of national banks to engage in activities that national banks are not permitted to conduct directly, currently requires that a national bank have and maintain at least a ''satisfactory'' CRA rating to control an operating subsidiary engaged in principal activities that the bank cannot conduct directly. See 12 C.F.R. §§5.34(f)(3)(iii), 5.3(g)).

to hear the distinguished Democratic ranking member of the committee explain to us the differences. I assert that there are no significant differences, but I would like to hear them.

Let me go over basically what we have in terms of additions to CRA in the pending amendment, if the Senate decided to adopt it.

No. 1, by making noncompliance with CRA or falling out of compliance with CRA a violation of banking law, officers and directors of banks for the first time could be fined up to $1 million a day for CRA noncompliance. I will come back to this in a moment.

Under this substitute, banks can be fined up to $1 million a day for falling out of compliance.

Under this substitute, cease and desist authority for CRA noncompliance are brought into the system.

Bank regulators may place any restrictions on any banking activities for CRA noncompliance.

Bank regulators may place any restrictions on any insurance activities for CRA noncompliance.

Bank regulators may place any restrictions on any securities activities for CRA noncompliance.

Bank regulators may place any restrictions on any other activities of the holding company for CRA noncompliance.

Any violation by any one bank in the holding company can trigger penalties against any and all activities of the entire banking company.

Insurance sales of bank subsidiaries can be restricted for CRA noncompliance.

Finally, the provision adds new expansions of CRA far beyond the existing law. Under current law, banks sell insurance—small banks in cities of less than 5,000, other banks depending on their State regulation—and they do it without CRA approval.

The substitute would expand the decision of banks or ability of banks to sell insurance to require CRA approval. Some 20 banks now provide some security services. They do it without being required to get CRA approval. The pending substitute would expand CRA approval to that activity.

The first point I want to make is, contrary to the rhetoric being used, we are talking about the largest, most significant expansion of CRA in history—none of which is based on any assertion of any abuse—and we are talking about imposing confiscatory penalties that are devastating to our banking industry.

I want to read pieces of two letters on this issue of the potential for a million-dollar-a-day fine. One letter is from the Independent Community Bankers of America. This is a letter from an organization of very, very small, generally community banks, often in rural areas that would be affected by this. Let me read the paragraph:

> We also have grave concerns about expanding CRA enforcement authority to include the levying of heavy fines and penalties against banks or their officers and directors. An ongoing challenge for many community banks in small communities is finding willing and qualified bank directors. Legislation following the savings and loan crisis of the 1980s and 1990s greatly increased the amount of civil money penalties to which bank officers and directors may be subject. Any increase in the potential for fines and penalties could provide further disincentive for service on a bank board.

Here is the point. If a small bank is going to hire somebody to be president or be an officer or recruit somebody to be on a bank board, they are going to have to buy liability insurance to protect that person from this potential fine, which would literally put thousands of rural banks in America out of compliance.

If there is a problem here that needs to be fixed, if there is an abuse that should be dealt with, then one might say that perhaps this is justified. But here is the record: There have been some 16,380 examinations of small, rural banks in America since 1990, and of those 16,380 examinations, three banks and S&Ls have been found to be out of compliance to a substantial degree.

Our ranking member of the committee would bring in the potential for a million-dollar-a-day fine based on the fact that in 16,380 audits on CRA since 1990—9 years—there have been three banks substantially out of compliance. What is the justification for these massive punitive fines? There is no justification.

The justification basically is that this is seen as an opportunity to massively expand CRA. That is what the justification is.

The second letter, on exactly the same subject, is from the American Bankers Association. Here is what they say:

> We would oppose amendments we understand may be offered that would contain provisions not only eliminating the two CRA provisions currently in the bill, but also adding additional new CRA requirements. One strong concern the ABA has is that the potential for such penalties could discourage directors from serving on community bank boards and increase the cost of officer and director liability insurance coverage for banks. There has been no justification given for inserting these new penalties into CRA, particularly given the outstanding record the banking industry has in serving communities across the country.

I remind my colleagues, this substitute seeks to impose these massive punitive penalties against small banks in America when in 16,380 exams, which cost those banks cumulatively $1,310,400,000 to keep the records and comply with the exam—$1,310,400,000; I have the decimal points right this time—after all that money, after all those exams, three small, rural banks or S&Ls were found substantially out of compliance.

If this is not regulatory overkill that drives working men and women in America crazy and that threatens little banks all over the State of Kansas, the State of the Presiding Officer, and all over Indiana and all over Texas and all over America, that threatens their very existence, I don't know what it is.

First of all, this is totally unjustified, makes absolutely no sense and, to quote my colleague from Maryland, never has a hearing been held on this subject. Never has any justification been given whatsoever for imposing a million-dollar fine on bank board members and bank officers in the name of CRA. It is the most gross overkill and regulatory burden that this Senator has seen in the entire time that I have been debating banking legislation.

I remind my colleagues that I spent 12 years of my life teaching money and banking in college. I have spent too long of my life, 21 years, in the House and Senate, and I have been serving on the Banking Committee every day I have been in the Senate, and I have had the privilege this year of serving as chairman. I have never seen such a massive regulatory overkill as these proposed provisions, and I am confident that they will be rejected.

(Mr. SANTORUM assumed the Chair.)

Mr. SARBANES. Will the chairman yield on this point?

Mr. GRAMM. I will be happy to yield.

Mr. SARBANES. I am looking at a table from the Federal Deposit Insurance Corporation, from 1990 through 1998, that those 320 institutions were given a ''needs to improve'' rating which, of course, is below compliance, and 18 institutions were given ''substantial noncompliance.''

The Senator is using this ''three'' figure, and I don't know where that comes from.

Mr. GRAMM. I can tell you where it comes from. It comes from looking at the banks and S&Ls that meet two tests: One, they have less than $100 million of assets; and, two, they operate solely outside standard metropolitan areas.

And my figure is, that those banks have been subjected, since 1990, to 16,380 examinations. And in those 16,380 examinations, the average of which has cost that little bank about $80,000, according to some 488 banks which have written us on this subject, that these 16,380 examinations—this is from the Federal Financial Institutions Examination Council—that in these 16,380 examinations, costing, on average, $80,000 apiece—so this is $1.3 billion that has been taken out of these little bitty communities and out of their banks, where people are paid higher interest rates and have gotten less credit—the result of that has been that three of these banks, over a 9-year period, have been found to be in substantial noncompliance.

You do not have to have a Ph.D. in mathematics to figure out, if you have done 16,380 exams on these small, rural banks, and only three of them have been in substantial noncompliance, you

are spending a tremendous amount of their money to find a very, very small number of bad actors—in fact, three one-hundredths of 1 percent.

What is even more astounding is that all of these little banks combined make up only 2.8 percent of the capital of the banking system. They are getting 44 percent of the examinations. They make up only 2.7 percent of the assets of the banking system, and out of 16,380 exams, only three of them were out of compliance.

Mr. SARBANES. If the Senator——

Mr. GRAMM. What is wrong here? What does not make sense here?

Mr. SARBANES. If the Senator will yield, he simply stated the point all over again, but it hasn't squared the factual discrepancy.

According to our data from bank regulatory agencies, more than 70 small, rural banks and thrifts are currently deemed not in compliance; that is, below a satisfactory rating with CRA this year alone.

Since 1990, 338 small, rural banks and thrifts received CRA ratings below satisfactory.

Sure, the Senator can make the same speech about those numbers, but I just want to get those on the RECORD, because those numbers are very significantly different from the numbers which the Senator is putting forward.

Mr. GRAMM. If I might reclaim my time—and I think probably we would be better off to let me go through and make my presentation and let the Senator do the same—let me go back and restate the facts.

What the Senator has done is basically taken a totally different classification than I am talking about. I have been very clear in what I am saying. Here is what I am saying. And it is devastating, there is no question about that. I am glad I am not on the other side of this argument. I would be trying to change the subject, if I were. But here are the devastating facts.

The devastating facts are, that of the little banks in America—less than $100 million in deposits; probably have 6 to 10 employees—that are outside standard metropolitan areas—so these are banks that do not have a city to serve, much less an inner city.

Mr. SARBANES. Those are the banks we are talking about. Those are the figures I am giving you.

Mr. GRAMM. Look, let me go ahead. I will explain the difference in what you are saying and what I am saying. OK. So let me start at the top. I will go all the way down, make my point, and then I want to go on and give my presentation. You all have had many opportunities to give yours today. And I listened to them faithfully.

But here is the point, if you take every bank in America that has less than $100 million of deposits, and that is also outside a standard metropolitan area, they make up 38 percent of the financial institutions in the country. They have 44 percent of the audits. In fact, they were audited for CRA 16,380 times from 1990 through 1998.

In those 16,380 audits, that cost, on average—cost the bank; I am not talking about the Government regulator; but cost the bank to comply with gathering all the information, spending the week in the audit, keeping all the records, designating a CRA officer—and I will later in my presentation read actual letters from the banks—these little banks and these little communities spent $1.3 billion of their money complying with this law.

Of these 16,380 examinations, only three banks, over a period of 9 years, only three banks were found to be substantially out of compliance.

Our colleague has taken a different definition, ''marginally out of compliance,'' and the number was bigger, maybe 70 out of 16,380. The point being, my statement is true, that only three banks, out of all of these that are audited, have turned out to be substantially out of compliance.

On the basis of that, our colleague would impose a $1 million-a-day fine on officers and board members. And I stand by my point that that is the biggest overkill I have seen.

I think I have dealt with the proposals made which would be added by the amendment that is pending.

These proposals really boil down to punitive, crushing, regulatory burden and fines, imposing a $1 million-a-day fine on bank officers and bank board members, massively expanding CRA.

The justification in 1977 for CRA was, ''Well, you've got deposit insurance. That's a good subsidy. We ought to be able to force these institutions to allocate capital for a public purpose.'' But for the first time, this substitute would expand CRA to a noninsured institution where there is no logic for its expansion. For the first time, CRA approval would be necessary for selling insurance and selling securities within a bank or at an affiliate of a bank holding company.

These are massive expansions of regulatory burden. They are totally unjustified based on any facts, no matter how you read them. I cannot believe that a majority of the Senators would vote to do those things.

Let me talk about what we undo if we adopt the Senator's amendment. And I want to take some time to go through this. I have not done this at great length.

I want people to understand what is the problem with CRA that we are trying to deal with in these two very modest amendments which the Banking Committee has written.

First of all, let me talk about what you can view as good news. In 1977, there was a rider to a bill that was written by Senator Proxmire that created what we today call CRA. It said that banks should lend in the communities where they collect deposits. There was no enforcement mechanism. It was simply to be used when evaluating approval for bank mergers and branches.

A Democrat Senator raised an objection to the provision, worrying about redtape and paperwork. Interestingly enough, the distinguished chairman at that time said, ''No problem. The redtape and paperwork will be nominal. No big deal.'' We have all heard it millions of times when thousands of programs have become law. There was a vote in the Banking Committee to strip out this provision. And that vote failed on a 7–7 tie.

We then had the bill come to the floor of the Senate. There was another vote. And I do not have the total here, but I think it was 41–30. We had some huge number of Members of the Senate who were absent. So the bill became law.

So here is the point I want to make. In 1977, we started out with a CRA requirement. And in that year—and these figures are all from the National Community Reinvestment Coalition—in that year there were about $50 million of CRA loans or cash payments or commitments to lend. And that number was relatively small, until 1992.

Now, what happened in 1992? Well, two things happened. One, we started having a rash of mergers, so that these very large banks and also some small banks had to get CRA approval to merge. What happened is this number started to grow very rapidly. Last year, in loans, commitments to lend, cash payments, the total was $694 billion.

Now, to put that in perspective, the loans, commitments to lend, and cash payments, and commitments to pay cash—and I am going to talk about cash payments at some great length here in a moment—totaled $694 billion last year. That is bigger than the Canadian economy. That is bigger than the combined assets of Ford, General Motors, and Chrysler. That is bigger than the discretionary budget of the Federal Government. Yet our colleagues, who will oppose these two very simple amendments, say there is no need to look at a potential reform in CRA.

CRA is now bigger than General Motors. It has grown from virtually nothing to become larger than the discretionary budget of the Federal Government, and yet our Democrat colleagues refuse to admit the possibility—or many of them do—that we might need some degree of effort to deal with abuses which would naturally occur in a program that grew in a very short time from $50 million to $694 billion.

Why do I think this is a relevant point? Well, let me give you one fact. According to the community groups, $9 billion has been paid or committed in cash. Had you gone to that committee hearing in 1977 and said to the then chairman of the Banking Committee, Senator Proxmire, ''Well, what about cash payments, what about people literally giving community groups and individuals money not to testify against their merger or not to oppose it or actually paying them to support it,'' what he would think about that? I can tell you: he would have said, ''It is not possible.''

This bill in no way contemplates that cash payments would be made, but the fact remains that as this program has exploded, $9 billion of cash payments and cash commitments have been made. This basically represents an abuse that needs to be dealt with. In fact, in the one hearing we had on this subject, the spokesman for these reinvestment coalitions admitted there were abuses. He called it ''green mail,'' and he said that it hurt the program. Most people would call it blackmail. The point is, if these abuses exist—and no one disputes they do—why shouldn't we begin to try to do something about them?

Now, let me turn to a quote, and then I will get into some of these abuses.

This is a quote from a Cornell University law professor, Jonathan Macey, who specializes in banking law and is one of the most respected lawyers in banking law in the country. Here is what he said about CRA, as it exists in 1999:

> You see really weird things when you look at the Code of Federal Regulations . . . like Federal regulators are encouraged to leave the room and allowing community groups to negotiate ex parte with bankers in a community reinvestment context . . . Giving jobs to the top five officials of these communities or shake-down groups is generally high up on the list (of demands).
>
> So what we really have is a bit of old world Sicily brought into the United States, but legitimized and given the patina of government support.

It has never been stated more clearly than that.

Now, let me give you an example, if you would give me those agreements.

Part of our problem—and this will be discussed later, and I hope people will listen to this point—part of our problem is that community groups, in negotiating with banks, in virtually every case negotiate for and insist on the confidentiality of these agreements. So one of the problems in evaluating this $9 billion is, we do not have any of the facts as to where this money goes, who it goes to, and what they do with it when they get it.

One of the amendments that Senator BENNETT or someone else will be offering later in the Senate's consideration of financial services modernization is a sunshine amendment, which says that in the future these agreements have to be made public, that they have to go to the regulator, that the regulator has to require that the information be provided, and that they be made public. The logic of that is, nothing disinfects like sunshine.

Now, it so happens that we have three of these agreements that we have obtained on the condition that we not disclose the names of the bank or community group involved. We have redacted those names. I just want to give you a flavor of what these agreements looks like, and I have pieces of three of them here.

This is Bank A: Provide blank—and this is a community group—with a grant of up to $20,000. Provide blank—another community group—with a grant of up to $50,000. Provide blank with a grant of up to $25,000 to pay reasonable and necessary ''soft costs'' to be incurred by blank. Provide blank with a grant of a reasonable amount. . . .

That is the quid; now the quo:

Blank agrees to withdraw on the date hereof the comment letter, dated blank 28, 19 blank, and any related materials collectively, the comment letter filed with the Office of the Comptroller of the Currency, the Federal Reserve Bank, and the board. I don't have the second sheet.

The point is, the community groups gets all of these cash grants and then agrees to withdraw the complaints they have filed, a classic quid pro quo.

Now, what happened to these complaints? Were they not meritorious or did the community groups suddenly no longer care about the people they were protesting against? What did all of those cash grants do that induced them to withdraw their comment?

Bank A, one more thing, blank and blank agree—this is the community group and the bank—agree not to disseminate or otherwise make available to the public copies of this agreement.

So the community group gets these cash payments and in return agrees to withdraw their protests, and then the bank and group agree that they will keep the agreement secret.

Now, let's look at Bank B: Blank will receive a fee of 2 and three-quarters percent of the face amount of each program loan made by blank. This is an agreement whereby a community activist and their community group receive a rake-off of 2.75 percent of the face value of every loan made under this agreement.

Do you think people receiving that loan know that this individual and this group will get 2.75 percent? In fact, they don't. And, as you will see later, unless we open up this process, they never will. No one will ever know what is happening. Continuing with the Bank B's agreement:

Blank will receive a fee of $200,000 as reimbursement; according to blank, $100,000 is payable upon execution and delivery and $100,000 six months later.

We have the quid, now the quo.

The community group or the individual agrees to withdraw all pending protests of blank regulatory applications and related materials and not to sponsor, either directly or indirectly, the protest or to supply information in connection with any protest relating to pending or future blank applications with regulators.

In other words, the community group is agreeing that in return for this 2.75 percent of the face value of all loans that are made, not only will they withdraw the complaint they have already filed, but they will never make another one. They will never make another one, no matter what.

At blank's request—listen to this one. Many of you wonder why you have gotten letters from banks, and I got a letter from a big North Carolina bank, might I say, and I was shocked. Then I read the letter and it, in essence, said that they are required by a CRA agreement to send me this letter saying they support CRA. I said, how is it possible that somebody could be required to send me a letter? And this is a different bank altogether and a different agreement. Here is how it happens:

In addition, the bank agrees to send letters to customers of blank previously contacted by blank—well, I will get to the point on the next sheet. And then the community group agrees to purge their files and database of all information related to this bank's customers. In other words, they get this breakoff; they get these cash payments. They agree to withdraw their objection. They will never do another objection. They are even going to destroy the computer database they used to do it.

Now I think we are getting to the thing I mentioned. The community group agrees to: immediately cease and desist all activities directed against blank; to maintain the confidentiality of this agreement, to maintain the confidentiality of this agreement and any other agreements; to cooperate with them in getting agreements with other banks. And then is the thing about sending letters. This is called ''public policy partnership.''

In this public policy partnership: blank will work with the blank to establish a clear written declaratory statement indicating support for the Community Reinvestment Act and the Home Mortgage Disclosure Act, and the party's opposition to any attempts to weaken the law. Blank will send the final copy of this statement to the blank, the American Bankers Association, the Federal Reserve Board, the Office of the Comptroller of the Currency, the blank Congressional delegation, and all Members of the House and Senate banking committees.

So when you have letters from banks telling you what great things CRA is doing, many of those were dictated by commitments they made as part of contracts, secret agreements they signed with protesters in order to get them out of the way to do their work.

Now, I could go into a hundred other examples—someone who graduates from college, goes to graduate school, and goes to work for the Federal Reserve in acquisitions and mergers, quits and goes into business, spends 4 years harassing a bank and bank presidents, and finally the bank craters and gives them $1.4 million, gives them $200,000 to set up their organization; they now have 20 offices, lending $3.5 billion, getting 2.75 percent of every penny they lend right off the top, that nobody knows about, forcing people to participate in their program and pay $50 a month for 5 years in order to get the loan, and the bank actually collects the money for them as if somehow it were part of the loan. I could go

on and on. But we are not here to debate dramatic reforms in CRA. We are only trying to do two things, and here they are; here is the concern. You have heard the number.

Only in 1 percent of the cases is a protest filed. Well, remember that in 90-some-odd percent of the cases, where somebody wants to open or close a branch, regulators generally get no comments. Where the protests come are in the big mergers, and in some of the smaller ones that get contentious. But what happens more often than not is that rather than filing a protest, the protest group simply goes to the bank and says: I am going to file a protest and I am going to say—to quote one of the protesters in what they said about a bank in New England—I am going to say, A, you are a racist; and, B, you are a loan shark. That is my charge. I am going to make that charge, and you can either reach an agreement with me, or I am going to do that.

Now, here is the problem, and I don't think it is that hard to visualize. You have a bank and it has agreed to merge with another bank. And people don't know whether the merger is going to be approved or whether it is good or bad for the bank. So during that period, the stocks of these two banks are just fluttering. The bank literally has hundreds of millions—and sometimes billions with these big bank mergers—at risk. So it doesn't take a lot of imagination to see that when a protester shows up and says, ''Look, I am going to go to the Comptroller of the Currency and tell him you are a racist and that you are a loan shark; I am going to file a complaint and I am going to hold up this merger,'' the bank is under immense pressure to act as quickly as possible. What is happening in America today is that banks that are risking hundreds of millions, or billions, of dollars are settling these threats with secret agreements that the public knows nothing about, and they are often paying thousands, or hundreds of thousands, of dollars in cash payments.

Now, who ever said CRA had anything to do with cash? Yet, according to the CRA groups, $9 billion of cash payments have been made under CRA. I would like to ban cash payments, quite frankly. I don't think they are what CRA is about. I don't think some protester getting a rake-off of interest or getting a cash payment is what community lending is about. I think it is wrong, but I don't have the votes to do it and I didn't try to do it.

So, here are the two modest changes in our bill. Number 1, consider a bank that has been consistently in compliance with CRA. In fact, in its last 3 evaluations it has consistently been in compliance and is in compliance now. What do we require that Senator SARBANES and others so strenuously object to? We require that if a bank has historically been in compliance, if it has been evaluated for meeting its community lending requirements by its Federal regulator three times in a row and was found to be in compliance, and if it is currently in compliance, then somebody can still protest. They can call the bank all the nasty names they want to call them. In fact, the regulator is required to hold a hearing if they provide any complaint just saying ''I oppose it.'' There is a hearing.

None of that has changed. Anybody can say whatever they want to say. All our amendment says, however, is that before you can stop the action from going forward in the normal timeframe, the objector has to present substantial evidence. In other words, a bank that is historically in compliance, and is in compliance now, is deemed to still be innocent until proven guilty. And a protester can protest all they want to. But the regulator can't stop or delay the process unless some substantial evidence is presented.

Now, I know we have some distinguished attorneys here, and I am not going to get into any kind of legal debate with distinguished attorneys. Number 1, I object to duels between armed and unarmed men, especially when I am the unarmed man. Every once in a while, I have mercy on other types of issues where I am armed and others are not. I don't shoot down unarmed men.

But I want to remind those who aren't legal experts that ''substantial evidence'' is not a trivial phrase. It was chosen because it is not trivial. It is referred to 900 times in the United States Code. There have been over 400 instances in case law where the term ''substantial evidence'' has been defined. Let me give you some definitions that came from the Supreme Court, and they are important because they give examples of the evidence that is required to be submitted by a protester in order to stop a bank from doing something that they are qualified to do based on their record.

In other words, what do you have to have in order to say, ''This person is not meeting the requirement of law and I want him stopped''? Knowing that it may cost them hundreds of millions of dollars, even billions of dollars, what is the standard you have to meet? What does ''substantial evidence'' mean?

Here is what it means. Here are four definitions from Supreme Court rulings. ''Substantial evidence'' is understood to mean:

No. 1, ''more than a mere scintilla.'' More than a mere scintilla.

No. 2, ''such relevant evidence as a reasonable mind might accept as adequate to support a claim.''

Not that they have to accept it. Notice that the Court said that substantial evidence is ''such relevant evidence as a reasonable mind might accept.'' They might not accept it. But they might accept it as adequate to support a claim.

No. 3, ''real, material, not seeming imaginary.''

And, finally, ''considerable in amount, value and worth.''

I fail to understand why there is an objection when a protester wants to come into a bank which has been in compliance with the lending laws of this country for three evaluations in a row and is currently in compliance, why anyone would object to saying that in order to stop the bank from exercising the right they have earned, the protester has to provide some evidence. I cannot understand why anybody would object to that. Why is it important?

I have spent a lot of time talking about why it is reasonable. But why is it important?

It is important because it eliminates the worst abuses where someone comes in, they have no evidence, they have no facts, there is no abuse. They simply say, ''I will go away if you can give me some money.'' In this case, if they can't provide substantial evidence, they can't stop the process. But it doesn't prevent the regulator from saying, ''You have to do a new CRA review.''

Our colleague talked about what regulators could do. Nothing in our amendment would prevent the regulator from saying, ''Every time you want to merge, we have to have a new CRA evaluation.'' We don't stop that. All we are trying to do is to require some substance—and require someone to have the evidence—before they can stop the application process and cost taxpayers and investors hundreds of millions of dollars.

It is a strange thing to say in America. But I am going to say it, because I believe it. I will never forget when the American Airline pilots were getting ready to go on strike. I met with some Members of Congress to talk about what Congress could do because of the disruption that might be caused by the strike. I finally said, ''Look. You know, it is no secret that most unions do not love me, but I believe in freedom. And people have a right to strike, if they want to strike. And I am not voting for a bill that prevents them from striking.'' One Member of Congress, who will go unnamed, said, ''Well, wait a minute. These pilots make $150,000 a year. I am not worried about their rights.''

Let me tell you why that is relevant. One of the reasons this is so hard to discuss is that everybody has the idea that these bankers are rich. So we are not worried about their rights.

When do our rights end based on how much money we have? I can understand and I accept that you ought not have more rights because you have more money, but you ought not have less.

The idea that we would let someone or some group impose hundreds of millions of dollars of costs on other citizens, many of whom are stockholders—my teacher retirement fund, I am sure, is invested in some financial institution, or in a thrift. I don't know, because I don't keep up with what they are invested in. But every teacher in America is invested in stocks of some of these companies.

How is it right to let somebody literally deprive them of millions of dollars without providing any evidence?

So that is the substance of the first committee provision. I don't know why it requires so much discussion, but it does. I don't mind discussing it, though, because it is something that I feel strongly about.

This is about abuse. This is about a wrong that is going on in America today, right now. The fact that there are many success stories in CRA, the fact that there are probably wonderful people in almost every circumstance, does not justify looking the other way at the kind of abuses that are occurring. We are not trying to fix them here.

We are going to have a lot of hearings this summer. We are going to bring a lot of people in and put them under oath. We are going to have a major GAO study. We are going to look at this thing in great detail.

We are just trying to deal with two little commonsense things that ought to be done in the bill. I talked about the first. What is the second?

The second committee provision exempts little banks in rural areas from CRA. Why? Because the regulatory burden on these very small banks in very rural areas is oppressive.

First of all, these are banks that are not in standard metropolitan areas. They are by and large serving areas that do not have a city, much less an inner city to serve. So making them comply with these laws that are really aimed at inner-city lending makes absolutely no sense.

Why is this provision important? Because these banks—as documented in the letters they have written to us—are spending $60,000 to $80,000 a year complying with CRA.

I have used the figure before, but it fits here, and I want to use it again. Since 1990, there have been 16,380 CRA examinations of these little banks in rural areas, and only three of them have been found to be substantially noncompliant. But even though three bad actors have been found, $1.3 billion in compliance costs has been imposed on these little banks that have only between 6 and 10 employees. It is a very heavy regulatory burden.

Let me read just a couple of letters from the banks that are affected. Our colleague from Illinois was here. I am sorry he left. We probably have more letters from Illinois than any other State. But he won't get to hear it. But I am going read three of his letters, and then the others.

This is a letter from Franklin Bank in Franklin, IL. I don't know how big the bank is, but it is small. Their building looks like a house. Here is what he says:

> Were it not for the time-consuming paperwork involved, we in small banks in rural America would find CRA laughable. Our community is our business. We wrote this book long before the government did. Offering us exemption from the requirements of the Community Reinvestment Act would not change the way we do business, but it would relieve us of the mounting paperwork from this examination for one day every other year.

In other words, relief by exempting them—they don't change their business. They are just not going to have the examination to do and the paperwork and cost of about $80,000 involved in it.

This is from Security Bank of Hamilton, IL:

> Our experience is that regulators struggle to fill out their questionnaires when we are being examined as most sections do not apply. Then we really have to stretch to imagine our community of 3,000 having the same problem as Chicago or Los Angeles as none of the demographic stratifications fit.

This is the First National Bank of Nokomis, IL. It doesn't say how big they are:

> I truly believe we could free up one-half to one employee in our banking operation to put in positive service thereby expanding our service to the community we serve.

That is what they believe they could do if we could reduce the regulatory burden on them.

They don't say in their letter, but my guess is they don't have even 10 employees. So when they are talking about freeing up one half of one employee, they are talking about a tremendous reduction in their cost and their regulatory burden.

Let me read a couple of other letters. This is from the Cattle National Bank in Seward, NE:

> Since the origination of public disclosure of CRA examinations, we have not had one person from our community ever request the information.

I remind Members that CRA went into effect in 1977 and public disclosure went into effect about a decade after that.

So for about 12 years nobody in this little community has ever raised a CRA question. The only people who have raised those questions are bank consultants.

The next bank is Copiah Bank from Crystal Springs, MS:

> Our compliance officer, Gerry Broome, and his assistant have spent many research hours and reams of paper in their efforts to comply with mandated requirement's paper work. We have even had to outsource some of its checkpoints to a compliance consultant from time to time.
>
> * * * * *
>
> As an $83 million community bank, we feel an obligation to help you in your efforts toward easing our paper work burden.

Lakeside State Bank, New Town, ND:

> As a former bank examiner for the Federal Deposit Insurance Corporation, which included consumer compliance experience, and as a banker for over 15 years I believe I have a good understanding of the intent and the workings of the CRA.
>
> * * * * *
>
> Over the 47 years of our existence we have provided financing to virtually every main street business in our town, our customer base includes approximately 80 percent of the area farmers and for the last several years over 50 percent of our loans have been to American Indians.
>
> The law [he means the CRA law] is a heavy burden because of the expansiveness of the regulations and the paper requirements of compliance. We spend hours documenting what we have already done, rather than spending that time more efficiently by doing more for our community.

The Farmers and Merchant Bank of Arnett, OK:

> I am the CEO as well as the chief loan officer, compliance officer and CRA officer. I have to wear so many hats because we are small and have a staff of only 7 including myself. CRA compliance, done correctly, takes a lot of time, which takes me away from my primary responsibility of loaning money to my community. It has almost gotten to the point that lending is a secondary function. It seems like we have the choice of lending to our community or writing up CRA plans showing how we would loan to the community if we had time to make loans.
>
> * * * * *
>
> Large banks can hire full time CRA officers and other compliance personnel to administer CRA programs but, small banks cannot. . . .

Redlands Centennial Bank:

> We spent approximately $80 thousand of our shareholders' money last year supporting this ill-defined regulation. Even the regulators who examined us were hard pressed to give us specific definition on how we might better implement this regulation.
>
> * * * * *
>
> I am urging you to get rid of the nonsensical CRA yoke. Keep up the fight because there are a lot of us out here who are too busy balancing, making a living with government regulation in this crazy business.

Chemical Bank North is a bank of $74 million in Grayling, MI:

> As it is, we must devote disproportionate resources to creating and maintaining the ''paper trail'' that the current CRA regulations require. Our board members must attend time consuming CRA Committee meetings and our officers and staff members spend significant valuable time preparing reports and keeping records that serve no purpose other than to keep us in compliance with a regulation that attempts to enforce from a regulatory standpoint what we do everyday in the normal course of our business. . . . I would estimate that we devote the equivalent of a full time employee to all aspects of CRA compliance.

The First National Bank of Wamego, KS—I mispronounced Wamego yesterday; the Presiding Officer was from Kansas and I appreciate him correcting me. This is a $65 million bank, which means this bank probably has five or six employees.

> Our bank was listed two years in a row as the ''best'' bank in Kansas to obtain loans for small businesses. . . . [This bank also was rated outstanding on CRA.]
>
> * * * * *
>
> [O]ur outstanding grade did not make us a better bank. The CRA did not make us make loans we wouldn't have made. The CRA did take a lot of employees' time to document that we were an outstanding bank.

This is from Nebraska National in Kearney, NE. This is a very small bank. In fact, I think this might be one of the smallest banks in America that was not a recent start. This bank has $34 million in assets, so we are talking about probably four or five employees working in this bank:

We do not make foreign loans, we don't speculate in derivatives, and we don't siphon deposits from this area to fund loans elsewhere. Instead, like virtually all the banks under $250 million in assets we provide home loans, business loans, farm loans, and construction loans. We don't do this because of the Community Reinvestment Act but because it makes good business sense. . . . I bitterly resent every minute of my time and that of my staff spent to comply with this regulation because it takes time away from productive duties.

I feel the regulation is now being used by consumer activist groups to ''shakedown'' banks seeking regulatory approval for expansion or merger.

Finally, from American State Bank, an independent bank, from Portland, OR:

As one of the oldest and most strongly capitalized African American-owned banks west of the Mississippi River, Portland-based American State Bank supports your position on CRA exemption for non-metropolitan banks.

We also urge you to explore exempting from CRA requirements minority-owned commercial banks. . . . Today, minority-owned banks still maintain their focus on serving our nation's minority communities and their citizens. It is redundant, at best, to impose CRA requirements on banks whose sole purpose is to serve minority citizens. At worst, it compels minority banks to sustain burdensome expenses and administrative costs and subjects banks to a bureaucracy largely unaware of the realities of the inner-city marketplace.

I have covered a lot of territory. Let me sum up with the following points. The Bryan amendment before us has two parts. It does a whole bunch of bad things, and it undoes two little good things. What are the whole bunch of bad things it does? It is the largest expansion in the regulatory burden of CRA in American history; it would expand CRA to noninsured institutions, violating the very logic of CRA, which is, banks get deposit insurance that is partly subsidized by the Government, so it is reasonable for the Government to force them to do things that have a community benefit.

The proposed substitute would expand CRA to institutions that are not insured. It would expand CRA approval as being necessary to sell insurance and securities in a bank, something that is not required today and it is occurring every day today without CRA approval.

The proposed amendment would impose a potential fine of $1-million-a-day on bank officers and bank board members without any evidence whatsoever that abuses occur. In fact, as I pointed out over and over again, with small banks in rural areas having 16,380 examinations at a cost of about $80,000 in annual compliance, where the banks had to pay $1.3 billion to comply with all this regulation, all this paperwork—all of these evaluations, 16,380 of them, found only three banks that were substantially out of compliance. So, the regulatory overkill already exists. Why you would want to come in and subject small banks and large banks, and their officers and board members, to a million-dollar-a-day for if their institution fell out of compliance with CRA, I cannot understand. In fact, I have never heard an explanation for this draconian change in law.

I read earlier, and I will not read again, letters from the American Bankers Association and the Independent Bankers Association saying how the pending amendment will make it virtually impossible for them to get quality people who will serve on bank boards. They also talk about the cost of liability insurance, which will explode if you are going to impose these new potential penalties on banks, their officers and directors, all in the name of abuses that apparently exist at the extreme level in .03 percent of all CRA examinations.

Those are all the bad things the substitute does. What are the good things that it undoes? Is that a word, ''undoes''? I guess so. To try to curb some of the abuses—and the abuses are very similar to the strike lawsuit that we dealt with 2 years ago, and again last year.

The abuse basically occurs during the critical moment when a bank is trying to merge with another bank or sell or engage in some new activity: it's at that moment the bank has a lot at stake and is most vulnerable. Under current law, any protester can come in and threaten to hold the whole thing up. This creates immense pressure on the bank to settle with that protester and either commit some bank action or pay the protester cash in return for not filing a protest.

A lot of rhetoric has been used on this, and I am being redundant because when other people say something wrong, you have to say it right twice to get people to get it straight. Our amendment does not prevent people from protesting. They can protest. Our amendment does not prevent people from filing complaints. They can file complaints whether they have any facts or whether not. Our amendment does not prevent the regulator from holding a hearing. Under current law, the regulator has to hold a hearing if somebody complains. We do not change that. Our amendment does not prevent the regulator from forcing an entirely new CRA evaluation.

All our amendment says is: If you have a bank that has been in compliance with CRA over a 3-year period, and if they are currently in compliance, a protester can still file a protest, but in order to stop the bank's application from going forward, the protester has to provide substantial evidence.

Then I went through and read from Supreme Court cases, how you define ''substantial evidence''—more than a scintilla; enough that a reasonable person might believe that what you are saying is true. Those are not high standards.

Why anybody would want to let protesters potentially impose hundreds of thousands of dollars or millions of dollars in losses on a bank and their stockholders, many of whom are members of teacher retirement programs and other broad investment groups, without providing any evidence whatsoever to back up their claim, I don't know. But that is the debate we are having.

So, that is what the amendment does and does not do. It is not a safe harbor. It is not a safe harbor. It is not a safe harbor. The Secretary of the Treasury came up with the use of that term and now all critics use it, even though it is verifiably false. This is a rebuttable presumption. Stated another way, if a bank has a good record of compliance and it is deemed by the regulator to be in compliance, it is innocent until proven guilty. You have to present some facts to substantiate your claim if you are going to stop it from going forward. You don't have to have any facts to state your opinion. You don't have to have any facts to declare that there ought to be a hearing. You don't have to have any facts to protest. But before the regulator can stop it, you have to present some facts.

The final provision that would be undone here is the eminently reasonable exemption of very, very small, very, very rural banks that on average have a regulatory burden of about $80,000 a year in complying with CRA, even though in the last 9 years, with 16,380 examinations of these small, rural banks, only three have been deemed to be substantially out of compliance with CRA.

If you were from a small town like I am, or you represented a State that had a lot of little bitty towns and a few little bitty banks left and you went to those banks, you would discover why only .03 percent have been found out of compliance in 9 years. If you are from a small town and you have a bank with four or five employees, your bank ends up lending to everybody in town because they have nobody else to lend to. That is basically what the debate is about.

I wish every person could, in some simple form, get all these facts. But it takes time to debate them, and I am grateful to have the opportunity. I am sure we will get some more opportunity today. But I thank my colleagues for their patience, and I yield the floor.

The PRESIDING OFFICER (Mr. CRAPO). The Senator from Indiana.

Mr. BAYH. Mr. President, I rise in strong support of the Bryan amendment, which contains, in my opinion, a balanced approach to the Community Reinvestment Act as well as a bipartisan spirit enjoyed in the last session of Congress.

I also want to say, to my colleague from the State of Texas, how much I respect his expertise in this area as well as his dedication to this cause. But I must also respectfully disagree and say to all those who are concerned about this issue that if there are problems with this amendment, in terms of

the fines that can be imposed or other details, let's correct them. If, in the past, overly zealous advocates have used CRA as an excuse for extortion, then let's prosecute them. If there are other problems, let's correct them.

Let's throw out the bathwater, not the baby. At the dawn of the 21st century, let us not turn back the clock and deny to thousands of Americans, because of the color of their skin, because of their race, because of their income, the right to access one of the basic tools for empowerment and progress, and that is credit and the ability to start a business or build a home. We cannot return to those days.

I should also say I am somewhat disappointed that we have arrived at this impasse, because this is important legislation. It is my great hope we will ultimately get it enacted, because it is important to the financial services industry, insurance, banking, as well as other industries that need access to credit and to consumers across our country. This should not be a partisan debate. In fact, in the very recent past, it has been nonpartisan or even bipartisan. Unfortunately, it has become an issue that has broken down more and more along party lines.

I especially regret this has happened in large part because of efforts to curtail and restrict the Community Reinvestment Act, which the vast majority of evidence has suggested works well, has served the American people well in the past, and I believe is critical to equal opportunity for all Americans as we advance to a new century and a new millennium.

We are increasingly relying upon the use of market forces to create opportunity. We are asking the American people to be self-sufficient, to save, to work hard, to be personally responsible, and I support those trends. At the same time, we need to ensure that the market system works for all Americans and that every American, regardless of whether that person happens to come from the right side of the tracks or the wrong side of the tracks, be he or she Hispanic, African American, Native American or any other race, creed or religion in this society, that they have access to those tools in the marketplace that will allow them to be self-sufficient, to build a better way of life for themselves and their families.

It is important that we pass this law, as I mentioned. It is one of the areas in which we are internationally competitive. It is important that we pass legislation that will allow our financial services industry to provide comprehensive services to their customers and to compete with our foreign competitors.

It is important that consumers be allowed to have access to these services on a coordinated basis, on a one-stop shopping basis. It is better for consumers as well. It means jobs for your State and my State and the rest of the 48 States across the United States of America, not just in insurance, which is important to the State of Indiana, or investment banking or in securities or on the part of insurance company employees, agents, and brokers across this country. It means jobs for small businesses and industries in the State of Indiana and elsewhere that need access to low-cost credit, so that they can invest, be more competitive, more productive and create good-paying jobs across our country. This is an issue not just for Wall Street, but for Main Street and for all of our streets across this country.

Unfortunately, there has been increasing partisanship. I think that is very, very important. Just last year this measure passed out of the Senate Banking Committee on a 16-to-2 vote. This year, unfortunately, it broke down exactly along party lines, 11 to 9.

Earlier this year, this provision, very similar to the amendment I am supporting today, passed out of the House of Representatives Banking Committee 52 to 8, with the vast majority of Republicans and Democrats supporting a continuation of a vital CRA and equal financial opportunity for all Americans.

The administration strongly supports this point of view. It is important to note that there is virtually no significant opposition from industry groups. I find it to be somewhat ironic that in the past, members of my own party have been accused of favoring legislation that would unduly hamstring business for ideological reasons. Today, the shoe seems to be on the other foot.

Let me be very clear what this dispute that has brought us to this impasse is not about. It is not about the organization under which future banking, insurance and security services will be offered. This is not really a dispute about operating subsidiaries versus the affiliates and holding companies, although there is a very serious dispute between the Secretary of the Treasury and the Chairman of the Federal Reserve on this issue. I am convinced that this can be resolved if we are given a chance.

Our dispute in this impasse is really not about the unitary thrift and whether commercial entities should be allowed to get involved in the financial services sector. That is a legitimate issue and a concern that I am convinced that, too, can be resolved if we can only deal with the issue currently before us. No, Mr. President, the dispute that has brought us to this point involves the Community Reinvestment Act.

I say to my colleagues and those listening and watching us at home that the Community Reinvestment Act has been good for America and good for Americans. It is working. Between 1993 and 1997—4 years—loans in low- and middle-income areas across our country for mortgages and building homes increased 45 percent, 45 percent in just 4 years; up 72 percent for African Americans; up 45 percent for Hispanic Americans; up 30 percent for Native Americans.

In the same period of time, actually just last year alone, there were 525,000 loans to small business men and women in low- and moderate-income areas, with total capital investments of $34 billion.

The Community Reinvestment Act has proven to be a boom for the American dream: families wishing to invest in home ownership, entrepreneurs wishing to start small businesses, Americans of every race, creed and religion wanting to participate in the American dream of a better way of life for themselves and for their loved ones.

The Community Reinvestment Act has worked in my own home State of Indiana. I won't go through all the cases here. From Gary, East Chicago, Indianapolis, South Bend, Lafayette, Bloomington, from the north to the south, from the east to the west, in communities large and small across my State, more Hoosiers have opportunities to make investments, make a decent income through a good job, buy a home, or start a small business. It has been good for our country. It has been good for my State.

Mr. President, I have a letter with me today that I think my colleagues will find to be of some interest. It was sent to me 2 days ago. It happens to be from the mayor of the city of Fort Wayne. The reason this may be of interest is that Fort Wayne is the second largest city in the State of Indiana. More than that, Paul Helmke, the mayor of Fort Wayne, happened to be my opponent in the race for the Senate last year.

Paul Helmke is a card-carrying member of the Republican Party. He also believes in opportunities for the citizens of Fort Wayne, business investment expansion, and home ownership. The mayor of Fort Wayne, my opponent in the election last year, has written me asking me to support a vigorous and vital Community Reinvestment Act.

I read from his correspondence:

> . . . In Fort Wayne, banks have fulfilled their CRA requirements in creative and meaningful ways that have allowed us to leverage their resources with public and other private influences to help in our urban revitalization efforts.
>
> . . . Perhaps the banking community would continue to see their investment in urban renewal as beneficial without the CRA requirements. But I do not think that it is wise to tempt fate.

Mr. President, neither do I. Involved mayors, like Mayor Helmke, who was the head of the mayors association last year, and I believe concerned Senators should rise to vote in favor of a vital and continually vigorous Community Reinvestment Act. On April 22 of this year, the Los Angeles Times wrote:

> Before Congress voted to establish the CRA in 1977, many banks wrote off entire areas, refusing to lend to anyone who lived behind the red line.

The unfortunate truth is that while the vast majority of bankers across our country are involved and caring and doing a good job, both before and afterwards, too often there were bankers

who were willing to accept deposits from some parts of our communities and not make loans to those very same parts of our communities. That is what CRA has established. It is a very strong track record of change.

Unfortunately, the bill, as unamended, before us poses a serious threat to the continuation of this progress we have seen across this country and in my State. My understanding is it would make 97 percent of all banks presumptively exempt from the requirements of CRA, 38 percent entirely exempt from the provisions of CRA, and would exclude the whole new areas banks hope to get into, entirely exempt, new users entirely exempt from the provisions of CRA. Mr. President, now is not the time to turn back the clock.

I will summarize before yielding the floor. Access to credit today is as important an opportunity for Americans of every walk of life as rural electrification was in the 1930s. Access to credit today is as important to the future well-being of all of our citizens as universal service to telephones was in the fifties and the sixties.

That is why I believe very strongly, as we ask Americans to be more responsible, to take charge of their own lives, as we encourage them to start homes and build businesses and to build for the future, we must give them the tools within the market economy to get the job done. That means equal access to credit as we approach the new millennium, not just to the few, not just to the powerful, but to Americans of every race, ethnicity, and those of even modest means. That, Mr. President, is why I rise in support of the Bryan amendment and urge my colleagues to vote in the affirmative for it.

Thank you. I yield the floor.

Mr. EDWARDS. Would the Senator from Indiana yield for a question?

Mr. BAYH. I would be glad to yield to my colleague from North Carolina.

Mr. EDWARDS. Thank you.

I am wondering, Senator BAYH, if you have had the same experience I have had. That is, I come from a State with many banks, including some of the largest banks in America, Bank of America being one. And having had many conversations with representatives of banks that are headquartered in my State, what I hear from them is, in fact, they enjoy participating in the Community Reinvestment Act. They take great pride in the work they do in the communities where they are located. They have absolutely no opposition to the Community Reinvestment Act and, in fact, do not oppose the Community Reinvestment Act provisions of the Democratic substitute offered by Senator SARBANES.

I am just curious whether the banks in your State of Indiana have had the same kind of reaction.

Mr. BAYH. I say to the Senator, I appreciate your question. As a matter of fact, one of the things that has been most impressive about this issue has been the uniformity of opinion among our banks in my State, large and small. They find that CRA has not been a significant impediment to their doing business, and really the industry groups are not in opposition at all. As a matter of fact, they support the intent behind this very, very important provision.

So we have a situation here where many of our community groups, including our mayors—as a matter of fact, I should mention for the RECORD I spoke to the mayor or Gary last night, as well, who believes very strongly that a city like Gary, which has been struggling to get back on its feet, needs this provision.

The banks are not opposed and, in fact, find it to be a very positive element.

Mr. EDWARDS. That is exactly the response I have had. I thank the Senator.

Mr. President, I seek recognition at this time.

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

Mr. DODD. Will the Senator from North Carolina yield?

Mr. EDWARDS. Absolutely.

Mr. DODD. I want to say to my colleague from Indiana, before he leaves the floor, that was an excellent set of remarks. I think it points out the importance of this issue. I was particularly taken by the comments of your mayor of—which city was that, I ask?

Mr. BAYH. Fort Wayne.

Mr. DODD. Fort Wayne. This was your former opponent, I think, that my colleague pointed out. And I just say to my colleague, again, I have had a similar reaction from my mayors across my State. I know others have.

We have a tendency to think of these issues in terms of just what the banking community wants. And that is an important consideration for us, as we certainly deal with financial institutions. But I think—and I would ask my colleague from Indiana whether or not he would agree with this—that, in addition to the banking community, we bear a special responsibility, as Members of the Senate, to also consider what occurs to the customers' financial services.

I think sometimes that constituency is given a back seat when it comes to considering the implications of decisions we make. It is the farmer in Wyoming; it is the small businessperson in Connecticut; it is the consumer in Indiana; it is the minority business in North Carolina—all of us have consumers out here who use these financial institutions.

I commend my colleague from Indiana for a very thoughtful set of remarks, pointing out that side of the equation, the consumer side, the user side, the business side of our financial services, and I commend him again for his remarks.

Mrs. BOXER. Before the Senator yields, I wonder if I could pose a question for 20 seconds.

Mr. EDWARDS. Of course.

Mrs. BOXER. Thank you. I also want to thank my colleague for his remarks. I wonder if he was aware of the comments made —and this gets to the Senator from North Carolina—by the President of Bank of America about this program. If not, I would like to put them in the RECORD. If he answered that question——

Mr. ENZI addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I believe the Senator from North Carolina has the floor. The question was being directed to the Senator from Indiana.

The PRESIDING OFFICER. The Senator from North Carolina does have the floor and may only yield for a question.

Mrs. BOXER. I would be happy to direct this to the Senator from North Carolina.

Mr. EDWARDS. Yes, absolutely. I am aware, I say to Senator BOXER, of the comment by Hugh McColl, who is head of Bank of America. I think I can quote him exactly.

Mrs. BOXER. I would like you to do that right now in the RECORD, because it is a very telling comment.

Mr. EDWARDS. I think it is, too. He says, ''My company supports the Community Reinvestment Act both in spirit and in fact. We have gone way beyond its requirements. We have had fun doing it. And we have made a business out of it.''

Now, here is the head of the largest, or one of the largest, banks in the country, headquartered in my home State. I happen to know that Mr. McColl has, in fact, strongly supported the Community Reinvestment Act. His bank has gone above and beyond the call of duty in that respect.

Mrs. BOXER. One more question before I yield to my friend.

I find it very interesting that Senators would get up and attack this program as if it were some kind of a giveaway program. These bank presidents have told us that these loans are very profitable. As a matter of fact, I wonder if the Senator is aware, at least in California—and now we do have a tie in because, as you know, Mr. McColl, although headquartered in your fair State, does a lot of business in my fair State—they have told us that they are doing very well with their CRA ratings. As a matter of fact, they are telling us—and I want to know if the Senator was aware of this—that their portfolio of CRA loans—these are loans that never used to be made in the old days—are just as profitable, that portfolio, as their other loans. Is my friend aware of that?

Mr. EDWARDS. Yes, I say to Senator BOXER, I am aware of that, and that is what I have been told consistently by the banks located in North Carolina.

Mrs. BOXER. I thank my friend, and also my friend from Indiana, because I think the notion that somehow, if you are for CRA, you are for doing something with social value and yet interfering with business is simply not true.

These loans are profitable loans. They are good for the community. It goes back to the old adage: ''If you do good, you do good things, you will do well.''

I hope we will stand together in favor of this program that does good things for people and does well for the banks.

I yield back to my friend.

Mr. EDWARDS. Thank you, I say to Senator BOXER.

I will add to what she just said: When you do good things and have the impact that the Community Reinvestment Act has had, it does not just inure to the benefit of the people who are directly affected, it inures to the benefit of all of us.

Mrs. BOXER. Absolutely.

Mr. EDWARDS. I want to address that in just a moment. I want to say, first, in relation to the remarks of my friend, the Senator from Indiana, who has become a very close friend and colleague of mine during our tenure—we came to the Senate together—that I am proud of what he had to say. I completely agree with everything he had to say, and his remarks particularly about turning back the clock on this very, very important piece of legislation ring true with me and I think ring true with most Americans.

Mr. President, if I may, there is a really critical thing I want Americans, who are listening to this debate, to understand. This is not some obscure piece of banking legislation that has nothing to do with their lives.

It is really important for Americans to understand that this bill—I refer now to Senator GRAMM's bill—that this bill will have, or has the potential to have, a dramatic effect on the lives of every American, not just the poor, not just minorities, not just the elderly, not just those who run a small business or want to get into the family farming business, and not just those people who are directly impacted by the Community Reinvestment Act.

This bill has the potential to affect every single one of us, every single American. And here is why. Because it weakens the Community Reinvestment Act. Because of CRA, we provide low-income housing, we provide single-family housing, we give families a place to live, we give small businessmen and women, minority and otherwise, a chance to engage in entrepreneurship, to open their own business. We give the people the opportunity, in my home State of North Carolina, to start a small farm, and expand that farm.

Every time we provide these kinds of economic opportunities to people, every time we give families, core families, a chance to live together, to stay together, and not be spread out, we do a number of things: No. 1, we reduce crime; No. 2, we create pride, an extraordinary amount of self-esteem that may not have existed before; and we give people an opportunity to do something they otherwise might not be able to do—own their own home or open their own business.

I speak to every American when I say, crime, core family values, the fact that the folks who benefit directly from the Community Reinvestment Act are folks that we may otherwise, as a Government, have to support, these are things that affect every American. This bill is not some obscure banking bill that has nothing to do with people's lives. The Community Reivestment Act has a dramatic effect and has had a dramatic effect on every single American. I think it is critically important for people to understand that.

I think it is also important for them to understand what exactly Senator GRAMM's bill does to the existence of the Community Reinvestment Act. I have heard the bill described by him and others as being ''Community Reinvestment Act neutral,'' as to the overall purposes of this legislation.

I might add parenthetically that I strongly support the idea that banks ought to be able to expand services and affiliate with other financial institutions. They ought to be able to sell insurance. They ought to be able to sell securities. It is good for banks. We have a lot of banks in my State that need to do this and want to do it and, I think, ought to be able to do it. It is also good for consumers because it creates competition, and it is a good thing for consumers to have access to these services when they go to their banks. I strongly support those opportunities.

Here is the problem. Under existing law, when a bank seeks to expand, either by merger or by opening a branch, then its CRA rating is one of the things that is taken into consideration. Under the provision that is proposed by Senator GRAMM, when a bank seeks to expand services by affiliating with a company that sells insurance, by affiliating with a company that sells securities, CRA, or the Community Reinvestment Act, plays no role whatsoever.

Let me say this in the simplest terms. A bank with a completely unsatisfactory Community Reinvestment Act rating that has been determined by regulators to not be complying with the law, to not be doing what it should be doing with respect to investing in its community, I am talking about a totally noncompliant bank, that factor cannot even be taken into consideration in determining whether that bank should be allowed to sell insurance and whether it should be allowed to sell securities.

This bill, Senator GRAMM's bill, is not CRA neutral for one simple reason. We are, by virtue of this law, expanding what banks can do, allowing them to sell insurance, allowing them to sell securities. If we don't take CRA, which presently applies to applications for branching and mergers, and apply it as a precondition for these new services they are going to engage in, then we have withdrawn from CRA. We will have cut the underpinnings from CRA. It is something we shouldn't do—it is fundamental—we shouldn't do. CRA compliance ought to be a consideration when banks seek to engage in the expanded services permitted under this bill in exactly the same way, in exactly the same fashion that it presently applies to their attempts to merge with other banks or to their attempts to open other branches.

Now, I want to show a couple of examples with the indulgence of my colleagues.

I want to show a couple examples of what the Community Reinvestment Act has done in North Carolina. I show now a photograph of a neighborhood, an economically disadvantaged neighborhood, a minority neighborhood in Durham, NC. This is a house that existed in that neighborhood.

As a result of the Community Reinvestment Act, and as a result of a bank partnering with local community groups, this house that we have just taken a look at was turned into this house.

If I could hold up the first photo just a minute, this was a crime-ridden, drug-infested community. As a result of the Community Reinvestment Act, we went from this to this—a place that the people who occupy this home are proud of; a low-income family was able to reside there. They take pride in their community. And as Reverend Brooks, who was part of this effort, said:

> Before, there were drug dealers sitting on this corner. Now, we have homeowners hoping to be in these houses.

The Community Reinvestment Act. It changes communities. It changes families. It changes people's lives. It also changes the financial obligations that the rest of us, as Americans, have to support opportunities for people who want to support themselves. They just need a chance. What the Community Reinvestment Act does is, it gives those folks a chance.

I want to show one last photo. We have seen one house. This is a neighborhood. This is located in Durham, NC. This is a neighborhood that, again, has gone from a high-crime, drug-dealers-on-the-street-corner neighborhood to a model community. Can you imagine the difference between the way a family feels when they live in a community where right outside their doorstep people are selling drugs and all the houses are in terrible shape versus how they feel when they find themselves in a community that looks like this? Now they take pride in their community. The children growing up in this community take pride in where they live. It gives them a sense of self-esteem. It allows them an opportunity to have pride in themselves and their family that they otherwise might not have.

Now, there are some simple facts that I will speak to briefly that have emerged from the progress of the Community Reinvestment Act during the time it has been in place. If I could have the appropriate chart, please.

First of all, just since 1993, the private sector lending in low- and moderate-income areas, which is what we have been concerned with, has risen.

From 1993, I guess this is the number of loans, 185,014 to 268,463 in 1997. Over a period of 4 years, there is an increase of 45 percent, almost a 50-percent increase in just 4 years, as a result of the Community Reinvestment Act.

The argument is made that—and we have heard a lot of it from Senator GRAMM over the course of the last 45 minutes to an hour—that the Community Reinvestment Act places an enormous regulatory burden on banks, unfairly so.

Well, I think, unfortunately, with all due respect to Senator GRAMM, the facts do not bear that argument out. What we find is that among CRA-covered institutions, when they make an application, for example, when a bank decides they are going to merge with another bank, when a bank decides they are going to expand and open a branch, and therefore they file a CRA application, 99 percent of those applications are never even challenged by community groups. So we start with a base of 99 percent where there is no challenge whatsoever. I would love the comments of Senator SARBANES on this in a moment, if he will. It is my understanding that the banks are not required to keep additional information as a result of this expansion of services. In fact, I think they use exactly the same base data that they kept previously. Is that correct, Senator SARBANES?

Mr. SARBANES. I say to the Senator, that is correct. Senator BRYAN spoke to that earlier, about the effort that was made in the mid-1990s to ease the regulatory burden on the banks.

Mr. EDWARDS. That is my understanding.

So we start with this basic idea that 99 percent of all the CRA-covered applications are not challenged at all. Then of the ones that are challenged, in only 1 percent of those cases are the applications denied. So 1 percent are challenged versus 99 percent that are not, and of that 1 percent, only 1 percent of those are denied.

I think the facts prove that CRA has not been an enormous regulatory burden and that banks, as has been the experience of Senator BAYH, as has been the experience of Senator DODD in Connecticut, and as has been my experience in talking to my bankers in North Carolina, the reality is they do not oppose the Community Reinvestment Act. They simply do not.

As the quote from Hugh McColl indicated earlier, banks take great pride in their opportunities to invest in their community. Our banks are good corporate citizens who do what they do because they take pride in it. They believe in the Community Reinvestment Act. They support it. They are not opposed to it.

Finally, this chart depicts what CRA has done in loans to low- and moderate-income communities. This is as of 1997, $34 billion in small business loans. I think it is really important that we understand we are not just talking about housing. We are talking about small businesses, entrepreneurs who want to get started and just need a leg up, giving them a chance to develop their own business, $34 billion as a result of the Community Reinvestment Act; $18.6 billion in community development, the kind of community development that we saw photographs of just a few moments ago; and critically important to my State of North Carolina—and I suspect Senator BAYH's State of Indiana—$11 billion in small farm loans. That is $11 billion going to small farmers as a result of the Community Reinvestment Act.

Here is what we have. We have a bill that makes a great deal of sense on the whole. We want to expand the services of banks. We believe—at least I believe—that banks ought to be able to engage in those services. But it is critically important that we maintain the viability and the vitality of the Community Reinvestment Act. It is important that we maintain it for a lot of reasons: because we need to support minorities; we need to support the elderly; we need to support low-income families; we need to support people who need or want to start their own small business or their own family farm. It makes good business economic sense for the country.

But what I want the American people to hear from me today, if they hear nothing else, is that this is not some obscure piece of banking legislation that is technical or difficult to understand. This legislation can affect their lives and, in fact, will affect the lives of every American every day because to the extent that we keep poor families together, to the extent that we reduce crime in this country, to the extent that we give people an opportunity to seek out good employment, to get jobs to support their own families—all those things that we as Americans believe in—when we do those things in conjunction, we as a country benefit. And to the extent that we look at it selfishly, we as individuals benefit because those people will not be supported by the Government. They won't be supported by taxpayers. They will support themselves. And the reality is that is exactly what they want. They want the opportunity to support themselves and to know the pride of homeownership. That is what community reinvestment is all about. That is the reason Senators SARBANES, KERRY, BAYH, DODD, and myself believe in it so deeply.

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

Mr. EDWARDS. Yes.

Mr. SARBANES. Let me compliment the Senator from Indiana and the Senator from North Carolina for their very strong presentations and their tremendous contributions to the Banking Committee. They both came on the committee this year, and we are barely a few months into their first session and they have both made extraordinary contributions to the work of the committee and to the work of the Senate. I simply want to say, as one Senator who has been here for a while, we are very honored to have them as part of the Senate and thankful and grateful to them for the contributions they make.

I wanted to ask the Senator this: In a letter we received from the U.S. Conference of Mayors, which in effect fits in with the point that both Senators were making about the importance of the Community Reinvestment Act—it is signed by close to 170 mayors from all over the country, besides the ones that are trustees and on the advisory board of the U.S. Conference of Mayors—it says:

> . . .As mayors, we recognize that CRA has been an essential tool in revitalizing cities around this nation. In fact, there is now increasing recognition that the strength and economic health of whole regions require strong and vibrant cities. Creating new economic activity—new businesses, new jobs, new homeowners—is key to the revival of urban areas and their surrounding regions, CRA has been a key component to creating this new economic activity.

They go on later to say:

> Prior to the enactment of CRA, banks and thrifts routinely redlined low and moderate-income neighborhoods in our nation's cities. The modest requirement in CRA that financial institutions meet the credit needs of their communities has led to the successful channeling of billions of dollars into localities.

Then they note that the bill brought out by the committee would severely weaken CRA. They say:

> Unless the onerous CRA provisions are addressed and CRA is preserved and strengthened, we would urge strong opposition to the Senate bill.

I raise that with the Senator because it seems to me that it goes to this very point, including the pictures he was showing. We are talking about the elected officials who are right on the front line, so to speak, trying to deal with the problems of their communities, trying to bring them back and achieve revitalization and renewal. They, obviously, have come in feeling very strongly.

Mr. President, does the Senator feel that this is another perspective on the very point he was trying to make of the importance of CRA—not just for the people who directly benefit from it but for the broader community, for all of us, it seems to me, here is, in a sense, an endorsement of the very position the Senator has been enunciating.

Mr. EDWARDS. I think that is a wonderful indication, as the Senator put it, of the people on the ground, on the spot, seeing what is happening on a day-to-day basis, recognizing how critically important CRA is to this country. They see what is happening. I think it goes hand in hand with the fact that the banks—and I might add, I take great pride in the fact that every bank in North Carolina has a satisfactory CRA rating, every single one of them—are helping make a difference.

I think the fact that the mayors are behind it, the fact that the community

groups are behind it, the fact that the banks themselves, the financial institutions, are behind it, I think all these things in combination go to prove a very simple point: The Community Reinvestment Act has been good for America. It is good for the specific groups it directly benefits, and it is good for all of us as Americans because it allows these folks to support themselves, which is what they want to do.

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

Mr. EDWARDS. Yes.

Mr. BAYH. Mr. President, I echo the words of the Senator from Maryland in complimenting my friend from North Carolina for his eloquence and his insightful presentation on a continued, strong CRA. I observe and I can tell that he has taken his advocacy skills from the courtroom to the floor of the Senate, and the American people are better for it.

I compliment the Senator on his statement, which is built upon what the ranking member said in the statement he read from the Conference of Mayors. The Senator from North Carolina has become a dear friend and someone I have admiration and great respect for. I have heard the Senator mention on many occasions his dedication to ensuring that not just big cities or large institutions have opportunities, but that the farmers and small rural areas across North Carolina are afforded the same opportunities as those in the large cities and in the large financial institutions.

My question is this: Very often, this financial modernization bill is portrayed as something that just Wall Street and big institutions are interested in. The Senator touched on this briefly, and there is one thing I was hoping he can expand on. I wonder if his experience in North Carolina is the same as ours in Indiana, which is that CRA can be an engine for making sure that farmers and small businesses in rural areas are afforded the same kinds of opportunities as the mayors indicated the cities enjoy.

Mr. EDWARDS. I thank the Senator for his kind comments. He and I share the same feelings about each other. We share a lot of the same beliefs and values. There is no question that in the State of North Carolina we have had the same experience they have had in Indiana, which is that the Community Reinvestment Act, in fact, reaches out into rural, underserved communities, to small farmers, small businesses and communities that are chronically and economically disadvantaged and so desperately need its help. I think it is another example of how well the CRA has worked.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. ABRAHAM). The Senator from Wyoming is recognized.

Mr. KERRY. Will my colleague yield for a question?

The PRESIDING OFFICER. The Senator from Wyoming has the floor.

Mr. KERRY. I would like to ask a question.

Mr. ENZI. The Senator doesn't even know what my statement would be. It would be difficult to yield for a question based on what I haven't said yet. There is a little bit of smoke that needs to be cleared out of the Chamber before we proceed.

Mr. SARBANES. Mr. President, I think the Senator was just asking you to yield in order to determine the procedure.

Mr. KERRY. I was just going to ask the Senator how long he was going to speak.

Mr. ENZI. I apologize. I have been listening to a lot of statements made, and I probably reacted in a way that I should not have.

Mr. GRAMM. Will the Senator yield?

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

Mr. GRAMM. Mr. President, I will make the following point. We go back and forth to try to keep some balance in the debate.

I think when people have a real question that it is a logical thing to do. But when questions used really disrupt the flow of the debate so that you have long periods of time on one side of the aisle, I don't think it is quite fair. Obviously under the rules we can do it, but it can be done on both sides.

I would like to just suggest—we are going to vote on this at about 7 o'clock. We have plenty of time. Everybody can be heard. I would just like to suggest that we go back and forth. Everybody will get a chance to speak.

I urge our colleagues, if you have a real question on something you don't know—other than, ''Do you realize that our proposal is a great proposal and their proposal is a rotten proposal?''—yes, I realize that—if you have a real question, I think it makes sense. But in fairness to what we try to do in going back and forth, I urge people to wait for their time to speak so we have debate on both sides of the aisle. That is my point.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming has the floor.

Mr. ENZI. The answer to the question of the Senator from Massachusetts is, I think about 10 minutes.

Mr. KERRY. I thank the Senator.

Mr. SARBANES. I ask unanimous consent that when the Senator from Wyoming concludes that the Senator from Massachusetts be recognized.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Wyoming.

Mr. ENZI. Mr. President, I thank you for the recognition. I appreciate this opportunity to speak.

There is a certain amount of tension that builds up as you listen to some of the comments. The comments have been very good about CRA, the Community Reinvestment Act, in general, and in general nothing is going to happen to that CRA. The Community Reinvestment Act will still be in place. There will still be community reinvestment.

There are two changes in this bill that have been suggested. They make some changes. They make some important changes that may make CRA more viable, more valuable, more productive, and more useful.

There has been a tremendous escalation in the number of dollars being given in CRA commitments. We note that in 1995 the annual dollars were 26 million, almost $27 million. In 1998, the annual dollars were 694 million.

What do you suppose caused the increase? Are banks just discovering this? I don't think so.

A while ago you had the opportunity to listen to some of the contents of an agreement that was necessary in order to move on in a banking arrangement. There are a lot of clauses in that which are pretty disturbing to me.

It has been said that you are not hearing from the banks. If that letter has been used by many groups—you can see by the numbers that it is rapidly escalating—how many groups are being brought into this? There is a clause in that which says they cannot complain about CRA. That is freedom of speech? You cannot complain about somebody extorting money from you?

When banks are merging, there are a lot of stockholders who are nervous. There are customers who are nervous. They do not know whether they want to stay with the bank or not just because of the media turmoil that is caused by the merger.

Then you have a group coming in to take advantage of that crisis moment, that interest moment. They raise an issue. The bank isn't found to be out of compliance; the bank is in compliance. Under this bill, they have to have been in compliance for 3 years. For 3 years they have been following this.

We had some discussion earlier that there are audits done on this. They are checked on. It has always been shown that the ones that are most likely to be involved in this, the bigger banks, are also the best respondents. But there is a clause they have that says, first of all, they are not going to complain about CRA; second, they are going to write this Congress and say what a good deal CRA is.

Does that sound like a normal business transaction? Does that sound like something that businesses ought to be involved in?

If these things are really invalid actions by those banks, they ought to be taken to the highest level and the highest opportunity to punish. But that destroys the value of the company. So they enter into agreements like this and send letters that say that the CRA is OK.

This bill does not gut CRA. It keeps the same program in place. If a bank, which is audited regularly, has met the criteria for 3 years, and meets it at the moment, then actual objections have

to be lodged. It seems like common sense to me. It doesn't sound like doing away with the program. It is just common sense.

Small banks were mentioned. There is a change for small banks in here, too, if they have under $100 million in assets. I think if any of you look into banks, you will find that it is a very small bank that has five or six employees. You will probably find that one of those employees is dedicated to just doing CRA—doing CRA so they can prove that they don't have a problem. It is only rural banks.

We have had these letters from Fort Wayne and some other cities. Those aren't rural banks. I don't care what their asset base is. They don't get this advantage.

We are talking about the very small communities. I have those in Wyoming. Those very small communities, even if they only have one or two employees, have to have somebody dedicated to doing the CRA. It is a paperwork experience. They are having to fill out paperwork to prove that they are not in violation in a community where there may not even be minorities. So they cannot rest as well, because they don't have a classification they can meet in their customer base in their community.

Three-fourths of the banks are rural banks. It was said that we had an amendment that put that at $2 million. I also want to point out a comment that was made about these small banks. There were over 16,000 of them audited for CRA. There were three out of compliance. According to my record, there were three out of compliance. There are some that get lower ratings, and I have explained why they are lower ratings. But even if they were considerably more out of compliance, it is not good auditing to do it under that basis.

I am an accountant. I am the only accountant in the Senate. When you have criteria for auditing businesses, you come up with higher statistics than that kind of a base, or even a higher base than that. You have to. Otherwise, you are wasting resources.

What I am saying is that some of these benefits that are talked about may not have been worth it even on the basis of the auditing costs. We are talking about the basis of the business cost as well complying with this law.

These banks are community banks—rural banks. In Wyoming, the bank may be 100 miles from another bank. Who do you think they serve? People from other States in the Nation don't mail their money there. It is the people who live in that community, and they expect and they get service, or the bank goes out of business.

We have heard some statistics about how business has increased because of the CRA. We have heard statistics about how loans have increased because of the CRA. Take a look at the timeframe. It wasn't the CRA that drove up the number of people buying houses or drove up the opportunity for more people to go into business. It was the interest rate. The interest rate plummeted. More people could make house payments. More people bought houses. It wasn't that the banks were being forced into this; the banks are already precluded from having to do bad loans. They are not loaning to just anybody who comes in the door. They are just doing a lot of paperwork to show that the loans they are granting are valid loans and the ones they are not are not valid loans.

The economy makes the difference in whether new businesses start and whether people buy more houses. The exemption for small banks will solve some problems for small banks, and it probably ought to be a higher amount than that.

Again, if you are looking at auditing statistics, you could double or triple that number without affecting the numbers that are out of compliance; hardly at all.

I want to reiterate again that that amount of extortion to the big banks has gone from $27 billion up to $694 billion. That is going to be something on an ever-increasing basis. As more people get into the business of taking on CRA, taking a base and a commission off of that, none of this goes to the sector of the community we are talking about.

CRA is important. CRA is included in the bill. CRA only makes two changes. It does not gut the bill. There are two changes: One for small, rural banks so we don't have to spend so much annually complying with CRA and they instead can put it into their community, which is where they put their money; the other one is for the big banks so they don't have to write these required letters we heard to their Congressman saying they don't have any problem with CRA.

This is not an attempt to gut CRA. This is an attempt to make it more valuable, more useful and more applicable in the banks.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I thank particularly the Senator from Maryland, the ranking member, for his leadership on this issue. I regret that the Senate is in the position it is in on this particular bill.

I have previously supported financial modernization. We have voted on it in several incarnations. Last year I was among those who happily sent this bill, what was then H.R. 10, to the Senate with a very significant vote of support in the Banking Committee, because we believed overwhelmingly that we had the right balance between the interests of the financial services community, whom we are all concerned about and we all understand need the needs of that community; at the same time we had what most people thought was a very fair and sensible recognition of the virtues of the CRA.

In the waning hours of the last Congress, all Members remember there was a single, very adamant voice of opposition, the now chairman of the committee, who in fairness has deep-rooted beliefs about it, but who frankly stood in a very, very small number last year who ultimately, because of the timing of the bill, was able to prevent an entire bill from passing the Senate.

Now we are back here once again revisiting the important imperatives of financial modernization. This year many of us who want to vote for that financial modernization are put in the very difficult position of having to take a position of fundamental principle that because we believe so deeply that the CRA provision is so disturbed by this bill that a strong relationship that has existed and worked with a profound, positive impact for people in this country, is being sufficiently undone, even attacked, and requires that we oppose the bill in its current form.

I am used to going through Pyrrhic exercises in the Senate, regrettably with increased frequency. It is a sad commentary on the nature of the legislative process today that sometimes measures move through here in a very partisan way and then we ultimately wind up in the conference committee with the administration negotiating and things are changed.

That may or may not happen here. It certainly didn't have to be this way. We could have arrived at some kind of fairminded compromise that reflected the views of the vast majority of Senators. Instead, we find ourselves with a bill that is not just about financial modernization. It is also about a significant reduction in the capacity of the Community Reinvestment Act to work. Many Members believe very, very deeply we can do better than that.

I think we obviously need to recognize that U.S. financial institutions as a whole are the most efficient providers of financial services in the world today. There have been remarkable changes in the marketplace in the last years. All Members ought to pay proper tribute to the virtues of the entrepreneurs who have themselves undertaken to put those changes in place.

