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House of Representatives

The House was not in session today. Its next meeting will be held on Friday, September 17, at 10 a.m.

Senate

THURSDAY, SEPTEMBER 16, 1999

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Today's prayer will be offered by our guest Chaplain, Rev. J.C. Williams, Martinez, GA.

PRAYER

The guest Chaplain, Rev. J.C. Williams, Chaplain Corps, U.S. Navy (Retired), offered the following prayer:

Let us bow our heads in prayer.

Almighty God, to whom we must account for all our powers and privileges, grant the Senators and their staffs strength to know and do Your will. Remind us this day that You are our chosen Leader and Lord, God of the way, the truth, and the life, who chose to journey with Abraham and Sarah, Joseph and Mary, and all the heroes and heroines of faith.

Loving God, we humbly pray that You will journey with this Nation and Your servants. Send Your guardian angel to be their guide as they perform their duties on behalf of all people of this great Nation. Preserve and defend these men and women and their families from every assault and insult, visible and invisible.

Dear God, in all the troubled moments, pressures of this day, and needs that are yet unmet, we seek Your presence, comfort, and wisdom. Merciful God, continue to keep the men and women in this sacred Chamber in peace and health; and may they hear You whisper to them, ''Well done, well done, well done.'' Amen.

PLEDGE OF ALLEGIANCE

The Honorable MIKE CRAPO, a Senator from the State of Idaho, 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.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDING OFFICER (Mr. CRAPO). The majority leader is recognized.

Mr. LOTT. I thank the Chair.

HURRICANE FLOYD

Mr. LOTT. It is always great to see our distinguished President pro tempore, Senator THURMOND, here and opening the Senate proceedings. We are thankful this morning that his State was spared the kind of devastation it seemed to be facing just a couple of days ago. It looks as if the hurricane has dropped in power and there has not been the damage and devastation that was expected from the hurricane, although certainly there are people this morning who are very uncomfortable without power and there have been some lives—I believe a couple—lost as a result of accidents.

I am from a hurricane-prone State, Mr. President. I have lived through three major ones, including one last September, so I know how difficult it can be for those who have had to endure this experience. So I don't take bad weather lightly. But we have been watching very closely the path of this hurricane and its strength and where it is headed. I spoke early this morning to the Sergeant at Arms, Mr. Ziglar, and to Senator BARBARA MIKULSKI. Typically, Senator MIKULSKI calls and says, ''I am coming, unless you say don't come.'' I told her to come. We believe that while we are going to have some wind and rain today, the brunt of the hurricane has been diminished and it will go east of this area. So the Senate will go forward.

SCHEDULE

Mr. LOTT. Mr. President, this week we have some legislation we must complete because we do have a Jewish holiday Monday and Tuesday, with the first vote not occurring until next Tuesday at 5:30 p.m. Then we have to do the HUD and Veterans appropriations bill next week, which I am sure will take at least the remainder of that week, 3 days.

So here is what we have to do today and tomorrow if necessary. We will vote at 10:10 on the Treasury-Postal Service appropriations conference report. We hope to be able to stack at that time a second vote on the Transportation appropriations bill now pending before the Senate. Senator SHELBY is here and working on an amendment or amendments we may have to deal with. So we will just have to see how that is going to work out. But we want to complete all amendments and have final passage on the Transportation appropriations bill, and probably we need to have a recorded vote on that so we will not be faced with having to find

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

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time for a recorded vote after it comes back from conference.

Then we will probably move to the Defense authorization conference report which was completed by the House just yesterday. The conferees did a great job. This is a good bill, and we need to get that vote established.

We also have pending the District of Columbia conference report. I understand some time may be needed to talk about it and a recorded vote will be required, but we will do that today or tomorrow if that is necessary.

In addition, we are working to clear three judges. One of them may require some time, but we can do that today and tonight or tomorrow.

If the weather does become a concern later on in the day, midafternoon, and it is necessary for us to quit early because of the concern for safety, we will be back at 9:30 Friday to complete this list of items. I would like to be able to say let's take a rain day and go home, but we do not have the time to do that. I do not think it is really necessary. So we will begin immediate consideration of the Transportation appropriations bill, and when the amendments are worked out and a final vote can occur on final passage, we will notify the Members, but we will have a vote at 10:10. We do expect votes throughout the day. We will watch the weather. And we do have the option of being in from 9:30 until noon tomorrow.

I thank the Chair. I yield the floor. I understand we have some morning business requests.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 2000

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 2084 which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2084) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2000, and for other purposes.

Mr. SHELBY. Mr. President, I want to announce to the Senate—a lot of Senators probably kept up with it over the evening's time—we have made considerable progress on the Transportation appropriations bill, and we are at that point in time—Senator LAUTENBERG and I and our staffs have been conferring with the majority leader and Democratic leader—if there is anyone who has an amendment they want to offer, they ought to come down and offer it so we can move on. We are nearly to the point—not quite—where we would like to go to third reading of the bill. So this should serve as a friendly notice that if you have an amendment, come down and pursue it or call us and let us know if you are going to do something else with it later.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

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

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

AMENDMENT NO. 1678

(Purpose: To increase penalties for involuntarily bumping airline passengers)

Mr. LAUTENBERG. Mr. President, I have an amendment that I send to the desk and ask unanimous consent that it be considered in order.

Mr. SHELBY. No objection.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG] proposes an amendment numbered 1678.

Mr. LAUTENBERG. 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:

At the appropriate place in the bill, insert:

SEC. . It is the sense of the Senate that the Secretary should expeditiously amend Title 14, Chapter II, Part 250, Code of Federal Regulations, so as to double the applicable penalties for involuntary denied boarding and allow those passengers that are involuntarily denied boarding the option of obtaining a prompt cash refund for the full value of their airline ticket.

Mr. LAUTENBERG. Mr. President, I offer today a sense-of-the-Senate amendment on an issue that, unfortunately, is becoming more of a problem for American travelers; that is, the experience of passengers with paid reservations being bumped from overbooked plane flights.

Our skies are more crowded than they have ever been. People need to move quickly between different cities to do business and also for a wide variety of personal reasons. As this need has grown, people who fly find themselves increasingly at the mercy of casual airline booking practices. In such cases, airlines do not treat people as they should. These are passengers with paid reservations. They have a right to expect a seat on the flight they book, but too often they discover that having a ticket does not mean much when they get to the gate.

Nothing ruins a business trip, a vacation, or other trip more thoroughly than being bumped from a flight. It is sometimes impossible to make up for the lost hours and the lost opportunity, let's say, to attend the funeral of a friend or relative. That opportunity is never again presented. There is the frustration of rearranging longstanding business or personal plans or rearranging the connection that one takes from a city a couple hundred miles away from a major hub, and then missing a flight to Europe or to the Far East.

I understand the airlines have a problem. I respect that they would like to find a solution to the problem. They should not have to fly with empty seats without an opportunity to cover their costs. Perhaps a deposit on a flight reservation, or something of that nature, ought to be done. But it sure ought not to be simply at the whim of a gate attendant to decide who is going to fly and who is not.

On a personal note, I had that experience. I had paid for the tickets. I had a reservation number—with two tickets. I got to the airport, and they said: The flight is full. There was about 15 minutes left before departure, and they said: Well, sorry, just too many people showed up.

What happened is they oversold the flight. The airlines should not be able to act as an elitist business. They should have to treat their customers with respect. They are the only legitimate business I know of that deliberately sells a product that they know they can't deliver.

When people attend a sporting event or a concert or the theater, they know when they get there that they are going to have the seat for which they paid. They deserve the same assurance when they fly.

This sense-of-the-Senate amendment should encourage the airlines to act more responsibly, by allowing travelers who are bumped from a flight to receive greater amounts of compensation for the airline's casual action. The amendment calls for the applicable penalties to be doubled from those under current regulation.

The goal is to hold the airlines accountable when they put profits ahead of their friendliness and respect for their customer.

People who travel for business or personal reasons should not miss out on an event they planned because the airlines decided to treat them like baggage and said: Well, we can't take all this baggage.

So I plan to continue to fight to ensure that airlines are accountable to the American public.

I want to acquaint my colleagues with current regulations pertaining to passengers that are bumped involuntarily.

Currently on the books, an airline must first request passengers with paid reservations to voluntarily give up their seats. We know that.

If a passenger is involuntarily bumped and delayed less than an hour, the passenger is not entitled to any compensation—if you can make the trip within an hour from the scheduled time of departure.

Delays between 1 and 2 hours, the passenger can receive 100 percent of the cost of the remaining ticket to the destination but not more than $200; delayed more than 2 hours, the passenger

can receive 200 percent of the cost of the remaining ticket but not more than $400.

Other details: Instead of cash, the airline can offer free or reduced air transportation at equal or greater value than the amount of the cash compensation.

So what we are doing is we are saying: A, these rules are not adequately enforced; B, the public is ignorant of what kind of redress they have if they get bumped off a flight and the airlines are not adequately informing them of what they are entitled to; and C, the airlines must act more responsibly, toward the passenger and be more concerned about what is happening with the passenger.

The airlines owe this to the public. They use our national resources. They use the nation's airspace. They use the FAA system. They use our taxpayer investments in airports. They are using public money all over the place. They ought to be more cognizant of what it is the flying public should have in return.

With that, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ROBERTS). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SHELBY. 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. SHELBY. Mr. President, is the pending business the Lautenberg amendment that was just offered?

The PRESIDING OFFICER. The Senator is correct.

Mr. SHELBY. We have examined it, and we have no problem with it.

Mr. LAUTENBERG. I thank the manager.

Mr. SHELBY. I urge adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 1678) was agreed to.

Mr. SHELBY. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

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

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

TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 2000—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the hour of 10 a.m. having arrived, the Senate will now proceed to the consideration of the conference report accompanying H.R. 2490, which the clerk will report.

The legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2490), have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 14, 1999.)

The PRESIDING OFFICER. Under the previous order, there will be 10 minutes of debate, equally divided, with the vote on adoption of the conference report to immediately follow.

Mr. CAMPBELL addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from Colorado is recognized.

Mr. CAMPBELL. Mr. President, I am pleased to bring before the Senate the conference report on H.R. 2490, the Treasury and General Government Appropriations Act, 2000.

PRIVILEGE OF THE FLOOR

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the following staff be accorded floor privileges during the consideration of this conference report: Tammy Perrin, Lula Edwards, Chip Walgren, and Dylan Presman.

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

Mr. CAMPBELL. Mr. President, I urge the Senate to approve this conference report. Because of the budget constraints, we were not able to give everything that everyone wanted, obviously; but that is certainly what compromise is all about. It took us 6 weeks to get this report to conference, by the way.

At the outset, I thank the ranking member of the Treasury Subcommittee, Senator DORGAN, and his staff for all of their valuable assistance and support during that process.

The conference report provides a total of $28,239,811,000, of which $13,706,000,000 is discretionary spending. We have provided funding necessary for the Department of the Treasury, the United States Postal Service, the Executive Office of the President, and various independent agencies to move into the new millennium.

Here are some of the highlights of this conference report.

The conference provided $12.32 million to the Bureau of Alcohol, Tobacco and Firearms to Expand the Youth Crime Gun Interdiction Initiative. This is $1.12 million more than the requested level, and brings the total funding for this very effective program to $51.32 million.

The conference also provided $13 million to ATF for grants to State and local law enforcement to allow participation in the Gang Resistance Education and Training (GREAT) Program. The GREAT Program provides our youth with the tools they need to resist the powerful pull of gangs and has been highly successful as a deterrent to the growth of youth gangs.

The conference report provides funding for the continued operation and growth of the Federal Law Enforcement Training Center. We are still very much committed to the consolidation of training for Federal law enforcement officers at FLETC. After completion of the five-year construction master plan, FLETC will be better able to serve the training demands of most Federal law enforcement agencies.

For the Customs Service, the conference has provided $4.3 million for pre-hiring polygraph examinations and $2.5 million for the creation of the Office of Assistant Commissioner for Training to continue integrity efforts begun last year.

The conference has funded the Customs Cyber-Smuggling Center at $4 million, which is a $1.6 million increase over last year.

The conference has provided full funding for the Internal Revenue Service to allow them to fulfill the requirements of the Restructuring and Reform Act, to proceed with their much-needed organizational modernization plan, and to continue necessary improvements in customer service. This funding also provides $6 million for grants to low income taxpayer clinics.

The conference has increased funding for the very critical technology transfer program under the Drug Czar's Office. This $13.25 million program provides drug interdiction technology to State and local law enforcement. For fiscal year 2000, the funding was increased by more than $10 million over the administration's request.

The conference has provided $185 million for the continued operation of the national youth anti-drug media campaign, and $192 million for the popular and effective high intensity drug trafficking areas (HIDTA) Program. In addition, the conference has included funding for a management review of the Office of National Drug Control Policy (ONDCP) by an independent entity in an effort to strengthen the office's operations and programs.

The conference included a combined total of $2 million for the model state drug law conferences and the National Drug Court Institute, programs which assist State and local enforcement in combating the end results of drug addiction and resulting crimes.

Mr. President, again I say that everyone did not get everything, and certainly everybody doesn't agree with every provision of this bill. But I think it is a very worthy conference report, on balance, and I think we brought to the Senate an excellent product. It certainly deserves the support of the entire Senate and signature of the President.

I again thank my friend and coworker, Senator DORGAN, for his hard

work, and also the staff we depended very heavily on this time around, including Pat Raymond, Tammy Perrin, Lula Edwards, of the majority staff, Barbara Retzlaf, who left a couple weeks to go to the Commerce Department, Chip Walgren, and Dylan Presman.

With that, I yield the floor.

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

Mr. CAMPBELL. Yes, I am glad to yield.

Mr. GRAHAM. I am concerned about how this appropriation fits into the overall caps on Federal expenditures for domestic discretionary programs that were adopted in 1997, and then the more recent recommendations of the Congressional Budget Office, which were the basis of the tax bill we passed earlier this summer. Could the Senator indicate, is this budget, in terms of its total appropriation, consistent with the 1997 Balanced Budget Act and the CBO recommendation of 1999?

Mr. CAMPBELL. Mr. President, first of all, I ask unanimous consent that an additional 5 minutes be added to the 10 minutes for any other debate.

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

Mr. CAMPBELL. Mr. President, I say to the Senator that we did try to stay within our allocation, as you know. We had many more requests than we were capable of dealing with and our allocation was raised by $100 million. So we did stay within that. We simply could not fit all of the requests in the original amount we were allocated.

Mr. GRAHAM. In relationship to the Congressional Budget Office recommendations of this summer, does the Senator know where this appropriation would be?

Mr. CAMPBELL. To my knowledge, we have a number of bills we still have to complete. I believe by the time we have finished, we will still be within the budget caps. But I have no way of telling before all the other bills are through.

Mr. GRAHAM. Thank you.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, with respect to the question offered by the Senator from Florida, my understanding is that the caps established in the Balanced Budget Act represent aggregate caps and one can have individual subcommittees coming out with spending levels, and if those spending levels in the aggregate, with all the subcommittees, exceed the caps, you have a problem.

This particular subcommittee has worked very hard to try to produce an appropriations bill that is responsible. Nearly one-half of all Federal law enforcement is in this particular subcommittee. People do not understand that. But Customs, Secret Service, and a range of other law enforcement activities to fight drugs and crime exist in this bill.

Almost one-half of Federal law enforcement is in this piece of legislation.

I will not repeat what the Senator from Colorado described about what we did in the subcommittee. But I think it is responsible and thoughtful and most every Member of the Senate thinks it is a pretty good investment.

One of the things we didn't do in this piece of legislation is fund courthouse construction. Does there need to be some money invested in courthouses around the country to rehab some old courthouses and rebuild some? Yes, but we simply didn't have the money. We were short of resources. We had to make some difficult choices. That was one of them. It is not that the Senator from Colorado and I believe there is not a need; there is a need. But we just weren't able to respond to that.

I would like to add to his comments with respect to the work that has been done both in the Senate and in the House of Representatives on this bill.

On my staff, Chip Walgren, Barbara Retzlaff, and Dylan Presman did excellent work, and Pat Raymond, Tammy Perrin, and Lula Edwards of the majority staff have done wonderful work.

It has been a pleasure to work with Senator CAMPBELL. He is easy to work with. He is thoughtful and wants to do the right thing. It is a pleasure to work with someone with that kind of interest.

The subcommittee bill is a piece of legislation that strengthens the Government's commitment to fight drugs and crime, and the Department of the Treasury, as I indicated, has a critical law enforcement role. That is funded in this piece of legislation.

One of the pieces of legislation inside this bill is called the GREAT Program—Gang Resistance Education and Training Program.

One day not too long ago, I was invited to go over to Anacostia to a junior high school for a ceremony where some young kids were graduating from the GREAT Program, the Gang Resistance Education and Training Program. This is a school, by the way, that has had significant gang problems and a great deal of crime.

One of the police officers who is assigned to that school full time came to the meeting we had on Capitol Hill. He was describing the problems in that school—horrendous problems. We called to see if perhaps the GREAT Program could be taken to that school because they weren't participating. That program was taken over to the school, and the first graduates received their diplomas.

I went over that day with the commissioner. It was really quite remarkable. It is a wonderful program to invest in to try to educate young people about the dangers of gangs and drugs and crime.

Part of this legislation is to make the right kind of investments to prevent activities in this country that we know are destructive.

This piece of legislation continues to reform the IRS. It modernizes the Federal Election Commission. Several pieces we have put in this bill are the first steps in modernizing the FEC —the first steps that have been taken for a long, long while.

I commend this legislation to my colleagues. I hope my colleagues in the Senate will approve the work of this subcommittee. The conference with the House was difficult, but I think it produced a result that is fair and one that will merit the support of the Members of the Senate.

Again, I thank Senator CAMPBELL, who I think does a remarkable job, and his staff and the staff that has worked so hard on my behalf on the legislation.

I yield the floor.

• Mr. MCCAIN. Mr. President, I want to thank the conferees of this bill for their work on this legislation which provides federal funding for many vital programs. However, I regret that this appropriations bill continues the unwise practice of including unacceptable levels of parochial projects. This year's Senate bill contained a little over $293.6 million in earmarked pork-barrel spending. This year's conference report is a drastic improvement in that it only contains $91.2 million in wasteful, pork-barrel spending. Although $91.2 million of waste is better than $293.6 million of waste, waste is still waste.

As my colleagues know, I have consistently fought Congressional earmarks that direct money to particular projects or recipients. I believe that such decisions are far better made through nationwide competitive, merit-based guidelines and procedures.

We must stop this destructive and irresponsible practice of earmarking special-interest pork-barrel projects in appropriations bills primarily for parochial reasons.

Where does all this pork go? This bill contains millions of dollars for court house construction and repairs. There is $1,600,000 earmarked for repairs and alterations to the Kansas City Federal Courthouse in Kansas City, Missouri, and $1,250,000 for repairs and alterations to the Federal Courthouse in New York, New York. Although these courthouses may need repair and modernization, are these particular projects more important than the other courthouses competing for funding? The process by which these two earmarks were added makes it impossible to evaluate the relative merit of these programs against other priorities.

In addition to earmarks for courthouses, this bill contains the usual earmarks of money for locality-specific projects such as $212,000 for renovations to the Louisville International Airport in Kentucky, and $250,000 to the Fort Buford Historic Site in North Dakota for research and cataloging of records of this Fort.

Then there are the many sections of the report which have language strongly urging various Departments of the

Federal Government to recognize or participate in a joint-venture with a particular project in a state. While these objectionable provisions have no direct monetary effect on the bill, this not-so-subtle ''urging'' will have some financial benefit for someone or some enterprise in a Member's home state. For example, there is report language urging the continuation and expansion of the collaboration between the University of North Dakota and the Customs Service for rotorcraft training. There is also report language urging GSA to strongly consider the U.S. Olympic Committee's need for additional space and to give priority to the USOC's request to gain title or acquire the property located at 1520 Willamette Avenue in Colorado Springs, Colorado.

This bill also selects sites across the country for which the report language ''urges'' the Agency not to reduce its staff. For example, there is report language providing that no reorganization of the Internal Revenue Service Criminal Investigation Division will result in a reduction of criminal investigators in Wisconsin and South Dakota from the 1996 level.

Why are these facilities protected at a time when each agency is required to abide by the Government Program Reduction Act which mandates that they operate more efficiently with less bureaucracy? Even if these positions are critical, they should be prioritized in the normal administrative process.

Mr. President, although we have not yet done so, we are very close to breaking the spending caps. I hope my colleagues understand that merely because we can fund these programs of questionable merit within the spending caps, that does not entitle us to spend the taxpayers' hard-earned dollars irresponsibly.

The examples of wasteful spending that I have highlighted are only a few of the examples of earmarks and special projects contained in this measure. There are many more low-priority, wasteful, and unnecessary projects on the extensive list I have compiled. I ask that the list be printed in the RECORD immediately following my remarks.

In closing, I urge my colleagues to develop a better standard to curb our habit of directing hard-earned taxpayer dollars to locality-specific special interests.

The list follows:

OBJECTIONABLE PROVISIONS CONTAINED IN THE CONFERENCE REPORT ON H.R. 2490, THE TREASURY DEPARTMENT, THE UNITED STATES POSTAL SERVICE, THE EXECUTIVE OFFICE OF THE PRESIDENT, AND CERTAIN INDEPENDENT AGENCIES APPROPRIATIONS BILL

BILL LANGUAGE

Department of the Treasury

$9,200,000 for the Federal Law Enforcement Training Center for construction of two firearms ranges at the Artesia Center in New Mexico.

$725,000 is earmarked for an agricultural economics program in North and/or South Dakota to conduct a research program on United States/Canadian bilateral trade of agricultural commodities and products.

$150,000 for official reception and representation expenses associated with hosting the Inter-American Center of Tax Administration (CIAT) 2000 Conference.

Independent Agencies

An earmark of $35,000,000 in Montgomery County, Maryland, for FDA Consolidation.

$8,263,000 is earmarked for new construction of a border station in Sault Sainte Marie, Michigan.

$753,000 for new construction of a border station in Roosville, Montana.

An $11,480,000 earmark for new construction of a border station in Sweetgrass, Montana.

$277,000 for new construction of a border station in Fort Hancock, Texas.

$11,206,000 for new construction of a border station in Oroville, Washington.

An earmark of $475,000 for the Plains States De-population symposium.

General Provisions

Language indicating that no funds appropriated pursuant to this Act may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1993, popularly known as the ''Buy American Act.''

Language indicating that entities receiving assistance should, in expending the assistance, purchase only American-made equipment and products.

REPORT LANGUAGE

Report language directing the Director of Federal Law Enforcement Training Center (FLETC) to provide up to $300,000 to a graduate level criminal justice program in a Northern Plains State which can provide causal research on the link between youth and criminal activity in rural locations.

Report language that the ''Acquisition, construction, improvements, and related expenses'' account covers the current Master Plan construction, expanding the chilled water system, a counter terrorism facility, and completion of a new dormitory at the FLETC facility in Artesia, New Mexico.

An earmark of $212,000 for renovations to the Louisville International Airport in Louisville, Kentucky.

Report language directing Customs to report on the merits of designating both the Hector International Airport in Fargo, North Dakota, and The Manchester Airport in Manchester, New Hampshire, as International Ports of Entry.

Report language instructing Customs to maintain current staffing levels in Arizona in fiscal year 2000 and to report on what resources are necessary to reduce wait times along the Southwest border to twenty minutes.

Report language urging the continuation and expansion of the collaboration between the University of North Dakota and the Customs Service for rotorcraft training.

Report language providing that no reorganization of the Internal Revenue Service Criminal Investigation Division will result in a reduction of criminal investigators in Wisconsin and South Dakota from the 1996 level.

Report language directing that the Postal Service report, on an annual basis, on the placement of ethanol flexible fuel vehicles that it has announced that it will purchase and deploy over the next two years.

Report language instructing the Postal Service to issue a report after studying and evaluating the need for a post office in Hammondville, Alabama.

Report language encouraging the Director to consider convening a national conference on rural drug crime to include regional conferences in rural areas, such as those in South Carolina, Vermont, and Missouri, in order to assess the needs of rural law enforcement and the impact of drug related crimes.

An earmark of $1,600,000 for the repairs and alterations of the Kansas City Federal Courthouse at 811 Grand Avenue, Kansas City, Missouri.

$1,250,000 for repairs and alterations to the Federal Courthouse at 40 Center Street, New York, New York.

An earmark of $150,000 for the acquisition, lease, construction and equipping of the flexiplace telecommuting center in Winchester, Virginia.

$200,000 for the acquisition, lease, construction and equipping of the flexiplace telecommuting center in Woodbridge, Virginia.

$500,000 is earmarked for a GSA study and conceptual design of a combined federal, state, and local law enforcement facility in St. Petersburg, Florida.

$275,000 to study the feasibility of developing a Virtual Archive Storage Terminal.

Report language urging GSA to strongly consider the U.S. Olympic Committee's [USOC] need for additional space and to give priority to the USOC's request to gain title or acquire the property located at 1520 Willamette Avenue in Colorado Springs, Colorado.

A $900,000 earmark for design and the preparation of an environmental impact statement for a National Archives facility in Anchorage, Alaska.

An $8,000,000 earmark for the repair, alteration, and improvements of the Ronald Reagan Presidential Library and Museum in Simi Valley, California.

$250,000 to the Fort Buford Historic Site in North Dakota for research and cataloging of records at this Fort—a Lewis and Clark ''Corps of Discovery'' site.●

The PRESIDING OFFICER. The Senator from Colorado.

Mr. CAMPBELL. Mr. President, if there is no further discussion, I believe the yeas and nays have already been asked for, and I ask that we proceed to the vote on the conference report.

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. CAMPBELL. I, therefore, ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the conference report. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative assistant called the roll.

Mr. NICKLES. I announce that the Senator from Mississippi (Mr. COCHRAN), the Senator from Arizona (Mr. MCCAIN), and the Senator from Virginia (Mr. WARNER) are necessarily absent.

Mr. REID. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Louisiana (Mr. BREAUX), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Minnesota (Mr. WELLSTONE) are necessarily absent.

The result was announced—yeas 54, nays 38, as follows:

[Rollcall Vote No. 277 Leg.]

YEAS—54

Akaka	Gorton	Mikulski
Bennett	Grassley	Moynihan
Bond	Gregg	Murkowski
Boxer	Hagel	Murray
Bryan	Harkin	Nickles
Byrd	Hatch	Reed
Campbell	Hollings	Reid
Chafee	Jeffords	Rockefeller
Conrad	Johnson	Roth
Coverdell	Kerry	Sarbanes
Craig	Kohl	Shelby
Crapo	Kyl	Smith (OR)
Daschle	Landrieu	Specter
Dodd	Lautenberg	Stevens
Domenici	Levin	Thompson
Dorgan	Lieberman	Thurmond
Durbin	Lott	Torricelli
Feinstein	Lugar	Voinovich

NAYS—38

Abraham	Enzi	Lincoln
Allard	Feingold	Mack
Ashcroft	Fitzgerald	McConnell
Baucus	Frist	Robb
Bayh	Graham	Roberts
Bingaman	Gramm	Santorum
Brownback	Grams	Schumer
Bunning	Helms	Sessions
Burns	Hutchinson	Smith (NH)
Cleland	Hutchison	Snowe
Collins	Inhofe	Thomas
DeWine	Kerrey	Wyden
Edwards	Leahy	

NOT VOTING—8

Biden	Inouye	Warner
Breaux	Kennedy	Wellstone
Cochran	McCain	

The conference report was agreed to.

Mr. CAMPBELL. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. BROWNBACK. Mr. President, I rise to explain why I voted ''no'' on the Treasury Postal Appropriations conference report.

First, I am concerned that the contraceptive mandate included in the Treasury/Postal Appropriations bill is a precedent setting attempt to mandate coverage of abortifacients that have been approved—or will be approved in the future—by the Federal Food and Drug Administration.

Second, I am concerned that this mandate constitutes an attempt to eventually force providers who have either a moral or religious objection to abortion services to provide those services, or lose the ability to provide health care within the Federal Employee Health Benefit Plan. The FEHBP mandate does not have adequate conscience clause protection for sponsors of health plans and individual providers who are opposed to providing such drugs and devices. Conscience clause protection for individual providers needs to be clarified to protect any health care provider, including but not limited to physicians, nurses and physician assistants who object to providing these drugs or devices on the basis of religious beliefs or moral convictions.

Third, this misnamed ''contraceptive'' mandate is being used to help ''mainstream'' abortifacient drugs to which many health professionals, pharmacies, and patients have serious objections. It reduces federal employees' freedom to choose the health benefits they want; ignores health plans' potential moral objections; and increases pressure on health professionals to ignore their own conscientious convictions. All of this, ironically, is done in the name of ''freedom of choice.