I don't think Congress can stand here with a straight face and take entire credit for the virtues of the economy that we are living in today. I do think we take partial credit because I think it was a courageous effort in 1993 to face up to the realities of the deficit and to come up with a solid deficit reduction act. In addition to the congressional efforts, Alan Greenspan, the chairman of the Fed, deserves enormous credit for his courage during the banking crisis of the last years of the 1980s and the beginning of the 1990s when he took bold action to help refinance the banks, as well as his remarkable stewardship of monetary policy itself.

Finally, it seems to me a very significant amount of the credit goes to the companies themselves and the CEOs

who saw a change coming down the road, who responded to the demands of the 1980s when people were writing books about Japan, Inc. and writing off American enterprise and suggesting we needed a wholesale adoption of another model. Indeed, our model has proven perhaps at times to be excessive and at times even to be insensitive, but nevertheless to be way ahead of any other capacity or structure in the world in the marketplace.

Increasingly, one of the reasons for that success has been the blurring of the lines between banking, insurance, and securities. We need to do our part. We are way behind the curve, years behind the curve. Were it not for the thoughtful and judicious steps taken by the regulators themselves without congressional impetus we perhaps wouldn't have been able to accomplish some of what we have.

Now is the time to respond by breaking down the artificial legal barriers of an outdated era, the barriers that prevented banks, security firms and insurance companies from affiliating. It is time we take the step to ratify the liberation of financial service companies so they can provide a broader array of services to consumers and corporate customers. I don't think we should hesitate to do it. This is several years overdue.

It is regrettable that we find ourselves in this position, after the Senate Banking Committee overwhelmingly by a 16–2 vote passed legislation. That is a fairly profound statement of the Senate Banking committee's willingness to move forward.

Here we are again, notwithstanding the challenge of financial modernization, with too many Members having to say no to moving forward because of the extreme measures being applied to the CRA itself.

That judgment is not ours alone. The Treasury Secretary, whose expertise and judgment over the last years, I think, has been without parallel, and the President of the United States, clearly on Secretary Rubin's recommendation, have stated that if the CRA measure stays as it is, this measure will be vetoed. Very simple: It is going to be vetoed.

We have a choice. We can either take a look at the CRA and make a judgment about what it accomplishes or we can go through another Senate exercise, send the bill out for veto and accept failure in the end for our capacity to be able to recognize the importance of the vast changes that I referred to a moment ago.

Let me say a few words about the CRA, if I may. The CRA is now more than 20 years old. It is very straightforward in concept. It is imminently reasonable. It says simply that banks have to provide credit to all the communities in which they take deposits. In other words, if a bank accepts deposits from a neighbor, that bank has some kind of responsibility to make loans available to creditworthy borrowers in those neighborhoods. That is common sense and it is fundamentally fair. This statement of reciprocity, of mutual responsibility, says an awful lot about the kind of country we want to be and the kind of country we are as a consequence of that kind of effort.

Let me speak for a moment to what the CRA has accomplished. It has helped to make more than $1 trillion in good, profitable loans to low-income areas, loans that bankers in my State and in States all across the country have said would not have been made without the law. It has given low-income communities of working families access to capital that is absolutely crucial to start a small business or to buy a home. And it has created new business opportunities for the banks themselves.

I would say that CRA is a fundamentally conservative, procapitalist law because it is not a handout; it is not something for nothing. It requires responsibility. It broadens the tax base. It broadens the capitalization capacity of a community. It brings people into the economic mainstream. It is a law that provides that all Americans, low- and moderate-income Americans, very often African Americans or Hispanic Americans, with the opportunity to buy a home or build a business if they are creditworthy.

The law is very clear on the last point, about creditworthiness. Loans have to be made with all of the normal concerns for safety and for soundness. The act itself could not have been more clear on that. It says that it has to help meet the credit needs of the local communities from which it is chartered, ''consistent with the safe and sound operation of such institutions.''

So, when the chairman of the committee says it is just an extortion program, I think there is such a level of extreme exaggeration and rhetoric in that, measured against what happens —and I will speak for a moment later to the question of extortion—because any bank has the ability to prove that any particular request was not able to meet the requirement of safe and sound operation of that institution. It is clear there are plenty of ways of doing that. And the balance of the weight is on the bank; it is really against the person requesting the credit, based upon the normal standards by which banks do business.

If you talk to most bankers, they will tell you the CRA loans perform as well as the rest of their portfolios. We are not looking at some enormous drag on banking institutions. In fact, some banks have begun to sell CRA loans on Wall Street in order to acquire more capital to make more CRA loans. Those are market forces that are being harnessed to expand opportunity and to grow our economy.

Here in the Senate, lately, we have heard a lot of talk about the ''opportunity society.'' The fact is, the Community Reinvestment Act exemplifies that notion. Credit is the economic lifeblood of every community, whether it is rich or poor. In our society, I think it is fair to say that historically we know that credit denied is also opportunity denied. When you deny hard-working Americans the chance to buy their own homes or start their own businesses, you are denying them the opportunity to share in the American promise.

This is a country where we have demanded a lot of our citizens. We expect them to make the most of their own lives, to take responsibility for themselves and for their families—largely because of the kinds of public policy decisions we have had the privilege of supporting here in the Senate with respect to this kind of economic sharing, if you will. We say to Americans: If you take the effort to live by the rules, to show your creditworthiness, to stand up within the economic structure, then we have the ability to help provide some of the tools to build that decent life for yourself. CRA was built on that.

But what we are considering today—and I heard the Senator from Wyoming and I have heard other Senators try to suggest this is really just a fixing of the CRA, that it doesn't really take it apart, it is going to leave it in place; we are just going to take, whatever, about 38 percent of the banks out from under it—those are the banks under the $100 million mark—and then we are going to make it a lot more difficult to apply any real measurement because we are going to change the standard by which we measure a violation; and, we are also going to change—according to the chairman—we are going to exempt banks from protest based on a 3-year satisfactory CRA record no matter what. And of course for the new activities we are empowering in this bill, it doesn't apply at all.

If ever there was a reason to make judgments about whether or not people are in compliance, it is when they are going to go out and engage in new activities that involve a whole series of new, larger roles within the economic community.

It seems to me it is inconceivable that, when they are going to take on those new kinds of responsibilities, you are suddenly going to say: We are not going to apply it; we are going to hold it where it is based on the theory of what CRA is supposed to be.

There is a reason that there is this kind of semi-subtle approach—I would not call it that subtle in the end. It is sort of a sledgehammer, but it is hidden enough in a way that people who are not completely familiar with it or with the process might say there are some redeeming factors here. But the fact is, the reason it is done in this sort of backdoor approach is that they learned they cannot do a frontal assault. They are not going to strike it altogether. It does not give people enough cover. So then you are left sort of analyzing: What is it that it is really going to do? What is going to happen here, in terms of this effort?

I believe the Bryan amendment will preserve the appropriate relationships by simply requiring that banks have and maintain a satisfactory CRA rating as a condition of exercising the new affiliations allowed in this bill. The Bryan amendment also strikes the safe harbor language and the exemption from CRA regulations for banks with less than $100 million of assets.

I listened to the chairman in the committee and I addressed this directly—raised this issue of extortion. I acknowledged at the time, and I will acknowledge on the floor, that I know of instances where people have come into a bank at the last minute, or at the moment of a merger, feeling the iron is hot, and of course when the bank wants the merger to move—carefully and without ruffled feathers. When the banks don't want the regulators suddenly getting their dander up at this critical moment of merger. So people take advantage of this opportunity.

Let me say, I know of some instances where there have been some marginally meritorious requests. But the record of the numbers of challenges—and I will address that in a moment—is very clear. It is so de minimis that no one can come to the floor with anything except pure anecdote, sort of a story here or there, that suggests that somehow there is some massive problem. What bank does not deal with community groups, all the time—this is not some sort of a last minute thing where there are a bunch of unknown people sitting at a table who can walk into the bank and the newspapers and the local television are all going to take them seriously. We are dealing, after all, with communities in which there are sets of relationships which everybody understands.

Most of the people within that community—the political leaders, the elected political leaders, the opinion leaders, the bankers, the businesspeople, the news people—understand the difference between legitimacy and extortion. They understand the difference between a community that is getting its fair share of community investment from a bank and a community that has been starved.

The fact is, if somebody is walking in, in some sort of bald-faced ''extortion effort,'' the bank can tell them no way and probably stand there with impunity and justification in doing so. If some banker is complaining about some illegitimate group coming in and holding them up, then that banker, frankly, ought to be fired for not having the courage and the guts to say: Look, we are meeting our standards. We have covered all the people who have made legitimate requests. Your request is not legitimate. It will not withstand the scrutiny in the light of day, and I am not going to be blackmailed, period.

Moreover, there are laws in this country already on the books, Federal laws, State laws and local—within counties—which district attorneys can prosecute with respect to those kinds of extortion efforts.

To suggest we are going to hold up the financial modernization efforts of the United States of America in a global marketplace over these anecdotal stories and not be able to find a common ground where we could fix or address the question of legitimacy—there are any number of language changes you could make in the standards or in the review process or in the process, all of which would be adequate to deal with the questions that the Senator from Texas has raised. But none of those is on the table, none of them. What is on the table is an entire exemption for a whole set of banks for whom this has worked very effectively. Moreover, what is on the table is an exemption of any consideration at all for these remarkable new powers that are going to be given to the banks which demand that you make some kind of judgment about what their commitment really is in their community.

You can talk to most of the bankers in the country right now.

The Wall Street Journal summed it up this way:

> Few Republicans share (the Chairman's) passion for the (CRA) issue. Bankers don't love the CRA but have largely made their peace with it. . . . ''CRA is part of the way we do business—we don't have any problems with it,'' says Pamela Flaherty, a vice president at Citigroup, Inc.

It is not industry leaders or community leaders who are driving this effort to undermine the CRA; it is the tendency in this Chamber and in our politics for ideology sometimes to work against the needs of communities and the interests of good public policy. When you measure what we are doing against the broad-based effort of the House of Representatives and the House Banking Committee to develop a more broad-based effort, you have a real confrontation with that approach.

If you look at some of the language we have heard about the CRA—comparing it to slavery—that is the kind of statement that just ignores the reality of what the CRA has accomplished.

The CRA, accepted by most bankers in this country, supported by people like Alan Greenspan, supported by major bankers in the country, has brought billions of dollars of credit into African communities, Hispanic communities, and Asian-American communities where thousands of banks have become active partners in creating opportunities for working families so they can become new homeowners and by providing the capital to budding entrepreneurs.

Slavery? That is an extraordinary comment. Too many of our colleagues are willing to forget the redlining and the racism that plagued lending in too many low-income communities in previous years. Before 1977, when the Community Reinvestment Act became law, many financial institutions believed they had absolutely no responsibility to the communities they served. Some financial institutions accepted racial and economic discrimination as part of their mortgage credit and business lending policy. It is because we found that too many banking institutions saw an ease to the profit line by moving into certain areas and an unwillingness to do business and reach out to Main Street with access to credit that we put the CRA in place.

Studies from that time period show that some financial institutions routinely invested more than 90 percent of their deposits that they received from low-income and minority neighborhoods into other areas. Ninety percent of the deposits that came from certain low-income communities went out to other areas. We have a fundamental responsibility not to start segmenting and dividing up the financial marketplace in a way that is going to allow people to turn away from that responsibility of inclusion that has benefited everybody in this country and has made this country a better place.

In Roxbury, MA, a low-income minority neighborhood within the city of Boston, only 20 percent of home sales were financed by financial institutions between 1975 and 1976. But in the prosperous suburbs of Boston, 83 percent of home sales were financed by financial institutions in the same time period.

The residents of Roxbury who were able to obtain financing were forced to use private mortgage companies, often at substantially greater expense than at financial institutions. The cost of denying private mortgage credit and business lending was literally devastating to the social and economic growth of Roxbury and other low-income neighborhoods in the inner city and in rural areas. Over time, property values and small business activity plummeted, and then crime and poverty escalated.

We can recreate that cycle if we want to go backward in time, Mr. President. Activities like that are exactly what brought the Congress to pass the Community Reinvestment Act in 1977, to encourage bank and thrift regulatory agencies to help meet the credit needs in all areas of the communities that they serve.

I don't think we can afford as a nation to roll ourselves back to those days when it was more power to the powerful, more money to those who already had the money, and less concern and less effort to try to be the country that all the speeches are about and all our days of celebration are about.

CRA has worked in Massachusetts where there has been more than $1.6 billion in commitments made by financial assistance institutions to assist low-income neighborhoods. These funds have been invested in home ownership, affordable housing development, minority small business development, new banking facilities and services, and it has made a difference in our inner-city neighborhoods from Roxbury to Jamaica Plain to the South End. Let me give a direct example.

Stacy Andrus, from Jamaica Plain, Massachusetts, was a restaurateur struggling to make ends meet and retain her clientele in a competitive environment. She knew she had to be creative just to keep pace. She began toasting chips out of pita bread to serve as finger food before meals. As one might expect, those chips soon became the most popular item on the menu.

Like so many businessowners who know they have latched on to a great idea, she wanted to expand the operation. She tried to bring the concept to scale, but capital and credit were not available to her; they were not available in Jamaica Plain. Even though their deposits went into the bank, they did not come back into the community.

She could not find the help she needed until finally she started working with the Jamaica Plain Neighborhood Development Corporation. This corporation works within a network of small business providers that use CRA programs at local banks to secure funding for small businesses. With their help, Stacy obtained a $60,000 loan from BankBoston. As a result, her business expanded rapidly: She has leased a production plant in Jamaica Plain; she has residents of the low-income community working for her; she has put former welfare recipients on the payroll; she has 900 bags of chips rolling off the assembly line every single day. Thanks to CRA she has now made them one of the top selling gourmet snack foods in all of Boston, and she has major airlines interested in serving her chips to first-class customers. Without the CRA, Mr. President, the community of Jamaica Plain would not have received those kinds of benefits from economic development that has been generated. In addition, it is also giving low-income communities a shot at home ownership.

Julie Orlando is a single working mother of three. She wanted to buy a home for her family in Leominster, MA, which is Northwest of Boston. In the days before CRA, she would not have possibly been considered a likely candidate to own a home, but because the Fidelity Cooperative Bank was involved in the CRA coalition, she was able to obtain a $72,000 mortgage with no points. The city of Leominster provided additional assistance to Julie and her family. Because the Fidelity Cooperative Bank participated in the CRA coalition, she and her children can live with their first home, which is, after all, Mr. President, not just the American dream, but it is good for the community.

How many times have we heard of the problem of crime that comes from transient members of the community, people who do not have a stake in the community. That is exactly the type of assistance that CRA was designed to provide.

It is my hope we are not going to take measures here that deny a whole generation of CRA success stories in the future. The CRA and the Home Mortgage Disclosure Act data continue to show that blacks and Hispanics face significantly higher mortgage rejection rates.

The Boston Federal Reserve showed conclusively that African Americans get turned down for a mortgage 1.6 times more often than whites, even after you control for many of the economic income and creditworthiness differences.

A New York Newsday study, looking at 100,000 mortgage applications on Long Island, showed that blacks' applications were rejected three times as often as whites', even when they had the same income.

In a study right here in the Washington, DC, area, completed last year, we found that significant lending discrimination exists against blacks and Hispanics.

Mr. President, the need for the CRA remains very much alive in the United States. Let's put the rhetoric aside. Let's put the ideology aside. Let's find the common ground within the Senate whereby we can guarantee that we can build a coalition that will support the best of financial modernization and the best of our effort to broaden the economic base of this country.

I might add, some have suggested there is sort of a legalized concept to what has been called the ''legalized extortion.'' In fact, some people have suggested that the regulators have assisted that process.

Let me say, Mr. President, I find it very hard to believe that people would suggest that Alan Greenspan, the Chairman of the Federal Reserve, for whom we have—all of us—such respect for, is complicitous in that process. This is what he said about the CRA:

> . . . the CRA process is something that we clearly have been supportive of and think is crucial and necessary to the development of communities. We think that it's in the interest of the banks. We think that it's in the interest of communities.

Mr. President, the data from the regulators—let me just close on this—the data from the regulators is clear. The chairman of the Banking Committee wants the Senate to fundamentally weaken CRA. He will stand up and argue, this is not taking it away. He is going to try to point to the exemption for the small banks. And he will come back to the notion that it somehow is still in effect, even though it does not apply to the new services that will be provided, and even though the 3-year safe harbor provision is included.

But the fact is, that fewer than 1 percent of bank applications have been receiving an adverse CRA comment. Fewer than 1 percent of the 660 applications that received the adverse comment were denied on CRA grounds—1 percent of the 1 percent. Not a single application receiving adverse comments has been denied since 1994.

So here we are with the entire regulatory structure of our modernization effort of the financial services of our country held hostage to a few people's perceptions, based on ideology, of 1 percent of 1 percent, notwithstanding that all of the banks in the country have learned that this is, in fact, good economic policy, good banking policy, and they have accepted the CRA.

It is my hope that our colleagues will recognize that, even as this country has grown strong and the economy and the marketplace has grown, even as the stock market is reaching the extraordinary 11,000 level, the fact is that there are more Americans who are poor, there are more Americans who are living on 1989 wages, there are more children in poverty today than there were 3 years ago or 4 years ago in this country, by a figure of about 400,000, and the fact that too many families are working too hard at the bottom level just to make ends meet.

For us to backtrack on a fundamental commitment about the relationship of financial institutions within the communities in which they do business, would be to turn our backs on what has made America stronger and better. And I hope my colleagues will not do that. I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from Texas.

Mr. GRAMM. Mr. President, you will hardly know where to begin when you have listened to these speeches for a couple hours, and most of them have nothing whatsoever to do with what we are talking about on the floor.

It reminds me of the old Lincoln adage, where Lincoln was engaged in a debate, and the guy debating Lincoln got up and gave a wonderful speech that had nothing to do with the subject being debated; and Lincoln got up and said that his colleague had given a wonderful speech that would be appropriate for another day and another occasion.

I want to go through, roughly, 10 points that have been raised in all these speeches, and then go back to what we are debating.

No. 1, we have had a lot of speeches for CRA. And one would get the idea in listening to these speeches that someone is proposing to repeal CRA. In fact, as far as I am aware, no one has ever offered an amendment or bill since 1977 proposing repeal of CRA.

Whether the record for CRA is as wonderful as our colleagues have claimed, have we built more houses because the economy is better or because of CRA? Who wants to get into that debate? Because it is not relevant to what we are talking about, nobody is talking about repealing CRA.

No. 2, nobody is talking about ''turning back the clock.'' What we are talking about is dealing with abuses that exist in the current system, and that can and should be fixed. One of those abuses basically has to do with extraordinary power that protesters and protest groups have at critical moments when banks are trying to make

decisions. The second has to do with the relevancy of CRA, and which banks under what circumstances have relevant requirements, and what are the regulatory burdens and costs involved.

In terms of a point that was made way back so many speeches ago—I forget which one it was—that in 99 percent of the cases where banks apply to do something that requires CRA evaluation, nobody challenges that action, that is a very misleading number, really, for a number of reasons.

First, most of these applications concern the opening or closing branches. They are not very relevant. It is basically the mergers and acquisitions that are relevant to CRS protests.

Second, as I have pointed out on many occasions, most of the CRA action takes place not in the formal complaint, but basically when the protester goes to the bank threatening that unless the bank takes certain action, often giving that person money, that they are going to file a complaint. So it never shows up in the statistics. So that is all interesting but largely irrelevant.

One of our colleagues said that I said, or someone had said, that CRA is just an extortion program. No one ever made that statement. What I have said is that CRA has become a vehicle where a tremendous number of actions occur that certainly look like extortion. When you look at contracts that are being signed, these individuals and groups are given large sums of money, and then they sign a commitment that they will withdraw their objection. That is a classic quid pro quo, that is the essence of extortion or bribery or kickbacks. There are a lot of names you can use. But no one has suggested any of them in this debate. Many, most, almost all of the people involved in CRA are conscientious and honest.

We are talking about people here who are abusing the system. And even spokesmen for CRA, even spokesmen for community groups, say there are abuses, that the abuses undercut the system. As everybody who is on the Banking Committee knows, when the CRA advocates testified before the Banking Committee, a clear point was made that abuses do occur. They called the abuses ''greenmail.'' I think the standard term is ''blackmail,'' but nobody disputes that they occur. What we are trying to do is to deal with them.

In terms of half the banks being out of compliance, half the banks being affected, there isn't any proposal that would let half the banks out of CRA. Basically, the proposal in the underlying bill is that banks with less than $100 million in assets and which are also in nonmetropolitan areas, in rural areas, that these banks be exempt from CRA. Now, why?

First of all, since 1990, over a 9-year period, there have been 16,380 examinations of these small rural banks; 16,380 times Federal regulators have gone to these rural banks. They have sat down for days and weeks, looking through their records. They have done reports to determine whether these rural banks are lending in their community and meeting their community reinvestment requirements.

After 16,380 examinations, only 3 banks have been found to be substantially out of compliance. The cost of complying with CRA for these examinations to the small banks has been roughly $80,000 a year, according to the 488 letters we have received from small banks on this subject.

That is $1.3 billion of cost imposed on small banks. I have read at great length letters about how small banks can't serve their customers because they have to do all this paperwork and how it is interfering with community lending. I have read some passionate letters on this subject on the floor of the Senate in this debate. I am not going to reread them now.

The point is, $1.3 billion later, 16,380 examinations later, crushing paperwork, cost burden on very small banks, many of them between 6 and 10 employees, $1.3 billion of costs banks have paid, and only 3 small rural banks have been found to be substantially out of compliance.

What does our bill do? It exempts from CRA very small, very rural banks. In total, in terms of the number of banks, that is about 38 percent of the banks in America. In terms of available capital, as you can see from this chart, that is 2.7 percent of all the assets in all the banks and S&Ls in America.

Now, the logical question is this: 44 percent of our auditing effort is going into banks that have only 2.7 percent of the assets, and they have been found to be substantially out of compliance only 3/100 of 1 percent of the time. Is this not massive regulatory overkill? What does this have to do with meeting community needs for loans? If there has ever been an overreach in regulatory terms, imposing $1.3 billion of cost on little banks and little communities to turn up three banks in 9 years that have been substantially out of compliance, this is regulatory overkill. We are trying to fix it.

In terms of exemption based on a 3-year record, one of my frustrations in debating on the Senate floor—and I guess all of us can be accused of doing it; I try to, at least within my own mind, be careful about things I say. I try to put my argument in the best light I can. Everybody else does. I try not to say things I don't believe to be true. But we continue to hear these things like, if a bank has been in compliance three times, they are exempt from CRA. That is not what our bill does.

Here is what our bill does. Let me explain the problem. In fact, let me have that quote from the law professor at Cornell. This quote is from Cornell law professor Jonathan Macey. Jonathan Macey is one of our Nation's premier experts in banking law and is very knowledgeable in this whole area of application of CRA. In evaluating what is happening, this is basically what he says:

> You see really weird things when you look at the code of Federal regulations . . . like Federal regulators are encouraged to leave the room and allowing community groups to negotiate ex parte with bankers in a community reinvestment context. . . . Giving jobs to the top five officials of these communities or shake-down groups is generally high up on the list (of demands). So, what we really have is a bit of old world Sicily brought into the U.S., but legitimized and given the patina of government support.

Let me see those CRA agreements, if you will stack all those back up there one more time. I am going to zip through them real quickly.

One of our problems in evaluating what happened to the $9 billion of cash payments that were made under CRA—something never contemplated; nobody on the Banking Committee in 1977, I don't believe, thought CRA would ultimately produce cash payments being made to individuals and to groups; they thought, as we have heard arguments all day, that CRA is about lending—we don't know where all this money goes. We don't know what percentage of rake-offs, for example, these groups get on loans banks make, because we don't have the records. These CRA agreements are confidential; they are not made public. That is something later that we hope to change.

But let me just say, I have three pieces of CRA agreements. These are all private agreements where the parties have agreed not to make them public. We have redacted the names to protect the people who committed not to make them public.

The point I am trying to make here is how far away from lending, as we conventionally know it, this is.

This is from Bank A: Provide blank—this is the CRA group—with a grant of up to $20,000. Provide blank with a grant of up to $50,000. Provide blank with a grant of up to $25,000. And on this one they say why: to pay reasonable and necessary soft costs incurred. Provide blank with a grant of a reasonable amount.

And then after they agree to pay that money, look at this provision: Blank agrees to withdraw on the date hereof the comment letter, dated blank 28, 19 blank, and any related materials filed by blank with the Office of the Comptroller of the Currency, the Federal Reserve Bank, and the board—and it goes on.

The point is, on one page they give all these grants to groups, and then on the second page the groups agree to withdraw the complaints they filed against the action the banks want to make.

Here is the point: Did the groups file the complaints to get the money? What about the legitimacy of the complaint? Did it go away when they got the money?

It goes on. We are getting more and more of these every day. Then, in every one of these agreements we have seen,

there is an agreement by the community group or the individual and the bank not to disseminate or otherwise make available to the public copies of this agreement.

Here is a second bank agreement, Bank B: Blank will receive a fee of 2 and three quarters percent of the face amount of each program loan made by blank.

Now, I wonder if people in that community realize that this undisclosed individual, or group, is getting a rake-off of 2.75 percent of the face value of every loan that is being made by this bank. Blank will receive a $200,000 fee as reimbursement, $100,000 payable fund, execution and delivery, $100,000 6 months from now. That is the quid. Here is the quo: The group commits to withdraw all pending protests of regulatory applications and related matters, but not to sponsor, either directly or indirectly, to protest or supply information in connection with any protest relating to the pending or future blank applications with bank regulators.

In other words, it doesn't matter what abuses the bank might do in the future. They are never going to protest again because of this. At the request to send letters to the customers of the bank—well, let me go on. Not only do they agree never to protest again on any issue, but they agree to purge the files and data bases of all information relating to the bank's customers.

Now, it goes on: to immediately cease all activities directed against the bank; to maintain the confidentiality of this agreement—they have confidentiality again here—and then: to cooperate with the community group, to help them use this agreement to leverage other financial institutions to get money from them. In other words, not only are they paying this money, they are going to help them get other banks to pay it.

It is funny how little things grab you. Maybe it is just me, but this one hits me the hardest. I was wondering why we were getting these letters from banks in favor of CRA when the bank officers were telling me—and in some cases saying publicly—that CRA was blackmail. Yet, I was getting letters from these banks saying CRA is great. Well, here is the reason:

Blank will work with the blank to establish a clear, written declaratory statement indicating support for the Community Reinvestment Act and the Home Mortgage Disclosure Act, and the party's opposition to any attempts to weaken the law. Blank will send the final copy of this statement to the blank.

In other words, they will let them go over and rewrite the letter they are going to send. And they are going to send the letter to the American Bankers Association, Federal Reserve Board, Office of the Comptroller of the Currency, the whole congressional delegation of their State, and to all members of the House and Senate Banking Committees.

So, Senator BENNETT, when you got a letter from this bank telling you that CRA is the greatest thing that has ever been, you probably did not know that was the result of a CRA agreement so that a bank could do business in America. And we are not talking about Honduras; we are not talking about Thailand. We are talking about the United States of America, and we have banks—some of the richest and most powerful institutions in America—that are having dictated to them at this very moment that they have to write us letters telling us things they do not believe. How is that happening? How can that be happening in America? I ask you, how can it happen?

Not only is it happening, it is being condoned because, as the law professor from Cornell said, we have given the patina of Government support to something that if it happened to an American bank in Thailand, we would file an unfair trade practice against them.

So when you are getting all these letters telling you how wonderful CRA is from banks, remember this agreement. In fact, I received such a letter from a particular bank. Fortunately, to show you this is a very good and honorable bank, they say in their letter they have been forced to send this letter as a result of a CRA agreement.

I discovered this letter because there was an editorial written attacking the bill quoting this bank, or this letter, interestingly enough. There was an editorial written quoting a letter from First Union Corporation, a wonderful, great bank. They were quoted in the editorial as saying how great CRA was and why we should not be making any changes to the bill. Well, I said I want to see this letter. So we got the letter. Let me read the first paragraph:

> As part of a CRA pledge we made during our merger with CoreStates, First Union National Bank committed to send a written statement to certain individuals or organizations clearly expressing our position on CRA and HMDA regulations. We, as an organization, are very committed to serving all of our communities, including underserved areas. We are happy to provide this statement.

Then they go on to say that nothing in the letter is meant to be an endorsement or opposition to any particular bill. I know we have one of the most distinguished former prosecutors in America sitting in the Chair. I have to say—not to speak for him, because in his role as Presiding Officer, he can't speak until he comes down here—what is the difference between this and the old protection racket that existed when I was a child? I am proud to say that my uncles, as sheriffs and police officers, broke up some of those protection rackets. But the only difference is that this is Government; this is the Federal Government that is basically allowing this to happen.

Now, we are not talking about repealing CRA. We are not talking about ending a program that obviously has had many successes. We are talking about trying to deal with abuse. So what are the two things we do? No. 1, we say that if a bank has a history of being in compliance with the law, if they have been evaluated 3 years in a row and been found to be in compliance with CRA, and if they are presently in compliance with CRA, then any individual or group can protest, file a complaint; and under the existing regulations of the Comptroller of the Currency, there has to be a hearing for any complaint that is lodged.

But what our amendment adds is the requirement that if this bank has a long history of being in compliance, before the regulator can stop the action that they have earned the right to undertake, the protester must present some substantial evidence. In other words, if you are a good actor and you have been evaluated 3 years in a row and were found to be in compliance, you are innocent until proven guilty. Somebody can't just walk in and say a banker is a racist and a loan shark.

Some protesters have done exactly that. There is a CRA protester who calls himself an ''urban terrorist,'' who used those charges against a bank, harassed them for 4 years, went to a speech of the president of the bank at Harvard University, disrupted the speech, made this man's life miserable for 4 long years, until the bank gave him $1.4 million and a $200,000 grant and set up an organization that now lends $3.5 billion, totally unregulated by the Federal Government. He gets a 2.75-percent rake-off of each one of those loans, and nobody knows what he does with the money. He is not accountable to anybody.

Now, all we want to do is say if a bank has consistently been in compliance and you want to stop them from merging with another bank, or opening a branch, you have to present some evidence. Now, what is the standard we have used? The Presiding Officer, as a distinguished attorney and former prosecutor, knows that substantial evidence is the most defined term in American law. It is referred to over 900 times in the United States Code.

There have been 400 court decisions that have defined ''substantial evidence.''

So what standard do we require a protester to meet if he tries to impose potentially hundreds of millions of dollars in costs on a bank, and to stop a bank from doing what it appears to be qualified to do? They have to present evidence.

Here are four standards set by the Supreme Court as to what ''substantial evidence'' means:

They have to present evidence that is understood to mean ''more than a mere scintilla.''

That is a standard we are setting. You can't come in and stop a bank with a consistent record of CRA compliance. You can't automatically stop, shut down, and delay the process unless you present evidence that is ''more than a mere scintilla.''

Unless you present such relevant evidence as a ''reasonable mind might''—

notice it didn't say ''would,'' but ''might''— ''accept as adequate to support a claim.''

You have to present evidence that is real, material, not ''seeming or imaginary,'' and considerable in amount, value, and worth.

Why in the world would we stand by and allow a bank that has complied with the law of the land and been evaluated three times in a row as being in compliance to be prevented from exercising a right they have earned unless somebody presents credible evidence, substantial evidence, to the contrary? I don't understand. Why would anybody be against this change?

I continue to be stunned that our colleagues talk about CRA and how wonderful it is. That is not what we are talking about.

Should you have to present some evidence if you are going to try to deny people the rights they earned under the law? How can that be unfair? How can that be reaching? How can that be burdensome? Who could be against that?

The second provision of the bill provides relief to small banks in rural areas. I have gone through the figures: $1.3 billion later, in this decade of audits and costs imposed on the banks, three small rural banks—three one-hundredths of 1 percent—are bad actors. Is that not regulatory overkill?

We have forced little banks, many with just 6 to 10 employees, to pay $1.3 billion in compliance costs, and in 16,380 examinations, only 3 of them have been deemed to be substantially out of compliance. Does that make sense? Is that crazy? Did I miss something?

I could read to you letter after letter. We have had 488 letters from banks urging the committee to take this action. I have read them before; I will not do so again.

Finally, let me remind my colleagues that the amendment that is pending doesn't just strike these two provisions—the ''integrity and relevance'' provisions—it does far more than that. It would create a situation where individual officers and directors of a bank could potentially be fined up to $1 million a day for noncompliance.

Remember, in these little banks you have 16,380 examinations over the decade, and just 3 banks have been found to be substantially out of compliance. What is the justification for this $1-million-a-day fine?

I have letters from the American Bankers Association, and from the Independent Bankers Association, pointing out the obvious.

This provision that has been offered by our colleague from Nevada, and was offered in committee by Senator SARBANES, will make it virtually impossible for small banks to get quality directors, because who can afford that potential liability? It will make it virtually impossible for small banks, who can't buy the insurance to protect people from liability, to hire quality bank officials.

The bill goes on and on and on in the most massive overkill of expanding CRA to nonbanking activities. Currently, a bank can sell insurance without CRA approval. This substitute that is now pending would require CRA approval for that. Banks can sell securities without CRA approval. This takes CRA out of banking and into other areas.

What is the justification for that? The justification for requiring CRA was that banks have a federal subsidy through deposit insurance. So that is public insurance, and making banks do things in the public interest could be justified. But how does expanding that requirement outside banking make any sense? Are we simply going to keep writing laws telling people what to do with this money?

Basically we have a choice. The choice is the following:

Both of these provisions concern CRA. The bill that was adopted by the Banking Committee has two reforms—one an integrity provision, and one a relevancy provision. The amendment that has been offered strikes both of those reforms and imposes all of these new regulations.

So I think it is as clear a choice as you can make.

Just a couple of other points, and I will stop, because I know that others want to speak. One of our colleagues quoted the Wall Street Journal. The Wall Street Journal has editorialized not once but twice in favor of the position the committee has taken here.

I urge my colleagues again to look at the debate—not get carried away or be confused by people who say the committee has gutted CRA, is killing CRA, or is repealing CRA. We are not doing any of those things. But we are dealing with abuses of CRA. They need to be dealt with. They scream out to be dealt with.

If I could make a plea to the other side, it would be a simple and short plea: If we don't fix the abuses of CRA, by the time we are through letting people know what is happening in terms of these $9 billion of cash payments, and by the time we finally do run down and know where all of this money is going, and we find that much of it—or some of it—is not being used to benefit people who are supposed to be benefiting from community loans, I think it is going to undercut CRA.

If I were a strong proponent of CRA, I would be for these reforms, because they clean up a program that clearly has had an impact. But our colleagues—as they did on welfare—it was abused and abused and abused and abused and abused. But they would never ever, ever, ever say that it should be fixed. Finally, the American people rose up and elected a new Congress. We are probably in the majority because of their intransigence. So God does provide His services from time to time. And then it was fixed. They probably could have had it closer to what they wanted had they been willing to fix it.

But the position we have heard today over and over is, never ever, ever, ever will we allow any change whatsoever, no matter how bad the abuse is in CRA.

I don't understand it. I think it is an extreme view. I hope that even yet, by the time we get through conference, by the time we have had a chance to discuss this over many more times, perhaps there can be a compromise.

I yield the floor.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

PRIVILEGE OF THE FLOOR

Mr. DODD. Mr. President, I ask unanimous consent that Karen Brown of my office, a fellow, be granted floor privileges during the consideration of S. 900.

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

Mr. SARBANES. Mr. President, will the Senator yield to me for 2 minutes without losing his right to the floor?

Mr. DODD. Fine.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I have refrained from taking a lot of debate time this afternoon, because a lot of our colleagues want to speak. I recognize that. Of course, the temptation is very great to sort of rise every time the chairman of the committee speaks. He has done that at some length here this afternoon. So I am not going to do it now, because I have colleagues here. I hope before we get to 7 o'clock I will get a chance to have a few minutes to make a statement.

But I want to say that there is kind of an Alice-in-Wonderland quality to this debate. The chairman pulls these figures out of the air. I don't really know where they come from. I asked him where they come from. He says there have been 16,000 something examinations of banks under $100 million in nonmetropolitan areas.

I don't know where he gets that figure. The figure from the Federal Deposit Insurance Corporation is 11,445. He says only 3 have been found in substantial noncompliance; the figure is 18, and another 320 have been found a need to improve. This chart is from the FDIC.

The Chairman says only three—it is not only three. I want to make that point.

Mr. GRAMM. Will the Senator yield?

Mr. SARBANES. I yield.

Mr. GRAMM. These are figures from the interagency CRA rating.

Mr. SARBANES. The Senator said earlier today that the cost this is imposing on small banks is $1.3 trillion.

I am thinking to myself, $1.3 trillion from these examinations? So I asked him, How did you get that figure? He took the number of examinations—about which we have just disagreed—and he multiplied it by 80,000. I am not sure where he got the 80,000 figure. Someone must have written in and said: That is what it costs our bank.

Mr. GRAMM. That is right, a small bank said that.

Mr. SARBANES. I don't know any study that validates that figure as the right figure.

Even assuming for the purpose of this Alice-in-Wonderland discussion that both the number of exams and the costs which we were then told came to a $1.3 trillion burden, the fact is, it is $1.3 billion. That is still a lot of money. I don't pretend to the contrary, but it is a lot different from $1.3 trillion. It was escalated 1,000 times.

Let me give one other example. We were told the CRA is allocating more money each year than the gross domestic product of Canada. The CRA commitments are over a 10-year period. Those commitments, factored out over a 10-year period, do not begin to approach the gross domestic product of Canada.

These are only a few examples. We could give a lot more. I want to underscore these figures that come floating in out of the air, and we hear this long disquisition. When we start probing these figures, we discover it is not there; it is Alice in Wonderland.

I thank the distinguished Senator.

Mr. DODD. Mr. President, I rise in support of the Bryan amendment. My fervent hope is that we can adopt this amendment and move on with passage of this bill. There are other outstanding issues that need to be resolved. No issue is as galvanizing or as important as this issue of the Community Reinvestment Act and how it is to be handled.

My friend from Texas, the chairman of the committee, and I have worked very closely together over many years. We have been each other's chairman and ranking minority member, depending on who was in control of this August body. We have dealt with securities matters, we have written legislation together, passed it together here on the floor, carried it through conference, overrode the President's veto—the only time a veto by this President has been overridden.

It is not easy for me to disagree with a man with whom I have agreed on many occasions in dealing with financial issues. However, on this we have a fundamental disagreement. I listened for a good part of the chairman's presentation, especially the last part of the presentation dealing with the alleged abuses that have occurred. I know of nothing in the bill violating existing federal laws on extortion. We may do some things in this bill Members do not want, but to the best of my knowledge the criminal code is left intact. Nowhere in this bill do we touch on the issue of whether or not people are going to be excused from engaging in extortion, blackmail, green mail—call it what you will.

The suggestion that there are serious violations of law—State and Federal that I know of—ought to be brought to the proper authorities. If someone believes they have been extorted, then we have Federal prosecutors and State prosecutors to bring those matters to the light of day and those accused can be brought to the bar of justice.

Second, I have never known the banking community to be terribly shy about things that they want. They are usually pretty vociferous. They are never reluctant to tell us how they want us to vote on matters that affect their institutions. They lobby quite effectively. They do a good job. The idea that the banking constituency, the thousands of banks all across this country, are somehow afraid of some community-based groups, and would not bring to light their concerns because of fear of some retribution, just doesn't hold up when it comes to how the banking community generally makes its concerns known.

The fact of the matter is, here on this issue there really is not a constituency for the provisions in this bill dealing with CRA. Usually we have a litany of organizations that are in favor of or against a provision, organizations and groups which have felt outraged or discriminated against in some way and will stand up and defend in a very loud and clear voice their rights or how their rights are being infringed upon.

In the last almost 6 hours of debate, I defy anyone to show me a list of organizations here across the country that feel as though the Community Reinvestment Act is somehow a great infringement on their ability to conduct their business. It is nonexistent. In fact, the only time we have ever actually voted on these matters prior to today is when the House Banking Committee recently voted—51–8, Democrats and Republicans, voted for provisions we are seeking here contained within the Bryan amendment. The Banking Committee last year voted 16–2, Democrats and Republicans, in favor of the provisions that we are trying to reinsert into this legislation. There is overwhelming evidence from the Federal Reserve Board, the banking regulators, banks all across the country, that the Community Reinvestment Act is working, and working well.

Let me quickly add I have never met any institution which was overly enthusiastic about any regulation—State, local or Federal. They usually do not welcome these and I understand why. There is a cost associated with it. I appreciate that they try to keep their costs down.

Most banks, certainly in my State, have been active in our community and do a great deal of good. However, as the Presiding Officer who has been identified as a distinguished scholar of the legal codes of our country knows, we do not write laws for the overwhelming majority of Americans who obey the law, who try to do the right thing. Laws are written for those who try to abuse what we believe is proper behavior. Only a small percentage of Americans violate the law. But that is not an excuse for not writing laws, because, unfortunately, some do in fact break the law.

So when it comes to the Community Reinvestment Act, we seek here not to lay a burden on the overwhelming majority of banks who do a good job. We must recognize that there are institutions which have discriminated against various groups in this country based on race, religion, ethnicity. So several years ago, we decided to enact the Community Reinvestment Act to require that lending institutions, depository institutions, pay attention to our nation's underserved, pay attention to our small farmers, and pay attention to our small businesses. If you are going to do business in Alabama or business in Connecticut as a depository institution, we do not want you to neglect the people in your communities, in your States, on any basis.

So we passed CRA and it has worked well. My colleague from Texas has said that there are extortionate practices ongoing. Let me quote him, from a statement made last October. The chairman of the committee said:

> It has now become common practice in CRA for professional protest groups to protest a bank's community service record and in turn to use the leverage of those protests to extract bribes, kickbacks, set-asides in purchases, quotas, hiring and promotion, none of which has anything to do with CRA and the lending practices of banks in the communities that they serve.''

It is a pretty broad statement. Now, let me give you the facts. Mr. President, four-tenths of 1 percent—let me repeat that, four-tenths of 1 percent of applications have resulted in agreements with community groups; four-tenths of 1 percent have resulted in these agreements. We have had them up here on placards and the easel here today. A great amount of time has been spent talking about these outrageous provisions in these agreements. If one sort of casually tuned into the debate the assumption would be, as the Senator from Texas has said: It is common practice. Common practice? Four-tenths of 1 percent of all the applications? Under any estimation that is not a common practice, less than 1 percent of all the applications.

During the past 21 years, there have been approximately 360 agreements reached. How many applications do you think there have been in the past 21 years? Mr. President, 86,000; 86,000 applications and 360 agreements. When you stand up here for an hour and a half or so and list these agreements that have been reached, you leave our colleagues and others with the impression that this has, to quote my friend from Texas, ''become common practice in CRA.'' That is an exaggeration. That is an extreme exaggeration.

I do not like what I heard in these agreements. It bothers me a bit. I would like to know more about it. A great deal of information was redacted. We do not have the whole agreement. But I tell my friend from Texas, I am concerned about it, too, and we ought to take a good look at this. Let us remember, however, that we ought to take a look at the 360 agreements, and

many of those probably are proper and worthwhile agreements. In fact, many lenders also require counseling for certain loan practices because they improve the quality of loans. To meet commitments, banks sometimes provide payments to community groups for services provided. It is not some outrageous behavior. It goes on all the time. But, nonetheless, if problems exist, let's look at them.

But with all due respect to my good friend from Texas, it appears as though we were sort of squirrel hunting with a machine gun here. That is not what his amendment or the language of the bill does. All we are saying here is we want to preserve the Community Reinvestment Act in a new financial framework. This modernization bill allows for the consolidation of financial services. If we are going to do that—and I think we should, I am a strong supporter of it—then it seems to me we should be preserving the Community Reinvestment Act to ensure that we do not have discrimination in lending. We must ensure that Hispanics, African Americans, Asian Americans, and Native Americans, as well as small businesses and small farmers, are not going to get short shrift. We are going to have a lot of large institutions, a lot of large banks. We want to make sure the average citizen is not going to find himself or herself denied fair access to credit. That is what the Community Reinvestment Act has been able to do for millions of Americans.

I listened to my colleague from Massachusetts and others here today go over the statistics of how vastly the availability of credit has increased to groups who in the past were denied those opportunities. We in this country cherish the notion of equal opportunity. We have never achieved the perfection that our Constitution and our Founding Fathers sought in creating equal opportunity for every citizen in this country, regardless of where they come from or the color of their skin. We all know, painfully, the discrimination that existed for a long time in all parts of our country.

Let me reiterate—all parts of our country. I could take you to the Northeast. You do not have to go to the home of my friends from the South in this country to find discrimination in lending. In Connecticut, a year or two ago, you could see the redlining that went on. People talked about this being a southern issue. That is untrue. I could take you to places all across this land where redlining occurred, where neighborhoods and communities were denied equal opportunity. If they are creditworthy people, they ought to get the credit and financing to buy a home, start a business, and get on their feet. Because of these discriminatory practices, we passed the Community Reinvestment Act. It has made quite a difference in our country. It is not a perfect condition yet, but we have reached into the communities of people who never had a chance before and they have a chance today.

Now we are going to allow these institutions to affiliate, and engage in new financial activities. With this legislation, are we now going to deny them the very benefit that the Community Reinvestment Act has afforded during the past 22 years? I do not think we ought to deprive them of that.

That is what the Bryan amendment attempts to address in part. It says we ought not to exclude certain creditworthy consumers in the process of allowing banks to expand in these new financial areas. To suggest that the extortion of banks by community groups is somehow a common practice—again, four-tenths of 1 percent, 360 applications out of 86,000, is not legitimate. Under anyone's estimation, that is not justification for weakening the Community Reinvestment Act in the 21st century.

Again, there is no constituency here. Most people, I think most of my colleagues from all across this country, believe the Community Reinvestment Act is doing a good job. Nobody here wants to be on the side of an equation that says: Having made these gains now we are going to turn back the clock. We should not do that. I do not believe the people who have communicated with us, who write us—bankers, consumers—said that.

One of the things we need to keep in mind as we talk about banking legislation and financial institutions in general, is that one of our major responsibilities is to ensure that our nation's financial institutions are going to work well. So we pay a lot of attention to their needs, as we should. But we also need to pay attention to the people who do business with our financial institutions. They are an important part of the equation here as well. Let us not forget the people who show up at that bank window, who go in nervous about whether or not they can get a home loan. Let us not forget the person with a good idea to start a business who needs to know if that local banker will take a chance on him, back him, give him a chance to get on his feet. Those are our constituents, too. They are a fundamental part of this equation.

It is not just the person behind the grate; it is the person in front of the grate, too, who we have an obligation to watch out for when we pass financial services modernization legislation. It is those people out there tonight who would like to start a new business, buy a new home, get a chance to share in the American dream. And the Community Reinvestment Act has been the engine for many achieving those desired results.

Again, in the past, we have seen votes of support on CRA by our colleagues, Democrats and Republicans. It would be a great pity, indeed, for this bill to fail over this issue.

It would be a great pity, indeed. This issue ought not to be the one that causes this bill either to be defeated or to be vetoed by a President and sent back after all the years we tried to get this done.

We are 240 days away from the next millennium, the year 2000. The world and its financial markets are getting more complicated. The United States of America has always been a leader in financial services. I do not want to see us lag behind because we couldn't come to terms with what is essentially a fundamental civil rights issue. I do not want to see us lose our leadership role in the global marketplace because we decided we were not going to expand the equal opportunities that are so much a part of this country's heritage. I am concerned that we are willing to give up all the other things we are trying to achieve in financial modernization over CRA provisions that are not supported by the banks they purport to help.

In fact, Mr. President, I will include in the RECORD, and others have already, countless statements from many others— the Federal Reserve Chairman, the Treasury, and major banks in all parts of this country who have said the Community Reinvestment Act is working. Sometimes conflicts occur; it is difficult. Sometimes we have two groups we admire and support, that are fighting hard for their points of view, and we are asked to make a choice between them. That can be a hard decision.

This is not a hard decision. There is no one on the other side of this equation. Yet we are dangerously close to killing an otherwise great bill that does a lot of good things.

As I said a moment ago, we have an obligation to make sure our financial institutions are strong. We have an obligation as well to see to it that the users of these financial institutions are not going to be adversely affected by legislation we pass.

Let me focus for a second on the small, rural bank exemption that is included in this bill. The bill exempts rural banks with less than $100 million in assets from the requirement of CRA. This exemption addresses that there is some undue burden imposed on small banks complying with CRA, and there may be some merit in that. But the provision in this bill which the Bryan amendment would take out exempts 76 percent of rural banks from CRA, 38 percent of all the banks and thrifts in the United States.

Again, I can understand if you just hate CRA, you just think it is a bad idea and we ought to get rid of it. Then I accept that—I disagree with it, but I accept your position. But if you believe CRA makes a difference and it actually helps rural people have greater access to fair credit, then you must acknowledge that this bill exempts 76 percent of rural banks in this country. Virtually one out of every three banks in the country will be exempt from CRA. That seems to me to go too far.

CRA loans in rural areas assist small farmers in obtaining credit. Small bankers have historically received

lower CRA ratings, quite candidly, than larger banks and have invested less in their communities. On average, 50 percent of large banks have a loan-to-deposit ratio below 70 percent. 25 percent of small banks have a loan-to-deposit ratio of less than 58 percent.

The supporters of the small bank exemption contend the CRA creates an onerous regulatory burden. However, the federal banking regulators specifically reduced the regulatory burden on banks when the new CRA enforcement rules went into effect 3 years ago. These efforts streamlined CRA, facilitated easier compliance by lenders, and reduced paperwork requirements.

Addressing the specific point the Senator from Texas made that sometimes these banks have a few employees—and, again, I do not want to overload that small bank—in 1996 we streamlined that process considerably for them.

If there are some other ideas that will help achieve that, I think we ought to listen to them. Again, think not only about the 8 or 10 employees of that small bank, but think about those small farmers who do not have any other choice but to do business at that bank. Small communities do not give you much of a choice. Your local farmers in Alabama or Connecticut have one bank to go to. It is not like living in New York City or Washington, DC, where you can walk down the street and compare which bank will give you the better deal.

Under this bill, if you have only one bank window to go to, and you are living in rural America, you will be told that your bank is exempt from having to see to it that you are going to be dealt with fairly. There is something seriously wrong here.

Streamlining the process for rural small banks is something I applaud; it is something we ought to move ahead on to make it easier. I do not want people to be denied options, denied choices, and to be discriminated against when it comes to getting the credit they need.

According to Christopher Williston, the president of the Independent Bankers Association of Texas:

> Most small banks are really very accustomed to complying with CRA. . .. Now they know exactly what the regulators are looking for, many of my members would say CRA is here and I can live with it.

Mr. President, again, if there are specific problems with the implementation of CRA, if there are certain activities that should be considered that are not considered, then the appropriate way to address those specific concerns is to work with the regulators or come up with a specific legislative approach.

The Senator from Texas, our distinguished chairman, should remember our conversations to address this and have some hearings to look into the issues he raised.

Again, don't exaggerate and turn four-tenths of 1 percent of the applications into a common practice, and then miss the opportunity to include reasonable CRA provisions in this consolidation of financial services.

I hope there will be enough votes on the other side to support the Bryan amendment. I am fearful if we do not do so, this bill is doomed. I mentioned at the outset of my remarks the other day that my colleague from Maryland and I have been at this together for the full 18 years I have served in the Senate. He has been at it longer than that, having served a bit longer than I have in the Senate. Nothing—nothing—would make me happier than to pass this bill and expand and consolidate financial services to serve consumers' needs and keep America in a leadership position on these issues.

However, I cannot support a bill that turns its back on my constituents at home. I want to help my financial institutions in Connecticut. I want to help banks across the country. But I cannot, in doing so, turn the clock back on the gains, on the strengthening of America that we have made with the Community Reinvestment Act.

Whatever shortcomings it has—and I am certain they are there, CRA is not perfect—let's fix the shortcomings. Let's deal with those, but do not deprive people in this country of the increased opportunities. We have a CRA bill on the books that has worked well, even by those who must bear the burden of implementing these regulations. We must no place in jeopardy an otherwise fine bill that, in my opinion, deserves broad-based support in this Chamber and the other body.

I hope that we will stand at 7 p.m. tonight when the votes are cast, in what may be the only civil rights vote of this Congress, and the Bryan amendment will be adopted. Maybe other civil rights votes will come along, but as of right now, this will be the only test as to where people stand when it comes to seeing that equal opportunity in America is going to be at least preserved in this Congress and not set back.

I hope at 7 o'clock, when the vote begins and as Members come to the Chamber to cast their ballots, they will keep in mind the importance of this bill. And to a far greater extent, keep in mind those who depend upon us to see to it that they are going to have equal opportunity in America, a chance to participate in the American dream in the 21st century, and will not be denied because of an action we take tonight by denying the preservation of CRA in a new financial services framework.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The Senator from Utah.

Mr. BENNETT. Mr. President, I have listened to this debate with some interest. I have enormous respect for members of the Banking Committee on which I have served since I came to the Senate. I know there is good intention on both sides of the issue, on both sides of the aisle.

I echo the comments of the chairman of the committee in that much of the debate that I have heard has been focused on the wrong issue; that is, you would think that this was an attempt on the part of the majority in the committee to repeal CRA. I do not condone redlining. I recognize that the decision which was made by the Congress in 1977 to create CRA was motivated by a genuine abuse that required a genuine Federal fix.

At the same time, I recognize also that under Secretary Rubin's leadership, attempts have been made to alleviate the regulatory burden of CRA, that there has been a recognition on the part of this administration—I think belatedly, but nonetheless I will accept it whenever I can get it—a recognition that CRA has gotten out of hand and has become, in some instances, a paperwork burden that is nonproductive and anticompetitive and puts an undue burden on places where it should not be.

The question is not, Should we abolish CRA? The answer to that is clearly no. The question is not, Should we turn our backs on those people who have been benefited by CRA? The answer to that is no.

The question is, Can we streamline CRA, as we are going through the process of modernizing our financial institutions, in a way that recognizes the reality of the marketplace? And there the answer is yes.

One of the criticisms which has been made, and I think with some justification, is that a good part of the debate has been anecdotal; that is, one situation has been described, and we extrapolate from that, and then another has been described, and we extrapolate from that.

I agree with those members of the committee who have suggested at some point it would be well for the committee to have hearings on the whole CRA matter and examine it at great detail. I think that is a salutary thing to do.

But we have an opportunity here in this bill to take some steps which I consider to be relatively modest and relatively straightforward. The one I want to focus on is the exemption of CRA, the CRA requirement for institutions that have $100 million or less in aggregate assets.

I want to share with the Senate the reaction of banks from my home State that have been contacted about this. And this is their information. This is not some professor at some university. This is the everyday banker doing business in the everyday community. And I will go beyond simply quoting the letters because I want to put it in context so you can understand the market.

I have said around here before—and undoubtedly in the spirit of the Senate where there is no such thing as repetition—I will say, again, that if I could control what we engrave in the marble around here to remind us of our duty—not to denigrate the marvelous phrases

that are here—I would have engraved in stone, at least in our committee rooms, the phrase: ''You cannot repeal the law of supply and demand.''

We try to do that continually in Congress. We try to think that markets do not matter, that governments are smarter than markets, that governments can make decisions that interfere with the law of supply and demand and produce beneficial results with no side effects. People have been trying to do that in government not only for centuries but for millennia. And they always fail.

Here are the market realities with respect to CRA.

I first quote from a letter of the Cache Valley Bank. No one in this Chamber knows where Cache Valley is; but I know where Cache Valley is. I have spent a lot of time there. My family has done business there. We have owned a business there. The president of the Cache Valley Bank says in his letter:

> Our community is a middle class farming community with a university. Most all of our customers are of modest income, small businesses and small farms. The rich professionals have gravitated to the local credit unions where they know they can get something for nothing.

That last sentence indicates how he feels about the competitive impact of credit unions in Cache Valley.

He says:

> We are chartered to serve our community. We have no business going outside our community. We live off the ability to say we are a hometown institution.

Let me underscore that last sentence again. ''We live off the ability to say we are a hometown institution.''

In Cache Valley, there are branches of large banks, large banks that are located someplace else. There are, as an earlier somewhat sarcastic comment indicated, credit unions. They happen to be very large credit unions. We have some of the largest credit unions in the United States in Utah because of Utah's law. There is competition in Cache Valley for the banking customer.

How does he deal with that competition? He says:

> My bank is . . . a $90 million institution operating from one office . . .

One office—so he does not have branches around the city. The credit union does. He does not have the reach of advertising that the large banks which are there as his competition do. He has one office. And he makes his living advertising himself as a hometown institution.

This, in marketing, is what is known as a marketing niche. He recognizes that he cannot compete with the big banks throughout the entire city. He recognizes that he has a particular niche in the market that he can fill, and he goes after it and he fills it.

He says:

> We do what the CRA regulation intended us to do because it makes good sense. The documentation and time spent telling the regulators that that is what we do is just wasted by both us and the regulators. I have never had a customer come in and ask to see our CRA file.

Then, with the optimism that comes from every small businessman, he says:

> As I will probably [pass] the $100 million proposed limit some day, I can see that not having to comply would give smaller institutions a slight advantage from costs they would save. The real issue is if the whole rule for community oriented institutions makes any sense. It doesn't and no one has provided any evidence that it does.

He is not operating in a vacuum. He is not operating in a situation where there is no credit available to anybody else if he does not serve his niche. He is operating in a highly competitive situation, and yet he is examined as if he is the only institution, and he is looked at in terms of his lending to his market niche.

All right. Let me go down the highway a little from Cache Valley to the First National Bank of Morgan. This is a smaller bank. This is a smaller community. The president of this bank says that they have $37 million in current assets. They serve a county, the population of which is approximately 7,000. In Utah, given our family size, a total population of 7,000 means that there are probably about 2,000 families there. I do not know how many of those are borrowers. This is a relatively small base for him to serve.

Once again, while it is an isolated farming community, in today's modern world there is competition there. The big banks can go after his customers on the Internet if they want. They can open ATM stations or put branches there, if they want. There is a big bank just down the highway, within 20 miles of this small institution. How does he survive under these competitive conditions? He survives by serving the community. This is what he has to say:

> Exempting our institution from CRA requirements would allow bank personnel to spend more time with our customers in developing new products rather than gathering information to satisfy CRA documentation requirements. Competition is the greatest enforcer of CRA. The delivery of financial services is a highly competitive business. If my institution is not offering free checking or mortgage loans, then my competitor down the road will be taking advantage of my financial institution's shortcomings.

I think he is absolutely right. In today's competitive world, you do not operate in a vacuum. If he wasn't doing his job, even though he is in a small, rural community, with Internet banking and advertising over television, the large institutions would come in.

It is interesting, again, referring to Utah's somewhat unique situation, in many communities where the local bank was perceived as having something of a monopoly or a free ride in the community because of the physical isolation, it was not another bank that came in to offer competition; it was a credit union, operating under Utah's credit union laws. The competition produced the kinds of challenges that competition always produces. Once again, you cannot repeal the law of supply and demand. If there was demand in that community that was not being met by the local institution, competition came in and met it.

Now, a little further down the highway, I want to refer to the Frontier Bank of Park City. Here the president of the bank says:

> As president of a nonmetropolitan community bank, I am of the opinion that existing CRA regulations are largely superfluous for both my institution and its direct competitors. The fact remains that we have and will continue to lend to all segments of our community because it is good business, not because it has been defined by regulation. Additionally, the time spent documenting our community lending efforts for regulatory purposes is in itself counterproductive as we could instead redirect our energies towards additional lending and community development activities.

An interesting quote, Mr. President. He feels that CRA gets in the way of community developing activities that he would otherwise engage in.

When I first went on the Banking Committee, some 6 years ago, I had never heard of the CRA. I heard at that time institutions coming in and complaining that the CRA documentation burden was overwhelming and that CRA had become more of a documentation issue than it had been a lending issue, that if they could fill out the documents in such a way as to satisfy the regulators, it didn't matter what their lending practices were.

We had some testimony—I can't go back and put my hand on it now—that made it clear that CRA was failing in its purpose to produce a meaningful impact for those in need in communities where they were not getting served.

I am hoping that the reforms established by Secretary Rubin have begun to lift that burden and change that situation, but I am satisfied now that we have enough evidence that indicates that the vast majority of small banks with capitalization under $100 million are spending their time on CRA, filling out documents and meeting with regulators, spending their time performing the bureaucratic chores necessary to file a report, where they could be spending their time better serving their communities.

Therefore, I will vote to see to it that the language that was adopted in the committee report remains there. I will oppose the Bryan amendment.

Mr. LEVIN. Mr. President, I rise to speak about the Community Reinvestment Act. The CRA was enacted in 1977 to encourage banks to serve the credit needs of the entire community including low and middle income areas. The obligations that banks owe to the entire community stem from their charters and the public benefits they receive through the Federal Reserve. The CRA is a way to encourage banks to live up to their public obligation.

Nationwide the CRA has been recognized as an effective way to increase credit availability in underserved

areas. In his testimony before the House Banking Committee in February, Federal Reserve Chairman Greenspan remarked, that the CRA has ''very significantly increased the amount of credit in communities'' and the changes have been ''quite profound.'' In 1997 alone, almost 2,000 banks and thrifts reported $64 billion in CRA loans, including 525,000 small business loans worth $34 billion; 213,000 small farm loans totaling $11 billion; and 25,000 community development loans totaling $19 billion. Those loans went to affordable housing projects, economic development through financing small businesses or farms, and activities that revitalize or stabilize low or moderate income areas. CRA has also encouraged a dramatic increase in home ownership by low and moderate income individuals. Between 1993 and 1997, private sector conventional home mortgage lending in low and moderate income census tracts increased by 45%.

And the CRA has done so without forcing a large paperwork burden onto banks and without forcing banks to make bad loans. During the same House hearing, Chairman Greenspan alluded to the mutual benefit of the CRA to consumers and banks when he said, ''CRA has helped financial institutions to discover new markets that may have been underserved before.''

While there are countless examples of the Act's effectiveness in encouraging lending in underserved areas all over the country. Here's some examples from Michigan. Lake Osceola State Bank in Baldwin just completed their CRA exam under the reformed 1996 regulations. They said it was not a burden, and they received a rating of outstanding. Under the terms of S. 900, the bill before us today, Lake Osceola State Bank would qualify for an exemption from the CRA because of their size and location, but the bank has told my office that they are not seeking a CRA exemption. To the contrary, they are justifiably proud of the contributions they are making to community development in the Baldwin area.

We Care, Inc. is a small non-profit that rehabilitates a few houses a year in Detroit's Van Dyke and 7 Mile area. They say the CRA and National City Bank have been their life-line for credit.

Northwest Detroit Neighborhood Development, Inc. is yet another non-profit organization that has contacted me in support of the CRA. They praised the National Bank of Detroit and Comerica for extending credit to them and supporting their mission of home-building in the Brightmore area of Detroit.

The Local Initiatives Support Corporation (LISC), a nationally prominent community development group that operates in five Michigan cities, considers the CRA critical to their efforts. In an effort to boost their CRA scores, lenders have sought out groups like LISC and the Neighborhood Reinvestment Corporation to develop ''shared risk'' loan pools that offer financing to first time home buyers. Over the past 5 years, more than 400 mortgages were written in six Michigan cities. This has generated over $16 million in direct public and private investment in central city neighborhoods. According to LISC, without the CRA ''these types of programs would not have been established.'' Other Michigan community development groups like U-SNAP-BAC, SWAN and New Hope also rely on loans encouraged by the CRA.

Many Michigan mayors have expressed their support for the CRA. They praise the CRA for encouraging private business investment and creating new jobs and businesses in their communities. In addition, money from federal grants is leveraged to obtain millions of dollars in private investment. There are twelve mayors from all over Michigan on this letter from the U.S. Conference of Mayors supporting the CRA. I oppose the provisions weakening the CRA included in S. 900, a bill intended to modernize the financial sector of our economy. Both small and large banks in Michigan have received outstanding CRA ratings. The community groups and non-profits make great use of the resources which are made available through the CRA. The federal independent agency that oversees the nation's banking system says its not onerous and has been very successful. Therefore, I will not support a bill that weakens a program that has been so important to community development efforts in Michigan and nationally.

Mr. KOHL. Mr. President, I rise in strong support of the Bryan amendment. While my comments today will be brief, my conviction on the issue of the Community Reinvestment Act (CRA) is strong.

CRA came into being in 1977 thanks to my Wisconsin colleague, Senator Bill Proxmire. While there's been talk of CRA as merely an urban concern, in fact, it has enriched and addressed inequities in both urban and rural areas in Wisconsin and across the country. We are all familiar with the numbers—more than $1 trillion in community development, small business and home mortgage loans—to communities that were once deemed unworthy.

CRA has been, and remains, vital to our common efforts of ensuring that credit is extended to all Americans without prejudice. But CRA lending has also proven that the ability and willpower of a borrower is often just as important, if not more important, than a loan determination based solely on income or economic history. In other words, new and innovative lending inspired by CRA has promoted fairness, but also made good business sense and delivered profits to lending institutions. And, fortunately, we've made substantial progress at making CRA compliance less burdensome.

While impressive, this progress has not reduced the need for an effective CRA. In 1977, Senator Proxmire's legislation was timely and appropriate, but in 1999, it has proven timeless and visionary. We are contemplating an era of more diversified, and potentially bigger, actors in the financial marketplace—one in which vigilance to ensure fair lending is all the more important. Overall, with adequate safety and soundness protections and an effective CRA, this new financial marketplace will yield benefits for consumers—more financial products delivered more conveniently and rapidly and at a better price.

I strongly support financial modernization and want to help send a signable, bipartisan and well-balanced piece of legislation to the President's desk. Last year, we secured a compromise bill that passed out of Committee by a vote of 16 to 2 that would have had my support. It is regrettable that this year we find this legislation and the financial industry held hostage to a counterproductive agenda to scale back CRA.

Financial modernization is about moving forward, paving the way for marketplace innovation and consumer benefits. But Senator GRAMM's bill and his proposed CRA restrictions move us backward. I urge my colleagues to support the Bryan amendment and ensure that CRA will remain strong and viable for all American communities, whether urban or rural, in the new financial era that we hope to create.

Mr. HARKIN. Mr. President, I rise today in strong support for preserving current law with regard to the Community Reinvestment Act (CRA) and striking the provisions of S. 900 which will harm this important and worthwhile program. CRA was enacted in 1977 to help prevent ''redlining'' of poor neighborhoods by banks, which denied loans to residents and businesses in those areas.

For more than twenty years, CRA has been a key means of increasing capital and credit to underdeveloped areas through market based loans. CRA has created jobs and contributed to the economic revitalization of many depressed urban and rural areas. It has been a force for the capital needed to increase home ownership and business development. CRA has contributed greatly toward the revitalization of many areas, helping to generate an estimated one trillion dollars in lending over 22 years. Put simply, CRA is good public policy.

Mr. President, community groups, housing groups, farm groups, minority groups, civil rights groups, mayors and rural organizations all support a vibrant CRA and are opposed to S. 900's CRA provisions.

In my State of Iowa, many rural residents remain in desperate need of affordable capital, especially during the farm crisis gripping the mid-West. Under S. 900, as it is now written, 276 of the 325 banks and thrifts in rural Iowa counties would be exempt from CRA requirements. That's 85 percent of all the

rural banks in Iowa. If the provision exempting banks under 100 million dollars in assets remains, the benefits of CRA would not be available to a large share of the rural communities in Iowa.

I have here a letter from the Iowa Coalition for Housing and the Homeless, which describes the importance CRA has for our communities. It reads, in part, ''Through increasing the access to capital and credit, CRA provides a market-based solution for economic revitalization and even job creation. A strong and vibrant CRA has meant that hundreds of billions worth of new home mortgage loans and small business loans have been made in low and moderate income, urban and rural communities throughout the country in the past several years.''

I ask unanimous consent that the text of this letter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, so ordered.

(See Exhibit 1.)

Mr. HARKIN. Mr. President, I would just like to mention briefly the CRA reforms already in place to protect small and rural banks. In 1995, new regulations dramatically simplified the CRA exam process for small banks under 250 million dollars in assets. Under the new rules, small banks are not subject to the lending, investment and service tests applied to large institutions. Additionally, for small banks, examiners look at only five factors: loan to deposit ratio; percentage of loans inside bank's CRA assessment area; record of lending to borrowers of different income levels and businesses of different sizes; geographic distribution of loans; and a bank's record of taking action in response to written complaints about its CRA performance. Finally, small banks are not subject to any data collection requirements for CRA. So, we have already addressed these issues. This Senator would certainly welcome hearings on the current state of those reforms and their effectiveness. In fact, I would ask the Banking Chairman to consider holding such hearings on CRA before we make changes to an important and effective program.

Mr. President, CRA has provided jobs, helped our economy to grow, and ensured all of our citizens are considered for loans based on their financial history, not their address. I urge all my colleagues to support removal of these provisions.

EXHIBIT 1

IOWA COALITION FOR HOUSING AND THE HOMELESS,
Des Moines, IA, May 3, 1999.

Rep. TOM LATHAM,
Cannon House Office Building,
Washington, D.C.

DEAR CONGRESSMAN LATHAM: As organizations that work with and on behalf of low-income and homeless individuals, we join today to share our concerns regarding the proposed financial modernization legislation currently being considered in Congress. By combating discrimination and promoting bank-community partnerships, the Community Reinvestment Act (CRA) extends the American dream of home and small business ownership to millions of Americans. Without this sustained access to capital and credit, our neighborhoods die. We ask that you support a strong CRA and the benefits it has brought our communities.

Through increasing the access to capital and credit, CRA provides a market-based solution for economic revitalization and even job creation. A strong and vibrant CRA has meant that hundreds of billions worth of new home mortgage loans and small business loans have been made in the low- and moderate-income urban and rural communities throughout the country in the past several years. Any bill that threatens to eviscerate the effectiveness and application of CRA will only destroy this promotion of wealth creation and entrepreneurial development in minority and working-class neighborhoods. While the various versions of financial modernization that have been introduced and contemplated may not directly attack CRA, they will eventually undermine the law by preventing its evolution with the rapid changes in the financial industry.

The current versions of financial modernization only demonstrate its fundamental problem: the ability of financial conglomerates to offer loans through their holding company affiliates, without having to conform to CRA requirements. Stated simply, holding companies will be able to shift assets from CRA-covered banks to mortgage and insurance companies, securities firms, and other institutions exempt from CRA-like requirements. Banks, therefore, will be left with fewer resources with which to make affordable housing economic development, and small business loans. If any financial modernization bill fails to extend CRA to the lending and bank services activities of mortgage companies and other non-depository affiliates, CRA will cover an ever-shrinking amount of traditional banking products and services.

In addition to the expansion of CRA, financial modernization could further serve low-income consumers if it improved upon data disclosure requirements. Such data disclosure requirements help communities identify missed market opportunities and eliminate discriminatory practices. These requirements help leverage reinvestment by making financial institutions publicly accountable to serve all borrowers in a fair and equitable manner. Insurance companies and others affiliating with banks should be required to report data on policies and services issued by income and race and small business data should include the race and gender of the borrower as well as the neighborhood in which the business is located.

We would also urge you to fight attempts to directly attack or weaken CRA; specifically, proposals such as safe harbors, small bank exemptions, and ''anti-greenmail'' bills or amendments. Mergers and acquisitions can disrupt the lives of thousands of citizens in a community through job losses, closing of offices, decreases in lending, and higher fees. CRA reviews are critical to ensure that lenders involved in mergers can preserve their CRA performance after such enormous institutional changes. Moreover, affected citizens ought to have the right to speak up and have their concerns addressed before a merger application is approved, regardless of the pre-merger CRA ratings.

Small bank exemptions would also be extremely harmful to communities because they eliminate community reinvestment requirements for most of the banks in the country. Small towns and rural areas that depend on these banks for home and small business lending would only suffer a new round of credit and capital flight. as proposed, the current legislation would exempt small rural banks under $100 million in assets from CRA altogether. Almost 40% of all lenders in the country will then have no obligation to serve minority and working-class neighborhoods. Seventy-two percent of all rural banks would be exempt from CRA. In Iowa, this exemption would include 85% of the lenders in non-metropolitan areas, many of whom enjoy a near monopoly in their service areas.

It would be detrimental to the wealth-building efforts in this country to pass a financial modernization bill that would halt community reinvestment progress by failing to keep CRA on pace with the evolution in the financial industry. Congress has required that banks serve ''the convenience and needs'' of the communities in which they are chartered because of the vital role they play in our lives. We believe that this same standard should be applied to the entire financial industry. A financial modernization bill that carefully modernizes the Community Reinvestment Act to the entire financial industry could have a profound effect in democratizing access to credit and capital accumulation tools in our society. Clearly, that would be good for America.

Sincerely,

SANDI MURPHY,
Policy Director.

The organizations listed below support the position of the Iowa Coalition for Housing and the Homeless and strongly encourage you to oppose the current financial modernization legislation and demand a strong, and protected, CRA.

John Boyne, United Action for Youth, Street Outreach, Iowa City.

Crissy Canganelli, Emergency Housing Project of Iowa City.

Jan Capaccioli, Domestic Violence Intervention Program.

Amy Covreia, Iowa City, Iowa.

Mike Coverdale, Iowa Community Action Network.

Bill Holvoet, Southeast Iowa Community Action.