Fourth, I do not believe that the federal government should issue healthcare mandates. Mandating the FEHBP providers cover contraceptives as part of their health plan constitutes the first time in the history of the FEHBP that Congress has issued a mandate on a coverage.

Fifth, I am also concerned that this may be the first step by some in Congress to issue a similar mandate on private insurers. Such a mandate on private insurers will drive up costs and lead to uninsurance at the margins.

Therefore, because of the inclusion of this provision in the conference report I voted ''no.''

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT—Continued

CHANGE OF VOTE

Mr. AKAKA. Mr. President, I ask unanimous consent to be recorded as voting ''nay'' on yesterday's rollcall vote No. 274 related to the germaneness of a provision in the Shelby substitute amendment to H.R. 2084, the fiscal year 2000 Transportation appropriations bill. This will not change the outcome of the vote.

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

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I am eager for this bill to be complete. I don't intend to offer an amendment, but I would like to say a couple of words.

I am somewhat taken by the fact that suddenly the Senate is made up of numerous Members who want to run the airlines. We have undertaken tremendous efforts to be elected to the Senate. In doing so, we have taken up a high calling. We have a responsibility in American Government.

But for some reason, yesterday and today, all of a sudden Members of the Senate have decided we ought to take it upon ourselves to tell the airlines in the United States how they ought to be run, and we want to do it without the inconvenience of having to go out and invest billions of dollars.

My point is a very simple point. That is, for some reason —I don't know if it is the weather, the change in the barometric pressure, whatever—suddenly Members of the Senate have become experts in running airlines, all without the inconvenience of having to go out and raise money or invest their own money and without the inconvenience of having to take responsibility if their plans go bad.

My basic view is that we have good airlines in America. All of us have had bad experiences on airlines: The weather went bad. We have had experiences where we bought a cheaper ticket and would have liked to have flown on a different flight. We wanted a cheap fare, but it would have been nice had they let us fly on the other flight.

The point is, we deregulated the airlines. We have benefited from a dramatic decline in the cost of air transportation. Millions of average Americans have moved out of the bus station and into the airport. Now all of a sudden it has become the popular mania in the Senate to want to start having the Congress—in this case, the Senate—run the airlines. I just didn't want it all to pass without making some comment on it.

I thank the Chair for the time.

AMENDMENT NO. 1679

(Purpose: To make available funds for the monitoring and reporting on the transfer of passenger air transportation tickets among airlines)

Ms. LANDRIEU. Mr. President, I send an amendment to the desk on behalf of Senator DASCHLE, Senator WYDEN, and myself.

The PRESIDING OFFICER. Without objection, it is in order for the Senator to submit the amendment on behalf of the minority leader. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Louisiana [Ms. LANDRIEU], for Mr. DASCHLE, for himself, Ms. LANDRIEU, and Mr. WYDEN, proposes an amendment numbered 1679.

Ms. LANDRIEU. 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 65, line 22, before the period at the end of the line, insert the following '': *Provided*, it is the sense of the Senate That the funds made available under this heading shall be used for the submission to the appropriate committees of Congress by the Inspector General, not later than July 15, 2000, of a report on the extent to which air carriers and foreign carriers deny travel to airline consumers with non-refundable tickets from one carrier to another, including recommendations to develop a passenger-friendly and cost-effective solution to ticket transfers among airlines when seats are available.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. I thank the Chair.

Mr. President, I think my good friend, the distinguished Senator from Texas, might be referring to me and others, but I assure him that I have no intention of trying to run an airline. I am challenged at this moment to run my office. I am trying to do a good job at that and to represent the 4.5 million people who live in my State, which is the job of all Senators.

I come to the floor with great humility. The last thing I want to do is run an airline. I think the deregulation of the airlines has brought great benefits to our Nation and to this industry. I have no intention at all of moving the clock back.

I do think—because so many people now, and growing by leaps and bounds, use air travel in our Nation and the world to conduct their business, which is very dependent on the efficiency of the system, and because this is a very important industry in our Nation, and because the Senate is responsible for giving guidance to many industries—that my amendment is most certainly appropriate.

I have asked it to be a sense-of-the-Senate amendment to ask for a study to be done this year that would ask the airlines to find a cost-effective way and a passenger-friendly way for the transfer of tickets between airlines to facilitate the convenience of our constituents who live in Texas and in Alabama and Louisiana and Montana and Ohio and Hawaii and all of our States—and in Kansas, particularly in Kansas, right in the middle there, people need to get out and about and around.

I thank the Chair for the opportunity to present this sense-of-the-Senate amendment. I am sorry if there are others who will object, but I think it is an important amendment. I offer it in serious fashion for the Senate's consideration.

Senator GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I do object to this amendment.

Here is the issue in a nutshell. It happens all the time. Someone buys a discount ticket. They get a lower price. They get a lower price because they commit that they are going to use that ticket on that day and they are going to use it as a through ticket. If it is round trip, they commit they are going to use it going and coming.

What happens is, they get to the airport early. They find out there is another flight going exactly where they want to go that is getting there an hour earlier. So they go to that other airline and say: Will you take my excursion ticket or my discount ticket? The airline says: Yes, we have an empty seat; we would like to have the money. But they go on to say: The airline you bought the discount ticket from does not allow us to take this excursion ticket.

Now, why is that? Basically when they entered into a contract with the airline, they got the discount fare because they committed to fly on that plane on that day.

Now, they could have gotten a ticket that would have allowed them to change airlines, but they would have had to pay a higher price for it. Many people agonize constantly when they go on vacation and buy a discount ticket and have to lock in those tickets in advance. It can be misery wondering whether or not you are actually going to be able to leave that day. But the point is, the reason you are getting the lower rate is you are committing to use the full ticket.

So the original way the amendment was written is subject to rule XVI. The amendment was not filed at the desk prior to the deadline. I don't doubt anybody's intention, but it is not the sense of the Senate—at least this part of the Senate—that we ought to be getting into the business of trying to tell airlines how their ticket structure should be made. If you don't want to buy a discount ticket, don't buy it. But the idea that we are going to set up a study where we are going to have the Government recommend to Congress, and we are going to begin to try to change laws that say you can have a discount fare, and then you can do things that the discount fare is not based on, that violates the contract.

The contract you entered into with the discount ticket is a contract, whereby you agreed you are going to use that ticket on that day or you are going to lose it. It might be convenient to change the day. It might be convenient to fly on another airline, which would mean that the airline you entered into the discount fare with would lose their half of the fare to another airline. But the point is, that is a violation of the contract. I don't need the Government to study whether or not we ought to abrogate private contracts.

Therefore, I object to this amendment.

The PRESIDING OFFICER. The amendment of the Senator from Louisiana—is the Senator making a point of order against the Senator's amendment?

Mr. GRAMM. I am. It was not timely filed at the desk.

The PRESIDING OFFICER. The Senator from Louisiana asked unanimous consent to offer her amendment on behalf of the distinguished minority leader, who does have a reserved amendment under the agreement. The Senator's amendment is a sense-of-the-Senate amendment. Therefore, it is not legislation; as such, rule XVI does not apply.

Mr. GRAMM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

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

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

A PILOT SHORTAGE

Mr. BURNS. Mr. President, I want to bring before the Senate my observations of a hearing that we held in Montana last Friday. It had to do with a pilot shortage in this country, something we have heard very little about but which some of us are quite concerned about.

The hearing examined the impending problem. After the hearing was over, I will say it is moving from impending to maybe an acute pilot shortage, with the factors that contribute to that possibility. I think the results of that hearing are very serious. I think it is certainly serious to the citizens of Montana and rural States on routes not heavily traveled.

Now, because the national economy has done fairly well, we have seen a tremendous expansion in airlines, the major airlines—the ''transcons,'' we call them. When business is good, they expand. Of course, expansion means hiring more pilots at almost record numbers, it seems. That creates a problem because pilots who start to work for the majors usually are drawn from the pool of pilots who fly for the local service or regional airlines.

Now, what happens when these pilots are taken up? Regional and local service carriers get caught with fewer pilots, and that means, more times than not, canceled flights. We always wonder why they cancel a flight. Sometimes it is because we are just short of pilots. If this continues, then it is routes such as we find in rural areas in Montana that suffer—some of those routes might even be abandoned. So it doesn't take a doctorate in economics to figure out that the flights and routes that are canceled in these situations are those that are the least profitable; and the sad part, the less profitable a particular route tends to be for an airline, the more important it tends to be for the people who live in that region.

As you know, Montana is a very large State. I was struck the other day that in a new route that had been put in, nonstop, from Missoula, MT, to Minneapolis, MN, the flying time is 2 hours 5 minutes, and the first hour is all spent in Montana. So we understand distances. If a regional airline is the only carrier serving a particular community and it cancels that route, what are the residents of that community supposed to do then? Air service is an essential lifeline to many individuals and communities. In fact, we have communities that are essential air service communities that have no buses and they have no rails. There is no public transportation, other than the local service airline. So our participation in the EAS, the essential air service program, has been a solution to that issue in the case of smaller, isolated communities, but it is jeopardized by operators who want to operate the routes but we have a shortage of pilots.

Now, we talk about this business of the major airlines, and services, and the rights of passengers. Let's take a look at some of the basic problems. Maybe some of those problems are because of us. Who knows?

Historically, the military has always supplied many pilots to the industry. But a large number of pilots who were trained by the military during the Vietnam era are getting to the point where they have to retire because of Federal regulations.

Since the 1950s, airline pilots have had to retire when they reached the

age of 60. I will tell you that some pilots aren't ready to retire at the age of 60. In fact, some pilots shouldn't be retired at 60. They are still able, physically fit, and mentally fit to fly airplanes past that age of 60. The age of 60 does not affect everyone the same way. In fact, I was thinking the other day that 65 doesn't sound nearly as old as it used to. But some pilots are fit enough to keep on flying.

I understand there is great opposition to changing that rule until I look around the world and see what is happening when we have pilots flying major airlines in American airspace that have no age limit at all. Eight countries that fly into and connect into the United States have no age limit at all. In other words, if that pilot is 65, and fit mentally and physically, he still is a captain of that airplane. I think we have to take a look at that.

Also, I find it disturbing that the Federal Government can apply a blanket regulation, such as the age of 60 rule, determining that a pilot exceeding that age is considered a hazard. I cannot accept that at all.

There is also some question about flight and duty time rules that could worsen the pilot shortage and impact air service to those rural areas. I want the Appropriations' Subcommittee on Transportation and the Subcommittee on Aviation of the Commerce Committee to be aware that I think this issue needs a hearing in Washington at the full committee level to make them aware that we may be overlooking some things at the route level that could help us in providing more air service to this country.

We all say our skies are full. Do you realize that commercial air service—basically 85 percent of the air service in this country—takes up only 5 percent of the airspace because of an old, outdated system that we have for vectoring and ITC across this country?

I think maybe we should look at that. I appreciate the time given me by the chairman and the ranking member this morning.

But that is the result of the hearing we had in Kalispell, MT. I think Senators should take a look at this and offer some comments. But I think we should have a hearing on this particular problem in Washington at the full committee level.

I thank the Chair. I yield the floor.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT—Continued

The PRESIDING OFFICER (Mr. ALLARD). The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, we have a sense-of-the-Senate resolution by the Senator from Louisiana. She asked for a study, which in this place is a relatively harmless gesture. But what I hear in response is that suddenly the Senate wants to be an expert on airlines. No. I don't see it that way. What I see is that we are experts on protecting the public. That is our responsibility. That is why we are sent here—to take care of the public and not to take care of the airlines ahead of the public.

The airlines are wonderful companies. But they are not beyond criticism. They have what amounts to a very uneven playing field. They get their slots. The facilities are paid for by the airline passengers, not the airlines. The airlines have unlimited use of our nation's airspace. They get preferential treatment. They have an air traffic control system paid for by the taxpayers in this country.

There is an objection that I hear to this study that is proposed by the Senator from Louisiana.

When we get discount tickets, that is not a freebie. It is a marketing calculation. The airlines say you can buy a discount ticket, and we are going to make it up elsewhere, and make it up elsewhere they do. No one is objecting to that. That is their marketing scheme.

I have some objection to the fact that in one case flying down from the New York area costs, at a government rate, $165, and if you fly out of another airport right nearby it is $38. Why? Because one airline has a stranglehold on the traffic at the costlier airport.

I am going to relinquish the floor momentarily.

I want it abundantly clear that this Senator makes no apology for defending the public first before defending the airlines. I hope the public will take note of this debate.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I thank the distinguished Senator from Louisiana for working with me. I think we have worked out language that I can live with and which I think basically does what she wants, which is gather information, and then as a policy-making arm of government we could choose how to deal with it and what to do with it.

I will not object to the modification of her amendment. I think it deals with that problem.

I say to the Senator from New Jersey that it is a stormy Thursday and we all want to finish the bill. But my objection is for preserving private property with the sanctity of contracts and free enterprise. If the government could run airlines better we all would be trying to rebuild our airlines based on the Soviet model. It didn't quite work out that way. We had an empirical test in the world, and our approach won.

I am not trying to defend any interest here other than private property and contracting, and simply noting that for some reason on this stormy day all of a sudden everybody wants to run the airlines.

I want to especially thank the Senator from Louisiana. She has been very kind to me. Thank you.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, I have a few observations. My friend, the distinguished Senator from Texas, makes a lot of sense a lot of times. I agree with him most of the time. I especially agree with him on this. We certainly don't want the Government running the airlines. We want the airlines to be as responsive as they can be to the public, which is their customer. That is all of us. We have benefited.

As the Senator from Louisiana said in her remarks, we have benefited immensely from the deregulation of the airlines. We want to keep it that way. I want to deregulate just about everything I can think of, or see, or feel, because I think there is a benefit.

The Senator from Texas is absolutely right. There is something in private enterprise and a contract, and we should respect that. We have to respect that. But I hope the airlines are getting the message that we are getting from the public that there is a lot of unrest out there. Maybe it is lack of communication with the public. But if I buy a ticket and if it is a special ticket, I know it is a special ticket. That is a contract. I know that if I don't use it, I guess I will lose it. I certainly can't skip around on it. Maybe that is a communications problem with whoever is purchasing it. But whatever we do, let's not ever have the Government running any business, especially the airlines.

The PRESIDING OFFICER. The Senator from Louisiana

Ms. LANDRIEU. Thank you, Mr. President. I appreciate the willingness of the Senator from Texas to work out the objection but to maintain a strong amendment in addressing the sense of the Senate to look into those issues because if there is a way this can be worked out that benefits the airlines and the passengers, I think we most certainly should be about doing that.

I thank the Senator from New Jersey for his comments because, while we all want to see the deregulation work, I think we can all agree it is not perfect and that we could make some good suggestions as to how to improve it to keep the private contracts between the airlines and to honor the sanctity of those private contracts and private arrangements. This is a very public business, as is all business. There is a private side and there is a public side. That is why we have a public sector that does the job we do and a private sector that does the job they do. When we work together, the public is served in the best way. That is all this amendment attempts to do.

I thank the Senator from Alabama, our distinguished leader on this issue, for helping work this out.

AMENDMENT NO. 1679, AS MODIFED

I submit a modified amendment to the desk. I don't think it will be necessary for the yeas and nays.

The PRESIDING OFFICER. The amendment will be so modifed.

The amendment (No. 1679), as modified, is as follows:

On page 65, line 22, before the period at the end of the line, insert the following '': *Provided*, That it is the sense of the Senate funds made available under this heading shall be used for the submission to the appropriate committees of Congress by the Inspector General, a report on the extent to which air carriers and foreign carriers deny travel to airline consumers with non-refundable tickets from one carrier to another.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment (No. 1679), as modified, was agreed to.

Mr. SHELBY. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

UNANIMOUS CONSENT AGREEMENT—CONFERENCE REPORT TO ACCOMPANY H.R. 2561

Mr. SHELBY. Mr. President, I ask unanimous consent that when the Senate considers the conference report to accompany the DOD authorization bill, the conference report be considered as having been read. I further ask that there be 2 hours for debate, to be equally divided between Senators WARNER and LEVIN or their designees, and following the conclusion or yielding back of time, the Senate proceed to vote on adoption of the conference report, without any intervening action or debate.

I further ask consent that the Senate consideration of the conference report not be in order prior to 5:30 p.m. on Tuesday, September 21, 1999.

Mr. CHAFEE. Mr. President, if I understand this correctly, what will happen now is there will be a period of 2 hours on DOD?

Mr. SHELBY. That starts Tuesday, September 21.

Mr. CHAFEE. How about on this Transportation legislation?

Mr. SHELBY. We are close to completing that. We are hoping to wind that up in the next few minutes.

Mr. CHAFEE. So we go to third reading.

Mr. SHELBY. Yes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Alabama?

Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—CONFERENCE REPORT TO ACCOMPANY H.R. 2587

Mr. SHELBY. Mr. President, I further ask unanimous consent that at 9:30 a.m. on Friday, September 17, the Senate proceed to the consideration of the conference report to accompany H.R. 2587, the D.C. appropriations bill, and it be considered as follows: The report be considered as read, and there be 30 minutes of debate equally divided in the usual form.

I further ask consent that following that debate the Senate proceed to a vote on the adoption of the conference report with no intervening action or debate.

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

Mr. SHELBY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Massachusetts is recognized.

Mr. KERRY. I ask unanimous consent that I be permitted to proceed as in morning business for a few minutes, not very long.

Mr. THOMAS. Mr. President, I hope it could be limited to 5 minutes.

Mr. KERRY. Mr. President, it would be just about 5 minutes. If I could have a little leeway, I would appreciate it.

Mr. THOMAS. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered. The time limit is 5 minutes.

The Senator from Massachusetts.

Mr. KERRY. I thank the Chair.

(The remarks of Mr. KERRY and Mr. SARBANES pertaining to the introduction of S. 1594 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. KERRY. I thank the Chair and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 2000—Continued

Mr. SHELBY. Mr. President, we are trying to get to the end of the Transportation appropriations bill. I think we are close. Maybe we can wind it up in just a few minutes and get a vote. In the meantime, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENTS NOS. 1673, 1667, AND 1666, AS MODIFIED

Mr. SHELBY. Mr. President, I ask the Chair to lay before the Senate amendments numbered 1673, 1667, and 1666, as modified.

The PRESIDING OFFICER. Without objection, the clerk will report the amendments en bloc.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY], for Mr. REID, proposes an amendment numbered 1673.

The Senator from Alabama [Mr. SHELBY], for Mr. THOMAS, for himself and Mr. ENZI, proposes an amendment numbered 1667.

The Senator from Alabama [Mr. SHELBY], for Mr. DURBIN, proposes an amendment numbered 1666, as modified.

The amendments (Nos. 1673, 1667, and 1666, as modified) are as follows:

AMENDMENT NO. 1673

At an appropriate place in the Federal-aid Highways (Limitations on Obligations) (Highway Trust Fund) section insert the following: ''*Provided further*, That, notwithstanding any other provision of law, the Secretary shall, at the request of the State of Nevada, transfer up to $10,000,000 of Minimum Guarantee apportionments, and an equal amount of obligation authority, to the State of California for use on High Priority Project No. 829 'Widen I–15 in San Bernardino County,' Section 1602 of Public Law 105–178.''

AMENDMENT NO. 1667

At the appropriate place in the bill, insert the following new section:

SEC. . For purposes of Section 5117(b)(5) of the Transportation Equity Act for the 21st Century, the cost sharing provisions of Section 5001(b) of that Act shall not apply.

AMENDMENT NO. 1666, AS MODIFIED

(Purpose: To express the sense of the Senate regarding the need for reimbursement to the Village of Bourbonnais and Kankakee County, Illinois, for crash rescue and cleanup incurred in relation to the March 15, 1999, Amtrak train accident)

At the appropriate place, insert the following:

SEC. . (a) FINDINGS.—The Senate finds that the Village of Bourbonnais, Illinois and Kankakee County, Illinois, have incurred significant costs for the rescue and cleanup related to the Amtrak train accident of March 15, 1999. These costs have created financial burdens for the Village, the County, and other adjacent municipalities.

(b) The National Transportation Safety Board (NTSB) conducted a thorough investigation of the accident and opened the public docket on the matter on September 7, 1999. To date, NTSB has made no conclusions or determinations of probable cause.

(c) SENSE OF THE SENATE.—It is the sense of the Senate that the Village of Bourbonnais, Illinois, Kankakee County, Illinois, and any other related municipalities should consistent with applicable laws against any party, including the National Railroad Passenger Corporation (Amtrak), found to be responsible for the accident, be able to recover all necessary costs of rescue and cleanup efforts related to the March 15, 1999, accident.

Mr. SHELBY. Mr. President, these amendments have been cleared by both sides; therefore, I urge their immediate adoption.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendments, en bloc.

The amendments (Nos. 1666, 1667, and 1673, as modified), en bloc, were agreed to.

Mr. SHELBY. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1680

Mr. SHELBY. Mr. President, I send an amendment to the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY], for himself and Mr. LAUTENBERG, proposes an amendment numbered 1680.

Mr. SHELBY. 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 7, line 22, before the period, insert the following: ": *Provided further*, That the Secretary of Transportation shall use any surplus funds that are made available to the Secretary, to the maximum extent practicable, to provide for the operation and maintenance of the Coast Guard".

On page 18, lines 4 and 5, strike "notwithstanding Public Law 105–178 or any other provision of law,".

On page 18, line 24, insert after "Code:" insert the following: "*Provided further*, That $6,000,000 of the funds made available under 104(a) of title 23, United States Code, shall be made available to carry out section 5113 of Public Law 105–178:".

On page 19, lines 12 and 13, strike "notwithstanding any other provision of law,".

On page 20, lines 7 and 8, strike "notwithstanding any other provision of law,".

On page 20, line 12, strike all after "That" through "of law," on line 21.

On page 20, line 22, strike "not less than" and insert the following: "$5,000,000 shall be made available to carry out the National Differential Global Positioning System program, and".

On page 22, line 15, strike "Notwithstanding any other provision of law, for" and insert the following: "For".

On page 24, lines 4 through 8, strike: ": *Provided further*, That none of the funds made available under this Act may be obligated or expended to implement section 656(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (42 U.S.C. 405 note)".

On page 40, between lines 14 and 15, insert the following: "Gees Bend Ferry facilities, Wilcox County, Alabama".

On page 40, between lines 16 and 17, insert the following: "Georgia Regional Transportation Authority, Southern Crescent Transit bus service between Clayton County and MARTA rail stations, Georgia".

On page 42, between lines 17 and 18, insert the following: "Jasper buses, Alabama".

On page 43, line 16, insert after "Lane County, Bus Rapid Transit" the following: "buses and facilities".

On page 44, between lines 12 and 13, insert the following: "Los Angeles/City of El Segundo Douglas Street Green Line connection".

On page 47, between lines 4 and 5, insert the following: "Newark intermodal center, New Jersey".

On page 48, between lines 14 and 15, insert the following: "Parkersburg intermodal transportation facility, West Virginia".

On page 56, strike line 18, and insert the following: "Dane County/Madison East-West Corridor".

On page 57, between lines 19 and 20, insert the following: "Northern Indiana South Shore commuter rail project;".

On page 59, line 10, strike "and the".

On page 59, line 11, after "projects" insert the following: "; and the Washington Metro Blue Line extension—Addison Road".

On page 61, strike lines 1 and 2, 11 and 12.

On page 62, strike lines 1 and 2.

On page 62, line 4, strike "and the" and insert: "Wilmington, DE downtown transit connector; and the".

On page 80, line 24, strike "; and" and insert ".".

On page 81, strike lines 1 through 8.

On page 90, strike lines 4 through 22, and insert the following:

"SEC. . (a) None of the funds in this act shall be available to execute a project agreement for any highway project in a state that sells drivers' license personal information as defined in 18 U.S.C. 2725(3) (excluding individual photograph), or motor vehicle record, as defined in 18 U.S.C. 2725(1), unless that state has established and implemented an opt-in process for the use of personal information or motor vehicle record in surveys, marketing (excluding insurance rate setting), or solicitations.

"(b) None of the funds in this act shall be available to execute a project agreement for any highway project in a state that sells individual's drivers' license photographs, unless that state has established and implemented an opt-in process for such photographs."

On page 91, between lines 9 and 10, insert the following:

"SEC. . Of funds made available in this Act, the Secretary shall make available not less than $2,000,000, to remain available until expended, for planning, engineering, and construction of the runway extension at Eastern West Virginia Regional Airport, Martinsburg, West Virginia: *Provided further*, That the Secretary shall make available not less than $400,000 for the Concord, New Hampshire transportation planning project: *Provided further*, That the Secretary shall make available not less than $2,000,000 for an explosive detection system demonstration at a cargo facility at Huntsville International Airport.

"SEC. . Section 656(b) of Division C of the Omnibus Consolidated Appropriations Act of 1997 is repealed.

"SEC. . Notwithstanding any other provision of law, the amount made available pursuant to Public Law 105–277 for the Pittsburgh North Shore central business district transit options MIS project may be used to fund any aspect of preliminary engineering, costs associated with an environmental impact statement, or a major investment study for that project.

"SEC. . For necessary expenses for engineering, design and construction activities to enable the James A. Farley Post Office in New York City to be used as a train station and commercial center, to become available on October 1 of the fiscal year specified and remain available until expended: fiscal year 2001, $20,000,000."

Mr. SHELBY. Mr. President, this managers' amendment has been cleared on both sides of the aisle.

Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1680) was agreed to.

Mr. SHELBY. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

STEVENSON EXPRESSWAY/WACKER DRIVE REHABILITATION

Mr. DURBIN. Mr. President, my colleague Senator FITZGERALD, and I would like to engage the distinguished chairman of the Transportation Appropriations Subcommittee, Senator SHELBY, in a brief colloquy regarding the Stevenson Expressway and the Wacker Drive rehabilitation projects.

Mr. FITZGERALD. Senator SHELBY knows both of these projects are vitally important to the Chicago metropolitan region's transportation system. The Stevenson carries 135,000 vehicles per day, including 24,000 heavy trucks, and is 15 years beyond its design life. Wacker Drive, in downtown Chicago, built in 1926, is also well beyond its design life. It carries 60,000 vehicles per day. Both projects are high priorities of the Illinois Congressional Delegation.

Mr. DURBIN. During congressional consideration of TEA–21 last year, these projects were partially funded and further identified as excellent candidates to receive funding from U.S. Department of Transportation discretionary funds. These projects have subsequently received some discretionary funding and are eligible to receive additional funds this year. Does the Senator agree that both of these projects are good candidates for discretionary funding in FY 2000?

Mr. SHELBY. I thank the Senators from Illinois for drawing attention to these projects. I agree that both the Stevenson Expressway and Wacker Drive rehabilitation projects are eligible for federal discretionary funds from the U.S. Department of Transportation under the approach adopted in the Senate bill.

Mr. FITZGERALD. We thank the chairman for his remarks.

UPPER CUMBERLAND AIRPORT

Mr. FRIST. I would like to thank the distinguished chairman of the Transportation Appropriations Committee, Senator SHELBY, for his willingness to discuss an important aviation issue for Tennessee. Specifically, the Upper Cumberland Regional Airport's critical need for taxiway and safety improvements.

Mr. SHELBY. I am aware of this project, and would like to strongly recommend that the FAA give priority consideration to this request for discretionary funding. The Grants-In-Aid for Airports program is designed to provide federal assistance to airports like the Upper Cumberland Regional Airport for vital safety enhancements and other improvements as my friend from Tennessee mentioned.

Mr. FRIST. The Senator's willingness to offer support for this project in Cookeville, Tennessee is greatly appreciated. I'm certain the FAA will take note of the Chairman's support and give this project every consideration.

MUSKEGON COAST GUARD SEASONAL AIR FACILITY

Mr. ABRAHAM. Mr. President, I rise today with my colleague from Michigan to engage the Chairman of the Transportation Appropriations Subcommittee in a colloquy regarding the Coast Guard's proposal to close the seasonal air facility in Muskegon, MI. On July 13th, we wrote the distinguished Chairman to seek his assistance on this issue and attempted to explain the necessity to keep this facility open.

Mr. President, in that letter, we described how on February 3rd of this year, we wrote the Commandant of the Coast Guard and the Secretary of Transportation asking for a detailed explanation of this proposal in light of what appeared to be a dramatic reversal on the Administration's part given its previous statements as to both the desirability of Muskegon and the overall need for a southern Lake Michigan seasonal facility.

THE PRESIDING OFFICER. Without objection, so ordered.

Mr. ABRAHAM. These letters, Mr. President, closely follow the letters the entire Michigan delegation sent the Chairs of both the House and Senate Appropriations bills. Although we have been briefed by the Coast Guard regarding this proposal, we have not received a formal response from the Commandant or the Secretary.

Mr. LEVIN. There are concerns within the Michigan delegation, Mr. President, that the proposal to close Muskegon may have been due to the Coast Guard's constrained funding and was not necessarily based on an analysis of the safety needs of boaters on Southern Lake Michigan.

Mr. President, it would appear premature to close the facility at Muskegon given the investment made by both the Coast Guard and the local community to establish this seasonal facility. In choosing to locate the facility in Muskegon in the first place, the Coast Guard projected large cost savings that would not be fully realized if the station were closed.

Mr. SHELBY. Mr. President, I am aware of this issue due to the diligence of the Michigan Senators, and I understand the concerns they have regarding Coast Guard's proposal. I have seen the amendment filed by colleagues from Michigan to ensure the continued search and rescue coverage from the Muskegon Air Station during the high-traffic summer season. While I would be concerned if the closure of this facility would cause a degradation of search and rescue capability, it is not possible at this point to incorporate such legislative directives to the Coast Guard given the large number of other legislative initiatives regarding Coast Guard facilities that have been presented to the Subcommittee.

Mr. ABRAHAM. Mr. President, I understand the difficulty the distinguished Chairman has in opening up such a panoply of Coast Guard issues to resolve this one problem. However, I would like to bring his attention to page 21 of House Report 106–180 to accompany JR 2084, the House Transportation Appropriations Act for FY 2000 where it directs that the Muskegon seasonal air facility operations continue through FY 2000.

Mr. SHELBY. Mr. President, I am aware of House action on this matter as well as the Senators' role in bringing about that action and of their steadfast commitment to improving boating safety. I can assure the Senators from Michigan that I will support directing the Coast Guard in the final Transportation Appropriations Act for FY 2000 to keep the Muskegon seasonal Air Facility open.

Mr. LEVIN. Mr. President, that assurance is important and welcome, and I believe I speak for the entire Michigan delegation in thanking the distinguished Chairman for his support and in committing our efforts to assist him in any way he may need to see this provision incorporated into the final Transportation Appropriations Act for FY 2000.

MIDDLE FORK SNOQUALMIE ROAD

Mr. GORTON. The Middle Fork Snoqualmie valley is 110,000 acres of forests, mountains, and rivers located just 45 minutes east of Seattle. Ninety-eight percent of the land is public ownership. In recent years, the valley has been plagued by dumping, indiscriminate shooting and general lawlessness. Strong efforts are being made, however, by federal agencies and conservation groups to turn the valley back into a place safe for recreationists. No other place in the Northwest presents such an opportunity to create a first-class recreation area so close to millions of people.

A key part of turning this valley back into an attractive place is providing better and safer access. The present road into the valley is unpaved, potholed and dusty. An improved, paved road would provide safer, more pleasant access and allow for better law enforcement.

The Federal Highways Administration, Western Federal Lands Division, currently has $5 million budgeted for a new Middle Fork highway. Local conservation groups in my state, however, feel that the kind of highway which the F.H.W.A. builds would amount to massive overkill. The F.H.W.A. is restricted by its design standards to build only one kind of road—a highway in every sense of the word, with huge cuts and fills, broad sweeping curves and a wide swath cleared of trees on both sides. Conservationists feel that such a highway would destroy the very qualities which make the Middle Fork valley an attractive place.

Mr. SHELBY. I understand the concerns of the Senator of Washington and his desire to provide adequate access to an important area in his state without disrupting its unique attributes. I would be happy to work with Senator GORTON, the Federal Highway Administration, and other interested parties to resolve this issue.

Mr. GORTON. I appreciate the Senator's interest and would like to explore a proposal submitted by my constituents interested in preserving and enhancing the Middle Fork Snoqualmie Valley. I believe an appropriate solution would be to transfer the monies appropriated to the Federal Highway Administration for this road project to the U.S. Forest Service, giving the U.S. Forest control over design of the road. The Forest Service is not so rigidly bound in its design standards as the Federal Highway Administration, and could construct a paved road which closely follows the alignment of the existing road and goes through the woods. Such a road would provide much improved access without compromising the valley's integrity. I look forward to working with my colleague from Alabama.

INTELLIGENT TRANSPORTATION SYSTEM

Mr. ABRAHAM. Mr. President, I rise today to engage the Chairman of the Transportation Appropriations Subcommittee in a colloquy regarding the Intelligent Transportation System program. Mr. President, I was very pleased that the report accompanying S. 1143, the Senate Transportation Appropriations bill for FY 2000, contained direction that Southeast Michigan receive no less than $4 million for ITS deployment projects. I was particularly pleased with that designation as I had requested the Transportation Appropriations Subcommittee provide $3.5 million for the Southeast Michigan Snow Information Management System, and wish to thank the distinguished Chairman of the Subcommittee for that designation. Does the Chairman believe such a further designation for this particular project would be in order?

Mr. SHELBY. Mr. President, I was pleased to support that designation in the drafting of S. 1143, and was particularly impressed that it is projected to reduce the cost of winter storm maintenance by 10% in Southeast Michigan, reduce weather-related accidents by 10%, as well as reduce by 5% the amount of salt used on those roads, while also creating a model for other states to improve their snow removal operations. Because of that, I believe that the Federal Highway Administration should consider the SEMSIM project as the top priority project within that $4 million distribution to Southeast Michigan.

Mr. ABRAHAM. I appreciate the Senator's support and clarification Mr. President, and join him in calling upon the FHWA to quickly provide this additional funding for the SEMSIM project as soon as the Appropriations Act is signed into law.

Mr. President, I would also like to take this opportunity to discuss what should be done with the remaining $500,000 within that $4 million distribution to Southeast Michigan. Mr. President, I would like the Chairman of the

Subcommittee to know that after he had marked up S. 1143, I received a request from Wayne County in Michigan to support a Roads Infrastructure Management System project that will use Global Positioning Satellite system technology and data to geocode the existing infrastructure inventory over the county's 1,400 miles of roads, such as signage, lighting, bridges, and existing utility runs, so as to better identify where road improvements will be most efficiently executed, and provide the greatest improvements. The ultimate goal is to implement a travel routing system that can be accessed over the Internet by commuters and freight carriers. Having this geocoded inventory will permit the county to quantitatively assess and schedule road improvement projects and improve traffic flow.

The total cost of a comprehensive Geographic Information System is about $60 million, but Wayne County has already committed $14 million to building this base map, and to date, has completed all of it's digital ortho photography at the 6″ pixel resolution. The Roads Information Management System is one of the most costly applications within this project, and will cost the County $7.4 million. The County was originally seeking $5 million in federal funding, but I believe any portion thereof would further this worthy effort.

Mr. President, I would like to ask the distinguished Chairman of the Transportation Appropriations Subcommittee if he could support this project within the existing $4 million designation?

Mr. SHELBY. Mr. President, I agree that the RIMS project described by Senator ABRAHAM indeed appears to be worthy of federal funding, and I would recommend that the Federal Highway Administration provide funding for this project to the extent possible after fully funding the SEMSIM project discussed before. Furthermore, if the final appropriations bill will provide more ITS money for Michigan, I will press to have both of these projects funded as fully as possible, in accordance with the prioritization I have previously discussed.

Mr. ABRAHAM. I thank the Chairman for his considerable assistance on this matter, and look forward to working with him on this issue as it moves through to final passage.

THE INCREMENTAL TRAIN CONTROL SYSTEM (ITCS)

Mr. ABRAHAM. Mr. President, I rise to engage in a colloquy with the Manager of this Appropriations Bill regarding funding of specific projects under the Next Generation High Speed Rail Program.

Mr. President, I see that the FY 2000 Transportation Appropriations Bill provides a total of $7.3 million for various positive train control projects, and of that amount, $5 million is designated for the Alaska Railroad and $1 million for the Transportation Safety Research Alliance.

Now Mr. President, as the Chairman of the Transportation Appropriations Subcommittee is well aware, the Administration requested $3 million for the Incremental Train Control System (ITCS) along the Detroit to Chicago passenger rail corridor in its FY 2000 Budget Request. This project has previously received $6 million in federal funds, and I am very thankful for the designation the Chairman was able to convince the Conference Committee to provide this project last year even though my request came very late in the legislative process.

The reason I believe this project is worthy of specific funding is that it is a key component in the efforts by Amtrak as well as the Midwest High Speed Rail Coalition to allow for passenger rail service of up to 125 miles per hour, not only along the Detroit to Chicago corridor, but elsewhere as the $3 million requested by the Administration would complete the research of this project, and allow the technology to be applied to other rail corridors across the country.

Mr. President, I recognize the strict funding constraints the Subcommittee faced in drafting this appropriations bill, and the significant hurdles that had to be overcome in order to find this level of funding, but I wonder if the Chairman may be able to comment on the possibility that some level of funding could be found for the ITCS project.

Mr. SHELBY. Mr. President, I thank the Senator from Michigan for his comments, and he is correct, we did face significant constraints throughout this bill which impacted upon the Next Generation High Speed Rail program. Furthermore, the Administration's funding request for this specific program was funded in part with a recommendation to transfer Revenue Aligned Budget Authority from the State highway formula to this and other programs, a proposal which was rejected by the Congress. I believe the Senator from Michigan opposed the RABA transfer from the States in the Budget Committee.

However, I believe the unallocated portion of the train control demonstration program under the Next Generation High Speed Rail Program should be allocated to the Michigan ITCS project, and as we enter the Conference with the House, I will work to ensure adequate funding for this project.

Mr. ABRAHAM. Mr. President, I thank the Chairman for his support of this project, and for his efforts to provide the necessary funds for our transportation infrastructure as we enter the 21st Century. I look forward to working with him on this program as the bill moves to Conference.

PIPELINE SAFETY

Mrs. MURRAY. I rise to request a colloquy with my colleague from Washington State, Senator GORTON.

On June 10, 1999, 277,000 gallons of gasoline leaded from an underground pipeline in Bellingham, Washington. It ignited and exploded. Three people were killed: an 18-year-old young man and two 10-year-old boys. This is a tragedy.

The Office of Pipeline Safety, the National Transportation Safety Board, the FBI, the EPA and State agencies have spent the last four months trying to determine why this happened. We still don't know the direct cause and may not know for some time.

I wish I could say this was an isolated instance, but I can't. Recent pipeline accidents have occurred in other places. In Edison, New Jersey, one person died when a natural gas pipeline exploded. In Texas, two people lost their lives when a butane release ignited. In fact, last November the owner of the pipeline that exploded in Bellingham had an accident in another part of my State that took six lives.

These pipelines are potential threats. There are some 160,000 miles of pipelines in the U.S. carrying hazardous materials. Many of these pipes run under some of our most densely populated areas; under our schools, our homes, and our businesses.

I am disappointed that this year the Transportation Appropriations Subcommittee did not adequately fund the Office of Pipeline Safety, the authority governing interstate pipelines. I tried to get the appropriations in this year's bill to the level requested by the President. Unfortunately, we were unable to do so. It is my hope we can increase funding in next year's appropriations.

I am also committed to strengthening OSP's oversight of pipelines and commitment to community safety in next year's reauthorization of OPS.

I will be working with Senator GORTON, who is on the committee, to ensure greater OPS effectiveness and oversight of the industry.

I also want to point out U.S. Transportation Secretary Rodney Slater's prompt attention to this issue. Immediately following the accident, he met with me and granted my request to have a full-time OPS inspector stationed in Washington State. He has also been very helpful and informative as we've progressed through the investigation phase. I thank him. I know he will continue to work with us in the future on OPS's appropriations and next year's authorization.

Mr. GORTON. I would like to thank my colleague from Washington State. She has been out front on this issue, and I commend her for her persistence.

I look forward to working with Senator MURRAY during the reauthorization of the Federal Office of Pipeline Safety, a piece of legislation in which I will fully engage when it comes before the Senate Commerce Committee next year. While the interstate transportation of hazardous materials in above and underground pipelines has proven to be the safest and most cost-effective means to transport these materials, the Bellingham tragedy has once again alerted us to its tragic potential. During the OPS reauthorization process I intend to ensure that the Federal law

and the Federal agency are performing their jobs of ensuring that tragedies like the one in Bellingham are not repeated. I will work closely with Chairman MCCAIN, the Majority Leader and my Democratic colleagues to make this a top priority next year.

Mrs. MURRAY. I thank my colleague. I will also continue to push for reform. We must take a long hard look at the effectiveness of OSP's oversight activities; review ways to develop new technologies for detecting pipeline defects; consider the effect of aging pipelines on safety; review industry's influence on the regulation of pipelines; and focus on our training and testing procedures for inspectors and maintenance workers. I also intend to look at ways to treat environmentally sensitive and highly populated areas, recognizing the multitude of safety and ecological problems operating pipelines in these places can create.

Finally, I will work to strengthen communities' ''right to know,'' so people are aware when there are problems with the pipelines that threaten their neighborhoods.

Mr. GORTON. I share the Senator's concerns and I am certain we will deal with those questions and ideas in the context of reauthorization legislation.

Mrs. MURRAY. Thank you.

LEWIS AND CLARK BICENTENNIAL CELEBRATION

Mr. BURNS. Mr. Chairman, I would like to address a matter important to my State's participation in the upcoming Lewis and Clark Bicentennial celebration. As you and other history buffs may know, the Corps of Discovery led by Meriwether Lewis and William Clark spent much of their travels in what is now my State of Montana. This celebration will have an enormous impact on the State's economy and infrastructure. We have a number of sites on the Missouri River that have retained historic ferry transportation. Currently, in the Fiscal Year 2000 Transportation Appropriations bill, the committee has included $2 million for the upgrade of the McClelland Ferry. A more fiscally responsible use of these funds would be to spread this funding level out over three ferry sites on the historic Missouri River. Those sites are the McClelland, Virgelle, and Carter Ferry sites. I would like to also indicate that is important to recognize that these upgrades should maintain all of the historic features of the traditional ferry site. It is not my intention to replace these historic ferries with bridge work or new ferries.

Mr. SHELBY. I appreciate my colleague bringing this issue to my attention and am interested in ensuring that scarce Federal transportation resources are used as efficiently as possible. I understand your concerns and look forward to working with you on this issue.

INCREASED FUNDING FOR U.S. ROUTE 2 IN NEW HAMPSHIRE

Mr. GREGG. U.S. Route 2 is an important travel and commerce thoroughfare in the New Hampshire North Country that runs through New Hampshire, Maine and Vermont. On January 11, 1999, the New Hampshire, Maine and Vermont Senate delegation sent a joint letter to Secretary of Transportation Rodney Slater. In this letter the delegation asked Secretary Slater to give consideration to a $13 million joint state grant application funded through TEA–21's National Corridor Planning and Development Program (NCPD) and Coordinated Border Infrastructure (CBI) for U.S. Route 2. The joint New Hampshire, Maine and Vermont application received a total of only $1.5 million in funding for U.S. Route 2. I am sure that the Senator from Alabama would agree that this funding level for U.S. Route 2 is completely inadequate. I ask the Senator from Alabama to join me in urging the Secretary of Transportation to allocate more funding through the NCPD and CBI for U.S. Route

Mr. SHELBY. I agree with the remarks of the Senator from New Hampshire, and I look forward to working with him on this issue in the future.

AOVCC

Mr. INHOFE. Mr. President, I would like to enter into a brief colloquy with the Chairman regarding some weather observation equipment for the FAA.

As the Chairman will remember, last year he was very helpful in getting money in the Department of Transportation Appropriation bill for FY 99 to begin testing of the Automated Observation for Visibility Cloud Height, and Cloud Coverage (AOVCC) system. Using high resolution digital imaging, laser ranging and high performance computing technology, the AOVCC system augments the current ASOS by adding the capability to detect fast-moving weather systems in a timely and representative manner. Is it my understanding that FAA is currently testing this equipment and it appears that AOVCC is performing up to expectations.

Would the Chairman agree that if testing of AOVCC is successful, FAA would make every effort to purchase the AOVCC system to enhance existing weather observation?

Mr. SHELBY. If the Senator will yield, this equipment appears to be a promising technology which has the potential to greatly enhance safety. I would concur with the Senator from Oklahoma that if FAA determines that the test of the AOVCC is successful, every effort should be made to purchase this equipment.

Mr. INHOFE. I thank the Chairman for his ongoing support of this important safety equipment.

BIG MOUNTAIN ROAD AND GREAT FALLS AIRPORT

Mr. BURNS. I would like to engage my colleague from Alabama on a number of issues relating to the Fiscal Year 2000 Department of Transportation Appropriations bill. Montana's roads and airports are inadequately funded. I would like to focus on a couple of projects that must be addressed in the state immediately or we will be facing serious economic loss as a result. The first is the Big Mountain Road. This is a forest service access road, private property access road and also provides access to Big Mountain Ski area. During the winter when conditions are worst, this steep road is traversed frequently and while the road is covered with snow and ice. Montana winter conditions are not friendly to our paved roads. I would like to express my support of funding for this road. In 1996, the state estimated reconstruction costs to be around $6.5 million. The road is presently one of the busiest roads in the state awaiting reconstruction. Mr. Chairman, this is no small matter—every year Montanans are either killed or injured in accidents on this dangerous road. The freeze thaw conditions we face make this road an important project in our state.

Mr. SHELBY. I understand your concerns and agree with you about the weather-related burdens on Montana's roads. Such conditions can be very harmful to a paved surface.

Mr. BURNS. I would also like to address another important matter in our state. The Great Falls Airport is the home to a Federal Express regional hub. Fed Ex employs numerous employees in the Great Falls area. Our problem originated when the FAA mandated the airport find another option for Fed Ex's operations. That mandate has required the airport to begin immediate construction of an apron to accommodate Fed Ex's Great Falls operations. I met with Jane Garvey on this issue and was appreciative of the interest she has taken. Although she and her staff have indicated their support of this project, the FAA is unable to provide funding considering the Airport Improvement Program has lapsed. Mr. Chairman, dirt has been turned on this project and we cannot afford to turn back at this time. Further delays will mean loss of revenue, possible job loss and increased funding requirements. Construction season in Montana is short and we must take action on this project immediately. I would like to request your assistance obtaining the $4.5 million required to solve this problem. We will need to address this problem immediately during this year and soon after the beginning of the 2000 Fiscal Year. Thank you Mr. Chairman.

Mr. SHELBY. We have many airports in need of increased funding. I understand the nature of your problem in Great Falls requires immediate concern. Thank you for bringing these issues to my attention.

BULLFROG CREEK BRIDGE

Mr. BENNETT. I want to bring to the Chairman's attention an issue that we would hope to address this year. In Garfield County, Utah, we have what is called the Boulder to Bullfrog Highway which goes from the tiny town of Boulder to the Bullfrog Basin Marina at Lake Powell. This road crosses some of the most rugged, scenic and roadless country in the southwest. Headed eastbound, a traveler will cross the Grand

Staircase Excalante National Monument, Capitol Reef National Park, additional BLM lands and on into the Glen Canyon National Recreation Area. It is county-maintained road with a right-of-way crossing federal lands.

Sections of the road are classified as both improved and unimproved meaning that sections are paved in some places and are gravel or dirt in others. Despite this, it is heavily traveled by tourist and locals because it is the only east-west road for 60 miles north or south. During the spring and summer, flash floods often will wash out the road forcing its closure. This occurs most often near the Bullfrog Creek drainage, where it is not unusual to have a 100 yard section of the road washed out. When this happens, a detour of over 150 miles is required just to get to the other side of Capitol Reef National Park which would otherwise be roughly a 30 mile drive.

Clearly, there is an public interest in keeping the road open, yet every summer the County and the National Park Service expend considerable capital and manpower to keep the road open after every rain. This situation could be alleviated by placing a series of culverts or other type of structures over the Bullfrog Creek drainage to keep the road from washing out.

With this in mind, I ask the Chairman if he believes it would it be appropriate to provide Garfield County, Utah approximately $500,000 from the Federal Lands Highway account to install a structure to keep the road open throughout the year?

Mr. SHELBY. The Senator raises a very good point. Given the economic and public safety impacts on the County when the road is closed as well as the potential liabilities for the Federal Government, I will work with the Senator, the House and the Administration during conference on this bill to identify funds for the County to improve this small section of the road.

PUBLIC LANDS HIGHWAY PROGRAM

Mr. REID. I would like to engage my colleague, Senator SHELBY, the Chairman of the Transportation Subcommittee, in a brief discussion about an important program for my home state of Nevada.

As my colleagues know, Nevada is a state with a very large amount of federal lands. Nearly eighty-seven percent of the state is federal land. In fact, Nevada trails only Alaska in total acreage under federal control.

As such, Nevada qualifies for preference under the Public Lands Highway Discretionary Program portion of the Federal Lands Highway program, since, in the words of the law, its borders include ''at least 3 percent of the total public lands in the nation''. (The other states are Alaska, Arizona, California, Colorado, Idaho, Montana, New Mexico, Oregon, Utah and Wyoming.) This factor, together with consideration of a state's need, are the only statutory instructions on the awarding of discretionary funds under Public Lands Highway Discretionary Program.

Is the Chairman aware that this body has historically not earmarked projects under Federal Lands Highway program. However, the other body has undertaken to heavily earmark the program this year even though this undercuts the basic intent of Congress in creating the discretionary program for states heavily impacted by federal land holdings.

In addition, this earmarking has the effect of reducing the federal agencies ability to utilize the program for very urgent needs on federal lands and for which there is simply no other source of federal funds. I have a copy of Nevada's submission to the FHWA for Public Lands Highways funding in FY 2000. Eight of the nine projects are submitted by federal agencies.

I hope that my good friend and colleague, Senator SHELBY, can address this problem in Conference, by reemphasizing the intent of the Congress with respect to this program.

Mr. SHELBY. My colleague is exactly right. The Public Lands Highway Program was indeed created to fulfill the long-neglected infrastructure needs of our nations vast holdings of federal lands. I share the Senator's commitment to ensuring that public lands states, such as Nevada, continue to receive the lion's share of funding under this program. I will also seek to address the Senator's concerns about earmarking of this program both in Conference this year and when drafting next year's Transportation Appropriation's bill.

Mr. REID. I thank my colleague.

MAINE'S ADVANCED WOOD COMPOSITES CENTER

Ms. COLLINS. Mr. President, I rise to engage the distinguished subcommittee chairman, Senator SHELBY, and the distinguished ranking member, Senator LAUTENBERG, in a brief colloquy in order to make clear the intent behind some language contained in the Senate Appropriations Committee's report accompanying S. 1143, the FY 2000 Transportation appropriations bill.

I want to first thank the distinguished managers of this bill for their assistance last year in securing approximately $1.2 million in FY 99 funding for advanced engineered wood composites for bridge construction to be conducted by the University of Maine's Advanced Wood Composite Center. As both Senator SHELBY and Senator LAUTENBERG may recall, the University of Maine is the institution that pioneered this technology and is currently working with the Federal Highway Administration (FHWA) in this area of research and development.

On page 95 of this year's Senate Appropriations Committee Report accompanying S. 1143, it states in part ''The Committee is interested in research to develop advanced engineering and wood composites for bridge construction and has provided $1.2 million for that purpose within this program.''

I want to inquire of the distinguished managers of this bill if it is their intent that the University of Maine's Advanced Wood Composites Center is to receive the funding referenced by this part of the Committee's report, in order that the University can continue to support FHWA's research in this vital area.

Mr. SHELBY. The distinguished Senator from Maine is correct. This report language is intended to convey that it is the Senate's intention for the FHWA to continue its advanced engineered wood composites research and development program begun last year at the University of Maine's Advanced Wood Composites Center. I thank the distinguished Senator from Maine for giving us the opportunity to clarify our intent on this matter.

Ms. COLLINS. I thank my colleague for making their intent in this respect clear, and I thank them for working with me on this important project both last year and this year. Mr. President, I yield the floor.

AIRLINE PASSENGER SAFETY

Mr. REID. I would like to engage my colleague, Senator SHELBY, the Chairman of the Transportation Subcommittee, in a brief discussion about several important programs that impact my home state of Nevada. While these projects and programs are not currently fully funded in this bill, I am pleased that my colleague, senator SHELBY, has indicated that he will seek to find resources in the final conference report.

The first two programs I would like to discuss today are cutting edge research and technology programs, ones where relatively small allocations of resources can pay huge long-term dividends to consumers.

The first research effort I would like to discuss is the Strategic Alliance for Passenger Airline Security. A consortium of local, state, and private entities, including the University of Nevada-Las Vegas, the University of California-Los Angeles, Alaska Airlines, and Certified Airlines Passenger Services, a Nevada-based company is working with the FAA to develop a decentralized baggage and check-in system that will allow passengers to check-in at various remote locations in the city of origin, such as hotels, shopping malls, or other aviation check-in points.

In a state as dependent upon tourist traffic as Nevada, the ability to more efficiently handle arrivals and departures is critical. As airports struggle in the coming years to cope with more and more passengers in facilities that are unable to expand, alternative, safe, technologies for keeping passenger and baggage traffic moving will become critical. I am grateful that my colleague, Senator SHELBY has recognized the merits of increased research and development in this area. I am looking forward to working with my Chairman on this issue in conference and during the upcoming fiscal year. Only by encouraging innovation can the FAA

hope to keep our Nation's aviation system out of gridlock.

The second technology that I want to discuss to day is a Remote Certification and Maintenance system, a technology developed by Arcata, a Nevada-based company.

In the Committee-passed version of this bill Senators SHELBY and LAUTENBERG included language favorable to the remote certification and maintenance technology manufactured by Arcata. It is my understanding that the FAA has informed the Committee of their ability to deploy up to $5 million worth of this technology at remote radar centers throughout the nation. As this technology gives older generation radars advanced RMM capability, the cost savings alone make this a worthwhile investment of our nation's resources.

Finally, as all of my colleagues are aware, Nevada has been one of the fastest growing states in the nation for most of the last two decades. Southern Nevada attracts nearly 5,000 new residents per month. Given this colossal growth, it is no surprise that the demand for aviation infrastructure has sky-rocketed in recent years.

These increases in aviation traffic in the skies over Southern Nevada have make Contract Air Traffic Control Tower Service at Henderson Executive Airport absolutely critical.

A relatively small investment of resources at the third largest airport in Southern Nevada will solve what is becoming a sticky air traffic control issue for the Las Vegas Valley, especially in light of the county's decision to move the majority of Grand Canyon overflight tour operators from McCarran to the airports in Henderson and North Las Vegas.

Let me be clear, I am not asking for special treatment here. The Clark County Department of Aviation has recently received independent confirmation of a cost-benefit ratio of over 1.0 (specifically 1.16) and expects the FAA to verify that figure in the near future. Any rating over 1.0 makes a facility eligible for this funding. The cost-benefit ratio, coupled with Henderson's status as the third rung in a much more complex air traffic system, make funding for this service an easy choice for Congress to make. I am delighted to have your support for the Contract Tower Program and for the specific inclusion of Henderson Executive Airport in the program, Mr. Chairman.

I appreciate your consideration and look forward to working with you on these and other important issues in conference.

Mr. SHELBY. I thank my colleague for raising these important issues with me. Even in a tight budget year, such as this one, I agree that these programs and projects have merit and I will work diligently to secure funding for them in the House-Senate Conference or in whatever end-of-year mechanism we use to fund transportation in FY 00.

GEORGIA NOISE BARRIERS

Mr. COVERDELL. Will the distinguished Chairman of the Senate Appropriations Subcommittee on Transportation yield for a question?

Mr. SHELBY. I will be happy to yield to the senior Senator from Georgia for a question.

Mr. COVERDELL. As you know, there are several areas in my state of Georgia where the interstate expanded significantly around existing neighborhoods. The Georgia Department of Transportation wanted to put up noise barriers to address this situation. TEA–21 provided $750,000 for Type II noise barriers on I–75 in Clayton County and I–185 in Columbus, Georgia. It also provided $1.5 million for noise barriers along GA–400, and allowed federal highway funds to be used for noise barriers along I–285. Unfortunately, because of an error in drafting the provisions included in TEA–21, the Georgia Department of Transportation is not able to complete these noise barrier projects. I have proposed an amendment which would correct this problem and allow my state to use their apportioned federal highway funds to complete these noise barrier projects. Would you be willing to work with me to address this problem?

Mr. SHELBY. I will be happy to work with you on this matter during conference negotiations with the House. I understand that the Senator had secured a commitment that this matter will be affirmatively addressed by the Environment and Public Works Committee in the next authorizing legislation vehicle. I commend the Senator for his initiative, diligence, and hard work on this matter. I will continue to watch and work with the Senator on this important issue for his state.

Mr. COVERDELL. I thank the Chairman for his help. I yield the floor.