Greg Jaudon, Iowa Homeless Youth Centers.

Gene Jones, Des Moines Coalition for the Homeless.

Mike Kratz, Veteran Affairs Medical Center.

Lora J. Morgan, Goodwill Industries of S.E. Iowa.

Mark Patton, Muscatine Center for Strategic Action.

Linda Severson, Johnson County LHCB.

Lisa Wageman, Operation Threshold, Waterloo.

Mr. REED. Mr. President, I rise in strong support of the Bryan CRA amendment. This amendment would strike the small bank exemption and the CRA safe harbor provisions included in S. 900 and require banks to have a ''satisfactory'' CRA rating as a condition for engaging in the expanded powers allowed under this bill.

The language of this amendment is similar to language that was included in the financial modernization bill which passed the House and Senate Banking Committee by a vote of 16 to 2 last year and which enjoyed broad industry support. Similar language has also been incorporated in the H.R. 10 bill that recently passed the House Banking Committee and is pending in the House Commerce Committee.

In short, the Community Reinvestment Act requires financial institutions to meet the credit needs of the

local communities in which they are chartered, including low- and moderate-income communities, consistent with safe and sound practices. Let me reiterate, CRA requires banks to make credit-worthy loans. It does not require banks to make bad loans.

Despite this fact, some have argued that CRA is tantamount to government-mandated credit allocation. Nothing could be further from the truth. Neither the Act nor its regulations specify the number of loans, the type of loans, or the parties to CRA loans. To the contrary, CRA relies on market forces and private sector ingenuity to promote community lending. This is evidenced by the tremendous flexibility that financial institutions have in satisfying CRA. For example, loans to low-income individuals; loans to nonprofits serving primarily low- and moderate-income housing needs; loans to financial intermediaries such as Community Development Financial Institutions; and loans to local, state, and tribal governments may qualify for CRA coverage. Moreover, loans to finance environmental clean-up or redevelop industrial sites in low- and moderate-income areas also qualify as CRA loans.

In addition to lending, CRA is satisfied through investments by financial institutions in organizations engaged in affordable housing rehabilitation, and facilities that promote community development such as child care centers, homeless centers, and soup kitchens.

Even Federal Reserve Chairman Alan Greenspan has weighed in on this issue, arguing, ''The essential purpose of the CRA is to try to encourage institutions who are not involved in areas where their own self-interest is involved, in doing so. If you are indicating to an institution that there is a foregone business opportunity in an area X or loan product Y, that is not credit allocation. That, indeed, is enhancing the market.''

As illustrated by these examples and Chairman Greenspan's comments, it is clear that CRA is a far cry from government-mandated credit allocation. To be sure, CRA is predicated on two simple assumptions that were well-articulated by the legislative architect of CRA, former Senate Banking Committee Chairman Proxmire, who stated, ''(1) Government through tax revenues and public debt cannot and should not provide more than a limited part of the capital required for local housing and economic development needs. Financial institutions in our free economic system must play the leading role, and (2) A public charter for a bank or savings institution conveys numerous benefits and it is fair for the public to ask something in return.''

In the words of former Comptroller of the Currency Eugene Ludwig, ''CRA is in many respects a model statute. It requires no public subsidy, no private subsidy, and no massive Washington bureaucracy.''

It is this simple concept that has resulted in more than $1 trillion in loan commitments for low- and moderate-income borrowers since CRA's enactment in 1977. Indeed, the record home ownership rate that the U.S. is now enjoying—66.3 percent of Americans own their homes—is in large measure due to CRA lending to minorities and low-income individuals. Minorities have accounted for a disproportionately large share of home ownership growth since 1994—roughly 42 percent.

Also, since 1993, home mortgage loans to low- and moderate-income census tracts have risen by 22 percent, which is more than twice as fast as the rate of growth in all home mortgage loans. In view of these statistics, it is clear that CRA has played a tremendous role in the home ownership boom.

In addition to increases in home mortgage lending, CRA has also been responsible for an increase in community development lending. In the past four years, banks have invested four times as much in community development projects, as they did in the previous thirty years.

This increased investment in community development by banks has also furthered the evolution of a secondary market for community development loans, which ultimately provides additional capital for community development. For many years, the development of a secondary market for community development loans had been limited. This development was limited for a number of reasons including the lack of conformity in the underlying loans, as well as the fact that community development securities typically do not receive a rating from a nationally-recognized rating agency. Also, the underlying loans lacked long-term performance data, making them difficult to rate.

However, because of CRA, a secondary market for community development securities is beginning to emerge. This is happening for two specific reasons: (1) The federal banking regulators have interpreted CRA to allow banks to get CRA credit for purchasing community development securities, even if they lack ratings or performance data, if the purchases are consistent with safe and sound banking practices, (2) Also, as banks have increased their community development lending, they have been able to draw on this experience to improve underwriting standards and create greater conformity in underwriting, which is important for investors in the secondary market. Also, this experience has provided banks with greater empirical data on loan performance, which is another important consideration for secondary market investors. These are trends that we should clearly be excited about and should seek to further.

Instead, S. 900 would undermine this progress. Specifically, one provision of S. 900 would exempt rural banks with assets under $100 million from CRA. Although this exemption is limited to the smallest institutions, over 76 percent of rural banks would be covered. This is of great concern since small banks have historically received the lowest CRA ratings. In fact, institutions with less than $100 million in assets accounted for 92 percent of institutions receiving ''non-compliance'' CRA ratings in 1997–1998.

I am also concerned about this exemption because smaller banks are typically the primary sources of credit in rural communities. Hence, absent CRA, it is likely that many rural communities could become credit-starved.

The bill also includes a provision that would provide a safe harbor for banks with a ''satisfactory'' or better CRA rating. Specifically, institutions receiving a satisfactory CRA rating at their most recent examination would be presumptively in compliance with CRA, unless ''substantial verifiable information'' to the contrary was presented. I am concerned about this provision because it establishes a very difficult-to-satisfy burden of proof for individuals or groups wishing to protest a bank merger on CRA grounds. Indeed, I fear this provision will greatly inhibit the ability of groups to get the necessary information from banks to protest a merger. Also, when considering the fact that 97 percent of institutions receive a satisfactory or better CRA rating, it is clear that this provision will effectively eliminate CRA comment on a bank merger.

If these provisions of S. 900 are not eliminated, I fear a return to the days prior to CRA's enactment when access to credit was limited for many minorities and those living in low-income neighborhoods. In fact, testimony before the Senate Banking Committee during the consideration of CRA in 1977 revealed how bad things were. Witnesses recounted stories of financial institutions that had previously been active in urban lending, that disinvested in those same urban neighborhoods as minorities increasingly moved in. Testimony before the Senate Banking Committee also brought to light a 1974 study of six Chicago banks. In the study, it was found that these banks, which held $144 million in deposits from low-income and minority communities, returned one-half cent on the dollar in home loans. Such was the deplorable state of lending in low-income and minority communities before CRA.

While certainly we have come a long way since CRA's passage in 1977, lending discrimination, unfortunately, persists. In a study published earlier this year by the Fair Housing Council of Greater Washington, it was revealed that Washington area lenders discriminate against two out of five African American and Hispanic mortgage applicants. In one incident cited in the study, a Rockville lender advised a black tester that the lender did not make loans to first-time home buyers. The same lender later met with a white tester, also posing as a first-time home buyer, giving the tester an appointment and encouraging him to apply for a mortgage loan. Lending studies by

other organizations reveal similar findings. These studies have shown that minority borrowers receive fewer bank loans even when their financial status is the same as or better than white borrowers.

By encouraging lenders to extend credit to all communities, CRA has been an important weapon in fighting lending discrimination. The Bryan amendment will ensure the potency of CRA in fighting lending discrimination and providing fair access to credit to low-income and minority communities.

In closing, Mr. President, let me reiterate how important it is to include CRA in any modernization legislation that passes. It is very likely that if S. 900 is enacted, we will see increased consolidation in the financial services industry. As we know from recent experience, this consolidation will likely lead to layoffs and bank branch closings. Absent the CRA language included in the Bryan amendment, I fear that this consolidation could have a significant and adverse impact on access to banking services and credit in low-income and minority communities. By adopting the Bryan amendment, we will at least ensure that industry consolidation will not decrease access to credit in these communities.

In fact, I feel so strongly about these provisions that I plan on opposing the bill if this amendment is not adopted. I would hope my colleagues can support this amendment.

Mrs. BOXER. I have been a longstanding supporter of financial services modernization and affirmed such support in a letter to Secretary Rubin about two years ago, and last year, as a member of the Banking Committee, I voted in support of H.R. 10—the Financial Services Modernization bill reported out of the Banking Committee with strong bi-partisan support.

I believe it is important that our financial services sector adapt to contemporary market conditions, marketplace innovations and to growing financial competition from abroad. Moreover, I understand and appreciate the desire of our financial services industries—banks, securities firms, and insurance firms—to further expand their traditional lines of business.

I joined the Banking Committee in 1993 when I was first elected to the Senate, and I proudly served on that Committee until this year. So I realize the process of financial services reform has been long, tedious, and often quite contentious. I also realize that many financial services firms are looking forward to the Senate putting an end to that long process by passing a financial services modernization bill. And I would like to see us pass a good bill—a fair and balanced bill.

Nonetheless, it is important to remember that the U.S. already has the best banking system in the world. It is the best capitalized, the most transparent, has the highest accounting standards, is very innovative and its safety and soundness is unsurpassed.

Therefore, it is appropriate to ask, ''why is financial services modernization necessary?'' It is necessary because the financial marketplace has changed, brought on by, among other things, a combination of new and innovative products and services, as well as technological advances.

Regulators must keep pace with these innovations, and we, as legislators must set the appropriate parameters for this changed financial services marketplace. We cannot leave it up to piecemeal regulation and legislation as, all to often, has been the case.

Our goal should be to create a regulatory framework which provides measurable benefits to consumers and businesses, enhances competitiveness of the financial services sector on a global basis, and ensures the continued safety and soundness of our financial institutions. While the bill before us goes a long way toward achieving that goal, unfortunately I believe, it falls short.

It falls short, principally in my opinion, because it fails to ensure the continued strength of the Community Reinvestment Act. CRA has been invaluable in helping to assure low and moderate income consumers, communities and small businesses have sufficient access to credit.

The Community Reinvestment Act has been important to both urban and rural communities. Every CRA dollar is a loan—it is the leveraging of capital. Over the past seven years or so, approximately $400 billion of community development has been leveraged. It has proven to be an effective tool in my home state of California and in states throughout the country.

CRA encourages federally insured financial institutions to help meet the credit needs of the communities in which they do business. As Senator Proxmire said in 1974, ''CRA is intended to establish a system of regulatory incentives to encourage banks and savings institutions to more effectively meet the credit needs of the localities they are chartered to serve, consistent with sound lending practices.''

CRA does not, despite many implications to the contrary, impose any requirement upon banks to make unsound or unsafe loans. CRA does not require banks to engage in risky lending or investments. It does not require banks to make loans outside of the lending criteria they have established. I would suggest, in fact, that given how well banks are doing these days, one would be hard pressed to make a reasonable case that CRA has been detrimental to the bottom line of banks or to their safety and soundness.

I think it is wonderful banks are doing so well, I appreciate the contributions they are making to our economy. I remember all too well when banks were not doing so well. Thus, I would not support CRA, or any other requirement, which encouraged banks to engage in unsafe lending practices.

My specific concerns as relate to the CRA provisions in this bill are as follows. First, as I understand it, there are no enforcement mechanisms or penalties for failing to maintain a ''satisfactory'' CRA rating. By contrast, the bill passed last year by the Senate Banking Committee required all banks in a holding company structure to have a satisfactory CRA rating as a condition of affiliation, and maintain a satisfactory CRA rating in order to continue to engage in new financial activities.

Second, this bill provides for a CRA ''safe harbor.'' Under this provision, all institutions which received at least a satisfactory CRA rating on their most recent examination, and received a satisfactory rating in each of the past 3 years, would be deemed to be in compliance with CRA. Such a safe harbor, I believe, would often effectively eliminate the opportunity for public comment. Banks and thrifts are usually examined every two to three years. CRA performance can change in the interim.

Third, S. 900 exempts those banks with less assets of less than $100 million, and those that are not located in metropolitan areas, from CRA. While I think we can all agree that institutions with assets of less than $100 million are small, the amendment would exempt more than 75 percent of rural institutions from CRA requirements—that is almost 40 percent of all U.S. banks and thrifts. Ironically, I would note, it has traditionally been these smaller institutions that have had the worst CRA records. Moreover, the new CRA rules, which went into effect in January 1996, provide a streamlined examination for banks and thrifts with assets less than $250 million. In fact, pursuant to the changes which took effect in 1996, small banks do not have any data collection or reporting requirements.

I do not believe the CRA changes envisioned in S. 900 are appropriate, or needed at this time. If there are abuses or specific problems, let's deal with them—let regulators, and, if appropriate, law enforcement deal with them. Such abuses are hurtful to CRA and to those who can potentially benefit from CRA. These abuses, I would suggest however, are extraordinarily rare. On the whole, bankers have found CRA to be an extremely minimal intrusion at most.

CRA has not been a problem to most bankers in my home state of California. BankAmerica, Wells Fargo and others have made important CRA commitments in my state.

Between 1992 and 1997, BankAmerica made $3 billion in conventional small business loans and lines of credit for less than $50,000. In 1997, it made more than $1 billion in loans and lines of credit for $100,000 or less. And BankAmerica has often noted their CRA loans have performed as well as other more traditional loans made by the bank. These loans have also been profitable for the bank. In fact, Hugh

McColl, the Chairman and CEO of BankAmerica Corp. has said, ''My company supports the Community Reinvestment Act both in spirit and in fact. We have had fun doing it. We've made a business out of it.''

Moreover, in Los Angeles, as a result of CRA, loans to African American owned businesses increased a whopping 171 percent between 1992 and 1997. However, it is important to note that small business owners of every race have obtained credit as a result of CRA-related programs. For example, in San Diego, at least 25 percent of the loans made by local community development organizations were to white business owners.

So Mr. President, although I am a enthusiastic supporter of financial services modernization, I cannot support S. 900 if the CRA provisions contained in the bill are maintained. Access to capital and economic development, I believe, will potentially be some of the most important tools available to low and moderate income Americans in the coming century. Without such access to capital, far too many Americans, particularly those in urban and rural areas, will not be able to share in the economic wealth of our remarkably exuberant economy.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I have refrained from speaking all day. I do need to speak for a brief period of time, but I want to try to accommodate colleagues as well. If I can inquire of Senator SCHUMER, how much time would he need to speak, 5 minutes or thereabouts?

Mr. SCHUMER. Yes, that would be fine.

Mr. SARBANES. And Senator SHELBY?

Mr. SHELBY. About 10.

Mr. SARBANES. I would like to propound a request that Senator SCHUMER be allowed to speak and then Senator SHELBY and then after Senator SHELBY that I would be recognized.

Mr. GRAMM. Could we add to it that, after the Senator from Maryland, I be recognized?

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

The Senator from New York.

Mr. SCHUMER. Mr. President, I thank my friend, the Senator from Maryland, as well as the Senators from Alabama and Texas for their courtesy here this evening.

I also thank Senator SARBANES for his indefatigable efforts to defend the Community Reinvestment Act.

And I'd like to thank my Democratic colleagues as well as Secretary Rubin for their strong commitment to CRA.

In 1977 when CRA was enacted, the thinking was that banks—though privately owned—receive public benefits in the form of deposit insurance and access to the Federal Reserve's discount window and payments system.

And in return, they would have an obligation to ''serve the convenience and needs'' of their communities.

Over 20 years later, banks still CRA as an obligation—but as an obligation that a minimum they can live with—and in many cases, that they endorse.

Does CRA work?

The answer has been a resounding yes.

Since its enactment, CRA has resulted in $1 trillion of investments in underserved communities. It's been a driving force for community economic development; one of the best ways to bring people together, to bring poor people and people of color upward, which we all want to do.

It's also driven a 30 percent increase in home ownership among low-income families since 1990, making the American Dream of home ownership a more commonplace reality for our minority communities.

And in 1997, large banks and thrifts made approximately 525,000 small business loans totaling $34 billion to entrepreneurs located in low and moderate communities.

CRA works.

And we know it works because banks who have never been shy in fighting what they view as burdensome or intrusive Federal regulation are not pushing to repeal CRA or even to roll it back.

In fact, they're supporting it. Every major bank in my State has contacted me in favor of CRA.

Some have been honest enough to admit that because of CRA they are reaching out to communities that they would not otherwise have served.

And they're serving them profitably.

Hugh McColl, Jr., Chairman and CEO of BankAmerica Corp., stated earlier this year; ''My company supports the Community Reinvestment Act in spirit and in fact. To be candid, we have gone way beyond its requirements * * *. We're quite happy living with the existing rules.''

A Federal Reserve study showed that banks with higher volumes of loans to low-income communities were on average more profitable than those with a lower volume.

And we know that banks have had some of their most profitable years even as CRA loans have reached record heights.

Finally, our regulators, who are committed to ensuring the safety and soundness of our financial institutions, have been very vocal in their support of CRA.

So there's more evidence that CRA has been effective in communities' edification than in any invidious exploitation of banks, as some of its critics have been charging.

The question is, then, with everyone in support of CRA, why do we want to throw away our best chance to pass financial modernization solely to end a law that we know is working?

The President has stated very clearly that with these CRA provisions, this bill will end in veto. His veto letter states:

> We cannot support the ''Financial Services Modernization Act of 1999'' * * *. In its current form, the bill would undermine the effectiveness of the Community Reinvestment Act (CRA), a law that has helped to build homes, create jobs, and restore hope in communities across America. The CRA is working, and we must preserve its vitality as we write the financial constitution for the 21st Century.

Contrary to what many think, this amendment does not expand CRA. It simply maintains the status quo.

First, it requires that banks have at least a ''satisfactory'' CRA rating as a precondition for affiliation with securities and insurance firms. Today our insured depository institutions have this obligation. And 97 percent of them meet it. They meet it precisely because it is not a tremendous burden.

Second, this amendment would remove the small bank exemption that narrowly passed the Banking Committee. Small banks account for 70 percent of the ''needs improvement'' ratings handed out to banks by the regulators last year. So the idea that we should exempt the institutions that are most likely to be in noncompliance seems ill-advised.

Finally, the amendment eliminates the safe harbor provisions in the Committee print. The safe harbor sets up an unnecessary burden of proof that is simply unnecessary.

In sum, these provisions would restore CRA to today's potency.

As I said yesterday, I say, it is my hope that we can set aside our partisanship for the sake of pragmatism.

And set aside confrontation for the sake of compromise.

Mr. President, I strongly support this amendment, and I urge my colleagues to support it.

A vote for this amendment is a vote for modernization.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SHELBY. Mr. President, I rise in opposition to the Bryan CRA amendment. This amendment not only strikes the small rural bank exemption that we have in the Banking Committee bill and that we adopted on a bipartisan vote, but it also replaces that language with a significant expansion in CRA—the same language Chairman GRAMM and I vehemently opposed on the Senate floor this past year.

Community banks, as the Presiding Officer knows, by their very nature, serve the needs of their communities and do not need a burdensome Government mandate to force them to allocate credit or to originate profitable loans. And, contrary to the assertions of critics, there is no evidence whatsoever that the small bank exemption would have ''devastating consequences'' for low- and moderate-income rural communities. There remains no documented evidence to prove such an assertion, just as there is no tangible evidence that CRA has ever helped rural communities in America.

What is documented, though—and Chairman GRAMM has worked tirelessly to do so—is the kinds of blackmail agreements and extortion practices

that the Community Reinvestment Act enables community groups to engage in. The truth of the matter is that the small bank exemption would exempt less than 3 percent of bank assets nationwide. Thus, 97 percent of all bank assets would still be subject to the Community Reinvestment Act.

Just bear with me a minute on this chart. We have bank assets of $5.711 trillion. But banks above $100 million, rural and nonrural, control 97 percent of the bank assets in America. The small banks in America that we are talking about, those under $100 million in assets—there are 3,667 of them—control only $165 billion, or 2.9 percent of all the banking assets. Can you imagine? BankAmerica, for example, has $614 billion in assets. And I commend them for that. They are a well-run bank. But that is more than all 3,667 small rural banks in America put together; it is about 4 times more. So let's look at this in a realistic situation, as this chart here depicts.

Mr. President, critics will point out that the small rural bank exemption which I and Senator GRAMM have in the bill would exempt 3,700 banks. That is true. But to put that into context again, and to reiterate, one needs to understand that BankAmerica, as I have just shown, is four times the size of all small rural banks in America.

Indeed, BankAmerica possesses $614 billion in assets, or 10.7 percent of all bank assets in this country. If one looks at the list of large banks, one will soon realize that the vast majority of bank assets are concentrated in the large, multibillion-dollar banks that can most easily shoulder the burden of CRA.

The assertions of those who oppose the small bank exemption that we have in the banking legislation also do not comport with the comments I have received from small banks across the country. In fact, I have many letters from small bankers who complain about the burden of CRA, as well as the regulators' subjective reporting requirements dealing with CRA.

I would like to take a moment to read some letters from some small bankers in Alabama. I believe they have a right to be heard. I will quote from some of these. The first one says:

> I don't think, in these small community banks, that we have to be examined by people who usually don't understand our purpose, to enforce us to service our community * * *. Small community banks are a Service Institution. I know because I have just completed 39 years this month. All this time in small home-owned banks that deliver services that are essential to rural life. Where services have been rendered over the years even before we knew anything about CRA.

That was from Charles Willmon, chairman of the First Bank of the South in the small town of Rainsville, AL.

I have another letter, from John Mullins, president and CEO of First Commercial Bank of Cullman, AL, which says:

> Exempting small banks would be a wonderful opportunity for me to spend less time on unnecessary and nonproductive paperwork and more time helping the citizens of my market area improve their financial well-being . . . CRA examiners spend many unnecessary hours examining our loan track record. Banks our size are an integral part of the local community and we are always sensitive to the needs of our citizens. They are not faceless names, but people whom we know. We don't need a law to require us to help them with credit, we do it anyway.

I have another letter from a small banker in Clanton, AL. He is Leland Howard, Jr., of Peoples Southern Bank. He says:

> We in the community banks feel that the CRA exception for banks with aggregate assets of $100 million or less is a very good start on the road to easing the regulatory burden.

I have a letter from John Hughes, CEO of First National Bank of Hartford, AL, a small town in south Alabama. He says:

> Extra work created by the CRA is tremendous. Most rural banks know at least 95 percent of all their customers, their family, and their situation. The rating system that most examiners used is highly subjective and the rural banks have a hard time to achieve a grade higher than satisfactory. Again, it would be a great day in Alabama if you . . . could get this amendment passed.

Those are just a few letters, and they come from all over the Nation.

Mr. President, the Federal Reserve Bank of Richmond published its 1994 annual report on ''Neighborhoods and Banking,'' where it reported its findings on the costs of CRA. The report found:

> The regulatory burden [of CRA] would fall on bank-dependent borrowers in the form of higher loan rates and on bank-dependent savers in the form of lower deposit rates. And to the extent that lending induced by the CRA regulations increases the risk exposure of the deposit insurance funds, taxpayers who ultimately back those funds bear some of the burden as well.

The report goes on to say that, basically, the CRA imposes a tax on banks. CRA, then, is a tax on community banks and raises the costs of inputs to banks by increasing their regulatory burden and compliance costs. Mr. President, in addition, CRA forces banks to make loans according to a Federal quota, increasing the risks, and therefore the costs, of borrowing to consumers. Make no mistake about it, the Community Reinvestment Act raises the cost of borrowing through higher loan rates and punishes savers in the form of lower savings rates.

Critics of the small bank exemption claim that small banks get the worst CRA ratings. The truth of the matter is that one size does not fit all in any business. These critics point to lower than average loan-to-deposit ratios of small banks as evidence that they are not serving their communities. That is nonsense. That is like saying the average male wears a size 42 regular suit and that every male in America who does not fit in that size suit should be reprimanded by the Federal Government.

Every community in this great country is different. Most of us take pride in such diversity. That is the foundation on which this country was built.

However, the Community Reinvestment Act punishes banks who do not comport with national averages. Indeed, the loan demand in Prattville, AL, is not the same as in Lafayette, LA. Nor is it the same as in Shelbyville, TN. Nonetheless, CRA judges banks based largely on their loan-to-deposit ratios that the regulators deem to be appropriate. That, my friends, is nothing but a quota. When everything is said and done, CRA promotes quotas and creates a regulatory burden.

As if that is not bad enough, Mr. President, the Bryan amendment would also expand the reach and the scope of the Community Reinvestment Act.

Specifically his amendment would:

One, increase administrative enforcement authority of the regulators to fine directors and officers up to $1 million a day for CRA noncompliance. Just think about that.

Two, it would make expanded activities subject to CRA compliance on all depository institution affiliates on an ongoing basis.

And it would give the regulators the authority to shut down any affiliate within the holding company if just one subsidiary depository institution falls out of CRA compliance.

The Bryan amendment dramatically expands, Mr. President, CRA enforcement authority to allow civil money penalties for bank directors and officers, as I have pointed out.

The amendment would require bank holding companies who seek to become financial holding companies to be compliant with the Community Reinvestment Act of 1977 just in order to be eligible. If even one subsidiary depository institution ever falls out of compliance, the holding company, including the nonbank affiliate, would then be subject to section 8 of the Federal Deposit Insurance Act, which is 12 U.S.C. 1818, which authorizes bank regulators to invoke cease and desist orders, civil penalties, and fines.

Regulators would be authorized to fine bank directors and officers up to $1 million a day. This, Mr. President, is a dramatic expansion in the enforcement authority and reach of bank regulators.

Such authority does not exist today. The Clinton Justice Department even agrees.

In late 1994, Comptroller of the Currency, Eugene Ludwig, tried to invoke the administrative enforcement powers under Section 8 of FDIA (12 U.S.C. 1818) to enforce CRA. The Justice Department issued a memorandum stating:

> [T]o move from an enforcement scheme that relies upon a system of regulatory incentives to a scheme that entails cease-and-desist orders and potentially substantial monetary penalties is a leap that we do not believe can be justified on the basis of the text, purpose, and legislative history of CRA. We therefore conclude that enforcement under 12 U.S.C. 1818 is not authorized by CRA.

Bank trade associations were very pleased with the Justice Department decision. The Bankers Roundtable, the American Bankers Association, the Consumer Bankers Association, and the Savings and Community Bankers of America, filed joint letters focusing in substantial part on the regulators claims of enforcement authority.

The Bryan amendment also permits regulators to force divestiture since banks cannot ''retain shares of any company'' if ever out of CRA compliance. This provision also explicitly states that a bank holding company may not ''engage in any activity'' unless the institution is CRA compliant always and forever.

Think about it.

If just one subsidiary depository institution of a financial holding company falls out of compliance with CRA, the substitute authorizes the Federal Reserve Board to ''impose such limitations on the conduct or activities of the company or any affiliate of the company as the Board determines to be appropriate * * *'' This, too, is a dramatic expansion of enforcement authority under CRA. For the first time, regulators will be able to impose restrictions on activities throughout the entire holding company. This means a bank regulator could prohibit a securities affiliate from underwriting securities or an insurance affiliate from underwriting insurance.

Regulators do not have such authority today. Currently, CRA only allows regulators to prohibit the merger, acquisition or branch expansion of an institution that is not compliant with CRA.

Current law does not give bank regulators the authority to prohibit eligible activities of a given charter due to CRA non-compliance. The Bryan amendment requires an operating subsidiary who wants to engage in agency activities to maintain CRA compliance on all depository institution affiliates.

Thus, non-banking financial agency activities would be held hostage to CRA, with the bank regulators given the authority to enforce such law. This is the first time CRA has ever been expanded to cover the approval of non-depository activities.

I urge my colleagues to vote against the Bryan amendment and support what is in the bill.

I yield the floor.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, shortly we will be voting with respect to the Bryan amendment.

I, again, want to underscore the very strong and powerful statement which I think Senator BRYAN made shortly after noon at the outset of this debate, and I am deeply appreciative to him for the strong leadership he has shown with respect to this amendment.

We have tried to give all Members a chance to speak. I, in fact, have refrained from doing so in the course of the day in order to make sure that our colleagues had a chance to speak. I would like to take just a few minutes now.

I want to speak in support of the amendment. But I really do not want to repeat a lot of the extensive discussion of the issues which have taken place, both during opening statements on the bill, and on the alternative amendment, and now on this amendment itself, although they may well bear repeating.

I want to make sure my colleagues appreciate the intense feeling and the critical importance which civil rights groups, mayors, rural groups, Hispanic groups, and Native American groups attach to this issue of CRA. They have all sent letters to the committee.

I ask unanimous consent those letters be printed in the RECORD at the conclusion of my remarks.

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

(See Exhibit 1.)

Mr. SARBANES. Mr. President, these letters reflect how CRA has benefited communities all over this country—small, urban, and rural. They demonstrate how CRA has expanded economic opportunities for people of all races, colors, and ethnic affiliations.

Yesterday morning, the Leadership Conference on Civil Rights, our preeminent civil rights group, held a press conference in support of CRA. I would like briefly just to quote some of the comments made by civil rights leaders at the press conference, as well as comments made by individuals who benefited from CRA.

Dr. Dorothy Height, chairman of the Leadership Conference on Civil Rights, president emeritus of the National Council of Negro Women, spoke, and said:

> Since its enactment in 1977, the Community Reinvestment Act has served as one of the crowning achievements in the civil rights movement.
>
> The premise of the legislation is simple—to make sure that economic opportunity for families and communities is available to every American.
>
> Opportunities for home ownership, small business development, and sustaining rural communities are critical to the strength of this Nation.
>
> With CRA our neighborhoods have a chance. Without it, they are discriminated against.
>
> Just as civil rights legislation enacted a decade ago sought to break down the walls of discrimination that separated us in schools, restaurants, and places of work by the color of our skin, the CRA has meant opportunity for everyone, whatever race or color. As a result of CRA, millions of minorities across this Nation now have access to the capital that will allow them to build new homes, to create new businesses, and to improve education.

She concluded her introductory remarks at the press conference by saying:

> Leaders you see before you represent dozens of organizations galvanized by an assault on the Community Reinvestment Act. Those organizations represent millions of Americans who have been touched by CRA and millions more who deserve the same opportunity.

Make no mistake about it, this issue is seen by the civil rights community as a critical civil rights issue. Fair access to credit is fundamental to hopes for economic progress in our minority communities.

Another speaker at the press conference was Hugh Price, president of the National Urban League, who said:

> We of the National Urban League strongly support financial services modernization because we believe it is in tune with the times. But we staunchly oppose any effort to gut the CRA. We at the Urban League work with the leaders of many financial institutions. Just last week I talked with Kenny Lewis, president of Bank America, who said that his bank stands strongly behind the renewal of CRA.

I know that belief is echoed by many leaders in the financial services and banking community who see it as good business for their corporations.

Charles Kamasaki, senior vice president of the National Council of La Raza, stated:

> The National Council of La Raza is the Nation's largest Hispanic civil rights organization. We represent more than 200 local community-based organizations who provide a range of services, many of them supported by CRA-related funds in over 32 States.

Mr. Kamasaki, the head of the National Council of La Raza, introduced Richard Farias as president of the Tejano Center for Community Concerns in Houston, a member organization of La Raza. Mr. Farias stated, in speaking of the importance of CRA:

> Now because of CRA, a number of banks in Houston created a consortium to help us purchase a $2.1 million school building. The building has 7.5 acres and 80,000 square feet of space, including a gymnasium, a cafeteria, an auditorium and 25 classrooms. They now have a charter school for success that houses 400 students and is expected to grow to 650 students.

He goes on to say that it is very important to understand that CRA is not just about community development; it is about empowerment of the people; it is about being able to give low-income children and families the right that they have to not only good housing but to good education and to good health services.

Daphne Kwok, executive director of the Organization of Chinese Americans, also took part in the press conference. She stated that the Organization of Chinese Americans supports the Community Reinvestment Act because it has enabled home ownership among minority and low- and moderate-income individuals:

> Asian Pacific-Americans, especially Chinese-Americans, Korean-Americans, Vietnamese-Americans, Asian Indian-Americans are small business owners, and many of them are seeking to open up businesses in low and moderate income areas.

JoAnn Chase, executive director of the National Congress of American Indians, then spoke and stated:

> Founded in 1944, the National Congress of American Indians is the oldest, largest and most representative national organization

devoted to promoting and protecting the rights of American Indian tribal governments and their citizens. One of our key missions has been to continuously advocate for Indian self determination and self sufficiency, and toward that end from its very inception, our communities, our governments, our people have supported the Community Reinvestment Act, which has proven to be an effective means of encouraging federally insured financial institutions to extend prudent and profitable loans in traditionally underserved areas, particularly in Indian country.

Specifically, the CRA has helped focus attention to the challenges of extending credit to reservations and has acted as a catalyst to reservation-based economic development. Since the implementation of the CRA, Native American governments and citizens and our own banks have negotiated agreements for lending more than $155 million within the Indian country which has substantially advanced efforts toward economic self-sufficiency. It is a law that has helped build homes for our people, has inspired hope and has created jobs in many native communities.

The final speaker at the press conference was Hillary Shelton, Washington bureau director of the NAACP, who stated:

* * * on behalf of the NAACP * * * we are honored to strongly support and continue to endorse the Community Reinvestment Act and consequently oppose any attempts to weaken it.

The CRA has been instrumental in the revitalization of literally tens of thousands of communities nationwide, and continues to be an important tool in the NAACP's ongoing efforts to help people and communities achieve the goals of community resurrection, development, and growth, at no cost to American taxpayers.

Mr. President, there has been printed in the RECORD a letter from the U.S. Conference of Mayors which was quoted from earlier, a letter from a coalition of 19 family farm and rural groups, which states:

Rural areas continue to suffer from a serious shortage of affordable housing. Farmers are facing the worst financial conditions in more than a decade due to declining commodity prices. Rural Americans continue to need the tools of the CRA to ensure accountability of their local lending institutions. CRA helps to meet the credit demands of millions of family farmers, rural residents and local businesses.

Mr. President, I ask unanimous consent to have printed in the RECORD other letters from a number of organizations which have written to us in very strong support of the CRA, as well as editorials.

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

MISCHIEF FROM MR. GRAMM

Cities that were in drastic decline 20 years ago are experiencing rebirth, thanks to new homeowners who are transforming neighborhoods of transients into places where families have a stake in what happens. The renaissance is due in part to the Federal Community Reinvestment Act, which requires banks to reinvest actively in depressed and minority areas that were historically written off. Senator Phil Gramm of Texas now wants to weaken the Reinvestment Act, encouraging a return to the bad old days, when banks took everyone's deposits but lent them only to the affluent. Sensible members of Congress need to keep the measure intact.

The act was passed in 1977. Until then, prospective home or business owners in many communities had little chance of landing loans even from banks where they kept money on deposit. But according to the National Community Reinvestment Coalition, banks have committed more than $1 trillion to once-neglected neighborhoods since the act was passed, the vast majority of it in the last six years.

In New York City's South Bronx neighborhood, the money has turned burned-out areas into havens for affordable homes and a new middle class. The banks earn less on community-based loans than on corporate business. But the most civic-minded banks have accepted this reduced revenue as a cost of doing business—and as a reasonable sacrifice for keeping the surrounding communities strong.

Federal bank examiners can block mergers or expansions for banks that fail to achieve a satisfactory Community Reinvestment Act rating. The Senate proposal that Mr. Gramm supports would exempt banks with assets of less than $100 million from their obligations under the act. That would include 65 percent of all banks. The Senate bill would also dramatically curtail the community's right to expose what it consider unfair practices. Without Federal pressure, however, the amount of money flowing to poorer neighborhoods would drop substantially, undermining the urban recovery.

Mr. Gramm argues that community groups are ''extorting'' money from banks in return for approval, and describes the required paperwork as odious. But community organizations that build affordable housing in Mr. Gramm's home state heartily disagree. Mayor Ron Kirk of Dallas disagrees as well, and told the Dallas Morning News that he welcomed the opportunity to explain to Mr. Gramm that ''there is no downside to investing in all parts of our community.''

In a perfect world, lending practices would be fair and the Reinvestment Act would be unnecessary. But without Federal pressure the country would return to the era of redlining, when communities cut off from capital withered and died.

[From the Washington Post, May 4, 1999]

BANKING ON REFORM

The Senate today is scheduled to begin considering a bill that would remake the financial services industry, allowing banks and insurance companies and investment firms to merge and compete. Similar legislation is making its way through the House. The thrust of both bills is sound. But while the industries have lobbied hard to shape a law satisfactory to them, the current legislation doesn't adequately protect low-income communities or consumers' privacy. Financial modernization should apply to them, too.

Since the Depression, federal law has sought to keep the banking, insurance and securities industries separate. The idea, in part, was to make sure that federally insured bank deposits didn't wind up somewhere risky and unregulated. But in recent years, even without a change in the law, that separation has eroded. Banks have found ways to offer mutual funds to their customers; investment firms function like deposit institutions; etc. It makes sense now to bring legislation—and regulation—in line with reality.

Congress has been trying to do so, and failing, for more than a decade, and may again. But on the major issues, the administration, the Federal Reserve and Congress have pretty well agreed. They would let the financial services industries meld while for the most part keeping them out of other businesses, a wise decision. They've come up with fire walls and regulatory schemes that, while still not entirely agreed upon, have satisfied most concerns about protecting federally insured deposits.

But there is no consensus yet on safeguarding the interests of underserved communities. Since 1977 federally insured banks have been subject to the Community Reinvestment Act, requiring them to seek business opportunities in poor areas as well as middle-class and wealthy neighborhoods. The law, a response originally to clear evidence of bias in lending, has worked well. It doesn't force banks to make unprofitable loans, but it encourages them to look beyond traditional customers, and it's had a beneficial effect on home ownership and small-business lending.

Sen. Phil Gramm, chairman of the Banking Committee, now wants to scale the law way back. He argues that community groups use it to extort money from banks; there's scant evidence for that. The real danger is that, with financial modernization, banks will gradually escape their community obligations by transferring capital to affiliates that aren't covered by the law. The law should be extended and modernized to keep pace with a changing industry.

Consumer privacy also could be in danger as barriers among industries break down. An example: Should your life insurance medical records be shipped over, without your knowledge, to the loan officer considering your mortgage application? Sen. Paul Sarbanes of Maryland and Rep. Ed Markey of Massachusetts, among others, would give consumers more control over the sale and sharing of personal data. As the financial industry moves into a new era, privacy laws should also keep pace.

JESUIT CONFERENCE, THE SOCIETY OF JESUS IN THE UNITED STATES.

Washington, DC, March 3, 1999.

Hon. PAUL SARBANES,

Seante Committee on Banking, Housing, and Urban Affairs, Washington, DC.

DEAR SENATOR SARBANES: We are writing you on behalf of the Jesuit Conference Board of the Society of Jesus in the United States. With the House and Senate Banking Committees scheduled to mark-up financial modernization legislation this week and vigorous discussions already underway we call your urgent attention to the status of the Community Reinvestment Act (CRA) in this debate. We urge your vocal and unconditional support for safeguarding and effectively applying CRA to any proposed financial modernization legislation. By maximizing the capital available to undeserved urban and rural areas, CRA has proven to be an exceptional means of promoting vital and sustainable communities. CRA should be allowed to continue its invaluable work.

There are approximately 4,000 U.S. Jesuit priests and brothers working abroad and in our domestic projects which include: 28 Jesuit-affiliated universities and colleges, more than 50 Jesuit high schools and middle schools, nearly 100 Jesuit parishes, and various other apostolic programs throughout the country. We have an overriding commitment to empower individuals, families and communities who are most at-risk in our society. In essential ways, CRA enables these marginalized groups to fully integrate into society.

Propelled by a mission of justice and social progress, Jesuit institutions have CRA-type goals of investing in the communities where they are located. For example, Fordham University is situated in one of the poorest urban counties in the nation. In 1983, Fordham formalized a long-standing partnership

with the Northwest Bronx Community and Clergy Coalition to form the University Neighborhood Housing Corporation (UNHP). UNHP believes in working aggressively to develop and preserve innovative, community-controlled, affordable housing. With the strength and leverage of CRA, UNHP, has built a positive, working relationship with Chase Manhattan Bank. From the late 1980s, this relationship has resulted in millions of dollars of capital for affordable housing and economic development in the northwest Bronx. Recently, this successful partnership yielded $25 million in housing rehabilitation funding from Fannie Mae. The force of community leaders working with university, banking and Fannie Mae representatives is not merely a lifeline for the northwest Bronx; it has added self-sustaining stability and growth to an historically distressed, densely populated neighborhood. This is one example of an estimated $1 trillion in CRA-leveraged financial commitments since 1977.

We ask for your continued support for national economic development policies which equip people with the means to lead respectful and dignified lives. CRA is in the interest of underserved communities; it is in the interest of our Jesuit institutions; and it is in our collective, national interest.

Thank you for your consideration and efforts.

Sincerely,

REV. RICHARD RYSCAVAGE, S.J.,
Secretary, Jesuit Social & International Ministries.

MS. BRITISH ROBINSON,
National Director, Jesuit Social & International Ministries.

DEPARTMENT OF SOCIAL DEVELOPMENT AND WORLD PEACE

Washington DC, March 4, 1999.

Hon. PAUL SARBANES,
Banking, Housing, and Urban Affairs Committee, U.S. Senate, Washington, DC.

DEAR SENATOR SARBANES: I write to ask that you oppose any provisions in the Financial Services Act of 1999 that may eliminate consumer protections and/or dilute the fair lending laws.

The United States Catholic Conference has vigorously supported the disclosure of lending patterns since 1975 and was one of the original supporters of the Home Mortgage Disclosure Act. We believe people must have access to information about the lending practices and patterns of the financial institutions in their communities that are seeking their business. In the past banks, mortgage companies, insurance brokers and other financial institutions have discriminated against minority populations, low-income individuals and the communities in which they live with virtual impunity. The Community Reinvestment Act (CRA) and the effective enforcement of its regulations have proved significant tools in ensuring that financial institutions meet the credit needs of the local communities in which they are located, particularly by increasing the flow of credit to low-income and minority communities.

Since 1977, CRA has channeled tens of billions of dollars *profitably* back into rural and urban communities. This success of local communities gaining access to private capital should not be jeopardized. Communities and neighborhoods need the investment of private capital particularly as government curtails its spending on housing and social services programs and local communities are being asked to assume more responsibility for their own development. Low and moderate income families of all races and ethnicities have benefited from CRA with increased opportunities to purchase homes, open small businesses or operate farms.

As Congress seeks to modernize the banking and financial industry, fair lending laws must not be undermined. Once more, we urge you to oppose any efforts to diminish consumer protections and to weaken fair lending laws.

Sincerely,

CARDINAL ROSER MAHONY,
Archbishop of Los Angeles, Chairman, Domestic Policy Committee.

NATIONAL LOW INCOME HOUSING COALITION/LIHIS

Washington, DC, April 6, 1999.

Hon. PAUL S. SARBANES,
United States Senate, Washington, DC.

DEAR SENATOR SARBANES: On behalf of the National Low Income Housing Coalition, I must express in the strongest terms possible our objection to the evisceration of the Community Reinvestment Act in the Financial Services Modernization Act of 1999 recently reported out of the Senate Banking Committee.

The National Low Income Housing Coalition represents thousands of local housing organizations that are doing the hard work at the local level to rebuild neighborhoods that have been depleted by disinvestment, and to produce safe, decent, and affordable housing for people at the low end of the economic spectrum. These are organizations that are masterful at the management of multiple funding streams, bringing together the public and private resources required to stimulate and produce new housing and economic development initiatives at the local level. Each of our members can attest to the necessity of the Community Reinvestment Act in putting together the resources required to do the job we all expect of them. At a time when responsibility for solving serious community problems is being devolved to local organizations, it is mystifying as to why one of their most critical resource development tools would be pulled out from underneath them.

Especially serious is the provision in the Senate bill which allows banks not in compliance with CRA to expand their affiliations and engage in new powers. This would essentially render the CRA useless in the new world of financial modernization.

We also object to the creation of so-called ''safe harbors'' for institutions with at least a satisfactory CRA rating, which in effect eliminates opportunity for public comment on the community reinvestment activities of the banks, while maintaining opportunity for public comment on all other aspects of the institutions' functioning.

Finally, the small bank exemption would mean that rural communities have no options for acquiring credit, as small banks are often the only source of credit in many rural parts of the country.

The Community Reinvestment Act is a model of the Federal government at its best, stimulating investment in poor neighborhoods and creating a true partnership among the private, for profit sector; the private, not for profit sector, and the public sector. As we move into an era of a bigger and more comprehensive banking system, building on, not tearing down, this core element of community reinvestment should be an essential principle.

We urge that the Senate not take this action, and prevent the dire consequences that would result in its wake of its passage.

Sincerely,

SHEILA CROWLEY,
President.

Mr. SARBANES. Mr. President, as I draw to a close, let me again say to the distinguished Senator from Nevada we very much appreciate his very strong and powerful statement.

EXHIBIT 1

APRIL 8, 1999

Hon. PAUL S. SARBANES,
Senate Hart Office Building,
U.S. Senate, Washington, DC.

DEAR SENATOR SARBANES: The undersigned organizations write to express strong opposition to the Financial Services Modernization Act of 1999 as reported out of the Senate Banking Committee on March 4th. The Act would restructure the financial services industry in the United States by allowing broad affiliations among banks, insurance companies, and security firms. Currently, the law strictly limits ownership among different financial entities and between financial companies and commercial corporations. The Act seeks to ease these restrictions, without commensurate expansion of the Community Reinvestment Act (CRA) to cover insurance companies, securities firms, mortgage companies, and other financial entities allowed to affiliate with banks. The Act would undermine one of the most effective revitalization vehicles for underserved low-income and minority communities, including Hispanic American communities across the country.

We have found, and research confirms, that all too often the credit and financial needs of these communities are severely underserved. Historically, many financial institutions have avoided investing in these communities due to their perceived higher level of risk. Unfortunately, ''perceived higher level of risk'' is often code for ''low-income'' or ''minority.'' But the facts show that low-income and minority communities are not inherently riskier than other communities. In fact, most financial institutions find them to be quite profitable, once they begin investing in them. Unfortunately, without the CRA, many financial institutions have not and would not be encouraged to do so.

As the data show, Hispanics are the fastest-growing population in the United States. We are a growing force in the expansion of homeownership and small business development, two leading indicators of the economic well-being of this country. For example, between 1987 and 1992, Hispanic-owned business grew by over 76%, compared to 26% for U.S. businesses overall. According to a 1997 Harvard study, ''the number of Hispanic homeowners has shown the most spectacular rise'' in recent years compared to that of Whites and of other minority groups. Population projections forecast Hispanics to be the largest minority group in the U.S. by the year 2005, causing the U.S. economy to be increasingly dependent on the continued prosperity of the Hispanic American community. Without the CRA, this growth may be impeded.

As reported out of the Senate Banking Committee, the Financial Services Modernization Act of 1999 would hinder that growth by weakening the CRA in the following three ways. First, ''satisfactory'' CRA rating is not required in order for financial institutions to enjoy the new powers afforded to them by the legislation, thereby allowing banks to exercise their privilege, even if they are not meeting the credit needs of the communities where they do business.

Second, banks receiving a ''satisfactory'' CRA rating would be given a ''safe harbor'' from public comment on CRA performance. Since over 95% of banks receive a ''satisfactory'' rating, this would undermine the effectiveness of the law by restricting a community's right to voice its experience with

banks. While a ''satisfactory'' rating provides a helpful guide to a bank's overall performance, it may not provide an accurate picture at the neighborhood level.

Third, the Act proposes to exempt all small rural banks (those with less than $100 million in assets) from CRA, thereby releasing 76% of all rural banks from their CRA obligations. As with the safe harbor provision, this undermines the spirit and the effectiveness of the law by exempting most rural banks. This would have particularly adverse consequences in low-income rural communities where often the only source of credit is a small bank. Moreover, researchers have found that small banks have disproportionately poor CRA records compared to larger banks, thereby highlighting the need for CRA in rural communities and small towns.

CRA is one of the strongest incentives to encourage investment in low-income and minority communities. Over the last twenty-two years, neighborhoods across the country have benefited from CRA-encouraged investments. This has resulted in increases in homeownership and business development, leading to the rebirth of many American neighborhoods. However, many communities remain underserved by capital and investment vehicles. For this reason, reinforcement, not weakening, of CRA is critically needed. We urge you to support the continued strengthening of America's communities by vigorously opposing the Financial Services Modernization Act of 1999 as reported out of Committee, and supporting amendments that would strengthen the Bill's CRA protections. Thank you.

Sincerely,

Rick Dovalina, National President, League of United Latin American Citizens; Arturo Vargas, Executive Director, NALEO Educational Fund; Ruth Pagani, Executive Director, National Hispanic Housing Council (NHHC); Juan Figueroa, President and General Counsel, Puerto Rican Legal Defense and Education Fund (PRLDEF); Antonia Hernandez, President and General Counsel, MALDEF; Raul Yzaguirre, President and Chief Executive Officer, National Council of La Raza (NCLR); Manuel Mirabal, President and Chief Executive Officer, National Puerto Rican Coalition (NPRC).

NATIONAL FARMERS UNION,
Washington, DC, March 24, 1999.

DEAR SENATOR: On behalf of the 300,000 farm and ranch families of the National Farmers Union, I write to express our strong opposition to the Financial Services Modernization Act of 1999, as reported out of the Senate Banking Committee earlier this month. Specifically, we are concerned that the bill would undercut the Community Reinvestment Act (CRA)—a law that has significantly expanded access to credit in rural communities across the nation.

The Community Reinvestment Act prohibits redlining, and encourages banks to make affordable mortgage, small farm and small business loans. Under the impetus of CRA, banks and thrifts made $11 billion in farm loans in 1997. CRA loans assisted small farmers in obtaining credit for operating expenses, livestock and real estate purchases. Low- and moderate-income residents in rural communities also benefited from $2.8 billion in small business loans in 1997.

In 1999, access to credit is tighter than usual, making it critical to maintain the CRA. There are three provisions in the pending legislation that jeopardize the CRA.

First, the bill exempts banks and thrifts that are located in rural areas and have less than $100 million in assets, from CRA requirements. This provision would exempt 76 percent of all banks and thrifts in rural communities. A Congressional Research Service study of data from 1997 to mid-1998 found that banks with less than $100 million in assets receive 70 percent of the ''below satisfactory'' CRA ratings.

Second, the banking bill fails to require that banks have a satisfactory CRA rating in order to affiliate with securities and insurance firms. In the absence of this requirement, banks could ignore local credit needs in favor of expanding to other areas.

Third, the bill has the effect of eliminating the public's opportunity to comment on a bank's performance pending expansion, if that bank has had a satisfactory CRA rating during the previous 36 months.

There is no compelling reason to weaken the CRA. In fact, CRA regulations were revised in 1995 to reduce compliance burdens on small banks and allow for streamlined examination.

The CRA has been extremely successful in encouraging financial institutions to help meet the credit needs of rural communities across the nation. Therefore, we urge you to oppose the Financial Services Modernization Act of 1999 until the provisions against the CRA are removed.

Sincerely,

LELAND SWENSON,
President.

SMALL BUSINESS ADMINISTRATION,
Washington, DC, May 3, 1999.

Hon. PAUL S. SARBANES,
Ranking Member, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR SARBANES: I am writing to express my concern with provisions of the Financial Services Modernization legislation that would weaken the Community Reinvestment Act (CRA). The President has made clear that he would veto legislation that weakens CRA, and it is my hope that the U.S. Senate will not move to undermine this important statute.

The CRA is a vital tool in providing access to capital in communities traditionally underserved and once perceived as high-risk lending areas. Financial institutions have found, through CRA, that creditworthy borrowers and sound investments do exist in these areas. The CRA has resulted in viable small businesses creating jobs and stimulating local economies. Without CRA, lending institutions might never realize the maximum potential of these marketplaces, and many communities could lose access to bank credit, which is so important to small businesses.

The CRA focus for banks strikes at the heart of fulfilling the U.S. Small Business Administration's (SBA) mission. SBA is in the business of providing credit to those who cannot obtain it elsewhere, and we do this largely through our partners—local financial institutions. Everyday, SBA and banks across the country help entire communities grow through SBA-backed equity investments and guaranteed loans, many of which fall under CRA goals. Additionally, studies analyzing CRA data identify and quantify what would have been only hunches just 4 years ago, and the result is a more accurate depiction of the patterns and gaps of small business lending across the Nation. The CRA is essential in meeting the credit and investment needs of our America's small businesses.

Weakening CRA could reverse the progress we have made in small business lending in this country. As you seek to modernize the financial industry, I urge you to oppose any provision that actually moves us back in time.

Sincerely,

AIDA ALVAREZ
Administrator.

CHAIRMAN GREENSPAN COMMENTS ON CRA

''Anecdotal information seems to suggest that loans to low- and moderate-income people perform, with respect to repayment, as well as loans to others, though some studies have suggested that delinquency rates on some types of affordable mortgage loans are higher. . . . there is little or no evidence that banks' safety and soundness have been compromised by such lending, and bankers often report sound business opportunities.''—January 12, 1998.

''When conducted properly by banks who are knowledgeable about their local markets, who use this knowledge to develop suitable products, and have adequately promoted those products to the low- and moderate-income segments of the community, CRA can be a safe, sound and profitable business.''—May 17, 1995.

Chairman Greenspan noted during testimony before the House Banking Committee on February 11, 1999 that CRA has ''very significantly increased the amount of credit in communities'' that the changes have been ''quite profound.''

''CRA has helped financial institutions to discover new markets that may have been underserved before.''—May 17, 1995 repeated January 12, 1998.

CRA ADMINISTRATION AND DEMOCRATIC SUPPORTERS

''We must pass a stronger Community Reinvestment Act that challenges to lend to entrepreneurs and promotes development projects that reinforce community and neighborhood goals.''—Governor Bill Clinton and Senator Al Gore, ''Putting People First,'' 1992.

''[T]he town banker is doing pretty well where you live—in a big city or a small town. And yet, unbelievably enough, when we are proving it is working, the Community Reinvestment Act is under fire again.''—President Clinton to the U.S. Conference of Mayors, January 29, 1999.

The CRA has ''helped to build homes, create jobs, and restore hope in communities across America.''—President Clinton, Letter to Senator Paul Sarbanes and Senator Phil Gramm, March 2, 1999.

''We must protect the Community Reinvestment Act, which expands access to capital from mainstream financial institutions. We have greatly improved CRA by streamlining its regulations so that they focus on performance, not paperwork. CRA has been an enormous success.''—Treasury Secretary Robert Rubin, Letter to Senator Phil Gramm, February 1, 1999.

''It's very significantly increased the amount of credit that's available in the communities, and if one looks at the detailed statistics, some of the changes have been quite profound.''—Federal Reserve Chairman Alan Greenspan, Testimony before the House Banking and Financial Services Committee, February 11, 1999.

''[C]redit is the key to the American dream. Without it, people cannot share the tremendous wealth of our free market system—cannot buy a home, own a car, or send a child to college.''—Former Rep. Joseph Kennedy (D–MA), House Floor Statement during the Debate on the Financial Institutions Safety and Consumer Choice Act, November 1, 1991.

WHAT SENATOR GRAMM HAS SAID ABOUT CRA

''I believe that perhaps the greatest national scandal in America . . . is a scandal

where a law is being used in such a way as to extract bribes and kickbacks and in such a way as to mandate the transfer of literally hundreds of millions of dollars and to misallocate billions and tens of billions of dollars of credit.''—Senate Floor Statement, October 5, 1998.

''[A]ll over the country banks that have exemplary records in community lending and that have received the highest ratings on CRA are routinely shaken down every time they want to open a branch, every time they want to start a new bank, every time they want to engage in a merger.''—Senate Floor Statement, October 5, 1998.

''[CRA] conjures up in my mind the ''protection'' racket of an earlier era, where the little merchant had the gangster come into his place of business and say, 'You know, somebody could come in here and do you some real harm, and I am willing to protect you.' ''—Senate Floor Statement, September 30, 1998.

''Let this evil, like slavery in the pre-Civil War period, let it exist, but do not expand it.''—Senate Banking Committee Markup Hearing, September 11, 1998.

''CRA has since been corrupted into a system of legalized extortion, often with the assistance of regulators. Moreover, it has increasingly replaced market-directed financial activity with politically directed and motivated channeling of private sector financial resources. . . . This cronyizing (sic) of the American economy is more typical of a third world economy and will undoubtedly be damaging to our national economic growth.''—Letter to Senate Committee on the Budget, March 5, 1999.

THE WHITE HOUSE,
Washington, March 2, 1999.

Hon. PAUL S. SARBANES,
U.S. Senate, Washington, DC.

DEAR PAUL: This Administration has been a strong proponent of financial legislation that would reduce costs and increase access to financial services for consumers, businesses and communities. Nevertheless, we cannot support the ''Financial Services Modernization Act of 1999,'' as currently proposed by Chairman Gramm, now pending before the Senate Banking Committee.

In its current form, the bill would undermine the effectiveness of the Community Reinvestment Act (CRA), a law that has helped to build homes, create jobs, and restore hope in communities across America. The CRA is working, and we must preserve its vitality as we write the financial constitution for the 21st Century. The bill would deny financial services firms the freedom to organize themselves in the way that best serves their customers, and prohibit a structure with proven advantages for safety and soundness. The bill would also provide inadequate consumer protections. Finally, the bill could expand the ability of depository institutions and nonfinancial firms to affiliate, at a time when experience around the world suggests the need for caution in this area.

I agree that reform of the laws governing our nation's financial services industry would promote the public interest. However, I will veto the Financial Services Modernization Act if it is presented to me in its current form.

Sincerely,

BILL CLINTON.

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE,
Washington, DC, March 2, 1999.

Re the Financial Services Modernization Act and the Community Reinvestment Act.

Hon. PAUL S. SARBANES,
U.S. Senate, Washington, DC.

DEAR SENATOR SARBANES: The National Association for the Advancement of Colored People (NAACP), the nation's oldest and largest grassroots civil rights organization, strongly supports the Community Reinvestment Act (CRA) and opposes any attempts to weaken it. The CRA has been instrumental in the revitalization of literally tens of thousands of communities nationwide, and is an important tool in the NAACP's efforts to help people and communities achieve their goals at no cost to the taxpayer.

Through CRA, financial institutions are discovering that there are benefits to working in and with low to moderate income and minority communities. Since its enactment in 1977, CRA has helped lenders tap into previously unchartered areas and consequently they are learning what a viable, profitable market the low-moderate and minority communities are.

One example of a CRA success story would be the NAACP's Community Development and Resource Centers (CDRCs). The NAACP, working together with NationsBank, opened our first CDRC in 1992 in part to help NationsBank comply with CRA. Since that time, NAACP–CDRCs have made mortgage, consumer and small business loan referrals amounting to over $100 million, and more than 10,000 individuals and businesses have received counseling or technical assistance through CRDCs.

Due to the vital role the banking industry plays in the success or failure of every American neighborhood, CRA is a necessary tool for the sustained economic development of our nation. Thus the NAACP urges you, in the strongest terms possible, to oppose any amendments or bills that would in any way weaken the effectiveness of CRA. The NAACP also urges you, again in the strongest terms possible, to support any move to expand or modernize CRA as the financial services industry is allowed to change and grow. By not including CRA in any restructuring of the financial services industry, you would effectively be denying whole communities access to much-needed mortgages, consumer or small business loans, or basic financial assistance.

I hope that you will feel free to contact me if you have any questions regarding the NAACP position on CRA, or if there is any way that I can work with you to ensure that CRA is allowed to continue to prosper and provide assistance to people and communities across the nation.

Sincerely,

HILARY O. SHELTON,
Director.

Mr. BRYAN. I note that the distinguished chairman wants to speak. The Senator from Nevada would like to get 5 to 6 minutes at some point, if that can be accommodated.

Mr. GRAMM. Mr. President, under the unanimous consent request, I was to be recognized next.

I suggest we let Senator MACK speak for 4 minutes, have the distinguished Senator from Nevada speak for 4 minutes, and then I will speak for 4 minutes and we will be through. Would that work?

Mr. BRYAN. That is fine.

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

The Senator from Florida.

Mr. MACK. Mr. President, I thank Senator GRAMM and the other Members on the floor for this time. I will be brief.

I have spoken on this issue throughout my time in the Senate serving on the Banking Committee which now is into its 11th year. I also make these comments from the perspective of an individual who was president of a small bank in southwest Florida for 5 years out of a 16-year banking career.

One would think, listening to the comments that have been made by the distinguished Senator from Maryland, that we were proposing to repeal CRA. We are not proposing that at all. There may be Members who want to do that, but that is not what the issue is about. The issue is about regulatory overkill.

This little bank that I was president of had about $60 million in assets—very small bank—in a community that was developed, one of these Florida developments, that began in the late 1950s. To suggest that this small community bank in a very well-defined and confined market was not providing resources to that market is just absurd. If we did not lend money into that market, we would, in fact, have gone broke. So all I am suggesting is the amendment being proposed here is being sold as if we were trying to repeal CRA. The information I have is with the committee position: Only 2.8 percent of the total assets of the banking industry in America are affected by this carve-out, 2.8 percent. There were 16,000 banks audited over a 9-year period and only three of those banks—I am talking about small banks now—only three of those banks were found to be significantly out of compliance.

Small banks in America need some regulatory relief. That is all we are suggesting here. Again, my experience was this little bank of $60 million in assets had to assign one individual whose job it was to put pins into a map in our market showing where we had made real estate loans. That is all we had to do. But I had to assign one person to do that. She had to put programs into effect in the bank to make sure we were complying with lending to our community. It was the only place we could have loaned.

So the idea that we needed to have the Community Reinvestment Act for my bank and for small community banks is absurd. I ask my colleagues to reject the amendment and to support the committee position.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. BRYAN. I thank the chairman for accommodating me and allowing me to speak for 4 minutes.

Let me say we had much debate and much discussion. There are amendments on bills that come and go. They really do not impact the overall outcome. This amendment is the most important amendment that will be considered in this debate. If the Bryan amendment loses, we convert what can be a bipartisan effort to get this legislation, which I strongly support and supported in the last Congress—and it becomes immediately a partisan vote, and that legislation has no chance in that form of becoming law. Whatever

one's view is on CRA, and I understand we have widely different views, I respectfully submit this is not the vehicle to make this the issue. If, as the distinguished chairman and others have said, CRA needs to be revisited, let's do so in the context of some type of other legislation that is presently before the Banking Committee. We have had no hearings at all on this.

The Bryan amendment does two very simple things. One, it retains the current CRA provisions, including those provisions which relate to small banks that eliminate their need to even file a report. All they have to do is to point for the bank examiner and say the records are in the file cabinet. They need do no more. So this is not, in my judgment, an onerous burden.

And with respect to the new services that we permit banks to participate in, if Secretary Rubin and other experts who are looking at the banking field are correct, that is the wave of the future. If we do not require CRA as the condition of availing oneself of these new financial services, securities and insurance, in effect we marginalize and relegate CRA to a much lesser role.

What is accomplished? Hundreds of millions of dollars have been invested in the inner cities in our country. Thousands of minority businesses have had an opportunity to participate, which they would not otherwise have gotten, and home ownership opportunities have expanded for literally millions of Americans. It would seem to me those are the kind of issues we can agree on—Democrats, Republicans, conservatives and liberals. CRA has accomplished much.

We have gone through this before. A year ago, we nearly got a bill. It passed by a bipartisan majority in the House, with virtually the identical provisions that relate to CRA as contained in the Bryan amendment. It passed 16 to 2 out of the Banking Committee in this session of Congress; in the House Banking Committee by a vote of 51 to 8. This legislation has progressed with, again, virtually the identical provisions as it relates to CRA that the Bryan amendment contains.

So why are we going through this? The protagonists, the bankers, the insurance companies and the securities industry, do not oppose this legislation. We are going through this because our able chairman, whom we all greatly respect, says he needs leverage in dealing with the House. The last time I looked at the record of the composition of the House, the Republican Party was in the majority. Among its leaders were people such as TOM DELAY and DICK ARMEY, not exactly what you would call liberal exponents, bleeding-heart types.

It seems to me the argument that we need leverage makes no sense at all.

Finally, let me say this may be the only opportunity in this Congress to vote on a civil rights amendment, a process that has worked well and has served the nation well. It is not objected to by those who are struggling to reach the compromises on this piece of legislation. We should enact the Bryan amendment and move forward and get this bill over to the House, get it to conference and signed into law by the President. We have that opportunity only if the Bryan amendment prevails.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from Texas.

Mr. GRAMM. Mr. President, this has been a long debate and I think a good debate. Rather than trying to go back and answer specific points that have been made, and correct statements, let me just try to cut to the heart of this. This is not about banks, even though the Independent Bankers, the American Bankers Association, the Bankers Roundtable oppose this amendment and support the underlying bill.

This is not about insurance companies. This is not about securities companies. This is about right and wrong. I have presented today, from redacted agreements, secret agreements that have been entered into by community groups and banks, three examples, the only three we have, where over and over again community groups are paid cash payments in return for them withdrawing objections which they have made to banks taking specific action, or where they have agreed not to raise an objection.

So the first thing we are trying to do is bring integrity to the process by preventing people, in essence, from paying witnesses. How do we try to do that? We try to do it in the following way: If you are a bank and you have an excellent CRA record, you have been in compliance for three audits in a row and you are in compliance now—we do not in any way limit the ability of anybody to object to that bank doing what it has a right to do under law—all we are saying is you are innocent until proven guilty if you have a long record of compliance. If you are going to come in and prevent a bank from taking an action they have earned the right to do based on audits on community lending, and you come in and say they are racists, or they are loan sharks, that is not enough. What we require is you present substantial evidence.

How is that defined? The Supreme Court defines substantial evidence as ''more than a mere scintilla . . . such relevant evidence as a reasonable mind might accept as adequate to support a claim.''

That is not a high standard. That is simply a credibility standard. And all over America—we have professional protesters in Boston who are protesting bank mergers in Illinois. What do they have to do with community lending in Illinois? Nothing. But they file a protest. The bank is deathly afraid of being held up in its merger, for example. Obviously, they do not want to be called bad names by people who are professionals at calling people bad names. So they end up paying these groups cash. That is not right.

This is an issue of right and wrong. The second issue is the issue relating to small banks. Little banks in rural communities in total hold only 2 percent of the assets of banks, but in 16,300 audits of these banks, each one of them on average cost the bank $80,000 to comply with. They found three banks in 9 years that are substantially out of compliance. They made these little banks pay $1.3 billion to find three bad actors. And little banks all over America are threatened by this regulatory burden. So we exempt them from it.

Mr. President, 44 percent of the enforcement effort is going to banks with 2.8 percent of the capital. Take that enforcement effort and put it where the money is and you will get more community lending, not less.

Finally, it is not as if the Sarbanes amendment simply strikes our provisions. But the Sarbanes amendment is the largest expansion of CRA in American history.

It would impose a million-dollar-a-day fine on bank officers and board members if they fell out of compliance. The American Bankers Association and the Independent Bankers Association have urged us not to do this, because they will not be able to get board members to serve and they will not be able to hire officers if they have to buy insurance to potentially pay a million-dollar-a-day fine if they fall out of compliance with this regulation.

What is the justification for this regulatory overkill when you have had three cases of substantial noncompliance out of 16,300 audits over 9 years? What is wrong with this picture?

What is wrong with the picture is, sadly, that many of our Democrat colleagues have decided, even though the spokesman for CRA testifying before our committee said, yes, there are abuses and, yes, they hurt the process and, yes, there is what they call green mail. Most people call it blackmail. But our colleagues have taken the extreme position that not only will they not address these abuses, they are going to vastly expand this to insurance, to securities and, with these million-dollar-a-day fines, producing a situation where every abuse we are concerned about today is going to be greatly expanded.

I urge our Democrat colleagues, if you support CRA, to help us bring an end to these abuses. If you support CRA, end the regulatory paperwork burden overkill so we can focus in this law on the real problem. While groups claim we are endangering CRA, it is those who will not fix clear wrongs that scream out that endanger it.

Mr. President, I move to table the pending amendment and ask for the yeas and the nays.

The PRESIDING OFFICER (Mr. BROWNBACK). Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion

to table amendment No. 303. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FITZGERALD (when his name was called). Present.

Mr. REID. I announce that the Senator from New Jersey (Mr. LAUTENBERG) is necessarily absent.

I also announce that the Senator from Louisiana (Ms. LANDRIEU) is absent attending a funeral.

I further announce that, if present and voting, the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Louisiana (Ms. LANDRIEU) would each vote ''no.''

The result was announced—yeas 52, nays 45, as follows:

[Rollcall Vote No. 101 Leg.]

YEAS—52

Abraham	Frist	Murkowski
Allard	Gorton	Nickles
Ashcroft	Gramm	Roberts
Bennett	Grams	Roth
Bond	Grassley	Santorum
Brownback	Gregg	Sessions
Bunning	Hagel	Shelby
Burns	Hatch	Smith (NH)
Campbell	Helms	Smith (OR)
Chafee	Hutchinson	Snowe
Cochran	Hutchison	Stevens
Collins	Inhofe	Thomas
Coverdell	Kyl	Thompson
Craig	Lott	Thurmond
Crapo	Lugar	Voinovich
DeWine	Mack	Warner
Domenici	McCain	
Enzi	McConnell	

NAYS—45

Akaka	Edwards	Lieberman
Baucus	Feingold	Lincoln
Bayh	Feinstein	Mikulski
Biden	Graham	Moynihan
Bingaman	Harkin	Murray
Boxer	Hollings	Reed
Breaux	Inouye	Reid
Bryan	Jeffords	Robb
Byrd	Johnson	Rockefeller
Cleland	Kennedy	Sarbanes
Conrad	Kerrey	Schumer
Daschle	Kerry	Specter
Dodd	Kohl	Torricelli
Dorgan	Leahy	Wellstone
Durbin	Levin	Wyden

ANSWERED ''PRESENT''—1

Fitzgerald

NOT VOTING—2

Landrieu Lautenberg

The motion was agreed to.

Mr. GRAMM. Mr. President, I move to reconsider the vote.

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

The motion to table was agreed to.

Mr. BUNNING. Mr. President, I rise today in support of S. 900, which will modernize our financial services laws.

If our financial industries are going to be able to compete in the world market in the next century, we must modernize our depression-era banking laws.

The next century is almost here. We all talk about a Y2K problem. What about the antique banking law problem? Entering the new century with antiquated banking laws would be foolhardy. We have to reform our financial service system.

Most of the financial services and bank laws that are on the books today are based on the Glass-Steagall Act, legislation passed in 1935, over 60 years ago!

The world has changed a great deal since then, and it is going to change further and faster as we move into the 21st century. We need to update our outdated laws to account for this change and to give flexibility to American companies.

At the same time, we must make sure that any bill we pass treats all the segments of the financial industry fairly, and that there is a level playing field for all of the groups involved.

If history is any indication, any new law we pass will be with us for a long time, so we had better get it right.

We've been working to get it right for a long time. Eleven years ago, when I was a member of the House Banking Committee, we were able to report a financial services modernization bill to the floor.

Last year the House passed a bill and the Senate was able to pass a bill out of committee.

As a Member of the House last year, I supported the bill that passed by one vote in the House. It wasn't perfect. There were things I would have liked to change.

But I believed at the time that we couldn't allow the search for perfection to block real progress.

That's even more true this year.

We can talk about banking reform—and negotiate issues—for another twelve years—and we won't ever be able to make everyone totally happy.

There are too many competing interests and too much complexity is involved in the rapidly changing financial services industry for us ever to find a regulatory framework that will completely satisfy all of the players involved.

It's not going to happen.

At some point, we just have to do the best we can and move ahead. I'm convinced we have reached that point now—we should pass this bill.

Fortunately, the bill our committee approved this year is even better than the bills we considered last year. Chairman GRAMM and his staff did a good job—the committee did a good job.

It is time to move ahead.

We should pass a clean bill quickly and send a message to the other body that we are serious about financial services reform.

This bill has many important provisions. And I'm not going to talk about them all, but I would like to mention one issue in particular.

The one issue my bankers bring up every time they come to visit is Community Reinvestment Act or CRA reform.

I am very pleased the chairman has agreed to put CRA provisions in the bill and that we were able to pass Senator SHELBY's amendment in committee that will provide CRA relief, especially to small banks in my State and across the Nation.

Senator SHELBY's amendment will exempt 154 small banks in Kentucky from Federal CRA burdens.

These banks have always invested in the community. That is where their business is. A bank in Clinton, Kentucky does not lend in Louisville or Lexington, it lends in Clinton.

I have a letter from Robert Black, president and CEO of the Clinton Bank. Mr. Black says: ''We were using good CRA practices long before the burdensome regulation was passed. This regulation is now requiring much of our time preparing documentation and placing pins in a map just to prove that we made loans in every community.''

I should mention that Clinton, Kentucky was not named after Bill Clinton.

I would also like to read a passage from a letter from E.L. Williams, president of the Citizens Deposit Bank of Arlington, in Arlington Kentucky.

Mr. Williams states: ''In our opinion, the time and money afforded to CRA compliance in small banks could be used to a much greater advantage, such as lending and assisting the low to moderate income population for which the CRA was originally implemented.''