DREXEL UNIVERSITY INTELLIGENT INFRASTRUCTURE INSTITUTE

Mr. SPECTER. Mr. President, I have sought recognition to thank the Chairman of the Transportation Appropriations Subcommittee for having included language in the Senate report urging the Federal Highway Administrator to work with Drexel University to focus on the link between intelligent transportation systems and transportation infrastructure. As the Chairman knows, for the next several years the United States will be making massive investments in its transportation infrastructure, and, in view of the limited resources available for these investments, there has never been a greater need to be certain that these expenditures are wisely prioritized and based on sound assessments of the structural integrity of the existing infrastructure. In recent years, we have all been gratified to witness the revival of many of our major cities, but, while desperately needed, investments in the urban transportation infrastructure are especially costly.

Thankfully, we are finding that technology is coming to our aid as we seek to address the issue of transportation infrastructure investments in an urban environment. One especially gratifying example of the application of information technology—''smart'' technology—to the management and maintenance of transportation infrastructure can be found in Drexel University's Intelligent Transportation Institute. In the passage of TEA–21 last year Congress specifically recognized the outstanding work of the Institute and included a special section of that bill—Section 5118—which authorized $10 million to ''conduct research, training, technology transfer, construction, maintenance, and other activities to advance infrastructure research.''

I would ask whether the Senator agrees with me that work such as that conducted at the Drexel Institute is essential for determining the actual structural integrity of urban transportation infrastructure—such as multi-million dollar bridges—monitoring their ''health'' in real-time, and determining cost-effective and innovative maintenance and operational strategies.

Mr. SHELBY. I agree with the Senator from Pennsylvania's assessment of the importance of smart technology and commend the work being done at Drexel University's Intelligent Infrastructure Institute. It is important that we continue to support the work of the Institute, and I look forward to working with the Senator during the conference with the House to see that this work is accomplished this year and in succeeding years.

UNALASKA PIER EXTENSION

Mr. STEVENS. The Senate Report on the FY2000 Department of Transportation bill allocates $8 million to the Coast Guard to pay for the costs of extending the Unalaska municipal pier to provide a dedicated berth for the agency's High Endurance cutters. The Coast Guard is currently forced to shift the High Endurance cutters when in port because the large vessels inadvertantly serve as obstacles to the commercial ship traffic, and the vessels' antennae have at times impeded commercial aviation service into Unalaska.

I have since been informed that the Coast Guard may not have sufficient capability to manage a dock extension project in this remote region of the Aleutian Islands. Since the City of Unalaska owns the main pier, I have asked the City to take on the responsibility of managing the pier extension through its municipal competitive procurement process and to assume the responsibility of maintaining the dock extension in exchange for being able to use the space when the High Endurance Cutters are not present. Such an arrangement would dramatically reduce any outyear operating expenses for the Coast Guard associated with the pier space. This arrangement would require a transfer of funds from the Coast Guard to the City at some point next year. While I am not offering an amendment today, we may find that

such a Local-Federal cooperative endeavor may need specific legislative language in the final FY 2000 appropriation bill. Am I correct in my understanding that this issue will be evaluated and technical language may, if necessary, be considered in conference?

Mr. SHELBY. The Chairman is correct. I strongly concur that the Coast Guard should ask the City of Unalaska to use its own local knowledge and competitive procurement process to manage the pier extension. I also agree that the Congress should encourage an arrangement between the City and the agency to reduce the Coast Guard's operating costs associated with the long-term maintenance of any dedicated pier space. We will seek to address this in conference at the appropriate time.

SAVANNAH WATER TAXI

Mr. COVERDELL. Will the distinguished Chairman of the Senate Appropriations Subcommittee on Transportation yield for a question?

Mr. SHELBY. I will be happy to yield to the senior Senator from Georgia for question.

Mr. COVERDELL. As you know, last year your Committee provided $500,000 in federal funding for a water taxi service to and from Hutchinson Island, near Savannah, Georgia. This water taxi is vital to the overall success of the Georgia International Maritime and Trade Center located on the island. While I am disappointed that the Senate failed to include any additional funding for Savannah's water taxi service in the FY 2000 Transportation Appropriations Bill, it is my understanding that the House included $1 million to help complete this important project. Would the Chairman be inclined to recede to the House approved amount in the conference report?

Mr. SHELBY. I will be happy to work with the senior Senator from Georgia on this issue during conference negotiations with the House. I realize how important the establishment of a water taxi service in Savannah, Georgia is to you and the local community. I appreciate all your hard work and diligence on this project.

Mr. COVERDELL. I thank the Chairman for his help. I yield the floor.

NIOSH AVIATION SAFETY STUDY FUNDING

Mr. STEVENS. Mr. President, I wonder if the Subcommittee Chairman would be willing to discuss with me an Alaskan Aviation Safety Study the National Institute for Occupational Safety and Health, called—NIOSH, has proposed.

Mr. SHELBY. Yes, I would join the Appropriations Chairman.

Mr. STEVENS. Mr. President, I thank my friend from Alabama. As a licensed private pilot in Alaska, I am well aware of the challenges every pilot in my state faces every day. On some per capita basis, there are more pilots in Alaska than in any other state in the union. For many of the residents in my state, air travel is the only mode of intrastate transportation.

Alaska is one-fifth the size of the lower 48 with a population roughly the size of Montgomery County, Maryland. For many Alaskans, air travel is the only way to get there from here. We have some of the roughest terrain and weather on this continent. Very little flying in Alaska is done above 10,000 feet. Most flying is done in small, single and twin engine aircraft that have historically higher accident rates than high-flying multi-engine turbojets.

On average, in the last decade, there has been one aviation accident every other day in Alaska. One hundred pilots, and 266 others have died in aircraft crashes in Alaska since 1991. Every nine days, on average, we lose another Alaskan to an aircraft accident. And these statistics do not take into account four helicopter accidents since June of this year. This and other data compiled by the National Transportation Safety Board and NIOSH show that for the first time in our history, aviation accidents have become the leading cause of occupation-related fatalities in Alaska.

This is why I am asking the good Senator from Alabama to consider partial funding for a promising safety study that has been proposed by the Alaska Field Station of the National Institute for Occupational Safety and Health when his bill goes to conference. This study will bring together all the leaders in Alaska aviation. Industry, state and federal agencies and pilots themselves will all contribute to an intense examination of how to improve aviation safety in Alaska. The Federal Aviation Administration, the National Weather Service, and the National Transportation Safety Board are all enthusiastic supporters of the study. It is my hope that this study will foster common sense, industry-led safety initiatives—not promulgate increasingly burdensome federal restrictions and penalties.

Mr. SHELBY. I am aware of the Senator from Alaska's ongoing efforts to improve aviation safety in his home state. And I know he is particularly impressed with NIOSH's past record of initiating safety improvements without recommending more regulations—it is an impressive record. I have flown within the state of Alaska on many occasions and have witnessed firsthand the unique challenges Alaskan aviators face. The NIOSH study is a worthy project for my subcommittee's consideration when this bill goes to conference. I will work to find the funds to support this study.

Mr. STEVENS. I thank my friend from Alabama and remind him that I plan to ask the Subcommittee Chairmen of Commerce, Justice, State, the Judiciary, and Labor, HHS to also contribute funds to this study. For your committee's review and oversight, I have asked NIOSH to provide annual progress reports.

IMPROVEMENTS TO PROVIDE ACCESS TO THE BOYER CHUTE NATIONAL WILDLIFE REFUGE

Mr. KERREY. I realize that this year, you and Ranking Member LAUTENBERG, are facing a challenging appropriations season with tight budgetary constraints. However, I wanted to bring to your attention a very important project of mine regarding road improvements in Washington County, NE.

Mr. SHELBY. Can the Senator from Nebraska please describe your request in greater detail?

Mr. KERREY. Yes, it would be my pleasure. The State of Nebraska requires $2,432,000 for road improvements to provide access to the Boyer Chute National Wildlife Refuge near Fort Calhoun, Nebraska. Currently, the road that leads to Boyer Chute through Washington County is unpaved. This road is an important thoroughfare and is the most direct route to Boyer Chute. Boyer Chute has become an increasingly popular recreation area and tourist destination. Traffic on the current road has increased and will continue to increase as the National Wildlife continues its expansion next year. Paving the road will greatly improve access to this national treasure—and will be of great benefit to Nebraskans.

Mr. SHELBY. I have noted the importance of this project and I hope to work with you further on this project during conference.

Mr. KERREY. I thank the chairman for his assistance. I appreciate his consideration of this very important project.

CLARIFYING PROJECT FLEXIBILITY

Mr. CRAIG. I rise to seek clarification from the Chairman concerning a provision relating to spending flexibility for high priority transportation projects.

As you know, action taken during the 105th Congress established that the states of Idaho, Alaska, and West Virginia can each ''pool'' the state's obligation authority for high priority projects—a flexibility provided to Minnesota under Section 1212(m) of TEA21(m) of TEA21 (later redesignated in technical corrections legislation as Section 1212[g]). This enables federal funds to be directed to the high priority project or projects in the state which are ready to go, rather than ration out obligation authority proportionately to all high priority projects in the state, whether or not ready to go.

Section 336 of S. 1143 would provide to New Jersey the same flexibility. However, on page 170 of the Senate Committee report on the bill (S. Rpt. No. 106–55), at the point where the report shows changes from existing law, only the states of Minnesota and New Jersey are mentioned as having this flexibility in obligating high priority project funds.

Is it the Chairman's understanding that the flexibility granted to Idaho, Alaska, and West Virginia under Section 1212(g) of TEA–21 is still in force and effect, does not require yearly reenactment, and is unchanged by the amendment contained in the Senate bill?

Mr. SHELBY. The Senator from Idaho is correct. Idaho, Alaska, and West Virginia have already each been granted flexibility under Section 1212(g) of TEA–21, to ''pool'' the state's obligation authority for high priority projects, as long as the total amount of funds authorized for any project for which the funds are allocated are not reduced. This flexibility does not have to be re-established legislatively on an annual basis, and nothing in the FY2000 Transportation Appropriations bill or report changes this flexibility.

SUPPORTING PUBLIC LANDS DISCRETIONARY PROJECT

Mr. CRAIG. I rise to engage the Chairman in a colloquy concerning the use of the Public Lands Program funds.

In its report, the Committee has raised serious concerns—supported by findings of the General Accounting Office—about how funds have been awarded under the Public Lands Program. To correct this problem, the report gives several specific directions to the Federal Highway Administration and a list of projects that should be funded by the Secretary.

I would like to draw the Chairman's attention to a request made by the state of Idaho for $6.0 million from this program to make needed improvements to U.S. 89 from West Forest Boundary to Bishoff Canyon.

This project would improve safety and capacity of the highway, which provides the only significant access into the Caribou National Forest in the region for hunting, fishing, mountain biking, hiking, camping, and snowmobiling. Of the total project distance of 8.3 miles, about 6.6 miles (80 percent) is located within the forest boundary. The highway and also provides connections to Jackson Hole, Yellowstone Park, and Bear Lake. Timber sales in the area require logging trucks to negotiate a very narrow and slow speed route, inconsistent with safety and the route's designation as a National Highway. The Idaho Highway Needs Report shows multiple deficiencies for this segment of roadway, including pavement width, foundation, drainage, shoulder condition, accident rate, and overall combined rating.

The requested $6.0 million will complete the work presented under the 1991 ISTEA Demonstration project, supplementing $18.0 million in demonstration funds. The limits and scope of the ISTEA demonstration project are not being expanded. Additional funds are requested to cover the cost of moving almost 2 million cubic yards of unanticipated earth and rock. In fact, without supplemental funds, the original demonstration project would need to be shortened and limited.

Mr. SHELBY. It is clear that the US 89 project, from West Forest Boundary to Bishoff Canyon in Idaho, is a critical priority for Idaho and the nation, and deserves to be funded. I assure the Senator from Idaho that we will work to include this project in any list of earmarks determined by the conference committee.

THE INDIAN ROADS PROGRAM

Mr. DOMENICI. Mr. President, I would like to engage the distinguished Senator from Alabama, the Chairman of the Subcommittee, in a colloquy.

I want to begin by commending you, Senator SHELBY for the hard work you have done in crafting this Transportation appropriations bill. You have done a fine job under difficult circumstances in funding the priorities identified by the Committee in this bill, and providing increased flexibility to the states.

As you know, one of the more important highway programs in this bill for my home state of New Mexico is the Indian Reservation Roads program. The program is directed to about 22,000 miles of Bureau of Indian Affairs roads serving tribal lands. Of these roads, only 11 percent of the paved roads are rated as being in good condition. Close to 90 percent of the unpaved roads are know to be in poor condition. Indian Reservation Roads funds are critical to improving transportation for Native Americans in New Mexico.

I understand that in putting together this bill, the Chairman adjusted the revenue aligned budget authority (RABA) allocation formula, and that programs under the Federal Lands Highways program will receive a total of $37.3 million less in funding under the Senate bill than they otherwise would under TEA–21. This will affect the Indian Reservation Roads program, which is part of the Federal Lands Highways program. Because of these changes to the RABA formula, Indian Roads will not receive an additional $14.5 million in funds it is authorized to under TEA–21. Thus, the Indian Roads program will receive $275 million, instead of the full $289.5 million that would be allocated under TEA–21. I am concerned about this and hope that the Chairman will work to improve the situation for Indian Roads in conference.

As this bill moves to conference, will the Chairman pledge to make every effort to sustain full funding as envisioned by TEA–21 for the Indian Reservation Roads program?

Mr. SHELBY. I am aware of the importance of the Indian Reservation Roads program to the Senator from New Mexico, and pledge to work for full funding of the Indian Reservation Roads program as provided in TEA–21.

Mr. DOMENICI. I thank the distinguished Chairman, and I yield the floor.

THE NATIONAL ENVIRONMENTAL RESPIRATORY CENTER

Mr. DOMENICI. Mr. Chairman, I would like to discuss with you an important transportation research initiative addressed in the report accompanying the FY 2000 Transportation Appropriations bill. I refer to the National Environmental Respiratory Center headquartered in Albuquerque, New Mexico, at the Lovelace Respiratory Research Institute.

Mr. SHELBY. I would be pleased to discuss the potential of this Center's research initiative as part of the FY 2000 Department of Transportation spending plan. The Committee has recognized funding for this initiative within our Committee report, both under the Department's multi-disciplinary research account and in the Federal Highway Administration.

Mr. DOMENICI. I appreciate the Subcommittee's support for the NERC Center, and I would like to highlight the potential of this Center's work as it would relate to the Department of Transportation's mission. The National Environmental Respiratory Center—NERC as it is called—is the only research program in the United States focused specifically on the increasingly troublesome issue of understanding the health risks of mixtures of air pollutants.

A major difficulty in moving forward in managing these residual health risks associated with air quality is the fact that no citizen ever breathes one pollutant at a time. Scientists are realizing that it is unlikely that any remaining effect of air pollution on health is actually caused by a single air pollutant acting alone. Clearly, the transportation sector is at least one significant factor in the relationship between air quality and public health. Therefore, it is essential that the Department of Transportation participate in the interagency, multi-disciplinary public-private NERC initiative. I thank the Committee for acknowledging this effort in the report accompanying the pending bill.

The National Environmental Respiratory Center was conceived as a joint government-industry effort to determine how to identify the contributions of individual pollutants and their sources to the health effects of complex mixtures of air contaminants. The work is well underway and broad recognition of its importance is manifested by the continually increasing support from industry. Continued support through this appropriations bill is essential to carrying out the Center's multi-year research strategy. Accordingly, Mr. Chairman, I am hopeful the U.S. Department of Transportation will take heed of our recommendation, and I look forward to working with you on this matter.

Mr. SHELBY. It does appear that the Center stands apart from other research programs by tackling the pollution mixtures problem directly. In my view, this effort is worthy of support by the Department. I will work with you as the FY 2000 spending plan for the Department is implemented to encourage the Agency to respond to our recommendation.

Mr. DOMENICI. I thank you, Mr. Chairman.

AMENDMENT NO. 1658

Mr. AKAKA. Mr. President yesterday, this body unanimously adopted the Helms amendment to H.R. 2084, the Department of Transportation and Related Agencies Appropriations Act. The Helms amendment expresses the sense

of the Senate that the United States Census bureau should include marital status on the short form census questionnaire to be distributed to the majority of American households for the 2000 decennial census. The marital status question currently appears only on the long form which will be distributed to one out of every six households, rather than to all households as the short form is distributed.

I agree with the importance of collecting information about marital status, and I know that by using modern statistical methods and the information obtained from the question on the long form, we will know how many Americans are married. Although I supported the amendment, I offer some explanation about the amendment, on behalf of the Census Bureau, about why the marital status question was moved to the long form rather than left on the short form. I would also like to respond to my colleague from North Carolina, who said that the U.S. Census Bureau ''obviously no longer regards marriage as having any importance.'' This attitude should not be ascribed to the actions of the Census Bureau. This was hardly a frivolous decision. Rather, an explanation can be found in the agency's efforts to comply with Congressional mandates on the decennial census questionnaires.

In one of its many mandates imposed on the Census Bureau about conducting the 2000 census, Congress directed the agency to reduce the number of questions asked on decennial questionnaires. In response, the Census Bureau performed a review of each question on both the long form and the short form. From this review, the agency eliminated questions for which it found no statutory or legal requirement, including the marital status question. A major reason for excluding certain questions from the short form is that the short form must be processed immediately to provide timely information to States for redistricting purposes. In accordance, the questions not needed for redistricting purposes were eliminated from the short form and some were shifted to the long form. Some questions were eliminated altogether, for the sake of brevity. Marital status was determined as not necessary for State redistricting purposes, not because the Census Bureau regarded marriage as unimportant, and therefore was shifted to the long form.

Following the question review and elimination, the Census Bureau complied once again with long-standing Congressional mandate and provided the proposed questionnaire two years in advance of the decennial census. This submission was made on March 31, 1998, to the Governmental Affairs Committee and Majority Leader in the Senate, and the Subcommittee on the Census and Speaker in the other body. After this submission, the agency accepted and considered various concerns about the content of the form. The Census Bureau reports that no comments regarding content of the marital category were received. The Census Bureau then finalized the questionnaire content.

At present, 246 million of the 462 million forms for the 2000 decennial census have been printed. Redesigning and reprinting this quantity of questionnaires would be extremely costly and lead to deleterious delays. We are already within seven months of the questionnaire mail-out date. In addition, the FY 2000 Commerce-Justice-State Appropriations Bill that funds the Census Bureau has not yet passed, and the version of the bill produced by this body does not provide the full $4.6 billion request—our figure is $1.7 billion short. Therefore, even if the forms were reprinted, the Census Bureau would not have adequate funds to mail the forms.

Mr. President, the Census Bureau needs much more support than we are giving it if we expect a fair and accurate 2000 census. I feel that amendment #1658 provides us with a perfect opportunity to call on conferees on the Commerce-Justice-State Appropriations Bill to provide full funding for the 2000 census. I appreciate the opportunity to speak on this matter.

BUDGET COMMITTEE SCORING

Mr. DOMENICI. Mr. President, I rise in support of the Department of Transportation and Related Agencies Appropriations bill for fiscal year 2000.

I commend the distinguished chairman of the Appropriations Committee and the chairman of the Transportation Appropriations Subcommittee for bringing us a balanced bill within necessary budget constraints.

The Senate-reported bill provides $13.9 billion in a new budget authority (BA) and $17.5 billion in new outlays to fund the programs of the Department of Transportation, including federal-aid highway, mass transit, and aviation activities. When outlays from prior-year budget authority and other adjustments are taken into account, the bill totals $12.8 billion in BA and $43.6 billion in outlays.

The Senate-reported bill is exactly at the Subcommittee's 302(b) allocation for budget authority, and the bill is $4 million in outlays under the Subcommittee's 302(b) allocation.

Mr. President, I support the bill and urge its adoption.

I ask unanimous consent that a table displaying the Budget Committee scoring of this bill be printed in the Record.

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

S. 1143, TRANSPORTATION APPROPRIATIONS, 2000: SPENDING COMPARISONS—SENATE-REPORTED BILL

[Fiscal year 2000, $ millions]

	General purpose	Crime	Highways	Mass transit	Mandatory	Total
Senate-reported bill:						
Budget authority	12,034				721	12,755
Outlays	14,226		24,574	4,113	717	43,630
Senate 302(b) allocation:						
Budget authority	12,034				721	12,755
Outlays	14,226		24,574	4,117	717	43,634
1999 level:						
Budget authority	11,913				698	12,611
Outlays	13,797		20,379	4,402	665	39,243
President's request						
Budget authority	12,843		(376)		721	13,188
Outlays	14,842		23,774	3,560	717	42,893
House-passed bill:						
Budget authority	6,474				721	7,195
Outlays	9,479		24,599	4,113	717	38,908
SENATE-REPORTED BILL COMPARED TO:						
Senate 302(b) allocation:						
Budget authority						
Outlays				(4)		(4)
1999 level:						
Budget authority	121				23	144
Outlays	429		4,195	(289)	52	4,387
President's request						
Budget authority	(809)		376			(433)
Outlays	(616)		800	553		737
House-passed bill:						
Budget authority	5,560					5,560
Outlays	4,747		(25)			4,722

Note: Details may not add to totals due to rounding. Totals adjusted for consistency with current scorekeeping conventions. Prepared by SBC Majority Staff, July 16, 1999 01:16:52 p.m.

Mr. SHELBY. Mr. President, I understand there are no further amendments to the bill. Therefore, we are prepared for third reading.

I ask that the Senate now proceed to a vote on passage of the Transportation Appropriations bill.

I ask for the yeas and nays on passage.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass? The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN) is necessarily absent.

Mr. REID. I announce that the Senator from Louisiana (Mr. BREAUX), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Minnesota (Mr. WELLSTONE) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. WELLSTONE) would vote ''aye.''

The result was announced—yeas 95, nays 0, as follows:

[Rollcall Vote No. 278 Leg.]

YEAS—95

Abraham	Enzi	Lugar
Akaka	Feingold	Mack
Allard	Feinstein	McConnell
Ashcroft	Fitzgerald	Mikulski
Baucus	Frist	Moynihan
Bayh	Gorton	Murkowski
Bennett	Graham	Murray
Biden	Gramm	Nickles
Bingaman	Grams	Reed
Bond	Grassley	Reid
Boxer	Gregg	Robb
Brownback	Hagel	Roberts
Bryan	Harkin	Rockefeller
Bunning	Hatch	Roth
Burns	Helms	Santorum
Byrd	Hollings	Sarbanes
Campbell	Hutchinson	Schumer
Chafee	Hutchison	Sessions
Cleland	Inhofe	Shelby
Cochran	Jeffords	Smith (NH)
Collins	Johnson	Smith (OR)
Conrad	Kerrey	Snowe
Coverdell	Kerry	Specter
Craig	Kohl	Stevens
Crapo	Kyl	Thomas
Daschle	Landrieu	Thompson
DeWine	Lautenberg	Thurmond
Dodd	Leahy	Torricelli
Domenici	Levin	Voinovich
Dorgan	Lieberman	Warner
Durbin	Lincoln	Wyden
Edwards	Lott	

NOT VOTING—5

Breaux	Kennedy	Wellstone
Inouye	McCain	

The bill (H.R. 2084), as amended, was passed.

[The bill will be printed in a future edition of the RECORD.]

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SHELBY. Mr. President, I now move the Senate insist on its amendments, request a conference with the House, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. ALLARD) appointed Mr. SHELBY, Mr. DOMENICI, Mr. SPECTER, Mr. BOND, Mr. GORTON, Mr. BENNETT, Mr. CAMPBELL, Mr. STEVENS, Mr. LAUTENBERG, Mr. BYRD, Ms. MIKULSKI, Mr. REID, Mr. KOHL, Mrs. MURRAY, and Mr. INOUYE conferees on the part of the Senate.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I rise not to delay the process at all but just to acknowledge the fact that we have passed a bill that took some time and an awful lot of work, I must say. I commend my colleague and my good friend from Alabama, Senator SHELBY, chairman of the subcommittee. We had some disagreements. This was not just sweetness and light; it was a good, solid debate. We called on the body to make decisions for us at times. That is the way it should be. So I thank Senator SHELBY for being so cooperative on issues and for understanding what we had to do. We went ahead and did it.

I also thank Senator CHAFEE and other members of the Environment and Public Works Committee for their cooperation. We had some questions that had to be answered, and it took time to thoroughly review them.

Also I want to say, without our respective staffs doing the work they did, this job would be a lot more complicated and would take even more time. I speak specifically about Wally Barnett, the chief of staff on the Republican side, and Peter Rogoff on our side, and the other members of the team: Joyce Rose, Paul Doerrer, Mitch Warren, Laurie Saroff, Denise Matthews, and Carol Geagley on our side, because they made it, if not easy, certainly in many cases they simplified the issues to get them down to digestible form. It did make it considerably easier. I thank them.

I thank my good friend from Alabama.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, I commend my friend and colleague, the former chairman of the committee, the ranking Democrat, Senator LAUTENBERG, and his staff. I believe, as he said, we worked a lot of hours, but our staff has put in, together, many more hours. I want to recognize and thank Wally Burnett, who is the staff director on the subcommittee, also Peter Rogoff whom Senator LAUTENBERG has just mentioned, Elizabeth Letchworth, Jay Kimmitt, Joyce Rose, Paul Doerrer, Steve Cortese, and all the others who contributed to this.

We think we have a pretty good bill. We have to go to conference and work it out. Let's hope we can do it.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. FITZGERALD). Without objection, it is so ordered.

BANKRUPTCY REFORM ACT OF 1999

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar No. 109, S. 625, the bankruptcy bill, and only relevant amendments be in order.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Reserving the right to object, and on behalf of the Democratic leader, I must object to proceeding to the bill under those limitations which have not yet been cleared on this side of the aisle. I would be happy to work with the majority on that, but it has not been cleared, so I must object based on the limitations included in the request.

Mr. LOTT. Mr. President, I regret the objection from my Democratic friends on this bankruptcy reform package. We had hoped to get it considered earlier, but because appropriations considerations and some other bills have taken longer than we thought they would, it has been delayed. I find now that there is a growing number of nongermane issues that are being planned to be offered to this very important and vital piece of legislation which has broad support and bipartisan support.

Hopefully, we can get something worked out as to how we could proceed that would allow us to complete the bill in a reasonable period of time. Maybe this action will help cause that to happen.

Mr. LOTT. Mr. President, I now ask unanimous consent that the Senate proceed to the consideration of S. 625.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Reserving the right to object, I did not hear what the distinguished majority leader said.

Mr. LOTT. Our plan now is to proceed to the bankruptcy bill, and then I will file cloture on the bankruptcy bill.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report the bill by title.

The legislative assistant read as follows:

A bill (S. 625) to amend title 11, United States Code, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 625

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—NEEDS-BASED BANKRUPTCY

Sec. 101. Conversion.
Sec. 102. Dismissal or conversion.
Sec. 103. Notice of alternatives.
Sec. 104. Debtor financial management training test program.
Sec. 105. Credit counseling.

TITLE II—ENHANCED CONSUMER PROTECTION

Subtitle A—Penalties for Abusive Creditor Practices

Sec. 201. Promotion of alternative dispute resolution.
Sec. 202. Effect of discharge.
Sec. 203. Violations of the automatic stay.
Sec. 204. Discouraging abuse of reaffirmation practices.

Subtitle B—Priority Child Support

Sec. 211. Definition of domestic support obligation.
Sec. **[**211**]** *212*. Priorities for claims for domestic support obligations.
Sec. **[**212**]** *213*. Requirements to obtain confirmation and discharge in cases involving domestic support obligations.
Sec. **[**213**]** *214*. Exceptions to automatic stay in domestic support obligation proceedings.
Sec. **[**214**]** *215*. Nondischargeability of certain debts for alimony, maintenance, and support.
Sec. **[**215**]** *216*. Continued liability of property.
Sec. **[**216**]** *217*. Protection of domestic support claims against preferential transfer motions.
[Sec. 217. Amendment to section 1325 of title 11, United States Code.
[Sec. 218. Definition of domestic support obligation.**]**
*Sec. 218. Disposable income defined.***]**
Sec. 219. Collection of child support.

Subtitle C—Other Consumer Protections

[Sec. 221. Definitions.
[Sec. 222. Disclosures.
[Sec. 223. Debtor's bill of rights.
[Sec. 224. Enforcement.**]**
Sec. 221. Amendments to discourage abusive bankruptcy filings.
Sec. **[**225**]** *222*. Sense of Congress.
Sec. **[**226**]** *223*. Additional amendments to title 11, United States Code.
Sec. 224. Protection of retirement savings in bankruptcy.