These small banks will lend in their own communities with or without CRA. They don't need Federal regulators breathing down their necks to make sure they are doing what they would be doing anyway.

I would personally like to see even greater reform of CRA—across the board—but our small banks really need and deserve relief and this bill provides it.

In closing, Mr. President, I repeat that this bill is not perfect. But it is a dramatic improvement over the antique financial laws we are operating under now and it is a dramatic improvement over the Sarbanes substitute.

We must enter the 21st century ready to compete and this bill will make that possible.

It is a good bill—I urge my colleagues to support it.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, May 4, 1999, the federal debt stood at $5,563,049,386,516.94 (Five trillion, five hundred sixty-three billion, forty-nine million, three hundred eighty-six thousand, five hundred sixteen dollars and ninety-four cents).

One year ago, May 4, 1998, the federal debt stood at $5,477,263,000,000 (Five trillion, four hundred seventy-seven billion, two hundred sixty-three million).

Five years ago, May 4, 1994, the federal debt stood at $4,572,995,000,000 (Four trillion, five hundred seventy-two billion, nine hundred ninety-five million).

Ten years ago, May 4, 1989, the federal debt stood at $2,770,422,000,000 (Two trillion, seven hundred seventy billion, four hundred twenty-two million).

Fifteen years ago, May 4, 1984, the federal debt stood at $1,489,259,000,000 (One trillion, four hundred eighty-nine billion, two hundred fifty-nine million)

which reflects a debt increase of more than $4 trillion—$4,073,790,386,516.94 (Four trillion, seventy-three billion, seven hundred ninety million, three hundred eighty-six thousand, five hundred sixteen dollars and ninety-four cents) during the past 15 years.

CINCO DE MAYO

Mr. DOMENICI. Mr. President, today, May 5, or ''Cinco de Mayo,'' marks an important holiday for Mexicans and Mexican-Americans alike, and it will be observed with celebrations and festivities across the United States. Contrary to a popular misconception, Cinco de Mayo does not commemorate Mexico's independence from Spain. That holiday is celebrated on September 16. Instead, Cinco de Mayo marks the victory in 1862 of the Mexican army over a larger, better armed and better trained invading French army at La Batalla de Puebla.

After gaining independence in 1821, Mexico endured a series of set backs while trying to establish a republic. By the late 1850s, Mexico was in the grips of a severe economic crisis, and the treasury was bankrupt. In 1861, President Benito Juarez placed a moratorium halting payments on foreign debt. Since much of Mexico's debt was owed to France, Napoleon III responded by invading Mexico. After landing in the port of Veracruz, the French army, which was considered the finest military force of the period, expected to march through the country and easily capture the capital, Mexico City. However, a small Mexican army, under the command of General Ignacio Zaragosa, mounted a strong defense at the town of Pueblo and routed the invading force.

The stunning victory was short-lived, though. The French returned with reinforcements and were able to defeat Mexican forces the following year. But they were only able to control Mexico for four years, and President Juarez regained power in 1867.

Although, in the end, La Batalla de Puebla had little lasting military significance, it was, culturally, a watershed event for the fledging nation, and for Latin America as a whole. After seeing Europe's best army routed by a hastily gathered and largely untrained Mexican defense, European leaders became more wary of exerting military force in the Americans. Europe never sent another invading force to the Americas after this episode.

The victory at Puebla also instilled a great sense of pride and patriotism in the people of Mexico. They proved their military mettle to themselves and the world, and their government, led by President Juarez, secured legitimacy in the eyes of other nations.

Finally, La Batalla de Puebla asserted the right of people living in former European colonies to self determination and national sovereignty, and it unified all the citizens of Mexico, from landowners to laborers, in a common cause. It marks the point when people stopped seeing themselves as subjects of monarchy in a distant land or restricted their loyalty to a particular state or region, but instead viewed themselves as citizens of a new nation, a nation united under the green, white and red colors of the Mexican flag.

Much has been said in recent years about the ''commercialization'' of Cino de Mayo, and it is true that importance of this holiday often has been overlooked. However, to most Mexican-Americans, or Chicanos, Cinco de Mayo has a special meaning. Many scholars believe La Batalla de Puebla produced the first military hero from the American Southwestern region in General Ignacio Zaragosa, who was born in Texas. The holiday has long been a lesson in overcoming great odds through determination and unity. Today, Cinco de Mayo is an occasion for people of Mexican descent to come together to express pride in their history, and I encourage all Americans to enjoy this opportunity to celebrate and appreciate the contributions of Mexican culture.

RUMORS OF NURSING HOME BANKRUPTCY

Mr. GRASSLEY. Mr. President, I serve as chairman of the Senate Aging Subcommittee and I feel a necessity to inform my colleagues about the issue of rumors about the pending bankruptcy of some nursing home chains in the United States.

There are reports in the press, and in discussions with my colleagues I have received information, indicating that one and possibly two large nursing home chains may be facing bankruptcy in the near future. That has an economic side and it has a human side. I will speak first about the human side.

Should one or both of these nursing home chains go bankrupt, we would have an immediate challenge to ensure the continued care of somewhere between 35,000 residents, on the one hand, and 70,000, on the other, in these respective homes where they are currently under care. This would be a significant task. Nursing home residents are frail and are not easily moved. Moving them runs the risk of causing ''transfer trauma,'' a condition that can result in death. Therefore, it is critical that we keep focused on preventing avoidable harm and take precautions to prevent this from happening.

I have introduced legislation to ensure that the quality of patient care is monitored if there would be bankruptcy. My legislation requires the appointment of an ombudsman to act as an advocate for the patient. This change will ensure that bankruptcy judges are fully aware of all the facts when they guide a health care provider through the process of bankruptcy. Prior to a chapter 11 filing, or immediately thereafter, the debtor employs a health care crisis consultant to help it in its reorganization effort. The first step is usually cutting costs. Sometimes this step may result in a lower quality of care for the patients who live there. The appointment, then, of an ombudsman, should balance the interests between the creditor and the patient. These interests need balancing because the court-appointed officials owe fiduciary duties to creditors and the estate but not necessarily to the patients.

There will be occasions which illustrate that what may be in the best interest of creditors may not always be consistent with the patients' best interest. The trustee's interest, for example, is to maximize the amount of the estate to pay off the creditors. The more assets the trustee disburses, the more his payment will be. On the other hand, the ombudsman for the patient is designed to ensure continued quality of care at least above some minimum standards. Such quality of care standards currently exist throughout the health care environment, from the health care facility itself to State standards and even Federal standards that were adopted in 1987.

I would like to have my colleagues consider the following excerpt from the Los Angeles Times on September 28, 1997, which describes the unconscionable, pathetic, and traumatizing consequences of a sudden nursing home closing because of bankruptcy:

> It could not be determined Saturday how many more elderly or chronically ill patients may be affected by the health care company's financial problems. Those at the Reseda Care Center in the San Fernando Valley, including a 106-year-old woman, were rolled into the streets late Friday in wheelchairs and on hospital beds, bundled in blankets as relatives scurried to gather up clothes and other personal belongings.

The presence of an ombudsman should help prevent a recurrence of instances similar to what I just described, where trustees quickly close health care facilities without notifying appropriate state and federal agencies and without notifying the bankruptcy court.

I began discussions with the Health Care Financing Administration at the beginning of April to urge them to take seriously the rumors we were hearing about possible nursing home bankruptcies and to encourage them to make preparations. I called for contingency plans that would prepare, well in advance, for the daunting challenges bankruptcies would pose to various federal and state agencies. HCFA briefed the staff of the Aging Committee, as well as staff from the Finance Committee and Budget Committee. While the HCFA staff appreciated the severity and size of the problem of ensuring resident safety in the event of a bankruptcy, they did not have a plan—or even a plan for a plan.

I wrote to the HCFA Administrator urging her to take the effort very seriously, to keep at the planning and to stay in touch with my office. Only on April 28th did I hear from her office

that we could expect to see the plan in the next two weeks. That is why I wrote to her again on April 29, to tell her to get on with the effort and to let me and interested Members know of the plan to ensure that the people in the affected nursing homes will be protected.

Once we are assured that residents will be safe we can turn to the financial part of the bankruptcies. Now I will address these financial issues.

Before we take any action involving the taxpayers' hard-earned dollars, we should ask, and get solid answers to, some critical questions.

The first is this: if the rumors of financial distress are true, how is it that some providers are in such distress while others seem not to be? What factors have put certain companies at particular risk? The answer to that question will go a long way to help us know what kind of response their situation demands.

At this point, I'd like to make an observation about the Medicare element of this situation.

This is in response to the one excuse you are going to find from some of these changes why something ought to be done in the balanced budget amendment of 1997.

A Prospective Payment System (PPS) for Skilled Nursing Facilities was mandated by the Balanced Budget Act of 1997 (BBA). Some argue that, comparing CBO's 1997 baseline with its 1999 baseline, Medicare has saved $7 billion more than originally anticipated, and that this pushed these companies over the edge.

But we need to ask whether or not it did.

CBO has recently clarified its baselines, explaining that the alleged difference between the two baselines comes from an apples-to-oranges comparison: the 1997 baseline included Part B spending on patients in these facilities, while the 1999 baseline does not. When apples are compared to apples, CBO tells us, the Medicare Part A baseline for Skilled Nursing Facilities has decreased by only $200 million over 5 years—not by the $7 billion that we are hearing. Of course this doesn't tell us what is going on in the real world—it only tells us that the discussion should not be about CBO's baselines, it should be about what is really going on out there.

And that is what we need to find out.

Next, questions have been raised by shareholders, in class action suits against the management of these companies, about the competence and effectiveness of the management of these two companies. Did these companies try to grow too large, too fast? Did they take on more debt than they could manage? Was their business strategy flawed? A host of questions need to be answered about the internal operation of these companies—to see if they were being well run—before we assume that more taxpayer dollars will fix the problem. Otherwise we could wind up subsidizing the mistakes of well compensated executives.

These are serious questions that should be answered by the committees of this body. We should make full use of the evaluators who work for Congress. And the Administration should devote some effort to the inquiry as well. We need to understand the problem before we propose a solution.

Yet, some solutions are being presumed, and they are being presumed based on that apples-to-oranges comparison which says there has been $7 billion more saved from Medicare than was anticipated in the 1997 balanced budget amendment. We should make haste to get these answers, and not rush blindly into what could otherwise be a thoughtless bailout.

COMMENDING THE EFFORTS OF THE REVEREND JESSE JACKSON

Mr. DORGAN. Mr. President, I would like to take this opportunity to join all Americans in expressing my profound relief at the safe return of Sergeant Andrew Ramirez, Sergeant Christopher Stone, and Specialist Steven Gonzales from captivity in the Federal Republic of Yugoslavia.

I was necessarily absent from the Senate this morning in order to attend a technology conference in my home State of North Dakota. Had I been present, I would have gladly joined 92 of my colleagues in commending the Reverend Jesse Jackson, and the delegation of religious and political leaders he led, for their instrumental efforts in securing the release of these three Americans. A grateful nation owes them its gratitude.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, 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

At 12:35 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 118. An act to designate the Federal building located at 300 East 8th Street in Austin, Texas, as the ''J.J. 'Jake' Pickle Federal Building.''

H.R. 459. An act to extend the deadline under the Federal Power Act for FERC Project No. 9401, the Mt. Hope Waterpower Project.

H.R. 509. An act to direct the Secretary of the Interior to transfer to the personal representative of the estate of Fred Steffens of Big Horn County, Wyoming, certain land comprising the Steffens family property.

H.R. 510. An act to direct the Secretary of the Interior to transfer to John R. and Margaret J. Lowe of Big Horn County, Wyoming, certain land so as to correct an error in the patent issued to their predecessors in interest.

H.R. 560. An act to designate the Federal building and United States courthouse located at the intersection of Comercio and San Justo Streets, in San Juan, Puerto Rico, as the ''Jose V. Toledo Federal Building and United States Courthouse.''

H.R. 686. An act to designate a United States courthouse in Brownsville, Texas, as the ''Garza-Vela United States Courthouse.''

H.R. 1121. An act to designate the Federal building and United States courthouse located at 18 Greenville Street in Newnan, Georgia, as the ''Lewis R. Morgan Federal Building and United States Courthouse.''

H.R. 1162. An act to designate the bridge on United States Route 231 that crosses the Ohio River between Maceo, Kentucky, and Rockport, Indiana, as the ''William H. Natcher Bridge.''

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 84. Concurrent resolution urging the Congress and the President to fully fund the Federal Government's obligation under the Individuals with Disabilities Education Act.

H. Con. Res. 88. Concurrent resolution urging the Congress and the President to increase funding for the Pell Grant Program and existing Campus-Based Aid Programs.

The message further announced that pursuant to the provisions of section 503(b)(3) of the National Skill Standards Act of 1994 (20 U.S.C. 5933) and upon the recommendation of the Minority Leader, the Speaker reappoints the following members to the National Skill Standards Board on the part of the House for a four-year term: Ms. Carolyn Warner of Phoenix, Arizona and Mr. George Bliss of Washington, D.C.

The message also announced that pursuant to section 2(b) of Public Law 98–183 and upon the recommendation of the Minority Leader, the Speaker appoints the following member to the Commission on Civil Rights on the part of the House, effective May 4, 1999, to fill the existing vacancy thereon: Mr. Christopher F. Edley, Jr. of Cambridge, Massachusetts.

The message further announced that the House has passed the following bills, without amendment:

S. 453. An act to designate the Federal building located at 709 West 9th Street in Juneau, Alaska, as the ''Hurff A. Saunders Federal Building.''

S. 460. An act to designate the United States courthouse located at 401 Michigan Street in South Bend, Indiana, as the ''Rock K. Rodibaugh United States Bankruptcy Courthouse.''

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 118. An act to designate the Federal building located at 300 East 8th Street in Austin, Texas, as the ''J.J. 'Jake' Pickle Federal Building''; to the Committee on Environmental and Public Works.

H.R. 459. An act to extend the deadline under the Federal Power Act for FERC Project No. 9401, the Mt. Hope Waterpower Project; to the Committee on Energy and Natural Resources.

H.R. 560. An act the Federal building and United States courthouse located at the intersection of Comercio and San Justo Streets, in San Juan, Puerto Rico, as the ''Jose V. Toledo Federal Building and United States Courthouse''; to the Committee on Environment and Public Works.

H.R. 686. An act to designate a United States courthouse in Brownsville, Texas, as the ''Garza-Vela United States Courthouse''; to the Committee on Environment and Public Works.

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H.R. 1162. An act to designate the bridge on United States Route 231 that crosses the Ohio River between Maceo, Kentucky, and Rockport, Indiana as the ''William H. Hatcher Bridge''; to the Committee on Environment and Public Works.

The following concurrent resolutions were read and referred as indicated:

H. Con. Res. 84. Concurrent resolution urging the Congress and the President to fully fund the Federal Government's obligation under the Individuals with Disabilities Education Act; to the Committee on Health, Education, Labor, and Pensions.

H. Con. Res. 88. Concurrent resolution urging the Congress and the President to increase funding for the Pell Grant Program and existing Campus-Based Aid Programs; to the Committee on Health, Education, Labor, and Pensions.

MEASURES PLACED ON THE CALENDAR

The following bills were read the first and second times and placed on the calendar:

H.R. 509. An act to direct the Secretary of the Interior to transfer to the personal representative of the estate of Fred Steffens of Big Horn County, Wyoming, certain land comprising the Steffens family property.

H.R. 510. An act to direct the Secretary of the Interior to transfer to John R. and Margaret J. Lowe of Big Horn County, Wyoming, certain land so as to correct an error in the patent issued to their predecessors in interest.

H.R. 1480. An act to provide for the conservation and development of water and related resources, to authorize the United States Army Corps of Engineers to construct various projects for improvements to rivers and harbors of the United Sates, and for other purposes.

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–2850. A communication from the Architect of the Capitol, transmitting, pursuant to law, a report of expenditures for the period April 1, 1998 through September 30, 1998; to the Committee on Appropriations.

EC–2851. A communication from the Chief Financial Officer and Plan Administrator, Production Credit Association Retirement Committee, First South Production Credit Association, transmitting, pursuant to law, the annual pension plan report for calendar year 1998; to the Committee on Governmental Affairs.

EC–2852. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled ''Prevailing Rate Systems; Change in Survey Cycle for the Southwestern Michigan Appropriated Fund Wage Area'' (RIN3206–A168), received on April 30, 1999; to the Committee on Governmental Affairs.

EC–2853. A communication from the Director, Office of Insurance Programs, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled ''Federal Employees' Group Life Insurance Program; New Premiums'' (RIN3206–A154), received on April 30, 1999; to the Committee on Governmental Affairs.

EC–2854. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting, a draft of proposed legislation relative to the Wilderness Battlefield; to the Committee on Energy and Natural Resources.

EC–2855. A communication from the Director, Office of Regulations Management, Veterans Benefits Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled ''Claims and Effective Dates for the Award of Educational Assistance'' (RIN2900–AH76), received on May 3, 1999; to the Committee on Veterans Affairs.

EC–2856. A communication from the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, the report of a rule entitled ''Additional Authorization to Issue Certification for Foreign Health Care Workers'' (RIN115–AF43), received on May 2, 1999; to the Committee on the Judiciary.

EC–2857. A Communication from the Secretary of Defense, transmitting, pursuant to law, a report relative to workforce reductions for fiscal year 1999; to the Committee on Armed Services.

EC–2858. A Communication from the Secretary of Defense, transmitting, pursuant to law, a report relative to a retirement; to the Committee on Armed Services.

EC–2859. A communication from the General Counsel, Department of Defense, transmitting, a draft of proposed legislation relative to various management concerns; to the Committee on Armed Services.

EC–2860. A communication from the General Counsel, Department of Defense, transmitting, a draft of proposed legislation relative to various management concerns; to the Committee on Armed Services.

EC–2861. A communication from the Assistant Secretary of Defense, transmitting, pursuant to law, a report relative to the fiscal year 1999 National Defense Authorization Act; to the Committee on Armed Services.

EC–2862. A communication from the Under Secretary of Defense, transmitting, pursuant to law, a report relative to the Patriot PAC–3 major defense acquisition program; to the Committee on Armed Services.

EC–2863. A communication from the Under Secretary of the Navy, transmitting, pursuant to law, a report relative to a decision to study certain functions for possible performance by private contractors; to the Committee on Armed Services.

EC–2864. A communication from the Alternate Office of the Secretary of Defense Federal Register Liaison Officer, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''OSD Privacy Program'', received April 27, 1999; to the Committee on Armed Services.

EC–2865. A communication from the Deputy Secretary, Division of Market Regulation, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendments to Form BDW and related rules 15b1–1, 15b3–1, 15b6–1, 15Ba2–2, 15Bc3–1, 15Ca1–1 and 15Cc1–1 under the Securities and Exchange Act of 1934'' (RIN3235–AG69), received May 3, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC–2866. A communication from the Secretary of the Interior, transmitting, a draft of proposed legislation relative to a nonprofit education foundation; to the Committee on Indian Affairs.

EC–2867. A communication from the Secretary of Agriculture, transmitting, a draft of proposed legislation relative to amending the Packers and Stockyards Act of 1921; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2868. A communication from the Administrator, Agricultural Marketing Service, Marketing and Regulatory Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Peanut Production, Research and Information Order; Referendum Procedures'' (Docket No. FV–98–703–FR), received on April 30, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2869. A communication from the Deputy Executive Secretariat, Administration for Children and Families, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Temporary Assistance for Needy Families'' (RIN0970–AB77), received on April 22, 1999; to the Committee on Finance.

EC–2870. A communication from the Board of Trustees, Federal Old-Age and Survivors Insurance and Disability Insurance Trust Funds, transmitting, pursuant to law, the 1999 annual report; to the Committee on Finance.

EC–2871. A communication from the Board of Trustees, Federal Hospital Insurance Trust Fund, transmitting, pursuant to law, the 1999 annual report; to the Committee on Finance.

EC–2872. A communication from the Board of Trustees, Federal Supplementary Medical Insurance Trust Fund, transmitting, pursuant to law, the 1999 annual report; to the Committee on Finance.

EC–2873. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to the Medicare program; to the Committee on Finance.

EC–2874. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to the Medicare prospective payment system; to the Committee on Finance.

EC–2875. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled ''Chiropractic Services in Medicare HMOs and Medicare+Choice (M+C) Organizations''; to the Committee on Finance.

EC–2876. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled ''Medicare Alzheimer's Disease Demonstration Evaluation''; to the Committee on Finance.

EC–2877. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled ''Early Implementation of the Welfare-to-Work Grants Program''; to the Committee on Finance.

EC–2878. A communication from the Assistant Secretary for Children and Families, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Child Support Enforcement Program; Grants to States for Access and Visitation Programs: Monitoring, Evaluation, and Reporting'' (RIN0970–AB72); to the Committee on Finance.

EC–2879. A communication from the Chief, Regulations Unit, Office of Chief Counsel, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Notice of Significant Reduction in the Rate of Future Benefit Accrual'' (RIN1545–AT78), received on April 22, 1999; to the Committee on Finance.

EC–2880. A communication from the Chief, Regulations Unit, Office of Chief Counsel, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Announcement 99–40'', received on April 6, 1999; to the Committee on Finance.

EC–2881. A communication from the Chief, Regulations Unit, Office of Chief Counsel, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Revenue Ruling 99–18'', received on April 9, 1999; to the Committee on Finance.

EC–2882. A communication from the Chief, Regulations Unit, Office of Chief Counsel, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Revenue Ruling 99–18'', received on April 6, 1999; to the Committee on Finance.

EC–2883. A communication from the Chief, Regulations Unit, Office of Chief Counsel, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Revenue Procedure 99–23'', received on April 6, 1999; to the Committee on Finance.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committee were submitted:

By Mr. MCCAIN, for the Committee on Commerce, Science, and Transportation:

The following named officer for appointment as Commander, Atlantic Area, United States Coast Guard, and to the grade indicated under title 14, U.S.C., section 50:

To be vice admiral

Rear Adm. John E. Shkor, 0602

Captain Evelyn J. Fields, NOAA for appointment to the grade of Rear Admiral (O–8), while serving in a position of importance and responsibility as Director, Office of NOAA Corp Operations, National Oceanic and Atmospheric Administration, under the provisions of Title 33, United States Code, Section 853u.

Captain Nicholas A. Prahl, NOAA for appointment to the grade of Rear Admiral (O–7), while serving in a position of importance and responsibility as Director, Atlantic and Pacific Marine Centers, National Oceanic and Atmospheric Administration, under the provisions of Title 33, United States Code, Section 853u.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. MCCAIN. Mr. President, for the Committee on Commerce, Science, and Transportation, I report favorably the following nomination lists which were printed in the RECORDS of March 8, 1999 and April 15, 1999, at the end of the Senate proceedings, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

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

Coast Guard nomination of James W. Bartlett, which was received by the Senate and appeared in the CONGRESSIONAL RECORD of March 8, 1999.

Coast Guard nomination beginning William L. Chaney, and ending William E. Shea, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of March 8, 1999.

Coast Guard nomination beginning Ashley B. Aclin, and ending Michael J. Zeruto, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of April 15, 1999.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. HOLLINGS (for himself, Mr. STEVENS, Mr. KERRY, Mr. INOUYE, Mr. BREAUX, Mr. KENNEDY, Mrs. BOXER, Mr. BIDEN, Mr. LAUTENBERG, Mr. AKAKA, Mr. MURKOWSKI, Mr. THURMOND, Mrs. MURRAY, Mr. CLELAND, and Mr. WYDEN):

S. 959. A bill to establish a National Ocean Council, a Commission on Ocean Policy, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. GRASSLEY (for himself and Mr. BREAUX):

S. 960. A bill to amend the Older Americans Act of 1965 to establish pension counseling programs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BURNS (for himself, Mr. CRAIG, Mr. BAUCUS, Mr. DASCHLE, Mr. KERREY, and Mr. JOHNSON):

S. 961. A bill to amend the Consolidated Farm And Rural Development Act to improve shared appreciation arrangements; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. LEAHY (for himself and Mr. DODD):

S. 962. A bill to allow a deduction from gross income for year 2000 computer conversion costs of small businesses; to the Committee on Finance.

By Mr. GREGG:

S. 963. A bill to amend the Internal Revenue Code of 1986 to preserve family-held forest lands, and for other purposes; to the Committee on Finance.

By Mr. DASCHLE:

S. 964. A bill to provide for equitable compensation for the Cheyenne River Sioux Tribe, and for other purposes; to the Committee on Indian Affairs.

By Mr. JEFFORDS (for himself, Ms. SNOWE, Mr. LEAHY, Mrs. MURRAY, and Mr. DURBIN):

S. 965. A bill to restore a United States voluntary contribution to the United Nations Population Fund; to the Committee on Foreign Relations.

By Mr. REID:

S. 966. A bill to require medicare providers to disclose publicly staffing and performance in order to promote improved consumer information and choice, to protect employees of medicare providers who report concerns about the safety and quality of services provided by medicare providers or who report violations of Federal or State law by those providers, and to require review of the impact on public health and safety of proposed mergers and acquisitions of medicare providers; to the Committee on Finance.

By Mr. LAUTENBERG:

S. 967. A bill to provide a uniform national standard to ensure that consealed firearms are available only to authorized persons for lawful purposes; to the Committee on the Judiciary.

By Mr. GRAHAM (for himself, Mr. MACK, Mr. CLELAND, Mrs. LINCOLN, and Mr. ROBB):

S. 968. A bill to authorize the Administrator of the Environmental Protection Agency to make grants to State agencies with responsibility for water source development, for the purposes of maximizing the available water supply and protecting the environment through the development of alternative water sources, and for other purposes; to the Committee on Environment and Public Works.

By Mr. ASHCROFT:

S. 969. A bill to amend the Individuals with Disabilities Education Act and the Gun-Free Schools Act of 1994 to authorize schools to apply appropriate discipline measures in cases where students have weapons or threaten to harm others, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LEAHY (for himself, Mr. FEINGOLD, Mr. REED, Mr. HARKIN, Mr. MCCONNELL, Mr. MOYNIHAN, and Mr. KOHL):

S. Res. 96. A resolution expressing the sense of the Senate regarding a peaceful process of self-determination in East Timor, and for other purposes; to the Committee on Foreign Relations.

By Mr. COVERDELL (for himself, Mr. FRIST, Mr. GORTON, Mr. LOTT, Mr. JEFFORDS, Mr. ABRAHAM, Mr. CRAIG, Mr. DOMENICI, Mr. COCHRAN, Mr. MACK, Mr. SMITH of Oregon, Ms. COLLINS, Mr. HATCH, Mr. LUGAR, Ms. SNOWE, Mr. GRAMS, Mr. CRAPO, Mr. KENNEDY, and Mr. WELLSTONE):

S. Res. 97. A resolution designating the week of May 2 through 8, 1999, as the 14th Annual Teacher Appreciation Week, and designating Tuesday, May 4, 1999, as National Teacher Day; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HOLLINGS (for himself, Mr. STEVENS, Mr. KERRY, Mr. INOUYE, Mr. BREAUX, Mr. KENNEDY, Mrs. BOXER, Mr. BIDEN, Mr. LAUTENBERG, Mr. AKAKA, Mr. MURKOWSKI, Mr. THURMOND, Mrs. MURRAY, Mr. CLELAND, and Mr. WYDEN):

S. 959. A bill to establish a National Ocean Council, a Commission on Ocean Policy, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE OCEANS ACT OF 1999

Mr. HOLLINGS. Mr. President, I rise today to introduce the Oceans Act of

1999, legislation that the Senate unanimously passed in November 1997. I am pleased to be joined in this endeavor by Senators STEVENS, KERRY, BREAUX, INOUYE, KENNEDY, BOXER, BIDEN, LAUTENBERG, AKAKA, MURKOWSKI, THURMOND, MURRAY, CLELAND, and WYDEN. Mr. President, plainly and simply, this bill calls for a plan of action for the twenty-first century to explore, protect, and use our oceans and coasts through the coming millennium.

This is not the first time we have faced the need for a national ocean policy. Three decades ago, our Nation roared into space, investing tens of billions of dollars to investigate the moon and the Sea of Tranquility. During that golden era of science, some of us also recognized the importance of exploring the seas on our own planet. In 1966, Congress enacted the Marine Resources and Engineering Development Act in order to define national objectives and programs with respect to the oceans. That legislation laid the foundation for U.S. ocean and coastal policy and programs and has guided their development for three decades. I was elected to the Senate just three months after the 1966 Act was enacted into law, but I am pleased that both Senators INOUYE and KENNEDY, the two cosponsors of the 1966 Act still serving in the Senate, have agreed to join me today in introducing the Oceans Act.

One of the central elements of the 1966 Act was establishment of a presidential commission to develop a plan for national action in the oceans and atmosphere. Dr. Julius A. Stratton, a former president of the Massachusetts Institute of Technology and then-chairman of the Ford Foundation, led the Commission on an unprecedented, and since unrepeated, investigation of this nation's relationship with the oceans and the atmosphere. The Stratton Commission and its congressional advisors (including Senators Warren G. Magnuson and Norris Cotton) worked together in a bipartisan fashion. In fact, the Commission was established and carried out its mandate in the Democratic Administration of Lyndon Johnson and saw its findings implemented by the Republicans under President Richard Nixon. With a staff of 35 people, the commissioners hear and consulted over 1,000 people, visited every coastal area of this country, and submitted some 126 recommendations in a 1969 report to Congress entitled Our Nation and the Sea. Those recommendations led directly to the creation of the National Oceanic and Atmospheric Administration in 1970, laid the groundwork for enactment of the Coastal Zone Management Act (CZMA) in 1972, and established priorities for federal ocean activities that have guided this Nation for almost thirty years.

While the Stratton Commission performed its job with vision and integrity, the world has changed since 1966. Today, half of the U.S. population lives within 50 miles of our shores and more than 30 percent of the Gross Domestic Product is generated in the coastal zone. Ocean and coastal resources once considered inexhaustible are severely depleted, and wetlands and other marine habitats are threatened by pollution and human activities. In addition, the U.S. regulatory and legal framework has developed over the years with the passage of a number of statutes in addition to CZMA. These include the Endangered Species Act, the Marine Mammal Protection Act, the Marine Protection, Research, and Sanctuaries Act, the Magnuson-Stevens Fishery Conservation and Management Act, the Coastal Barrier Resources Act, and the Oil Pollution Act. It is time to conduct a review that looks at coordination and duplication of programs and policies developed under these laws.

Today people who work and live on the water face a patchwork of confusing and sometimes contradictory federal and state regulations. This bill would allow us to reduce conflicts while maintaining environmental and health safeguards. One illustration of the type of situation that must be corrected is the southeast shrimp trawl fishery. Shrimpers are required under the Endangered Species Act to use panels or grates (known as turtle excluder devices or TEDs) in their nets to protect endangered sea turtles. The panels also reduce catches of small fish (bycatch), a new requirement of the Magnuson-Stevens Act. Unfortunately, however, the government has approved one TED for turtle protection and another for bycatch reduction—forcing the fishermen to use two separate devices, cut two holes in their nets, and double their shrimp loss. Anyone who wonders about public interest in regulatory reform has only to talk to a McClellanville, SC shrimper.

The Oceans Act is vital to the continued health of the oceans and prosperity of our coasts. It is patterned after and would replace the 1966 Act. Like that Act, it is comprised of three major elements:

First, the bill calls for development and implementation of a coherent national ocean and coastal policy to conserve and sustainably use fisheries and other ocean and coastal resources, protect the marine environment and human safety, explore ocean frontiers, create marine technologies and economic opportunities, and preserve U.S. leadership on ocean and coastal issues.

Second, the bill would establish a 16-member Commission, similar to the Stratton Commission, to examine ocean and coastal activities and report within 18 months on recommendations for a national policy. Commission members would be drawn from State and local governments, industry, academic and technical institutions, and public interest organizations involved in ocean and coastal activities. In developing its recommendations, the Commission would assess federal programs and funding priorities, ocean-related infrastructure requirements, conflicts among marine users, and technological opportunities. The bill authorizes appropriations of $6 million over two years to support Commission activities; last year's Omnibus Appropriations bill included $3.5 million to fund such a Commission.

Third, the bill would create a high-level federal interagency Council that would include the heads of the Departments of Commerce, Navy, State, Transportation, and the Interior, the Environmental Protection Agency, the National Science Foundation, the Office of Science and Technology Policy, the Office of Management and Budget, the Council on Environmental Quality, and the National Economic Council. This Council would advise the President and serve as a forum for developing and implementing an ocean and coastal policy, provide for coordination of federal budgets and programs, and work with non-federal and international organizations.

By establishing an action plan for ocean and coastal activities, the Oceans Act should also contribute substantially to national goals and objectives in the areas of education and research, economic development, and public safety. With respect to education and research, our view of the oceans thirty years ago was based on a remarkably small amount of information. When Jack Kennedy was in the White House, we were just beginning to develop the capability for exploring the oceans, and the driving factor was the military need to hide our submarines from the Soviets during the Cold War. What we knew of the oceans at that time was based as much on what fishermen brought up in their nets as it was on reliable scientific investigation.

Nowhere is the need for U.S. leadership more evident than in the area of ocean exploration. Today, we still have explored only a tiny fraction of the sea, but with the use of new technologies what we have found is truly incredible. For example, hydrothermal vents, hot water geysers on the deep ocean floor, were discovered just 20 years ago by oceanographers trying to understand the formation of the earth's crust. Now this discovery had led to the identification of nearly 300 new types of marine animals with untold pharmaceutical and biomedical potential. In recent years, scientists from 19 nations have joined in an international partnership, headed by Admiral Watkins, to explore the history and structure of the Earth beneath the oceans basins. Their ship, the Resolution, is the world's largest scientific research vessel and can drill in water depths of up 8,200 meters. Over the past 12 years, it has recovered more than 115 miles of core samples through the world oceans. Recently ship scientists worked off the coast of South Carolina collecting new evidence of a large meteor that struck the Earth 65 million years ago, and is thought to have triggered climate change that may be linked to the disappearance of the dinosaurs.

Many of our marine research efforts could have profound impacts on our

economic well-being. For example, research on coastal ocean currents and other processes that affect shoreline erosion is critical to effective management of the shoreline. Oceanographers are working with federal, state, and local managers to use this new understanding in protecting beachfront property and the lives of those who reside and work in coastal communities. Development of underwater cameras and sonar, begun in the 1940s for the U.S. Navy, has led to major strides not only for military uses, but for marine archaeologists and scientists exploring unknown stretches of sea floor. Consumers have benefited from the technology now used in video cameras. Sonar has broad applications in both the military and commercial sector.

Finally, marine biotechnology research is thought to be one of the greatest remaining technological and industrial frontiers. Among the opportunities which it may offer are to: restore and protect marine ecosystems; monitor human health and treat disease; increase food supplies through aquaculture; enhance seafood safety and quality; provide new types and sources of industrial materials and processes; and understand biological and geochemical processes in the world ocean.

In addition to the economic opportunities offered by our marine research investment, traditional marine activities play an important role in our national economic outlook. Ninety-five percent of our international trade is shipped on the ocean. In 1996, commercial fishermen in the United States landed almost 10 billion pounds of fish with a value of $3.5 billion. Their fishing-related activities contributed over $42 billion to the U.S. economy. During the same period, marine anglers contributed another $20 billion. Travel and tourism also contribute over $700 billion to our economy, much of which is generated in coastal areas. With a sound national ocean and coastal policy and effective marine resource management, these numbers have nowhere to go but up.

With respect to public safety, it is particularly important to develop ocean and coastal priorities that reflect the changes we have seen in recent years. Before World War II, most of the U.S. shoreline was sparsely populated. There were long, wild stretches of coast, dotted with an occasional port city, fishing village, or sleepy resort. Most barrier islands had few residents or were uninhabited. After the war, people began pouring in, and coastal development began a period of explosive growth. In my state of South Carolina, our beaches attract millions of visitors every year, and more and more people are choosing to move to the coast—making the coastal counties the fastest growing ones in the state. Seventeen of the twenty fastest growing states in the nation are coastal states—which compounds the situation that the most densely populated regions already border the ocean. With population growth comes the demand for highways, shopping centers, schools, and sewers that permanently alter the landscape. If people are to continue to live and work on the coast, we must do a better job of planning how we impact the very regions in which we all want to live.

There is no better example of how our ocean and coastal policies affect public safety, than to look at the effects of hurricanes. Throughout the 1920s, hurricanes killed 2,122 Americans while causing about $1.8 billion in property damages. By contrast, in the first five years of the 1990s, hurricanes killed 111 Americans, and resulted in damages of about $35 billion. While we have made notable advances in early warning and evacuation systems to protect human lives, the risk of property loss continues to escalate and coastal inhabitants are more vulnerable to major storms than they ever have been. In 1989, Hurricane Hugo came ashore in South Carolina, leaving more than $6 billion in damages. Of that total from Hugo, the federal government paid out more than $2.8 billion in disaster assistance and more than $400 million from the National Flood Insurance Program. The payments from private insurance companies were equally staggering. In 1992, Hurricane Andrew struck southern Florida and slammed into low lying areas of Louisiana, forever changing the lives of more than a quarter of a million people and causing an estimated $25 to $30 billion dollars in damage. Hurricanes demonstrate that the human desire to live near the ocean and along the coast comes with both a responsibility and a cost.

The oceans are part of our culture, part of our heritage, part of our economy, and part of our future. Those who doubt the need for this legislation need only pick up a newspaper and they will be face to face with pressing ocean and coastal issues. And while our coastal waters are governed by the United States or all of us, beyond our waters progress relies primarily on international cooperation. There are no boundaries at sea, no national borders with fences and checkpoints. Deciding how to manage all these problems and use the seas is one of the most complicated tasks we can tackle.

Therefore, we need to be smart about ocean policy—we need the best minds to come together and take a look at what the real challenges are. It is not enough to sit back and assume the role of caretakers. We must be proactive and develop a plan for the future.

The United Nations declared 1998 to the be the Year of the Ocean in part to encourage governments and the pubic to pay adequate attention to the need to protect the marine environment and to ensure a healthy ocean. This is an unprecedented opportunity to follow up the Year of the Ocean activities by celebrating and enhancing what has been accomplished in understanding and managing our oceans.

The Stratton Commission stated in 1969: ''How fully and wisely the United States uses the sea in the decades ahead will affect profoundly its security, its economy, its ability to meet increasing demands for food and raw materials, its position and influence in the world community, and the quality of the environment in which its people live.'' Those words are as true today as they were 30 years ago.

Mr. President, it is time to look towards the next 30 years. This bill offers us the vision and understanding needed to establish sound ocean and coastal policies for the 21st century, and I thank the cosponsors of the legislation for joining with me in recognizing it significance. We look forward to working together in the bipartisan spirit of the Stratton Commission to enact legislation that ensures the development of an integrated national ocean and coastal policy well into the next millennium. I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 959

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 ''Oceans Act of 1999''.

SEC. 2. CONGRESSIONAL FINDINGS; PURPOSE AND OBJECTIVES.

(a) FINDINGS.—The Congress makes the following findings:

(1) Covering more than two-thirds of the Earth's surface, the oceans and Great Lakes play a critical role in the global water cycle and in regulating climate, sustain a large part of Earth's biodiversity, provide an important source of food and a wealth of other natural products, act as a frontier to scientific exploration, are critical to national security, and provide a vital means of transportation. The coasts, transition between land and open ocean, are regions of remarkable high biological productivity, contribute more than 30 percent of the Gross Domestic Product, and are of considerable importance for recreation, waste disposal, and mineral exploration.

(2) Ocean and coastal resources are susceptible to change as a direct and indirect result of human activities, and such changes can significantly impact the ability of the oceans and Great Lakes to provide the benefits upon which the Nation depends. Changes in ocean and coastal processes could affect global patterns, marine productivity and biodiversity, environmental quality, national security, economic competitiveness, availability of energy, vulnerability to natural hazards, and transportation safety and efficiency.

(3) Ocean and coastal resources are not infinite, and human pressure on them is increasing. One half of the Nation's population lives within 50 miles of the coast, ocean and coastal resources once considered inexhaustible are not threatened with depletion, and if population trends continue as expected, pressure on and conflicting demands for ocean and coastal resources will increase further as will vulnerability to coastal hazards.

(4) Marine transportation is key to United States participation in the global economy and to the wide range of activities carried

out in ocean and coastal regions. Inland waterway and ports are the link between marine activities in ocean and coastal regions and the supporting transportation infrastructure ashore. International trade is expected to triple by 2020. The increase has the potential to outgrow—

(A) the capabilities of the marine transportation system to ensure safety; and

(B) the existing capacity of ports and waterways.

(5) Marine technologies hold tremendous promise for expanding the range and increasing the utility of products from the oceans and Great Lakes, improving the stewardship of ocean and coastal resources, and contributing to business and manufacturing innovations and the creation of new jobs.

(6) Research has uncovered the link between oceanic and atmospheric processes and improved understanding of world climate patterns and forecasts. Important new advances, including availability of military technology have made feasible the exploration of large areas of the ocean which were inaccessible several years ago. In designating 1998 as ''The Year of the Ocean'', the United Nations high-lighted the value of increasing our knowledge of the oceans.

(7) It has been more than 30 years since the Commission on Marine Science, Engineering, and Resources (known as the Stratton Commission) conducted a comprehensive examination of ocean and coastal activities that led to enactment of major legislation and the establishment of key oceanic and atmospheric institutions.

(8) A review of existing activities is essential to respond to the changes that have occurred over the past three decades and to develop an effective new policy for the twenty-first century to conserve and use, in a sustainable manner, ocean and coastal resources, protect the marine environment, explore ocean frontiers, protect human safety, and create marine technologies and economic opportunities.

(9) Changes in United States laws and policies since the Stratton Commission, such as the enactment of the Coastal Zone Management Act, have increased the role of the States in the management of ocean and coastal resources.

(10) While significant Federal and State ocean and coastal programs are underway, those Federal programs would benefit from a coherent national ocean and coastal policy that reflects the need for cost-effective allocation of fiscal resources, improved interagency coordination, and strengthened partnerships with State, private, and international entities engaged in ocean and coastal activities.

(b) PURPOSE AND OBJECTIVES.—The purpose of this Act is to develop and maintain, consistent with the obligations of the United States under international law, a coordinated, comprehensive, and long-range national policy with respect to ocean and coastal activities that will assist the Nation in meeting the following objectives:

(1) The protection of life and property against natural and manmade hazards.

(2) Responsible stewardship, including use, of fishery resources and other ocean and coastal resources.

(3) The protection of the marine environment and prevention of marine pollution.

(4) The enhancement of marine-related commerce and transportation, the resolution of conflicts among users of the marine environment, and the engagement of the private sector in innovative approaches for sustainable use of living marine resources.

(5) The expansion of human knowledge of the marine environment including the role of the oceans in climate and global environmental change and the advance of education and training in fields related to ocean and coastal activities.

(6) The continued investment in and development and improvement of the capabilities, performance, use, and efficiency of technologies for use in ocean and coastal activities.

(7) Close cooperation among all government agencies and departments to ensure—

(A) coherent regulation of ocean and coastal activities;

(B) availability and appropriate allocation of Federal funding, personnel, facilities, and equipment for such activities; and

(C) cost-effective and efficient operation of Federal departments, agencies, and programs involved in ocean and coastal activities.

(8) The enhancement of partnerships with State and local governments with respect to oceans and coastal activities, including the management of ocean and coastal resources and identification of appropriate opportunities for policy-making and decision-making at the State and local level.

(9) The preservation of the role of the United States as a leader in ocean and coastal activities, and, when it is in the national interest, the cooperation by the United States with other nations and international organizations in ocean and coastal activities.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) The term ''Commission'' means the Commission on Ocean Policy.

(2) The term ''Council'' means the National Ocean Council.

(3) The term ''marine environment'' includes—

(A) the oceans, including coastal and offshore waters and the adjacent shore lands;

(B) the continental shelf;

(C) the Great Lakes; and

(D) the ocean and coastal resources thereof.

(4) The term ''ocean and coastal activities'' includes activities related to oceanography, fisheries and other ocean and coastal resource stewardship and use, marine aquaculture, energy and mineral resource extraction, marine transportation, recreation and tourism, waste management, pollution mitigation and prevention, and natural hazard reduction.

(5) The term ''ocean and coastal resource'' means, with respect to the oceans, coasts, and Great Lakes, any living or non-living natural resource (including all forms of animal and plant life found in the marine environment, habitat, biodiversity, water quality, minerals, oil, and gas) and any significant historic, cultural or aesthetic resource.

(6) The term ''oceanography'' means scientific exploration, including marine scientific research, engineering, mapping, surveying, monitoring, assessment, and information management, of the oceans, coasts, and Great Lakes—

(A) to describe and advance understanding of—

(i) the role of the oceans, coasts and Great Lakes in weather and climate, natural hazards, and the processes that regulate the marine environment; and

(ii) the manner in which such role, processes, and environment are affected by human actions;

(B) for the conservation, management and stewardship of living and nonliving resources; and

(C) to develop and implement new technologies related to the environmentally sensitive use of the marine environment.

SEC. 4. NATIONAL OCEAN AND COASTAL POLICY.

(a) EXECUTIVE RESPONSIBILITIES.—The President, with the assistance of the Council and the advice of the Commission, shall—

(1) develop and maintain a coordinated, comprehensive, and long-range national policy with respect to ocean and coastal activities consistent with obligations of the United States under international law; and

(2) with regard to Federal agencies and departments—

(A) review significant ocean and coastal activities, including plans, priorities, accomplishments, and infrastructure requirements;

(B) plan and implement an integrated and cost-effective program of ocean and coastal activities including, but not limited to, oceanography, stewardship of ocean and coastal resources, protection of the marine environment, maritime transportation safety and efficiency, marine recreation and tourism, and marine aspects of weather, climate, and natural hazards;

(C) designate responsibility for funding and conducting ocean and coastal activities; and

(D) ensure cooperation and resolve differences arising from laws and regulations applicable to ocean and coastal activities which result in conflicts among participants in such activities.

(b) COOPERATION AND CONSULTATION.—In carrying out responsibilities under this Act, the President may use such staff, interagency, and advisory arrangements as the President finds necessary and appropriate and shall consult with non-Federal organizations and individuals involved in ocean and coastal activities.

SEC. 5. NATIONAL OCEAN COUNCIL.

(a) ESTABLISHMENT.—The President shall establish a National Ocean Council and appoint a Chairman from among it members. The Council shall consist of—

(1) the Secretary of Commerce;

(2) the Secretary of Defense;

(3) the Secretary of State;

(4) the Secretary of Transportation;

(5) the Secretary of the Interior;

(6) the Attorney General;

(7) the Administrator of the Environmental Protection Agency;

(8) the Director of the National Science Foundation;

(9) the Director of the Office of Science and Technology Policy;

(10) the Chairman of the Council on Environmental Quality;

(11) the Chairman of the National Economic Council;

(12) the Director of the Office of Management and Budget; and

(13) such other Federal officers and officials as the President considers appropriate.

(b) ADMINISTRATION.—

(1) The President or the Chairman of the Council may from time to time designate one of the members of the Council to preside over meetings of the Council during the absence or unavailability of such Chairman.

(2) Each member of the Council may designate an officer of his or her agency or department appointed with the advice and consent of the Senate to serve on the Council as an alternate in the event of the unavoidable absence of such member.

(3) An executive secretary shall be appointed by the Chairman of the Council, with the approval of the Council. The executive secretary shall be a permanent employee of one of the agencies or departments represented on the Council and shall remain in the employ of such agency or department.

(4) For the purpose of carrying out the functions of the Council, each Federal agency or department represented on the Council shall furnish necessary assistance to the Council. Such assistance may include—

(A) detailing employees to the Council to perform such functions, consistent with the purposes of this section, as the Chairman of the Council may assign to them; and

(B) undertaking, upon request of the Chairman of the Council, such special studies for the Council as are necessary to carry out its functions.

(5) The Chairman of the Council shall have the authority to make personnel decisions regarding any employees detailed to the Council.

(c) FUNCTIONS.—The Council shall—

(1) assist the Commission in completing its report under section 6;

(2) serve as the forum for developing an implementation plan for a national ocean and coastal policy and program, taking into consideration the Commission report;

(3) improve coordination and cooperation, and eliminate duplication, among Federal agencies and departments with respect to ocean and coastal activities; and

(4) assist the Presdient in the preparation of the first report required by section 7(a).

(d) SUNSET.—The Council shall cease to exist one year after the Commission has submitted its final report under section 6(h).

(e) SAVINGS PROVISION.—

(1) Council activities are not intended to supersede or interfere with other Executive Branch mechanisms and responsibilities.

(2) Nothing in this Act has any effect on the authority or responsbility of any Federal officer or agency under any other Federal law.

SEC. 6. COMMISSION ON OCEAN POLICY.

(A) ESTABLISHMENT.—

(1) IN GENERAL.—The President shall, within 90 days after the enactment of this Act, establish a Commission on Ocean Policy. The Commission shall be composed of 16 members including individuals drawn from State and local governments, industry, academic and technical institutions, and public interest organizations involved with ocean and coastal activities. Members shall be appointed for the life of the Commission as follows:

(A) 4 shall be appointed by the President of the United States.

(B) 4 shall be appointed by the President chosen from a list of 8 proposed members submitted by the Majority Leader of the Senate in consultation with the Chairman of the Senate Committee on Commerce, Science, and Transportation.

(C) 4 shall be appointed by the President chosen from a list of 8 proposed members submitted by the Speaker of the House of Representatives in consultation with the Chairman of the House Committee on Resources.

(D) 2 shall be appointed by the President chosen from a list of 4 proposed members submitted by the Minority Leader of the Senate in consultation with the Ranking Member of the Senate Committee on Commerce, Science, and Transportation.

(E) 2 shall be appointed by the President chosen from a list of 4 proposed members submitted by the Minority Leader of the House in consultation with the Ranking Member of the House Committee on Resources.

(2) FIRST MEETING.—The Commission shall hold its first meeting within 30 days after it is established.

(3) CHAIRMAN.—The President shall select a Chairman from among such 16 members. Before selecting the Chairman, the President is requested to consult with the Majority and Minority Leaders of the Senate, the Speaker of the House of Representatives, and the Minority Leader of the House of Representatives.

(4) ADVISORY MEMBERS.—In addition, the Commission shall have 4 Members of Congress, who shall serve as advisory members. One of the advisory members shall be appointed by the Speaker of the House of Representatives. One of the advisory members shall be appointed by the minority leader of the House of Representatives. One of the advisory members shall be appointed by the majority leader of the Senate. One of the advisory members shall be appointed by the minority leader of the Senate. The advisory members shall not participate, except in an advisory capacity, in the formulation of the findings and recommendations of the Commission.

(b) FINDINGS AND RECOMMENDATIONS.—The Commission shall report to the President and the Congress on a comprehensive national ocean and coastal policy to carry out the purpose and objectives of this Act. In developing the findings and recommendations of the report, the Commission shall—

(1) review and suggest any necessary modifications to United States laws, regulations, and practices necessary to define and implement such policy, consistent with the obligations of the United States under international law;

(2) assess the condition and adequacy of investment in existing and planned facilities and equipment associated with ocean and coastal activities including human resources, vessels, computers, satellites, and other appropriate technologies and platforms;

(3) review existing and planned ocean and coastal activities of Federal agencies and departments, assess the contribution of such activities to development of an integrated long-range program for oceanography, ocean and coastal resource management, and protection of the marine environment, and identify any such activities in need of reform to improve efficiency and effectiveness;

(4) examine and suggest mechanisms to address the interrelationships among ocean and coastal activities, the legal and regulatory framework in which they occur, and their inter-connected and cumulative effects on the marine environment, ocean and coastal resources, and marine productivity and biodiversity;

(5) review the known and anticipated demands for ocean and coastal resources, including an examination of opportunities and limitations with respect to the use of ocean and coastal resources within the exclusive economic zone, projected impacts in coastal areas, and the adequacy of existing efforts to manage such use and minimize user conflicts;

(6) evaluate relationships among Federal, State, and local governments and the private sector for planning and carrying out ocean and coastal activities and address the most appropriate division of responsibility for such activities;

(7) identify opportunities for the development of or investment in new products, technologies, or markets that could contribute to the objectives of this Act;

(8) consider the relationship of the ocean and coastal policy of the United States to the United Nations Convention on the Law of the Sea and other international agreements, and actions available to the United States to effect collaborations between the United States and other nations, including the development of cooperative international programs for oceanography, protection of the marine environment, and ocean and coastal resource management; and

(9) engage in any other preparatory work deemed necessary to carry out the duties of the Commission pursuant to this Act.

(c) DUTIES OF CHAIRMAN.—In carrying out the provisions of this subsection, the Chairman of the Commission shall be responsible for—

(1) the assignment of duties and responsibilities among staff personnel and their continuing supervision; and

(2) the use and expenditures of funds available to the Commission.

(d) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government, or whose compensation is not precluded by a State, local, or Native American tribal government position, shall be compensated at a rate equal to the daily equivalent of the annual rate payable for Level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(e) STAFF.—

(1) The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director who is knowledgeable in administrative management and ocean and coastal policy and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment and termination of an executive director shall be subject to confirmation by a majority of the members of the Commission.

(2) The executive director shall be compensated at a rate not to exceed the rate payable for Level V of the Executive Schedule under section 5316 of title 5, United States Code. The Chairman may fix the compensation of other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for such personnel may not exceed the rate payable for GS–15, step 7, of the General Schedule under section 5332 of such title.

(3) Upon request of the Chairman of the Commission, after consulting with the head of the Federal agency concerned, the head of any Federal Agency shall detail appropriate personnel of the agency to the Commission to assist the Commission in carrying out its functions under this Act. Federal Government employees detailed to the Commission shall serve without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(4) The Commission may accept and use the services of volunteers serving without compensation, and to reimburse volunteers for travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code. Except for the purposes of chapter 81 of title 5, United States Code, relating to compensation for work injuries, and chapter 171 of title 28, United States Code, relating to tort claims, a volunteer under this section may not be considered to be an employee of the United States for any purpose.

(5) To the extent that funds are available, and subject to such rules as may be prescribed by the Commission, the executive director of the Commission may procure the temporary and intermittent services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate payable for GS–15, step 7, of the General Schedule under section 5332 of title 5, United States Code.

(f) ADMINISTRATION.—

(1) All meetings of the Commission shall be open to the public, except that a meeting or any portion of it may be closed to the public if it concerns matters or information described in section 552b(c) of title 5, United

States Code. Interested persons shall be permitted to appear at open meetings and present oral or written statement on the subject matter of the meeting. The Commission may administer oaths or affirmations to any person appearing before it.

(2) All open meetings of the Commission shall be preceded by timely public notice in the Federal Register of the time, place, and subject of the meeting.

(3) Minutes of each meeting shall be kept and shall contain a record of the people present, a description of the discussion that occurred, and copies of all statements filed. Subject to section 552 of title 5, United States Code, the minutes and records of all meetings and other documents that were made available to or prepared for the Commission shall be available for public inspection and copying at a single location in the offices of the Commission.

(4) The Federal Advisory Committee Act (5 U.S.C. App.) does not apply to the Commission.

(g) COOPERATION WITH OTHER FEDERAL ENTITIES.—

(1) The Commission is authorized to secure directly from any Federal agency or department any information it deems necessary to carry out its functions under this Act. Each such agency or department is authorized to cooperate with the Commission and, to the extent permitted by law, to furnish such information to the Commission, upon the request of the Chairman of the Commission.

(2) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(3) The General Services Administration shall provide to the Commission on a reimbursable basis the administrative support services that the Commission may request.

(4) The Commission may enter into contracts with Federal and State agencies, private firms, institutions, and individuals to assist the Commission in carrying out its duties. The Commission may purchase and contract without regard to sections 303 of the Federal Property and Administration Services Act of 1949 (41 U.S.C. 253), section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416), and section 8 of the Small Business Act (15 U.S.C. 637), pertaining to competition and publication requirements, and may arrange for printing without regard to the provisions of title 44, United States Code. The contracting authority of the Commission under this Act is effective only to the extent that appropriations are available for contracting purposes.

(h) REPORT.—The Commission shall submit to the President, via the Council, and to the Congress not later than 18 months after the establishment of the Commission, a final report of its findings and recommendations. The Commission shall cease to exist 30 days after it has submitted its final report.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to support the activities of the Commission a total of up to $6,000,000 for fiscal years 2001 and 2002. Any sums appropriated shall remain available without fiscal year limitation until the Commission ceases to exist.

SEC. 7. REPORT AND BUDGET COORDINATION.

(a) BIENNIAL REPORT.—Beginning in January, 2000, the President shall transmit to the Congress biennially a report, which shall include—

(1) a comprehensive description of the ocean and coastal activities (and budgets) and related accomplishments of all agencies and departments of the United States during the preceding 2 fiscal years; and

(2) an evaluation of such activities (and budgets) and accomplishments in terms of the purpose and objectives of this Act. Reports made under this section shall contain such recommendations for legislation as the President may consider necessary or desirable.

(b) BUDGET COORDINATION.—

(1) Each year the President shall provide general guidance to each Federal agency or department involved in ocean or coastal activities with respect to the preparation of requests for appropriations.

(2) Each agency or department involved in such activities shall include with its annual request for appropriations a report which—

(A) identifies significant elements of the proposed agency or department budget relating to ocean and coastal activities; and

(B) specifies how each such element contributes to the implementation of a national ocean and coastal policy.

SEC. 8. REPEAL OF 1966 STATUTE.

The Marine Resources and Engineering Development Act of 1966 (33 U.S.C. 1101 et seq.) is repealed.

By Mr. GRASSLEY (for himself and Mr. BREAUX):

S. 960. A bill to amend the Older Americans Act of 1965 to establish pension counseling programs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

PENSION ASSISTANCE AND COUNSELING ACT OF 1999

● Mr. GRASSLEY. Mr. President, today I rise to introduce legislation to achieve one of my primary objectives as chairman of the Special Committee on Aging: to help workers and retirees achieve a secure retirement.

As with any discussion about retirement planning, it is the norm to point to the ''three-legged stool'' of retirement—Social Security, personal savings, and a pension. Unfortunately, the legs of the stool may be getting warped.

This legislation is the result of a hearing held by the Aging Committee in the 105th Congress. The Aging Committee confronted an issue that is affecting hundreds of thousands of workers and retirees—miscalculation of their hard-earned pensions. This hearing was intended to raise consumer awareness about the need to be pro-active about policing your pension. As one of our witnesses said, ''never assume your pension is error-free.''

While it is impossible to know how many pension payments and lump sum distributions may be miscalculated, we know the number is on the rise. An audit conducted last Congress by the Pension Benefit Guaranty Corporation—focused on plans that were voluntarily terminated—showed that the number of people underpaid has increased from 2.8 to 8.2 percent. Anecdotal evidence suggests that the number of people receiving lump sum distributions who end up getting short-changed could be 15 to 20 percent. Those numbers are very disturbing. The practical impact is that retirees, and young and old workers alike, are losing dollars that they have earned.

Workers and retirees need to be aware that they are at risk. They can help themselves by knowing how their benefits are calculated, that they should keep all the documents their employer gives them, and to start asking questions at a young age—don't wait until the eve of retirement.

Unfortunately, policing your pension is not easy. Employers are trying to do a good job but they are confronted with one of the most complex regulatory schemes in the Federal Government. Pensions operate in a complex universe of laws, rules, and regulations. Over the last 20 years, 16 laws have been enacted that require employers to amend their pension plans and then notify their workers of changes. It is not a simple task. If employers have problems trying to comply with Federal requirements, it is understandable that workers and retirees are having trouble getting a grasp on how their pension works.

Trying to educate yourself about pensions implies that someone is out there providing information to those who need it. That is where the legislation that I am introducing today comes in. People who are concerned about their pensions—whether it's an unintentional mistake or outright fraud—often don't have anywhere to go for expert advice.

Fortunately, there is an answer. Already authorized by the Older Americans Act, seven pension counseling projects have assisted thousands of people around this country with their pension problems. These projects provide information and counseling to retirees, and young and old workers in a very cost-effective manner.

Each project received $75,000 of Federal assistance over a 17-month period. As is normal for other programs under the Older Americans Act, these dollars were supplemented by money raised from private sources. During their operation, the projects recovered nearly $2 million in pension benefits and payments. That is a return of $4 for every $1 spent.

My legislation contains three key provisions: first, it updates the Older Americans Act to encourage the creation of more pension counseling projects. While 10 projects in 15 states currently exist, they are not enough to reach the 80 million people who are covered by pensions in this country. Hopefully, more counseling projects can be established to provide more regionally comprehensive assistance.

Second, the legislation would create an 800 number that people could call for one-stop advice on where to get assistance. Jurisdiction over pension issues is spread across three government agencies—none of which are focused on helping individuals with individual problems—especially if the problem does not seem to be a clear fiduciary breach or indicate that there may be criminal wrongdoing. An 800 number linking people to assistance will help close that gap.

Finally, the legislation would transfer authority for the demonstration

projects to Title VII of the Older Americans Act in order to make them permanent in nature. They provide a much needed service to workers and retirees. These demonstration projects have existed since 1992 and have proven to be very successful. However, they have outgrown their pilot-project beginnings and should become a permanent fixture.

I want to thank Senator BREAUX for his support of this legislation. Furthermore, I encourage all of my colleagues to support these projects and show their support by co-sponsoring this legislation.●

By Mr. BURNS (for himself, Mr. CRAIG, Mr. BAUCUS, Mr. DASCHLE, Mr. KERREY, and Mr. JOHNSON):

S. 961. A bill to amend the Consolidated Farm and Rural Development Act to improve shared appreciation arrangements; to the Committee on Agriculture, Nutrition, and Forestry.

CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT AMENDMENTS

Mr. BURNS. Mr. President, shared appreciation agreements have the potential to cause hundreds of farm foreclosures across the nation, and especially in my home state of Montana. Ten years ago, a large number of farmers signed these agreements. At that time they were under the impression that they would be required to pay these back at the end of ten years, at a reasonable rate of redemption.

However, that has not proved to be the case. The appraisals being conducted by the Farm Service Agency are showing increased values of ridiculous proportions. By all standards, one would expect the value to have decreased. Farm prices are the lowest they have been in years, and there does not seem to be a quick recovery forthcoming. Farmers cannot possibly be expected to pay back a value twice the amount they originally wrote down. Especially in light of the current market situation, I believe something must be done about the way these appraisals are conducted.

I am aware of one case in which the amount of the shared appreciation agreement was estimated at $167,500. The increased value was estimated at $335,000! When agricultural prices are at nearly an all-time low, farmers can barely keep up with their current payment schedules. They certainly cannot pay twice what they already owe.

USDA is attempting to fix the problem with proposed rules and regulations but farmers need help with these agreements now. I cannot stand idly by and wait for bureaucratic regulations to go through the ''process'' while farmers and ranchers are forced out of business.

The USDA has issued an emergency rule which will allow people who are unable to pay their shared appreciation agreement on time, to extend their current loan for up to three years. The interest rate on this extension will be at the government's cost of borrowing. Also, the USDA is allowing farmers to take out an additional loan at an interest rate of 9.25% to pay off the amount owed on the shared appreciation agreement.

There is also consideration being given to decreasing the number of years on shared appreciation agreements from ten to five. I appreciate the efforts by the USDA to alleviate the financial burden these shared appreciation agreements impose upon farmers, and hope that farmers are able to take advantage of them.

However, as I have stated, time is of the essence. Another proposed regulation, which will require a public comment period of 60 days, will exclude capital investments from the increase in appreciation. However, this proposal has not yet been published and is not expected to be for at least another month. After that, the comment period will further drag out the process and in the meantime more farmers will be forced into foreclosure.

To ensure this regulation on excluding capital investments from the increase in value is carried out, I intend to make it mandatory by legislation. Farmers should not be penalized for attempting to better their operations. Nor can they be expected to delay capital improvements so that they will not be penalized.

Additionally, my legislation will require the appraisal to be conducted by a certified appraiser from the state where the land is located. This will prevent out-of-state appraisal businesses from conducting appraisals in land areas they know nothing about. How can an appraisal company in Arizona be expected to do an accurate appraisal on land in Montana? It is not fair to the producers on that land to have their appraisal conducted by outside interests.

I look forward to working with members in other states to alleviate the financial burdens imposed by shared appreciation agreements. I hope that we may move this through the legislative process quickly to provide help as soon as possible to our farmers.

I ask unanimous consent that the bill be printed in the RECORD.

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

S. 961

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHARED APPRECIATION ARRANGEMENTS.

(a) IN GENERAL.—Section 353(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2001(e)) is amended by striking paragraph (2) and inserting the following:

''(2) TERMS.—A shared appreciation agreement entered into by a borrower under this subsection shall—

''(A) have a term not to exceed 10 years;

''(B) provide for recapture based on the difference between—

''(i) the appraised value of the real security property at the time of restructuring; and

''(ii) that value at the time of recapture, except that that value shall not include the value of any capital improvements made to the real security property by the borrower; and

''(C) be based on appraisals that are conducted by persons with a principal place of business that is located in the State containing the real property.''.

(b) APPLICATION.—The amendment made by subsection (a) shall apply to a shared appreciation arrangement entered into under section 353(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2001(e)) that is in effect on or after the date of enactment of this Act.

By Mr. LEAHY (for himself and Mr. DODD):

S. 962. A bill to allow a deduction from gross income for year 2000 computer conversion costs of small businesses; to the Committee on Finance.

THE SMALL BUSINESS Y2K COMPLIANCE ACT OF 1999

Mr. LEAHY. Mr. President, I rise today to introduce the Small Business Y2K Compliance Act of 1999. I am pleased to be joined by Senator DODD, the ranking member of the Senate Special Committee on the Year 2000 Technology Problem, as an original cosponsor of this measure.

Our legislation would offer small businesses a tax deduction of up to $40,000 towards the expenses of purchasing and installing Year 2000 compliant computer hardware and software in 1999. In addition, our bill would reward those small businesses that have acted responsibly by allowing an accelerated depreciation of up to $40,000 for the purchase and installation of Year 2000 compliant computer hardware and software made in 1997 and 1998. These tax incentives have been endorsed by thousands of small business owners at last year's White House Conference on Small Business, the American Small Business Alliance and the Small Business Administration.

Unfortunately, not all small businesses are doing enough to address the year 2000 issue because of a lack of resources in many cases. They face Y2K problems both directly and indirectly through their suppliers, customers and financial institutions. As recently as last October a representative of the National Federation of Independent Businesses testified: ''A fifth of them do not understand that there is a Y2K problem. . . . They are not aware of it. A fifth of them are currently taking action. A fifth have not taken action but plan to take action, and two-fifths are aware of the problem but do not plan to take any action prior to the year 2000.''

Indeed, the Small Business Administration recently warned that 330,000 small businesses are at risk of closing down as a result of Y2K problems, and another 370,000 could be temporarily or permanently hobbled.

Federal and State government agencies have entire departments working

on this problem. Utilities, financial institutions, telecommunications companies, and other large companies have information technology divisions working to make corrections to keep their systems running. They have armies of workers—but small businesses do not.

Small businesses are the backbone of our economy, from the city corner market to the family farm to the small-town doctor. In my home State of Vermont, 98 percent of the businesses are small businesses with limited resources. That is why it is so important to provide small businesses with the resources to correct their Y2K problems now.

A few months ago, I hosted a Y2K conference in Vermont to help small businesses prepare for 2000. Hundreds of small business owners from across Vermont attended the conference to learn how to minimize or eliminate their Y2K computer problems. Vermonters are working hard to identify their Y2K vulnerabilities and prepare action plans to resolve them. They should be encouraged and assisted in these important efforts.

This is the right approach. We have to fix as many of these problems ahead of time as we can. Ultimately, the best business policy and the best defense against any Y2K-based lawsuits is to be Y2K compliant.

That is why it is so important to provide small businesses with the resources to correct their Y2K problems now. Our legislation would provide targeted tax incentives to encourage small businesses round the country in their Y2K remediation efforts. Our bill encourages Y2K compliance now to avoid computer problems next year.

Moreover, the tax incentives in our legislation would have a negligible revenue cost. Indeed, the Joint Committee on Taxation has estimated that companion legislation introduced in the House of Representatives by Representative KAREN THURMAN, H.R. 179, would reduce revenue by $171 million from 1990–2003, but would increase revenues by the same $171 million from 2004–2008. Thus, this bill is fiscally prudent as well.

I urge my colleagues to cosponsor and support the ''Small Business Y2K Compliance Act of 1999.''

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 962

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 ''Small Business Y2K Compliance Act of 1999''.

SEC. 2. DEDUCTION FOR COSTS OF MAKING COMPUTERS AND COMPUTER SOFTWARE YEAR 2000 COMPLIANT.

(a) IN GENERAL.—

(1) PROPERTY PLACED IN SERVICE IN 1999.—A taxpayer may elect to treat the cost of a business Y2K asset placed in service during the taxpayer's first taxable year beginning in 1999 as an expense which is not chargeable to capital account. The cost so treated shall be allowed as a deduction from gross income for purposes of the Internal Revenue Code of 1986.

(2) PROPERTY PLACED IN SERVICE IN 1997 OR 1998.—A taxpayer may elect to deduct from gross income an amount equal to the unrecovered basis of a business Y2K asset placed in service during the 2 taxable years preceding the first taxable year beginning in 1999 and which is otherwise subject to depreciation under such Code.

(b) LIMITATIONS.—

(1) IN GENERAL.—The aggregate amount allowed as a deduction under subsection (a) shall not exceed $40,000.

(2) APPLICATION OF BUSINESS LIMITATIONS OF SECTION 179.—Rules similar to the rules of paragraphs (2), (3), and (4) of section 179(b) of such Code shall apply for purposes of this section. For purposes of the preceding sentence, the cost of property to which the limitation in paragraph (2) of such section 179(b) applies shall be the sum of—

(A) the amounts elected under subsection (a)(1) with respect to property placed in service during the taxpayer's first taxable year beginning in 1999, and

(B) the amounts elected under subsection (a)(2) with respect to the unrecovered basis of business Y2K assets placed in service during the 2 taxable years preceding the first taxable year beginning in 1999.

(c) DEFINITIONS.—For purposes of this section—

(1) BUSINESS Y2K ASSET.—The term ''business Y2K asset'' means an asset acquired by purchase for use in the active conduct of a trade or business which is—

(A) any computer acquired to replace a computer where such replacement is necessary because of the year 2000 computer conversion problem, and

(B) any of the following items which are of a character subject to the allowance for depreciation under such Code:

(i) the modification of computer software to address the year 2000 computer conversion problem, and

(ii) computer software which is year 2000 compliant acquired to replace computer software which is not so compliant.

(2) COMPUTER.—The term ''computer'' means a computer or peripheral equipment (as defined by section 168(i)(2)(B)) of such Code.

(3) COMPUTER SOFTWARE.—The term ''computer software'' has the meaning given to such term by section 167(f) of such Code.

(4) UNRECOVERED BASIS.—The term ''unrecovered basis'' means the adjusted basis of the business Y2K asset determined as of the close of the last taxable year beginning before January 1, 1999.

(d) SPECIAL RULES.—

(1) IN GENERAL.—Rules similar to the rules of subsections (c) and (d) (other than paragraph (1) thereof) of section 179 of such Code shall apply for purposes of this section.

(2) TREATMENT AS DEDUCTION UNDER SECTION 179.—For purposes of the Internal Revenue Code of 1986, the deduction allowed under this section shall be treated in the same manner as a deduction allowed under section 179 of such Code.

(3) ORDERING RULE.—For purposes of section 179 of such Code, subsection (b)(3)(C) of such section shall be applied without regard to the deduction allowed under this section.

By Mr. GREGG:

S. 963, A bill to amend the Internal Revenue Code of 1986 to preserve family-held forest lands, and for other purposes; to the Committee on Finance.

FAMILY FOREST LAND PRESERVATION TAX ACT OF 1999

Mr. GREGG. Mr. President, I rise today to introduce the Family Forestland Preservation Tax Act of 1999. This bill amends several key tax provisions to help landowners keep their lands in long-term private forest ownership and management. Without these changes, many landowners will continue to be forced to sell or change the use of their land.

This bill derives from four years of work by the Northern Forest Lands Council (NFLC). The NFLC was created in 1990 to seek ways for Maine, New Hampshire, Vermont, and New York to maintain the ''traditional patterns of land ownership and use'' in the forest that covers this nation's Northeast. The Northern Forest is a 26-million-acre stretch of land, home to one million residents and within a two-hour drive of 70 million people. Nearly 85% of the Forest is privately owned. Times have changed, however, and social and economic forces have begun to affect the traditional patterns of land use with more and more land being marketed for development.

This bill will help maintain traditional patterns and, thus, preserve the forest by adjusting several estate tax provisions. This bill would allow heirs to make postmortem donations of conservation easements on undeveloped estate land and allow the valuation of undeveloped land at current use value for estate tax purposes if the owner or heir agrees to maintain the land in its current use for a period of twenty-five years. This bill also would establish a partial inflation adjustment for timber sales by allowing a tax credit not to exceed 50%. This will encourage landowners to maintain their timberland for long-term stewardship, which is both economically and environmentally desirable. Also, the bill would eliminate the requirement that landowners generally must work 100-hours-per-year in forest management on their forest properties to be allowed to deduct normal management expenses from timber activities against nonpassive income. Currently, landowners are required to capitalize these losses until timber is harvested. This legislation, though prompted by the NFLC's work, will benefit not only the four states that make up the Northern Forest, but also all states with forestland and all who enjoy the multiple uses of forestland. I urge my colleagues to support this bill, which will not only protect the historic current use patterns, but also allow the rustic beauty of our forests to be enjoyed by all.

I ask unanimous consent that a copy of the bill be printed in the RECORD.

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

S. 963

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the ''Family Forest Land Preservation Tax Act of 1999''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

TITLE I—ESTATE TAX PROVISIONS

SEC. 101. EXCLUSION FOR LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.

(a) IN GENERAL.—Section 2031(c) (relating to estate tax with respect to land subject to a qualified conservation easement) is amended to read as follows:

''(c) ESTATE TAX WITH RESPECT TO LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.—

''(1) IN GENERAL.—If the executor makes the election described in paragraph (4), then, except as otherwise provided in this subsection, there shall be excluded from the gross estate the value of land subject to a qualified conservation easement, reduced by the amount of any deduction under section 2055(f) with respect to such land.

''(2) TREATMENT OF CERTAIN INDEBTEDNESS.—

''(A) IN GENERAL.—The exclusion provided under paragraph (1) shall not apply to the extent that the land is debt-financed property.

''(B) DEFINITIONS.—For purposes of this paragraph—

''(i) DEBT-FINANCED PROPERTY.—The term 'debt-financed property' means any property with respect to which there is acquisition indebtedness (as defined in clause (ii)) on the date of the decedent's death.

''(ii) ACQUISITION INDEBTEDNESS.—The term 'acquisition indebtedness' means, with respect to any property, the unpaid amount of—

''(I) any indebtedness incurred by the donor in acquiring such property,

''(II) any indebtedness incurred before the acquisition of such property if such indebtedness would not have been incurred but for such acquisition,

''(III) any indebtedness incurred after the acquisition of such property if such indebtedness would not have been incurred but for such acquisition and the incurrence of such indebtedness was reasonably foreseeable at the time of such acquisition, and

''(IV) any indebtedness which constitutes an extension, renewal, or refinancing of other indebtedness described in this clause.

''(3) TREATMENT OF RETAINED DEVELOPMENT RIGHT.—

''(A) IN GENERAL.—Paragraph (1) shall not apply to the value of any development right retained by the donor in the conveyance of a qualified conservation easement.

''(B) TERMINATION OF RETAINED DEVELOPMENT RIGHT.—If every person in being who has an interest (whether or not in possession) in the land executes an agreement to extinguish permanently some or all of any development rights retained by the donor on or before the date for filing the return of the tax imposed by section 2001, then any tax imposed by section 2001 shall be reduced accordingly. Such agreement shall be filed with the return of the tax imposed by section 2001. The agreement shall be in such form as the Secretary shall prescribe.

''(C) ADDITIONAL TAX.—Any failure to implement the agreement described in subparagraph (B) not later than the earlier of—

''(i) the date which is 2 years after the date of the decedent's death, or

''(ii) the date of the sale of such land subject to the qualified conservation easement, shall result in the imposition of an additional tax in the amount of the tax which would have been due on the retained development rights subject to such agreement. Such additional tax shall be due and payable on the last day of the 6th month following such earlier date.

''(D) DEVELOPMENT RIGHT DEFINED.—For purposes of this paragraph, the term 'development right' means any right to use the land subject to the qualified conservation easement in which such right is retained for any commercial purpose which is not subordinate to and directly supportive of the use of such land as a farm for farming purposes (within the meaning of section 2032A(e)(5)).

''(4) ELECTION.—The election under this subsection shall be made on or before the due date (including extensions) for filing the return of tax imposed by section 2001 and shall be made on such return.

''(5) CALCULATION OF ESTATE TAX DUE.—An executor making the election described in paragraph (4) shall, for purposes of calculating the amount of tax imposed by section 2001, include the value of any development right (as defined in paragraph (3)) retained by the donor in the conveyance of such qualified conservation easement. The computation of tax on any retained development right prescribed in this paragraph shall be done in such manner and on such forms as the Secretary shall prescribe.

''(6) DEFINITIONS.—For purposes of this subsection—

''(A) LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.—The term 'land subject to a qualified conservation easement' means land—

''(i) which was owned by the decedent or a member of the decedent's family at all times during the 3-year period ending on the date of the decedent's death, and

''(ii) with respect to which a qualified conservation easement has been made by an individual described in subparagraph (C) as of the date of the election described in paragraph (4).

''(B) QUALIFIED CONSERVATION EASEMENT.—The term 'qualified conservation easement' means a qualified conservation contribution (as defined in section 170(h)(1)) of a qualified real property interest (as defined in section 170(h)(2)(C)), except that clause (iv) of section 170(h)(4)(A) shall not apply.

''(C) INDIVIDUAL DESCRIBED.—An individual is described in this subparagraph if such individual is—

''(i) the decedent,

''(ii) a member of the decedent's family,

''(iii) the executor of the decedent's estate, or

''(iv) the trustee of a trust the corpus of which includes the land to be subject to the qualified conservation easement.

''(D) MEMBER OF THE DECEDENT'S FAMILY.—The term 'member of the decedent's family' means any member of the family (as defined in section 2032A(e)(2)) of the decedent.

''(7) TREATMENT OF EASEMENTS GRANTED AFTER DEATH.—In any case in which the qualified conservation easement is granted after the date of the decedent's death and on or before the due date (including extensions) for filing the return of tax imposed by section 2001, the deduction under section 2055(f) with respect to such easement shall be allowed to the estate but only if no charitable deduction is allowed under chapter 1 to any person with respect to the grant of such easement.

''(8) APPLICATION OF THIS SECTION TO INTERESTS IN PARTNERSHIPS, CORPORATIONS, AND TRUSTS.—This subsection shall apply to an interest in a partnership, corporation, or trust if at least 30 percent of the entity is owned (directly or indirectly) by the decedent, as determined under the rules described in section 2057(e)(3).''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1999.

SEC. 102. INCREASE IN SPECIAL ESTATE TAX VALUATION; SPECIAL RULES FOR FOREST LANDS.

(a) INCREASE IN LIMIT.—

(1) IN GENERAL.—Paragraphs (2) and (3) of section 2032A(a) (relating to value based on use under which property qualifies) are each amended by striking ''$750,000'' each place it appears and inserting ''$1,000,000''.

(2) INFLATION ADJUSTMENT.—Section 2032A(a)(3) is amended—

(A) by striking ''1998'' and inserting ''2000'', and

(B) by striking ''calendar year 1997'' and inserting ''calendar year 1999''.

(b) FOREST LAND TREATED AS QUALIFIED REAL PROPERTY.—Section 2032A(b) (defining qualified real property) is amended by adding at the end the following new paragraph:

''(6) SPECIAL RULE FOR QUALIFIED WOODLANDS.—In the case of qualified woodland, paragraph (1) shall be applied without regard to subparagraph (A) or (C)(ii) thereof.''

(c) DEFINITIONS AND FAILURES TO USE FOR QUALIFIED USE.—Section 2032A(c) (relating to tax treatment of definitions and failures to use for qualified use) is amended by adding at the end the following new paragraph:

''(9) SPECIAL RULES FOR QUALIFIED WOODLAND.—In the case of qualified woodland—

''(A) this subsection shall be applied by substituting '25 years' for '10 years' in paragraph (1) and by substituting '25-year period' for '10-year period' in paragraph (7)(A)(ii) and subsection (h)(2)(A),

''(B) the qualified heir shall not be treated as disposing of the property or ceasing to use the property for a qualified use if—

''(i) the qualified heir transfers the property to another person, and

''(ii) such other person (or their qualified heir) agrees to continue to use the property for a qualified use and files an agreement described in subsection (d)(2) with respect to the property,

''(C) the qualified heir shall be treated as ceasing to use the property for a qualified use if any depreciable improvements are made to the property (other than improvements required for the qualified use), and

''(D) a qualified heir or transferee described in subparagraph (B) shall not be treated as disposing of timber if the disposal is done in accordance with any program described in subsection (e)(13)(E).''

(d) QUALIFIED WOODLAND.—Section 2032A(e)(13) is amended by adding at the end the following new subparagraph:

''(E) OTHER REQUIREMENTS.—Real property shall not be treated as qualified woodland unless such property—

''(i) qualifies for a differential use value assessment program for forest land in the State in which the property is located, or

''(ii) if a State has no differential use value assessment program—

''(I) is forest land,

''(II) is a minimum of 10 acres, exclusive of a dwelling unit or other non-forest related structure and its curtilage, and

''(III) is subject to a forest management plan.''

(e) VALUATION.—

(1) IN GENERAL.—Section 2032A(e) is amended by adding at the end the following new paragraph:

''(15) SPECIAL RULES FOR VALUING FOREST LAND.—The value of forest land shall be determined according to whichever of the following methods results in the least value:

''(A) Assessed land values in a State which provides a differential or use value assessment for forest land.

''(B) Comparable sales of other forest land which is in the same geographical area and which is far enough removed from a metropolitan or resort area so that nonforest use is not a significant factor in the sales price.

''(C) The capitalization of income which the property can be expected to yield for timber operations over a reasonable period of time under prudent management, determined by using traditional forest management for the area, and taking into account soil capacity, terrain configuration, and similar factors.

''(D) Any other factor which fairly values the timber value of the property.''

(2) CONFORMING AMENDMENT.—Section 2032A(e)(8) is amended by striking ''paragraph (7)(A)'' and inserting ''paragraph (7)(A) or (15)''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1999.

TITLE II—INCOME TAX TREATMENT

SEC. 201. PARTIAL INFLATION ADJUSTMENT FOR TIMBER.

(a) IN GENERAL.—Part I of subchapter P of chapter 1 (relating to treatment of capital gains) is amended by adding at the end the following new section:

''SEC. 1203. PARTIAL INFLATION ADJUSTMENT FOR TIMBER.

''(a) IN GENERAL.—At the election of any taxpayer who has qualified timber gain for any taxable year, there shall be allowed as a deduction from gross income an amount equal to the applicable percentage of such gain.

''(b) QUALIFIED TIMBER GAIN.—For purposes of this section, the term 'qualified timber gain' means the lesser of—

''(1) the net capital gain for the taxable year, or

''(2) the net capital gain for the taxable year determined by taking into account only gains and losses from the sale or exchange of—

''(A) any standing timber (or the right to sever any standing timber), or

''(B) any qualified woodland (as defined in section 2032A(e)(13)(B)) or any interest therein.

Such term shall not include any gain excludable from gross income under section 139.

''(c) APPLICABLE PERCENTAGE.—For purposes of this section, the term 'applicable percentage' means the percentage (not exceeding 50 percent) determined by multiplying—

''(1) 3 percent, by

''(2) the number of years in the holding period of the taxpayer with respect to the timber.

''(d) ESTATES AND TRUSTS.—In the case of an estate or trust, the deduction under subsection (a) shall be computed by excluding the portion (if any) of the gains for the taxable year from sales or exchanges of capital assets which, under sections 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by the income beneficiaries as gain derived from the sale or exchange of capital assets.''

(b) COORDINATION WITH EXISTING LIMITATIONS.—

(1) Subsection (h) of section 1 (relating to maximum capital gains rate) is amended by adding at the end the following new paragraph:

''(14) QUALIFIED TIMBER GAIN.—For purposes of this subsection, net capital gain shall be determined without regard to qualified timber gain with respect to which an election is made under section 1203.''

(2) Subsection (a) of section 1201 (relating to alternative tax for corporations) is amended by adding at the end the following flush sentence:

''For purposes of this section, net capital gain shall be determined without regard to qualified timber gain with respect to which an election is made under section 1203.''

(c) ALLOWANCE OF DEDUCTION IN COMPUTING ADJUSTED GROSS INCOME.—Subsection (a) of section 62 (relating to definition of adjusted gross income) is amended by inserting after paragraph (17) the following new paragraph:

''(18) PARTIAL INFLATION ADJUSTMENT FOR TIMBER.—The deduction allowed by section 1203.''

(d) CLERICAL AMENDMENT.—The table of sections for part I of subchapter P of chapter 1 is amended by adding at the end the following new item:

''Sec. 1203. Partial inflation adjustment for timber.''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or exchanges after December 31, 1999.

SEC. 202. EXCLUSION OF GAIN FROM SALES OF INTERESTS IN FOREST LAND FOR CONSERVATION PURPOSES.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 139 as section 140 and by inserting after section 138 the following new section:

''SEC. 139. SALES OF INTERESTS IN CERTAIN FOREST LAND FOR CONSERVATION PURPOSES.

''(a) EXCLUSION.—

''(1) IN GENERAL.—Gross income shall not include the applicable percentage of any gain from a qualified timber sale.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means—

''(A) 35 percent, or

''(B) in the case of a qualified timber sale of a qualified real property interest described in section 170(h)(2)(C), 100 percent.

''(b) LIMITATION.—

''(1) IN GENERAL.—The total amount of gain which may be excluded from gross income under subsection (a) for any taxable year shall not exceed the sum of—

''(A) the amount of gain from a qualified timber sale described in subsection (a)(2)(B), plus

''(B) $800,000 ($400,000 in the case of a married individual filing a separate return).

''(2) AGGREGATION RULE.—For purposes of paragraph (1)(B), all persons treated as a single employer under subsection (a) or (b) of section 52 shall be treated as one taxpayer.

''(c) QUALIFIED TIMBER SALE.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified timber sale' means the sale or exchange of a qualified real property interest in real property which is used in timber operations to a governmental unit described in section 170(c)(1) for conservation purposes.

''(2) SPECIAL RULE FOR SALES TO NONGOVERNMENTAL ENTITIES.—

''(A) IN GENERAL.—The term 'qualified timber sale' shall include a sale or exchange to a qualified organization described in section 170(h)(3) if such interest is transferred to a governmental unit described in section 170(c)(1) during the 2-year period beginning on the date of the sale or exchange.

''(B) TIME FOR EXCLUSION.—If the transfer to which paragraph (1) applies occurs in a taxable year after the taxable year in which the sale or exchange occurred—

''(i) no exclusion shall be allowed under subsection (a) for the taxable year of the sale or exchange, but

''(ii) the taxpayer's tax for the taxable year of the transfer shall be reduced by the amount of the reduction in the taxpayer's tax for the taxable year of the sale or exchange which would have occurred if subparagraph (A) had not applied.

''(d) OTHER DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED REAL PROPERTY INTEREST.—The term 'qualified real property interest' has the meaning given such term by section 170(h)(2).

''(2) TIMBER OPERATIONS.—The term 'timber operations' has the meaning given such term by section 2032A(e)(13)(C).

''(3) CONSERVATION PURPOSES.—The term 'conservation purposes' has the meaning given such term by section 170(h)(4)(A) (without regard to clause (iv) thereof).''

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 139 and inserting the following new items:

''Sec. 139. Sales of interests in certain forest land for conservation purposes.

''Sec. 140. Cross references to other Acts.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1999.

SEC. 203. APPLICATION OF PASSIVE LOSS LIMITATIONS TO TIMBER ACTIVITIES.

(a) IN GENERAL.—Treasury regulations sections 1.469–5T(b)(2) (ii) and (iii) shall not apply to any closely held timber activity if the nature of such activity is such that the aggregate hours devoted to management of the activity for any year is generally less than 100 hours.

(b) DEFINITIONS.—For purposes of subsection (a)—

(1) CLOSELY HELD ACTIVITY.—An activity shall be treated as closely held if at least 80 percent of the ownership interests in the activity is held—

(A) by 5 or fewer individuals, or

(B) by individuals who are members of the same family (within the meaning of section 2032A(e)(2) of the Internal Revenue Code of 1986).

An interest in a limited partnership shall in no event be treated as a closely held activity for purposes of this section.

(2) TIMBER ACTIVITY.—The term ''timber activity'' means the planting, cultivating, caring, cutting, or preparation (other than milling) for market, of trees.

(c) EFFECTIVE DATE.—This section shall apply to taxable years beginning after December 31, 1999.

By Mr. DASCHLE:

S. 964. A bill to provide for equitable compensation for the Cheyenne River Sioux Tribe, and for other purposes; to the Committee on Indian Affairs.

CHEYENNE RIVER SIOUX TRIBE INFRASTRUCTURE DEVELOPMENT TRUST FUND ACT

Mr. DASCHLE. Mr. President, today I am introducing legislation to compensate the Cheyenne River Sioux Tribe for losses the tribe suffered when the Oahe dam was constructed in central South Dakota and over 100,000 acres of tribal land was flooded. Its passage will help the tribe rebuild their infrastructure and their economy, which was seriously crippled by the Oahe project during the 1950s. It is extraordinary that it has taken four decades to reach this point. The importance of passing this long-overdue legislation as soon as possible cannot be stated too strongly.

This legislation was developed with the assistance of Chairman Gregg

Bourland and Council Member Louis Dubray of the Cheyenne River Sioux Tribe. Both men have worked tirelessly to bring us to this point and I am grateful for their assistance. This legislation represents one element of their progressive vision for providing the members of the Cheyenne River Sioux Tribe with greater opportunities for economic development and to fulfill the debts owned to the tribe by the federal government.

The Cheyenne River Sioux Tribe Equitable Compensation Act is the companion bill to the Lower Brule Sioux Tribe Infrastructure Development Trust Fund Act, which passed by unanimous consent in November of 1997, and the Crow Creek Sioux Tribe Infrastructure Development Trust Fund Act of 1996, which passed the Congress unanimously in 1996.

The bill is based on an extensive analysis of the imp[act of the Pick-Sloan Dam Projects on the Cheyenne River Sioux Tribe which was performed by the Robert McLaughlin Company. The McLaughlin report was reviewed by the General Accounting Office, which found that the losses suffered by the tribe justify the establishment of a $290 million trust fund, which is the amount called for in this legislation.

It represents an important step in our continuing effort to fairly compensate the tribes of South Dakota for the sacrifices they made decades ago for the construction of the dams along the Missouri River and will further the goal of improving the lives of Native Americans living on those reservations.

To fully appreciate the need for this legislation, it is important for the committee to understand the historic events that are prologue to its development. The Oahe dam was constructed in South Dakota pursuant to the Flood Control Act (58 Stat. 887) of 1944. That legislation authorized implementation of the Missouri River Basin Pick-Sloan Plan for water development and flood control for downstream states.

The Oahe dam flooded 104,000 acres of tribal land, forcing the relocation of roughly 30 percent of the tribe's population, including four entire communities. Equally as important, the tribe lost 80 percent of its fertile river bottom lands—lands that represented the basis for the tribal economy. Prior to the flooding, the tribe relied on these lands for firewood and building material, game wild fruits and berries, as well as cover from the severe storms that characterize winters in South Dakota and shelter from the heat of the prairie summer. Indian ranchers no longer had places to shelter their cattle in the wintertime, causing a significant loss in the value of their operations.

The loss of these important river bottom lands can be felt today. During the extreme winter of 1996–1997, the tribe lost roughly 30,000 head of livestock, including 25,000 head of cattle. Without adequate natural shelter, the remaining Indian ranchers along this stretch of river can expect to continue to have difficulty scratching out a living in future years when the winter turns particularly hard.

Mr. President, the damage caused by the Pick-Sloan projects touched every aspect of life on the Cheyenne River reservation. Ninety percent of the timber on the reservation was wiped out, causing shortages of building material and firewood. Wildlife, once abundant in the river bottom, became more scarce. The entire lifestyle of the tribe changed as it was forced to relocate much of its people from the lush river bottom lands to the windswept prairie.

Most Americans, if not all, are familiar with the many broken promises of the United States Government to Native Americans during the 1800's. For Indian tribes located along the Missouri River in the state of South Dakota, the United States Government still has not met its responsibilities for compensation for losses suffered as a result of the construction of the Pick-Sloan dams. This proposed legislation is intended to correct that situation as it applies to the Cheyenne River Sioux Tribe.

We cannot, of course, remake the lost lands and return the tribe to its former existence. We can, however, help provide the resources necessary to the tribe to improve the infrastructure on the Cheyenne River reservation. This, in turn, will enhance opportunities for economic development which will benefit all members of the tribe. Perhaps most importantly, it will fulfill part of our commitment to improve the lives of Native Americans—in this case the Cheyenne River Sioux.

I strongly urge my colleagues to approve this legislation this year. Providing compensation to the Cheyenne River Sioux Tribe for past harm inflicted by the federal government is long-overdue and any further delay only compounds that harm. I ask unanimous consent that the bill be printed in the RECORD.

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

S. 964

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 ''Cheyenne River Sioux Tribe Equitable Compensation Act''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) by enacting the Act of December 22, 1944, (58 Stat. 887, chapter 665; 33 U.S.C. 701–1 et seq.), commonly known as the ''Flood Control Act of 1944'', Congress approved the Pick-Sloan Missouri River Basin program (referred to in this section as the ''Pick-Sloan program'')—

(A) to promote the general economic development of the United States;

(B) to provide for irrigation above Sioux City, Iowa;

(C) to protect urban and rural areas from devastating floods of the Missouri River; and

(D) for other purposes;

(2) the Oahe Dam and Reservoir project—

(A) is a major component of the Pick-Sloan program, and contributes to the economy of the United States by generating a substantial amount of hydropower and impounding a substantial quantity of water;

(B) overlies the eastern boundary of the Cheyenne River Sioux Indian Reservation; and

(C) has not only contributed little to the economy of the Tribe, but has severely damaged the economy of the Tribe and members of the Tribe by inundating the fertile, wooded bottom lands of the Tribe along the Missouri River that constituted the most productive agricultural and pastoral lands of the Tribe and the homeland of the members of the Tribe;

(3) the Secretary of the Interior appointed a Joint Tribal Advisory Committee that examined the Oahe Dam and Reservoir project and correctly concluded that—

(A) the Federal Government did not justify, or fairly compensate the Tribe for, the Oahe Dam and Reservoir project when the Federal Government acquired 104,492 acres of land of the Tribe for that project; and

(B) the Tribe should be adequately compensated for the land acquisition described in subparagraph (A);

(4) after applying the same method of analysis as is used for the compensation of similarly situated Indian tribes, the Comptroller General of the United States (referred to in this Act as the ''Comptroller General'') determined that the appropriate amount of compensation to pay the Tribe for the land acquisition described in paragraph (3)(A) would be $290,722,958;

(5) the Tribe is entitled to receive additional financial compensation for the land acquisition described in paragraph (3)(A) in a manner consistent with the determination of the Comptroller General described in paragraph (4); and

(6) the establishment of a trust fund to make amounts available to the Tribe under this Act is consistent with the principles of self-governance and self-determination.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To provide for additional financial compensation to the Tribe for the acquisition by the Federal Government of 104,492 acres of land of the Tribe for the Oahe Dam and Reservoir project in a manner consistent with the determinations of the Comptroller General described in subsection (a)(4).

(2) To provide for the establishment of the Cheyenne River Sioux Tribal Recovery Fund, to be managed by the Secretary of the Treasury in order to make payments to the Tribe to carry out projects under a plan prepared by the Tribe.

SEC. 3. DEFINITIONS.

In this Act:

(1) TRIBE.—The term ''Tribe'' means the Cheyenne River Sioux Tribe, which is comprised of the Itazipco, Siha Sapa, Minniconjou, and Oohenumpa bands of the Great Sioux Nation that reside on the Cheyenne Reservation, located in central South Dakota.

(2) TRIBAL COUNCIL.—The term ''Tribal Council'' means the governing body of the Tribe.

SEC. 4. CHEYENNE RIVER SIOUX TRIBAL RECOVERY TRUST FUND.

(a) CHEYENNE RIVER SIOUX TRIBAL RECOVERY TRUST FUND.—There is established in the Treasury of the United States a fund to be known as the ''Cheyenne River Sioux Tribal Recovery Trust Fund'' (referred to in this Act as the ''Fund''). The Fund shall consist of any amounts deposited into the Fund under this Act.

(b) FUNDING.—Out of any money in the Treasury not otherwise appropriated, the

Secretary of the Treasury shall deposit $290,722,958 into the Fund not later than 60 days after the date of enactment of this Act.

(c) INVESTMENT OF TRUST FUND.—It shall be the duty of the Secretary of the Treasury to invest such portion of the Fund as is not, in the Secretary of Treasury's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. The Secretary of the Treasury shall deposit interest resulting from such investments into the Fund.

(d) PAYMENT OF INTEREST TO TRIBE.—

(1) IN GENERAL.—

(A) WITHDRAWAL OF INTEREST.—Beginning at the end of the first fiscal year in which interest is deposited into the Fund, the Secretary of the Treasury shall withdraw the applicable percentage amount of the aggregate amount of interest deposited into the Fund for that fiscal year (as determined under subparagraph (B)) and transfer that amount to the Secretary of the Interior for use in accordance with paragraph (2). Each amount so transferred shall be available without fiscal year limitation.

(B) APPLICABLE PERCENTAGE AMOUNTS.—The applicable percentage amount referred to in subparagraph (A) shall be as follows:

(i) 10 percent for the first fiscal year for which interest is deposited into the Fund.

(ii) 20 percent for the 2d such fiscal year.

(iii) 30 percent for the 3rd such fiscal year.

(iv) 40 percent for the 4th such fiscal year.

(v) 50 percent for the 5th such fiscal year.

(vi) 60 percent for the 6th such fiscal year.

(vii) 70 percent for the 7th such fiscal year.

(viii) 80 percent for the 8th such fiscal year.

(ix) 90 percent for the 9th such fiscal year.

(x) 100 percent for the 10th such fiscal year, and for each such fiscal year thereafter.

(2) PAYMENTS TO TRIBE.—

(A) IN GENERAL.—The Secretary of the Interior shall use the amounts transferred under paragraph (1) only for the purpose of making payments to the Tribe, as such payments are requested by the Tribe pursuant to tribal resolution.

(B) LIMITATION.—Payments may be made by the Secretary of the Interior under subparagraph (A) only after the Tribe has adopted a plan under subsection (f).

(C) USE OF PAYMENTS BY TRIBE.—The Tribe shall use the payments made under subparagraph (B) only for carrying out projects and programs under the plan prepared under subsection (f).

(D) PLEDGE OF FUTURE PAYMENTS.—

(i) IN GENERAL.—Subject to clause (ii), the Tribe may enter into an agreement under which the Tribe pledges future payments under this paragraph as security for a loan or other financial transaction.

(ii) LIMITATIONS.—The Tribe—

(I) may enter into an agreement under clause (i) only in connection with the purchase of land or other capital assets; and

(II) may not pledge, for any year under an agreement referred to in clause (i), an amount greater than 40 percent of any payment under this paragraph for that year.

(e) TRANSFERS AND WITHDRAWALS.—Except as provided in subsections (c) and (d)(1), the Secretary of the Treasury may not transfer or withdraw any amount deposited under subsection (b).

(f) PLAN.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the governing body of the Tribe shall prepare a plan for the use of the payments to the Tribe under subsection (d) (referred to in this subsection as the ''plan'').

(2) CONTENTS OF PLAN.—The plan shall provide for the manner in which the Tribe shall expend payments to the Tribe under subsection (d) to promote—

(A) economic development;

(B) infrastructure development;

(C) the educational, health, recreational, and social welfare objectives of the Tribe and its members; or

(D) any combination of the activities described in subparagraphs (A) through (C).

(3) PLAN REVIEW AND REVISION.—

(A) IN GENERAL.—The Tribal Council shall make available for review and comment by the members of the Tribe a copy of the plan before the plan becomes final, in accordance with procedures established by the Tribal Council.

(B) UPDATING OF PLAN.—The Tribal Council may, on an annual basis, revise the plan to update the plan. In revising the plan under this subparagraph, the Tribal Council shall provide the members of the Tribe opportunity to review and comment on any proposed revision to the plan.

(C) CONSULTATION.—In preparing the plan and any revisions to update the plan, the Tribal Council shall consult with the Secretary of the Interior and the Secretary of Health and Human Services.

(4) AUDIT.—

(A) IN GENERAL.—The activities of the Tribe in carrying out the plan shall be audited as part of the annual single-agency audit that the Tribe is required to prepare pursuant to the Office of Management and Budget circular numbered A–133.

(B) DETERMINATION BY AUDITORS.—The auditors that conduct the audit described in subparagraph (A) shall—

(i) determine whether funds received by the Tribe under this section for the period covered by the audit were expended to carry out the plan in a manner consistent with this section; and

(ii) include in the written findings of the audit the determination made under clause (i).

(C) INCLUSION OF FINDINGS WITH PUBLICATION OF PROCEEDINGS OF TRIBAL COUNCIL.—A copy of the written findings of the audit described in subparagraph (A) shall be inserted in the published minutes of the Tribal Council proceedings for the session at which the audit is presented to the Tribal Council.

(g) PROHIBITION ON PER CAPITA PAYMENTS.—No portion of any payment made under this Act may be distributed to any member of the Tribe on a per capita basis.

SEC. 5. ELIGIBILITY OF TRIBE FOR CERTAIN PROGRAMS AND SERVICES.

No payment made to the Tribe under this Act shall result in the reduction or denial of any service or program with respect to which, under Federal law—

(1) the Tribe is otherwise entitled because of the status of the Tribe as a federally recognized Indian tribe; or

(2) any individual who is a member of the Tribe is entitled because of the status of the individual as a member of the Tribe.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such funds as may be necessary to carry out this Act, including such funds as may be necessary to cover the administrative expenses of the Fund.

By Mr. JEFFORDS (for himself, Ms. SNOWE, Mr. LEAHY, Mrs. MURRAY, and Mr. DURBIN):

S. 965. A bill to restore a United States voluntary contribution to the United Nations Population Fund; to the Committee on Foreign Relations.

UNITED NATIONS POPULATION FUND (UNFPA) FUNDING ACT OF 1999

Mr. JEFFORDS. Mr. President, today I am introducing the ''United Nations Population Fund Funding Act of 1999.'' Senators CHAFEE, SNOWE, LEAHY, MURRAY, and DURBIN join me as original cosponsors.

I will celebrate the memory of my mother this Sunday on Mother's Day. Very sadly, I know that there are millions of children in the developing world who have very few, or even no memories of their mothers. Nearly all maternal deaths are in developing countries. More than 585,000 women, many of them already mothers, die each year from causes related to pregnancy, including obstructed labor, hemorrhage and postpartum infection, and ectopic pregnancies caused by a sexually transmitted disease. Mothers also die from HIV, malnutrition and anemina, or complications of an unsafe abortion.

These are only a few examples of how poverty, lack of knowledge, and lack of basic maternal health care claim the lives of millions of mothers all over the world every year. But the importance of maternal health care to the well-being of women and their families is clear. We can support mothers in poorer countries around the world by removing the ban on U.S. funding for UNFPA. UNFPA is currently the leading maternal health care provider around the world.

During the heated debate surrounding international family planning and U.S. funding for UNFPA, ''the baby often gets thrown out with the bath water.'' The ''baby'' in this debate is the vast array of work UNFPA does around the world to improve pre- and post-natal mother's health, access to voluntary family planning programs, STD and HIV education and prevention, and programs to end the practice of female genital mutilation. UNFPA provides couples all over the world access to contraception. It seeks to reduce abortions and related deaths by improving access to family planning and to treatment for complications of unsafe abortion. UNFPA's priorities include preventing teen pregnancy. Too frequently, the bulk of UNFPA's work is overlooked in the international family planning controversy.

Many people do not even realize that UNFPA also assists women in crisis situations. UNFPA recently announced it is sending emergency reproductive health hits, including equipment for safe delivery of babies and emergency contraceptives for rape victims, to Albania for thousands of Kosovar Albanian refugee women.

The lives of pregnant women and newborns are at particular risk among refugees fleeing Kosovo. These kits include supplies for women who give birth in areas without medical facilities, including materials like soap, plastic sheeting, pictorial instructions for delivering a baby, and razor blades for cutting the umbilical cord of a newborn. These are the most basic of

items. But they can mean the difference between life and death for mothers and their newborn babies. The U.S. should contribute to this humanitarian work.

The whole world has been horrified by reports released by human rights organizations stating that the Serbs are using rape as a weapon of war. UNFPA has responded and is leading international efforts to help Kosovar Albanian women who have been raped by Serb forces. UNFPA provides trauma treatment and counseling for other mental health consequences of this form of human rights abuse.

As the legislative year progresses, the controversy over international family planning programs will intensify. My legislation calling for renewal of the U.S. contribution to UNFPA will get caught up in the controversy as well. But I will not let one of the most important issues get lost—the health of mothers in poor countries. In the coming months I will work with the cosponsors to this bill and many health care organizations to keep the issue of maternal health visible in the international family planning debate.

By Mr. REID:

S. 966. A bill to require Medicare providers to disclose publicly staffing and performance in order to promote improved consumer information and choice, to protect employees of Medicare providers who report concerns about the safety and quality of services provided by the Medicare providers or who report violations of Federal or State law by those providers, and to require review of the impact on public health and safety of proposed mergers and acquisitions of Medicare providers; to the Committee on Finance.

PATIENT SAFETY AT OF 1999

Mr. REID. Mr. President, I rise today to introduce the Patient Safety Act of 1999. This legislation focuses on the major safety, quality, and workforce issues for nurses employed by health care institutions and the patients who receive care in these facilities.

Health care consumers need access to information about health care institutions in order to make informed decisions about where they or their loved ones will receive care. My bill would require health care facilties to make information publicly available about staffing levels, patient care outcomes, and specific kinds of errors and avoidable patient care problems—such as bedsores. The Patient Safety Act would not require action to correct these problems. This is not a bill to regulate health care, but one that would provide individuals with the information they want and need when it comes time to make important health care choices.

As our front-line health care workers, nurses are usually the first to recognize dangerous patient care conditions. The Patient Safety Act would provide nurses and other hospital employees with ''whistleblower'' protections it they report problems that threaten patient safety to their employers, government agencies, or others.

Finally, the Patient Safety Act would dirct the Department of Health and Human Services to review mergers and acqusitions of hospitals to determine their long-term effects on the well-being of patients, the community and employees. While these types of transactions are regularly evaluated from a financial standpoint, little information is made available to the public about hwo such a change would affect the health care services available to them.

The Patient Safety Act is a valuable information resource for consumers. I urge you to join my efforts to provide consumers with the data necessary to make informed decisions about their health care providers.

By Mr. LAUTENBERG:

S. 967. A bill to provide a uniform national standard to ensure that consealed firearms are available only to authorized persons for lawful purposes; to the Committee on the Judiciary.

CONCEALED FIREARMS PROHIBITION ACT

Mr. LAUTENBERG. Mr. President, today I am introducing legislation, the Concealed Firearms Prohibition Act, that would help make our communities safer.

Across the country, citizens are looking for ways to stop gun violence. They see their families torn apart, their friends lost forever, and their communities shattered. And they wonder what has gone wrong in a nation where more than 30,000 people are killed by gunfire each year.

One area of growing concern is concealed weapons. Recently, the NRA tried to push a measure that would have allowed more concealed weapons in Missouri. They spent about $4 million trying to pass their referendum. But the voters responded with a resounding ''no.'' They do not want more people secretly carrying weapons in their schoolyards, malls, stadiums and other public places.

Regrettably, there are still too many politicians who will not listen to the people. They insist on marching in lockstep with the NRA. They actually want to escalate the arms race on our streets. They try to suggest that if more people are carrying guns, our neighborhoods will be safer. That position simply defies common sense. The answer to gun violence is not a new version of the Wild West, with everyone carrying a gun on his or her hip, taking the law into their own hands.

Every day people get into arguments over everything from traffic accidents to domestic disputes. Maybe these arguments lead to yelling, or even fisticuffs. But if people are carrying guns, those conflicts are much more likely to end in a shooting, and death. And since some States allow individuals to carry concealed weapons with little or no training in the operation of firearms, there is a greater chance that incompetent or careless handgun users will accidentally injure or kill innocent bystanders.

More concealed weapons on our streets will also make the jobs of law enforcement officers more dangerous and difficult. But you do not need to take my word for this, Mr. President. Just ask the men and women in law enforcement. In fact, the Police Executive Research Forum did just that. In their 1996 survey, they found that 92 percent of their membership opposed legislation allowing private citizens to carry concealed weapons.

Mr. President, although the regulation of concealed weapons has been left to States, it is time for Congress to step in to protect the public. All Americans have a right to be free from the dangers posed by the carrying of concealed handguns, regardless of their State of residence. And Americans should be able to travel across State lines for business, to visit their families, or for any other purpose, without having to worry about concealed weapons.

Besides the strong Federal interest in ensuring the safety of our citizens, there are other reasons why this area requires Congressional intervention. Beyond the lives lost and ruined, crimes committed with handguns impose a substantial burden on interstate commerce and lead to a reduction in productivity and profitability for businesses around the Nation. Moreover, to ensure its coverage under the Constitution's commerce clause, my bill applies only to handguns that have been transported in interstate or foreign commerce, or that have parts or components that have been transported in interstate or foreign commerce. This clearly distinguishes the legislation from the gun-free school zone statute that was struck down in the Supreme Court's Lopez case.

Mr. President, the bottom line is that more guns equal more death. This legislation will help in our struggle to reduce the number of guns on our streets, and help prevent our society from becoming even more violent and dangerous.

I hope my colleagues will support the bill, and I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 967

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 ''Concealed Firearms Prohibition Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) crimes committed with firearms threaten the peace and domestic tranquility of the United States and reduce the security and general welfare of the people of the United States;

(2) crimes committed with firearms impose a substantial burden on interstate commerce

and lead to a reduction in productivity and profitability for businesses around the country whose workers, suppliers, and customers are adversely affected by gun violence;

(3) the public carrying of firearms increases the level of gun violence by enabling the rapid escalation of otherwise minor conflicts into deadly shootings;

(4) the public carrying of firearms increases the likelihood that incompetent or careless firearm users will accidently injure or kill innocent bystanders;

(5) the public carrying of firearms poses a danger to citizens of the United States who travel across State lines for business or other purposes; and

(6) all Americans have a right to be protected from the dangers posed by the carrying of concealed firearms, regardless of their State of residence.

SEC. 3. UNLAWFUL ACT.

Section 922 of title 18, United States Code, is amended by inserting after subsection (y) the following:

''(z) FIREARMS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), it shall be unlawful for a person to carry a firearm, any part of which has been transported in interstate or foreign commerce, on his or her person in public.

''(2) EXCEPTIONS.—Paragraph (1) does not apply to—

''(A) a person authorized to carry a firearm under State law who is—

''(i) a law enforcement official;

''(ii) a retired law enforcement official;

''(iii) a duly authorized private security officer;

''(iv) a person whose employment involves the transport of substantial amounts of cash or other valuable items; or

''(v) any other person that the Attorney General determines should be allowed to carry a firearm because of compelling circumstances, under regulations that the Attorney General may promulgate;

''(B) a person authorized to carry a firearm under a State law that permits a person to carry a firearm based on an individualized determination, based on a review of credible evidence, that the person should be allowed to carry a firearm because of compelling circumstances (not including a claim of concern about generalized or unspecified risks); or

''(C) a person authorized to carry a firearm on his or her person under Federal law.

''(3) EFFECT ON OTHER LAWS.—

''(A) FEDERAL LAWS.—Nothing in this subsection supersedes or limits any other Federal law (including a regulation) that prohibits or restricts the possession or transportation of a firearm.

''(B) STATE AND LOCAL LAWS.—Nothing in this subsection supersedes or limits any law (including a regulation) of a State or political subdivision of a State that—

''(i) grants a right to carry a concealed firearm that is more restrictive than a right granted under this subsection;

''(ii) permits a private person or entity to prohibit or restrict the possession of a concealed firearm on property belonging to the person;

''(iii) prohibits or restricts the possession of a firearm on any property, installation, building, facility, or park belonging to a State or political subdivision of a State; or

''(iv) permits a person to—

''(I) transport a lawfully-owned and lawfully-secured firearm in a vehicle for hunting or sporting purposes; or

''(II) use a lawfully-owned firearm for hunting or sporting purposes.''.

By Mr. GRAHAM (for himself, Mr. MACK, Mr. CLELAND, Mrs. LINCOLN, and Mr. ROBB):

S. 968. A bill to authorize the Administrator of the Environmental Protection Agency to make grants to State agencies with responsibility for water source development, for the purposes of maximizing the available water supply and protecting the environment through the development of alternative water sources, and for other purposes; to the Committee on Environment and Public Works.

ALTERNATIVE WATER SOURCES ACT OF 1999

● Mr. GRAHAM. Mr. President, I rise today with my colleagues, Senators MACK, CLELAND, LINCOLN, and ROBB, to discuss an issue of great importance to the people of Florida and the nation: the availability of adequate water supplies. During the last decade, many states have experienced unprecedented population growth. For example, Florida's population increased by 15 percent, or almost 2 million people, over the last 8 years. We have directed resources towards improvements in our highway infrastructure to accommodate increased use. However, an area that has not received adequate attention but has the potential to negatively impact human health and the environment as well as limit economic growth is the conservation and development of adequate water supplies.

A number of eastern states, including Florida, are now experiencing water supply problems similar to those in the arid West. We must act now to prevent salt water intrusion into our aquifers, additional loss of wetlands, and curbs on economic development due to inadequate water supplies. As we prepare for the 21st century, demand for water for domestic, industrial, and agricultural uses will continue to increase.

In just one of Florida's regional water management districts, the Governing Board has committed $10 million per year since 1994 to providing financial assistance for local alternative water source projects such as conservation, wastewater reclamation, stormwater reuse, and desalination. When fully implemented, the 23 currently active or completed projects will provide more than 150 million gallons of water per day to supply existing and future needs. These projects will also reduce groundwater withdrawals, rehydrate stressed lakes and wetlands, increase ground water recharge, enhanced wildlife habitat, and improve flood control.

We are today introducing legislation to address this critical public health, environmental, and economic issue. The ''Alternative Water Sources Act of 1999'' establishes a federal grant program for eastern states that is similar to a program already operated by the Bureau of Reclamation for western states. The program will provide federal matching funds for the design and construction of water reclamation, reuse, and conservation projects. The bill authorizes the Environmental Protection Agency (EPA) to make grants to agencies with responsibility for water resource development, for the purpose of maximizing available water supplies while protecting the environment. Under this program, water supply agencies will submit grant proposals to EPA. The proposed projects must be part of a long range water resource management plan. If approved, the federal government would provide half the cost of the project. This legislation authorizes $75 million per year over the next five years to fund alternative water source projects.●

By Mr. ASHCROFT:

S. 969. A bill to amend the Individuals with Disabilities Education Act and the Gun-Free Schools Act of 1994 to authorize schools to apply appropriate discipline measures in cases where students have weapons or threaten to harm others, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

SCHOOL SAFETY ACT OF 1999

Mr. ASHCROFT. Mr. President, in the past two weeks since the tragedy occurred at Columbine High School in Littleton, Colorado, we have all had time to reflect on a number of issues. Our thoughts and prayers go to the families, friends, and other loved ones affected by this incident. We have asked ourselves why this happened. How it happened.

The Littleton tragedy requires reflection, thought and corrective action within our spheres of influence and responsibility. Children must learn respect and responsibility. Parents must be responsible for their children, including what they watch and what they do. Schools must have firm, fair and consistent discipline policies. Schools must be free to expel violence-prone students. State legislators must review state laws. Congress must review federal laws.

As a member of the United States Senate, I have been prompted to stop and examine our current federal education laws involving school safety, and see if our policies are promoting and encouraging school safety—or are in some way hindering our teachers, parents, principals, superintendents, and school boards from maintaining a safe place for our children to learn and our teachers to teach.

For much of the past year and before the Littleton tragedy, I traveled through Missouri talking to teachers, principals, school superintendents and school officials about the issue of school safety and school discipline. What I heard and learned was disturbing. After listening to school officials, I have concluded that there is, in fact, at least one federal law that actually jeopardizes our schools' efforts to provide a safe learning environment. Today I am introducing legislation, the School Safety Act, to amend this law and give schools the ability to remove from the classroom students who possess weapons or threaten to use weapons in the classroom, so that we can keep our children and teachers safe.

Once enacted, this legislation will help foster a safer environment in

schools. If this legislation had been enacted years ago, would it have prevented the Littleton tragedy? It would be wrong to claim for certain that it would. The truth of the Littleton tragedy is that those involved in the massacre violated at least 13 federal laws. The existence of those 13 laws did not stop the Littleton massacre. Still, we must examine our current federal education laws involving school safety and make necessary changes.

Across America, parents, teachers, and communities have made it clear that we want our schools to offer our students a world-class education that boosts student achievement and elevates them to excellence. If children are to attain high levels of academic performance, our schools must be able to provide safe and secure learning environments free of undue disruption or violence.

When we think of school safety, we obviously turn to one element that poses a threat to a secure environment: weapons in schools.

Our general federal policy is commendable: to have zero tolerance for weapons at schools. The federal Gun-Free Schools Act requires states receiving federal education funds to have a law requiring a one year expulsion of a student who has a weapon at school. I know that my state of Missouri has such a law on the books.

We would think that the Gun-Free Schools Act settles the issue of weapons in schools. But it doesn't. This law contains an exception for nearly one in seven students in my state, and one in eight nationally. This exception is for students covered by the federal Individuals with Disabilities Education Act.

Hidden among the provisions of the Gun-Free Schools Act is section (c), entitled ''Special Rule,'' which says: ''The provisions of this section shall be construed in a manner consistent with the Individuals with Disabilities Education Act.'' When you turn to the IDEA law, you see a complex and elaborate set of roadblocks and barriers that hamstring schools in applying discipline to any IDEA student for situations involving weapons possessions.

When we talk about students who are subject to the IDEA law, we are not talking about any small number of children: In Missouri, over 129,000—or nearly 14% of our 893,000 students—are classified as ''disabled.'' That's one in seven students. Nationally, there are about 12–13% of all students who are under the IDEA law. We have to keep this in mind as we talk about this issue of school discipline and safety.

We must also consider which individuals qualify as ''disabled'' under IDEA. We are not just talking about blindness, deafness, orthopedic impairments, or MS. The federal IDEA definition of disability also includes individuals with serious emotional disturbances or specific learning disabilities.

Unlike the Gun-Free Schools Act, the Individuals with Disabilities Education Act does not have a zero tolerance for students with weapons. In fact, the IDEA law makes it very difficult for schools to act effectively when a student subject to this law has a weapon at school.

While the Gun-Free Schools Act would require that any other student be expelled for a year, the ''special rule'' for an IDEA student who brings a gun or knife to school provides that he could be back in the regular classroom within 45 days.

Here is a federal law that creates dangerous situations by not allowing school officials to keep those students who have possessed weapons in school out of the classroom.

IDEA also hinders schools from taking effective action to protect their students and teachers from students who make threats to use weapons. School districts have developed policies to address student weapons threats. For example, a superintendent in my state told my office that under his school district's policy, he could suspend a student for up to 180 days for threatening to bring a weapon to school and shoot another student.

However, if that superintendent is dealing with a student under IDEA, the law makes it very difficult for him to remove the student even if he considers the student a serious threat to the safety of others. In fact, the school may be unable to remove this child from the classroom if he has already been suspended for a certain number of days during the school year.

Here is a federal law that creates dangerous situations by not allowing school officials to act on early warning signs to remove potentially violent students from school.

The costs involved with trying to keep a dangerous child out of the classroom are astronomical under IDEA. Schools have told me that the ''due process'' proceedings a parent can invoke in response to any disciplinary action taken toward a child is so expensive and time-consuming that schools do all they can to avoid these proceedings. The easiest, simplest due process hearing costs a school about $7500 in Missouri!

Not only must schools pay their own legal fees for a due process hearing under IDEA, but they also face the prospect of being responsible for the parents' attorneys fees in some cases.

Here is a federal law that discourages safe classrooms because schools cannot afford to take steps they deem essential to maintaining safety without risking serious financial jeopardy.

The problems created by IDEA are not simply theoretical. Just three weeks ago—before the Littleton incident—I traveled around Missouri to talk to parents, teachers, principals, and administrators about ways to offer each child a world class education. Again and again, I was told that schools are handcuffed by federal law in dealing with violent and dangerous behavior—often connected with weapons. Let me give you a few examples:

In one rural Missouri school, a 15-year-old IDEA student had been making numerous threats against both students and staff. He said such things as, ''I'm going to shoot you. I'm going to get a gun and blow you away.'' School officials were aware of the threats, but the federal law hindered them from taking steps they thought most appropriate to deal with the student. Unfortunately this student ended up shooting another student off school grounds. Fortunately, because he remained in the custody of law enforcement authorities, the student was not returned to the classroom. School officials in this district told me that had this student not been subject to the IDEA laws, they could have—and would have—removed him from the classroom when he made the threats of killing other students and personnel.

In an eastern Missouri school district, an IDEA student who was under school suspension was asked to leave a Friday night school dance that he tried to attend in violation of school policy. The student tried continually to regain entry into the school and said to the principal, a teacher, and a parent who was helping supervise the dance: ''I'm going to go home, get my shotgun, come back, and blow your [expletives deleted] heads off.'' The superintendent says that the federal IDEA law constrained him to return this potentially dangerous student to the classroom early the next week. If the student had not had been under IDEA, the superintendent could have imposed a far longer suspension for threatening school personnel.

I learned of a Missouri grade schooler, subject to IDEA law, who announced at school, ''I'm going to bring a knife and cut the bus driver's throat.'' Was this an idle threat? This child had transferred from another school where he had been found with a knife and was suspended for 10 days. The federal IDEA law prevents this new school from imposing any more suspensions upon this child for the rest of the school year unless he actually shows up with a weapon again!

Let me emphasize that the vast majority of disabled students under the IDEA law—just like the vast majority of nondisabled students—are good kids who don't pose discipline problems in school. However, when it comes to something as serious as a student bringing a weapon to school or threatening to kill or harm someone with a weapon, school officials must have the ability to respond in the way they believe most appropriate to maintain a safe and stable school for all children.

When I hear these incidents from Missouri schools, I cannot help but think that there is something drastically wrong with our federal education laws. We have a mass tragedy waiting to happen if federal law keeps teachers from getting teenagers with weapons out of schools. We cannot afford to keep laws on the books that preclude schools from dealing with

early warning signs of danger and handcuff them from taking swift action to prevent violence. We must give schools the power to keep our children safe by allowing them to remove all students who have weapons or threaten to use them.

Schools all over my state have told me that they need the authority to discipline all students in a fair and consistent manner—for the safety of their schools and for the benefit of disabled children. Here are some examples of what schools have told me:

Maynard Wallace, Superintendent of the Ava R-I School District, has written: ''The discipline code must be the same for all if public education is to survive.'' He says that treating children with handicaps differently than other children in the area of discipline ''not only undermines the entire discipline of the school but is a definite disservice to the handicapped child as well.''

Betty Chong, Assistant Superintendent for Special Services in the Cape Girardeau school district, writes: ''The educators are themselves advocates for children with disabilities. . . . Special educators directors and many principals were first teachers who were dedicated (and still are) to the education of students with disabilities.'' She goes on to say: ''Students with disabilities are held to the same standards as students without disabilities when they are adults. When do they learn how to be law abiding citizens?''

Lyle Laughman, the superintendent of the Lincoln County R-IV school district has written: ''It is in the total best interest of the child and society for that [discipline] determination to be made on the local, individual case level rather than the Federal law which greatly restricts what a school can do in an individual set of circumstances.''

Dale Walkup, Board of Education President of the Blue Springs School District gave me a copy of a letter he sent to President Clinton which says, ''The reauthorization of IDEA has not supported impartial and appropriate consequences for those students who choose drugs and are violent or dangerous to others. We hope the IDEA regulations become more reasonable, appropriate, and considerate of the needs of our total student population.''

In response to both the incidents and recommendations that I have heard from schools, I am introducing the School Safety Act, which will allow schools to remove from the classroom any student who has a weapon or threatens to use a weapon at school. This legislation, which has been endorsed by the Missouri School Boards Association, will repeal the federal law that handcuffs schools from taking measures they believe appropriate to maintain a safe and secure learning environment for students and teachers.

A safe and secure setting is vital to success in the classroom. Any student who has a weapon at school, or who threatens to kill or harm someone with a weapon, should be removed from the classroom immediately. Whether a student is ''disabled'' under federal law should not prevent school administrators from dealing appropriately with weapons in school. We can no longer afford to keep a federal law that threatens the safety of the classroom. We can no longer afford to tolerate federal policy that invites a mass tragedy. Under the School Safety Act, schools will be empowered with the flexibility and authority they need to remove any dangerous and violent student from the classroom when weapons are involved.

This is not the first time I have introduced school safety legislation since I have been in the Senate. I have already worked to make improvements in the federal law to create a safer learning environment for students and teachers.

I began working on this issue in 1995, after a young woman was found dead in the restroom of a North St. Louis County high school. The male special education student convicted of murdering the woman had a history of dangerous behavior, but his discipline record hadn't been disclosed to his new school. In response to this situation, I sought for ways to give schools the crucial information they need to maintain a secure school environment. I authored legislation signed into law in June 1997 providing for the transfer of discipline records when students with dangerous behavior change schools.

In the recent ''ed-flex'' bill signed into law on April 29, 1999, I secured a provision that closes a loophole in federal law concerning weapons possession in school. Missouri school board officials had alerted me to a federal provision that allows a school to discipline a student only for carrying a weapon onto school grounds, but not for possessing a weapon at school. In response to this concern, I had the law amended to ensure that school officials can remove a student from the classroom whether he possesses—or carries—a weapon at school.

The legislation I am offering today builds upon this previous safe schools legislation by giving schools authority to remove any student from the classroom if he or she brings a weapon to school or threatens to kill or harm someone with a weapon.

Mr. President, a little over a year ago, the Senator from Washington, Senator GORTON, read from an editorial in the Seattle Post Intelligencer that recounted the story of a disabled student who attacked other students with a knife on a school bus. The editorial pointed out the disparities caused by the federal IDEA laws. It said: ''If the school district really is required by law to allow students back into class who carry weapons or otherwise have demonstrated intent to harm others, that law is in error and must be changed.''

I could not agree more with this editorial. It is time to change this erroneous law, which jeopardizes students and teachers by forcing school officials to ignore early warning signs of disaster. Maintaining a safe learning environment requires that local school officials have the authority and flexibility to discipline all students in an equitable and effective manner, especially when it comes to weapons. Let's unshackle our teachers, principals, superintendents, and school boards from a law that prevents them from keeping our children safe and secure. Let's give them the power to stop a tragedy before it happens.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 969

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 ''School Safety Act of 1999''.

SEC. 2. AMENDMENTS TO THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

(a) PLACEMENT IN ALTERNATIVE EDUCATIONAL SETTING.—Section 615(k) of the Individual with Disabilities Education Act (20 U.S.C. 1415(k)) is amended—

(1) in paragraph (1)(A)(ii), by striking ''45 days if—'' and all that follows through ''(II) the child'' and inserting ''45 days if the child'';

(2) in paragraph (2), by striking ''A hearing'' and inserting ''Except as provided in paragraph (10), a hearing'';

(3) by redesignating paragraph (10) as paragraph (11);

(4) by inserting after paragraph (9) the following new section:

''(10) EXPULSION OR SUSPENSION WITH RESPECT TO WEAPONS.—

''(A) AUTHORITY OF SCHOOL PERSONNEL WITH RESPECT TO WEAPONS.—Notwithstanding any other provision of this Act, school personnel may suspend or expel a child with a disability who—

''(i) carries or possesses a weapon to or at a school, on school premises, or to or at a school function under the jurisdiction of a State or a local educational agency; or

''(ii) threatens to carry, possess, or use a weapon to or at a school, on school premises, or to or at a school function under the jurisdiction of a State or a local educational agency;

in the same manner in which such personnel would suspend or expel a child without a disability.

''(B) DEFINITIONS.—For the purposes of this paragraph:

''(i) WEAPON.—The term 'weapon' has the meaning given the term under applicable State law.

''(ii) THREATENS TO CARRY, POSSESS, OR USE A WEAPON.—The term 'threatens to carry, possess, or use a weapon' includes behavior in which a child verbally threatens to kill another person.

''(C) FREE APPROPRIATE PUBLIC EDUCATION.—

''(i) CEASING TO PROVIDE EDUCATION.—A child expelled or suspended under subparagraph (A) shall not be entitled to continued educational services, including, but not limited to a free appropriate public education, under this Act, during the term of such expulsion or suspension, if the State in which the local educational agency responsible for providing educational services to such child

does not require a child without a disability to receive educational services after being suspended or expelled.

''(ii) PROVIDING EDUCATION.—Notwithstanding clause (i), the local educational agency responsible for providing educational services to a child with a disability who is expelled or suspended under subparagraph (A) may choose to continue to provide educational services to such child. If the local educational agency so chooses, then—

(I) nothing in this Act shall require the local educational agency to provide such child with a free appropriate public education, or any particular level of service; and

(II) the site where the local educational agency provides the services shall be left to the discretion of the local educational agency.

(5) in paragraph (11) (as redesignated in paragraph (3)), by striking subparagraph (D).

(b) CONFORMING AMENDMENTS.—

(1) Section 612(a)(1)(A) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(a)(1)(A)) is amended by inserting before the period ''(except as provided in section 615(k)(10))''.

(2) Section 615(f)(1) of the Individuals with Disabilities Education Act (20 U.S.C. 1415(f)(1)) is amended by inserting at the beginning of the first sentence ''Except as provided in section 615(k)(10),''.

SEC. 3. AMENDMENT TO THE GUN-FREE SCHOOLS ACT OF 1994.

Subsection (c) of section 14601 of the Gun-Free Schools Act of 1994 (20 U.S.C. 8921) is amended to read as follows:

''(c) SPECIAL RULE.—Notwithstanding any other provision of this section, this section shall be subject to section 615(k)(10) of the Individual with Disabilities Education Act (20 U.S.C. 1415(k)(10)).''.

ADDITIONAL COSPONSORS

S. 42

At the request of Mr. HELMS, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 42, a bill to amend title X of the Public Health Service Act to permit family planning projects to offer adoption services.

S. 196

At the request of Mrs. BOXER, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 196, a bill to amend the Internal Revenue Code of 1986 to waive in the case of multiemployer plans the section 415 limit on benefits to the participant's average compensation for his high 3 years.

S. 206

At the request of Mr. MOYNIHAN, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 206, a bill to amend title XXI of the Social Security Act to provide for improved data collection and evaluations of State Children's Health Insurance Programs, and for other purposes.

S. 285

At the request of Mr. MCCAIN, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 285, a bill to amend title II of the Social Security Act to restore the link between the maximum amount of earnings by blind individuals permitted without demonstrating ability to engage in substantial gainful activity and the exempt amount permitted in determining excess earnings under the earnings test.

S. 343

At the request of Mr. BOND, the name of the Senator from Michigan (Mr. ABRAHAM) was added as a cosponsor of S. 343, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for 100 percent of the health insurance costs of self-employed individuals.

S. 345

At the request of Mr. ALLARD, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 345, a bill to amend the Animal Welfare Act to remove the limitation that permits interstate movement of live birds, for the purpose of fighting, to States in which animal fighting is lawful.

S. 398

At the request of Mr. CAMPBELL, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 398, a bill to require the Secretary of the Treasury to mint coins in commemoration of Native American history and culture.

S. 487

At the request of Mr. GRAMS, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 487, a bill to amend the Internal Revenue Code of 1986 to provide additional retirement savings opportunities for small employers, including self-employed individuals.

S. 512

At the request of Mr. GORTON, the names of the Senator from Mississippi (Mr. LOTT), the Senator from Mississippi (Mr. T4Cochran), the Senator from Delaware (Mr. BIDEN), the Senator from Maine (Ms. SNOWE), and the Senator from Oregon (Mr. SMITH) were added as cosponsors of S. 512, a bill to amend the Public Health Service Act to provide for the expansion, intensification, and coordination of the activities of the Department of Health and Human Services with respect to research on autism.

S. 514

At the request of Mr. COCHRAN, the names of the Senator from Utah (Mr. BENNETT), the Senator from Nevada (Mr. BRYAN), and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of S. 514, a bill to improve the National Writing Project.

S. 542

At the request of Mr. ABRAHAM, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 542, a bill to amend the Internal Revenue Code of 1986 to expand the deduction for computer donations to schools and allow a tax credit for donated computers.

S. 566

At the request of Mr. LUGAR, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 566, a bill to amend the Agricultural Trade Act of 1978 to exempt agricultural commodities, livestock, and value-added products from unilateral economic sanctions, to prepare for future bilateral and multilateral trade negotiations affecting United States agriculture, and for other purposes.

S. 600

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 600, a bill to combat the crime of international trafficking and to protect the rights of victims.

S. 631

At the request of Mr. DEWINE, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 631, a bill to amend the Social Security Act to eliminate the time limitation on benefits for immunosuppressive drugs under the medicare program, to provide continued entitlement for such drugs for certain individuals after medicare benefits end, and to extend certain medicare secondary payer requirements.

S. 659

At the request of Mr. LEAHY, his name was added as a cosponsor of S. 659, a bill to amend the Internal Revenue Code of 1986 to require pension plans to provide adequate notice to individuals whose future benefit accruals are being significantly reduced, and for other purposes.

S. 660

At the request of Mr. BINGAMAN, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 660, a bill to amend title XVIII of the Social Security Act to provide for coverage under part B of the medicare program of medical nutrition therapy services furnished by registered dietitians and nutrition professionals.

S. 697

At the request of Mrs. BOXER, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 697, a bill to ensure that a woman can designate an obstetrician or gynecologist as her primary care provider.

S. 752

At the request of Mr. MOYNIHAN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 752, a bill to facilitate the recruitment of temporary employees to assist in the conduct of the 2000 decennial census of population, and for other purposes.

S. 757

At the request of Mr. LUGAR, the name of the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 757, a bill to provide a framework for consideration by the legislative and executive branches of unilateral economic sanctions in order to ensure coordination of United States policy with respect to trade, security, and human rights.

S. 805

At the request of Mr. DURBIN, the name of the Senator from California

(Mrs. FEINSTEIN) was added as a cosponsor of S. 805, a bill to amend title V of the Social Security Act to provide for the establishment and operation of asthma treatment services for children, and for other purposes.

S. 864

At the request of Mr. BINGAMAN, the names of the Senator from Illinois (Mr. FITZGERALD), the Senator from New York (Mr. MOYNIHAN), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from New Jersey (Mr. TORRICELLI), the Senator from California (Mrs. BOXER), and the Senator from North Dakota (Mr. CONRAD) were added as cosponsors of S. 864, a bill to designate April 22 as Earth Day.

S. 890

At the request of Mr. WELLSTONE, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 890, a bill to facilitate the naturalization of aliens who served with special guerrilla units or irregular forces in Laos.

S. 897

At the request of Mr. HAGEL, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 897, a bill to provide matching grants for the construction, renovation and repair of school facilities in areas affected by Federal activities, and for other purposes.

S. 901

At the request of Mr. BINGAMAN, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 901, a bill to provide disadvantaged children with access to dental services.

S. 931

At the request of Mr. MCCONNELL, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 931, a bill to provide for the protection of the flag of the United States, and for other purposes.

S. 956

At the request of Ms. SNOWE, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 956, a bill to establish programs regarding early detection, diagnosis, and interventions for newborns and infants with hearing loss.

SENATE JOINT RESOLUTION 21

At the request of Ms. SNOWE, the names of the Senator from North Dakota (Mr. DORGAN), the Senator from Idaho (Mr. CRAIG), the Senator from California (Mrs. FEINSTEIN), and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of Senate Joint Resolution 21, a joint resolution to designate September 29, 1999, as ''Veterans of Foreign Wars of the United States Day.''

SENATE CONCURRENT RESOLUTION 9

At the request of Ms. SNOWE, the names of the Senator from Maryland (Mr. SARBANES), and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of Senate Concurrent Resolution 9, a concurrent resolution calling for a United States effort to end restrictions on the freedoms and human rights of the enclaved people in the occupied area of Cyprus.

SENATE CONCURRENT RESOLUTION 11

At the request of Mr. CAMPBELL, the name of the Senator from Alaska (Mr. MURKOWSKI) was added as a cosponsor of Senate Concurrent Resolution 11, a concurrent resolution expressing the sense of Congress with respect to the fair and equitable implementation of the amendments made by the Food Quality Protection Act of 1996.

SENATE RESOLUTION 59

At the request of Mr. LAUTENBERG, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of Senate Resolution 59, a bill designating both July 2, 1999, and July 2, 2000, as ''National Literacy Day.''

SENATE RESOLUTION 96—TO EXPRESS THE SENSE OF THE SENATE REGARDING A PEACEFUL PROCESS OF SELF-DETERMINATION IN EAST TIMOR, AND FOR OTHER PURPOSES

Mr. LEAHY (for himself, Mr. FEINGOLD, Mr. REED, Mr. HARKIN, Mr. MCCONNELL, Mr. MOYNIHAN, and Mr. KOHL) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 96

Whereas United Nations-sponsored negotiations between the Governments of Indonesia and Portugal have resulted in significant and encouraging progress toward a resolution of East Timor's political status;

Whereas on January 27, 1999, President Habibie expressed a willingness to consider independence for East Timor if a majority of the East Timorese reject autonomy in a planned August 8, 1999 ballot organized by the United Nations;

Whereas despite President Habibie's efforts to bring about a peaceful resolution of the political status of East Timor, the arming of anti-independence militias by some members of the Indonesian military has contributed to increased political tension and violence;

Whereas since January 1999, violence and human rights abuses by anti-independence militias has increased dramatically resulting in the displacement of thousands of East Timorese villagers and scores of deaths;

Whereas since March 1999, hundreds of civilians may have been killed, injured or disappeared in separate attacks by anti-independence militias;

Whereas there are also reports of killings of anti-independence militia members;

Whereas the killings in East Timor should be fully investigated and the individuals responsible brought to justice;

Whereas access to East Timor by international human rights monitors, humanitarian organizations is severely limited, and members of the press have been threatened;

Whereas a stable and secure environment in East Timor is necessary for a free and fair ballot on East Timor's political status;

Resolved, That it is the sense of the Senate that—

(1) the United States should promptly contribute to the United Nations Trust Fund which will provide support for the East Timor ballot process;

(2) the President, Secretary of State and Secretary of Defense should intensify their efforts to urge the Indonesian Government and military to—

(a) disarm and disband anti-independence militias; and

(b) grant full access to East Timor by international human rights monitors, humanitarian organizations, and the press;

(3) the President, after consultation with the United Nations Secretary General, should report to the Congress not later than 15 days after passage of this Resolution, on steps taken by the Indonesian government and military to ensure a stable and secure environment in East Timor, including those steps described in subparagraphs (2) (a and b); and

(4) any agreement for the sale, transfer, or licensing of any military equipment for Indonesia entered into by the United States should state that the equipment will not be used in East Timor.

Mr. LEAHY. Mr. President, today I am submitting a resolution expressing the sense of the Senate regarding a peaceful process of self-determination in East Timor. I am joined by Senators FEINGOLD, REED, HARKIN, MCCONNELL, MOYNIHAN, and KOHL.

A year ago I doubt anyone would have predicted that a settlement of East Timor's political status would be in sight.

While there are many obstacles and dangers ahead, we should take note of what has been accomplished. In the past year:

President Suharto relinqushed power.

The Indonesian Government endorsed a ballot on autonomy, which is planned for August 8th.

The United Nations, Indonesia, and Portugal are to sign an agreement today on the procedures for that vote.

If the East Timorese people reject autonomy, there is every expectation that East Timor will be on the road to independence.

The resolution that I am submitting today recognizes the positive steps that have been taken.

But it also expresses our deep concern that since January, when Indonesian President Habibie expressed the willingness to consider independence for East Timor, violence and intimidation by anti-independence militias backed by members of the Indonesian military has increased dramatically.

The perpetrators of the violence want to sabotage the vote on East Timor's future.

I spoke with one East Timorese man today, Mr. Franciso Da Costa, who witnessed the April 6th massacre of scores of people in the village of Liquica.

An Op Ed article in today's New York Times by East Timorese lawyer Aniceto guterres Lopez says it all. He wrote: ''With arms, money and a license for reckless rampages, the militia leaders have openly threatened death to anyone opposed to continued Indonesian occupation.''

I received a report earlier today that Mr. Lopez' house is surrounded and he has been threatened with death. Bishop Belo, winner of the Nobel Peace Prize and one of the most courageous people I have ever had the privilege to meet, has also been threatened.

Hundreds of East Timorese civilians have been killed, injured or disappeared. Thousands have fled their homes to escape the violence, and are struggling to survive. Food and medicines are in short supply because the Indonesian Government has severely restricted access.

This resolution sounds an alarm. The situation is extremely fragile. The militias are sowing chaos and terror. Far stronger steps are needed by the Indonesian Government and military to rein in the paramilitary groups.

The resolution calls on the President and Secretary of State to intensify their efforts to urge the Indonesian Government and military to disarm the paramilitary groups. This must be done.

Another recommendation we make is that the United States contribute to the U.N. Trust Fund which will set up polling booths and put people on the ground to monitor the vote. I plan to work with Senator MCCONNELL, who is a cosponsor of this resolution and Chairman of the Foreign Operations Subcommittee, to obtain the funding as soon as possible.

The resolution says that any agreement to sell or transfer military equipment to Indonesia should state that the equipment will not be used in East Timor. We would prefer that there be no military equipment. But at the very least, we do not want our equipment ending up in the hands of thugs who are trying to derail the vote.

We know from history how much blood can be shed in East Timor. Nobody—not the Indonesian Government, not the Indonesian military, and certainly not the East Timorese people, benefits from a return to those days.

Mr. President, this resolution should receive overwhelming bipartisan support. I ask unanimous consent that the New York Times Op Ed article by Mr. Lopez be printed in the RECORD.

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

[From the New York Times, May 5, 1999]

EAST TIMOR'S BLOODIEST TRADITION

(By Aniceto Guterres Lopes)

Dili, East Timor—April 6, 1999. Another massacre. April 17. Another. Two more to add to an already lengthy list in East Timor. Since Indonesia invaded my homeland in 1975 and officially annexed it the following year, our history has seemed little more than a succession of massacres, one following the other in a depressingly predictable pattern.

Although the recent attacks have many precedents, they were committed when we were filled with unprecedented hope. Only four months ago, the Government of President B.J. Habibie offered us the chance to vote on whether to remain in Indonesia or become independent. Indonesia began working out the logistics of the vote with the United Nations and Portugal (the former colonial power still acknowledged under international law as the administering authority over East Timor). Today the Foreign Minister, Ali Alatas, is due to sign the final agreement on the vote at the United Nations.

The recent wave of violence here reveals that the Habibie Government is reneging on the promise of a peaceful resolution to East Timor's disputed political status. Although the Habibie Government denies it, the military, since last December, has organized its hardened East Timorese camp followers into militias. With arms, money and a license for reckless rampages, the dozen or so militia leaders have openly threatened death to anyone opposed to continued Indonesian occupation. Their spokesman, Basilio Araujo, told an Australian television crew, ''We will kill as many people as we want.''

The militia bosses boast that they are countering pro-independence guerrillas, but they have not fought a single battle with the guerrillas. They have only attacked unarmed civilians and created a refugee crisis. In sweeps through the countryside, the militias have threatened to kill the families of any male, young or old, who refuses to join their ranks. Many ''members'' of the militias are ordinary villagers, some of whom I know personally. They are forced recruits sullenly going through the motions and hoping to avoid being hurt and hurting others.

The human rights organization I direct has been trying to care for those who fled the villages to escape the militia threats. According to our figures, about 18,000 refugees are now sheltered in the towns. With little food, money and medicine, they are slowly succumbing to disease.

By unleashing the militias, the Indonesian Government's apparent strategy is to create the appearance of a civil war. Indonesia falsely claims to be an enlightened and neutral arbiter between a factious and primitive people not yet ready for independence.

As is clear to all observers, the militias have not been engaged in any pitched battles with pro-independence forces. They attacked, with axes and machetes, hundreds of helpless refugees sheltered in a church in Liquica on April 6. My staff has recorded the names of 57 dead, many of them women and children. Here in East Timor's capital, they attacked another group of about 150 refugees on April 17. Meanwhile, the pro-independence guerrillas, observing a cease-fire since December, refrained from responding to the militias' attacks on civilians until mid-April, as the Indonesian military spokesman in East Timor has admitted.

The militias have no other aim than to sow chaos and terror. Instead of allowing us to vote on whether to remain within Indonesia, the militia bosses are killing those who oppose them and vowing to wreck the United Nations-supervised vote scheduled for August. Bishop Carlos Ximenes Belo, who won the Novel Peace Prize in 1996, is on their hit list, as are Australian journalists, East Timorese students and human rights workers (myself included). The militia bosses are even threatening to attack United Nations officials who will come to administer the vote.

Sadly, President Habibie and his top military commander, Gen. Wiranto, have done nothing to stop the militias. Over the past five months, the gang leaders have, in public view, committed atrocities and issued death threats. Yet they move around with impunity. The much-publicized ''peace pact'' Gen. Wiranto arranged in Dili on April 21 was nothing more than a public relations stunt. The militias continue to attack unarmed civilians unilaterally.

For a free and fair vote to be held, Portugal and the United States will have to insist on a disarming of the militias and a substantial withdrawal of Indonesia's all-pervasive troops. The United States, holding considerable leverage over bankrupt Indonesia, should take strong action, like cutting off all military aid and training until a valid vote on independence is held in East Timor.

Every day my staff records more cases of torture, disappearances and killings. All East Timorese, except for a few deranged militia leaders, have experienced enough violence in their lives. We are desperate for a peaceful resolution. Yet the Indonesian military, by allowing these militias to be deployed, is drowning our hopes in blood.