TITLE III—DISCOURAGING BANKRUPTCY ABUSE

Sec. 301. Reinforcement of the fresh start.
Sec. 302. Discouraging bad faith repeat filings.
Sec. 303. Curbing abusive filings.
Sec. 304. Debtor retention of personal property security.
Sec. 305. Relief from the automatic stay when the debtor does not complete intended surrender of consumer debt collateral.
Sec. 306. Giving secured creditors fair treatment in chapter 13.
Sec. 307. Exemptions.
Sec. 308. Residency requirement for homestead exemption.
Sec. 309. Protecting secured creditors in chapter 13 cases.
Sec. 310. Limitation on luxury goods.
Sec. 311. Automatic stay.
Sec. 312. Extension of period between bankruptcy discharges.
Sec. 313. Definition of household goods and antiques.
Sec. 314. Debt incurred to pay nondischargeable debts.
Sec. 315. Giving creditors fair notice in chapters 7 and 13 cases.
Sec. 316. Dismissal for failure to timely file schedules or provide required information.
Sec. 317. Adequate time to prepare for hearing on confirmation of the plan.
Sec. 318. Chapter 13 plans to have a 5-year duration in certain cases.
Sec. 319. Sense of the Congress regarding expansion of rule 9011 of the Federal Rules of Bankruptcy Procedure.
Sec. 320. Prompt relief from stay in individual cases.
Sec. 321. Treatment of certain earnings of an individual debtor who files a voluntary case under chapter 11.

TITLE IV—GENERAL AND SMALL BUSINESS BANKRUPTCY PROVISIONS

Subtitle A—General Business Bankruptcy Provisions

Sec. 401. Rolling stock equipment.
Sec. 402. Adequate protection for investors.
Sec. 403. Meetings of creditors and equity security holders.
Sec. 404. Protection of refinance of security interest.
Sec. 405. Executory contracts and unexpired leases.
Sec. 406. Creditors and equity security holders committees.
Sec. 407. Amendment to section 546 of title 11, United States Code.
Sec. 408. Limitation.
Sec. 409. Amendment to section 330(a) of title 11, United States Code.
Sec. 410. Postpetition disclosure and solicitation.
Sec. 411. Preferences.
Sec. 412. Venue of certain proceedings.
Sec. 413. Period for filing plan under chapter 11.
Sec. 414. Fees arising from certain ownership interests.
Sec. 415. Creditor representation at first meeting of creditors.
[Sec. 416. Elimination of certain fees payable in chapter 11 bankruptcy cases.**]**
Sec. **[**417**]** *416*. Definition of disinterested person.
Sec. **[**418**]** *417*. Factors for compensation of professional persons.
Sec. **[**419**]** *418*. Appointment of elected trustee.
Sec. 419. Utility service.

Subtitle B—Small Business Bankruptcy Provisions

Sec. 421. Flexible rules for disclosure statement and plan.
Sec. 422. Definitions; effect of discharge.
Sec. 423. Standard form disclosure Statement and plan.
Sec. 424. Uniform national reporting requirements.
Sec. 425. Uniform reporting rules and forms for small business cases.
Sec. 426. Duties in small business cases.
Sec. 427. Plan filing and confirmation deadlines.
Sec. 428. Plan confirmation deadline.
Sec. 429. Prohibition against extension of time.
Sec. 430. Duties of the United States trustee.
Sec. 431. Scheduling conferences.
Sec. 432. Serial filer provisions.
Sec. 433. Expanded grounds for dismissal or conversion and appointment of trustee.
Sec. 434. Study of operation of title 11, United States Code, with respect to small businesses.
Sec. 435. 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—IMPROVED BANKRUPTCY STATISTICS AND DATA

Sec. 601. Audit procedures.
Sec. 602. Improved bankruptcy statistics.
Sec. 603. Uniform rules for the collection of bankruptcy data.
Sec. 604. Sense of Congress regarding availability of bankruptcy data.

TITLE VII—BANKRUPTCY TAX PROVISIONS

Sec. 701. Treatment of certain liens.
Sec. 702. Effective notice to government.
Sec. 703. Notice of request for a determination of taxes.
Sec. 704. Rate of interest on tax claims.
Sec. 705. Tolling of priority of tax claim time periods.
Sec. 706. Priority property taxes incurred.
Sec. 707. Chapter 13 discharge of fraudulent and other taxes.
Sec. 708. Chapter 11 discharge of fraudulent taxes.
Sec. 709. Stay of tax proceedings.
Sec. 710. Periodic payment of taxes in chapter 11 cases.
Sec. 711. Avoidance of statutory tax liens prohibited.
Sec. 712. Payment of taxes in the conduct of business.
Sec. 713. Tardily filed priority tax claims.
Sec. 714. Income tax returns prepared by tax authorities.
Sec. 715. Discharge of the estate's liability for unpaid taxes.
Sec. 716. Requirement to file tax returns to confirm chapter 13 plans.
Sec. 717. Standards for tax disclosure.
Sec. 718. Setoff of tax refunds.

TITLE VIII—ANCILLARY AND OTHER CROSS-BORDER CASES

Sec. 801. Amendment to add chapter 15 to title 11, United States Code.
Sec. 802. Amendments to other chapters in title 11, United States Code.
Sec. 803. Claims relating to insurance deposits in cases ancillary to foreign proceedings.

TITLE IX—FINANCIAL CONTRACT PROVISIONS

Sec. 901. Bankruptcy Code amendments.
Sec. 902. Damage measure.
Sec. 903. Asset-backed securitizations.
Sec. 904. Effective date; application of amendments.

TITLE X—PROTECTION OF FAMILY FARMERS

Sec. 1001. Reenactment of chapter 12.
Sec. 1002. Debt limit increase.
Sec. 1003. Elimination of requirement that family farmer and spouse receive over 50 percent of income from farming operation in year prior to bankruptcy.
Sec. 1004. Certain claims owed to governmental units.

[TITLE XI—HEALTH CARE AND EMPLOYEE BENEFITS

[Sec. 1101. Definitions.

[Sec. 1102. Disposal of patient records.
[Sec. 1103. Administrative expense claim for costs of closing a health care business.
[Sec. 1104. Appointment of ombudsman to act as patient advocate.
[Sec. 1105. Debtor in possession; duty of trustee to transfer patients.]

TITLE [XII] *XI*—TECHNICAL AMENDMENTS

Sec. [1201] *1101*. Definitions.
Sec. [1202] *1102*. Adjustment of dollar amounts.
Sec. [1203] *1103*. Extension of time.
Sec. [1204] *1104*. Technical amendments.
Sec. [1205] *1105*. Penalty for persons who negligently or fraudulently prepare bankruptcy petitions.
Sec. [1206] *1106*. Limitation on compensation of professional persons.
Sec. [1207] *1107*. Special tax provisions.
Sec. [1208] *1108*. Effect of conversion.
Sec. [1209] *1109*. Allowance of administrative expenses.
[Sec. 1210. Priorities.
[Sec. 1211. Exemptions.]
Sec. [1212] *1110*. Exceptions to discharge.
Sec. [1213] *1111*. Effect of discharge.
Sec. [1214] *1112*. Protection against discriminatory treatment.
Sec. [1215] *1113*. Property of the estate.
Sec. [1216] *1114*. Preferences.
Sec. [1217] *1115*. Postpetition transactions.
Sec. [1218] *1116*. Disposition of property of the estate.
Sec. [1219] *1117*. General provisions.
Sec. [1220] *1118*. Abandonment of railroad line.
Sec. [1221] *1119*. Contents of plan.
Sec. [1222] *1120*. Discharge under chapter 12.
Sec. [1223] *1121*. Bankruptcy cases and proceedings.
Sec. [1224] *1122*. Knowing disregard of bankruptcy law or rule.
Sec. [1225] *1123*. Transfers made by nonprofit charitable corporations.
Sec. [1226] *1124*. Protection of valid purchase money security interests.
Sec. [1227] *1125*. Extensions.
Sec. [1228] *1126*. Bankruptcy judgeships.

TITLE [XIII] *XII*—GENERAL EFFECTIVE DATE; APPLICATION OF AMENDMENTS

Sec. [1301] *1201*. Effective date; application of amendments.

TITLE I—NEEDS-BASED BANKRUPTCY

SEC. 101. CONVERSION.

Section 706(c) of title 11, United States Code, is amended by inserting ''or consents to'' after ''requests''.

SEC. 102. DISMISSAL OR CONVERSION.

(a) IN GENERAL.—Section 707 of title 11, United States Code, is amended—

(1) by striking the section heading and inserting the following:

''§ 707. Dismissal of a case or conversion to a case under chapter 13'';

and

(2) in subsection (b)—

(A) by inserting ''(1)'' after ''(b)'';

(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'' and inserting '', panel 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 next to last sentence; and

(C) by adding at the end 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 reduced by the amounts determined under clauses (ii), (iii), and (iv), and multiplied by 60 is not less than the lesser of—

''(I) 25 percent of the debtor's nonpriority unsecured claims in the case; or

''(II) $15,000.

''(ii) The debtor's monthly expenses shall be the applicable monthly (excluding payments for debts) expenses under standards 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.

''(iii) The debtor's average monthly payments on account of secured debts shall be calculated as—

''(I) 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; divided by

''(II) 60.

''(iv) The debtor's expenses for payment of all priority claims (including priority child support and alimony claims) shall be calculated as—

''(I) the total amount of debts entitled to priority; divided by

''(II) 60.

''(B)(i) In any proceeding brought under this subsection, the presumption of abuse may be rebutted by demonstrating special circumstances that justify additional expenses or adjustments of current monthly total income. In order to establish special circumstances, the debtor shall be required to—

''(I) itemize each additional expense or adjustment of income; and

''(II) provide—

''(aa) documentation for such expenses; and

''(bb) a detailed explanation of the special circumstances that make such expenses necessary and reasonable.

''(ii) The debtor, and the attorney for the debtor if the debtor has an attorney, shall attest under oath to the accuracy of any information provided to demonstrate that additional expenses or adjustments to income are required.

''(iii) The presumption of abuse may be rebutted if the additional expenses or adjustments to income referred to in clause (i) cause the product of the debtor's current monthly income reduced by the amounts determined under clauses (ii), (iii), and (iv) of subparagraph (A) multiplied by 60 to be less than the lesser of—

''(I) 25 percent of the debtor's nonpriority unsecured claims; or

''(II) $15,000.

''(C)(i) As part of the schedule of current income and expenditures required under section 521, the debtor shall include a statement of the debtor's current monthly income, and the calculations that determine whether a presumption arises under subparagraph (A)(i), that shows how each such amount is calculated.

''(ii) The Supreme Court shall promulgate rules under section 2075 of title 28, that prescribe a form for a statement under clause (i) and may provide general rules on the content of the statement.

''(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 subparagraph (A)(i) of such paragraph 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.''.

(b) DEFINITION.—Title 11, United States Code, is amended—

(1) in section 101, 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; and

''(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);''; and

(2) in section 704—

(A) by inserting ''(a)'' before ''The trustee shall—''; and

(B) by adding at the end the following:

''(b)(1) With respect to an individual debtor under this chapter—

''(A) the United States trustee or bankruptcy administrator shall review all materials filed by the debtor and, not later than 10 days before the first meeting of creditors, file with the court a statement as to whether the debtor's case would be presumed to be an abuse under section 707(b); and

''(B) not later than 5 days after receiving a statement under subparagraph (A), the court shall provide a copy of the statement to all creditors.

''(2) The United States trustee or bankruptcy administrator shall not later than 30 days after receiving a statement filed under paragraph (1) file a motion to dismiss or convert under section 707(b), or file a statement setting forth the reasons the United States trustee or bankruptcy administrator does not believe that such a motion would be [appropriate. If,] *appropriate, if* based on the filing of such statement with the court, the United States trustee or bankruptcy administrator determines that the debtor's case should be presumed to be an abuse under section 707(b) and the product of the debtor's current monthly income, multiplied by 12 is not less than—

''(A) the highest national or applicable State median family income reported for a family of equal or lesser size, whichever is greater; or

''(B) in the case of a household of 1 person, the national or applicable State median household income for 1 earner, whichever is greater.

''(3)(A) The court shall order the counsel for the debtor to reimburse the panel trustee for all reasonable costs in prosecuting a motion brought under section 707(b), including reasonable attorneys' fees, if—

''(i) a panel trustee appointed under section 586(a)(1) of title 28 brings a motion for dismissal or conversion under this subsection; and

''(ii) the court—

''(I) grants that motion; and

''(II) finds that the action of the counsel for the debtor in filing under this chapter was not substantially justified.

''(B) If the court finds that the attorney for the debtor violated Rule 9011, at a minimum, the court shall order—

''(i) the assessment of an appropriate civil penalty against the counsel for the debtor; and

''(ii) the payment of the civil penalty to the panel trustee or the United States trustee.

''(C) In the case of a petition referred to in subparagraph (B), the signature of an attorney shall constitute a certificate that the attorney has—

''(i) performed a reasonable investigation into the circumstances that gave rise to the petition; and

''(ii) determined that the petition—

''(I) is well grounded in fact; and

''(II) is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law and does not constitute an abuse under paragraph (1).

''(4)(A) Except as provided in subparagraph (B) and subject to paragraph (5), the court may award a debtor all reasonable costs in contesting a motion brought by a party in interest (other than a panel trustee or United States trustee) under this subsection (including reasonable attorneys' fees) if—

''(i) the court does not grant the motion; and

''(ii) the court finds that—

''(I) the position of the party that brought the motion was not substantially justified; or

''(II) the party brought the motion solely for the purpose of coercing a debtor into waiving a right guaranteed to the debtor under this title.

''(B) A party in interest that has a claim of an aggregate amount less than $1,000 shall not be subject to subparagraph (A).

''(5) Only the judge, United States trustee, bankruptcy administrator, or panel trustee may bring a motion under this section if the debtor and the debtor's spouse combined, as of the date of the order for relief, have a total current monthly income equal to or less than the national or applicable State median family monthly income calculated on a monthly basis for a family of equal size.''.

(c) CLERICAL AMENDMENT.—The table of sections for 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)(1) Before the commencement of a case under this title by an individual whose debts are primarily consumer debts, that individual shall be given or obtain (as required in section 521(a)(1), as part of the certification process under subchapter I of chapter 5) a written notice prescribed by the United States trustee for the district in which the petition is filed under section 586 of title 28.

''(2) The notice shall contain the following:

''(A) A brief description of chapters 7, 11, 12, and 13 and the general purpose, benefits, and costs of proceeding under each of those chapters.

''(B) A brief description of services that may be available to that individual from a credit counseling service that is approved by the United States trustee for that district.''.

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—

(1) 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, United States Code, and who operate financial management education programs for debtors; and

(2) develop a financial management training curriculum and materials that may be used to educate individual debtors concerning how to better manage their finances.

(b) TEST.—

(1) IN GENERAL.—The Director shall select 3 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) AVAILABILITY OF CURRICULUM AND MATERIALS.—For a 1-year period beginning not later than 270 days after the date of enactment of this Act, the curriculum and materials referred to in paragraph (1) shall be made available by the Director, directly or indirectly, on request to individual debtors in cases filed during that 1-year period under chapter 7 or 13 of title 11, United States Code.

(c) EVALUATION.—

(1) IN GENERAL.—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 issued on October 20, 1997, that are representative of consumer education programs carried out by—

(i) the credit industry;

(ii) trustees serving under chapter 13 of title 11, United States Code; and

(iii) consumer counseling groups.

(2) REPORT.—Not later than 3 months after concluding the evaluation under paragraph (1), 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 Congress, containing the findings of the Director regarding the effectiveness of such curriculum, such materials, and such programs.

SEC. 105. CREDIT COUNSELING.

(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] *180-day period* preceding the date of filing of the petition of that individual, received from an approved nonprofit credit counseling service described in section 111(a) an individual or group briefing that outlined the opportunities for available credit counseling and assisted that individual in performing a related budget analysis.

''(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 nonprofit 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 1 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 nonprofit credit counseling service, but was unable to obtain the services referred to in paragraph (1) during the 5-day period beginning on the date on which the debtor made that request; and

''(iii) is satisfactory to the court.

''(B) With respect to a debtor, an exemption under subparagraph (A) shall cease to apply to that debtor on the date on which the debtor meets the requirements of paragraph (1), but in no case may the exemption apply to that debtor after the date that is 30 days after the debtor files a petition.''.

(b) CHAPTER 7 DISCHARGE.—Section 727(a) of title 11, United States Code, is amended—

(1) in paragraph (9), by striking ''or'' at the end;

(2) in paragraph (10), by striking the period and inserting ''; or''; and

(3) by adding at the end the following:

''(11) after the filing of the petition, the debtor failed to complete an instructional course concerning personal financial management described in section 111.''.

(c) CHAPTER 13 DISCHARGE.—Section 1328 of title 11, United States Code, 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 service 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, is amended—

(1) by inserting ''(a)'' before ''The debtor shall—''; and

(2) by adding at the end the following:

''(b) 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

''(a) The clerk of each district shall maintain a list of credit counseling services that provide 1 or more programs described in section 109(h) and 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 for 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.''.

(f) LIMITATION.—Section 362 of title 11, United States Code, is amended by adding at the end the following:

''(i) If a case commenced under chapter 7, 11, or 13 [of this title] is dismissed due to the creation of a debt repayment plan, for purposes of subsection (c)(3), any subsequent case commenced by the debtor under any such chapter shall not be presumed to be filed not in good faith.''.

TITLE II—ENHANCED CONSUMER PROTECTION

Subtitle A—Penalties for Abusive Creditor Practices

SEC. 201. 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 in whole on unsecured consumer debts by not more than 20 percent of the claim, if—

''(A) 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;

''(B) the offer of the debtor under subparagraph (A)—

''(i) was made at least 60 days before the filing of the petition; and

''(ii) 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.

''(2) The debtor shall have the burden of proving, by clear and convincing evidence, that—

''(A) the creditor unreasonably refused to consider the debtor's proposal; and

''(B) the proposed alternative repayment schedule was made in the 60-day period specified in paragraph (1)(B)(i).''.

(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. 202. EFFECT OF DISCHARGE.

Section 524 of title 11, United States Code, is amended by adding at the end the following:

''(i) The willful failure of a creditor to credit payments received under a plan confirmed under this title (including a plan of reorganization confirmed under chapter 11 of this title) in the manner required by the plan (including crediting the amounts required under the plan) shall constitute a violation of an injunction under subsection (a)(2).''.

SEC. 203. VIOLATIONS OF THE AUTOMATIC STAY.

Section 362(a) of title 11, United States Code, is amended—

(1) in paragraph (7), by striking ''and'' at the end;

(2) in paragraph (8), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(9) any communication (other than a recitation of the creditor's legal rights) threatening a debtor (for the purpose of coercing an agreement for the reaffirmation of debt), at any time after the commencement and before the granting of a discharge in a case under this title, of an intention to—

''(A) file a motion to—

''(i) determine the dischargeability of a debt; or

''(ii) under section 707(b), [to] dismiss or convert a case; or

''(B) repossess collateral from the debtor to which the stay applies.''.

SEC. 204. DISCOURAGING ABUSE OF REAFFIRMATION PRACTICES.

(a) IN GENERAL.—Section 524 of title 11, United States Code, as amended by section 202 of this Act, 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 inserting ''and'' at the end; and

(iii) by adding at the end the following:

''(C)(i) the consideration for such agreement is based on a wholly unsecured consumer debt; and

''(ii) such agreement contains a clear and conspicuous statement that advises the debtor that—

''(I) the debtor is entitled to a hearing before the court at which—

''(aa) the debtor shall appear in person; and

''(bb) the court shall decide whether the agreement constitutes an undue hardship, is not in the debtor's best interest, or is not the result of a threat by the creditor to take an action that, at the time of the threat, [that] the creditor may not legally take or does not intend to take; and

''(II) if the debtor is represented by counsel, the debtor may waive the debtor's right to a hearing under subclause (I) by signing a statement—

''(aa) waiving the hearing;

''(bb) stating that the debtor is represented by counsel; and

''(cc) identifying the counsel[.] ;''; [and]

(B) in paragraph (6)(A)—

(i) in clause (i), by striking ''and'' at the end;

(ii) in clause (ii), by striking the period and inserting ''; and''; and

(iii) by adding at the end the following:

''(iii) not an agreement that the debtor entered into as a result of a threat by the creditor to take an action that, at the time of the threat, the creditor could not legally take or did not intend to take[.] *; except that*''; and

(C) in paragraph (6)(B), by striking ''Subparagraph'' and inserting ''subparagraph''; and

(2) in subsection (d), in the third sentence, by inserting after ''during the course of negotiating an agreement'' the following: ''(or if the consideration by such agreement is based on a wholly secured consumer debt, and the debtor has not waived the right to a hearing under subsection (c)(2)(C))''.

(b) LAW ENFORCEMENT.—

(1) IN GENERAL.—Chapter 9 of title 18, United States Code, is amended by adding at the end the following:

''§ 158. Designation of United States attorneys and agents of the Federal Bureau of Investigation to address abusive reaffirmations of debt

''(a) IN GENERAL.—The Attorney General of the United States shall designate the individuals described in subsection (b) to have primary responsibility in carrying out enforcement activities in addressing violations of section 152 or 157 relating to abusive reaffirmations of debt.

''(b) UNITED STATES DISTRICT ATTORNEYS AND AGENTS OF THE FEDERAL BUREAU OF INVESTIGATION—The individuals referred to in subsection (a) are—

''(1) a United States attorney for each judicial district of the United States; and

''(2) an agent of the Federal Bureau of Investigation (within the meaning of section 3107) for each field office of the Federal Bureau of Investigation.

''(c) BANKRUPTCY INVESTIGATIONS.—Each United States attorney designated under this section shall have primary responsibility for carrying out the duties of a United States attorney under section 3057.''.

(2) CLERICAL AMENDMENT.—The analysis for chapter 9 of title 18, United States Code, is amended by adding at the end the following:

''158. Designation of United States attorneys and agents of the Federal Bureau of Investigation to address abusive reaffirmations of debt.''.

(c) EXCEPTIONS TO DISCHARGE.—Section 523 of title 11, United States Code, is amended by adding at the end the following:

''(f) Nothing in this section or in any other provision of this title shall preempt any State law relating to unfair trade practices that imposes restrictions on creditor conduct that would give rise to liability—

''(1) under this section; or

''(2) under section 524, for failure to comply with applicable requirements for seeking a reaffirmation of debt.

''(g) ACTIONS BY STATES.—The attorney general of a State, or an official or agency designated by a State—

''(1) may bring an action on behalf of its residents to recover damages on their behalf under subsection (d) or section 524(c); and

''(2) may bring an action in a State court to enforce a State criminal law that is similar to section 152 or 157 of title 18.''.

Subtitle B—Priority Child Support

SEC. 211. 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 such child's parent or 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 of the debtor or such child's parent or legal guardian, 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 or legal guardian of the child for the purpose of collecting the debt.''.

SEC. [211.] *212. 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 *unsecured* 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 *and distributed in accordance with applicable nonbankruptcy law*:

''(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 *or legal guardian* of such child, without regard to whether the claim is filed by the spouse, former spouse, child, or [parent] *such child's parent or legal guardian*, 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 *or legal guardian* of that child to a governmental unit or are owed directly to a governmental unit under applicable nonbankruptcy law.''.

SEC. [212.] *213.* 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.'';]

(1) in section 1322(a)—

(A) in paragraph (2), by striking ''and'' at the end;

(B) in paragraph (3), by striking the period at the end and inserting ''; and''; and

(C) by adding in the end the following:

''(4) if the debtor is required by judicial or administrative order or statute to pay a domestic support obligation, unless the holder of such claim agrees to a different treatment of such claim, provide for the full payment of—

''(A) all amounts payable under such order or statute for such obligation that first become payable after the date on which the petition is filed; and

''(B) all amounts payable under such order before the date on which such petition was filed, if such amounts are owed directly to a spouse, former spouse, child of the debtor, or a parent or legal guardian of such child.'';

(2) in section 1225(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 plan provides for the full payment of all amounts payable under such order or statute for such obligation that initially become payable after the date on which the petition is filed.'';

(3) in section 1228(a)—

(A) by striking ''(a) As soon as practicable'' and inserting ''(a)(1) Subject to paragraph (2), as soon as practicable'';

(B) by striking ''(1) provided'' and inserting the following:

''(A) provided'';

(C) by striking ''(2) of the kind'' and inserting the following:

''(B) of the kind''; and

(D) by adding at the end the following:

''(2) With respect to a debtor who is required by a judicial or administrative order or statute to pay a domestic support obligation, the court may not grant the debtor a discharge under paragraph (1) until after the debtor certifies that—

''(A) all amounts payable under that order or statute that initially became payable after the date on which the petition was filed (through the date of the certification) have been paid; and

''(B) all amounts payable under that order that, as of the date of the certification, are owed directly to a spouse, former spouse, or child of the debtor, or the parent or legal guardian of such child, have been paid, unless the holder of such claim agrees to a different treatment of such claim.'';

[(2)] *(4)* 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] *the plan provides for full payment of* all amounts payable under such order for such obligation that become payable after the date on which the petition is filed.''; and

[(3)] *(5)* in section 1328(a), 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, *and with respect to whom the court* certifies that all amounts payable under such order or [statute that are due on or before the date] *statute that initially became payable after the date on which the petition was filed through 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''.] *certification have been paid, after all amounts payable under that order that, as of the date of certification, are owed directly to a spouse, former spouse, or child of the debtor, or the parent or legal guardian of such child have been paid (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. [213.] *214.* EXCEPTIONS TO AUTOMATIC STAY IN DOMESTIC SUPPORT OBLIGATION PROCEEDINGS.

Section 362(b) of title 11, United States Code, is amended—

(1) by striking paragraph (2) and inserting the following:

''(2) under subsection (a)—

''(A) of the commencement 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;'';

[(2) in paragraph (17), by striking ''or'' at the end;

[(3) in paragraph (18), by striking the period at the end and inserting a semicolon; and

[(4) by inserting after paragraph (18) the following:

[''(19) under subsection (a) with respect to the withholding of income under an order as specified in section 466(b) of the Social Security Act (42 U.S.C. 666(b)); or

[''(20) under subsection (a) with respect to—]

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

''(5) under subsection (a) with respect to the withholding of income—

''(A) for payment of a domestic support obligation for amounts that initially become payable after the date the petition was filed; and

''(B) for payment of a domestic support obligation for amounts payable before the date the petition was filed, and owed directly to the spouse, former spouse, or child of the debtor, or the parent or guardian of such child;'';

(3) in paragraph (17), by striking ''or'' at the end;

(4) in paragraph (18), by striking the period at the end and inserting ''; or''; and

(5) by inserting after paragraph (18) the following:

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

''(A) the withholding, suspension, or restriction of drivers' licenses, professional and occupational licenses, and recreational licenses under State law, as specified in section 466(a)(16) of the Social Security Act (42 U.S.C. 666(a)(16)) [or with respect]*;*

''(B) [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)] *(C)* 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 directly to a spouse, former spouse, or child of the debtor, or the parent or legal guardian of such child*; or

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

SEC. [214.] *215.* 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;'';]

(1) in subsection (a)—

(A) by striking paragraph (5) and inserting the following:

''(5) for a domestic support obligation;'';

(B) in paragraph (15)—

(i) by inserting ''or'' after ''court of record''; and

(ii) by striking ''unless—'' and all that follows through the end of the paragraph and inserting a semicolon; and

(2) in subsection (c), by striking ''(6), or (15)'' and inserting ''or (6)''[; and.]

[(3) in paragraph (15), by striking ''governmental unit'' and all through the end of the paragraph and inserting a semicolon.]

SEC. [215.] *216.* 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. [216.] *217.* 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. 217. AMENDMENT TO SECTION 1325 OF TITLE 11, UNITED STATES CODE.

[Section 1325(b)(2) of title 11, United States Code, is amended by inserting ''(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)'' after ''received by the debtor''.

[SEC. 218. 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. 218. DISPOSABLE INCOME DEFINED.

(a) CONFIRMATION OF PLAN UNDER CHAPTER 12.—Section 1225(b)(2)(A) of title 11, United States Code, is amended by inserting ''for a child support, foster care, or disability payment for a dependent child made in accordance with applicable nonbankruptcy law'' after ''dependent of the debtor''.

(b) CONFIRMATION OF PLAN UNDER CHAPTER 13.—Section 1325(b)(2)(A) of title 11, United States Code, is amended by inserting ''or for a child support, foster care, or disability payment for a dependent child made in accordance with applicable nonbankruptcy law'' after ''dependent of the debtor''.

SEC. 219. COLLECTION OF CHILD SUPPORT.

(a) DUTIES OF TRUSTEE UNDER CHAPTER 7.—Section 704 of title 11, United States Code, as amended by section 102(b) of this Act, is amended—

(1) in subsection (a)—

(A) in paragraph (8), by striking ''and'' at the end;

(B) in paragraph (9), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(10) if, with respect to an individual debtor, there is a claim for support of a child of the debtor or a custodial parent *or legal guardian* of such child entitled to receive priority under section 507(a)(1), provide the applicable notification specified in subsection (c).''; and

(2) by adding at the end the following:

''(c)(1) In any case described in subsection (a)(10), the trustee shall—

''(A)(i) notify in writing the holder of the claim of the right of that holder to use the services of a State child support enforcement agency established under sections 464 and 466 of the Social Security Act (42 U.S.C. [654] *664* and 666, respectively) for the State in which the holder resides *for assistance in collecting child support during and after the bankruptcy procedures*; [and]

''(ii) include in the notice under this paragraph the address and telephone number of the child support enforcement agency; and

''(iii) include in the notice an explanation of the rights of the holder of the claim to payment of the claim under this chapter; 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, notify the holder of that claim and the State child support agency of the State in which that 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*—

''(aa) [that] is not discharged under paragraph (2), (4), or (14A) of section 523(a); or

''(bb) [that] was reaffirmed by the debtor under section 524(c).

''(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, that party may request from a creditor described in paragraph (1)(B)(iii)(III) (aa) or (bb) 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 that disclosure.''.

(b) DUTIES OF TRUSTEE UNDER CHAPTER 11.—Section 1106 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (5), by striking ''and'' at the end;

(B) in paragraph (6), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(7) if, with respect to an individual debtor, there is a claim for support of a child of the debtor or a custodial parent or legal guardian of such child entitled to receive priority under section 507(a)(1), provide the applicable notification specified in subsection (c).''; and

(2) by adding at the end the following:

''(c)(1) In any case described in subsection (b)(7), the trustee shall—

''(A)(i) notify in writing the holder of the claim of the right of that holder to use the services of a State child support enforcement agency established under sections 464 and 466 of the Social Security Act (42 U.S.C. 664 and 666) 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 1141, notify the holder of the claim and the State child support agency of the State in which that 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—

''(aa) is not discharged under paragraph (2), (4), or (14A) of section 523(a); or

''(bb) was reaffirmed by the debtor under section 524(c).

''(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, that party may request from a creditor described in paragraph (1)(B)(iii)(III) (aa) or (bb) 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 that disclosure.''.

(c) DUTIES OF TRUSTEE UNDER CHAPTER 12.—Section 1202 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 or legal guardian of such child entitled to receive priority under section 507(a)(1), provide the applicable notification specified in subsection (c).''; and

(2) by adding at the end the following:

''(c)(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 that holder to use the services of a State child support enforcement agency established under sections 464 and 466 of the Social Security Act (42 U.S.C. 664 and 666) 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 1228, notify the holder of the claim and the State child support agency of the State in which that 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—

''(aa) is not discharged under paragraph (2), (4), or (14A) of section 523(a); or

''(bb) was reaffirmed by the debtor under section 524(c).

''(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, that party may request from a creditor described in paragraph (1)(B)(iii)(III) (aa) or (bb) 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 that disclosure.''.

[(b)] *(d)* DUTIES OF TRUSTEE UNDER CHAPTER 13.—Section 1302 of title 11, United States Code, [as amended by section 102(b) of this Act,] 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 *or legal guardian* of such child entitled to receive priority under section 507(a)(1), provide the applicable notification specified in subsection (d).''; and

[(s)] *(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 that holder to use the services of a State child support enforcement agency established under sections 464 and 466 of the Social Security Act (42 U.S.C. 664 and

666, respectively) 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; *and*

''(iii) at such time as the debtor is granted a discharge under section 1328, notify the holder of the claim and the State child support agency of the State in which that 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*—

''(aa) [that] is not discharged under paragraph (2), (4), or (14A) of section 523(a); or

''(bb) [that] was reaffirmed by the debtor under section 524(c).

''(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, that party may request from a creditor described in paragraph (1)(B)(iii)(III) (aa) or (bb) 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 that disclosure.''.

Subtitle C—Other Consumer Protections

[SEC. 221. DEFINITIONS.

[(a) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—

[(1) by inserting after paragraph (3) the following:

[''(3A) 'assisted person' means any person whose debts consist primarily of consumer debts and whose nonexempt 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 under section 110, 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 (12 U.S.C. 1813)) or any Federal credit union or State credit union (as those terms are defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1751)), or any affiliate or subsidiary of such a depository institution or credit union;''.

[(b) CONFORMING AMENDMENT.—Section 104(b)(1) of title 11, United States Code, is amended by inserting ''101(3),'' after ''sections''.

[SEC. 222. DISCLOSURES.

[(a) DISCLOSURES.—Subchapter II of chapter 5 of title 11, United States Code, is amended by adding at the end the following:

['' § 526. 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).

[''(2) To the extent not covered in the written notice described in paragraph (1) and not later than 3 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 that—

[''(A) all information the assisted person is required to provide with a petition and thereafter during a case under this title shall be complete, accurate, and truthful;

[''(B) all assets and all liabilities shall 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, shall be stated in those documents if requested after reasonable inquiry to establish such value;

[''(C) total current monthly income, projected monthly net income and, in a case under chapter 13, monthly net income shall be stated after reasonable inquiry; and

[''(D) information an assisted person provides during the case of that person may be audited under this title and the 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 a substantially similar statement. 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 3 to 5 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 may be provided orally or 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 total current monthly income, projected monthly income and, in a case under chapter 13, net monthly income, 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—

[''(A) determine what property is exempt; and

[''(B) value exempt property at replacement value, as defined in section 506.

[''(d) A debt relief agency shall maintain a copy of the notices required under subsection (a) of this section for a period of 2 years after the latest 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, is amended by inserting after the item relating to section 525 the following:

[''526. Disclosures.''.

[SEC. 223. DEBTOR'S BILL OF RIGHTS.

[(a) DEBTOR'S BILL OF RIGHTS.—Subchapter II of chapter 5 of title 11, United States Code, as amended by section 222 of this Act, is amended by adding at the end the following:

['' § 527. Debtor's bill of rights

[''(a)(1) A debt relief agency shall—

[''(A) not later than 5 business days after the first date on which a debt relief agency provides any bankruptcy assistance services to an assisted person, but before that assisted person's petition under this title is filed—

[''(i) 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

[''(ii) give the assisted person a copy of the fully executed and completed contract in a form the person is able to retain;

[''(B) 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 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; and

[''(C) 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.

[''(2) For purposes of paragraph (1)(B), an advertisement shall be of bankruptcy assistance services if that advertisement describes or offers bankruptcy assistance with a plan under chapter 12, without regard to whether chapter 13 is specifically mentioned. A statement such as 'federally supervised repayment plan' or 'Federal debt restructuring help' or any other similar statement that would lead a reasonable consumer to believe that help with debts is being offered when in fact in most cases the help available is bankruptcy assistance with a plan under chapter 13 is a statement covered under the preceding sentence.

[''(b) A debt relief agency shall not—

[''(1) fail to perform any service that 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, that—

[''(A) is untrue and misleading; or

[''(B) 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 may 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 under 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) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, as amended by section 222 of this Act, is amended by inserting after the item relating to section 526 of title 11, United States Code, the following:

[''527. Debtor's bill of rights.''.

[SEC. 224. ENFORCEMENT.

[(a) ENFORCEMENT.—Subchapter II of chapter 5 of title 11, United States Code, as amended by section 223 of this Act, is amended by adding at the end the following:

[''§ 528. Debt relief agency enforcement

[''(a) Any waiver by any assisted person of any protection or right provided by or under section 526 or 527 shall be void and may not be enforced by any Federal or State court or any other person.

[''(b)(1) Any contract between a debt relief agency and an assisted person for bankruptcy assistance that does not comply with the material requirements of section 526 or 527 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 that has been found, after notice and hearing, to have—

[''(A) negligently failed to comply with any provision of section 526 or 527 with respect to a bankruptcy case or related proceeding of an assisted person;

[''(B) provided bankruptcy assistance to an assisted person in a case or related proceeding which is dismissed or converted because the debt relief agency's negligent failure to file bankruptcy papers, including papers specified in section 521; or

[''(C) negligently or intentionally disregarded the material requirements of this title or the Federal Rules of Bankruptcy Procedure applicable to such debt relief agency shall be liable to the assisted person in the amount of any fees and charges in connection with providing bankruptcy assistance to such person that the debt relief agency has already been paid on account of that proceeding.

[''(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 section 526 or 527, 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, if the court, on its own motion or on the motion of the United States trustee, finds that a person intentionally violated section 526 or 527, or engaged in a clear and consistent pattern or practice of violating section 526 or 527, the court may—

[''(A) enjoin the violation of such section; or

[''(B) impose an appropriate civil penalty against such person.

[''(c) This section and sections 526 and 527 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, as amended by section 223 of this Act, is amended by inserting after the item relating to section 527 of title 11, United States Code, the following:

''528. Debt relief agency enforcement.''.

SEC. 221. AMENDMENTS TO DISCOURAGE ABUSIVE BANKRUPTCY FILINGS.

Section 110 of title 11, United States Code, is amended—

(1) in subsection (a)(1), by inserting '', under the direct supervision of an attorney,'' after ''who'';

(2) in subsection (b)—

(A) in paragraph (1), by adding at the end the following: ''If a bankruptcy petition preparer is not an individual, then an officer, principal, responsible person, or partner of the preparer shall be required to—

''(A) sign the document for filing; and

''(B) print on the document the name and address of that officer, principal, responsible person or partner.'';

(B) by striking paragraph (2) and inserting the following:

''(2)(A) Before preparing any document for filing or accepting any fees from a debtor, the bankruptcy petition preparer shall provide to the debtor a written notice to debtors concerning bankruptcy petition preparers, which shall be on an official form issued by the Judicial Conference of the United States.

''(B) The notice under subparagraph (A)—

''(i) shall inform the debtor in simple language that a bankruptcy petition preparer is not an attorney and may not practice law or give legal advice;

''(ii) may contain a description of examples of legal advice that a bankruptcy petition preparer is not authorized to give, in addition to any advice that the preparer may not give by reason of subsection (e)(2); and

''(iii) shall—

''(I) be signed by—

''(aa) the debtor; and

''(bb) the bankruptcy petition preparer, under penalty of perjury; and

''(II) be filed with any document for filing.'';

(3) in subsection (c)—

(A) in paragraph (2)—

(i) by striking ''(2) For purposes'' and inserting ''(2)(A) Subject to subparagraph (B), for purposes''; and

(ii) by adding at the end the following:

''(B) If a bankruptcy petition preparer is not an individual, the identifying number of the bankruptcy petition preparer shall be the Social Security account number of the officer, principal, responsible person, or partner of the preparer.''; and

(B) by striking paragraph (3);

(4) in subsection (d)—

(A) by striking ''(d)(1)'' and inserting ''(d)''; and

(B) by striking paragraph (2);

(5) in subsection (e)—

(A) by striking paragraph (2); and

(B) by adding at the end the following:

''(2)(A) A bankruptcy petition preparer may not offer a potential bankruptcy debtor any legal advice, including any legal advice described in subparagraph (B).

''(B) The legal advice referred to in subparagraph (A) includes advising the debtor—

''(i) whether—

''(I) to file a petition under this title; or

''(II) commencing a case under chapter 7, 11, 12, or 13 is appropriate;

''(ii) whether the debtor's debts will be eliminated or discharged in a case under this title;

''(iii) whether the debtor will be able to retain the debtor's home, car, or other property after commencing a case under this title;

''(iv) concerning—

''(I) the tax consequences of a case brought under this title; or

''(II) the dischargeability of tax claims;

''(v) whether the debtor may or should promise to repay debts to a creditor or enter into a reaffirmation agreement with a creditor to reaffirm a debt;

''(vi) concerning how to characterize the nature of the debtor's interests in property or the debtor's debts; or

''(vii) concerning bankruptcy procedures and rights.'';

(6) in subsection (f)—

(A) by striking ''(f)(1)'' and inserting ''(f)''; and

(B) by striking paragraph (2);

(7) in subsection (g)—

(A) by striking ''(g)(1)'' and inserting ''(g)''; and

(B) by striking paragraph (2);

(8) in subsection (h)—

(A) by redesignating paragraphs (1) through (4) as paragraphs (2) through (5), respectively;

(B) by inserting before paragraph (2), as so redesignated, the following:

''(h)(1) The Supreme Court may promulgate rules under section 2075 of title 28, or the Judicial Conference of the United States may prescribe guidelines, for setting a maximum allowable fee chargeable by a bankruptcy petition preparer. A bankruptcy petition preparer shall notify the debtor of any such maximum amount before preparing any document for filing for a debtor or accepting any fee from the debtor.'';

(C) in paragraph (2), as redesignated by subparagraph (A) of this paragraph—

(i) by striking ''Within 10 days after the date of filing a petition, a bankruptcy petition preparer shall file a'' and inserting ''A'';

(ii) by inserting ''by the bankruptcy petition preparer shall be filed together with the petition,'' after ''perjury''; and

(iii) by adding at the end the following: ''If rules or guidelines setting a maximum fee for services have been promulgated or prescribed under paragraph (1), the declaration under this paragraph shall include a certification that the bankruptcy petition preparer complied with the notification requirement under paragraph (1).'';

(D) by striking paragraph (3), as redesignated by subparagraph (A) of this paragraph, and inserting the following:

''(3)(A) The court shall disallow and order the immediate turnover to the bankruptcy trustee any fee referred to in paragraph (2) found to be in excess of the value of any services—

''(i) rendered by the preparer during the 12-month period immediately preceding the date of filing of the petition; or

''(ii) found to be in violation of any rule or guideline promulgated or prescribed under paragraph (1).

''(B) All fees charged by a bankruptcy petition preparer may be forfeited in any case in which the bankruptcy petition preparer fails to comply with this subsection or subsection (b), (c), (d), (e), (f), or (g).

''(C) An individual may exempt any funds recovered under this paragraph under section 522(b).''; and

(E) in paragraph (4), as redesignated by subparagraph (A) of this paragraph, by striking ''or the United States trustee'' and inserting ''the United States trustee, or the court, on the initiative of the court,'';

(9) in subsection (i)(1), by striking the matter preceding subparagraph (A) and inserting the following:

''(i) If a bankruptcy petition preparer violates this section or commits any act that the court finds to be fraudulent, unfair, or deceptive, on motion of the debtor, trustee, or United States trustee, and after the court holds a hearing with respect to that violation or act, the court shall order the bankruptcy petition preparer to pay to the debtor—'';

(10) in subsection (j)—

(A) in paragraph (2)—

(i) in subparagraph (A)(i)(I), by striking ''a violation of which subjects a person to criminal penalty'';

(ii) in subparagraph (B)—

(I) by striking ''or has not paid a penalty'' and inserting ''has not paid a penalty''; and

(II) by inserting ''or failed to disgorge all fees ordered by the court'' after ''a penalty imposed under this section,'';

(B) by redesignating paragraph (3) as paragraph (4); and

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

''(3) The court, as part of its contempt power, may enjoin a bankruptcy petition preparer that has failed to comply with a previous order issued under this section. The injunction under this paragraph may be issued upon motion of the court, the trustee, or the United States trustee.'';

and

(11) by adding at the end the following:

''(l)(1) A bankruptcy petition preparer who fails to comply with any provision of subsection (b), (c), (d), (e), (f), (g), or (h) may be fined not more than $500 for each such failure.

''(2) The court shall triple the amount of a fine assessed under paragraph (1) in any case in which the court finds that a bankruptcy petition preparer—

''(A) advised the debtor to exclude assets or income that should have been included on applicable schedules;

''(B) advised the debtor to use a false Social Security account number;

''(C) failed to inform the debtor that the debtor was filing for relief under this title; or

''(D) prepared a document for filing in a manner that failed to disclose the identity of the preparer.

''(3) The debtor, the trustee, a creditor, or the United States trustee may file a motion for an order imposing a fine on the bankruptcy petition preparer for each violation of this section.

''(4) All fines imposed under this section shall be paid to the United States trustee, who shall deposit an amount equal to such fines in a special account of the United States Trustee System Fund referred to in section 586(e)(2) of title 28. Amounts deposited under this paragraph shall be available to fund the enforcement of this section on a national basis.''.

SEC. [225.] *222.* SENSE OF CONGRESS.

It is the sense of Congress that States should develop curricula relating to the subject of personal finance, designed for use in elementary and secondary schools.

SEC. [226.] *223.* ADDITIONAL AMENDMENTS TO TITLE 11, UNITED STATES CODE.

(a) *IN GENERAL.*—Section 507(a) of title 11, United States Code, as amended by section [211] *212* of this Act, 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.''.

(b) *VESSELS.*—Section 523(a)(9) of title 11, United States Code, is amended by inserting ''or vessel'' after ''vehicle''.

SEC. 224. PROTECTION OF RETIREMENT SAVINGS IN BANKRUPTCY.

(a) IN GENERAL.—Section 522 of title 11, United States Code, as amended by section 215 of this Act, is amended—

(1) in subsection (b)—

(A) in paragraph (2)—

(i) by striking ''(2)(A) any property'' and inserting:

''(3) Property listed in this paragraph is—

''(A) any property'';

(ii) in subparagraph (A), by striking ''and'' at the end;

(iii) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(iv) by adding at the end the following:

''(C) 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)(C) 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)(I) the retirement fund is in substantial compliance with the applicable requirements of the Internal Revenue Code of 1986; or

''(II) the retirement fund fails to be in substantial compliance with the applicable requirements of the Internal Revenue Code of 1986 and the debtor is not materially responsible for that failure.

''(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)(C) 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)(C) 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 section 214 of this Act, is amended—

(1) in paragraph (18), by striking ''or'' at the end;

(2) in paragraph (19), by striking the period and inserting ''; or'';

(3) by inserting after paragraph (19) the following:

''(20) 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 at the end of the subsection, the following: ''Nothing in paragraph (20) 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. 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)(20).''.

TITLE III—DISCOURAGING BANKRUPTCY ABUSE

SEC. 301. REINFORCEMENT OF THE FRESH START.

Section 523(a)(17) of title 11, United States Code, is amended—

(1) by striking ''by a court'' and inserting ''on a prisoner 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. 302. 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:

''(3) if a single or joint case is filed by or against an individual debtor under chapter 7, 11, or 13, and if a single or joint case of the debtor was pending within the preceding 1-year period but was dismissed, other than a case refiled under a chapter other than chapter 7 after dismissal under section 707(b)—

''(A) 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;

''(B) 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; and

''(C) for purposes of subparagraph (B), a case is presumptively filed not in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)—

''(i) 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 the preceding 1-year period;

''(II) a previous case under any of chapter 7, 11, or 13 in which the individual was a debtor was dismissed within such 1-year period, after the debtor failed to—

''(aa) 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 a substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney);

''(bb) provide adequate protection as ordered by the court; or

''(cc) 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 chapter 7, 11, or 13 [of this title], or any other reason to conclude that the later case will be concluded—

''(aa) if a case under chapter 7 [of this title], with a discharge; or

''(bb) if a case under chapter 11 or 13 [of this title], with a confirmed plan which will be fully performed; and

''(ii) 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; and

''(4)(A)(i) if a single or joint case is filed by or against an individual debtor under this title, and if 2 or more single or joint cases of the debtor were pending within the previous year but were dismissed, other than a case refiled under section 707(b), the stay under subsection (a) shall not go into effect upon the filing of the later case; and

''(ii) on request of a party in interest, the court shall promptly enter an order confirming that no stay is in effect;

''(B) if, within 30 days after the filing of the later case, a party in interest requests 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;

''(C) a stay imposed under subparagraph (B) shall be effective on the date of entry of the order allowing the stay to go into effect; and

''(D) for purposes of subparagraph (B), a case is presumptively not filed in good faith (but such presumption may be rebutted by clear and convincing evidence to the contrary)—

''(i) 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 pay 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 any other reason to conclude that the later case will not 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

''(ii) 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. 303. 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 under 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.''.

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, as amended by section [213] *224* of this Act, is amended—

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

(2) in paragraph (20), by striking the period at the end; and

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

''(21) 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) as to that property in any prior bankruptcy case for a period of 2 years after entry of such an order, except that the debtor, in a subsequent case, may move the court for relief from such order based upon changed circumstances or for other good cause shown, after notice and a hearing; or

''(22) 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) 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. 304. DEBTOR RETENTION OF PERSONAL PROPERTY SECURITY.

Title 11, United States Code, is amended—

(1) in section 521(a), as so redesignated *by section 105(d) of this Act*—

(A) in paragraph (4), by striking ''and'' at the end;

(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 within 45 days after the first meeting of creditors under section 341(a)—

''(A) enters into an agreement with the creditor under section 524(c) with respect to the claim secured by such property; or

''(B) redeems such property from the security interest under section 722.''; and

(C) by adding at the end the following:

''(b) [If the debtor] *For purposes of subsection (a)(6), if the debtor* fails to so act within the 45-day period specified in subsection (a)(6), the personal property affected 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, and after notice and a hearing, that such property is of consequential value or benefit to the estate.''; and

(2) in section 722, by inserting ''in full at the time of redemption'' before the period at the end.

SEC. 305. RELIEF FROM THE AUTOMATIC STAY WHEN THE DEBTOR DOES NOT COMPLETE INTENDED SURRENDER OF CONSUMER DEBT COLLATERAL.

Title 11, United States Code, is amended—

(1) in section 362—

(A) in subsection (c), by striking ''(e), and (f)'' and inserting ''(e), (f), and (h)''; and

(B) by redesignating subsection (h), as amended by section 227 of this Act, as subsection (j) and by inserting after subsection (g) the following:

''(h)(1) Subject to paragraph (2), in an individual case under chapter 7, 11, or 13 the stay provided by subsection (a) is terminated with respect to property of the estate securing in whole or in part a claim, or subject to an unexpired lease, if the debtor fails within the applicable period of time set by section 521(a)(2) to—

''(A) file timely any statement of intention required under section 521(a)(2) with respect to that property or to indicate therein that the debtor—

''(i) will either surrender the property or retain the property; and

''(ii) if retaining the property, will, as applicable—

''(I) redeem the property under section 722;

''(II) reaffirm the debt the property secures under section 524(c); or

''(III) assume the unexpired lease under section 365(p) if the trustee does not do so; or

''(B) take timely the action specified in that statement of intention, as the statement 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.

''(2) Paragraph (1) shall not apply if the court determines on the motion of the trustee, and after notice and a hearing, that such property is of consequential value or benefit to the estate.''; and

(2) in section 521, as amended by section 304 of this Act—

(A) in subsection (a)(2), as redesignated *by section 105(d) of this Act*—

(i) by striking ''consumer'';

(ii) in subparagraph (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)''; and

(II) by striking ''forty-five day period'' and inserting ''30-day period''; and

(iii) in subparagraph (C), by inserting ''except as provided in section 362(h)'' before the semicolon; and

(B) by adding at the end the following:

''(c) If the debtor fails timely to take the action specified in subsection (a)(6), or in paragraph (1) or (2) of section 362(h), 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, nothing in this title shall prevent or limit the operation of a provision in the underlying lease or agreement that has the effect of placing the debtor in default under that 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. 306. GIVING SECURED CREDITORS FAIR TREATMENT IN CHAPTER 13.

(a) IN GENERAL.—Section 1325(a)(5)(B)(i) of title 11, United States Code, is amended to read as follows:

''(i) the plan provides that—

''(I) the holder of such claim retain the lien securing such claim until the earlier of—

''(aa) the payment of the underlying debt determined under nonbankruptcy law; or

''(bb) discharge under section 1328; and

''(II) 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''.

(b) RESTORING THE FOUNDATION FOR SECURED CREDIT.—Section 1325(a) of title 11, United States Code, is amended by adding at the end the following flush sentence:

''For purposes of paragraph (5), section 506 shall not apply to a claim described in that paragraph if the debt that is the subject of the claim was incurred within the 5-year period preceding the filing of the petition and the collateral for that debt consists of a motor vehicle (as defined in section 30102 of title 49) acquired for the personal use of the debtor, or if collateral for that debt consists of any other thing of value, if the debt was incurred during the 6-month period preceding that filing.''.

(c) DEFINITIONS.—Section 101 of title 11, United States Code, as amended by section [221] *211* of this Act, is amended—

(1) by inserting after paragraph (13) the following:

''(13A) 'debtor's principal residence'—

''(A) means a residential structure, including incidental property, without regard to whether that structure is attached to real property; and

''(B) includes an individual condominium or cooperative unit;''; and

(2) by inserting after paragraph (27), the following:

''(27A) 'incidental property' means, with respect to a debtor's principal residence—

''(A) property commonly conveyed with a principal residence in the area where the real estate is located;

''(B) all easements, rights, appurtenances, fixtures, rents, royalties, mineral rights, oil or gas rights or profits, water rights, escrow funds, or insurance proceeds; and

''(C) all replacements or additions;''.

SEC. 307. EXEMPTIONS.

Section [522(b)(2)(A)] *522(b)(3)(A)* of title 11, United States Code, *as so designated by section 224 of this Act*, 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''.

SEC. 308. RESIDENCY REQUIREMENT FOR HOMESTEAD EXEMPTION.

Section 522 of title 11, United States Code, as amended by section 307 of this Act, is amended—

(1) in subsection [(b)(2)(A)] *(b)(3)(A)*, by inserting ''subject to subsection (n),'' before ''any property''; and

(2) by adding at the end the following:

''(n) For purposes of subsection [(b)(2)(A)] *(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 on 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. 309. PROTECTING SECURED CREDITORS IN CHAPTER 13 CASES.

(a) 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 under 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.''.

(b) 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) is automatically terminated.

''(2)(A) 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 condition such assumption on cure of any outstanding default on terms set by the contract.

''(B) If within 30 days after notice is provided under subparagraph (A), 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.

''(C) The stay under section 362 and the injunction under section 524(a)(2) shall not be violated by notification of the debtor and negotiation of cure under this subsection.

''(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 and any stay under section 1301 is automatically terminated with respect to the property subject to the lease.''.

(c) ADEQUATE PROTECTION OF LESSORS AND PURCHASE MONEY SECURED CREDITORS.—

[(1) IN GENERAL.—Subchapter I of chapter 13 of title 11, United States Code, is amended by inserting after section 1307 the following:

[''§ 1308. 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 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.

[''(2) The payments referred to in paragraph (1)(A) shall be the contract amount.

[''(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 schedules 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 for—

[''(1) payments to a creditor or lessor described in subsection (a)(1); and

[''(2) 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 the date that is 60 days after the filing 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.''.

[(2) CLERICAL AMENDMENT.—The table of sections for chapter 13 of title 11, United States Code, is amended, in the matter relating to subchapter I, by inserting after the item relating to section 1307 the following:

[''1308. Adequate protection in chapter 13 cases.''.]

(1) CONFIRMATION OF PLAN.—Section 1325(a)(5)(B) of title 11, United States Code, is amended—

(A) in clause (i), by striking ''and'' at the end;

(B) in clause (ii), by striking ''or'' at the end and inserting ''and''; and

(C) by adding at the end the following:

''(iii) if—

''(I) property to be distributed pursuant to this subsection is in the form of periodic payments, such payments shall be in equal monthly amounts; and

''(II) the holder of the claim is secured by personal property the amount of such payments shall not be less than an amount sufficient to provide to the holder of such claim adequate protection during the period of the plan; or''.

(2) PAYMENTS.—Section 1326(a) of title 11, United States Code, is amended to read as follows:

''(a)(1) Unless the court orders otherwise, the debtor shall—

''(A) commence making the payments proposed by a plan within 30 days after the plan is filed; or

''(B) if no plan is filed then as specified in the proof of claim, within 30 days after the order for relief or within 15 days after the plan is filed, whichever is earlier.

''(2) A payment made under this section shall be retained by the trustee until confirmation, denial of confirmation, or paid by the trustee as adequate protection payments in accordance with paragraph (3). If a plan is confirmed, the trustee shall distribute any such payment in accordance with the plan as soon as is practicable. If a plan is not confirmed, the trustee shall return any such payments not previously paid to creditors pursuant to paragraph (3) to the debtor, after deducting any unpaid claim allowed under section 503(b).

''(3)(A) As soon as is practicable, and not later than 40 days after the filing of the case, the trustee shall—

''(i) pay from payments made under this section the adequate protection payments proposed in the plan; or

''(ii) if no plan is filed then, according to the terms of the proof of claim.

''(B) The court may, upon notice and a hearing, modify, increase, or reduce the payments required under this paragraph pending confirmation of a plan.''.

SEC. 310. 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)—

''(I) 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 are presumed to be nondischargeable; and

''(II) cash advances aggregating more than $750 that are extensions of consumer credit under an open end credit plan obtained by an individual debtor on or within 70 days before the order for relief under this title, are presumed to be nondischargeable; and

''(ii) for purposes of this subparagraph—

''(I) the term 'extension of credit under an open end credit plan' means an extension of credit under an open end credit plan, within the meaning of the Consumer Credit Protection Act (15 U.S.C. 1601 et seq.);

''(II) the term 'open end credit plan' has the meaning given that term under section 103 of Consumer Credit Protection Act (15 U.S.C. 1602); and

''(III) 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.''.