Mr. FEINGOLD. Mr President, I rise today to join my distinguished colleague from Vermont [Senator LEAHY] to offer this resolution to encourage a peaceful process of self-determination in East Timor. We are introducing this resolution because of serious obstacles that have appeared en route to a ballot to determine the future status of East Timor.

Earlier this year it appeared that there was finally some progress in East Timor. President Habibie announced on January 27 that the government of Indonesia was finally willing to seek to learn and respect the wishes of the people in that territory. There appears to be an agreement between the governments of Indonesia and Portugal to hold a vote, currently scheduled for August 8, to determine East Timor's future political status. This latter accord is expected to be finalized today at the United Nations.

Despite this positive development, excitement and tension over the possibility of gaining independence have in recent months led to an incredible level of violence and intimidation. The situation on the ground continues to worsen as East Timor has been wracked by violence throughout the last several weeks. Militias, comprised of individuals determined to intimidate the East Timorese people into support for continued integration with Indonesia and widely believed to be supported by the Indonesian military, are responsible for a sharp increase in violence.

Let me recount some of the horror stories I have heard coming out of East Timor in the last few weeks. To cite just a few examples, pro-government militias, backed by Indonesian troops, reportedly shot and killed 17 supporters of independence on April 5. Shortly thereafter, pro-independence groups reported clashes, arrests and deaths, as well as civilians fleeing violence in six cities. One of those cities was Liquica where at least 25 people were brutally murdered by pro-government militias when up to 2000 civilians sought shelter in the local Catholic church. Later, on April 17, hundreds of East Timorese fled the capital of Dili as knife-wielding militias attacked anyone suspected of supporting independence. At least 30 were killed in this incident as Indonesian troops made little effort to stop the violence. The perpetrators have not all been on the government side. Over the years there have been atrocities on the pro-independence side as well. In recent months, however, the overwhelming majority of the violence has come from army elements and militias under their effective control. Overall, hundreds of civilians have been killed, wounded or disappeared in separate militia attacks.

Unfortunately, Mr. President, there is no sign that the tension will ease between now and the August ballot. Pro-integration militia leaders announced on April 29 that they reject the concept of the upcoming ballot, or anything that could be considered a referendum. They have further stated that if a ballot leads to independence, they are prepared to fight a guerrilla war for decades if necessary to defend Indonesian rule of the territory. Independent observers fear that neither side will accept a loss in the August 8 ballot, thus setting the stage for a prolonged conflict in East Timor. This type of rhetoric does not reassure us about the prospects for a successful transition for the people of East Timor, regardless of which form of government they choose. The climate in East Timor today, sadly, may have become too violent for a legitimate poll to take place. Worse yet, the agreement on the ballot process that we hope will be announced today in New York will be rendered meaningless if people will fear for their lives if they dare to participate in the process.

The government of Indonesia must shoulder particular responsibility. Whether Indonesian troops have actually participated in these types of incidents or not, the authorities certainly must accept the blame for allowing, and in some cases, encouraging the bloody tactics of the pro-integration militias. As a long time observer of the situation there, I see the continuation of this violence as a threat to the very sanctity and legitimacy of the process that is underway. It is for this reason that Senator LEAHY and I have submitted our resolution to encourage the government in Jakarta to do all it can to seek a peaceful process and a fair resolution to the situation in East Timor.

Mr President, I believe the United States has a responsibility, an obligation, to put as much pressure as possible on the Indonesian government to help encourage an environment conducive to a free, fair, peaceful ballot process for the people of East Timor. Administration officials are saying the right things, but perhaps have not fully used the leverage we have at our disposal to make things happen. If we are ever going to resolve this issue, now is the time for us, the whole U.S. government, to act decisively.

In order to further bring pressure on the government of Indonesia to ensure the conditions necessary for the ballot on a settlement for East Timor, the Leahy/Feingold resolution would link the transfer of defense articles and services to effective measures by the Indonesian government and military to ensure a stable environment in East Timor.

Though non-binding, it is strongly worded. Specifically, our resolution recognizes progress in negotiations on a settlement proposal for East Timor, and the Indonesian government's apparent willingness to seek a peaceful resolution to the status of East Timor, but highlights the resultant increase in violence and human rights abuses by anti-independence militias and urges the Habibie government to curtail Indonesian military support to the militias. Nevertheless, despite that progress and the prospect of today's finalization of ballot procedures, access to East Timor by international monitors remains restricted, threatening the very environment needed to conduct a free and fair ballot

Most importantly, our resolution makes positive recommendations about what the United States can do to create an environment conducive to a free election. It states that it is the Sense of the Senate that we should urge the U.S. government to contribute to the United Nations Trust Fund to provide support for the East Timor ballot process. It also encourages the Administration to urge the Indonesian government to disarm the militias and grant full access to East Timor by international monitors.

Mr. President, it is not in our power to guarantee the free, fair exercise of the rights of the people of East Timor to determine their future. It is, however, in our interest to do all that we can to work with the United Nations, other concerned countries, the government of Indonesia and the people of East Timor to create an opportunity for a successful ballot process. We cannot forget that the Timorese have been living with violence and oppression for more than 23 years. These many years have not dulled the desire of the East Timorese for freedom, or quieted their demands to have a role in the determination of East Timor's status. We have to do all we can to support an environment that can produce a fair ballot in East Timor. Now. And throughout the rest of this process.

Mr. President, I ask unanimous consent that the text of a May 3, 1999, editorial from the Wall Street Journal be printed in the RECORD at this point.

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

[From the Wall Street Journal, May 3, 1999]

EAST TIMOR'S POISONED CHOICE

For more than two decades, the world has recoiled in horror at periodic reports of atrocities by Indonesian troops in East Timor, the former Portuguese colony that Jakarta invaded in 1975 and then annexed amid great protest in 1976. Despite the outrage, sympathy with the plight of East Timorese and the repressed desire of many for independence didn't stop foreigners from doing business with Jakarta over the years. In fact, East Timor largely appeared on the world's radar screen only during peaks of suffering there—as in 1991 after Indonesian troops fired on a funeral procession and killed an estimated 180 people in the capital of Dili.

Even so, when President B.J. Habibie announced in January that East Timor could choose between autonomy or independence, a great cheer of moral satisfaction went up around the globe. After all these years and all that struggle, liberation was at hand! Even in recent weeks, as local antiseparation militiamen with ties to the Indonesian army went on killing sprees in East Timor, the independence juggernaut churned on. Representatives from Portugal and Indonesia recently agreed to sign a U.N.-sponsored proposal that could bring a vote to East Timor by this summer and an end to Indonesian rule by 2000.

The fact that President Habibie didn't actually sign, but requested a delay until early next month, has led to speculation that he may be getting cold feet about a proposal that Indonesia's powerful military does not support. As ominous as that sounds for all who thought the end was in sight, what strikes independence enthusiasts as sad may not be entirely bad. Even before the emergence of East Timorese anti-independence militas added to an already volatile mixture featuring armed separatists, there was evidence that the ordinary people of East Timor might be getting a raw deal on a silver platter. Though the entire exercise, vote and all, is supposed to be about self-determination, in some ways it appears that they are being thrown to the wolves—and not only by Indonesia.

Consider the reckless manner in which Mr. Habibie acknowledged that the cost of maintaining a grip on the turbulent province was too high for Indonesia. Former colonial power Portugal departed from many of its possessions in a fit of spiteful destruction, smashing infrastructure and leaving arms in the hands of the baddest locals it could find. Similarly, Mr. Habibie offered East Timor what was in effect a poisoned choice of immediate autonomy or immediate independence. That frightened even separatists among the Timorese, some of whom have been pleading for a more gradual process that would enable the province to better prepare for an orderly transition and successful independence.

But such is the rush to complete the voting process that East Timorese expressions of concern about timing have been largely brushed aside by outsiders who claim to be on their side. Such concerns have been unheard, or dismissed as impossible to address given Mr. Habibie's all-or-nothing adamancy. Better to take what you can get, and take it now, the rest of the world has been telling the Timorese. It's a shame it has to be so hurried, and now so bloody, but these things do happen.

If outsiders are not willing to protect East Timorese from the violent consequences of the process now under way, they should stop cheering so hard for the process. Having come so far, nobody likes to think of delay, not least because that would be seen as a victory for the dark forces within the Indonesian military and elsewhere. But standing idly by while the people of East Timor are propelled into a situation that is not simply risky but more or less expected to bring death and destruction will be a crime in itself.

Mr. McCONNELL. Mr. President, having just returned from Cambodia, Indonesia, Australia and New Zealand, I was impressed by how deeply concerned regional leaders were over the status and conditions in East Timor.

Although the first really democratic elections to be held in Indonesia are coming up in June, the U.N. autonomy agreement, which should be announced today, was the focus of most of my discussions. While I was in the region, there was yet another explosive round of violence which left 17 dead. There is absolutely no question that most of these attacks are being carried out by

militias which enjoy military support from the Indonesian armed forces.

I do not believe these militias are directly commanded by Indonesian officers. However, I do think these militias are both encouraged and equipped by individuals in the military who oppose autonomy or independence for East Timor. There clearly are officers with a vested interest in controlling the ports and trade through Timor. These individuals have put self interest above their nation's interest.

While in Jakarta I raised these specific concerns directly with General Wiranto. I believe he recognizes that these events damage Indonesia's stability and stature. I hope he will pursue a more aggressive course in the days to come to assure this spiral of violence ends.

In the meantime, I think we should make clear we will not allow US equipment to be used to further the violence in East Timor. I also believe it is essential to deploy civilian poll watchers and police to restore calm and credibility to the election process. To accomplish this goal in a timely and effective manner, I have initiated discussions with key congressional members to add funds to the supplemental bill to support a peacekeeping presence in East Timor. I understand that the UN estimates an election team supported by civilian police observers may cost as much as $50 million. I fully expect our regional partners and Portugal to assume a leadership role in meeting these needs, but we have key interests in promoting Indonesian stability and security. I would hope we can commit roughly $10 million to this endeavor. I am convinced that our support for an international monitoring initiative administered through the United Nations Trust Fund will help ease this crisis and offer the citizens of East Timor a real opportunity for reconciliation, peace and democracy.

SENATE RESOLUTION 97—DESIGNATING THE WEEK OF MAY 2 THROUGH 8, 1999, AS THE 14TH ANNUAL TEACHER APPRECIATION WEEK, AND DESIGNATING TUESDAY, MAY 4, 1999, AS NATIONAL TEACHER DAY

Mr. COVERDELL (for himself, Mr. FRIST, Mr. GORTON, Mr. LOTT, Mr. JEFFORDS, Mr. ABRAHAM, Mr. CRAIG, Mr. DOMENICI, Mr. COCHRAN, Mr. MACK, Mr. SMITH of Oregon, Ms. COLLINS, Mr. HATCH, Mr. LUGAR, Ms. SNOWE, Mr. GRAMS, Mr. CRAPO, Mr. KENNEDY, and Mr. WELLSTONE) submitted the following resolution; which was considered and agreed to:

S. RES. 97

Whereas the foundation of American freedom and democracy is a strong, effective system of education where every child has the opportunity to learn in a safe and nurturing environment;

Whereas a first rate education system depends on a partnership between parents, principals, teachers, and children;

Whereas much of the success of our Nation during the 20th Century (the American Century) is the result of the hard work and dedication of teachers across the Nation;

Whereas in addition to a child's family, knowledgeable and skillful teachers can have a profound impact on the child's early development and future success;

Whereas many people spend their lives building careers, teachers spend their careers building lives;

Whereas our Nation's teachers serve our Nation's children beyond the call of duty as coaches, mentors, and advisers without regard to fame or fortune; and

Whereas across our Nation nearly 3,000,000 men and women experience the joys of teaching young minds the virtues of reading, writing, and arithmetic: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week of May 2 through 8, 1999, as the ''14th Annual Teacher Appreciation Week'';

(2) designates Tuesday, May 4, 1999, as ''National Teacher Day''; and

(3) calls upon the people of the United States to take a moment out of their busy lives to say thanks and pay tribute to our Nation's teachers.

AMENDMENTS SUBMITTED

FINANCIAL SERVICES MODERNIZATION ACT OF 1999

BRYAN (AND OTHERS) AMENDMENT NO. 303

Mr. BRYAN (for himself, Mr. DODD, and Mr. KERRY) proposed an amendment to the bill (S. 900) to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, insurance companies, and other financial service providers, and for other purposes; as follows:

On page 14, strike lines 8 and 9 and insert the following: ''are well managed;

''(C) all of the insured depository institution subsidiaries of the bank holding company have achieved a rating of 'satisfactory record of meeting community credit needs', or better, at the most recent examination of each such institution under the Community Reinvestment Act of 1977; and

''(D) the bank holding company has filed).

On page 14, line 20, strike ''and (B)'' and insert '', (B), and (C)''.

On page 18, between lines 4 and 5, insert the following:

''(5) LIMITATION.—A bank holding company shall not be required to divest any company held, or terminate any activity conducted pursuant to, subsection (k) solely because of a failure to comply with subsection (*l*)(1)(C).

On page 66, strike lines 7 and 8 and insert the following: ''bank is well capitalized and well managed;

''(E) each insured depository institution affiliate of the national bank has achieved a rating of 'satisfactory record of meeting community credit needs', or better, at the most recent examination of each such institution under the Community Reinvestment Act of 1977; and

''(F) the national bank has received the''.

On page 66, line 12, strike ''subparagraph (D)'' and insert ''subparagraphs (D) and (E)''.

On page 66, line 16, insert before the period '', except that the Comptroller may not require a national bank to divest control of or otherwise terminate affiliation with a financial subsidiary based on noncompliance with paragraph (1)(E)''.

On page 96, strike line 23 and all that follows through page 98, line 4.

On page 104, strike line 20 and all that follows through page 105, line 14.

Redesignate sections 304 through 307 and sections 309 through 311 as sections 303 through 309, respectively.

Amend the table of contents accordingly.

REID AMENDMENT NO. 304

(Ordered to lie on the table.)

Mr. REID submitted an amendment intended to be proposed by him to the bill (S. 900), supra; as follows:

At the appropriate place, insert the following:

SEC. . FEDERAL RESERVE AUDITS.

(a) IN GENERAL.—The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended by inserting after section 11A the following:

''SEC. 11B. ANNUAL INDEPENDENT AUDITS OF FEDERAL RESERVE BANKS.

''(a) AUDIT REQUIRED.—Each Federal reserve bank shall annually obtain an audit of the financial statements of each Federal reserve bank (which shall have been prepared in accordance with generally accepted accounting principles) using generally accepted auditing standards from an independent auditor that meets the requirements of subsection (b).

''(b) AUDITOR'S QUALIFICATIONS.—The independent auditor referred to in subsection (a) shall—

''(1) be a certified public accountant who is independent of the Federal Reserve System; and

''(2) meet any other qualifications that the Board may establish.

''(c) CERTIFICATION REQUIRED.—In each audit required under subsection (a), the auditor shall certify to the Federal reserve bank and to the Board that the auditor—

''(1) is a certified public accountant and is independent of the Federal Reserve System; and

''(2) conducted the audit using generally accepted auditing standards.

''(d) CERTIFICATION BY FEDERAL RESERVE BANK.—Not later than 30 days after the completion of each audit required under subsection (a), the Federal reserve bank shall provide to the Comptroller General of the United States—

''(1) a certification that—

''(A) the Federal reserve bank has obtained the audit required under subsection (a);

''(B) the Federal reserve bank has received the certifications of the auditor required under subsection (c); and

''(C) the audit fully complies with subsection (a).

''(e) DETECTION OF ILLEGAL ACTS.—

''(1) AUDIT PROCEDURES.—Each audit required by this section shall include procedures designed to provide reasonable assurance of detecting illegal acts that would have a direct and material effect on the determination of financial statement amounts.

''(2) REPORTING POSSIBLE ILLEGALITIES.—If, in the course of conducting an audit required by this section, the independent auditor detects or otherwise becomes aware of information indicating that an illegal act (whether or not perceived to have an effect on the financial statements of the Federal reserve bank) has or may have occurred, the auditor—

''(A) shall determine whether it is likely that the illegal act has occurred; and

''(B) shall, if the auditor determines that the illegal act is likely to have occurred—

''(i) determine and consider the possible effect of the illegal act on the financial statements of the Federal reserve bank; and

''(ii) as soon as practicable, inform the Board that the illegal act is likely to have occurred.

''(3) REPORT TO CONGRESS.—The independent auditor under this section shall, as soon as practicable, directly report its conclusions to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives with regard to any possible illegal act that has been detected or has otherwise come to the attention of the auditor during the course of the audit required by this section, if, after determining that the Board is adequately informed with respect to such possible illegal act, the auditor concludes that—

''(A) the possible illegal act has a direct and material effect on the financial statements of the Federal reserve bank;

''(B) The Board has not taken timely and appropriate remedial actions with respect to the possible illegal act; and

''(C) the failure to take remedial action is reasonably expected to warrant departure from a standard report of the auditor when made, or warrant resignation from the audit engagement.

''(4) RESIGNATION OF AUDITOR.—If an independent auditor resigns from its engagement to audit a Federal reserve bank under paragraph (3), the auditor shall furnish to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives, not later than 1 business day after such resignation, a copy of the report of the auditor (or documentation of any oral report given).

''(f) RECORDKEEPING.—To facilitate compliance with this section, each Federal reserve bank shall—

''(1) ensure that the books, records, and accounts of the Federal reserve bank are maintained and kept in sufficient detail to accurately and fairly reflect the transactions and dispositions of the assets of the bank;

''(2) devise and maintain a system of internal controls sufficient to provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles and to maintain accountability for assets;

''(3) ensure that access to assets of the Federal reserve bank is permitted only in accordance with the general or specific authorization of the Board; and

''(4) ensure that—

''(A) the recorded accountability for assets is compared with the existing assets at reasonable intervals; and

''(B) appropriate action is taken with respect to any differences.

''(g) REPORTS TO BOARD, CONGRESS.—Not later than April 30 of each year, each Federal reserve bank shall submit a copy of each audit conducted under this section to the Board, and to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

''SEC. 11C. INDEPENDENT AUDITS OF FEDERAL RESERVE SYSTEM AND FEDERAL RESERVE BOARD.

''(a) AUDIT OF RESERVE SYSTEM.—The Board shall annually obtain an audit of the consolidated financial statements of the Federal Reserve System (which shall have been prepared in accordance with generally accepted accounting principles) from an independent auditor, using generally accepted auditing standards, based on reports of audits of Federal reserve banks submitted to the Board under section 11B(g) and the audit of the Board under subsection (b) of this section.

''(b) AUDIT OF BOARD.—

''(1) IN GENERAL.—The Board shall annually obtain an audit of the financial statements of the Board (which shall have been prepared in accordance with generally accepted accounting principles) from an independent auditor, using generally accepted auditing standards.

''(2) PRICED SERVICES AUDIT.—

''(A) IN GENERAL.—As part of each audit of the Board required by this subsection, the auditor shall—

''(i) audit the calculation of the private sector adjustment factor established by the Board by regulation pursuant to section 11A(c)(3) for the year that is the subject of the audit; and

''(ii) audit the pro forma balance sheet and income statement for the services described in section 11A(b), including the determination of revenue, expenses, and income before income taxes for each service listed in that section (in accordance with the criteria specified in section 11A(c)(3)).

''(B) REPORT TO THE BOARD.—The auditor shall report the results of the audit under subparagraph (A)(ii) to the Board in written form.

''(3) LIMITATION.—The evaluations and audits required by this subsection shall not include deliberations, decisions, or actions on monetary policy matters, including discount authority under section 13, reserves of national banks, securities credit, interest on deposits, and open market operations.

''(c) AUDITOR'S QUALIFICATIONS.—An independent auditor referred to in this section shall—

''(1) be a certified public accountant and be independent of the Federal Reserve System; and

''(2) meet any other qualifications that the Board may establish.

''(d) CERTIFICAITON REQUIRED.—In each audit required under this section, the auditor shall certify to the Board that the auditor—

''(1) is a certified public accountant and is independent of the Federal Reserve System; and

''(2) conducted the audit using generally accepted auditing standards.

''(e) DETECTION OF ILLEGAL ACTS.—

''(1) AUDIT PROCEDURES.—Each audit required by this section shall include procedures designed to provide reasonable assurance of detecting illegal acts that would have a direct and material affect on the determination of financial statement amounts.

''(2) REPORTING POSSIBLE ILLEGALITIES.—If, in the course of conducting an audit of the Federal Reserve System or the Board as required by this section, the independent auditor detects or otherwise becomes aware of information indicating that an illegal act (whether or not perceived to have an effect on the financial statements of the Federal reserve bank) has or may have occurred, the auditor—

''(A) shall determine whether it is likely that the illegal act has occurred; and

''(B) shall, if the auditor determines that the illegal act is likely to have occurred—

''(i) determine and consider the possible effect of the illegal act on the financial statements of the Federal Reserve System or the Board, as applicable; and

''(ii) as soon as practicable, inform the Board that the illegal act is likely to have occurred.

''(3) REPORT TO CONGRESS.—An independent auditor under this section shall directly report, as soon as practicable, its conclusions to the Committee on Government Affairs of the Senate and the Committee on Government Reform of the House of Representatives, with regard to any possible illegal act that has been detected or has otherwise come to the attention of the auditor during the course of an audit of the Federal Reserve System or the Board required by this section, if, after determining that the Board is adequately informed with respect to such possible illegal act, the auditor concludes that—

''(A) the possible illegal act has a direct and material effect on the financial statements of the Federal Reserve System or the Board, as applicable;

''(B) the Board has not taken timely and appropriate remedial actions with respect to the possible illegal act; and

''(C) the failure to take remedial action is reasonably expected to warrant departure from a standard report of the auditor when made, or warrant resignation from the audits engagement.

''(4) RESIGNATION OF AUDITOR.—If an independent auditor resigns from its engagement to audit the Federal Reserve System or the Board under paragraph (3), the auditor shall furnish to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives, not later than 1 business day after such resignation, a copy of the report of the auditor (or documentation of any oral report given).

''(f) RECORDKEEPING.—To facilitate compliance with this section, the Board shall—

''(1) ensure that the books, records, and accounts of the Board are maintained and kept in sufficient detail to accurately and fairly reflect the transactions and dispositions of assets;

''(2) devise and maintain a system of internal controls sufficient to provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles and to maintain accountability for assets;

''(3) ensure that access to assets of the Board is permitted only in accordance with general or specific authorization of the Board; and

''(4) ensure that—

''(A) the recorded accountability for assets is compared with the existing assets at reasonable intervals; and

''(B) appropriate action is taken with respect of any differences.

''(g) REPORTS TO CONGRESS.—Not later than May 31 of each year, the Board shall make available all audits and reports required by this section to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.''.

''(b) FEDERAL RESERVE REQUIREMENTS.—

''(1) CLARIFICATION OF FEE SCHEDULE REQUIREMENTS.—

''(A) IN GENERAL.—Section 11A(b) of the Federal Reserve Act (12 U.S.C. 248a(b)) is amended—

''(i) by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively; and

''(ii) by inserting after paragraph (6) the following:

''(7) transportation of paper checks in the clearing process;''.

(B) PUBLICATION OF REVISED SCHEDULE.—Not later than 60 days after the date of enactment of this Act, the Board of Governors of the Federal Reserve System shall publish a revision of the schedule of fees required under section 11A of the Federal Reserve Act that reflects the changes made in the schedule in accordance with the amendments made by subparagraph (A) of this paragraph.

(2) CLARIFICATION OF APPLICABLE PRICING CRITERIA.—Section 11A(c) of the Federal Reserve Act (12 U.S.C. 248a(c)) is amended by striking paragraph (3) and inserting the following:

''(3)(A) In each fiscal year, fees shall be established for each service provided by the Federal reserve banks on the basis of all direct and indirect costs actually incurred (excluding the effect of any pension cost credit)

in providing each of the services, including interest on items credited prior to actual collection, overhead, and an allocation of imputed costs, which takes into account the taxes that would have been paid and the return on capital that would have been provided had the services been provided by a private business firm.

''(B) The pricing principles referred to in subparagraph (A) shall be carried out with due regard to competitive factors and the provision of an adequate level of such services nationwide.

''(C)(i) Not later than 1 year after the date of enactment of the Financial Services Modernization Act of 1999, and not less frequently than once every 3 years thereafter, the Board shall conduct a comprehensive review of the methodology used to calculate the private sector adjustment factor pursuant to section 11A(c)(3), including a public notice and comment period.

''(ii) In conducting the review under clause (i), the Board shall publish in the Federal Register all elements of the methodology in use by the Board in the calculation of the private sector adjustment factor pursuant to section 11A(c)(3) provide notice and solicit public comment on the methodology, requesting commentators to identify areas of the methodology that are outdated, inappropriate, unnecessary, or that contribute to an inaccurate result in the calculation of the private sector adjustment factor.

''(iii) The Board shall—

''(I) publish in the Federal Register a summary of the comments received under this subparagraph, identifying significant issues raised; and

''(II) provide comment on such issues and make changes to the methodology to the extent that the Board considers to be appropriate.

''(iv) Not later than 30 days after the completion of each review under clause (i), the Board shall submit to Congress a report which shall include—

''(I) a summary of any significant issues raised by public comments relieved by the Board under this subparagraph and the relative merits of such issues; and

''(II) an analysis of whether the Board is able to address the concerns raised, or whether such concerns should be addressed by legislation.''.

EXPRESSING THE SENSE OF THE SENATE REGARDING THE TREATMENT OF WOMEN AND GIRLS BY THE TALIBAN IN AFGHANISTAN

BOXER AMENDMENT NO. 305

Mr. GRAMM (for Mrs. BOXER) proposed an amendment to the resolution (S. Res. 68) expressing the sense of the Senate regarding the treatment of women and girls by the Taliban in Afghanistan; as follows:

On page 3, line 4, strike ''the'' and insert ''any''.

BOXER AMENDMENT NO. 306

Mr. GRAMM (for Mrs. BOXER) proposed an amendment to the preamble to the resolution, S. Res. 68, supra; as follows:

Amend the preamble to read as follows:

Whereas millions of women and girls living under Taliban rule Afghanistan are denied their basic human rights;

Whereas according to the Department of State and international human rights organizations, the Taliban continues to commit widespread and well-documented human rights abuses, in gross violation of internationally accepted norms;

Whereas, according to the United States Department of State Country Report on Human Rights Practices (hereafter ''1998 State Department Human Rights Report''), violence against women in Afghanistan occurs frequently, including beatings, rapes, forced marriages, disappearances, kidnapings, and killings;

Whereas women and girls under Taliban rule are generally barred from working, going to school, leaving their homes without an immediate male family member as chaperone, and visiting doctors, hospitals or clinics;

Whereas according to the 1998 State Department Human Rights Report, gender restrictions by the Taliban continue to interfere with the delivery of humanitarian assistance to women and girls in Afghanistan;

Whereas according to the 1998 State Department Human Rights Report, under Taliban rule women are forced to don a head-to-toe garment known as a burqa, which has only a mesh screen for vision, and many women found in public not wearing a burqa, or wearing a burqa that does not properly cover the ankles, are beaten by Taliban militiamen;

Whereas according to the 1998 State Department Human Rights Report, some poor women under Taliban rule cannot afford the cost of a burqa and thus are forced to remain at home or risk beatings if they go outside the home without one;

Whereas according to the 1998 State Department Human Rights Report, the lack of a burqa has resulted in the inability of some women under Taliban rule to get necessary medical care because they cannot leave home;

Whereas according to the 1998 State Department Human Rights Report, women under Taliban rule reportedly have been beaten if their shoe heels click when they walk;

Whereas according to the 1998 State Department Human Rights Report, under Taliban rule women in homes must not be visible from the street, and houses with female occupants must have their windows painted over;

Whereas according to the 1998 State Department Human Rights Report, under Taliban rule women are not allowed to drive, and taxi drivers reportedly have been beaten if they take unescorted women as passengers;

Whereas according to the 1998 State Department Human Rights Report, women under Taliban rule are forbidden to enter mosques or other places of worship; and

Whereas women and girls of all ages under Taliban rule have suffered needlessly and even died from curable illness because they have been turned away from health care facilities because of their gender: Now, therefore, be it

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry, be allowed to meet during the session of the Senate on Wednesday May 5, 1999. The purpose of this meeting will be: (1) To consider the nomination of Thomas J. Erickson to be a Commissioner of the Commodity Futures Trading Commission; and (2) to discuss agricultural trade options.

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

COMMITTEE ON ARMED SERVICES

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, May 4, 1999, at 10:00 a.m. in open session, to consider the nomination of Ms. Carolyn L. Huntoon to be Assistant Secretary of Energy for Environmental Management.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be allowed to meet on Wednesday, May 5, 1999, at 9:30 a.m. on pending committee business.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, May 5, for purposes of conducting a full committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this oversight hearing is to receive testimony on damage to the national security from Chinese espionage at DOE nuclear weapons laboratories.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. LOTT. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to conduct a hearing to receive testimony from Timothy Fields, Jr., nominated by the President to be Assistant Administrator, Office of Solid Waste and Emergency Response of the Environmental Protection Agency Wednesday, May 5, 9:00 a.m., Hearing Room (SD–406).

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

COMMITTEE ON FINANCE

Mr. LOTT. Mr. President, The finance Committee requests unanimous consent to conduct a hearing on Wednesday, May 5, 1999 beginning at 10:00 a.m. in room 215 Dirksen.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, May 5, 1999 at 10:00 a.m. to hold a hearing.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. LOTT., Mr. President, I ask unanimous consent that the Governmental Affairs Committee be permitted to meet on Wednesday, May 5,

1999 at 9:00 a.m. for a hearing on the State of Federalism.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate Committee on Indian Affairs be authorized to meet during the session of the Senate Wednesday May 5, 1999 at 9:30 a.m. to conduct an Oversight Hearing on Tribal Priority Allocations. The Hearing will be held in room 485 of the Russell Senate Office Building.

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

COMMITTEE ON THE JUDICIARY

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, May 5, 1999, at 9:30 a.m. in room 226 of the Senate Dirksen Office Building to hold a hearing on: ''Department of Justice Oversight.''

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. LOTT. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, May 5, 1999, at 3:00 p.m. to hold a closed markup.

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

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS

Mr. LOTT. Mr. President, I ask unanimous consent that the Subcommittee on Financial Institutions of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, May 5, 1999, to conduct a hearing on ''The Financial Institutions Insolvency Improvement Act of 1999.''

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

SUBCOMMITTEE ON SEAPOWER

Mr. LOTT. Mr. President, I ask unanimous consent that the Subcommittee on Seapower be authorized to meet on Wednesday, May 5, 1999, at 3:00 p.m., in closed session, to receive testimony on Submarine Warfare in the 21st century.

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

ADDITIONAL STATEMENTS

MARITIME ADMINISTRATION AUTHORIZATION ACT

● Mr. HOLLINGS. Mr. President, it is with pleasure that I join Chairman MCCAIN and Senators HUTCHISON and INOUYE to introduce the Maritime Administration Authorization Act for Fiscal Year 2000. This legislation is critical for the continuation of a modern commercial fleet owned and operated by U.S. citizens and crewed by American seafarers. It also ensures America's economic competitiveness and national security.

The Maritime Administration (MARAD) reauthorization continues very important programs, and is a much broader piece of legislation than in past years. For example, it provides the funding for the Title XI Loan Guarantee Program, a truly national and international program. Title XI shipowners, their operation and their supplier base, cover almost every state in this country. Title XI has been vital in assisting our shipyards in competing internationally. U.S. shipyards are attracting foreign interests and winning orders for many vessel types. The bill also contains technical amendments to the Title XI program which will save time and money for both the Government and those applying for a loan guarantee. It also provides the funds for the operation of the U.S. Merchant Marine Academy at Kings Point, New York and continuing assistance to six State maritime academies. These students are the future of country and our merchant marine.

This bill also recognizes the importance of the merchant marine to our national security by its support for the recently-enacted Maritime Security Program (MSP), a modern commercial fleet available to provide critical support to the Department of Defense during war or national emergency. This year's reauthorization also contains provisions which aim to strengthen our U.S.-flag fleet through a much needed infusion of new tonnage by eliminating the three-year wait that a newly-registered bulk or breakbulk vessel must currently wait to carry preference cargo. This opportunity, which would end in one year or upon enactment of the OECD Shipbuilding Agreement, would not just improve the vessel profile of this fleet, but also add U.S. jobs> Vessels allowed to enter the preference trade would be required to perform shipyard repairs and other work necessary to bring them up to U.S.-flag standards in our own U.S. shipyards.

Funding is also provided for two new programs, enacted by the last Congress. Under the American Fisheries Act, MARAD will determine compliance with citizenship standards for certain fishing vessels, assisting in proper management and conservation of an important natural resource of our country. The agency is also developing a uniform process for the administrative waiver of the U.S.-built requirement for participation in the Jones Act trade for certain small passenger vessels, so that specific legislation need not be sought each time such a waiver is needed.

Mr. President, MARAD's FY 2000 budget recognizes the importance of sealift readiness and a strong U.S.-flag fleet. It acknowledges the need for a healthy shipbuilding industry and also provides for the education of our youth. I urge my colleagues to support this legislation.●

1999 NEW MEXICO HIGH SCHOOL SUPERCOMPUTING CHALLENGE

● Mr. DOMENICI. Mr. President, it is with great pride that I rise today to recognize the contestants of the 1999 New Mexico High School Supercomputing Challenge, an impressive group of young people from my home state of New Mexico. I want to extend a special congratulations to the five Albuquerque Academy students who won this intellectually demanding contest. In addition to their normal school work and other extra curricular activities, these students—Tom Widland, Kevin Oishi, Alex Feuchter, Ryan Davies and Ryan Duryea—diligently worked on their project for nearly a year to compete in this competition.

For the past 9 years, High school students from around the state have competed against each other in the Supercomputing Challenge. The student's projects are done on high-speed supercomputers at the Los Alamos National Laboratory with the winners of the competition receiving an award, a $1,000 savings bond, a plaque, several boxes of software, and a computer for their schools.

In light of recent events in the news, it has been easy for us to focus our attention on the problems seriously troubling our Nation's youth. That is why, now, more than ever, I believe it is essential that we encourage our kids by recognizing and praising their outstanding accomplishments. These young Americans exemplify, the character our Nation was founded on and set a positive example for their peers to follow.

The participants of the 1999 New Mexico High School Supercomputing Challenge, deserve to be recognized, and I am proud to salute them on this worthy accomplishment.●

STADIUM FINANCING AND FRANCHISE RELOCATION ACT

● Mr. BIDEN. Mr. President, I am pleased to join Senator SPECTER today in introducing legislation that will create a fund to finance the building and renovation of stadiums and ballparks for major league baseball and professional football sports leagues across America. For too long, baseball and football teams have threatened to move if state and local governments do not ante up the money to renovate or build new, publicly financed stadiums for the home teams. The scene is, by now, a familiar one: multi-millionaire team owners demand new, taxpayer-funded state-of-the-art stadiums, so that they and their players can make even more money for themselves—at taxpayer expense, of course. The taxpayers are impaled on the horns of a dilemma: either pony up or risk losing the team.

This bill will strike an equitable arrangement between teams and local governments to share the costs of stadium renovation and construction—ensuring that professional sports teams put up their fair share. The way the bill would accomplish this is straightforward. Team owners owe much of their wealth to revenue from network

telecasts of their games, a boon they receive courtesy of the antitrust exemption granted by us—the Congress. The antitrust exemption contained in the Sports Broadcasting Act permits teams to pool their television rights, yielding annual revenues of $2.2 billion to the National Football League and $425 million to Major League Baseball.

This legislation would require, as a condition for retaining this lucrative antitrust exemption, that Major League Baseball and the National Football League place into a trust fund 10 percent of the revenues the Leagues receive from network telecasts. Each sport's trust fund, in turn, would be used to finance up to one half the cost of constructing a new stadium or park, or renovating an older one, for any of the teams seeking such financing—so long as the local government has agreed to provide one dollar for every two furnished by the trust fund. In other words, if a pro team in Wilmington wanted to build a $200 million stadium, it could obtain $100 million from the trust fund, a government entity in Delaware would have to kick in $50 million, and the remaining money would have to come from the team owner or some other source. In addition to allowing the Leagues to retain their current antitrust exemption, the bill would expand the exemption to give the Leagues the authority to prevent member clubs from moving their franchises.

To my mind, this bill strikes just the right balance. Let us not saddle cities and taxpayers with the exorbitant—sometimes mind-boggling—costs of building new stadiums while the teams and their owners sit back and wait for the highest bidder. If the Leagues want to keep their antitrust exemption, the major source of their millions, they should be willing to do their fair share. This legislation's condition that in exchange for the exemption, the teams set aside 10 percent of their broadcast revenues, is a reasonable and much needed measure to restore some balance to a negotiating process that is out-of-whack.●

NATIONAL ASSOCIATION OF LETTER CARRIERS' ANNUAL FOOD DRIVE

●Mrs. BOXER. Mr. President, I would like to recognize the National Association of Letter Carriers for its efforts to combat hunger in America through its annual national food drive.

Each year, on the second Saturday in May, letter carriers in more than 10,000 cities collect canned food along their postal routes to supply local food banks. Last year, over 50 million pounds of food were donated to feed the hungry, and I am confident that 1999's drive will be an even greater success. In just seven years of operation, the National Association of Letter Carrier's national food drive has grown into America's largest one-day food collection effort.

To participate, residents in participating communities need only place a can of non-perishable food near their mailbox—their letter carrier does the rest. In addition to making regular pick-ups and deliveries, their letter carrier collects donations and transports them to a nearby postal station. Food is then sorted and distributed to local charities.

Mr. President, an estimated 30 million people go hungry every day in America. Food shortages hit children especially hard in the summer months, when school lunches are not available and many charity pantries run out of supplies donated during the Winter holiday season. The Letter Carriers' food drive makes a critical contribution at a time when help is urgently needed.

I commend the National Association of Letter Carriers for its leadership in organizing this annual event. The NALC's organizing partners—the United States Postal Service, the AFL-CIO, and the United Way—also deserve our thanks.

Finally, Mr. President, I urge each American to leave a can of food by the mailbox on Saturday. Together, we can fight hunger and make a difference in the lives of millions of Americans.●

ARSON AWARENESS WEEK

●Mr. BIDEN. Mr. President, I rise today to remind the Senate and the American Public that this is Arson Awareness Week. It is that time once a year that we stop to assess how arson affects our lives. Each year hundreds of Americans die because of the arsonist's match. Mr. President, I am outraged at this and the countless firefighters who are killed every year attempting to extinguish intentionally set fires. Arsonists should be swiftly brought to justice, especially when firefighters lives are put on the line.

When a fire is intentionally set in the center of a retail city district the damaged property becomes blight on the entire community. Like cancer, arson degrades the whole area. Jobs are lost, tax bases are depleted and, most importantly, people are often killed.

As a member of the Congressional Fire Services Caucus, I have long been associated with the war against arson. I have consistently supported stricter penalties for convicted arsonists. I have supported the efforts of the Bureau of Alcohol, Tobacco, and Firearms that assist our fine state and local fire investigators. I have also supported the United States Fire Administration which provides valuable research grants and public education efforts geared toward controlling arson.

Mr. President I remind all Americans that arson is still a serious problem, one we must continually work together to solve.●

TRIBUTE TO KEVIN L. REICHERT

●Mr. FEINGOLD. Mr. President, I come to the floor today with a heavy heart. If it hadn't happened already, the Yugoslav conflict just hit home.

Early yesterday morning, NATO experienced its first fatalities in its campaign against Yugoslavia. And Chetek, Wisconsin found its way into the news.

Army Chief Warrant Officer Kevin L. Reichert, of Chetek, Wisconsin, was killed aboard an Apache helicopter during a nighttime training mission in Albania. My thoughts, prayers, and sympathies go out to the friends and family of Kevin Reichert. We can all be proud of Kevin's service to his country.

The 28-year old from Wisconsin's Chippewa Valley leaves behind his wife of eight years, Ridgeley, and 3 kids. I thank the proud residents of Chetek and of Barron County, Wisconsin, for helping to raise such a brave and dedicated American. I hope the Reichert family and the 1,700 people of Chetek will take solace in the gratitude of our Nation.

The NATO effort in Yugoslavia has its costs. Kevin's death, and that of his co-pilot, David Gibbs, of Ohio, are sad reminders that conflicts like the one in Yugoslavia, while they seem far away, have a very real impact at home.

Mr. President, I am sure my colleagues join me in paying tribute to Kevin Reichert for his dedicated service to the United States.●

HONORING ELMA F. BRITTINGHAM

●Mr. BIDEN. Mr. President, it is with utmost respect and admiration that I rise today to acknowledge the contributions of a woman who, at the age of 99, has never tired of giving her all to her country and to the men and women of the Mill Creek Fire Company—Elma F. Brittingham of Marshallton, Delaware, affectionately known to everyone as ''Mom.'' On May 8, 1999, Mill Creek will honor her at its 72nd Annual Dinner for 72 years of unmatched volunteer service to the Mill Creek Fire Company. Yes, Elma is a charter member of the Mill Creek Fire Company and she remains an institution in the Fire Hall.

This well-deserved recognition is much less than I or anyone in Delaware could ever do to capture just how significant Elma's life has been to everyone with whom she has come in contact. Her legacy is etched in the memory of every fire service professional and volunteer in our State and her life continues to be an inspiration to all of us.

While many remember Elma for her 50 years of preparing turkey dinners for the Annual Volunteer Fire Conference, or her playing Yen Man in the company minstrel show, she is most remembered for her work on the frontline, fighting fires under the most dangerous circumstances. The one she most vividly remembers was during World War II when she helped put out a fire at an old prison farm on Duncan Road in Wilmington during a thunder and lightning storm. With this same energy and vigor, Elma is as spirited

today, five decades later, as she was more than a half-century ago.

I know that there may be someone like Elma Brittingham in other States, but none can be more important to a community than this totally committed, selfless woman that I honor today. She is what we, as Americans, should aspire to be—a loyal public servant, an example of excellence and achievement in everything she has committed to accomplishing, and a credit to her community and to her country. I am deeply privileged to know this woman and proud to call her a heroic Delawarean and an outstanding American.●

TRIBUTE TO BETTY FRANKLIN-HAMMONDS

●Mr. FEINGOLD. On April 28th, Madison lost a dedicated advocate and a dear friend: Betty Franklin-Hammonds.

Betty's life story is a catalogue of remarkable achievements. From her tenure as the executive director of the Madison Urban League, where she spearheaded a study on the gap in achievement between black and white students in the Madison school system, to her leadership at the Madison Times and the numerous awards she received for her work, there are countless examples of Betty's effectiveness as an advocate in the community.

But it was her character, more than any title or award, that defined Betty and made her such a powerful presence in our community. She was a truth teller who never backed down from a fight, a woman who led by example and wasn't shy about asking others to make the commitment to change she demanded from herself.

Betty was a unique combination of a quiet dignity and a fierce passion for justice that could only be quenched by constant motion. She worked tirelessly, as a social worker, at the Madison chapter of the NAACP, at the Urban League, and at the Madison Times, to make our city a better place.

Her own words tell us more about Betty than any tribute ever could. After receiving an award for her humanitarian work, she once told a crowd that ''everybody can be great because everybody can serve.'' By that measure, Betty Franklin-Hammonds was great indeed.●

MORNING BUSINESS

Mr. GRAMM. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

Mr. BURNS. Mr. President, 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. GRAMM. 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. GRAMM. Mr. President, I have several unanimous consent requests. All of them are agreed to on both sides of the aisle. Let me just go through them.

DESIGNATING THE WEEK OF MAY 2 THROUGH 8, 1999, AS THE 14TH ANNUAL TEACHER APPRECIATION WEEK, AND DESIGNATING TUESDAY, MAY 4, 1999, AS NATIONAL TEACHER DAY

Mr. GRAMM. Mr. President, I ask unanimous consent that the Senate now proceed immediately to the consideration of S. Res. 97, submitted earlier today by Senator COVERDELL for himself and others.

The PRESIDING OFFICER. The clerk will report.

The legislative assistant read as follows:

A resolution (S. Res. 97) designating the week of May 2 through 8, 1999, as the 14th annual Teacher Appreciation Week, and designating Tuesday, May 4, 1999, as National Teacher Day.

There being no objection, the Senate proceeded to consider the resolution.

Mr. GRAMM. Mr. President, I ask unanimous consent the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 97) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 97

Whereas the foundation of American freedom and democracy is a strong, effective system of education where every child has the opportunity to learn in a safe and nurturing environment;

Whereas a first rate education system depends on a partnership between parents, principals, teachers, and children;

Whereas much of the success of our Nation during the 20th Century (the American Century) is the result of the hard work and dedication of teachers across the Nation;

Whereas in addition to a child's family, knowledgeable and skillful teachers can have a profound impact on the child's early development and future success;

Whereas many people spend their lives building careers, teachers spend their careers building lives;

Whereas our Nation's teachers serve our Nation's children beyond the call of duty as coaches, mentors, and advisers without regard to fame or fortune; and

Whereas across our Nation nearly 3,000,000 men and women experience the joys of teaching young minds the virtues of reading, writing, and arithmetic: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week of May 2 through 8, 1999, as the ''14th Annual Teacher Appreciation Week'';

(2) designates Tuesday, May 4, 1999, as ''National Teacher Day''; and

(3) calls upon the people of the United States to take a moment out of their busy lives to say thanks and pay tribute to our Nation's teachers.

THE CALENDAR

DANTE B. FASCELL NORTH-SOUTH CENTER ACT OF 1999

Mr. GRAMM. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 73, H.R. 432.

The PRESIDING OFFICER. The clerk will report.

The legislative assistant read as follows:

A bill (H.R. 432) to designate the North/South Center as the Dante B. Fascell North-South Center.

There being no objection, the Senate proceeded to consider the bill.

Mr. GRAMM. Mr. President, I ask unanimous consent that the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, and that the statements relating to the bill appear in the RECORD.

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

The bill (H.R. 432) was considered read a third time and passed.

CONDEMNING THE ESCALATING VIOLENCE, THE GROSS VIOLATION OF HUMAN RIGHTS AND ATTACKS AGAINST CIVILIANS, AND THE ATTEMPT TO OVERTHROW A DEMOCRATICALLY ELECTED GOVERNMENT IN SIERRA LEONE

Mr. GRAMM. Mr. President, I ask unanimous consent that the Senate proceed immediately to the consideration of Calendar No. 74, S. Res. 54.

The PRESIDING OFFICER. The clerk will report.

The legislative assistant read as follows:

A resolution (S. Res. 54) condemning the escalating violence, the gross violation of human rights and attacks against civilians, and the attempt to overthrow a democratically elected government in Sierra Leone.

There being no objection, the Senate proceeded to consider the resolution.

Mr. GRAMM. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and that any statements relating thereto be placed in the RECORD at the appropriate place as if read.

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

The resolution (S. Res. 54) was agreed to.

The preamble was agreed to.

The resolution (S. Res. 54), with its preamble, reads as follows:

S. RES. 54

Whereas the Armed Forces Revolutionary Council (AFRC) military junta and the rebel fighters of the Revolutionary United Front

(RUF) in Sierra Leone mounted a campaign of ''Operation No Living Thing'' in 1997 and have recently renewed the terror;

Whereas the atrocities and violence against the citizens of Sierra Leone, which include forced amputations, raping of women and children, pillaging farms, and the killing of the civilian population, has continued for more than 8 years;

Whereas the AFRC and RUF continue to kidnap children, forcibly train them, and send them as combatants in the conflict in Sierra Leone;

Whereas the Nigerian-led intervention force, Economic Community Monitoring Group (ECOMOG), which has deployed nearly 15,000 troops to Sierra Leone, has made a considerable contribution towards ending the cycle of violence there, despite the fact that some of its members have engaged in violations of humanitarian law;

Whereas the United Nations High Commissioner for Refugees (UNHCR) estimates that in 1998 more than 210,000 refugees fled Sierra Leone to Guinea, bringing the total number of Sierra Leonean refugees in Guinea to 350,000, in addition to some 90,000 Sierra Leonean refugees who sought safe haven in Liberia;

Whereas the refugee camps in Guinea and Liberia are at risk of being used as safe havens for rebels and staging areas for attacks into Sierra Leone;

Whereas the humanitarian crisis in Sierra Leone has reached epic proportions with people dying from lack of food and medicine; and

Whereas the escalating violence in Sierra Leone threatens stability in West Africa and has the immediate potential of spreading to neighboring Guinea: Now, therefore, be it

Resolved, That the Senate—

(1) urges the President and the Secretary of State to give high priority to aiding in the resolution of the conflict in Sierra Leone and to bringing stability to West Africa, including active participation and leadership in the Sierra Leone Contact Group;

(2) condemns—

(A) the violent atrocities committed by the Armed Forces Revolutionary Council (AFRC) and the Revolutionary United Front (RUF) throughout the conflict, and in particular its attacks against civilians and its use of children as combatants; and

(B) those external actors, including Liberia, Burkina Faso, and Libya, for contributing to the continuing cycle of violence in Sierra Leone by providing financial, political, and other types of assistance to the AFRC or the RUF, often in direct violation of the United Nations arms embargo;

(3) supports continued efforts by the regional peacekeeping force, ECOMOG, to restore peace and security and to defend the democratically elected government of Sierra Leone;

(4) recognizes that basic improvements in ECOMOG's performance with respect to human rights and the management of its own personnel would markedly improve its effectiveness in achieving its goals and improve the level of international support needed to meet those goals;

(5) supports appropriate United States logistical, medical and political support for ECOMOG and notes the contribution that such support has made thus far toward achieving the goals of peace and stability in Sierra Leone;

(6) calls for an immediate cessation of hostilities and respect for human rights, and urges all members of the armed conflict in Sierra Leone to engage in dialogue to bring about a long-term solution to such conflict; and

(7) expresses support for the people of Sierra Leone in their quest for a democratic, prosperous, and reconciled society.

EXPRESSING THE SENSE OF THE SENATE REGARDING THE TREATMENT OF WOMEN AND GIRLS BY THE TALIBAN IN AFGHANISTAN

Mr. GRAMM. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 75, S. Res. 68.

The PRESIDING OFFICER. The clerk will report.

The legislative assistant read as follows:

A bill (S. Res. 68) expressing the sense of the Senate regarding the treatment of women and girls by the Taliban in Afghanistan.

There being no objection, the Senate proceeded to consider the resolution.

Mrs. BOXER. Mr. President, I am so pleased that the Senate will stand up for the rights of women and pass S. Res. 68, a resolution condemning the Taliban's treatment of women and girls in Afghanistan. I especially thank Senator BROWNBACK in joining me as the main cosponsor of this resolution.

The Taliban is a militia group that now controls between 85–90 percent of Afghanistan. People living under its rule are subjected to an extreme interpretation of Islam practiced nowhere else in the world. It is especially repressive on women living in Afghanistan.

Under Taliban rule, women and girls in Afghanistan are denied even the most basic human rights. They cannot work outside the home, attend school, or even wear shoes that make noise when they walk. Women who are in their homes are not allowed to be seen from the street, and houses with female occupants must have their windows painted over. Parents cannot teach their daughters to read, or take their little girls to be treated by male doctors.

Women are also forced to wear a full head-to-toe garment called a burqa. This restrictive covering allows only a tiny opening to see and breathe through. I understand that some women may choose to wear a burqa for religious reasons—that should be their right. However, the requirement that women wear a burqa is a clear violation of human rights. And further, the rules surrounding this requirement are frightening.

Women found in public who are not wearing a burqa are beaten by Taliban militiamen. If they wear a burqa and their ankles are showing, they are beaten as well. Poor women who cannot afford a burqa are forced to stay at home, preventing them from receiving medical care.

The Physicians for Human Rights recently conducted a study of 160 women in Afghanistan and their findings are horrific.

The study found that 77 percent of women had poor access to health care in Kabul, while another 20 percent reported no access at all. Of the participants, 81 percent reported a decline in their mental condition; 97 percent met the diagnostic criteria for depression; 42 percent met the diagnostic criteria for post-traumatic stress disorder; and 21 percent reported having suicidal thoughts ''extremely often'' or ''quite often.'' In addition, 53 percent of women described occasions in which they were seriously ill and unable to seek medical care.

The resolution passed today calls on the President of the United States to prevent a Taliban-led government of Afghanistan from taking a seat in the United Nations General Assembly, as long as these gross violations of human rights persist.

My resolution also urges the Administration not to recognize any government in Afghanistan which does not take actions to achieve the following goals: effective participation of women in all civil, economic, and social life; the right of women to work; the right of women and girls to an education without discrimination and the reopening of schools to women and girls at all levels of education; the freedom of movement of women and girls; equal access of women and girls to health care; equal access of women and girls to humanitarian aid.

It is shocking that women and girls in Afghanistan are suffering under these conditions as we approach the 21st century. The United States has an obligation to take the lead in condemning these abuses.

I want to thank the majority and minority leaders for allowing this legislation to come to the floor, and I appreciate the support from the many cosponsors of this resolution who are working to end human rights abuses against women in Afghanistan.

Mr. GRAMM. Mr. President, I understand that Senator BOXER has amendments to the resolution and the preamble at the desk.

I ask unanimous consent that the amendments to the resolution be agreed to, that the resolution, as amended, be agreed to, and the motion to reconsider be laid upon the table, that the amendment to the preamble be agreed to, and the preamble, as amended, be agreed to with no intervening action.

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

The amendments (Nos. 305 and 306) were agreed to as follows:

AMENDMENT NO. 305

(Purpose: To improve the resolution)

On page 3, line 4, strike ''the'' and insert ''any''.

AMENDMENT NO. 306

(Purpose: To improve the preamble)

Amend the preamble to read as follows:

Whereas millions of women and girls living under Taliban rule Afghanistan are denied their basic human rights;

Whereas according to the Department of State and international human rights organizations, the Taliban continues to commit

widespread and well-documented human rights abuses, in gross violation of internationally accepted norms;

Whereas, according to the United States Department of State Country Report on Human Rights Practices (hereafter ''1998 State Department Human Rights Report''), violence against women in Afghanistan occurs frequently, including beatings, rapes, forced marriages, disappearances, kidnapings, and killings;

Whereas women and girls under Taliban rule are generally barred from working, going to school, leaving their homes without an immediate male family member as chaperone, and visiting doctors, hospitals or clinics;

Whereas according to the 1998 State Department Human Rights Report, gender restrictions by the Taliban continue to interfere with the delivery of humanitarian assistance to women and girls in Afghanistan;

Whereas according to the 1998 State Department Human Rights Report, under Taliban rule women are forced to don a head-to-toe garment known as a burqa, which has only a mesh screen for vision, and many women found in public not wearing a burqa, or wearing a burqa that does not properly cover the ankles, are beaten by Taliban militiamen;

Whereas according to the 1998 State Department Human Rights Report, some poor women under Taliban rule cannot afford the cost of a burqa and thus are forced to remain at home or risk beatings if they go outside the home without one;

Whereas according to the 1998 State Department Human Rights Report, the lack of a burqa has resulted in the inability of some women under Taliban rule to get necessary medical care because they cannot leave home;

Whereas according to the 1998 State Department Human Rights Report, women under Taliban rule reportedly have been beaten if their shoe heels click when they walk;

Whereas according to the 1998 State Department Human Rights Report, under Taliban rule women in homes must not be visible from the street, and houses with female occupants must have their windows painted over;

Whereas according to the 1998 State Department Human Rights Report, under Taliban rule women are not allowed to drive, and taxi drivers reportedly have been beaten if they take unescorted women as passengers;

Whereas according to the 1998 State Department Human Rights Report, women under Taliban rule are forbidden to enter mosques or other places of worship; and

Whereas women and girls of all ages under Taliban rule have suffered needlessly and even died from curable illness because they have been turned away from health care facilities because of their gender: Now, therefore, be it

The resolution (S. Res. 68), as amended, was agreed to.

The preamble, as amended, was agreed to.

The resolution, as amended, with its preamble, as amended, reads as follows:

[The resolution was not available for printing. It will appear in a future edition of the RECORD.]

ORDERS FOR THURSDAY, MAY 6, 1999

Mr. GRAMM. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9:30 a.m. on Thursday, May 6. I further ask consent that on Thursday immediately following the prayer the routine requests through the morning hour be granted, the time for the two leaders be reserved for their use later in the day, that the Senate then resume consideration of S. 900, and Senator GRAMM be recognized in order to offer an amendment as under the original consent agreement.

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

PROGRAM

Mr. GRAMM. For the information of all Senators, tomorrow the Senate will resume consideration of the Financial Services Modernization Act, with Senator GRAMM immediately recognized to offer his amendment.

It is hoped that the bill will be completed during Thursday's session of the Senate. Therefore, rollcall votes will occur throughout tomorrow's session of the Senate.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. GRAMM. Mr. President, 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 7:45 p.m., adjourned until Thursday, May 6, 1999, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate May 5, 1999:

DEPARTMENT OF LABOR

EDWARD B. MONTGOMERY, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF LABOR, VICE RICHARD M. MCGAHEY.

DEPARTMENT OF STATE

DAVID B. DUNN, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ZAMBIA.

EXTENSIONS OF REMARKS

HONORING ANGELA LOIS GREEN AND ALEXANDER TODD HEWLETT

HON. CHET EDWARDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1999

Mr. EDWARDS. Mr. Speaker, I rise today to offer my best wishes to Angela Lois Green and Alexander Todd Hewlett on their upcoming wedding. Miss Green and Mr. Hewlett will be united in holy matrimony on May 8, 1999 at seven o'clock in the evening at St. Paul's United Methodist Church in Houston. Reverend L. James Bankston will officiate the candlelight double-ring ceremony.

The bride is the daughter of Congressman and Mrs. GENE GREEN of Houston. She is the granddaughter of Mrs. Mildred Albers and the late Leon Albers of Houston, and Mr. and Mrs. Garland Green of Bedford, Pennsylvania. The groom is the son of Mr. and Mrs. Robert Hewlett of Tucson, Arizona. He is the grandson of the late Mr. and Mrs. Frank Watkins, and of the late Mr. and Mrs. Floyd Hewlett, both of Tucson, Arizona.

Serving as Matron on Honor will be Sarah Goggans. Melissa Murray will serve as Maid of Honor. Bridesmaids will include Marina Monteforte, Erin Mireur, and Karen Zientek. Members of the House Party will be Karen Rudich, Amy White, and Nichole Sepulvado.

Serving his brother as Best Man will be Andrew Hewlett. Groomsmen will be Scott Davis, Brian Somers, Babak Mokari, and Chris Green, brother of the bride. Tony Chacon, Brian Ledden, and Matt Thompson will serve as ushers.

Angela is a 1993 Honor graduate of Aldine High School in Houston. She was a member and section leader of the Aldine Band, a member of the Honor Society, and served as President of the Student Council. In 1998, she earned a Bachelor of Arts in Biology from the University of Texas at Austin, where she was a member and President of Alpha Xi Delta, and was a Robert C. Byrd Honor Scholar. She also served as Executive Vice President of the Panhellenic Council in 1996–97. She was recently elected President of the American Medical Students Association at the University of Texas Medical Branch in Galveston, where she is currently a second-year medical student.

Alex is a 1992 graduate of Sabino High School in Tucson, Arizona, where he was a member of the state champion Sabino Sabercats football team. In 1996, he earned a Bachelor of Arts in Chemistry from Pomona College in Claremont, California, where he was a member of Sigma Tau fraternity, and played football for the Pomona College Sagehens. Alex is a fourth-year medical student at Ohio University College of Osteopathic Medicine in Athens, Ohio. He received the Tucson Osteopathic Foundation Scholars Award in 1997. He did clinical research at Memorial Sloan-Kettering Cancer Center in New York City during the summer of 1997. He is currently doing clinical rotations at St. John West Shore Hospital in Cleveland, Ohio, where he is the CORE Site Representative.

As Angela and Alex begin their new life together, may they always remember I Corinthians, which states: Love is patient and kind, love is not jealous or boastful; it is not arrogant or rude. Love does not insist on its own way; it is not irritable or resentful; it does not rejoice at wrong, but rejoices in the right. Love bears all things, believes all things, hopes all things, endures all things. Love never ends.

I would like to express my congratulations to Congressman GREEN and his wife Helen. I also ask that the House join me in wishing Angela and Alex a long and fruitful marriage. May their love continue to grow.

MEETING OUR COMMITMENT TO FUNDING SPECIAL EDUCATION

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1999

Mr. BONIOR. Mr. Speaker, as I meet with teachers, school administrators and school board members in Michigan's 10th Congressional District, one thing becomes clear—paying for the costs of teaching children with special needs is expensive.

Families with special needs children face unique challenges. I believe their children should be able to learn in the least restrictive environment. But that also means we have an obligation to help provide our schools with the tools they need to do the job. When it comes to educating our children—particularly for those who have special needs—we all have a role to play.

When the Individuals with Disabilities Education Act (IDEA) was first enacted in 1975, Congress committed to funding 40 percent of the cost. Unfortunately, the federal government has consistently fallen short of this goal. As special education costs continue to rise, we fall further behind. Currently, federal support for special needs education is at 12 percent. During such a prosperous moment in our history, surely we can do more to help our local communities and educators provide a thriving learning environmental for our children who face the most challenges.

We need to step up to the plate and fulfill our commitment to our local schools. That is why I have joined a number of my colleagues in writing the President asking him to support a substantial increase in federal funding for special education, and it is why I believe we should fully fund the IDEA Act.

As we debate our budget priorities, I will continue to work with our families and local schools to provide support for improving education for all our children. I am committed to ensuring that public education is among our highest budget priorities.

TRIBUTE TO THE WOMEN OF LAWTON

HON. J.C. WATTS, JR.

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1999

Mr. WATTS of Oklahoma. Mr. Speaker, I would like to recognize the efforts of the women of Lawton who are organizing ''Lawton Women Unity '99,'' a day to recognize the accomplishments, the strengths, and the very being of womanhood. Hosted by ''Created in His Image Ministries,'' on Saturday, May 8, 1999, the women of Lawton are invited to meet at the Lawton City Hall and encircle the building with a human prayer chain. They will pray for the women in Littleton, Colorado who have lost their children, as well as for others who have lost their children to violence. They will lift up the women in Kosovo and the leaders of the United States and the Lawton locality. They will pray for the needs of Lawton and Fort Sill.

The women of Lawton celebrate womanhood in the name of God and offer this open invitation to all women. It is the compassion of a woman, the deep love of a woman, and the tears of a woman that God calls for to affect change in the land. The Lawton women would like to encourage other groups with common interests in the name of women and God to organize similar events. It is the hope of the women of Lawton that the ''Lawton Women Unity '99'' will set a precedent in the celebration of the unity of womanhood and that the event will blossom to include statewide and nationwide participation in like events.

Mr. Speaker, it is with great pride that I recognize the efforts of the women of Lawton. These women set an example for women, and men, across the nation to follow at a time when our nation cries for restoration and unity of our people is of utmost importance.

STOP THE INHUMANE TREATMENT OF DOGS AND CATS

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1999

Mr. KLECZKA. Mr. Speaker, on April 29, 1999 I introduced the Dog and Cat Protection Act. I was appalled to learn about the use of dog and cat fur on coats, toys, and other merchandise as profiled in a recent segment of ''Dateline NBC''. Immediately thereafter, I began drafting legislation to end this abusive practice. While crafting this measure, I contacted the Humane Society of the United States for their input. As a result of these efforts, I introduced H.R. 1622, the Dog and Cat Protection Act.

An estimated 2,000,000 dogs and cats are slaughtered and sold annually as part of the international fur trade. Many of these animals

are raised in deplorable conditions. Unfortunately, there are no federal laws to prohibit the importation, manufacture, transport or sale of any product made with dog and cat fur. The only provision in law to regulate the importation of products made with cat and dog fur is the Fur Products Labeling Act (FPLA). The FPLA and its regulations simply require that any product with a value of more than $150 contain a label informing a consumer that it contains animal fur. Any product worth less than $150 is exempted from the labeling requirement.

My legislation would impose a ban on all products entering the United States made with cat and dog fur. In order to prevent a foreign importer from establishing operations in the United States, H.R. 1622 would also prevent the sale, manufacture, transport, or advertisement of any product made domestically with cat and dog fur.

Furthermore, H.R. 1622 would give additional authority to the Customs Service to inspect products entering the United States to ensure they do not contain cat and dog fur. Violators of the ban would be subject to both civil and criminal penalties. Furthermore, persons found to be in violation of the ban would face the prospect of being permanently prohibited from selling any fur product in the United States.

The Dog and Cat Protection Act also amends the Fur Products Labeling Act to require all fur products entering the United States—regardless of their value—to contain a label showing their true content. This means those persons who try to mislabel products in order to get around the ban contained in my legislation would face additional penalties under the Fur Products Labeling Act. The additional labeling requirements will also help the Customs Service in their enforcement efforts.

Mr. Speaker, it is time to put an end to the inhumane treatment of dogs and cats once and for all. I urge my colleagues to become cosponsors of H.R. 1622.

INTRODUCTION OF LEGISLATION TO SUSPEND DUTIES ON IMPORTED RAW MATERIAL

HON. JIM McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1999

Mr. McDERMOTT. Mr. Speaker, today I am introducing legislation which supports important regional and national interests.

My home, the 7th Congressional District of Washington, is also the home of the K2 Corp., the last remaining major U.S. manufacturer of skis and one of three major makers of snowboards in the United States. K2 conducts all significant manufacturing operations for skis and snowboards at its Vashon Island, Washington facility. In fact, all K2 snowboards and virtually all K2 and Olin-brand skis sold throughout the world are individually crafted by technicians on Vashon Island. Moreover, K2 sources almost all of the components for its skis and snowboards in the U.S. stimulating the U.S. economy through its purchases of raw materials from U.S. suppliers, especially in the Pacific Northwest region of the country. However, for a key ski and snowboard component—polyethylene base materials—K2 has been unable to find a supplier of these products in the U.S. that can meet its needs. Therefore, K2 has been forced to import this product, which is subject to U.S. customs duties upon importation. This legislation provides for a temporary suspension of customs duty on the raw material which is vital to the U.S. production of skis and snowboards and which are unavailable from domestic producers.

K2 is working hard to remain viable in the highly competitive international market for skis and snowboards. In fact, K2 has endured as a U.S. ski manufacturer in the face of fierce price competition, while several other major ski companies no longer manufacture skis in the U.S. This temporary duty suspension legislation would support jobs in the region, as well as K2's ability to continue developing innovative, fine quality products. Equally important, a temporary duty suspension would help K2 preserve and increase its competitiveness in the global marketplace.

K2 is the only major exporter of skis made in the U.S. In addition, K2 is one of three principal exporters of U.S. made snowboards. Thus, K2's exports of U.S. manufactured skis and snowboards represent a substantial percentage of U.S. skis and snowboards sold worldwide. If K2 is unable to remain competitive in global and domestic markets, skis manufactured in the U.S. may disappear from the global marketplace. The temporary duty suspension proposed by this legislation would help prevent the shutdown of the only remaining U.S. producer of skis.

OPPOSING NATIONAL TEACHER CERTIFICATION OR NATIONAL TEACHER TESTING

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1999

Mr. PAUL. Mr. Speaker, I rise to introduce legislation to forbid the use of federal funds to develop or implement a national system of teacher certification or a national teacher test. My bill also forbids the Department of Education from denying funds to any state or local education agency because that state or local educational agency has refused to adopt a federally-approved method of teacher certification or testing. This legislation in no way interferes with a state's ability to use federal funds to support their chosen method of teacher certification or testing.

Having failed to implement a national curriculum through the front door with national student testing (thanks to the efforts of members of the Education Committee under the leadership of Chairman GOODLING), the administration is now trying to implement a national curriculum through the backdoor with national teacher testing and certification. National teacher certification will allow the federal government to determine what would-be teachers need to know in order to practice their chosen profession. Teacher education will revolve around preparing teachers to pass the national test or to receive a national certificate. New teachers will then base their lesson plans on what they needed to know in order to receive their Education Department-approved teaching certificate. Therefore, I call on those of my colleagues who oppose a national curriculum to join me in opposing national teacher testing and certification with the same vigor with which you opposed national student testing.

Many educators are already voicing opposition to national teacher cerification and testing. The Coalition of Independent Education Associations (CIEA), which represents the majority of the over 300,000 teachers who are members of independent educators associations, has passed a resolution opposing the nationalization of teacher certification and testing; I have attached a copy of this resolution for insertion into the CONGRESSIONAL RECORD. As more and more teachers realize the impact of this proposal, I expect opposition from the education community to grow. Teachers want to be treated as professionals, not as minions of the federal government.

Legislation has already been introduced in the Texas State Legislature prohibiting the use of any national certification or national examination to determine if someone is qualified to teach in Texas. While I applaud this legislation, I wonder if Texas would change its' policies if the Department of Education threatened to deny Texas federal funds if Texas failed to adopt the Department's chosen method of teacher certification and testing. It is up to Congress to see that the Department of Education does not bully the states into adopting the method of teacher certification and testing favored by DC-based bureaucrats.

In conclusion, Mr. Speaker, I once again urge my colleagues to join me in opposing national teacher certification or national teacher testing. Training and certification of classroom teachers is the job of state governments, local school districts, educators, and parents; this vital function should not be usurped by federal bureaucrats and/or politicians. Please stand up for America's teachers and students by signing on as a cosponsor of my legislation to ensure taxpayer dollars do not support national teacher certification or national teacher testing.

COALITION OF INDEPENDENT EDUCATION ASSOCIATIONS—STATEMENT ON NATIONAL TEACHER LICENSURE, FEBRUARY 26, 1999

The licensure of teachers should remain the responsibility of each state's Board of Education and any attempt to authorize the federal government to govern this process should be opposed.

Secretary of Education Richard Riley's proposal (February 16, 1999) to empower a teacher panel to grant licenses for teaching would remove the separate state's authority to protect the welfare of the general public.

Teaching is a public enterprise and not a private profession.

Such high stakes licensure decisions must be controlled by a body that is responsible to the public and has accountability for the quality of the decision.

The current education reform movement has compelled states' Boards of Education to revamp and improve teacher licensure programs. This right should be left to the states to best determine how they license state teachers.

Congress should oppose any movement toward federalizing educator licensure, teacher appraisal, and employment contracts.

The undersigned representatives of the Coalition of Independent Education Associations strongly urge our members of the Congress and the Senate to vigorously defend the rights of states to control their educational destiny.

Arizona Professional Educators, Association of American Educators, Association of Professional Educators of Louisiana, Association of Professional

Oklahoma Educators, Association of Texas Professional Educators, Kentucky Association of Professional Educators, Keystone Teachers Association, West Virginia Professional Educators, Mississippi Professional Educators, National Association of Professional Educators, Palmetto State Teachers Association, Professional Educators Network of Florida, Professional Educators of Iowa, Professional Educators of North Carolina, Professional Educators of Tennessee.

PERSONAL EXPLANATION

HON. JULIA CARSON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1999

Ms. CARSON. Mr. Speaker, I was unavoidably absent on Tuesday, May 4, 1999, and early today, Wednesday, May 5, 1999, and as a result, missed rollcall votes 105 through 109. Had I been present, I would have voted ''yes'' on rollcall vote 105, ''yes'' on rollcall vote 106, ''yes'' on rollcall vote 107, ''present'' on rollcall vote 108, and ''no'' on rollcall vote 109.

EXPRESSING SENSE OF HOUSE IN SUPPORT OF AMERICA'S TEACHERS

SPEECH OF

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 4, 1999

Mr. CLEMENT. Mr. Speaker, as the co-chair of the House Education Caucus and as a parent, I rise today to honor the outstanding work our teachers do every day. Their dedication and expertise form the cornerstone of our nation's education system. They are there for our children, often under trying circumstances and with less than adequate resources and support. They perform daily miracles in their classrooms.

Few other professionals touch as many in as many different ways as teachers do. Teaching children math, English, science and history is only the beginning of what teachers do. They are listeners, advocates, support people, role models, mentors and motivators. They encourage children to reach farther than they ever thought possible and they are there to catch their students if they should slip.

Teachers often put countless extra hours outside of the classroom preparing lessons, reading and correcting papers, and working with students who need just a little extra help. They do this because they love their job, care about their students and are committed to ensuring that our children have the best chance at success.

I believe that we can go a long way in improving our country's education system by exhibiting respect for our teachers and by letting them know how much we value their contributions. I urge my colleagues to recognize teachers for the significant role they play in our lives and in the well-being of our nation. As a Member of this House, as the co-chair of the Education Caucus and as a parent of two high school daughters, I thank the thousands of teachers who have dedicated themselves to educating and believing in our children.

IN COMMEMORATION OF THE FOURTH ANNUAL BLUE MASS

HON. JAMES P. McGOVERN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1999

Mr. MCGOVERN. Mr. Speaker, I rise today in order to recognize the celebration of the Fourth Annual Blue Mass in Worcester County. The Diocese of Worcester will host this event on Sunday, May 2, 1999, in tribute to all law enforcement personnel who honorably serve our local communities.

A special memorial service will be held prior to the Mass to honor those who have died since last year's Blue Mass. Those being remembered are Lieutenant Joseph R. Ripel of the Massachusetts State Police, Sergeant John J. Lesczynski of Worcester Police Department, and Patrolman Mark McEachern of the Boylston Police Department. They served with pride and are true role models for our youth.