SEC. 311. AUTOMATIC STAY.

Section 362(b) of title 11, United States Code, as amended by section 303(b) of this Act, is amended—

(1) in paragraph (21), by striking ''or'' at the end;

(2) in paragraph (22), by striking the period at the end and inserting a semicolon; and

(3) by inserting after paragraph (22) the following:

''(23) under subsection (a)(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;

''(24) under subsection (a)(3), of the commencement of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor involving residential real property in which the debtor resides as a tenant under a rental agreement that has terminated under the lease agreement or applicable State law; or

''(25) under subsection (a)(3), of eviction actions based on endangerment to property or person or the use of illegal drugs.''.

SEC. 312. EXTENSION OF 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 if the debtor has received a discharge in any case filed under this title within 5 years before the order for relief under this chapter.''.

SEC. 313. DEFINITION OF HOUSEHOLD GOODS AND ANTIQUES.

Section 522(f) of title 11, United States Code, is amended by adding at the end the following:

''(4)(A) Subject to subparagraph (B), for purposes of paragraph (1)(B), the term 'household goods' means—

''(i) clothing;

''(ii) furniture;

''(iii) appliances;

''(iv) 1 radio;

''(v) 1 television;

''(vi) 1 VCR;

''(vii) linens;

''(viii) china;

''(ix) crockery;

''(x) kitchenware;

''(xi) educational materials and educational equipment primarily for the use of minor dependent children of the debtor, but only 1 personal computer only if used primarily for the education or entertainment of such minor children;

''(xii) medical equipment and supplies;

''(xiii) furniture exclusively for the use of minor children, or elderly or disabled dependents of the debtor; and

''(xiv) personal effects (including wedding rings and the toys and hobby equipment of minor dependent children) of the debtor and the dependents of the debtor.

''(B) The term 'household goods' does not include—

''(i) works of art (unless by or of the debtor or the dependents of the debtor);

''(ii) electronic entertainment equipment (except 1 television, 1 radio, and 1 VCR);

''(iii) items acquired as antiques;

''(iv) jewelry (except wedding rings); and

''(v) a computer (except as otherwise provided for in this section), motor vehicle (including a tractor or lawn tractor), boat, or a motorized recreational device, conveyance, vehicle, watercraft, or aircraft.''.

SEC. 314. DEBT INCURRED TO PAY NONDISCHARGEABLE DEBTS.

Section 523(a) of title 11, United States Code, is amended by inserting after paragraph (14) the following:

''(14A)(A) incurred to pay a debt that is nondischargeable by reason of section 727, 1141, 1228(a), 1228(b), or 1328(b), 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*

''(B) [except that] all debts incurred to pay nondischargeable debts shall be presumed to be nondischargeable debts if incurred within 70 days before the filing of the petition (except that, in any case in which there is an allowed claim under section 502 for child support or spousal support entitled to priority under section 507(a)(1) and that was filed in a timely manner, debts that would otherwise be presumed to be nondischargeable debts by reason of this subparagraph shall be treated as dischargeable debts);''.

(b) DISCHARGE UNDER CHAPTER 13.

Section 1328(a) of title 11, United States Code, is amended by striking paragraphs (1) through (3) and inserting the following:

''(1) provided for under section 1322(b)(5);

''(2) of the kind specified in paragraph (2), (4), (3)(B), (5), (8), or (9) of section 523(a);

''(3) for restitution, or a criminal fine, included in a sentence on the debtor's conviction of a crime; or

''(4) for restitution, or damages, awarded in a civil action against the debtor as a result of willful or malicious injury by the debtor that caused personal injury to an individual or the death of an individual.''.

SEC. 315. GIVING CREDITORS FAIR NOTICE IN CHAPTERS 7 AND 13 CASES.

(a) NOTICE.—Section 342 of title 11, United States Code, is amended—

(1) in subsection (c)—

(A) by inserting ''(1)'' after ''(c)''; and

(B) by striking '', but the failure of such notice to contain such information shall not invalidate the legal effect of such notice''; and

(2) by adding at the end the following:

''(d) 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. Five days after receipt of such notice, if the court or the debtor is required to give the creditor notice, such notice 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)(1) Notice given to a creditor other than as provided in this section shall not be effective notice until that notice has been brought to the attention of the creditor. If the creditor designates a person or department to be responsible for receiving notices concerning bankruptcy cases and establishes reasonable procedures so that bankruptcy notices received by the creditor are to be delivered to such department or person, notice shall not be considered to have been brought to the attention of the creditor until received by such person or department.

''(2) No sanction under section 362(h) or any other sanction that a court may impose on account of violations of the stay under section 362(a) or failure to comply with section 542 or 543 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 section 305 of this Act, is amended—

(1) in subsection (a), by striking paragraph (1) and inserting the following:

''(1) file—

''(A) a list of creditors; and

''(B) unless the court orders otherwise—

''(i) a schedule of assets and liabilities;

''(ii) a schedule of current income and current expenditures;

''(iii) a statement of the debtor's financial affairs and, if applicable, a certificate—

''(I) of an attorney whose name is on the petition as the attorney for the debtor or any bankruptcy petition preparer signing the petition under section 110(b)(1) indicating that such attorney or bankruptcy petition preparer delivered to the debtor any notice required by section 342(b); or

''(II) if no attorney for the debtor is indicated and no bankruptcy petition preparer signed the petition, of the debtor that such notice was obtained and read by the debtor;

''(iv) copies of any Federal tax returns, including any schedules or attachments, filed by the debtor for the 3-year period preceding the order for relief;

''(v) copies of all payment advices or other evidence of payment, if any, received by the debtor from any employer of the debtor in the period 60 days before the filing of the petition;

''(vi) a statement of the amount of projected monthly net income, itemized to show how the amount is calculated; and

''(vii) a statement disclosing any reasonably anticipated increase in income or expenditures over the 12-month period following the date of filing;''; and

(2) by adding at the end the following:

''(d)(1) At any time, a creditor, in the case of an individual under chapter 7 or 13, may file with the court notice that the creditor requests the petition, schedules, and a statement of affairs filed by the debtor in the case and the court shall make those documents available to the creditor who requests those documents.

''(2)(A) 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.

''(B) The court shall make such plan available to the creditor who requests such plan—

''(i) at a reasonable cost; and

''(ii) not later than 5 days after such request.

''(e) An individual debtor in a case under chapter 7 or 13 shall file with the court—

''(1) at the time filed with the taxing authority, all tax returns, including any schedules or attachments, with respect to the period from the commencement of the case until such time as the case is closed;

''(2) at the time filed with the taxing authority, all tax returns, including any schedules or attachments, that were not filed with the taxing authority when the schedules under subsection (a)(1) were filed with respect to the period that is 3 years before the order for relief;

''(3) any amendments to any of the tax returns, including schedules or attachments, described in paragraph (1) or (2); and

''(4) in a case under chapter 13, a statement subject to the penalties of perjury by the debtor of the debtor's income and expenditures in the preceding tax year and monthly income, that shows how the amounts are calculated—

''(A) beginning on the date that is the later of 90 days after the close of the debtor's tax year or 1 year after the order for relief, unless a plan has been confirmed; and

''(B) thereafter, on or before the date that is 45 days before each anniversary of the confirmation of the plan until the case is closed.

''(f)(1) A statement referred to in subsection (e)(4) shall disclose—

''(A) the amount and sources of income of the debtor;

''(B) the identity of any person responsible with the debtor for the support of any dependent of the debtor; and

''(C) the identity of any person 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 [f] *(g)*.

''(g)(1) Not later than 30 days after the date of enactment of the 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 restrictions on creditor access to tax information that is required to be provided under this section.

''(3) Not later than 1 year after the date of enactment of the 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); and

''(B) if appropriate, includes proposed legislation to—

''(i) further protect the confidentiality of tax information; and

''(ii) provide penalties for the improper use by any person of the tax information required to be provided under this section.

''(h) If requested by the United States trustee or a trustee serving in the case, the debtor shall provide—

''(1) 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

''(2) such other personal identifying information relating to the debtor that establishes the identity of the debtor.''.

SEC. 316. DISMISSAL FOR FAILURE TO TIMELY FILE SCHEDULES OR PROVIDE REQUIRED INFORMATION.

Section 521 of title 11, United States Code, as amended by section 315 of this Act, is amended by adding at the end the following:

''*(i)*(1) Notwithstanding section 707(a), and subject to paragraph (2), if an individual debtor in a voluntary case under chapter 7 or 13 fails to file all of the information required under 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. If requested, the court shall 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 of 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. 317. 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 later than 45 days after the meeting of creditors under section 341(a).''.

(b) FILING OF PLAN.—Section 1321 of title 11, United States Code, is amended to read as follows:

''§ 1321. Filing of plan

''Not later than 90 days after the order for relief under this chapter, the debtor shall file a plan, except that the court may extend such period if the need for an extension is attributable to circumstances for which the debtor should not justly be held accountable.''.

SEC. 318. CHAPTER 13 PLANS TO HAVE A 5-YEAR DURATION IN CERTAIN CASES.

Section 1322(d) of title 11, United States Code, is amended to read as follows:

''(d)(1) Except as provided in paragraph (2), the plan may not provide for payments over a period that is longer than 3 years.

''(2) The plan may provide for payments over a period that is longer than 3 years if—

''(A) the plan is for a case that was converted to a case under this chapter from a case under chapter 7, *or the plan is for a debtor who has been dismissed from chapter 7 by reason of section 707(b)*, in which case the plan shall provide for payments over a period of 5 years; or

''(B) the plan is for a case that is not described in subparagraph (A), and the court, for cause, approves a period longer than 3 years, but not to exceed 5 years.''.

SEC. 319. SENSE OF THE CONGRESS REGARDING EXPANSION OF RULE 9011 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE.

It is the sense of 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—

(1) well grounded in fact; and

(2) warranted by existing law or a good-faith argument for the extension, modification, or reversal of existing law.

SEC. 320. PROMPT RELIEF FROM STAY IN INDIVIDUAL CASES.

Section 362(e) of title 11, United States Code, is amended—

(1) by inserting ''(1)'' after ''(e)''; and

(2) by adding at the end the following:

''(2) Notwithstanding paragraph (1), in the case of an individual filing under chapter 7, 11, or 13, the stay under subsection (a) shall terminate on the date that is 60 days after a request is made by a party in interest under subsection (d), unless—

''(A) a final decision is rendered by the court during the 60-day period beginning on the date of the request; or

''(B) that 60-day period is extended—

''(i) by agreement of all parties in interest; or

''(ii) by the court for such specific period of time as the court finds is required for good cause, as described in findings made by the court.''.

SEC. 321. TREATMENT OF CERTAIN EARNINGS OF AN INDIVIDUAL DEBTOR WHO FILES A VOLUNTARY CASE UNDER CHAPTER 11.

Section 541(a)(6) of title 11, United States Code, is amended by inserting ''(other than an individual debtor who, in accordance with section 301, files a petition to commence a voluntary case under chapter 11)'' after ''individual debtor''.

TITLE IV—GENERAL AND SMALL BUSINESS BANKRUPTCY PROVISIONS

Subtitle A—General Business Bankruptcy Provisions

SEC. 401. 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, 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), under such security agreement, lease, or conditional sale contract that—

''(i) 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) 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) 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, 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 under 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 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.

''(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 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), under such security agreement, lease, or conditional sale contract that occurs—

''(i) before the date of the order is cured before the expiration of such 60-day period;

''(ii) 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) 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 under 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 under 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. 402. ADEQUATE PROTECTION FOR INVESTORS.

(a) DEFINITION.—Section 101 of title 11, United States Code, *as amended by section 306(c) of this Act*, 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 under section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78*o*–3) or a national securities exchange registered with the Securities and Exchange Commission under section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f);''.

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, as amended by section 311 of this Act, is amended—

(1) in paragraph (24), by striking ''or'' at the end;

(2) in paragraph (25), by striking the period at the end and inserting ''; or''; and

(3) by inserting after paragraph (25) the following:

''(26) under subsection (a), of—

''(A) the commencement or continuation of an investigation or action by a securities self regulatory organization to enforce such organization's regulatory power;

''(B) 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

''(C) 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. 403. 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. 404. PROTECTION OF REFINANCE OF SECURITY INTEREST.

Subparagraphs (A), (B), and (C) of section 547(e)(2) of title 11, United States Code, are each amended by striking ''10'' each place it appears and inserting ''30''.

SEC. 405. EXECUTORY CONTRACTS AND UNEXPIRED LEASES.

Section 365(d)(4) of title 11, United States Code, is amended to read as follows:

''(4)(A) Subject to subparagraph (B), in any case under any chapter of this title, an unexpired lease of nonresidential real property under which the debtor is the lessee shall be deemed rejected and the trustee shall immediately surrender that nonresidential real property to the lessor if the trustee does not assume or reject the unexpired lease by the earlier of—

''(i) the date that is 120 days after the date of the order for relief; or

''(ii) the date of the entry of an order confirming a plan.

''(B) The court may extend the period determined under subparagraph (A) only upon a motion of the lessor.''.

SEC. 406. 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. 407. AMENDMENT TO SECTION 546 OF TITLE 11, UNITED STATES CODE.

Section 546 of title 11, United States Code, is amended—

(1) by redesignating the second subsection designated as subsection (g) (as added by section 222(a) of Public Law 103–394) as subsection (i); and

(2) by adding at the end the following:

''(j)(1) Notwithstanding section 545 (2) and (3), the trustee may not avoid a warehouseman's lien for storage, transportation or other costs incidental to the storage and handling of goods.

''(2) The prohibition under paragraph (1) shall be applied in a manner consistent with any applicable State statute that is similar to section 7–209 of the Uniform Commercial Code.''.

SEC. 408. LIMITATION.

Section 546(c)(1)(B) of title 11, United States Code, is amended by striking ''20'' and inserting ''45''.

SEC. 409. AMENDMENT TO SECTION 330(a) OF TITLE 11, UNITED STATES CODE.

Section 330(a)(3) of title 11, United States Code, is amended—

(1) by striking ''(A) the; and inserting ''(i) the'';

(2) by striking ''(B)'' and inserting ''(ii)'';

(3) by striking ''(C)'' and inserting ''(iii)'';

(4) by striking ''(D)'' and inserting ''(iv)'';

(5) by striking ''(E)'' and inserting ''(v)'';

(6) in subparagraph (A), by inserting ''to an examiner, trustee under chapter 11, or professional person'' after ''awarded''; and

(7) 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. 410. 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. 411. PREFERENCES.

Section 547(c) of title 11, United States Code, is amended—

(1) by striking paragraph (2) and inserting the following:

''(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. 412. 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. 413. 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) The 120-day period specified in paragraph (1) may not be extended beyond a date that is 18 months after the date of the order for relief under this chapter.

''(B) The 180-day period specified in paragraph (1) may not be extended beyond a date that is 20 months after the date of the order for relief under this chapter.''.

SEC. 414. 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 ''but nothing in this paragraph'' 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, and until such time as the debtor or trustee has surrendered any legal, equitable or possessory interest in such unit, such corporation, or such lot, but nothing in this paragraph''.

SEC. 415. 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 1 creditor) shall be permitted to appear at and participate in the meeting of creditors in a case under chapter 7 or 13, either alone or in conjunction with an attorney for the creditor. Nothing in this subsection shall be construed to require any creditor to be represented by an attorney at any meeting of creditors.''.

[SEC. 416. 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 first sentence by striking ''until the case is converted or dismissed, whichever occurs first''; and

[(2) in the second 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. [417.] *416.* 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. [418.] *417.* FACTORS FOR COMPENSATION OF PROFESSIONAL PERSONS.

Section 330(a)(3)*(A)* of title 11, United States Code, *as amended by section 409 of this Act*, is amended—

(1) in [subparagraph (D)] *clause (i)*, by striking ''and'' at the end;

(2) by redesignating [subparagraph (E)] *clause (v)* as [subparagraph (F)] *clause (vi)*; and

(3) by inserting after [subparagraph (D)] *clause (iv)* the following:

''[(E)] *(v)* with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and experience in the bankruptcy field;''.

SEC. [419.] *418.* 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.

''(B) Upon the filing of a report under subparagraph (A)—

''(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.

''(C) In the case of any dispute arising out of an election described in subparagraph (A), the court shall resolve the dispute.''.

SEC. 419. UTILITY SERVICE.

Section 366 of title 11, United States Code, is amended—

(1) in subsection (a), by striking ''subsection (b)'' and inserting ''subsections (b) and (c)''; and

(2) by adding at the end the following:

''(c)(1)(A) For purposes of this subsection, the term 'assurance of payment' means—

''(i) a cash deposit;

''(ii) a letter of credit;

''(iii) a certificate of deposit;

''(iv) a surety bond;

''(v) a prepayment of utility consumption; or

''(vi) another form of security that is mutually agreed on between the utility and the debtor or the trustee.

''(B) For purposes of this subsection an administrative expense priority shall not constitute an assurance of payment.

''(2) Subject to paragraphs (3) through (5), with respect to a case filed under chapter 11, a utility referred to in subsection (a) may alter, refuse, or discontinue utility service, if during the 20-day period beginning on the date of filing of the petition, the utility does not receive from the debtor or the trustee adequate assurance of payment for utility service that is satisfactory to the utility.

''(3)(A) On request of a party in interest and after notice and a hearing, the court may order modification of the amount of an assurance of payment under paragraph (2).

''(B) In making a determination under this paragraph whether an assurance of payment is adequate, the court may not consider—

''(i) the absence of security before the date of filing of the petition;

''(ii) the payment by the debtor of charges for utility service in a timely manner before the date of filing of the petition; or

''(iii) the availability of an administrative expense priority.

''(4) Notwithstanding any other provision of law, with respect to a case subject to this subsection, a utility may recover or set off against a security deposit provided to the utility by the debtor before the date of filing of the petition without notice or order of the court.''.

Subtitle B—Small Business Bankruptcy Provisions

SEC. 421. FLEXIBLE RULES FOR DISCLOSURE STATEMENT AND PLAN.

Section 1125 of title 11, United States Code, is amended by striking subsection (f) and inserting the following:

''(f) Notwithstanding subsection (b), in a small business case—

''(1) 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;

''(2) the court may determine that the plan itself provides adequate information and that a separate disclosure statement is not necessary;

''(3) the court may approve a disclosure statement submitted on standard forms approved by the court or adopted under section 2075 of title 28; and

''(4)(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 later 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. 422. DEFINITIONS; EFFECT OF DISCHARGE.

(a) DEFINITIONS.—Section 101 of title 11, United States Code, *as amended by section 402 of this Act*, 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;

''(51D) 'small business debtor'—

''(A) subject to subparagraph (B), means a person (including any affiliate of such person that is also a debtor 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) for a case in which the United States trustee has appointed under section 1102(a)(1) a committee of unsecured creditors that the court has determined is sufficiently active and representative to provide effective oversight of the debtor; and

''(B) does not include any member of a group of affiliated debtors that has aggregate noncontingent liquidated secured and unsecured debts in an amount greater than $4,000,000 (excluding debt owed to 1 or more affiliates or insiders);''.

[(b) EFFECT OF DISCHARGE.—Section 524 of title 11, United States Code, as amended by section 204 of this Act, is amended by adding at the end the following:

[''(j)(1) An individual who is injured by the willful failure of a creditor to substantially comply with the requirements specified in

subsections (c) and (d), or by any willful violation of the injunction operating 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.''.

[(c)] *(b)* CONFORMING AMENDMENT.—Section 1102(a)(3) of title 11, United States Code, is amended by inserting ''debtor'' after ''small business''.

SEC. 423. STANDARD FORM DISCLOSURE STATEMENT AND PLAN.

Within a reasonable period of time after the date of the enactment of this Act, the Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States shall 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. 424. UNIFORM NATIONAL REPORTING REQUIREMENTS.

(a) REPORTING REQUIRED.—

(1) IN GENERAL.—Chapter 3 of title 11, United States Code, is amended by inserting after section 307 the following:

''§ 308. Debtor reporting requirements

''(1) For purposes of this section, the term 'profitability' means, with respect to a debtor, the amount of money that the debtor has earned or lost during current and recent fiscal periods.

''(2) A small business debtor shall file periodic financial and other reports containing information including—

''(A) the debtor's profitability;

''(B) reasonable approximations of the debtor's projected cash receipts and cash disbursements over a reasonable period;

''(C) comparisons of actual cash receipts and disbursements with projections in prior reports;

''(D)(i) whether the debtor is—

''(I) in compliance in all material respects with postpetition requirements imposed by this title and the Federal Rules of Bankruptcy Procedure; and

''(II) timely filing tax returns and paying taxes and other administrative claims when due; and

''(ii) if the debtor is not in compliance with the requirements referred to in clause (i)(I) or filing tax returns and making the payments referred to in clause (i)(II), what the failures are and how, at what cost, and when the debtor intends to remedy such failures; and

''(iii) 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) CLERICAL AMENDMENT.—The table of sections for 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 under section 2075 of 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. 425. 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 among—

(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 the small business debtor's financial condition and plan the small business debtor's future.

SEC. 426. DUTIES IN SMALL BUSINESS CASES.

(a) DUTIES IN CHAPTER 11 CASES.—Title 11, United States Code, is amended by inserting after section 1114 the following:

''§ 1115. Duties of trustee or debtor in possession in small business cases

''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 senior management personnel and counsel, meetings scheduled by the court or the United States trustee, including initial debtor interviews, scheduling conferences, and meetings of creditors convened under section 341 unless the court waives that requirement after notice and hearing, upon a finding of extraordinary and compelling circumstances;

''(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), maintain insurance customary and appropriate to the industry;

''(6)(A) timely file tax returns;

''(B) subject to section 363(c)(2), 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), 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, 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 that requirement after notice and hearing, upon a finding of extraordinary and compelling circumstances; and

''(7) allow the United States trustee, or a designated representative of the United States trustee, 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 for 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. 427. PLAN FILING AND CONFIRMATION DEADLINES.

Section 1121 of title 11, United States Code, is amended by striking subsection (e) and inserting the following:

''(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 that period is —

''(A) shortened on request of a party in interest made during the 90-day period;

''(B) extended as provided by this subsection, after notice and hearing; or

''(C) the court, for cause, orders otherwise;

''(2) the plan, and any necessary disclosure statement, shall be filed not later than 90 days after the date of the order for relief; and

''(3) the time periods specified in paragraphs (1) and (2), and the time fixed in section 1129(e), within which the plan shall be confirmed, may be extended only if—

''(A) the debtor, after providing notice to parties in interest (including the United States trustee), demonstrates by a preponderance of the evidence that it is more likely than not that the court will confirm a plan within a reasonable period of time;

''(B) a new deadline is imposed at the time the extension is granted; and

''(C) the order extending time is signed before the existing deadline has expired.''.

SEC. 428. 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 plan shall be confirmed not later than 150 days after the date of the order for relief, unless such 150-day period is extended as provided in section 1121(e)(3).''.

SEC. 429. PROHIBITION AGAINST EXTENSION OF TIME.

Section 105(d) of title 11, United States Code, is amended—

(1) in paragraph (1), by striking ''and'' at the end;

(2) in paragraph (2)*(B)(vi)*, by striking the period at the end and inserting ''; and''; and

(3) 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), except as provided in section 1121(e)(3).''.

SEC. 430. 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 (6) 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—

''(i) begin to investigate the debtor's viability;

''(ii) inquire about the debtor's business plan;

''(iii) explain the debtor's obligations to file monthly operating reports and other required reports;

''(iv) attempt to develop an agreed scheduling order; and

''(v) inform the debtor of other obligations;

''(B) if 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 any case 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 after making that finding to the court for relief.''.

SEC. 431. SCHEDULING CONFERENCES.

Section 105(d) of title 11, United States Code, as amended by section 429 of this Act, is amended—

(1) in the matter preceding paragraph (1), by striking '', may'';

(2) by striking paragraph (1) and inserting the following:

''(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. 432. SERIAL FILER PROVISIONS.

Section 362 of title 11, United States Code, is amended—

(1) in subsection (j), as redesignated by section 305(1) of this Act—

(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, the recovery under paragraph (1) against such entity shall be limited to actual damages.''; and

(2) by inserting after subsection (j)[, as added by section 419 of this Act,] the following:

''(k)(1) Except as provided in paragraph (2), the filing of a petition subsection (a) only in an involuntary case involving no collusion by the debtor with creditors and in which the debtor—

''(A) is a debtor in a small business case pending at the time the petition is filed;

''(B) was a debtor in a small business case that 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 small business case in which a 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 small business debtor described in subparagraph (A), (B), or (C).

''(2) Paragraph (1) does not apply to the filing of a petition if the debtor proves by a preponderance of the evidence that—

''(A) the filing of that petition resulted from circumstances beyond the control of the debtor not foreseeable at the time the case then pending was filed; and

''(B) it is more likely than not that the court will confirm a feasible plan, but not a liquidating plan, within a reasonable period of time.''.

SEC. 433. EXPANDED GROUNDS FOR DISMISSAL OR CONVERSION AND APPOINTMENT OF TRUSTEE.

(a) EXPANDED GROUNDS FOR DISMISSAL OR CONVERSION.—Section 1112 of title 11, United States Code, is amended by striking subsection (b) and inserting the following:

''(b)(1) Except as provided in paragraph (2), in subsection (c), and section 1104(a)(3), 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 or dismiss a case under this chapter, whichever is in the best interest of creditors and the estate, if the movant establishes cause.

''(2) The relief provided in paragraph (1) shall not be granted 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—

''(i) a period of time fixed under this title or by order of the court entered under section 1121(e)(3); or

''(ii) a reasonable period of time if no period of time has been fixed; and

''(B) if the reason is an act or omission of the debtor that—

''(i) there exists a reasonable justification for the act or omission; and

''(ii)(I) the act or omission will be cured within a reasonable period of time fixed by the court, but 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

''(II) compelling circumstances beyond the control of the debtor justify an extension.

''(3) 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.

''(4) 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 appropriate insurance;

''(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) or an examination ordered under Rule 2004 of the Federal Rules of Bankruptcy Procedure;

''(H) failure timely to provide information or attend meetings reasonably requested by the United States trustee;

''(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;

''(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.

''(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.—Section 1104(a) of title 11, United States Code, is amended—

(1) in paragraph (1), by striking ''or'' at the end;

(2) in paragraph (2), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(3) if grounds exist to convert or dismiss the case under section 1112, but the court determines that the appointment of a trustee is in the best interests of creditors and the estate.''.

SEC. 434. STUDY OF OPERATION OF TITLE 11, 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 of the United States, 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, 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. 435. 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 striking subparagraph (B) and inserting the following:

''(B) the debtor has commenced monthly payments that—

''(i) may, in the debtor's sole discretion, notwithstanding section 363(c)(2), 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); and

''(ii) 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 striking the last sentence; and [inserting the following:]

(3) by adding at the end the following:

''(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] *901(a)* of title 11, United States Code, is amended—

(1) by inserting ''555, 556,'' after ''553,''; and

(2) by inserting ''559, 560,'' after ''557,''.

TITLE VI—IMPROVED BANKRUPTCY STATISTICS AND DATA

SEC. 601. AUDIT PROCEDURES.

(a) AMENDMENTS.—Section 586 of title 28, United States Code, is amended—

(1) in subsection (a), by striking paragraph (6) and inserting the following:

''(6) make such reports as the Attorney General directs, including the results of audits performed under subsection (f); and''; and

(2) by adding at the end the following:

''(f)(1)(A) The Attorney General shall establish procedures 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.

''(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 if those variances occur by reason of higher income or higher expenses than the statistical norm of the [disctrict] *district* in which the schedules were filed; and

''(iv) include procedures for providing, not less frequently than annually, public information concerning the aggregate results of the audits referred to in this subparagraph, 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 may 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 under section 3057 of title 18; and

''(ii) if advisable, take appropriate action, including commencing an adversary proceeding to revoke the debtor's discharge under section 727(d) of title 11.''.

(b) AMENDMENTS TO SECTION 521 OF TITLE 11, UNITED STATES CODE.—Paragraphs (3) and (4) of section 521(a) of title 11, United States Code, as amended by section 315 of this Act, are each amended by inserting ''or an auditor appointed under section 586 of title 28'' after ''serving in the case'' each place that term appears.

(c) AMENDMENTS TO SECTION 727 OF TITLE 11, UNITED STATES CODE.—Section 727(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) the debtor has failed to explain satisfactorily—

''(A) a material misstatement in an audit performed under section 586(f) of title 28; or

''(B) a failure to make available for inspection all necessary accounts, papers, documents, financial records, files, and any other papers, things, or property belonging to the debtor that are requested for an audit conducted under section 586(f).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

SEC. 602. IMPROVED BANKRUPTCY STATISTICS.