Four new awards are being instituted this year in dedication to law enforcement.

The Distinguished Law Enforcement Award will be presented jointly to Sergeant Vincent Gorgoglione, Supervisor of the Worcester Police Department Domestic Violence Unit and Christine Kelly, Program Coordinator for the Worcester Intervention Network.

The Award for Excellence in Law Enforcement Education will be bestowed upon former Attorney General Robert Quinn in recognition of the establishment of the Quinn Law.

The Outstanding Community Service Award is being presented to the entire Holden Police Department. The Holden police officers have committed themselves to serving the students of Holden, MA. Through such programs as the Adopt-A-School Officer for every grade school, Thursday night basketball, and public safety days, these officers have made outstanding contributions to their town, paying special attention to the needs of the student population.

Finally, the Interfaith Award is being awarded to Lieutenant Paul Bozicas of the Fitchburg Police Department, who is active in a variety of civic and charitable activities, including the Charity Five Road Race, Citizen's Police Academy, and the Department's Employee Assistance Unit.

Mr. Speaker, it is with pride that I rise today to acknowledge the Fourth Annual Blue Mass and the law officials being honored. It is a befitting celebration to remember and acknowledge those who do so much.

DEMOCRACY AS A UNIVERSAL VALUE

HON. DAVID E. PRICE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1999

Mr. PRICE of North Carolina. Mr. Speaker, I wish to call to the attention of my colleagues a piece by Stephen Rosenfeld from the Washington Post of March 12, 1999. It highlights the eloquent words spoken by India's Nobel laureate economist Amartya Sen at the ''World Movement for Democracy'' conference recently held in New Delhi, India.

I attended the conference and served on an opening panel with my colleagues Representative GARY ACKERMAN, Representative JIM MCDERMOTT, and Representative LLOYD DOGGETT. The international event was cosponsored by the National Endowment for Democracy (NED), as well as two Indian partner organizations. I was impressed by the extraordinary commitment of the participants, representing over 80 countries from all parts of the world, to the shared values of freedom, rule of law, and human rights. The conference adopted a founding document establishing a ''Worldwide Movement for Democracy,'' the purpose of which is to develop new forms of cooperation to promote and strengthen democracy.

NED deserves commendation for organizing this conference. NED grants have supported nongovernmental, pro-democratic programs in dozens of countries around the world. The ''World Movement for Democracy'' is yet another example of NED's outstanding work to advance the cause of democracy worldwide.

[From the Washington Post, Mar. 12, 1999]

THE ECONOMIC USES OF DEMOCRACY

(By Stephen S. Rosenfeld)

The political blessings of democracy are manifest, but that leaves many poor countries still worrying whether democracy is a burden or a benefit to their economic development. This nagging question was tackled in New Delhi last month by a leading student of the affairs of the poor, India's Nobel economist Amartya Sen. There for the founding of a ''World Movement for Democracy'' by the U.S. National Endowment for Democracy, he took up the congenial theme of ''democracy as a universal value.''

Sen acknowledged the high growth delivered in Singapore by the authoritarian approach identified with former president Lee Kuan Yew. But a view of ''all the comparative studies together,'' he said, suggests there may be no relation between economic growth and democracy in either direction. Still, none of the policies proven helpful to development—openness to competition, use of international markets and so on—is inconsistent with greater democracy. ''Overwhelming evidence'' indicates that what generates growth is a friendlier economic climate, not a harsher political system.

Democracy has further economic uses. Sen noted ''the remarkable fact'' that in the terrible history of famines in the world, no substantial famine has ever occurred in any independent and democratic country with a relatively free press. Immense famines have afflicted countries with dictatorial or alien regimes. Dictorial: the Soviet Union in the 1930s, China in 1958–61 (30 million dead) and the two current cases of North Korea and Sudan. Alien: British-ruled Ireland and India.

Meanwhile, even the poorest democratic countries have avoided threatened famine. The difference is that the democratic places have a responsive government able to intervene to alleviate hunger. India had famines under British rule right up to independence. With the establishment of a multiparty democracy and a free press, they disappeared. What Sen calls the ''protective power of democracy'' has spared many countries a ''penalty of undemocratic governance.''

The pattern extends to Asia's current travails. Sen believes that financial crisis in South Korea, Thailand and Indonesia is closely linked to a lack of transparency, to

the lack of public participation in reviewing financial arrangements. And once the crisis degenerated into recession, ''the protective power of democracy'' was simply not available to ensure spreading the burden of a cruel economic contraction.

Such a protective power, Sen argues, is of particular importance for the poor, for potential famine victims, for the destitute thrown off the economic ladder in a financial earthquake: ''People in economic need also need a political voice.'' With evident pride he notes that in the mid-1970s, the Indian electorate—''one of the poorest of the world''—affirmed its democratic disposition by voting out a government that had proclaimed emergency rule and abridged the people's rights.

As for cultural differences, a common claim is that Asians traditionally value discipline over political freedom. Sen finds that hard to accept. He is in a position, as few of us are, to range over the texts of diverse Asian cultures and to contend with assorted practitioners and scholars in the field.

His conclusion: ''The monolithic interpretation of Asian values as hostile to democracy and political rights does not bear critical scrutiny.'' Such an interpretation comes from politicians, not scholars: ''to dismiss the plausibility of democracy as a universal value on the ground of the presence of some Asian writings on discipline and order would be similar to rejecting the plausibility of democracy . . . on the basis of the writings of Aquinas or Plato.''

The many merits of democracy, Sen concludes, ''are not regional in character. Nor is the advocacy of discipline or order in contrast with freedom and democracy. Heterogeneity of values seems to characterize most, perhaps all, major cultures. The cultural argument does not foreclose, nor indeed deeply constrain, the choices we can make today.''

It was a felicitous stroke for the National Endowment for Democracy to recruit Amartya Sen as the herald of its attempt to put achieved and aspiring democrats in closer touch with one another. The Internet makes the mechanics of it easy. The wisdom of the man illuminates the core idea: Democracy is universal.

IMPROVING MEDICARE QUALITY THROUGH PURCHASING: THE OHIO EXPERIENCE

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1999

Mr. STARK. Mr. Speaker, three weeks ago, I introduced H.R. 1392, the ''Centers of Excellence'' bill. H.R. 1392 would allow Medicare to provide incentives for beneficiaries to use certain high-volume, high-quality facilities. This initiative would both save lives, and save money for Medicare.

It is a widely acknowledged fact that facilities that perform large numbers of complex procedures have lower mortality rates and fewer adverse outcomes. These facilities, known as ''Centers of Excellence,'' have become an important private sector tool for quality improvement and cost containment.

An April 22 article in the Wall Street Journal highlighted an Ohio HMO with a Centers of Excellence program for heart procedures. After automatically removing facilities that performed fewer than 250 heart procedures per year from their list of preferred providers, the HMO conducted an extensive quality survey to determine the rating of the remaining facilities. This resulted in several more facilities being removed from the list, including some very reputable hospitals in the area. The Ohio experience showed that facilities with the best reputations for excellence did not necessarily have the best outcomes.

Being removed from the Ohio HMO's preferred provider list was a strong competitive incentive for lower-quality facilities to improve their procedures. For one facility, the rate of heart attack following bypass surgery dropped from 2.8 percent in 1993 to 0.9 percent in 1997. A national ''Centers of Excellence'' program would likely have the same result, spurring facilities with a lower quality rating to improve their services and raising quality standards overall.

Not only will H.R. 1392 improve quality, it will also lower costs for Medicare. Fewer complications after surgery mean less follow up care and fewer medical expenses. Targeting patient volume to certain facilities can also result in discounted prices.

Although ''Centers of Excellence'' passed the House in 1997, political motivations have kept it from becoming law. quality health care should not be a pawn in the political chess game. We have a second chance to implement this important change for Medicare. I strongly urge my colleagues' support for H.R. 1392.

CAN PARENTS UTTER HARDEST WORD OF ALL?

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1999

Mr. PORTMAN. Mr. Speaker, the recent shootings at Columbine High School in Littleton, CO, have shocked the entire Nation.

As a legislator and as a parent of three young children, I am concerned about the overall environment in which today's kids are being raised. Today's fast-paced world of the Internet, video games, and increasingly violent pop culture bears little resemblance to the America in which so many parents from my generation were raised. The increase of the incidences and ferocity of school violence are a cause for deep concern—and a call to action.

During the coming weeks and months, here in the Halls of Congress—and in school board meeting rooms, city council chambers, and in state legislatures around the country—our Nation will discuss what we can do to prevent another tragedy like Littleton. Some of the ideas we will discuss will be helpful and should be adopted. Other proposals will make us feel as through we're doing something, but will do nothing to prevent the root causes of school violence.

Throughout this national dialog, I hope we do not overlook the one obvious and essential ingredient to preventing these senseless acts of violence. There is nothing more powerful than an active, concerned, and caring parent. I've seen it personally in my work on the problem of reducing teenage substance abuse and have read it in countless studies on reshaping adolescent behavior.

Mr. Speaker, I would like to enter a thoughtful and insightful piece by author and columnist Laura Pulfer from yesterday's Cincinnati Enquirer into the CONGRESSIONAL RECORD which addresses the urgent need for new parenting.

[From the Cincinnati Enquirer, May 4, 1999]

CAN PARENTS UTTER HARDEST WORD OF ALL?

(By Laura Pulfer)

Some hard things must be said if we are to be honest about this thing that happened in Littleton. If we are to learn anything, if we are to let it be important.

The first thing is that the young men who killed the children at the high school do not belong among the victims' names—even if the in-crowd made their lives a living hell. At the memorial site near Columbine High School, an Illinois carpenter erected a set of 8-foot-high wooden crosses, 15 of them, including two memorializing the killers.

FEELING GUILTY?

An angry father of one of the victims took down the crosses for Dylan Klebold and Eric Harris, saying it wasn't appropriate to honor the shooters in the same spot. Well, of course not. What the killers did at this high school is monstrous. We might forgive then, but we will not award them martyrdom.

And however, nervous—however guilty—we suburban people of means are prepared to be about our skills as parents, about our two-paycheck homes, we can say so aloud. Monstrous. The murderers took guns of incredible destruction—weapons built to perform exactly as they did—and moved from classmate to classmate, blowing them away, surely with bits of bone and brain and blood clinging to their celebrated black trench coats.

This is something evil. And we need to say so. This is not the time to be our famously flexible selves with our flexible time, flexible mortgages, flexible morals.

Right and wrong. Good and bad. Yes and no.

We can say these words, especially to our children. In fact, it is our duty. There is a reason human offspring are sent home from the hospital with a couple of parents instead of a Visa card and the keys to an apartment. They are unformed. And uninformed. We're supposed to fill them in.

KEEPING TABS

They don't need us to be their buddies. They have younger, cooler people willing to do that. They need snoopy, pushy, loving, know-it-all parents.

A study presented Monday to the Pediatric Academic Societies convention reports that children of parents who keep close tabs on them are less likely to get in trouble. Do you suspect our parents already knew this? You know, the generation who set curfews, made us work for our spending money, made us answer a lot of annoying questions before they would allow us out of the house, nagged us about our hair and clothes.

Dr. Susan Feigelman, a University of Maryland researcher who led the study, advised parents to check up on their children's friends. This is a shocking notion for many enlightened former flower children.

Researchers surveyed children ages 9–15 over a four-year period. The group was asked whether their parents knew where they were after school, whether they were expected to call and say where they were going and with whom, whether their parents knew where they were at night.

Children monitored by their parents were less likely to sell drugs or use them. They were less likely to drink alcohol or have unprotected sex. Dr. Feigelman said the study showed that peer groups became more influential as children get older.

Probably peer groups and everything else. So it only makes sense for parents to monitor that, too. That's not repressive. That's not illegal. That is our job.

If a Marilyn Manson concert is unsuitable for viewing now, why not next month? If a gun show is inappropriate in the wake of the terrible crime committed with them in Littleton, why not forever? If a violent television show is too graphic today, how about tomorrow?

And when it becomes apparent that children are tormenting each other, adults need to intervene. Stop it. Even if the tormentors are popular athletes.

We have to start saying some hard things. To each other. But especially to our children.

Beginning with ''no.''

RECOGNIZING THE 25TH ANNIVERSARY OF THE WIC PROGRAM

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1999

Mrs. MINK of Hawaii. Mr. Speaker, I am very pleased to note that today marks the 25th anniversary of the Special Supplemental Program for Women, Infants, and Children—better known as WIC.

I was a member of Congress when the WIC program was created and am very proud of what it has accomplished. The hopes we had for the program have been achieved. WIC assists millions of lower-income pregnant, postpartum, and nursing women, infants, and children who are at risk of poor nutrition and health problems. The WIC program results in healthier babies and prevents health problems that would cost far more in dollars and human suffering than WIC's preventive nutrition services.

I am especially proud of Hawaii's WIC program, which has increased its caseload by some 34 percent while absorbing a budget cut of 30 percent over the past two years. This remarkable accomplishment resulted in Faye Nakamoto, director of Hawaii's WIC program, being named 1998 Hawaii State Manager of the Year.

As we celebrate the 25th anniversary of WIC, I urge all my colleagues to support the president's funding request of $4.1 billion—an increase of $181.5 million from the funding levels of FY 1999 and 1998—so that this valuable program will be able to serve more women and children in need.

A TRIBUTE TO DR. WILLIAM R. MAGILL

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1999

Mr. WELDON of Pennsylvania. Mr. Speaker, I rise today to pay tribute to a longtime educator, Dr. William R. Magill. This evening, friends and family will gather to pay tribute to Dr. Magill's long and distinguished career as he retires after 46 years of service.

A retired Army officer, Dr. Magill has always shown a great willingness to serve his community. Even after he put away his military uniform, Dr. Magill continued his service to the people of Pennsylvania as an assistant principal and Director of Federal programs at Steelton-Highspire School District in Steelton, PA and as principal of Annville Cleona Jr. and Sr. High Schools in Cleona, PA.

Dr. Magill then joined the faculty of Cheyney University where he has played a vital role in expanding the minds of his students and introducing them to other cultures. As part of his role as Chair of the graduate school's Educational Administration and Foundation Department, Dr. Magill has hosted graduate students from China and led study groups to England to study at Cambridge University.

Beyond his career in education, Dr. Magill also worked for a variety of community organizations. He serves as a board member of the Fellowship for Christian Athletes in Delaware and Chester Counties and as a precinct committeeman in West Goshen, PA.

Dr. Magill has served his country as a military officer, a teacher, and a volunteer in his local community. Over his 46 year career as an educator, he has influenced and made an impact on the lives of the countless young people.

Mr. Speaker, I ask my colleagues to join me in today recognizing the accomplishments of Dr. Magill. He is a true American patriot.

TRIBUTE TO SYLVAN RODRIGUEZ

HON. TOM DeLAY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1999

Mr. DELAY. Mr. Speaker, hypothetical quandaries always elicit interesting answers. Over two hundred years ago, Thomas Jefferson wrote that if he had to choose to have a government without the press or the press without a government, he would without hesitation prefer the latter situation. This position reflects that great founder's understanding of the important role of journalism in the American experiment. Sylvan Rodriguez also understands this role and has dedicated his life to making both journalism and the country better together.

Sylvan Rodriguez is a giant in the world of Houston broadcasting. Since 1977, he has graced the city's airwaves with crack reporting on politics and a special focus on space operations. His coverage of the space shuttle program and the exposure from the tragic Challenger explosion opened up many doors for him, including a stint as a Los Angeles correspondent for ABC News. His expertise has been sought by David Brinkley for the This Week program, by Ted Koppel for Nightline, by Peter Jennings for ABC World News Tonight and for Good Morning America.

Such a lion of the press did not start at the top however. Rather, Sylvan Rodriguez is an American success story whose love for journalism struck in early age and was nurtured over time. This boyhood love for the industry matured and was honed while attending the University of Texas at Austin where he tirelessly scribed for several newspapers and a wire service. At this time, his appetite for big news was wetted by covering the powers that were in Washington as an intern for the United States Information Agency where he learned the ins-and-outs of the White House, the Pentagon, the State Department and Capitol Hill. This foundation was bolstered by experience as a reporter and photographer covering state and national politics in San Antonio and Houston.

But the passion for reporting was not all consuming for Sylvan Rodriguez. Throughout his life, he has understood that a balance must be made between giving and taking. He has given much to the community and to his profession to match all the opportunities he earned for himself. While his list of philanthropic activities is a book long, he has given particular attention to foundations that give opportunities to children and fight cancer, diabetes, arthritis, Tourette Syndrome and Cerebral Palsey. A great example to any budding journalist, he is a founding member of the Houston Association of Hispanic Media Professionals.

Journalism has been described as an ability to meet the challenge of filling space. This definition does not only apply to column inches or airtime. It also touches on the space within ourselves where our heart and love of country should rest. Through his dedication to his profession and to others, Sylvan Rodriguez has filled all of these spaces for many years. Today, it is my honor to ask Congress to pay tribute to Sylvan Rodriguez for being such a hero to journalism and to the community.

IN HONOR OF CHILDREN'S FRIEND

HON. JAMES P. McGOVERN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1999

Mr. MCGOVERN. Mr. Speaker, I rise today to acknowledge the 150th anniversary of Children's Friend, a proud institution of my district which promotes the emotional, social, and physical health of a needy and diverse population of children and advocates for their rights.

Few organizations serving children are as enduring as Children's Friend or have sustained such a record of initiating new solutions as the needs and problems facing children have changed. Whether it is helping to create the first modern adoption legislation passed by Massachusetts in 1851, pioneering placing children in foster care, preventing the dropout of pregnant and parenting teens from school, counseling children with attachment disorders or providing specialized psychological services to infants and toddlers, Children's Friend has been at the forefront of innovations in child welfare services.

Children's Friend restores hope and opportunity to children and families whose lives are challenged by emotional abuse and neglect, domestic violence, family instability, economic hardship and the stresses of modern living. One cannot overlook the critical societal needs child welfare institutions—like Children's Friend—fulfill.

Therefore, Mr. Speaker, it is with pride that I rise today to acknowledge the 150th anniversary of Children's Friend and to wish them continued success in the years ahead with their valuable community and child-oriented work for the people of Worcester and Central Massachusetts.

APRIL 28—WORKERS' MEMORIAL DAY UNDERLINES IMPORTANCE OF OCCUPATIONAL SAFETY

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1999

Mr. WALSH. Mr. Speaker, today I ask my colleagues to join me in recognizing April 28 as Workers' Memorial Day in the State of New York. This is a wonderful opportunity for us to remember an important issue in today's workplace, occupational safety.

Every city, town and village in this country was built by the proud efforts of working people. They have contributed to our Nation's wealth and reputation, our national defense and quality of life.

In some instances in the past, they have endured harsh and even perilous conditions in pursuit of excellence and their livelihood.

Today, we must continue the fight to ensure the safety of all workers. The sacrifices of the past will not be forgotten as we strive to eliminate dangers at the workplace.

I want to thank the working men and women of Central New York in particular for their invaluable contributions to our community.

CONSTRUCTIVE OWNERSHIP TRANSACTIONS

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1999

Mr. NEAL of Massachusetts. Mr. Speaker, today I am introducing legislation to prevent a transaction the goal of which is tax avoidance by means of converting ordinary income or short-term capital gains into income eligible for long-term capital gains rates.

Since Congress enacted legislation to lower the capital gains tax below that of ordinary income, the press has written about a number of transactions that have been developed to recharacterize income primarily for the avoidance of tax. Congress closed one loophole in 1997 involving constructive sales or so-called ''short-against-the-box'' transactions. In those transactions investors were effectively selling an asset and receiving the benefits of a sale without calling it a sale for tax purposes. The Taxpayer Relief Act of 1997 termed these transactions constructive sales and restored the appropriate tax treatment, determining that if it looks like a sale and acts like a sale, it should be treated as a sale for tax purposes.

Consistent with that approach, our former colleague Barbara Kennelly developed additional legislation in 1998 that could be termed ''constructive ownership'' legislation. In this case, an investor effectively purchases an asset and has the benefit of ownership, but does not pay taxes on income from the asset in the same way as if the investor owned it directly. The solution that was proposed was to treat that investment no more favorably than the treatment ownership in the underlying asset would have received. In addition, while this treatment would assure appropriate capital gains treatment, these transactions could still be attractive for deferring the recognition of ordinary income—in contrast to direct owners who pay taxes annually on ordinary income. To correct this, the bill imposes a deferred interest charge to recapture the benefits of deferral.

As many in the industry will recognize, the legislation I am introducing today is based on the Kennelly bill, but makes several technical improvements which were suggested last year, primarily by the New York State Bar Association. Additional comments, of course, are certainly in order.

Investors in a hedge fund (and other pass through entities) are required to pay taxes annually on their share of the income from the fund regardless of whether they receive a distribution. In the transaction covered by the bill, investors indirectly invest in the fund through a derivative that is economically equivalent to a direct investment. However, the derivative allows the investor to defer his tax liability. Invest in a hedge fund, and you pay taxes every year, and those profits are taxed at the higher short-term capital gains rate. Place that same money in a derivative wrapped around a hedge fund, and you pay taxes only at the end of the contract, and the profit is taxed at the lower long-term capital gains rate. The bill I am introducing today states that if an investor indirectly owns a financial asset like a hedge fund through a derivative, they cannot get more long-term capital gain than if they owned the investment directly. In addition, there is an interest charge to offset the additional benefit of the deferral.

The effective date for this legislation is for gains realized after date of enactment. This is a more generous effective date than that contained in the Administration's budget. Still, some would argue that this is retroactive, because they signed contracts prior to the date of introduction of the Kennelly Bill and therefore were not on notice that a change in the law might occur.

Since I announced my intention to reintroduce the Kennelly bill, it is my understanding that a number of contracts have been, and continue to be, signed under the theory that the legislation may not pass Congress, and if it did the transaction could simply be unwound. This may explain the recent comments of Robert Gordon, President of 21st Securities, as reported in this month's edition of MAR/Hedge, which states: ''Gordon says that the penalty is so low (in my legislation) that he would advise clients thinking about *synthetic hedges* (italics are mine) to go ahead. ''There is not a lot of cost if the bill does become retroactive, you just unwind the swap.'' The penalty is the difference between the two interest rates—the one charged in the swap by the dealer and the interest rate earned by money in the investor's hands. Because the interest today and the interest rate when the law changes, say several months from now, will be relatively small, it is a small penalty to pay.''

It is hard to be sympathetic to an investor who enters into a particular so-called ''synthetic'' transaction purely for purposes of tax avoidance. It is even harder to be sympathetic when the investor signs a contract after he was on notice that there was a legislative change under consideration. It is hardest of all to be sympathetic to an investor who deliberately signs a contract betting that the potential for tax avoidance far outweighs a potential loss attributed to unwinding a contract if the law does change, and then claims ''retroactivity'' in a last attempt to secure the benefits of tax avoidance.

Nonetheless, the fact remains that some contracts were signed prior to the date of introduction of the Kennelly bill. I have therefore added a grandfather clause to this legislation that exempts all contracts from changes in this bill if the contracts were signed prior to the date of introduction of her bill on February 5, 1998. The grandfather clause would cease to exist if the contract was extended or modified.

Mr. Speaker, all capital gains differentials invite attempts to recharacterize ordinary income or short-term capital gains into long-term capital gains. The transactions I am talking about are, of course, not available to the ordinary investor who must pay his fair share of taxes, but only to a small number of sophisticated wealthy investors. Any perception that being sophisticated and wealthy enough allows some to avoid paying their fair share of tax undermines the entire tax system, as well as the capital gains differential. I believe it is important to shut down tax shelters as we uncover them, and if we in Congress do not have the courage to do that, then maybe allowing the Department of the Treasury to have broader power to characterize tax shelters and shut them down through the regulatory process needs to be seriously considered.

RECOGNIZING THE IMPORTANCE OF SMALL BUSINESS AND PAYING TRIBUTE TO THIS YEAR'S SMALL BUSINESS AWARD RECIPIENTS IN NEW HAMPSHIRE

HON. CHARLES F. BASS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1999

Mr. BASS. Mr. Speaker, I am pleased to have this opportunity to recognize several small business leaders from my home state of New Hampshire. As we all know, small businesses in the United States serve as the backbone of our economy, accounting for more than ninety-nine percent of America's employers and employing fifty-three percent of America's workforce. The role of small businesses, especially in New Hampshire, is essential in strengthening our economy, expanding opportunities for employers and employees, and providing goods and services that are second to none.

This year, five individuals from New Hampshire have been recognized by the U.S. Small Business Administration for their exemplary contributions to small business in New Hampshire. In addition, 1999 marks the thirty-fifth anniversary of the Service Corps of Retired Executives (SCORE) and the fifteenth anniversary of the New Hampshire Small Business Development Center. At the annual ''New Hampshire's Salute to Small Business'' dinner and awards ceremony, these two groups and the following individuals will be honored for their overall promotion of small business and for their individual successes during the past year:

Frederic A. ''Rick'' Loeffler, CEO of Shorty's Mexican Roadhouse in Manchester, will be presented with the New Hampshire Small Business Person of the Year Award;

Christine Gillette, business and economic development editor of the Portsmouth Herald,

will be presented with the Media Advocate of the Year Award;

Jeffrey M. Pollock, president of the New Hampshire Business Development Corporation in Manchester, will be presented with the Financial Services Advocate of the Year Award;

Arlene Magoon, owner of American Nanny & Family Care Services in Amherst, will be presented with the Woman in Business Advocate of the Year Award; and

William T. Frain, Jr., president and chief operating officer of the Public Service Company of New Hampshire, will be presented with the Special New Hampshire District Advocacy Award.

Mr. Speaker, I am extremely pleased that Rick, Christine, Jeff, Arlene, and Bill have been recognized for their contributions to small business in New Hampshire. As a small business owner myself, I clearly understand how necessary small business is to our economy, our community, and, most important, to our way of life. New Hampshire is indeed fortunate to have individuals of this exceptional caliber as members of the small business community. I hope that the House will join me in extending our congratulations to this year's small business award recipients.

HIGH ODYSSEY II: THE SIERRA IN THE WINTER OF 1999

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1999

Mr. RADANOVICH. Mr. Speaker, seventy years ago, while Californians were experiencing the security and success of the roaring twenties, a lone mountaineer was skiing his way up the 300 mile crest of the Sierra Nevada from south of Mount Whitney toward Yosemite Valley. This little known feat in the annals of American Mountaineering was accomplished prior to the existence of the John Muir Trail, the advent of organized search and rescue teams, or cell phones.

Orland Bartholomew carried a 70-pound pack, a folding bellows camera and a double bit ax. He skied on custom made wooden skis without metal edges with only a crude wax system for climbing. He slept in a down robe with a half-tent and no stove. Fortunately, Orland wrote extensive journal entries and shot over 320 photographs of his adventure. Thanks to his son, Phil, these documents have been preserved.

This spring, to celebrate this historic trip, a team of four skiers recreated this great adventure. In completing this trip they were successful in drawing attention to the legacy of this lone skier's accomplishment and its proper place in the history of mountaineering. Their stated goal was to encourage the U.S. Geological Survey to name a peak for Orland. By taking over 2,000 photographs and keeping detailed journals they also documented the state of the High Sierra during the last winter of the 1900's.

The Fresno Bee has established a website to provide information on both of the trips and to report on the findings from their research. (www.fresnobee.com/man/trek)

The High Odyssey II team followed as accurately as possible the original route of Orland Bartholomew based upon his original journals and photographs. They were assisted in their research by Phil Bartholomew and Sierra historian Gene Rose. The Team left Cottonwood Creek on April 2, 1999 and arrived in Yosemite Valley on April 28 after skiing 290 miles and crossing 20 passes over 10,000 feet.

The four members of the Team are accomplished ski mountaineers and climbers with extensive winter experience in the areas in which Orland Bartholomew skied. They crossed high passes, did winter ascents of peaks en route, including Mt. Whitney, and forded rushing streams.

At 17, Fritz Baggett represents the next generation of mountain adventurers. He has grown up in El Portal, the gateway to Yosemite, where he has climbed and skied since a babe in the backpack. He recently earned his Eagle Scout badge as a member of Yosemite Troop 50. As a musician and writer in the punk/shredder genera his contributions, like his skiing, are full of the zest and drive of true youth.

Tim Messick has spent his adult life teaching others the joys of skiing the Sierra backcountry. As a guide for the Yosemite Mountaineering School and Yosemite Cross-County School since 1980, Tim has skied and guided extensively in the Sierra. He skied one of the first three-pin descents of LeConte Gully at Glacier Point and the Y notch on Mount Conness. His classic book, ''Cross-Country Skiing in Yosemite'' (now in its second printing), is a tribute to his skills as writer, teacher, and skier.

Art Baggett has spent the past 25 years living in the Yosemite community. His mountain adventures include hiking the 2,040-mile Appalachian Trail from Georgia to Maine in 1973, a 21 day ski of the Sierra Crest on wooden Bonna 2000 skis with a makeshift three pin set up, and numerous big wall climbing ascents. Art's background as a teacher-naturalist, field biologist, small town attorney and former Mariposa County Supervisor provides another unique perspective from which to view the terrain. Art's published works include papers and lectures on the public policy and legal conflicts between the practice of prescribed burning and the Clean Air Act.

The team would not be complete without a true historian and mountain sage. Howard Weamer brings not only the wisdon of a lifetime spent traversing the Range of Light on skis and on foot, but the keen eye of one of the best known Sierran photographers. His book, ''The Perfect Art,'' the history of the Ostrander Ski Hut and skiing in Yosemite is a tribute to those that have gone before and the 25 years he has spent as the hutkeeper of this Yosemite institution.

I commend the courage and resolve of these present-day mountaineers to help us to learn more of those that came before and that are part of the heritage of the great state of California and the United States frontier. Further, based upon their efforts, I will renew my efforts to ensure that the United States Geological Survey name a Sierra peak in honor of Orland ''Bart'' Bartholomew, a Sierra High Adventurer.

MS. KINYA EFURD WINS THE VOICE OF DEMOCRACY SCRIPT-WRITING CONTEST

HON. TOM A. COBURN

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1999

Mr. COBURN. Mr. Speaker, each year the Veterans of Foreign Wars of the United States and its Ladies Auxiliary conduct the Voice of Democracy script-writing contest. This year more than 80,000 secondary school students across the nation competed for fifty-six national scholarships by writing about the theme ''My Service to America.'' It is with great pleasure that I announce that the winner from the State of Oklahoma is Ms. Kinya Efurd, a Junior at Eufaula High School in Eufaula, Oklahoma. Kinya, the daughter of Jerry and Vicki Efurd, is active in the Honor Society, Student Council, Band, and Future Farmers of America. Kinya's description of how her uncle, a veteran of World War II and the Normandy Invasion, served our country and her vision of personal service to America is both a reminder of those who have sacrificed so much and a call to all Americans to strive to continually serve our great nation. I am submitting Ms. Efurd's essay for the RECORD, so that my colleagues may have the opportunity to review and reflect upon her inspirational comments.

''MY SERVICE TO AMERICA''

Like many other Saturday nights, I was on my way to the theater and decided to see the new hit movie ''Saving Private Ryan.'' My parents stopped me before I went in and warned me that what I was about to see was extremely graphic and violent. Evidently, they were visibly shaken by what they had just viewed. My parents were unsure if they wanted me to see what some say is the most accurate portrayal of war ever filmed. I told them I would be fine because I had seen those other bloody movies before, so in fact, I thought I had seen it all.

From the very beginning this became more than just a movie to me. I immediately remembered the story of my great-uncle being part of the Normandy Invasion. I have been told that he was awarded the bronze star, for an act of bravery, during that battle. No one knows what he did to gain that district honor. He has never told anyone about the horror that he experienced. After seeing this movie I feel I have a stronger appreciation of not only what my uncle did, but also the thousands of others who have served America.

Perhaps, I may never serve my country in headed battle. However, I know other ways to serve with honor and dignity. I strongly believe that as an American citizen I can and must serve my country in my own way to benefit future generations.

As a teenager what can I do now to serve my country? The answer to this question is as simple as getting an education. This means going, participating, and believing that this is not a right, but a privilege. Attending school and filling my head with knowledge that will prepare me for the real world is critical. Undoubtedly, school and education will give me the values and knowledge I need to reach my goals. Also, education has given me the power to believe that I can become whatever my heart leads me to be. I may want to be a doctor, a teacher, or even a social worker. I might even become the best stay-at-home mom there is. My parents have always told me that education is the key to success.

How can I serve America? Exercising my right to vote is a responsibility of being an American citizen. When electing politicians, people should expect that their voice will be represented with honor and dignity. My one vote is just one step in the stairway to better America.

How else can I serve America? Personally, I would love to become a politician. A great honor for me would be standing up and speaking out for what I believe in. I might become the first woman President of the United States of America or maybe just the president of the PTA. No matter what I become, I know that I will carry with me the same honor, loyalty, and respect portrayed by my forefathers for their country.

I may never understand how my uncle felt that dreadful day and I probably never will. I do know that sitting through a movie that portrays war that real has changed the way I feel for him, and the many other veterans. The respect I feel for my flag has also been enhanced. It was increased when I attended an FFA camp. I had the honor of being selected as a speaker for the flag lowering ceremony.

The small part I said made me realize what our flag really means. It stands for the freedom, the happiness, and the sadness for which our country stands. I realized that putting my hand over my heart and saying the Pledge of Allegiance is not a chore, but an honor. Our flag is a precious symbol for America, and it is my duty always to be proud of it.

I hope one day I can stand up and speak to thousands of people all over the world. I know that I cannot help everyone, but if I can help at least one person my dream will be fulfilled. I would also love to speak with teenagers and let them know that our nation does care for them and believe in them. People may think that this is a big dream for such a young women, but I say dreams are limitless. I also believe with the Lord's power and his will behind me, and the encouragement of my church and family members, the sky is the limit.

I may never stand on the field of honor as my uncle did and receive a bronze star, but if my service to America or my community can make a difference in one persons' life, then my responsibility for serving my country will have begun.

TRIBUTE TO KEN STRAIN

HON. ROBIN HAYES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1999

Mr. HAYES. Mr. Speaker, I rise today to honor the life of Ken Strain, a man dedicated to serve his community.

Mr. Strain passed away this week while serving the community of Hemby Bridge, North Carolina as a volunteer fireman. His fire truck flipped while Mr. Strain was returning from a rescue call.

Mr. Strain comes from a long line of firefighters. His father Bill and his youngest brother Darren both have served as firefighters in North Carolina.

Mr. Strain is survived by his wife, Sharon and their 18-month-old son Kristopher. Mr. Strain kept a picture of his son in his tool box and often visited the fire station with Kristopher.

Mr. Strain will be deeply missed as a member of the Hemby Bridge business community. He along with his colleague, close friend and fellow firefighter, Paul Ramsey, were partners at their business, Neighborhood Automotive.

While Ken's death is tragic, I must commend his partners at the Union County Volunteer Fire Department for their exemplary record of safety and reliability. This is the first death the department has suffered in 30 years.

Mr. Speaker, I want to express my deep remorse to the family and friends of Mr. Ken Strain, but also honor him for his selfless service to his community. Mr. Strain was dedicated to his family, his job and his community and will be missed by all.

WOMEN, INFANTS, AND CHILDREN (WIC) PROGRAM CONTINUES TO IMPROVE THE HEALTH CARE OF MILLIONS

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1999

Mr. MORAN of Virginia. Mr. Speaker, as a cochair of the Congressional Prevention Coalition, I stand in strong support today of a program that makes a tremendous contribution to disease prevention and health promotion. The Women, Infants, and Children (WIC) program has been educating woman and children about basic nutrition that can help them lead healthier, and therefor happier lives. Chronic disease is the cause of 70 percent of deaths in the United States and nutrition is a primary form of prevention for chronic disease.

Nutrition education can start very early in life. WIC educators help expectant mothers to give their babies good nutrition, even before they are born, through prenatal counseling and care. After the baby is born, WIC educators continue to serve low income women, infants and children with pediatric health care services and nutrition education. WIC educators help babies get a healthy start on life through breastfeeding education and support. The first food a baby gets could be the most important. Breastfeeding is almost always the best form of nutrition for a baby and WIC educators help mothers to learn the wide benefits of breastfeeding including its nutrition and excellent source of antibodies that protect against infection.

The preventive care that WIC provides saves us money in the long run. the National Association of WIC Directors estimates that for every dollar spent on pregnant women in the WIC program, we save $1.92 to $4.21 in Medicaid costs. For every low birth weight prevented as a result of WIC's prenatal program, Medicaid costs are reduced $12,000 to $15,000 per infant.

More importantly, WIC works in helping low-income mothers and children to live healthy lives. For example, according to CDC, WIC children showed a 16-percent decrease in the anemia rate at their 6-month recertification screening than in their initial screening. WIC babies have fewer low birth weight babies and fewer fetal and infant deaths. WIC also helps spur normal childhood growth, increases immunization rates, improves access to pediatric health care and readies children to learn with proven higher test scores.

I want to thank the National Association of WIC directors and all of those at WIC who do so much in improving the health care needs of the millions of women, infants, and children who participate in this lifesaving program. Thank you for 25 years of vital work and service.

WHY WE NEED CAMPAIGN FINANCE REFORM

HON. JAY INSLEE

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1999

Mr. INSLEE. Mr. Speaker, the faith of the American people in their elected government is slowly slipping away. The cause of this malaise is our defective, broken campaign finance system. The astronomical costs of Federal campaigns are having extremely detrimental effects on our democracy; qualified candidates are discouraged from running, and special interest dollars continues to drown out the voice of the average citizen. This outrage is evident to everyone, except, members of the leadership.

The shortest route between our campaign finance system and reform is the opportunity to vote on the bi-partisan Campaign Finance Reform Act, otherwise known as the Shays-Meehan bill. We have garnered over 188 signatures on our campaign finance discharge petition. We mean it when we say we want reform and we want it soon. If we can't get a scheduled vote from the Republican Leadership, we reform-minded Members will force a vote through this petition.

Mr. Speaker, this is a truly modest proposal, but its impact could be nothing short of extraordinary. First, this legislation will finally ban ''soft money.'' With this past election cycle, we saw ''soft money'' contributions more than double since the last off-year election, totaling over $220 million.

Second, this legislation also includes the Campaign Ad Fairness Provision, reigning in the unregulated ''issue campaigns'' to require them to play by the same finance laws as federal campaigns.

Third, this legislation gives teeth to the FEC and provides greater, timelier public disclosure of individuals contributing to campaigns.

Mr. Speaker, this bill is not an infringement of free speech, but a restoration of the public trust. American people are tired of watching Congress sit back and do nothing as the amount spent in elections grows higher and higher, and trust in the system sinks lower and lower. We need to get big money out of the electoral process, and give power back to the people.

I know that the people of the 1st congressional district of Washington want real, meaningful reform, and I urge you to support the Bipartisan Campaign Finance Reform Act.

STAMP OUT HUNGER

HON. LORETTA SANCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1999

Ms. SANCHEZ. Mr. Speaker, I rise today in support of the National Association of Letter Carriers and Anthony B. Morell Branch 737 in

Santa Ana as they prepare for their ''Stamp Out Hunger'' food drive. This event will take place on Saturday, May 8. The letter carriers have asked area residents to donate non-perishable food by leaving the donations outside their mailboxes on May 8. Letter carriers will collect the food during their normally scheduled mail routes. The food collected will benefit CDC's Orange County Food Bank and the Second Harvest Food Bank of Orange County. These two food banks serve over 240,000 people each month.

''Stamp Out Hunger'' is the largest one day food drive in the nation. This is the seventh year of participation by Branch 737 of the Santa Ana letter carriers. Last year letter carriers around the nation collected more than 52 million pounds of food. All went to local food banks in their communities. In the Santa Ana district alone, 69,000 pounds of food was collected for the Second Harvest Food Bank and the Community Development Council, the two food banks in our region.

Unfortunately, hunger continues to be a problem in Orange County. There are still over 30,000 men, women, children and senior citizens who go hungry every night. We are hoping to reduce that number as much as possible, by getting every citizen involved in the food drive.

I commend Branch 737 of the National Association of Letter Carriers for their valiant efforts to make a difference in our community and to stamp out hunger.

LUBBOCK LETTER CARRIERS PARTICIPATE IN FOOD DRIVE FOR NATION'S NEEDY

HON. LARRY COMBEST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1999

Mr. COMBEST. Mr. Speaker, I rise today to commend the National Association of Letter Carriers for their tremendous efforts to help the hungry in communities across the nation. On May 8th, 1999, local branches of the Letter Carriers, in conjunction with the United Way and the United States Postal Service, will participate in a drive to collect non-perishable food and other needed items to stock the shelves of local food pantries. This endeavor will fill pantry shelves for the coming summer months in more than 10,000 hometowns in every corner of the United States.

This worthwhile event has taken place for countless years in the past, and this year's drive promises to be one of the most successful. The Lubbock, Texas branch of the Letter Carriers is rolling up its sleeves and preparing for a first-class turnout on May 8th. I am confident that the good citizens of Lubbock will rise to the challenge to ensure that this year's drive is an overwhelming success.

The Lubbock branch of the National Association of Letter Carriers is deserving of our full support and praise for their work in the fight against hunger in the 19th District of Texas. Their efforts truly exemplify the spirit of service and giving that draws our community together. With a little help from us all, the May 8th food drive can touch the lives of the many West Texans who are in need.

PERSONAL EXPLANATION

HON. TODD TIAHRT

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1999

Mr. TIAHRT. Mr. Speaker, on May 4, I was unavoidably detained back in my congressional district due to the devastating tornado storm and missed roll call vote numbers 105 (H. Con. Res 84), 106 (H. Con. Res. 88) and 107 (H. Res. 157). Had I been present I would have voted yes on passage on each of the three bills.

TRIBUTE TO THE CONABLE FAMILY

HON. THOMAS M. REYNOLDS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1999

Mr. REYNOLDS. Mr. Speaker, I rise today on the occasion of the dedication of the Wyoming County Courthouse in Warsaw, New York, in the name of the Conable family, whose members have a long and proud history of dedication to public service.

Family patriarch Barber Conable served as Wyoming County judge from 1924–1951. Following his retirement, his son, John Conable assumed the judgeship from 1952–1983. John's brother, Barber Conable, Jr., went from practicing law in nearby Batavia to this House of Representatives, where he served for 20 years as a Member of Congress. Following his service in the House of Representatives, Barber Conable, Jr. served as President of the World Bank, from which he retired several years ago.

As we noted at the building's dedication ceremony on April 27th, no other family in Wyoming County's history has come close to the level and commitment of public service as the Conables.

Mr. Chairman, I ask that this House of Representatives join me in saluting the Conable family for their tremendous dedication to public service, and to salute all the residents of Wyoming County on the occasion of the dedication of the Wyoming County Courthouse.

TRIBUTE TO MRS. MARY JANE RODGES

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1999

Mr. THOMPSON of Mississippi. Mr. Speaker, I rise today to honor a life long resident of Cleveland, Mississippi and my constituent, Mrs. Mary Jane Rodges. Mrs. Rodges will celebrate her 85th birthday on May 22, 1999. Mrs. Rodges, a devoted mother, dedicated church woman, and retired educator of local acclaim has much to be thankful for and is well deserving of our high praise. She taught in the Mississippi public school system for 40 years, helping to prepare thousands of young people for a brighter future. Mrs. Rodges was just as devoted to her church as she was to building the minds of others. She shared her talents and uplifted the congregation of St. Paul Baptist Church in Shaw, Mississippi, as its musician, for more than 50 years.

Mrs. Rodges' greatest accomplishment though has to be the five children she raised—who all became valuable and productive citizens of our country. One of her daughters, Mrs. Bobbie L. Steele, who is a Commissioner for Cook County in Chicago, Illinois, is planning a grand celebration for her mother. This is a well-deserved event for an exceptional woman and I stand here on the floor of the House of Representatives today and ask all to join me in wishing Mrs. Mary Jane Rodges ''Happy 85th birthday''.

WIC: 25 YEARS OF BUILDING A HEALTHIER AMERICA

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1999

Mr. GILMAN. Mr. Speaker, I rise today to express my support for WIC, the special supplemental nutrition program for women, infants, and children. It is vital that, in order to ensure that people grow up and live healthy lives, they receive proper nutrition.

WIC is an indispensable organization that serves over 7.4 million pregnant women, new mothers, infants, and preschool children in over 10,000 clinics nationwide. Thankfully, WIC is designed to aid those who regrettably have an income level of 185 percent of poverty or less, are enrolled in Medicaid or have been recommended by a health professional. It is essential that we ensure healthy children and adults by making sure that mothers receive proper nutrition long before their children are born and during their early years of development. Children will perform better in school and lead more productive lives when they receive the proper nutrition from the very beginning.

A common theme in all branches of government today is that of the importance of the family. WIC strengthens families by providing low-cost services to families who are at risk due to low income and nutritionally related health conditions. Because two-thirds of all WIC families live below the poverty level, the services they provide are essential in making sure that these families stay together.

The strength of any nation comes from the strength of its people. In order for us to assure that the United States remains strong we must be sure that all of our citizens are healthy, starting from the time when they are very young. WIC is a program that ensures just that. Accordingly, I urge all of my colleagues to support it.

EXPOSING RACISM

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1999

Mr. THOMPSON of Mississippi. Mr. Speaker, in my continuing efforts to document and expose racism in America, I submit the following articles into the CONGRESSIONAL RECORD.

MISSING POINT OF AFFIRMATIVE ACTION; BLACK HENS SHOULDN'T CATER TO WHITE FOXES

(By Leonard Pitts, Jr.)

As if Florida didn't already have problems, here comes Ward Connerly to pick a fight over affirmative action.

The thing that makes you sit up and take notice, of course, is that Connerly is black. Who isn't fascinated at the sight of a hen campaigning for the foxes?

This particular hen is pretty good at what he does. The Sacramento businessman has spearheaded ballot measures that overturned affirmative action in Washington state and his native California. Monday, Connerly announced a petition drive aimed at doing the same thing in Florida. God must hate the Sunshine State.

Don't get me wrong. I think there's good reason to question affirmative action, if not to oppose it outright. It seems fair to ask if, by setting aside contracts and classroom seats for minorities and women, government does not inadvertently reinforce in them a victim's mentality—an insidious sense that they lack the stuff to earn those things on their own merits.

That observation, however, must be balanced by the observation that white men have long enjoyed a kind of de facto affirmative action. After all, for generations, the nation used every legal and extralegal means to deny women and racial minorities—blacks in particular—access to education and entrepreneurship. It retarded the progress of those groups while offering white men set-asides and preferences that allowed them to move ahead by prodigious leaps.

It's not too much to ask the country to make right what it made wrong. Especially considering that the hostility toward blacks and women has hardly ended, but only become more subtle. If we don't redress the inequity through affirmative action, fine. But how do we do it? Because it's crucial that we do.

It'd be good if Connerly showed any grasp of this. Instead, his stated reason for opposing affirmative action is that it's racially divisive.

Which is such an asinine assessment that you hardly know where to begin responding to it. Perhaps it's enough to simply ask which campaign to open closed doors was ever anything but divisive. The Civil Rights Movement? That was divisive. Feminism? Yep, divisive, too. The United Farm Workers boycott? Pretty darn divisive. The Civil War? Golly gosh, that was about as divisive as it gets.

Hell, division is predictable. Those who enjoy privileges seldom surrender them easily or willingly.

But it's not simply the abject stupidity of Connerly's reasoning that offends. Rather, it's the way that reasoning offers aid and comfort to the new breed of white bigotry. The one which tells us that white people are the true victims of racism.

You know the rhetoric . . . victimized by preferences, victimized by employers, victimized by political correctness that accepts a Miss Black America pageant or an Ebony magazine but, darn it, would have hissy fits over Miss White America or a magazine called ''Ivory.'' The most virulent of modern white bigots will tell you with a straight face and evident sincerity that he is only fighting for equality. And never mind that by virtually every relevant measure, white men—still!—enjoy advantages that go well beyond simple parity.

Most people—black, white and otherwise—understand this and recognize cries of white victimization for what they are: only the latest effort to turn the language of the civil rights movement to the cause of intolerance. Only the most creative attempt to dress racism up as reason.

There are valid reasons for disliking affirmative action. That it's divisive is not one of them. And while it's troubling that some white guys won't understand this, disconcerting that they would embrace an image of themselves as powerless and put-upon, it's downright galling to see that ignorance validated by a black man.

Some would call Ward Connerly an Uncle Tom. It is, to my mind, an unfortunate term that's been too often used to discourage black intellectual independence. I won't call Connerly that.

I will, however, suggest that he is a confused Negro who should know better than to allow his skin color to be used as moral cover by those whose truest goals have little to do with liberty and justice for all.

If this hen has any sense, he might wonder at the motive of the foxes at his back.

CHILDREN GROW EMOTIONALLY AS THEY ENACT HISTORY'S STRUGGLES

(By Naomi Barko)

NEW YORK.—An argument erupted in a New York middle school recently over a subject that in most classes would have elicited only a yawn: the Treaty of Versailles that ended World War I. The class had been divided in half, with one side asked to look at 10 specific points of the treaty through German eyes, the other through the eyes of the Allies.

An immediate murmur ran through the room: ''It isn't fair!'' could be heard from many corners—and not only from the ''Germans.''

Besides losing most of their army and navy, substantial territory and all their colonies, the Germans had been forced to accept both the responsibility and the expense for all the loss and damage suffered by the Allied governments and their civilian populations.

But were the Allies really only after revenge, teacher Veronica Casado asked her students. ''No,'' argued one of the Allies. ''We wanted to make sure that Germany would never again be strong enough to start a war, and we wanted to safeguard all the new little countries that had been created—Austria and Poland and Czechoslovakia!''

In this class, called Facing History and Ourselves, the emotions these seventh and eighth graders were feeling were as important as the facts they had learned, said Casado, who teaches at the Dual Language Middle School, an alternative public school in Manhattan. They were beginning to understand the German anger and resentment that helped to seed the rise of Nazism and the onset of World War II.

Cited by both the U.S. Justice Department and the Department of Education as an exemplary program, Facing History and Ourselves was founded in 1976 in Brookline, Mass., to help middle and high school teachers throughout the country learn to teach not only the facts, but the ''why's'' of history. ''The goal is to help people understand that history is not inevitable, that individual decisions and actions matter,'' said the program's executive director, Margot Stern Strom.

''Facing History concentrates on prevention, not memorializing history,'' she says. ''It helps students to engage with it. We learn that it is hard work to keep democracy alive and what happens when it fails. We learn that myth and misinformation tend to distort judgment, that sometimes people respond to complex issues by simply dividing the world into 'Us' and 'Them.'

''It is the students themselves who continually raise the questions of responsibility and whether one person can make a difference,'' she emphasizes. ''When the students stop playing the game of education—just raising their hands or filling in the blanks—and see their teachers struggling with difficult and complex material, they see that these issues aren't easy, and that they don't go away.''

Using not only texts but novels, drama, art and personal reminiscences, the program begins by exploring how people develop a sense of identity, both personal and national, and how they come to the sense of the ''other,'' the ''different.'' Then using the history of Germany in the '20s and '30s as a case study, it shows how the Nazis came to power, how peer pressure was used to make people conform, how other nations responded or failed to respond, how the Holocaust developed, and how individuals made choices to go along, to resist or simply to do nothing.

Just how immediate these lessons can become was illustrated in another middle school here a few days later by a discussion of stereotyping and the role it had played in an explosive case reported that day in the New York City press. Four white undercover policemen had fired 41 shots, killing an innocent and unarmed West African immigrant who they thought might have been a criminal with a gun. The class composed of black, brown, white and Asian preteens agreed unanimously that racial stereotyping had played a large part in the killing.

''I never heard of a white person being shot so many times!'' exclaimed a white boy during a class session in February at the Center School, a performing arts magnet school in Manhattan.

''Well, I think it was racially motivated, but the guy should have frozen,'' objected a white girl.

''They always say they thought there was a gun!'' argued a black girl. ''How come they always say that?''

''What are we saying about the prejudices of our society?'' observed teacher Rhonda Wilkins. ''A policeman may not be a racist, but in this kind of a situation he may tend to prejudge because of color.

''And is it only black people who are stereotyped?'' she asked. ''What about a man you see walking down the street with a yarmulke and a beard? Do you immediately think he must have money and be sharp in business?''

''It happens to me too,'' called out a girl in a wheelchair—one of three such in the classroom. ''People always stare at me as if I'm different. Why do I have to be the different one? Maybe they're different.''

''What's normal?'' mused a classmate. ''Maybe normal doesn't exist.''

The course's exploration of identity empowers many ''different'' children, say teachers in other cities. A particularly poignant story is told by Terry NeSmith, an English teacher at Craigmont High School in Memphis, Tenn. ''This youngster came to class always looking worn and troubled,'' he recalled. ''But as we talked about books and the curriculum she began to open up and express herself.''

At the beginning of the term, NeSmith asked the class to write an essay about their heroes. The students wrote about people like the singer Whitney Houston and the basketball player Shaquille O'Neal. After that, they studied the Holocaust and also read the book, ''A Gathering of Heroes,'' by Gregory Alan-Williams, who rescued a Japanese-American man at the height of the Rodney King riots in Los Angeles.

In the book, Williams tells of his anger at hearing of the acquittal of the policemen who had beaten King, and how, driving home he began to think of his own troubling experiences as an African American. But his

memories also led him to think of the people who had helped him to get where he was now as a writer: his courageous mother, a neighbor who had acted as a wise surrogate father. These and others were his heroes, and he realized that everyday people like himself could be heroes if they acted justly. He found himself driving toward the center of the riot where he rescued the man who had been beaten by the mob and was being dragged from his car.

''At the end of the term I gave the same assignment,'' said NeSmith. ''And the essays were so amazingly different They wrote about their moms, their dads, ordinary, everyday heroes.

''And this young lady,'' he said, ''wrote such a moving essay that I sent it to Facing History in Brookline, and they published it in a study guide. She mentioned that often the car in which she was driven to school was the place where she had slept at night. This was a biracial child,'' says NeSmith, ''and she confessed that she had always been torn about her own identify. Now she thought it was wonderful to be able to experience both cultures. And she realized that even when she slept in a car she always had a home because her father was there and made it a home. And that was why he was her hero.''

Facing History has six regional offices in Boston, New York, Chicago, Los Angeles, Memphis and San Francisco that help teachers with the program. To date it has reached some 22,000 educators from throughout the country and has also held institutes in England, France and Sweden. About a million students have taken part.

The teachers, who are trained in weeklong sessions during summer vacations, come from private as well as public schools and from disciplines other than social studies, since the program can be adapted to many kinds of curricula.

For instance, NeSmith's assignment to write about heroes was connected with a unit on Greek mythology in his English class. At the Center School here, where Wilkins teaches, students made elaborate and moving posters and dioramas about their family history to illustrate their sense of identity. A few blocks away, Casado of the Dual Language School, teachers Facing History as part of the regular social studies curriculum.

The value of Facing History was recently judged independently by an intensive two-year research study on intergroup relations among youth funded by the Carnegie Corporation of New York.

The nonprofit foundation surveyed 246 eighth-graders who had enrolled in Facing History, along with a similar number of whose teachers ''cared and taught about social issues, but who didn't use the program,'' explains Dennis Barr, Ph.D., a Harvard developmental psychologist who headed the research team. The study found that Facing History does affect the way young people relate to their peers and think about social issues and their role as citizens.

''It's a very impressive program,'' says Barr. ''It has an impact on something that is very hard to have an impact on—what you could call character development.''

This effect seems to last. Among those quoted in Facing History's last annual report are Derrick Kimbrough of Cambridge, Mass., now 25 years old, who took part in the program when he was only 13. Three summers ago, Kimbrough, who is African American, founded the Survival & Technology Workshop, a nonprofit group that involves teens in improving their local communities. ''Our workshop graduates have renovated a local teen center and movie theater, established a local recycling project and created an after-school jobs project,'' he said.

Kimbrough added, ''Facing History taught me the value of teaching kids responsibility and the importance of letting them think of themselves.''

Twenty-nine-year-old Seth Miller of Boston remembers that as the only Jewish member of a school hockey team he had played on a Jewish holiday because he'd been embarrassed to tell his teammates that he had to go to services. Since then he has not only faced his own identity but has founded the Rocky Mountain Youth Corps in New Mexico.

''At 13, Facing History was a real breakthrough for me,'' he said ''I was suddenly turned on to academics in a way I hadn't been before. It seems that my whole interest in pursuing a career that was fulfilling to me as a human being and not just for gaining money or status started then.''

PROSECUTORS SAY RACIAL HATE WAS MOTIVE FOR MAN INDICTED IN FATAL SHOOTING

FORT LAUDERDALE, FLA. (AP).—A man accused of shooting and killing a black woman as she sat in a car with her white fiance has been indicted on charges of murder and attempted murder.

And while the accused wasn't charged with a hate crime, ''We will argue hate as a motive for the murder,'' said assistant state attorney Tim Donnelly.

Robert Boltuch was indicted Thursday for the slaying of Jody J. Bailey, 20. She was killed Feb. 24 when the driver of another car pulled up and opened fire.

Her fiance, Christian Martin, 20, who wasn't hit, told police the shooter had tailed their car, screaming at the couple before firing seven shots when they stopped at a red light.

Martin and Ms. Bailey were high school sweethearts who had dated for three years. Both were students at Florida Atlantic University.

Boltuch, 23, had been working as a waiter at a restaurant until the shooting. He was arrested March 2 at a friend's house in Plantation.

While the words ''hate crime'' appear nowhere in the indictment, prosecutors said they intend to tell a jury that hate was a factor.

A hate crime classification upgrades the possible penalties if there are convictions. But since a capital murder case already involves the ultimate punishment, the hate crime statute ''really is inapplicable,'' Donnelly said.

About 25 minutes before the shooting, two men allegedly overheard Boltuch say he was going to go out and kill a black person, police said.

The manager of the restaurant where Boltuch worked called the police the day after the shooting when he saw the composite sketch of the suspect in the newspaper and Boltuch failed to show up to work.

HATE CRIME SENTENCING

CLARKSBURG, W. VA. (AP)—A 20-year-old Harrison County man convicted of pouring gasoline in the shape of a cross on a black family's yard and lighting it on fire has been sentenced to 200 hours of community service.

Michael Vernon Wildman must complete his community service at Mount Zion Baptist Church. He also must take a course on race, class and gender relations at Fairmont State College.

Wildman was convicted Feb. 2 of violating the civil rights of Raymond Parker Jr. and his family and destruction of property.

Harrison County Circuit Judge Thomas Bedell originally sentenced Wildman to spend 10 years in state prison, one year in the county jail and pay $5,500 in fines.

However, Bedell suspended the sentence saying sending Wildman to prison may ''teach him more hate and racism.''

''I feel that if we sentence him to the maximum, we may be creating another racist,'' Bedell said during Wednesday's sentencing hearing.

Bedell said requiring Wildman to work with the church and take the class would be more beneficial.

PERSONAL EXPLANATION

HON. TODD TIAHRT

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1999

Mr. TIAHRT. Mr. Speaker, on May 5, I was unavoidably detained and missed roll call votes number 108 (Approval of the May 4 Journal) and 109 (Calling the Previous Question on H. Res. 158). Had I been present I would have voted yes on both votes.

NATIONAL LEAGUE OF FAMILIES OF AMERICAN PRISONERS AND MISSING IN SOUTHEAST ASIA

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1999

Mr. GILMAN. Mr. Speaker, after 26 years of working closely with the National League of Families of American Prisoners and Missing in Southeast Asia, it should come as no surprise that I rise today to express my full support for their forthcoming trip to Vietnam, Laos, and Cambodia scheduled from May 12–20, 1999.

For more than a quarter of a century, I have witnessed, firsthand, the league's tireless efforts and faithful dedication to those who have selflessly served our country during the war in Southeast Asia. For 30 years, the National League of Families has remained vigilant in its goal of determining the fate of those members of the United States Armed Forces still missing and unaccounted for from the Vietnam War. Like so many Americans across our land, I have come to deeply respect and appreciate all that the League has done for those who have done so much for our Nation.

I have been a strong advocate of obtaining the fullest possible accounting of our POW/MIA's since I first came to the Congress in 1973. As a junior Congressman, my first trip overseas was to Laos to visit the Hmong people who protected our downed airmen during the war. I proudly supported the creation of the Select Committee on Missing Persons in Southeast Asia, the National POW/MIA Recognition Day, and POW/MIA legislation because I believe the families of those who are missing deserve no less.

In my trips to Vietnam over the years, I have shared the League's frustrations with the accounting process. I am aware of the steps the Vietnamese government has recently taken to address the concerns of our POW/MIA families, but I believe further steps—steps the League has long recommended—should be pursued. Regrettably, by normalizing relations with Vietnam, I believe that we have withdrawn our leverage with the Vietnamese Government on this issue. Once again, I

strongly urge the Governments of Vietnam, Laos, and Cambodia to engage in serious dialogue to improve the transparency, accountability, effectiveness and efficiency of POW/MIA investigations.

I am thankful to have had the opportunity to have worked with the League on this important issue. It is a pleasure to bring recognition to one of our family groups which has toiled so long and so hard in support of our servicemen and women. I wish Ann Mills Griffith, Dick Childress and their team a safe and productive visit to Southeast Asia and I look forward to their report upon their return.

A TRIBUTE TO THE HONORABLE OLIVER OCASEK

HON. TOM SAWYER

OF OHIO

HON. RALPH REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1999

Mr. SAWYER. Mr. Speaker, my colleague, Mr. REGULA, and I rise to honor Oliver Ocasek—one of Ohio's most distinguished citizens. On May 20, Oliver Ocasek will receive the YMCA of the USA's Volunteerism Award—the YMCA's highest honor. The YMCA is honoring Ocasek for his more than 50 years of service to youth organizations. We rise today, not only to recognize his deserved selection for this award, but to recognize a lifetime of service to the people of Ohio. Sen. Ocasek's devotion to education extends well beyond his volunteerism with the YMCA. He co-founded the Ohio Hi-Y Youth in Government Model Legislature program with Governor C. William O'Neill in 1952 and supervised it throughout his service on the Ohio-West Virginia Board of the YMCA. He has served on the greater Akron area boards of Goodwill Industries, Shelter Care, and the Salvation Army. He also has been a professional educator in a wide variety of capacities: a teacher, a principal, a school superintendent, and a professor at both the University of Akron and Kent State University. He was instrumental in bringing together our regional institutions of higher learning to create the Northeastern Ohio Universities' College of Medicine. He capped his educational service with three terms on Ohio's State Board of Education.

This breadth of service to youth is impressive by itself. But alone, it does not capture Oliver Ocasek's contribution to the people of Ohio. Oliver Ocasek was one of the most influential legislators in the Statehouse, where he served in the Senate for 28 years from 1958 to 1986. In the 1970's, he became the first Senate President elected by his peers due to a change in the Ohio Constitution. Along with Republican Governor James Rhodes and Democratic House Speaker Vernal Riffe, Sen. Ocasek made many of the decisions to keep state government moving forward. He was an expert on Ohio's complex school funding system and used his knowledge, experience, and position to benefit local students. His enormous influence came from his savvy and from the hard, tedious work of studying, debating, refining, and reaching decisions on difficult and often contentious state issues.

He is astute, well-steeped in history, a gifted orator and a man of heart-felt compassion. Oliver Ocasek's larger-than-life ambitions drove him hard in politics and in civic life in general, not in search of personal gain and glory, but in order to use his talents and positions to care for the least of his brothers and sisters. Last year in the *Akron Beacon Journal*, Sen. Ocasek expressed his philosophy: "Nothing breaks my heart more than for a child to not have parents who care or to not have a chance for a good education. That's been my commitment—my life—to provide a good education for all children." His leadership has inspired tens of thousands of young people touched by his commitment to education and to the YMCA youth programs over the last half-century.

Today, many people disparage public service and doubt that one person can make a difference. Oliver Ocasek would profoundly disagree. And more importantly, his efforts and their recognition by the YMCA are the evidence to the contrary. His service to the people—and particularly the youth—of Ohio shows that, with hard work and commitment, one person can make a difference. And we are grateful for the difference that he has made.

TOP TEACHERS

HON. MARTIN T. MEEHAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1999

Mr. MEEHAN. Mr. Speaker, I insert the following letters into the RECORD.

HOUSE OF REPRESENTATIVES,
Washington, DC, April 15, 1999.

Ms. CAROL SHESTOK,
Norman E. Day Elementary School,
Westford, Massachusetts.

DEAR MS. SHESTOK: Congratulations on being honored as one of the top teachers in Massachusetts. This is a well deserved reward for your special ability to really make a difference in the lives of your students at Norman E. Day Elementary School in Westford.

Too often, talented teachers go unrewarded for the valid work that they do. That is why I am so pleased that you were deservedly honored for all the attention, care and dedication that you have given to your students.

Again, congratulations on your recent honors.

Sincerely,

MARTY MEEHAN,
Member of Congress.

HOUSE OF REPRESENTATIVES,
Washington, DC, April 16, 1999.

Mrs. GAIL FITZGERALD DOWNING,
Tewksbury, Massachusetts.

DEAR MRS. DOWNING: Congratulations on being honored as one of the nation's top 40 teachers through USA Today's annual ALL–USA Teachers Team Award. It is a well deserved tribute to your special ability to really make a difference in the lives of your students at Russell Street Elementary School in Littleton.

Too often, talented teachers go unrewarded for the work that they do. That is why I am so pleased that you were deservedly honored for all the attention, care and dedication that you have given to your students.

Again, congratulations on your recent honors.

Sincerely,

MARTY MEEHAN,
Member of Congress.

THE INTRODUCTION OF THE INTERNET GROWTH AND DEVELOPMENT ACT OF 1999

HON. RICK BOUCHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1999

Mr. BOUCHER. Mr. Speaker, I rise today with my Virginia colleague BOB GOODLATTE, with whom I am privileged to cochair the Congressional Internet Caucus, in the introduction of two bills which taken together will address the major challenges confronting the Internet today.

Heretofore, congressional debates on issues affecting the Internet have been ad hoc and have addressed single issues only. The legislation we are introducing today will provide the first comprehensive framework for debate by the Congress of the major current Internet policy challenges.

The passage of both bills will truly promote the growth and development of the Internet:

First, passage of the legislation will result in greater broadband deployment and an increase in the speed by which people connect to the Internet from their homes and their places of work. Telephone companies will be required to file plans with state public service commissions for the deployment of DSL services in all local exchanges where the deployment is both technolgicially feasible and economically reasonable. Today, only 50,000 subscribers nationwide have DSL service. Our legislation will result in those numbers increasing dramatically.

We also seek to encourage competition in the provision of DSL services by reducing the regulatory burden on the offering of DSL for telephone companies which agree to make reconditioned loops for the provision of DSL services available in a timely fashion to competitors.

To ensure an increase in Internet backbone capacity and to stimulate competition in the offering of backbone services, the legislation enables Bell Operating Companies to carry data across LATA boundaries to the extent that the data is not a voice-only service, whether or not the Bell Operating Company has obtained approval to offer inter-LATA services under section 271 of the 1996 Act. This provision will strongly encourage investment in the Internet backbone and the creation of greater competition among Internet backbone providers. That competition is essential to assure the retention of the current peering arrangements which promote low-cost Internet services.

Our legislation gives legal voice to the policies of Internet Service Providers which are designed to protect their facilities from bulk mailings of unsolicited electronic advertisements. Spam can seriously degrade the performance of the Internet and clog the facilities of Internet Access Providers to the disadvantage of all users. In some instances, Internet Service Provider facilities have even crashed due to the onslaught of spam. If service providers have restrictive policies concerning the

use of their facilities by spammers, those policies should be enforced, and our legislation provides the mechanism for the enforcement.

Our legislation also makes it a criminal offense intentionally to falsify Internet domain, header information, date or time stamps, originating e-mail addresses or other e-mail identifiers or intentionally to sell or distribute any computer program which is designed or produced primarily for the purpose of concealing the source of routing information of bulk unsolicited electronic mail. This provision strikes at the practice of bulk e-mailers who through the use of specially designed software change the origination information in e-mail messages as each small cluster of messages is sent. That practice is used to defeat the blocking software of Internet Service Providers which deflects from their facilities large volumes of messages originating from a single source.

The legislation will encourage electronic commerce by giving full authorization to properly authenticated electronic signatures. A variety of laws require a written document with a written signature for the enforceability for certain kinds of contracts. Our legislation will give full legal effect to contracts constructed online and prevent either party from disavowing the contract due to the absence of a physical written signature, if the identity of the contracting parties is properly authenticated and if certainty is created that the text of any document they construct has not been changed. The legislation sets forth specifics for obtaining that authentication.

We propose to create a new right of privacy for Internet users. In response to the growing practice of web site operators of collecting information from web site users either directly through a registration form or indirectly through the implantation of a ''cookie'' on the user's hard disk, the legislation requires that all web site operators post their information collection and use policies in a conspicuous manner so that web site users will be informed of the information collected and the use to which that information is put and have an opportunity to exit the web site without any information being collected if the visitor objects to that collection and use of information. The provision will be enforced by the Federal Trade Commission.

Finally, we propose to assure that all Americans retain complete freedom to select the Internet access provider of their choice. As the Internet has grown and developed, most Americans have connected to the Internet over telephone lines. While the telephone company has provided the transport, everyone has been free to select the company that will provide the Internet access. Even in instances where telephone companies offer both transport and Internet access services, the law has protected the right of the telephone company's customers to select an Internet access provider other than the telephone company.

Unfortunately, as the cable industry begins the deployment of cable modem services, a different model is being pursued. At the present time, there is no federal law restricting the ability of cable companies to package their transport services and their affiliated Internet access services and require that customers purchasing high-speed transport also purchase the cable company's affiliated Internet access service. The largest cable multiple system operators are, in fact, bundling transport with Internet access and requiring that the affiliated Internet access services be purchased by cable modem customers.

There are more than 2,000 Internet access providers nationwide. The vast majority of the ISPs are startup companies who have brought a new level of entrepreneurship to the telecommunications industry. Many of them will become the competitive local exchange carriers who will offer competition not only in the provision of Internet access, but in the offering of local telephone service and other telecommunications services as well. They will be important contributors to the competitive local exchange industry we envisioned when we wrote the Telecommunications Act of 1996.

But these ISPs are severely threatened by the deployment by cable television companies of broadband Internet transport connections which also bundle affiliated Internet access services. The broad bandwidth of these services will surely attract a large clientele, much of which will be the existing customer base of independent ISP's.

If the cable television companies are permitted to force their cable modem customers to purchase their affiliated Internet access services as a condition of subscribing to their high speed transport service, many independent ISP's will be foreclosed from a large portion of their existing customer base and from market growth opportunities. The legislation we are offering today assures that this anticompetitive practice will not occur and that all Internet transport platforms in the future will be open, much as telephone company transport platforms are open today.

I am pleased to be participating on a bipartisan basis with Representative GOODLATTE in offering this legislation, the enactment of which will assure that the Internet more rapidly achieves its potential to be the multimedia platform of choice for the delivery of voice, video and data.

THE INTRODUCTION OF THE INTERNET FREEDOM ACT OF 1999

HON. BOB GOODLATTE

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1999

Mr. GOODLATTE. Mr. Speaker, I rise today to announce the introduction of the Internet Freedom Act of 1999. This bipartisan legislative initiative, which I am introducing along with Congressman BOUCHER of Virginia, addresses the challenge that face the Internet by building on the strengths that have made the Internet the major engine of growth and development in the new Information Age. The legislation ensures that the qualities that have provided the explosive growth of the Internet in recent years will continue into the new millennium. The initiative addresses the crucial challenges currently facing the Internet and its future: providing freedom from burdensome government regulation, ensuring consumer choice through open competition, and protecting consumer-friendly open access to the Internet.

The Internet is currently at a crossroads. One path continues to encourage the principles mentioned above: freedom, competition, and consumer choice. The other path, which is looming on the horizon, is characterized by heavy government regulation, limited competition, higher prices and less choice for consumers. Following this path could mean that any company with market power can restrict the ability of businesses to compete on the Internet, and the ability of consumers to access the Internet provider and content of their choice could be subject to the control of a single company. The Internet as we know it—open, competitive, and easily available to consumers—will cease to exist. That path, unfortunately, is the one we are following now.

Congress must act now to ensure that the qualities that made the Internet a revolutionary tool for both business and users—deregulation, competition, and easy consumer access—remain fundamental components of the Internet for future generations. The Internet Freedom Act accomplishes this by achieving three goals.

The first goal of the Internet Freedom Act is deregulation: the bill gets the FCC out of the business of regulating the Internet. It accomplishes this by eliminating existing FCC regulations that are inhibiting the development and rollout of certain types of broadband Internet service in non-urban and rural areas.

Broadband technology is up to twenty times faster than the old modems used for Internet access, and can be compared to the old ''T–1'' telephone lines offered for $1,000 a month, but at a fraction of the cost. In some areas, it is now possible to obtain broadband Internet service, in a variety of forms, for as low as $40 a month. The development of broadband technology has the potential to not only make fast Internet access available to consumers and small businesses, but to make it affordable as well.

The FCC is currently ignoring its responsibility under the Telecommunications Act of 1996 to provide regulatory relief to incumbent phone companies by removing existing regulations on data traffic that were originally intended to encourage competition in voice traffic. The FCC regulations currently prohibit the incumbent phone companies from competing in the Internet backbone market. The ''backbone'' is the very high speed, high capacity lines that crisscross the country linking major cities. Existing suppliers of Internet backbone are simply unable to keep up with the demand for high speed, high capacity backbone bandwidth. They also have little incentives to invest in many parts of the country that are far away from the main backbone routes. Our legislation would allow local phone companies into the backbone market, increasing competition and lowering prices for businesses and consumers.

In addition, many areas of the country are located far from these backbone pipes (often but not exclusively in rural areas). Traffic from these areas must be hauled to the closest backbone connection point (often miles away) and the connections used for this are of much smaller capacity than those on the backbone. More backbone investment will mean that more facilities will eventually become available in more places than ever before. Local phone companies and others may be able to justify building major connection points to the Internet in more locations, allowing traffic to be aggregated by ISPs and encouraging the build-out of more connections closer to customers. This will make it possible for more customers to be able to access the Internet without being required to make a long distance call.

The second goal the Internet Freedom Act accomplishes is freedom of competition: One

of the main goals of the Telecommunications Act was to open the local phone markets to competition to ensure non-discriminatory access and safeguard against anti-competitive behavior. However, certain networks unaffected by the Act remain closed to competitors and other closed networks could be just around the corner. Under this scenario, a consumer who wants high-speed broadband service, whether by cable, satellite, or copper wire, would be forced to buy it from their access provider's ISP. If they wanted service from AOL or another ISP, they would either not be able to receive it or would essentially have to pay twice.

A closed network also provides undue leverage over Internet content, since one company would possess the ability to give content providers preferential access to their ''hostage'' customers. This ability to leverage its monopoly vertically can curtail competition and innovation in the content market and raise prices for such information or programs. It could also limit the variety and availability of content that has made the Internet so successful.

This legislation preserves competition among broadband Internet providers without involving the heavy-handed bureaucracy of the FCC. The bill achieves this goal by giving a private right of action to ISPs who have been unable to compete fairly against other ISPs by broadband transport providers. For example, if a company limits the ability of an ISP to offer its services over their facilities on the same terms and conditions that the cable company offers to another ISP, the first ISP would be able to seek relief in the courts.

The section also preserves competition among ISPs by using existing antitrust law. Under this section, evidence in a civil action that a broadband access transport provider with market power has limited the ability of an Internet service provider to compete in the ISP marketplace would be presumed to have violated the Sherman Act. This section recognizes that each type of broadband transport provider technology is unique, whether two-way cable, copper wire, sport-beam satellite or wireless transmission. Each technology is recognized under this bill as a separate type of broadband market, and therefore providers cannot under current antitrust law abuse that power to limit the competitive marketplace of Internet service providers.

The second section would also ensure openness and competition among broadband Internet transport providers by ensuring that the same rules apply to the incumbent phone companies, which are already required to open their networks to ISPs. In return for removing rate and price regulations on data traffic for local phone companies after meeting certain rollout requirements, this section would presume a Sherman Act violation if the phone company failed to make its ''local loop'' available to other carriers who wanted to compete in the provision of DSL broadband technology.

Finally, the Internet Freedom Act encourages open consumer access for consumers by making the Internet a more user-friendly environment. The third section addresses the problem of illegal mass e-mail, also known as ''spamming.'' This section would make it a federal crime for a person to knowingly use another person's Internet e-mail address, or ''domain name,'' to send unsolicited mass e-mails. The penalty for violating the section would be the actual monetary loss and damages of $15,000 per violation or up to $10 per message, whichever is greater.

The principles of free-market competition, low government regulation, and open consumer access have guided the growth of the Internet. If this growth is to continue, we must ensure that public policy reflects the best interests of the consumer. The environment that has nurtured the early growth of the Internet must be preserved and strengthened to spur continued innovation and ensure that the Internet and information-based economy continue to flourish. But, there are several inefficiencies currently in the marketplace that could stifle the continued development and innovation of the Internet and the growth of our economy. We must fix these problems now, before they require heavy-handed regulations that slow down the Internet, drive up costs, hinder consumer access to information, and cause this engine of potential economic growth and future prosperity to sputter and fail.

CONGRATULATING FRESNO RESCUE MISSION ON THEIR 50TH ANNIVERSARY

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1999

Mr. RADANOVICH. Mr. Speaker, I rise today to congratulate the Fresno Rescue Mission on occasion of its 50th anniversary, and its plans for expansion. The mission has long served the homeless and downtrodden of Fresno.

The Rescue Mission began in 1949 as a non-profit religious organization to be an arm of the churches of Fresno County. Over the past 50 years, the mission has been open 24-hours-a-day 365-days-a-year helping the destitute of Fresno, with three meals a day, shelter, clothing, bedding, appliances and furniture, all free of charge.

Though it began as a ''men only'' organization, over the years, the mission has progressed to helping families who are in need of emergency shelter. The mission works with the Fresno County Department of Human Social Services in ''Rescue the Children/Craycroft Youth'' a collaborative effort to service, abused, neglected and abandoned children.

There is also a year-long live-in recovery program for men with various dependency problems. After completion of the program, a transition home provides housing, and employment as staff members of the mission. At the home, men are encouraged to save their money so they can be reunited with their families, or be able to afford their own housing.

Most important to the mission is its primary purpose, to provide love, and bring the Gospel of Jesus Christ to those who have nothing left in this world. In front of the mission building hangs a sign which reads, ''If you don't have a friend in the world, you will find one here.''

Mr. Speaker, I rise today to congratulate the Fresno Rescue Mission on the occasion of its 50th anniversary. The services provided are a boon to the community, and a blessing to those in most need. I urge all of my colleagues to join me in wishing the Fresno Rescue Mission many years of continued success.

TRIBUTE TO JERRY ZREMSKI

HON. THOMAS M. REYNOLDS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1999

Mr. REYNOLDS. Mr. Speaker, I rise today to honor the achievements of one of Capitol Hill's most hard-working and talented reporters.

As a member of the Washington Bureau of The Buffalo News, Jerry Zremski's Washington dispatches are an important and invaluable source of information for my constituents on the activities of this Congress.

Jerry was recently named a Nieman Fellow at Harvard University, a prestigious honor afforded to only 12 journalists throughout the United States of America. Jerry will begin his fellowship at Harvard in the fall, at the world's oldest mid-career fellowship program for journalists.

A graduate of Syracuse University, where he earned a bachelor's degree in journalism, and American University, where he received his Master's Degree in Political Science, Jerry Zremski has distinguished himself in his profession, and I ask that this House of Representatives join me in honoring Jerry's achievement in earning the Nieman Fellowship at Harvard University.

HONORING THE RETIREMENT OF CARMEL CASABONA AFTER 20 YEARS OF DEDICATED SERVICE

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1999

Mr. DELAURO. Mr. Speaker, tonight we celebrate Carmel Casabona, who retired from Area Cooperative Educational Services (ACES) on January 22, 1999 after 20 years of dedicated service. As a committed vocational education teacher with ACES' Secondary Program and later as a Job Coach with the ACCESS program, she has worked tirelessly to assist adult clients with disabilities, and engage them in their community. It is with tremendous pleasure that I rise today to salute this incredible woman, who has been a dear friend to me and has contributed so much to the Greater New Haven area.

For more than two decades, ACES has been a crucial source of support and assistance for people with a range of disabilities. Many individuals have benefitted from the nurturing, caring environment, and innovative approach that ACES offers. From employment opportunities to residential skills, this institution is an invaluable resource for the disabled. Carmel certainly reflects these goals.

Carm's long career with ACES is characterized by a lifetime of dedication to her adult clients. Although supervising 28–30 clients, Carm carefully assessed each person's abilities, and chose the appropriate work experience. By focusing on each individual's specific needs, she has helped her clients reach their full potential, while providing positive reinforcement. She also offered each participant increased independence, encouragement and dignity.

Aside from her daily work responsibilities, Carm offered her personal time in organizing

the annual Christmas party for her program participants, their families and friends. This event was eagerly anticipated every year as a time to come together to enjoy the holidays. When called upon by Carm to assist with party plans, volunteers could not refuse. Carm, through her volunteer crew, prepared all the food, provided music and hung decorations, all of which were done with tremendous energy and care.

On a personal level, I have witnessed Carm's interaction with her clients. It is easy to notice her genuine affection for them, as well as their fondness for her. She always approached her work with a compassionate heart, a cheerful smile, and a wonderful sense of humor. She will be sorely missed by clients and colleagues alike.

Because of this level of dedication, it is with great pleasure that I commend Carmel Casabona for 20 years of hard work and public service. I join with her daughter Tracy, her three grandaughters, family members, and friends in thanking her for caring so much for her clients, and in wishing her a very enjoyable retirement.

IN HONOR OF BARBARA KIRIE STEWART

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1999

Mr. HYDE. Mr. Speaker, education is in crisis today in America. That is why I think it is important to recognize an outstanding teacher. I rise today to recognize Barbara Kirie Stewart, daughter of a colleague and friend of mine, James C. Kirie. Mrs. Stewart teaches at Brentwood Academy in Tennessee where an endowed chair for history has recently been established in her name. This honor could not have been bestowed on a more deserving or dedicated woman, one who truly understands the joy of giving—to her students, her friends and family, and to future generations.

The endowment chair lets the rest of the world know how integral Barbara is to Brentwood Academy. Mrs. Barbara Stewart came to Brentwood Academy in the fall of 1972, in time to see the first class graduate the following spring. She brought with her a B.A. degree from Lindenwood College and the gift of making history come alive through her effective classroom teaching style.

Barbara's work with the Youth in Government program and as the founding sponsor of the R.O. Beauchamp chapter of the National Honor Society are just some of the many community enrichment activities with which she has involved herself. Barbara's devotion to students and education has taken her through 25 years as the History Department Chair at Brentwood Academy. Along the way, she also earned an M.A.T. from Vanderbuilt. Those who have known Barbara in the classroom have discovered quanlities that cannot be captured: an enthusiasm that stamps her presence into their memories forever.

Mrs. Barbara Stewart's former students say it best * * *.

I became a teacher because of your inspiration. Thank you for all you did for me as a student and all you have inspired me to do as a teacher.

I can still hear your voice and recall the enjoyment of learning history from you.

You taught me to always ask why, not just who and when. That has made all the difference.

Yours is the one class from my high school days that continues to capture my imagination and still sends me to the bookshelves scrambling for more information.

No teacher in high school or college taught me as much as you. No teacher taught me how to learn as well as you. And no teacher was ever as hard as you either!

Every once in a while there is a teacher who, with contagious enthusiasm, is able to impact knowledge and show genuine interest in her students, thus earning their affection and respect in return. Thank you for being one of those rare teachers.

The longer I live, the more I realize that your hard work, dedication, and selfless service has enriched my life in countless ways.

Mr. Speaker, the Barbara Kirie Stewart Endowed Chair for History preserves the legacy of academic achievement lived out at Brentwood Academy through Mrs. Barbara Stewart—an exemplary citizen whose excellence in teaching is unsurpassed.

TRIBUTE TO UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA, LOCAL UNION NO. 433

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1999

Mr. COSTELLO. Mr. Speaker, I rise today to pay tribute to the United Brotherhood of Carpenters and Joiners of America, Local Union Number 433. Local 433 is celebrating their 110th anniversary.

On May 11, 1889, 12 carpenters were granted a charter by the United Brotherhood, forming Local 433. This small group of 12 has grown significantly in membership, to its present total of 435 members.

The impact of Local 433 is highly visible in the Belleville community, as Local 433 has been instrumental in the construction of Belleville Area College, the St. Clair County Courthouse, and Scott Air Force Base, among others. Local 433 is currently working on the expansion of the MetroLink light rail system.

From its inception to today, the men and women of Local 433 have made invaluable contributions to the community, through their contributions to charity and civic events. One of Local 433's greatest achievements is its apprenticeship program. This four year program gives young carpenters the chance to learn from the community's established carpenters. There are currently 44 apprentices in this program, which was established over thirty years ago.

Mr. Speaker, I ask my colleagues to join me in congratulating Local Union Number 433 as they celebrate their 110th anniversary.

PERSONAL EXPLANATION

HON. MARK GREEN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1999

Mr. GREEN of Wisconsin. Mr. Speaker, I was unavoidably detained this morning, and missed roll call vote #108. Had I been present I would have voted ''Aye.''

CONGRATULATING THE RAPE COUNSELING SERVICE OF FRESNO ON THEIR 25TH ANNIVERSARY

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1999

Mr. RADANOVICH. Mr. Speaker, I rise today to congratulate the Rape Counseling Service of Fresno, Inc. (RCS), on occasion of its 25th anniversary.

Rape Counseling Service is a victim advocacy agency. Its mission is to alleviate the trauma due to sexual assault and/or child molestation, to educate the public and to raise the level of awareness regarding rape and child abuse prevention.

RCS made its start with a small core of volunteers meeting in a dorm room at California State University Fresno. It now has a staff of 33 members, and 52 volunteers who aid in crisis intervention, prevention education, a 24-hour hot-line, hospital and court advocacy and individual counseling.

For the past seven years, RCS has been ranked the number one rape crisis center in the state of California by the Office of Criminal Justice Planning, and for the past six years, has been the number one funded agency by Fresno County. The U.S. Department of Justice has named the RCS Sexual Assault Response Team (SART) as one of only two programs in the state to be listed in Promising Practices, a report to improve the criminal justice system's response to violence against women.

Over the years RCS has established a strong working relationship with the Fresno Police Department, the Fresno County Sheriff's Office and the District Attorney's office. It also interacts with other community-based organizations: Sanctuary, House of Hope, Human Services Coalition, Fresno County Child Abuse Prevention Council, The Fresno Policy Academy and Comprehensive Youth Services.

Mr. Speaker, I rise today to congratulate the Rape Counseling Service of Fresno on the occasion of its 25th anniversary. The services provided are invaluable to the well-being of the community and victims of assault. I urge all of my colleagues to join me in wishing RCS many years of continued success.

THE VOLUNTEERS OF RADIO VISION: 19 YEARS OF DEDICATED SERVICE

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1999

Mr. GILMAN. Mr. Speaker, it is my pleasure to rise today to pay tribute to the volunteers of Radio Vision of Orange County, New York for their 19 years of dedicated service. Radio Vision Volunteer Day this year is Saturday, May 15th. Radio Vision is a closed circuit service for the blind and sight impaired of the Mid-

Hudson region of southeastern New York. Over 600 blind and virtually handicapped listeners are informed of local events, news, sales, and a variety of other information only by volunteers.

Oftentimes, we take the gift of sight for granted. With the convenience of being able to watch the television or read the newspaper to learn about the world around us, we have little reason to think about the world around us in any other way. However, for the blind, the world of television and radio is not an option. For the blind residents of the Mid-Hudson, turning on the radio provides an equal alternative to the paper and the TV.

Over the past 19 years over 105 dedicated volunteers have kept Radio Vision running for the more than 600 who have no other option. These people have given their time, their hearts, and their voices to those in need. Mr. Speaker, I am pleased to have been given the opportunity to speak about the commendable deeds of those at Radio Vision and I invite all of my colleagues to join in praising their devoted work in serving the blind.

JOHN WESLEY A.M.E. ZION CHURCH ''THE NATIONAL CHURCH OF ZION METHODISM'' CELEBRATES 150TH ANNIVERSARY

HON. ELEANOR HOLMES NORTON

OF DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1999

Ms. NORTON. Mr. Speaker, I rise today to ask my colleagues to join me in saluting the John Wesley A.M.E. Zion Church, ''The National Church of Zion Methodism,'' on the occasion of their 150th Anniversary.

Mr. Speaker, the John Wesley A.M.E. Zion Church was established in the nation's capital during a period when free black Americans began and expanded a major effort for self-expression, self-esteem, and freedom. Free blacks established their own churches after they became dissatisfied with their treatment in white-controlled churches, treatment which included their segregation in religious services and disqualification from holding church offices and preaching. Founders of John Wesley experienced this treatment, and were led to leave churches that were discriminating against them.

Led by John Brent and John Ingham, a group called the ''Little Society of Nine'' withdrew from Asbury Methodist Episcopal Church which was under the ministry of white leaders. They met in the home of John Brent at 1800 L Street, NW and formulated plans, which culminated in the Organization of John Wesley Church in 1849. At that time, John Wesley was a dependent church which selected its own locations and ministers. One member of the group, Martha Pennington, organized a ''Woman's Aid Society,'' and raised $300.00—the greater part of the down payment of $349.00 required to purchase the church site at 1120 Connecticut Avenue NW. It took two years to build the church. The congregation, led by Rev. Abraham Cole, the first minister, moved into the new church in 1851. In that same year, the Board of Trustees and the Board of Stewards were created. The church established a relationship with the A.M.E. Zion Church, and was legally confirmed in 1904.

Mr. Speaker, founders and early members of John Wesley, like those of many other black churches, were attracted by the doctrine of Methodism. This doctrine, expressed strongly in the sermons of John Wesley and in the hymns of his brother, Charles, proclaimed that no one was too poor, too humble, or too degraded to share in the privilege of divine grace, have a personal intimacy with God, and have assurance of eternal life. Pioneering black Methodists in New York City, led by James Varick, paved the way for the creation of the African Methodist Episcopal Zion Church. From the founders of this church, the organizers and leaders of John Wesley Church in Washington, D.C. were destined to draw their inspiration and guidance. Since 1851, the leadership of the church has been vested in forty ministers.

Mr. Speaker, from 1855 to 1866, John Wesley Church was an important community facility for black education during a time when public schools in Washington were not available to blacks. The church, with the support of philanthropic groups, provided substantial elementary education under instruction from black and white teachers.

The early growth of the church was stimulated by a remarkable group of able ministers. Five of them had been elected bishops of the A.M.E. Zion Church by 1904. Very substantial growth was indicated as early as 1884, when the church expanded its edifice by adding a second story. The architectural expansion was made under the supervision of Calvin Brent, the son of founding member John Brent who was one of Washington's first black architects.

For a dozen years before its move to its present location in 1914, John Wesley Church was located at 1121 18th Street, NW. The relocation to 14th Street provided a beautiful, large edifice that many persons felt was an appropriate place to have a national church of Zion Methodism, just as other denominations had a national church in the nation's capital. At the General Conference of the A.M.E. Zion Church, held at John Wesley in 1940, John Wesley was officially designated the National Church of Zion Methodism.

During the twentieth century, the history of John Wesley Church has been characterized by increasing concern for the social welfare and the general quality of life of its members. The church has shown this concern while maintaining a strong interest in the spiritual well-being of its members and others. The ministerial and lay leadership of the church has been in the vanguard of the civil rights movement and the general effort to make Washington and the nation a better place in which to live. Two former pastors, The Right Reverend Stephen Gills Spottswood and Dr. E. Franklin Jackson, national civil rights leaders, were instrumental in the desegregation of public accommodations in Washington, D.C. The church has held sustained leadership roles in the NAACP, assisted in the coordination of the 1963 March on Washington, hosted President Bush in 1989, and will be hosting the cultural program for the National Trust for Historic Preservation's National Conference later this year. John Wesley Church is a member of the Interfaith Council and Downtown Cluster of Churches. Outreach programs at John Wesley include workshops on domestic violence, care for the senior citizens, feeding the homeless, and awarding scholarships to high school seniors and college students.

Mr. Speaker, I salute the pastor, The Reverend Vernon A. Shannon, the officers and members of the John Wesley A.M.E. Zion Church, ''The National Church of Zion Methodism''—a Washington monument beyond the monuments.

HILLSBORO HIGH SCHOOL TEAM COMPETES IN NATIONAL FINALS OF WE THE PEOPLE . . . THE CITIZEN AND THE CONSTITUTION PROGRAM

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1999

Mr. CLEMENT. Mr. Speaker, I rise today to recognize my alma mater, Hillsboro High School, for their participation in the We the People—The Citizen and the Constitution program. On May 1–3, 1999 more than 1200 students from across the United States will be in Washington, D.C. to compete in the national finals of the We the People—The Citizen and the Constitution program. I am proud to announce that the class from Hillsboro High School from Nashville will represent the state of Tennessee in this national event. These young scholars have worked diligently to reach the national finals and through their experience have gained a deep knowledge and understanding of the fundamental principles and values of our constitutional democracy.

The We the People—The Citizen and the Constitution program is the most extensive educational program in the country developed specifically to educate young people about the Constitution and the Bill of Rights. The three-day national competition is modeled after hearings in the United States Congress. These hearings consist of oral presentations by high school students before a panel of adult judges. The students testify as constitutional experts before a ''congressional committee,'' that is, the panel of judges representing various regions of the country and a variety of appropriate professional fields. The student testimony is followed by a period of questioning during which the judges probe students for their depth of understanding and ability to apply their constitutional knowledge.

Administered by the Center for Civic Education, the We the People . . . program has provided curricular materials at upper elementary, middle and high school levels for more than 26.5 million students nationwide. Members of Congress and their staff enhance the program by discussing current constitutional issues with students and teachers and by participating in other educational activities. I wish the student team from Hillsboro High School the best of luck at We the People—national finals.

THE CENTER FOR CIVIC EDUCATION AND THE ''WE THE PEOPLE: THE CITIZEN AND THE CONSTITUTION'' PROGRAM

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1999

Mr. KILDEE. Mr. Speaker, I want to bring an editorial in today's Washington Post about the

recent Center for Civic Education National Competition to the attention of Members. For 12 years, the Center for Civic Education has developed and promoted its ''We the People: The Citizen and the Constitution'' program to increase student understanding and knowledge of the Constitution and this document's impact on today's society. Over this period, the program has provided instruction to 26.5 million students, distributed more than 89,000 sets of free textbooks, and trained more than 82,000 teachers in 24,000 elementary and secondary schools across the country. In light of the tragic recent events surrounding our Nation's schools, this editorial shows the positive impact that this program is having on our Nation's students and their sense and understanding of citizenship and its responsibilities.

[From The Washington Post]

A CLASS ACTION

(By David S. Broder)

The topic was the constitutional guarantee of freedom of association, and the questions from the Kentucky college teacher, the Virginia judge and the Charleston, S.C., lawyer came thick and fast.

''Given the volatile nature of the atmosphere in Colorado following the Columbine High School tragedy, do you think the Denver City Council would have been justified in saying, 'We do not want the NRA [National Rifle Association] meeting here this weekend?' '' ''Could it have restricted the number of people at the meeting?'' ''Could it have asked for the names of those attending?''

The five Hempfield High School students from Landisville, Pa., facing them were not rattled. One by one, they made their points in quick, incisive fashion, referring twice to the controlling Supreme Court cases: Barring the convention would have been justified only if there were a real threat of retaliatory violence. Limiting its size was not sensible—''It should be all or nothing.'' Asking for names could not be justified by any compelling state interest.

The discussion moved to the issue of youths wearing symbols or clothing that others in school might find intimidating—and once again, the students spoke calmly and clearly about the issues that have agitated the country since the Littleton massacre.

On Sunday, the second day of the annual national competition sponsored by the Center for Civic Education, a downtown Washington hotel was the place to have your faith in the younger generation restored.

For 12 years, the center, funded by a $5.5 million annual grant from the Department of Education and six times that much in state, local and private support, has promoted semester-long curriculum called ''We the People. The Citizen and the Constitution,'' and trained thousands of teachers to use it in classrooms across the country.

Each class is invited to compete at the congressional district and state level, and last weekend about 1,250 students from all 50 states and the District of Columbia gathered for the national finals. The format is a simulated congressional hearing on an issue requiring application of constitutional principles. Each team has four minutes to present its prepared position and then must answer unscripted questions from a trio of contest judges for another six.

''The whole class comes to Washington,'' Chuck Quigley, the program director, explained. ''This is not like a debate meet, where the best and brightest represent the school. Each class divides into six teams—one for each unit of the course—and each team 'testifies' once in each round. You can't have cliques or factions. Everyone has to cooperate for the school to do well.''

In a 1994 evaluation of the program, Stanford political scientist Richard Brody found it particularly successful in promoting tolerance of dissenting views and active participation in the political system. Carly Celmer, a member of the team representing Florida, said, ''It teaches you that people can make mistakes, but our structure of government is really sound.''

Elaine Savukas, who teaches the Pennsylvania students I watched, said her husband, the principal of Hempfield High—''a school of exactly the same size as Columbine in the same kind of suburban community''—values the course because ''it shows kids there are ways to work through disagreements other than violence.''

Mary Catherine Bradshaw, the teacher of the Hillsboro High School entry from Nashville, Tenn., said ''Taunting is pervasive in every high school.'' But her class, on its own initiative, came up with a checklist of actions federal, state and local authorities might take to prevent another Littleton. And then one student said, ''There is something we can do as individuals.'' And the class began circulating a pledge that ''as part of the community . . . I will eliminate taunting from my own behavior. I will encourage others to do the same . . . and if others won't become part of the solution, I will.''

They put the pledge on their Web site and now are hearing that it's been adopted at high schools all over the United States.

The competition—and the underlying course—have attracted celebrity backers. Henry Hyde has coached classes in his district; Hillary Clinton, Kenneth Starr and several Supreme Court justices met with schools in this year's competition.

Anthony Corrado, a distinguished political scientist at Colby College in Maine, has judged the contest for eight years and has helped train teachers at summer institutes on using the curriculum. He takes the time, he told me, because ''the best antidote to cynicism is understanding the basic principles of our system of government and being challenged to apply them to today's problems.''

This is a course most of us adults could use.

(The phone numbers of the Center for Civic Education are 818–591–9321 or 202–861–8800.)

IN HONOR OF JOHN PETER, RETIRING PRESIDENT OF KIDSPEACE

HON. TIM ROEMER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1999

Mr. ROEMER. Mr. Speaker, I rise today to pay tribute to one of our nation's most visionary and dedicated public servants, Mr. John Peter, who will be retiring next month as President and CEO of KidsPeace.

As many of you know, KidsPeace is a 115-year old, not-for-profit organization which helps young people face personal crisis and prepare for life's daily challenges. When John first started working at KidsPeace in 1974, the organization provided a refuge for about 40 troubled kids in northeastern Pennsylvania.

But John had a greater vision for the organization than that. He realized that children everywhere were coming under increasing pressure from broken homes, violence, drugs and other troubling influences in society. He knew that in order to truly help the children it was serving, KidsPeace had to find a way to get to them before trouble set in, and provide a structure to help them cope with the added burdens in their lives.

Utilizing his skills as a businessman and social worker, and inspired by his training in theology, John set out to expand the KidsPeace mission nationwide. The results have been spectacular. Under John's leadership, KidsPeace has grown from a single facility in Pennsylvania to the nation's leading organization helping kids overcome crisis.

KidsPeace now helps more than 2,000 children a day at 25 centers across the country, and serves millions more each year through public education and outreach programs. Hundreds of business leaders, doctors, entertainers, athletes and civic figures donate their time and support to the KidsPeace mission.

At a time of increasing violence and turmoil in our society, children across the country know they can turn to KidsPeace for help in facing tough situations at home, problems with friends or in school, or for guidance in becoming stronger, wiser and healthier kids.

I have had the privilege of working closely with John and the KidsPeace organization over the years through the Childrens' Working Group, which I founded to help give voice to America's kids. We hosted two major press conferences at which KidsPeace released the results of its national surveys of American teenagers and pre-teens.

We also joined together to unveil the latest KidsPeace initiative: a Web site for young people called TeenCentral.net. I am pleased to note that since its inception, this site has received more than a million visits by kids, and has been named one of the top Web sites in the country.

Mr. Speaker, Helen Keller once observed that optimism is the faith that leads to achievement. In my view, John Peter is the ultimate optimist. He believes that every child in America deserves a chance to reach his full potential, and that no child should be left behind. He has dedicated his life to this cause and our nation has benefited greatly from his efforts.

I congratulate John on his many accomplishments with KidsPeace and the outstanding work he has done to help children and families overcome crisis. He may be retiring from KidsPeace, but his contributions will endure for decades to come.

CELEBRATING THE 75TH ANNIVERSARY OF THE SANTA BARBARA CARRILLO COMMUNITY RECREATION CENTER AND THE GRAND OPENING OF THE SENIOR INFORMATION AND REFERRAL SERVICE

HON. LOIS CAPPS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1999

Mrs. CAPPS. Mr. Speaker, I rise to celebrate Older American's Month and to bring to the attention of my colleagues the 75th Anniversary of the Carrillo Community Recreation Center of Santa Barbara, California.

The City of Santa Barbara has long placed a high priority on providing a safe place for senior citizens to engage in health education

and recreations pursuits. It is due to this commitment that the Senior Information and Referral Service has been established. This project represents a strong partnership between the City of Santa Barbara Parks and Recreation Department, the American Association of Retired Persons, the Area Agency on Aging and the Retired Senior Volunteer program. Now seniors in Santa Barbara will have a ''seamless'' referral system where their questions will be answered and their needs met.

I am also proud to tell my colleagues that this year represents the 17th Anniversary of the 90+ Club which celebrates all citizens in Santa Barbara who are 90 years of age and older. This Club has been sponsored by the City Parks and Recreation Department, the Valle Verde Retirement Community and the Southern California Gas Company. I commend these fine organizations for their contributions to seniors and our community.

Mr. Speaker, I am honored to join the City of Santa Barbara and the senior citizens whom I represent on the Central Coast in celebration of Older American's Month. I wish the Carrillo Community Recreation Center many more years of success and prosperity.

PERSONAL EXPLANATION

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1999

Mr. UDALL of Colorado. Mr. Speaker, I was unable to be present for rollcall vote 94 ''On Agreeing to the Conference Report on the Education Flexibility Partnership Act.''

Had I been present, I would have voted ''aye'' on rollcall vote 94.

IN HONOR OF CHILDCARE PROVIDER APPRECIATION DAY

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1999

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today to honor the Nation's childcare providers as nationwide, childcare centers have joined together to declare Friday, May 7, 1999 to be Provider Appreciation Day.

It is estimated that of the 21 million children under the age of six in America, 13 million are in childcare, at least part time. An additional 24 million school age children are in some form of childcare outside of school time.

By calling attention to the importance of high quality child care services for all children and families, the Nation's child care providers hope to improve the quality and availability of such services.

This day of recognition has been celebrated annually, since 1996, on the Friday before Mother's Day. The idea was spearheaded by a group of volunteers from my home state of New Jersey because they saw the need for a day of recognition and appreciation for childcare providers. It takes a special person to work in this field and their contribution to the quality of family life frequently goes unnoticed.

One such place, where many special people have helped improve the lives of children and parents in my district is ''Children on the Green'' in Morristown, New Jersey. Children on the Green is a special place. It is a center that provides quality, developmentally appropriate childcare and early education to families living or working in the Morristown community. At the same time, this center offers some of its slots to children from area shelters. Children from the Morris Shelter, Jersey Battered Women's Services, and the Interfaith Council for Homeless Families of Morris County are in attendance each day. This type of child care provides some stability to these children while offering their parents time to pursue opportunities that would help them to improve their living situations.

Mr. Speaker, I ask you and my colleagues to join me in honoring the dedicated child care providers at Children on the Green in Morristown, and the child care providers all over New Jersey and across our nation who each day give a little bit of themselves to help a child learn, make friends and feel safe and secure.

SALUTE TO WALTER D. ''DEE'' DALTON IN COMMEMORATION OF HIS 25 YEARS OF FEDERAL SERVICE

HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1999

Mr. ROGERS. Mr. Speaker, we in the House of Representatives are in the midst of celebrating the 15th annual Public Service Recognition Week sponsored by the Public Employees Roundtable. This week—in ceremonies on the National Mall here in Washington and in communities all across America—we pay tribute to the inspiring work of countless public servants who give of themselves to make this Nation a better place. I am proud to recognize one such pubic servant today.

Mr. Walter D. ''Dee'' Dalton of Somerset, KY, is currently the District Manager of the Social Security Administration office in Somerset. During this 25 years of dedicated service to the agency he has earned the admiration of his coworkers and the gratitude of thousands of his neighbors for his effectiveness. His career with the Social Security Administration is an inspiration to all Americans and is a sterling example of what public service is all about. Mr. Dalton's career has been built around a single idea: that reaching out and helping one's neighbors is still a noble undertaking.

In the Pulaski, Wayne and Clinton County area, thousands of citizens can testify to the fair and efficient service they receive from Mr. Dalton and the staff of the Somerset Social Security Office. This compassion for neighbors, combined with his dedicated and effective leadership, have built a solid reputation for the office that is well known across Kentucky and the entire agency.

Born in nearby Monticello, KY, Walter D. ''Dee'' Dalton earned a bachelor's degree in business from Campbellsville College in Taylor County, KY. The majority of his career has been in service to the Somerset office of the Social Security Administration. More than 19,000 of the citizens I represent rely upon Mr. Dalton and his fine staff of 14 for the timely administration of their Social Security benefits. More than 6,300 Kentuckians who rely on Supplemental Security Income (SSI) also depend upon the hard work of the employees of the Somerset Social Security office. This fine tradition of neighbor helping neighbor is why I believe Mr. Dalton is a fine example of the Federal employee we recognize during National Public Service Recognition Week.

Countless citizens join me in saluting Walter D. ''Dee'' Dalton. We all share the pride of his wife, Clorenda, and their two children, 17-year-old Rachel and 9-year-old Chip. I join his family, friends, coworkers, and neighbors in saluting him for his career of public service. We thank him for his dedication, his hard work, and his commitment to make our region of Kentucky a better place to live.

MORTGAGE CANCELLATION RELIEF ACT OF 1999

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1999

Mr. ANDREWS Mr. Speaker, economic conditions in my district have resulted in decreased home values, and in many situations, homeowners find that the value of their home is less than their outstanding mortgage. Generally homeowners who are forced to sell their home for less than the amount of the outstanding mortgage must find additional funds to pay off the lender for the mortgage shortfall. However, in some situations, the lender might forgive the shortfall as an accommodation to the homeowner.

For example, a homeowner who has become unemployed might be forced to sell because there is no income to make the mortgage payments. If the proceeds are insufficient to pay off the mortgage, the lender might forgive the shortfall—particularly if there is no possibility of recovery from the unemployed homeowner. Although the homeowner has lost a home, as well as all equity investment, the income tax laws require that unemployed former homeowner pay taxes on the amount of the mortgage forgiven by the lender. The tax laws treat this forgiven amount as if it had been paid to the former homeowner by the lender. So, even though the former homeowner does not have money to maintain or pay off the mortgage, the tax laws require this unfortunate person to pay tax on the forgiven amount.

This outcome is patently unfair, particularly when we consider that the income tax laws allow better-situated homeowners to exclude up to $250,000 ($500,000 for married couple filing jointly) of gain on the sale of a home. It seems ironic that under current income tax laws, the only two classes of homesellers remaining in the tax system are: Taxpayers with capital gains in excess of $250,000/$500,000; and Taxpayers whose home values have declined below the outstanding mortgage.

The ''Mortgage Cancellation Relief Act of 1999'' rectifies this injustice by exempting taxpayers from including in ordinary income any mortgage amount forgiven by a lender, provided the proceeds of the home sale are insufficient to satisfy the qualified outstanding mortgage. This legislation introduces fairness in

the taxation of a home sale, extending equity to those (former) homeowners most in need of tax relief.

HONORING THE CONTRIBUTION OF WIC PROGRAMS

HON. CAROLYN MCCARTHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1999

Mrs. MCCARTHY of New York. Mr. Speaker, I rise today in honor of WIC's 25th Anniversary and to commend WIC for their years of sterling health and nutrition service to the nation's low-income women, infants and children.

In the last 25 years, WIC has dramatically improved the nutrition and health of millions of Americans. WIC provides quality education and services to over 7.4 million pregnant women, new mothers, infants and preschool children through 10,000 clinics nationwide. It serves as a short-term intervention program designed to influence lifetime nutrition and health behaviors in a targeted, high-risk population. WIC provides quality education and services to over 7.4 million pregnant women, new mothers, infants and preschool children through 10,000 clinics nationwide.

As a nurse, I understand the importance of preventative care. Whether we are talking about health care, education or crime, services that focus on preventative care save money in the long run. That is why the WIC program is so important—it just makes sense. Studies have shown that pregnant women who participate in WIC have longer pregnancies leading to fewer premature births, have fewer low and very low birth weight babies, experience fewer fetal and infant deaths, and seek prenatal care earlier in pregnancy. WIC helps to assure normal childhood growth, reduces early childhood anemia, increases immunization rates, improves access to pediatric health care, and readies children to learn.

Every dollar spent on pregnant women in WIC produces $1.92 to $4.21 in Medicaid savings for newborns and their mothers. Consider the following: it costs $22,000 per pound to raise a low (less than 5.5 pounds) or very law (less than 3.25 pounds) birth weight infant to normal weight. It costs $40 per pound to provide WIC prenatal benefits. Furthermore, Medicaid costs were reduced on average $12,000 to $15,000 per infant for every very low birth weight birth prevented.

These statistics illustrate that WIC works. By providing short-term preventative services, WIC improves the health and quality of life for millions of low-income women and children while at the same time saving the federal government money. We need to ensure that WIC continues to provide these important services—I know that I will continue to fight for funding for this important program.

Again, I want to congratulate WIC on their 25th anniversary and I urge them to keep up the good work.

HONORING THE DISTINGUISHED CAREER OF KREDA FRIERSON YOKLEY

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1999

Mr. GORDON. Mr. Speaker, I rise today to recognize the tremendous contributions Kreda Frierson Yokley has made to the Sixth Congressional District and to her community on this her last day as my field representative.

Since November 1995, Kreda has worked in my Murfreesboro District office. Although my staff and I are sad to see her go, it is comforting to know that she will continue her career in public service as a director for the Mid-Cumberland Community Action Agency.

For the past 13½ years, Kreda has helped those who served our country. Veterans from across the Sixth District relied on her to help get their medals and serve as a liaison in their efforts to receive compensation and medical assistance from the Veterans Administration. She has helped not only those who served, but those just starting a career with the Armed Forces. Kreda has been instrumental in securing the appointments of scores of young men and women in the Sixth District to the academies at West Point, Annapolis and Colorado Springs.

Traveling to Williamson and Marshall counties, Kreda reached out to constituents through my Mobile Congressional Office. I always get my best ideas from home and Kreda served as a constant conduit for peoples' ideas and concerns.

My staff and I will miss Kreda. Constituents, friends, family and staff describe her as professional, a class act and dependable. Most of all, she always seems to have the knack for saying just the right thing, whether to calm a frustrated or hunting constituent or to encourage a friend or co-worker.

Kreda, congratulations on your new job. May you prosper and thrive in your new environment. May you new co-workers and clients value you as much as we do. Thank you for your many years of service, and may God bless you in your future endeavors.

A TRIBUTE TO AMERICAN NURSES DURING NATIONAL NURSES WEEK

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1999

Mr. LIPINSKI. Mr. Speaker, I would like to pay tribute to a remarkable group of dedicated health professional—the 2.6 million registered nurses in the United States.

These outstanding men and women, who work hard to save lives and maintain the health of millions of individuals, will celebrate National Nurses Week, May 6–12, 1999. I believe that all Americans who have ever been cared for or comforted by a nurse should celebrate National Nurses Week.

According to the American Nurses Association, National Nurse Week was first observed October 11–16, 1954, the 100th Anniversary of the founding of modern nursing by Florence Nightingale during the Crimean War. National Nurses Day and Week was eventually moved to May to incorporate Florence Nightingale's birthday, which is May 12th.

Using this year's theme ''Nursing: Healing from the Heart,'' the American Nurses Association (ANA) and its 53 constituent associations will highlight the diverse ways in which registered nurses, the largest health care profession, are working to improve health care. Studies show that the higher the ratio of nurse-to-patients in a hospital, the lower the patient death rate. In short, registered nurses provide top-quality, cost-effective health care services for their patients.

Mr. Speaker, I salute America's nurses during the week of May 6–12, 1999 and encourage my colleagues to do the same.

THE STATE OF ALABAMA OFFERS A ''GIFT OF HOPE'' FOR THE PEOPLE OF COLORADO IN THE WAKE OF THE LITTLETON SHOOTINGS

HON. ROBERT E. (BUD) CRAMER, JR.

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 5, 1999

Mr. CRAMER. Mr. Speaker, I rise today to offer my deepest sympathies to the people of Littleton, Colorado, in the wake of the shootings at Columbine High School that left 15 people dead.

This tragedy stands as the worst case of school violence in the history of the United States. The people of Alabama share in the grief of all of those in Colorado who were touched by this horrific event. Our hope and prayers are with them.

Over the course of Alabama's history, our state has developed a rich tradition of music and songwriting that have helped people cope during times of great loss and sadness. Carrying on this tradition are two Alabama songwriters named Eddie Martin and Susan Welborn. The two Shoals-area artists have collaborated on a song called ''Listen for the Wings.'' The song was written as a gift of hope for the people of Littleton as they work to rebuild their community and restore order to their lives.

Mr. Speaker, I would like to enter into the CONGRESSIONAL RECORD the lyrics to the song ''Listen for the Wings'' so that others might have the opportunity to read these words and take solace in the song's message.

LISTEN FOR THE WINGS

(By Eddie Martin and Susan Welborn)

Just a Tuesday morning
At a school in the heartland
'Til they walked in with bombs
And guns in their hands
It was all too familiar
Another horrible mistake
To see their future
Explode in such rage

We need some help to understand
And lead us back to truth again

Do you believe in angels?
Well, I do
I'm praying that the angels
Wrap their arms around you
If you could just believe in angels
Like I do
Then you'd know there's always hope for you
No matter what life may bring
Take time to listen for the wings

If Moses needed angels
What about you and me?
In the middle of the violence
And the crazy lives we lead
Gotta bring some love back
Gotta have a little faith
Find some forgiveness
'Cause it's the only way

So many times we pass right by
The simple answers to our whys

Do you believe in angels
Well, I do
I'm praying that the angels
Wrap their arms around you
If you could just believe in angels
Like I do
Then you'd know there's always
Hope for you

No matter what life may bring
Take time to listen for the wings

When everything goes wrong
Seems all hope is gone
Remember, you're not alone

We're all gonna feel some pain
And walk through the wind and rain
But no matter what life may bring
Take time, and listen for the wings

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, May 6, 1999 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MAY 10

1 p.m.
Judiciary
Administrative Oversight and the Courts Subcommittee
To hold oversight hearings on the investigation of TWA Flight #800.
SD–226

MAY 11

9 a.m.
Environment and Public Works
Business meeting to consider pending calendar business.
SD–406

9:30 a.m.
Energy and Natural Resources
To resume hearings on S.25, to provide Coastal Impact Assistance to State and local governments, to amend the Outer Continental Shelf Lands Act Amendments of 1978, the Land and Water Conservation Fund Act of 1965, the Urban Park and Recreation Recovery Act, and the Federal Aid in Wildlife Restoration Act (commonly referred to as the Pittman-Robertson Act) to establish a fund to meet the outdoor conservation and recreation needs of the American people; S.532, to provide increased funding for the Land and Water Conservation Fund and Urban Parks and Recreation Recovery Programs, to resume the funding of the State grants program of the Land and Water Conservation Fund, and to provide for the acquisition and development of conservation and recreation facilities and programs in urban areas; S.446, to provide for the permanent protection of the resources of the United States in the year 2000 and beyond; S.819, to provide funding for the National Park System from outer Continental Shelf revenues; and the Administration's Lands Legacy Initiative.
SD–366

10 a.m.
Judiciary
To hold hearings on how to promote a responsive and responsible role for the Federal Government on combatting hate crimes.
SD–226

Foreign Relations
East Asian and Pacific Affairs Subcommittee
To hold hearings on the policies between the United States and China, focusing on business and trade.
SD–562

10:30 a.m.
Governmental Affairs
Oversight of Government Management, Restructuring and the District of Columbia Subcommittee
To hold hearings on multiple program coordination in early childhood education. 342

2 p.m.
Commission on Security and Cooperation in Europe
To hold hearings to examine the status of the International Criminal Tribunal for the former Yugoslavia.
SD–2255 Cannon Building

MAY 12

9:30 a.m.
Indian Affairs
To hold oversight hearings on HUBzones implementation.
SR–485

Health, Education, Labor, and Pensions
To resume hearings on proposed legislation authorizing funds for programs of the Elementary and Secondary Education Act, focusing on Title I provisions.
SD–628

Energy and Natural Resources
Business meeting to consider pending calendar business.
SD–366

10 a.m.
Judiciary
Technology, Terrorism, and Government Information Subcommittee
Business meeting to consider S.692, to prohibit Internet gambling.
SD–226

2 p.m.
Judiciary
Immigration Subcommittee
To hold hearings to examine workforce needs of American agriculture, farm workers, and the United States Economy.
SD–226

Intelligence
To hold closed hearings on pending intelligence matters.
SH–219

MAY 13

9:30 a.m.
Energy and Natural Resources
To hold hearings on S.698, to review the suitability and feasibility of recovering costs of high altitude rescues at Denali National Park and Preserve in the state of Alaska; S.711, to allow for the investment of joint Federal and State funds from the civil settlement of damages from the Exxon Valdez oil spill; and S.748, to improve Native hiring and contracting by the Federal Government within the State of Alaska.
SD–366

10 a.m.
Environment and Public Works
To hold hearings on issues relating to the Clean Water Action Plan.
SD–406

Health, Education, Labor, and Pensions
To hold hearings on the nomination of Richard M. McGahey, of the District of Columbia, to be an Assistant Secretary of Labor.
SD–628

2 p.m.
Judiciary
Administrative Oversight and the Courts Subcommittee
To hold hearings to examine the Department of Justice's refusal to enforce the Law on Voluntary Confessions.
SD–226

2:30 p.m.
Energy and Natural Resources
Forests and Public Land Management Subcommittee
To hold hearings to examine fire preparedness on Federal lands.
SD–366

MAY 19

9:30 a.m.
Indian Affairs
To hold hearings on S.614, to provide for regulatory reform in order to encourage investment, business, and economic development with respect to activities conducted on Indian lands; and S.613, to encourage Indian economic development, to provide for the disclosure of Indian tribal sovereign immunity in contracts involving Indian tribes,and for other purposes.
SR–485

2 p.m.
Energy and Natural Resources
National Parks, Historic Preservation, and Recreation Subcommittee
To hold oversight hearings on the status of Youth Conservation Corps and other job programs conducted by the National Park Service, Bureau of Land Management, Forest Service, and the U.S. Fish and Wildlife Service.
SD–366

MAY 20

2 p.m.
Energy and Natural Resources
Energy Research and Development, Production and Regulation Subcommittee
To hold hearings on S.348, to authorize and facilitate a program to enhance training, research and development, energy conservation and efficiency, and consumer education in the oilheat industry for the benefit of oilheat consumers and the public.
SD–366

2:30 p.m.
Energy and Natural Resources
Energy Research and Development, Production and Regulation Subcommittee
To hold joint oversight hearings with the House Committee on Government Reform's Subcommittee on National Economic Growth, Natural Resources and Regulatory Affairs, on the Administration's fiscal year 2000 budget request for climate change programs and compliance with various statutory provisions in fiscal year 1999 appropriations acts requiring detailed accounting of climate change spending and performance measures for each requested increase in funding.
SD–366

MAY 25

9:30 a.m.
Energy and Natural Resources
To hold oversight hearings on state progress in retail electricity competition.
SD–366

MAY 26

9:30 a.m.

Indian Affairs

To hold oversight hearings on Native American Youth Activities and Initiatives.

SR–485

MAY 27

2 p.m.

Energy and Natural Resources

Water and Power Subcommittee

To hold hearings on S.244, to authorize the construction of the Lewis and Clark Rural Water System and to authorize assistance to the Lewis and Clark Rural Water System, Inc., a nonprofit corporation, for the planning and construction of the water supply system; S.623, to amend Public Law 89-108 to increase authorization levels for State and Indian tribal, municipal, rural, and industrial water supplies, to meet current and future water quantity and quality needs of the Red River Valley, to deauthorize certain project features and irrigation service areas, to enhance natural resources and fish and wildlife habitat; and S.769, to provide a final settlement on certain debt owed by the city of Dickinson, North Dakota, for the construction of the bascule gates on the Dickinson Dam.

SD–366

SEPTEMBER 28

9:30 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans Affairs to review the legislative recommendations of the American Legion.

345 Cannon Building

Daily Digest

Senate

Chamber Action

Routine Proceedings, pages S4725–S4819

Measures Introduced: Eleven bills and two resolutions were introduced, as follows: S. 959–969, and S. Res. 96–97. **Page S4792**

Measures Passed:

Commending Reverend Jesse Jackson: By a unanimous vote of 92 yeas, 5 members responding present (Vote No. 99), Senate agreed to S. Res. 94, commending the efforts of the Reverend Jesse Jackson to secure the release of the soldiers held by the Federal Republic of Yugoslavia. **Page S4727**

National Teacher Day: Senate agreed to S. Res. 97, designating the week of May 2 through 8, 1999, as the 14th Annual Teacher Appreciation Week, and designating Tuesday, May 4, 1999, as National Teacher Day. **Page S4817**

Dante B. Fascell North-South Center: Senate passed H.R. 432, to designate the North/South Center as the Dante B. Fascell North-South Center, clearing the measure for the President. **Page S4817**

Sierra Leone Human Rights: Senate agreed to S. Res. 54, condemning the escalating violence, the gross violation of human rights and attacks against civilians, and the attempt to overthrow a democratically elected government in Sierra Leone. **Pages S4817–18**

Afghanistan Women's Treatment: Senate agreed to S. Res. 68, expressing the sense of the Senate regarding the treatment of women and girls by the Taliban in Afghanistan, after agreeing to the following amendments proposed thereto: **Pages S4818–19**

Gramm (for Boxer Amendment No. 305), to improve the resolution. **Page S4818**

Gramm (for Boxer Amendment No. 306), to improve the preamble. **Pages S4818–19**

Financial Services Modernization Act: Senate continued consideration of S. 900, to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, insurance companies, and other financial service providers, taking action on the following amendments proposed thereto: **Pages S4735–88**

Rejected:

Sarbanes (for Daschle/Sarbanes) Amendment No. 302, in the nature of a substitute. (By 54 yeas to 43 nays, 1 member responding present (Vote No. 100), Senate tabled the amendment.) **Pages S4735–43**

Bryan Amendment No. 303, to make amendments relating to the Community Reinvestment Act of 1977. (By 52 yeas to 45 nays, 1 member responding present (Vote No. 101), Senate tabled the amendment.) **Pages S4743–88**

A unanimous-consent agreement was reached providing for further consideration of the bill on Thursday, May 6, 1999. **Page S4819**

Nominations Received: Senate received the following nominations:

Edward B. Montgomery, of Maryland, to be an Assistant Secretary of Labor.

David B. Dunn, of California, to be Ambassador to the Republic of Zambia. **Page S4819**

Messages From the House: **Page S4790**

Measures Referred: **Pages S4790–91**

Measures Placed on Calendar: **Page S4791**

Communications: **Pages S4791–92**

Executive Reports of Committees: **Page S4792**

Statements on Introduced Bills: **Pages S4792–S4808**

Additional Cosponsors: **Pages S4808–09**

Amendments Submitted: **Pages S4812–14**

Authority for Committees: **Pages S4814–15**

Additional Statements: **Pages S4815–17**

Record Votes: Three record votes were taken today. (Total—101) **Pages S4727, S4743, S4788**

Adjournment: Senate convened at 9:30 a.m., and adjourned at 7:45 p.m., until 9:30 a.m., on Thursday, May 6, 1999. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S4819.)

Committee Meetings

(Committees not listed did not meet)

NOMINATION

Committee on Agriculture, Nutrition, and Forestry: Committee concluded hearings on the nomination of Thomas J. Erickson, of the District of Columbia, to be a Commissioner of the Commodity Futures Trading Commission after the nominee, who was introduced by Senator Daschle, testified and answered questions in his own behalf.

COMMODITY EXCHANGE ACT

Committee on Agriculture, Nutrition, and Forestry: Committee concluded hearings on proposed legislation authorizing funds for programs of the Commodity Exchange Act, focusing on the Commodity Futures Trading Commission's pilot program for agricultural trade options, after receiving testimony from David D. Spears, Commissioner, Commodity Futures Trading Commission; Kenneth Ackerman, Administrator, Risk Management Agency, Department of Agriculture; Jerry Slocum, North Mississippi Grain Company, Cold Water; Dan Dye, Cargill, Inc., Minneapolis Minnesota; Scott W. Stewart, Stewart-Peterson Group, Inc., West Bend, Wisconsin, on behalf of the National Introducing Brokers Association; Steven Manaster, Virginia Tech University Pamplin College of Business, Falls Church; David Rempe, Kansas State University Department of Agricultural Economics, Manhattan.

INTELLIGENCE PROGRAMS

Committee on Appropriations: Subcommittee on Defense concluded closed hearings on proposed budget estimates for fiscal year 2000 for defense related intelligence programs, after receiving testimony from George J. Tenet, Director, Central Intelligence Agency.

FINANCIAL INSTITUTIONS INSOLVENCY IMPROVEMENT ACT

Committee on Banking, Housing, and Urban Affairs: Subcommittee on Financial Institutions concluded hearings on S. 958, to amend certain banking and securities laws with respect to financial contract, after receiving testimony from William F. Kroener, III, General Counsel, Federal Deposit Insurance Corporation; and Paul G. Scheufele, Credit Suisse First Boston, on behalf of the Bond Market Association, Don Thompson, J.P. Morgan and Company, Inc., on behalf of the American Bankers Association and the ABA Securities Association, and Marjorie E. Gross, Chase Manhattan Bank, on behalf of the Financial Services Roundtable, all of New York, New York.

BUSINESS MEETING

Committee on Commerce, Science, and Transportation: Committee ordered favorably reported the following business items:

S. 376, to amend the Communications Satellite Act of 1962 to promote competition and privatization in satellite communications, with an amendment in the nature of a substitute;

S. 305, to reform unfair and anticompetitive practices in the professional boxing industry, with amendments;

S. 296, to provide for continuation of the Federal research investment in a fiscally sustainable way, with amendments;

S. 342, to authorize appropriations for the National Aeronautics and Space Administration for fiscal years 2000, 2001, and 2002, with amendments;

S. 795, to amend the Fastener Quality Act to strengthen the protection against the sale of mismarked, misrepresented, and counterfeit fasteners and eliminate unnecessary requirements, with amendments;

S. 920, to authorize appropriations for the Federal Maritime Commission for fiscal years 2000 and 2001, with an amendment;

H.R. 1034, to declare a portion of the James River and Kanawha Canal in Richmond, Virginia, to be nonnavigable waters of the United States for purposes of title 46, United States Code, and the other maritime laws of the United States; and

The nominations of Rear Adm. John E. Shkor of the United States Coast Guard to be Commander, Atlantic Area, with the Grade of Vice Admiral, Capt. Evelyn J. Fields of the National Oceanic and Atmospheric Administration to be Director, Office of NOAA Corp Operations, with the Grade of Rear Admiral; Capt. Nicholas A. Prahl of the National Oceanic and Atmospheric Administration to be Director, Atlantic and Pacific Marine Centers, with the Grade of Rear Admiral, and nominations for promotion in the United States Coast Guard.

CHINESE ESPIONAGE AT DOE LABORATORIES

Committee on Energy and Natural Resources: Committee resumed hearings to examine the damage to the national security from alleged Chinese espionage at Department of Energy nuclear weapons laboratories, receiving testimony from John C. Browne, Director, Los Alamos National Laboratory, C. Paul Robinson, Director, Sandia National Laboratories, and C. Bruce Tarter, Director, Lawrence Livermore National Laboratory, all of the Department of Energy.

Hearings recessed subject to call.

NOMINATION

Committee on Environment and Public Works: Committee concluded hearings on the nomination of Timothy Fields, Jr., of Virginia, to be Assistant Administrator, Office of Solid Waste, Environmental Protection Agency, after the nominee testified and answered questions in his own behalf.

MEDICARE REFORM

Committee on Finance: Committee concluded hearings on Medicare reform issues, focusing on the financial outlook for the Medicare program, including implications of Medicare financing for the Federal budget and the United States economy, and the role of Medicare in meeting the health needs of the elderly and disabled Americans, after receiving testimony from Dan L. Crippen, Director, Congressional Budget Office; Richard Foster, Chief Actuary, Health Care Financing Administration, Department of Health and Human Services; Massachusetts Governor Argeo Paul Cellucci, Boston, on behalf of the National Governors' Association; H.E. Frech III, University of California, Santa Barbara; and Diane Rowland, Henry J. Kaiser Family Foundation/Kaiser Commission on Medicaid and the Uninsured, Washington, D.C.

ANTIBALLISTIC MISSILE TREATY

Committee on Foreign Relations: Committee resumed hearings on issues relating to the 1972 Antiballistic Missile Treaty, focusing on the United States strategic and arms control objectives, receiving testimony from Ronald F. Lehman, former Director of the U.S. Arms Control and Disarmament Agency; R. James Woolsey, former Director of the Central Intelligence Agency; Keith B. Payne, National Institute for Public Policy/Georgetown University School of Foreign Service, Washington, D.C.; and Gen. Eugene E. Habiger, Omaha, Nebraska, former Commander-in-Chief, U.S. Strategic Command.

Hearings recessed subject to call.

STATE OF FEDERALISM

Committee on Governmental Affairs: Committee concluded hearings on the current state of Federal and State relations, after receiving testimony from Utah Governor Michael O. Leavitt, Salt Lake City, on behalf of the National Governors' Association; Wisconsin Governor Tommy G. Thompson, Madison, on behalf of the Council of State Governments; Mayor Clarence E. Anthony, South Bay, Florida, on behalf of the National League of Cities; North Carolina State Representative Daniel T. Blue, Jr., Raleigh, on behalf of the National Conference of State Legislatures; William A. Galston, University of Maryland at College Park; and John O. McGinnis, Yeshiva University Cardozo School of Law, New York, New York.

DEPARTMENT OF JUSTICE

Committee on the Judiciary: Committee concluded oversight hearings on activities of the Department of Justice, after receiving testimony from Janet Reno, Attorney General, Department of Justice.

AUTHORIZATION—INTELLIGENCE

Select Committee on Intelligence: Committee ordered favorably reported an original bill authorizing funds for fiscal year 2000 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System.

House of Representatives

Chamber Action

Bills Introduced: 30 public bills, H.R. 1684–1713; and 6 resolutions, H.J. Res. 51, H. Con. Res. 96–99, and H. Res. 160, were introduced.

Pages H2809–10

Reports Filed: One report was filed today as follows:

H. Res. 159, providing for consideration of H.R. 1664, making emergency supplemental appropriations for military operations, refugee relief, and humanitarian assistance relating to the conflict in Kosovo, and for military operations in Southwest Asia for the fiscal year ending September 30, 1999 (H.Rept. 106–127). **Page H2809**

Journal Vote: Agreed to the Speaker's approval of the Journal of Tuesday, May 4, by a yea and nay vote of 356 yeas to 39 nays, Roll No. 108.

Pages H2639, H2643–44

Late Report: Committee on the Judiciary received permission to have until midnight on Friday, May 7, to file a report on H.R. 775, to establish certain procedures for civil actions brought for damages relating to the failure of any device or system to process or

otherwise deal with the transition from the year 1999 to the year 2000. **Page H2654**

Bankruptcy Reform Act: The House passed H.R. 833, to amend title 11 of the United States Code, by a yea and nay note of 313 yeas to 108 nays, Roll No. 115. **Pages H2655–H2771**

Agreed to the Conyers motion to recommit the bill to the Committee on the Judiciary, with instructions to report it back to the House forthwith with an amendment that excludes Social Security and Medicare payments from the definition of monthly income. **Pages H2769–70**

Agreed to the Committee amendment in the nature of a substitute made in order by the rule. **Page H2769**

Agreed to:

The Gekas amendment that makes technical changes and allows the states to opt out of the homestead exemption prior to enactment; **Pages H2701–02**

The Moran amendment that modifies the Truth in Lending Act to require credit card issuers to make disclosures regarding interest rates, monthly payment information, and late fees, and subjects worldwide web-based credit card solicitations to the same disclosures as other credit card solicitations; **Pages H2703–05**

The Moran amendment that requires debt relief agencies to make certain disclosures to debtors and includes a ''debtor's bill of rights'' (agreed to by a recorded vote of 373 ayes to 47 noes, Roll No. 111); **Pages H2705–09, H2724–25**

The Velázquez amendment that expands the credit committee membership under chapter 11 bankruptcies to include a small business when it is determined that the small business' claims are disproportionally large to its gross revenues; **Pages H2709–10**

The Graham amendment, as modified, that prohibits the discharge of all qualified education loans, rather than just federally made, guaranteed or insured education loans, and includes an exception for undue hardships; **Pages H2710–11**

The Dooley amendment that requires the Federal Trade Commission to set standards for the United States Trustees in approving credit counseling agencies, counselors, and related programs and courses of instruction; and **Pages H2711–12**

The Whitfield amendment that provides for the compensation of bankruptcy trustees when they transfer cases from chapter 7 to chapter 11. **Pages H2716–17**

Rejected:

The Hyde amendment that sought to strike the provisions that apply the Internal Revenue Service expense allowances for determining permissible living expenses of debtors and their families, adopt a standard of reasonably necessary expenses, and direct the Executive Office of United States Trustees to issue guidelines that will assist in assessing these expenses (rejected by a recorded vote of 184 ayes to 238 noes, Roll No. 110); **Pages H2717–24**

The Conyers amendment that sought to waive the provisions of title 11 relating to small business debtors or to single asset real estate where the application of those provisions could result in the loss of 5 or more jobs (rejected by a recorded vote of 143 ayes to 278 noes, Roll No. 112); **Pages H2712–14, H2725**

The Watt of North Carolina amendment that sought to require bankruptcy filers to provide their tax returns to the court only at the request of a party of interest (rejected by a recorded vote of 192 ayes to 230 noes, Roll No. 113); and **Pages H2714–16, H2725–26**

The Nadler amendment in the nature of a substitute, as modified, that sought to include various consumer bankruptcy revisions; provide a means test that uses the debtor's income and expenses instead of IRS allowances for living expenses; eliminate provisions to make credit card debt non-dischargeable; and specify that family support has priority over state and local governments child support enforcement payments (rejected by a recorded vote of 149 ayes to 272 noes, Roll No. 114). **Pages H2726–69**

The Clerk was authorized in the engrossment of H.R. 833 to correct section numbers, cross-references, and punctuation, and to make technical, conforming, and other changes as may be necessary to reflect the actions of the House in amending the bill. **Page H2771**

H. Res. 158, the rule that provided for consideration of the bill was agreed to earlier by voice vote. **Pages H2644–54**

Earlier, agreed to order the previous question by a yea and nay vote of 227 yeas to 190 nays, Roll No. 109. **Page H2654**

Amendments: Amendments ordered printed pursuant to the rule appear on pages H2811–13.

Quorum Calls—Votes: Three yea and nay votes and five recorded votes developed during the proceedings of the House today and appear on pages H2643–44, H2654, H2723–24, H2724–25, H2725, H2725–26, H2769, and H2771. There were no quorum calls.

Adjournment: The House met at 10:00 a.m. and adjourned at 11:59 p.m.

Committee Meetings

FEDERAL MILK MARKETING ORDER REFORM—USDA'S FINAL DECISION

Committee on Agriculture: Subcommittee on Livestock and Horticulture held a hearing on the USDA's Final Decision for the Reform of Federal Milk Marketing Orders. Testimony was heard from Senator Kohl; Representatives Obey, Klink and Kind; Enrique E. Figueroa, Administrator, Agricultural Marketing Service, USDA; Ben Brancel, Secretary, Department of Agriculture, Trade and Consumer Protection, State of Wisconsin; Gene Hugoson, Commissioner, Department of Agriculture, State of Minnesota; and public witnesses.

FINANCIAL SERVICES ACT

Committee on Commerce: Subcommittee on Finance and Hazardous Materials continued hearings on H.R. 10, Financial Services Act of 1999. Testimony was heard from Representatives Baker and Roukema; Robert E. Rubin, Secretary of the Treasury; Arthur Levitt, Jr., Chairman, SEC; and public witnesses.

CORPORATION FOR NATIONAL SERVICE AUDIT

Committee on Education and the Workforce: Subcommittee on Oversight and Investigations held a hearing on Fiscal Year 1998 Audit of the Corporation for National Service. Testimony was heard from the following officials of the Corporation for National Service: Harris Wofford, CEO; and Luise Jordan, Inspector General; and a public witness.

HIGH QUALITY TEACHERS

Committee on Education and the Workforce: Subcommittee on Postsecondary Education, Training, and Life-Long Learning held a hearing on Flexibility for Quality Programs and Innovative Ideas for High Quality Teachers. Testimony was heard from Marnie S. Shaul, Associate Director, Education and Employment Issues, GAO; and public witnesses.

OVERSIGHT—OCEAN SHIPPING REFORM ACT—ANTITRUST ASPECTS

Committee on the Judiciary: Held an oversight hearing on Antitrust Aspects of the Ocean Shipping Reform Act of 1998. Testimony was heard from the following officials of the Federal Maritime Commission: Harold J. Creel, Jr., Chairman; and Delmond J.H. Won, Commissioner; John Nannes, Deputy Assistant Attorney General, Antitrust Division, Department of Justice; and public witnesses.

OVERSIGHT—FIRST AMENDMENT

Committee on the Judiciary: Subcommittee on the Constitution held an oversight hearing on First Amendment and Restrictions on Political Speech. Testimony was heard from David M. Mason, Commissioner, FEC; and public witnesses.

TRADEMARK AMENDMENTS ACT

Committee on the Judiciary: Subcommittee on Courts and Intellectual Property held a hearing on H.R. 1565, Trademark Amendments Act of 1999. Testimony was heard from Todd Dickinson, Acting Assistant Secretary, and Acting Commissioner, Patents and Trademarks, Department of Commerce; and public witnesses.

OVERSIGHT—NONIMMIGRANT VISA FRAUD

Committee on the Judiciary: Subcommittee on Immigration and Claims held an oversight hearing on nonimmigrant visa fraud. Testimony was heard from the following officials of the Department of Justice: Michael Bromwich, Inspector General; William A. Yates, Director, Immigration Services and Gary Bradford, Assistant Director, Texas Service Center, both with the Immigration and Naturalization Service; the following officials of the Department of State: Jacquelyn L. Williams-Bridgers, Inspector General; Nancy Sambaiew, Deputy Assistant Secretary, Visa Services; and Jill Esposito, Post Liaison Division, Visa Office, both with the Bureau of Consular Affairs; and public witnesses.

MISCELLANEOUS MEASURES

Committee on Resources: Ordered reported the following bills: H.R. 359, Emigrant Wilderness Preservation Act of 1999; H.R. 747, Arizona Statehood and Enabling Act Amendments of 1999; H.R. 883, American Land Sovereignty Protection Act; H.R. 898, Spanish Peaks Wilderness; H.R. 1104, to authorize the Secretary of the Interior to transfer administrative jurisdiction over land within the boundaries of the Home of Franklin D. Roosevelt National Historic Site to the Archivist of the United States for the construction of a visitor center; and H.R. 1523, amended, Forests Roads—Community Right-To-Know Act.

KOSOVO EMERGENCY SUPPLEMENTAL APPROPRIATIONS

Committee on Rules: The Committee granted, by voice vote, an open rule providing one hour of general debate on H.R. 1664, making emergency supplemental appropriations for military operations, refugee relief, and humanitarian assistance relating to the conflict in Kosovo, and for military operations in Southwest Asia for the fiscal year ending September 30, 1999 to be equally divided between the chairman and ranking minority member of the Committee on Appropriations. The rule waives points of order against

consideration of the bill for failure to comply with clause 4 of rule XIII (requiring a three-day layover of the committee report and requiring three-day availability of printed hearings on a general appropriations bill) and section 306 of the Congressional Budget Act of 1974 (prohibiting consideration of legislation within the Budget Committee's jurisdiction, unless reported by the Budget Committee). The rule waives points of order against provisions in the bill for failure to comply with clause 2 of rule XXI (prohibiting unauthorized or legislative appropriations in a general appropriations bill). The rule provides that before consideration of any other amendment it shall be in order to consider the amendments printed in the report of the Rules Committee. The rule makes in order amendments printed in the report accompanying this resolution, which may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified, shall not be subject to amendment, and shall not be subject to a demand for a division of the question in the House or the Committee of the Whole. The rule waives all points of order against amendments printed in the Rules Committee report. The rule waives points of order during consideration of the bill against amendments for failure to comply with clause 2(e) of rule XXI (prohibiting non-emergency designated amendments to be offered to an appropriations bill containing an emergency designation). The rule authorizes the Chair to accord priority in recognition to Members who have pre-printed their amendments in the Congressional Record. The rule allows for the Chairman of the Committee of the Whole to postpone votes during consideration of the bill, and to reduce voting time to five minutes on a postponed question if the vote follows a fifteen minute vote. Finally, the rule provides one motion to recommit with or without instructions. Testimony was heard from Representatives Lewis of California, Istook, Hunter, Smith of New Jersey, Burton of Indiana, Rohrabacher, Gutknecht, Souder, Obey, Farr and Hall of Ohio.

COMMITTEE MEETINGS FOR THURSDAY, MAY 6, 1999

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Appropriations: Subcommittee on Labor, Health and Human Services, and Education, to hold hearings on proposed budget estimates for fiscal year 2000 for National Institutes of Health, Department of Health and Human Services, focusing on disease research, 9 a.m., SD–124.

Committee on Commerce, Science, and Transportation: Subcommittee on Oceans and Fisheries, to hold hearings to examine coastal zone management, 2:30 p.m., SR–253.

Committee on Energy and Natural Resources: to hold hearings to examine the results of the December 1998 plebiscite on Puerto Rico, 9:30 a.m., SH–216.

Committee on Foreign Relations: to hold closed hearings to examine the growing threat of biological weapons, 2 p.m., SH–219.

Committee on Governmental Affairs: to hold hearings on Federalism and crime control, focusing on the increasing Federalization of criminal law and its impact on crime control and the criminal justice system, 9:30 a.m., SD–342.

Committee on Health, Education, Labor, and Pensions: to resume hearings on proposed legislation authorizing funds for programs of the Elementary Secondary Education Act, focusing on safety programs, 10 a.m., SD–628.

Committee on the Judiciary: Subcommittee on Antitrust, Business Rights, and Competition, business meeting to consider S. 467, to establish time limits on Federal Communications Commission review of telecommunications mergers, 2 p.m., SD–226.

House

Committee on Banking and Financial Services, hearing on the President's Working Group Study on Hedge Funds, 10 a.m., 2128 Rayburn.

Committee on Commerce, Subcommittee on Energy and Power, hearing on Electricity Competition: Market Power, Mergers, and PUHCA, 10 a.m., 2123 Rayburn.

Subcommittee on Health and Environment, hearing on H.R. 11, to amend the Clean Air Act to permit the exclusive application of California State regulations regarding reformulated gas in certain areas within the State, 9:30 a.m., 2322 Rayburn.

Committee on Education and the Workforce, Subcommittee on Employer-Employee Relations, hearing on Impact of External Review on Health Care Quality, 9:30 a.m., 2175 Rayburn.

Committee on the Judiciary, Subcommittee on Crime, oversight hearing on Crime, Criminal Fines, and Restitution: Are Federal Offenders Compensating Victims? 9:30 a.m., 2237 Rayburn.

Committee on Resources, Subcommittee on Fisheries Conservation, Wildlife, and Oceans, to markup the following bills: H.R. 1552, Marine Research and Related Environmental Research and Development Programs Authorization Act of 1999; H.R. 1643, to establish a moratorium on large fishing vessels in Atlantic herring and mackerel fisheries; H.R. 1651, to amend the Fishermen's Protective Act of 1967 to extend the period during which reimbursement may be provided to owners of United States fishing vessels for costs incurred when such a vessel is seized and detained by a foreign country; H.R. 1652, Yukon River Salmon Act of 1999; and H.R. 1653, to approve a governing international fishery agreement between the United States and the Russian Federation; followed by a hearing on the following bills: H.R. 1243, National Marine Sanctuaries Enhancement Act of 1999; H.R. 34, to direct the Secretary of the Interior to make

technical corrections to a map relating to the Coastal Barrier Resources System; H.R. 535, to direct the Secretary of the Interior to make corrections to a map relating to the Coastal Barrier Resources System; H.R. 1489, to clarify boundaries on maps related to the Coastal Barrier Resources System; and H.R. 1431, to reauthorize and amend the Coastal Barrier Resources System Act, 11 a.m., 1334 Longworth.

Subcommittee on National Parks, and Public Lands, hearing on H.R. 1165, Black Canyon National Park and Gunnison Gorge National Conservation Area Act of 1999, 10 a.m., 1324 Longworth.

Committee on Transportation and Infrastructure, Subcommittee on Aviation, hearing on Reauthorization of the National Transportation Safety Board, 9:30 a.m., 2167 Rayburn.

Permanent Select Committee on Intelligence, executive, hearing on Kosovo, 2:30 p.m., H–405 Capitol.

Joint Meetings

Commission on Security and Cooperation in Europe: to hold hearings on the state of democratization and human rights in Kazakhstan, 10 a.m., SR–485.

Next Meeting of the SENATE

9:30 a.m., Thursday, May 6

Senate Chamber

Program for Thursday: Senate will continue consideration of S. 900, Financial Services Modernization Act.

Next Meeting of the HOUSE OF REPRESENTATIVES

10 a.m., Thursday, May 6

House Chamber

Program for Thursday: Consideration of H.R. 1664, Emergency Kosovo Supplemental for Fiscal Year 1999 (open rule, one hour of general debate).

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