(a) AMENDMENT.—Chapter 6 of title 28, United States Code, is amended by adding at the end the following:

''§ 159. Bankruptcy statistics

''(a) The clerk of each district court 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, 1999, 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 under section 2075 and filed by those debtors;

''(B) the total current monthly income, projected monthly net income, and average income, and average expenses of those debtors as reported on the schedules and statements that each such debtor files under sections 111, 521, and 1322 of title 11;

''(C) the aggregate amount of debt discharged in the reporting period, determined as the difference between the total amount of debt and obligations of a debtor reported on the schedules and the amount of such debt reported in categories which are predominantly nondischargeable;

''(D) the average period of time between the filing of the petition and the closing of the case;

''(E) for the reporting period—

''(i) the number of cases in which a reaffirmation was filed; and

''(ii)(I) the total number of reaffirmations filed;

''(II) of those cases in which a reaffirmation was filed, the number in which the debtor was not represented by an attorney; and

''(III) of the cases under each of subclauses (I) and (II), the number of cases in which the reaffirmation was approved by the court;

''(F) with respect to cases filed under chapter 13 of title 11, for the reporting period—

''(i)(I) the number of cases in which a final order was entered determining the value of property securing a claim in an amount less than the amount of the claim; and

''(II) the number of final orders determining the value of property securing a claim issued;

''(ii) the number of cases dismissed for failure to make payments under the plan; and

''(iii) the number of cases in which the debtor filed another case during the 6-year period preceding the date of 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 for 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. 603. UNIFORM RULES FOR THE COLLECTION OF BANKRUPTCY DATA.

(a) AMENDMENT.—Chapter 39 of title 28, United States Code, is amended by inserting after section 589a the following:

''§ 589b. Bankruptcy data

''(a) Within a reasonable period of time after the effective date of this section, the Attorney General of the United States shall 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) Each report 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 practicable access of the public, by—

''(1) physical inspection at 1 or more central filing locations; and

''(2) electronic access through the Internet or other appropriate media.

''(c)(1) The information required to be filed in the reports referred to in subsection (b) shall be information that is—

''(A) in the best interests of debtors and creditors, and in the public interest; and

''(B) reasonable and adequate information to evaluate the efficiency and practicality of the Federal bankruptcy system.

''(2) In issuing rules proposing the forms referred to in subsection (a), the Attorney General shall strike the best achievable practical balance between—

''(A) the reasonable needs of the public for information about the operational results of the Federal bankruptcy system; and

''(B) economy, simplicity, and lack of undue burden on persons with a duty to file reports.

''(d)(1) Final reports proposed for adoption by trustees under chapters 7, 12, and 13 of title 11 shall include with respect to a case under such title, by appropriate category—

''(A) information about the length of time the case was pending;

''(B) assets abandoned;

''(C) assets exempted;

''(D) receipts and disbursements of the estate;

''(E) expenses of administration;

''(F) claims asserted;

''(G) claims allowed; and

''(H) distributions to claimants and claims discharged without payment.

''(2) In cases under chapters 12 and 13 of title 11, final reports proposed for adoption by trustees shall include—

''(A) the date of confirmation of the plan;

''(B) each modification to the plan; and

''(C) defaults by the debtor in performance under the plan.

''(3) The information described in paragraphs (1) and (2) shall be in addition to such other matters as are required by law for a final report or as the Attorney General, in the discretion of the Attorney General, may propose for a final report.

''(e)(1) Periodic reports proposed for adoption by trustees or debtors in possession under chapter 11 of title 11 shall include—

''(A) information about the standard industry classification, published by the Department of Commerce, for the businesses conducted by the debtor;

''(B) the length of time the case has been pending;

''(C) the number of full-time employees—

''(i) as of the date of the order for relief; and

''(ii) at the end of each reporting period since the case was filed;

''(D) cash receipts, cash disbursements, and profitability of the debtor for the most recent period and cumulatively since the date of the order for relief;

''(E) 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;

''(F) 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, 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 that would not have been so incurred); and

''(G) 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.

''(2) The information described in paragraph (1) shall be in addition to such other matters as are required by law for a periodic report or as the Attorney General, in the discretion of the Attorney General, may propose for a periodic report.''.

(b) TECHNICAL AMENDMENT.—The table of sections for chapter 39 of title 28, United States Code, is amended by adding at the end the following:

''589b. Bankruptcy data.''.

SEC. 604. SENSE OF CONGRESS REGARDING AVAILABILITY OF BANKRUPTCY DATA.

It is the sense of Congress that—

(1) it should be the national policy of the United States 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, 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 VII—BANKRUPTCY TAX PROVISIONS

SEC. 701. 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), by inserting ''(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)'' after ''507(a)(1)''; 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), 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 under this section and subject to the requirements of subsection (e), the following may be paid from property of the estate which secures a tax lien, or the proceeds of such property:

''(1) Claims for wages, salaries, and commissions that are entitled to priority under section 507(a)(3).

''(2) Claims for contributions to an employee benefit plan entitled to priority under section 507(a)(4).''.

(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. 702. EFFECTIVE NOTICE TO GOVERNMENT.

(a) EFFECTIVE NOTICE TO GOVERNMENTAL UNITS.—Section 342 of title 11, United States Code, as amended by section 315(a) of this Act, is amended by adding at the end the following:

''(g)(1) 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, applicable rule, other provision of law, or order of the court, shall identify the department, agency, or instrumentality through which the debtor is indebted.

''(2) The debtor shall identify (with information such as a taxpayer identification number, loan, account or contract number, or real estate parcel number, if applicable), and describe the underlying basis for the claim of the governmental unit.

''(3) If the liability of the debtor 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 that individual, entity, organization, or name.

''(h) The clerk shall keep and update on a quarterly basis, in such form and manner as the Director of the Administrative Office of the United States Courts prescribes, a register in which a governmental unit may designate or redesignate a mailing address for service of notice in cases pending in the district. The clerk shall make such register available to debtors.''.

(b) ADOPTION OF RULES PROVIDING NOTICE.—

(1) IN GENERAL.—Within a reasonable period of time after the date of enactment of this Act, the Advisory Committee on Bankruptcy Rules of the Judicial Conference shall propose for adoption enhanced rules for providing notice to Federal, State, and local government units that have regulatory authority over the debtor or that may be creditors in the debtor's case.

(2) PERSONS NOTIFIED.—The rules proposed under paragraph (1) shall be reasonably calculated to ensure that notice will reach the representatives of the governmental unit (or subdivision thereof) who will be the appropriate persons authorized to act upon the notice.

(3) RULES REQUIRED.—At a minimum, the rules under paragraph (1) should require that the debtor—

(A) identify in the schedules and the notice, the subdivision, agency, or entity with respect to which such notice should be received;

(B) 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 in any case in which—

(i) the debtor may be a successor in interest; or

(ii) may not be the same entity as the entity that incurred the debt or obligation; and

(C) identify, in appropriate schedules, served together with the notice—

(i) the property with respect to which the claim or regulatory obligation may have arisen, if applicable;

(ii) the nature of such claim or regulatory obligation; and

(iii) 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 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—

''(1) timely notice was given in a manner reasonably calculated to satisfy the requirements of this section; and

''(2) either—

''(A) the notice was timely sent to the address provided in the register maintained by the clerk of the district in which the case was pending for such purposes; or

''(B) no 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. 703. NOTICE OF REQUEST FOR A DETERMINATION OF TAXES.

The second sentence of section 505(b) of title 11, United States Code, is amended by striking ''Unless'' and inserting ''If the request is made substantially in the manner designated by the governmental unit and unless''.

SEC. 704. RATE OF INTEREST ON TAX CLAIMS.

(a) IN GENERAL.—Subchapter I of 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 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 secured tax claims, unsecured ad valorem tax claims, other unsecured tax claims in which interest is required to be paid under section 726(a)(5), and administrative tax claims paid under section 503(b)(1), the rate shall be determined under applicable nonbankruptcy law.

''(2)(A) In the case of any tax claim other than a claim described in paragraph (1), the minimum rate of interest shall be a percentage equal to the sum of—

''(i) 3; plus

''(ii) the Federal short-term rate rounded to the nearest full percent, determined under section 1274(d) of the Internal Revenue Code of 1986.

''(B) In the case of any claim for Federal income taxes, the minimum rate of interest shall be subject to any adjustment that may be required under section 6621(d) of the Internal Revenue Code of 1986.

''(C) In the case of taxes paid under a confirmed plan or reorganization under this title, the minimum rate of interest shall be determined as of the calendar month in which the plan is confirmed.''.

(b) CLERICAL AMENDMENT.—The table of sections for 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. 705. TOLLING OF PRIORITY OF TAX CLAIM TIME PERIODS.

Section 507(a)(8)(A) of title 11, United States Code, [as redesignated by section 212 of this Act,] is amended—

(1) in clause (i), by inserting before the semicolon at the end, the following: '', plus any time during which the stay of proceedings was in effect in a prior case under this title, plus 6 months''; and

(2) by striking clause (ii) and inserting the following:

''(ii) assessed within 240 days before the date of the filing of the petition, exclusive of—

''(I) any time during which an offer in compromise with respect to that tax, was pending or in effect during that 240-day period, plus 30 days;

''(II) the lesser of—

''(aa) any time during which an installment agreement with respect to that tax was pending or in effect during that 240-day period, plus 30 days; or

''(bb) 1 year; and

''(III) any time during which a stay of proceedings against collections was in effect in a prior case under this title during that 240-day period; plus 6 months.''.

SEC. 706. PRIORITY PROPERTY TAXES INCURRED.

Section 507(a)(9)(B) of title 11, United States Code, [as redesignated by section 221 of this Act,] is amended by striking ''assessed'' and inserting ''incurred''.

SEC. 707. CHAPTER 13 DISCHARGE OF FRAUDULENT AND OTHER TAXES.

Section 1328(a)(2) of title 11, United States Code, as amended by section [228] *314* of this Act, is amended by inserting ''(1),'' after ''paragraph''.

SEC. 708. CHAPTER 11 DISCHARGE OF FRAUDULENT TAXES.

Section 1141(d) of title 11, United States Code, is amended by adding at the end the following:

''(5) Notwithstanding paragraph (1), the confirmation of a plan does not discharge a debtor that is a corporation from any debt for a tax or customs duty with respect to which the debtor—

''(A) made a fraudulent return; or

''(B) willfully attempted in any manner to evade or defeat that tax or duty.''.

SEC. 709. 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 inserting before the semicolon at the end the following: '', with respect to a tax liability for a taxable period ending before the order for relief under section 301, 302, or 303''.

(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. 710. 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), by striking ''deferred cash payments, over a period not exceeding six years after the date of assessment of such claim,'' and all that follows through the end of the subparagraph, and inserting ''regular installment payments—

''(i) of a total value, as of the effective date of the claim, equal to the allowed amount of such claim in cash, but in no case with a balloon payment; and

''(ii) beginning not later than the effective date of the plan and ending on the earlier of—

''(I) the date that is 5 years after the date of the filing of the petition; or

''(II) the last date payments are to be made under the plan to unsecured creditors; and''; and

(3) by adding at the end the following:

''(D) with respect to a secured claim which would otherwise meet the description on an unsecured claim of a governmental unit under section 507(a)(8), but for the secured status of that claim, the holder of that claim will receive on account of that claim, cash payments, in the same manner and over the same period, as prescribed in subparagraph (C).''.

SEC. 711. 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 in any case in which a purchaser is a purchaser described in section 6323 of the Internal Revenue Code of 1986, or in any other similar provision of State or local law;''.

SEC. 712. 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) A tax under subsection (a) shall be paid when due in the conduct of business unless—

''(1) the tax is a property tax secured by a lien against property that is abandoned within a reasonable period of time after the lien attaches, by the trustee of a bankruptcy estate, under 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 makes 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 the priority of that tax.''.

(b) PAYMENT OF AD VALOREM TAXES REQUIRED.—Section 503(b)(1)(B)(i) of title 11, United States Code, is amended by inserting ''whether secured or unsecured, including property taxes for which liability is in rem, in personam, or both,'' before ''except''.

(c) REQUEST FOR PAYMENT OF ADMINISTRATIVE EXPENSE TAXES ELIMINATED.—Section 503(b)(1) of title 11, United States Code, is amended—

(1) in subparagraph (B), by striking ''and'' at the end;

(2) in subparagraph (C), by adding ''and'' at the end; and

(3) by adding at the end the following:

''(D) notwithstanding the requirements of subsection (a), 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 with respect to the property'' before the period at the end.

SEC. 713. 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 the following: ''on or before the earlier of—

''(A) the date that is 10 days after the mailing to creditors of the summary of the trustee's final report; or

''(B) the date on which the trustee commences final distribution under this section;''.

SEC. 714. INCOME TAX RETURNS PREPARED BY TAX AUTHORITIES.

Section 523(a) of title 11, United States Code, is amended—

(1) in paragraph (1)(B)—

(A) by inserting ''or equivalent report or notice,'' after ''a return,'';

(B) in clause (i)—

(i) by inserting ''or given'' after ''filed''; and

(ii) by striking ''or'' at the end; and

(C) in clause (ii)—

(i) by inserting ''or given'' after ''filed''; and

(ii) by inserting '', report, or notice'' after ''return''; and

(2) by adding at the end the following flush sentences:

''For purposes of this subsection, the term 'return' means a return that satisfies the requirements of applicable nonbankruptcy law (including applicable filing requirements). Such term 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 a similar State or local law.''.

SEC. 715. DISCHARGE OF THE ESTATE'S LIABILITY FOR UNPAID TAXES.

The second sentence of section 505(b) of title 11, United States Code, as amended by section 703 of this Act, is amended by inserting ''the estate,'' after ''misrepresentation,''.

SEC. 716. 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 [212] *213 and 306* of this Act, 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:] *inserting after paragraph (7) the following:*

''(8) if the debtor has filed all applicable Federal, State, and local tax returns as required by section 1309.''.

(b) ADDITIONAL TIME PERMITTED FOR FILING TAX RETURNS.—

(1) IN GENERAL.—Chapter 13 of title 11, United States Code, as amended by section 309(c) of this Act, is amended by adding at the end the following:

''§ 1309. Filing of prepetition tax returns

''(a) Not later than the day before the day on which the first meeting of the creditors is convened under section 341(a), the debtor shall file with appropriate tax authorities all tax returns for all taxable periods ending during the 3-year period ending on the date of the filing of the petition.

''(b)(1) Subject to paragraph (2), 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), the trustee may continue that meeting for a reasonable period of time to allow the debtor an additional period of time to file any unfiled returns, but such additional period of time shall not extend beyond—

''(A) for any return that is past due as of the date of the filing of the petition, the date that is 120 days after the date of that first meeting; or

''(B) for any return that is not past due as of the date of the filing of the petition, the later of—

''(i) the date that is 120 days after the date of that first meeting; or

''(ii) the date on which the return is due under the last automatic extension of time for filing that return to which the debtor is entitled, and for which request has been timely made, according to applicable nonbankruptcy law.

''(2) Upon notice and hearing, and order entered before the tolling of any applicable filing period determined under this subsection, if the debtor demonstrates by clear and convincing evidence that the failure to file a return as required under this subsection is attributable to circumstances beyond the control of the debtor, the court may extend the filing period established by the trustee under this subsection for—

''(A) a period of not more than 30 days for returns described in paragraph (1); and

''(B) a period not to extend after the applicable extended due date for a return described in paragraph (2).

''(c) For purposes of this section, the term 'return' includes a return prepared pursuant to section 6020 (a) or (b) of the Internal Revenue Code of 1986, or a similar State or local law, or written stipulation to a judgment entered by a nonbankruptcy tribunal.''.

(2) CONFORMING AMENDMENT.—The table of sections for chapter 13 of title 11, United States Code, is amended by inserting after the item relating to section 1308 the following:

''1309. 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 a tax return under section 1309, on request of a party in interest or the United States trustee and after notice and a hearing, the court shall dismiss the case.''.

(d) TIMELY FILED CLAIMS.—Section 502(b)(9) of title 11, United States Code, is amended by inserting before the period at the end the following '', and except that in a case under chapter 13 [of this title], a claim of a governmental unit for a tax with respect to a return filed under section 1309 shall be timely if the claim is filed on or before the date that is 60 days after that return was filed in accordance with applicable requirements''.

(e) RULES FOR OBJECTIONS TO CLAIMS AND TO CONFIRMATION.—It is the sense of Congress that the Advisory Committee on Bankruptcy Rules of the Judicial Conference should, within a reasonable period of time after the date of 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 the date that is 60 days after the date on which the debtor files all tax returns required under sections 1309 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 with respect to which a return is required to be filed under section 1309 of title 11, United States Code, shall be filed until such return has been filed as required.

SEC. 717. STANDARDS FOR TAX DISCLOSURE.

Section 1125(a)(1) of title 11, United States Code, is amended—

(1) by inserting ''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,'' after ''records''; and

(2) by striking ''a hypothetical reasonable investor typical of holders of claims or interests'' and inserting ''such a hypothetical investor''.

SEC. 718. SETOFF OF TAX REFUNDS.

Section 362(b) of title 11, United States Code, as amended by section 402 of this Act, is amended—

(1) in paragraph (25), by striking ''or'' at the end;

(2) in paragraph (26), by striking the period at the end and inserting ''; or''; and

(3) by inserting after paragraph (26) the following:

''(27) under subsection (a), of the setoff of an income tax refund, by a governmental unit, with respect to a taxable period that ended before the order for relief against an income tax liability for a taxable period that also ended before the order for relief, unless—

''(A) before that setoff, an action to determine the amount or legality of that tax liability under section 505(a) was commenced; or

''(B) in any case in which 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, in which case the governmental unit may hold the refund pending the resolution of the action.''.

TITLE VIII—ANCILLARY AND OTHER CROSS-BORDER CASES

SEC. 801. 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 if—

''(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 of 1970 (84 Stat. 1636 et seq.), 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 under other provisions of this chapter, the court, upon recognition of a foreign proceeding, 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 is entitled to commence a case under section 1504 by filing a petition for recognition under section 1515, and upon recognition, to apply directly to other Federal and State courts for appropriate relief in those courts.

''(b) Upon recognition, and subject to section 1510, a foreign representative shall have the capacity to sue and be sued, and shall be subject to the laws of the United States of general applicability.

''(c) Subject to section 1510, a foreign representative is subject to laws of general application.

''(d) Recognition under this chapter is prerequisite to the granting of comity or cooperation to a foreign representative in any Federal or State court in the United States. Any request for comity or cooperation by a foreign representative in any court shall be accompanied by a sworn statement setting forth whether recognition under section 1515 has been sought and the status of any such petition.

''(e) Upon denial of recognition under this chapter, the court may issue appropriate orders necessary to prevent an attempt to obtain comity or cooperation from courts in the United States without such recognition.

''§ 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 a statement describing the petition for recognition and its current status. The court where the petition for recognition has been filed must be advised of the foreign representative's intent to commence a case under subsection (a) 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 law in effect on the date of enactment of this chapter as to the priority of claims under section 507 or 726, except that the claim of a foreign creditor under section 507 or 726 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 law in effect on the date of enactment of this chapter as to the allowability of foreign revenue claims or other foreign public law claims in a proceeding under this title.

''(B) Allowance and priority as to a foreign tax claim or other foreign public law claim shall be governed by any applicable tax treaty of the United States, under the conditions and circumstances specified therein.

''§ 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 pursuant to this title and the orders of the court.

''(d) Any rule of procedure or order of the court as to notice or the filing of a claim shall provide such additional time to creditors with foreign addresses as is reasonable under the circumstances.

''SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING AND RELIEF

''§ 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 shall constitute recognition under this chapter.

''(d) The provisions of this subchapter do not prevent modification or termination of recognition if it is shown that the grounds for granting it were fully or partially lacking or have ceased to exist, but in considering such action the court shall give due weight to possible prejudice to parties that have relied upon the granting of recognition. The case under this chapter may be closed in the manner prescribed for a case under section 350.

''§ 1518. Subsequent information

''After [the] the petition for recognition of the foreign proceeding is filed, 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) Beginning on the date on which a petition for recognition is filed and ending on the date on which the petition is decided upon, the court may, at the request of the foreign representative, where relief is urgently needed to protect the assets of the debtor or the interests of the creditors, grant relief of a provisional nature, including—

''(1) staying execution against the debtor's assets;

''(2) entrusting the administration or realization of all or part of the debtor's assets located in the United States to the foreign representative or another person 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) section 362 applies with respect to the debtor and that property of the debtor that is within the territorial jurisdiction of the United States;

''(2) a transfer, an encumbrance, or any other disposition of an interest of the debtor in property within the territorial jurisdiction of the United States is restrained as and to the extent that is provided for property of an estate under sections 363, 549, and 552; and

''(3) unless the court orders otherwise, the foreign representative may operate the debtor's business and may exercise the powers of a trustee under section 549, subject to sections 363 and 552.

''(b) The scope, and the modification or termination, of the stay and restraints referred to in subsection (a) are subject to the exceptions and limitations provided in subsections (b), (c), and (d) of section 362, subsections (b) and (c) of section 363, and sections 552, 555 through 557, 559, and 560.

''(c) Subsection (a) does not affect the right to commence individual actions or proceedings in a foreign country to the extent necessary to preserve a claim against the debtor.

''(d) Subsection (a) 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 individual actions or individual proceedings concerning the debtor's assets, rights, obligations or liabilities to the extent the actions or proceedings have not been stayed under section 1520(a);

''(2) staying execution against the debtor's assets to the extent the execution 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 that 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, if 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)(2), to conditions that the court considers to be 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 the relief referred to in subsection (b).

''(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) In any case in which 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), 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

''In any case in which 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) If 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) If 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. 802. 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 1513 and 1514 apply in all cases under this title; and

''(2) section 1505 applies to trustees and to any other entity (including an examiner) authorized by the court under chapter 7, 11, or 12, to debtors in possession under chapter 11 or 12, and to debtors under chapter 9 who are authorized to act under section 1505.''.

(b) DEFINITIONS.—Paragraphs (23) and (24) of section 101 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, pursuant to a law relating to insolvency in which proceeding the assets and affairs of the debtor are subject to control or supervision by a foreign court, for the purpose of reorganization or liquidation;

''(24) 'foreign representative' means a person or body, including 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)(1) 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 inserting ''15,'' after ''chapter''.

SEC. 803. 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—

''(i) a United States claimant; or

''(ii) 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.''.

TITLE IX—FINANCIAL CONTRACT PROVISIONS

SEC. 901. 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) a combination of agreements or transactions referred to in subparagraphs (A) and (C);

''(C) an option to enter into an agreement or transaction referred to in subparagraph (A) or (B);

''(D) a master netting agreement that provides for an agreement or transaction referred to in subparagraph (A), (B), or (C), together with all supplements to such master netting agreement, without regard to whether such master netting agreement provides for an agreement or transaction that is not a forward contract under this paragraph, except that such master netting agreement shall be considered to be a forward contract under this paragraph only with respect to each agreement or transaction under such master netting agreement that is referred to in subparagraph (A), (B) or (C); or

''(E) a security agreement or arrangement, or other credit enhancement, directly pertaining to a contract, option, 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) by striking paragraph (47) and inserting the following:

''(47) 'repurchase agreement' and 'reverse repurchase agreement'—

''(A) mean—

''(i) an agreement, including related terms, which provides for the transfer of—

''(I) a certificate of deposit, mortgage related security (as defined in section 3 of the Securities Exchange Act of 1934), mortgage loan, interest in a mortgage related security or mortgage loan, eligible bankers' acceptance, or qualified foreign government security (defined for purposes of this paragraph to mean 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); or

''(II) a security that is a direct obligation of, or that is fully guaranteed by, the United States or an agency of the United States against the transfer of funds by the transferee of such certificate of deposit, eligible bankers' acceptance, security, loan, or interest;

with a simultaneous agreement by such transferee to transfer to the transferor thereof a certificate of deposit, eligible bankers' acceptance, security, loan, or interest of the kind described in subclause (I) or (II), at a date certain that is not later than 1 year after the date of the transferor's transfer or on demand, against the transfer of funds;

''(ii) a 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); or

''(iv) a master netting agreement that provides for an agreement or transaction referred to in clause (i), (ii), or (iii), together with all supplements to such master netting agreement, without regard to whether such master netting agreement provides for an agreement or transaction that is not a repurchase agreement under this subparagraph, except that such master netting agreement shall be considered to be a repurchase agreement under this subparagraph only with respect to each agreement or transaction under such master netting agreement that is referred to in clause (i), (ii), or (iii); or

''(v) a security agreement or arrangement, or other credit enhancement, directly pertaining to a contract 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) do not include a repurchase obligation under a participation in a commercial mortgage loan;'';

(C) 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

(D) by striking paragraph (53B) and inserting the following:

''(53B) 'swap agreement'—

''(A) means—

''(i) an agreement, including the terms and conditions incorporated by reference in such agreement, that is—

''(I) an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap;

''(II) a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement;

''(III) a currency swap, option, future, or forward agreement;

''(IV) an equity index or an equity swap, option, future, or forward agreement;

''(V) a debt index or a debt swap, option, future, or forward agreement;

''(VI) a credit spread or a credit swap, option, future, or forward agreement; or

''(VII) a commodity index or a commodity swap, option, future, or forward agreement;

''(ii) an agreement or transaction that is similar to an agreement or transaction referred to in clause (i) that—

''(I) is currently, 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 a rate, currency, commodity, equity security, or other equity instrument, on a debt security or other debt instrument, or on an economic index or measure of economic risk or value;

''(iii) a combination of agreements or transactions referred to in clauses (i) and (ii);

''(iv) an option to enter into an agreement or transaction referred to in this subparagraph;

''(v) a master netting agreement that provides for an agreement or transaction referred to in clause (i), (ii), (iii), or (iv), together with all supplements to such master netting agreement and without regard to whether such master netting agreement contains an agreement or transaction described in any such clause, but only with respect to each agreement or transaction referred to in any such clause that is under such master netting agreement; except that

''(B) the definition under subparagraph (A) 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) in section 741, by striking paragraph (7) and inserting the following:

''(7) 'securities contract'—

''(A) means—

''(i) a contract for the purchase, sale, or loan of a security, a mortgage loan or an interest in a mortgage loan, a group or index of securities, 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 of the foregoing;

''(ii) an option entered into on a national securities exchange relating to foreign currencies;

''(iii) the guarantee by or to a securities clearing agency of a settlement of cash, securities, 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 of the foregoing;

''(iv) a margin loan;

''(v) any other agreement or transaction that is similar to an agreement or transaction referred to in this subparagraph;

''(vi) a combination of the agreements or transactions referred to in this subparagraph;

''(vii) an option to enter into an agreement or transaction referred to in this subparagraph;

''(viii) a master netting 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 such master netting agreement, without regard to whether such master netting agreement provides for an agreement or transaction that is not a securities contract under this subparagraph, except that such master netting agreement shall be considered to be a securities contract under this subparagraph only with respect to each agreement or transaction under such master netting agreement that is referred to in clause (i), (ii), (iii), (iv), (v), (vi), or (vii); or

''(ix) a security agreement or arrangement, or other credit enhancement, directly pertaining to a contract referred to in this subparagraph, 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 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) in subparagraph (E), by striking the period at the end and inserting ''; and''; and

[(C)] *(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) a combination of the agreements or transactions referred to in this paragraph;

''(H) an option to enter into an agreement or transaction referred to in this paragraph;

''(I) a master netting 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 such master netting agreement provides for an agreement or transaction that is not a commodity contract under this paragraph, except that such master netting agreement shall be considered to be a commodity contract under this paragraph only with respect to each agreement or transaction under such master netting 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, directly pertaining to a contract 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, *as amended by section 802(b) of this Act,* is amended—

(1) by striking paragraph (22) and inserting the following:

''(22) 'financial institution' means—

''(A)(i) a Federal reserve bank, or an entity that is a commercial or savings bank, industrial savings bank, savings and loan association, trust company, or receiver or conservator for such entity; and

''(ii) if such Federal reserve bank, receiver, or conservator or entity is acting as agent or custodian for a customer in connection with a securities contract, as defined in section 741, 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 is a party to a securities contract, commodity contract or forward contract, or on the date of the filing of the petition, has a commodity contract (as defined in section 761) with the debtor or any other entity (other than an affiliate) of a total gross dollar value of not less than $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 not less than $100,000,000 (aggregated across counterparties) in any 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 striking paragraph (26) and inserting the following:

''(26) 'forward contract merchant' means a Federal reserve bank, or an entity, the business of which 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, or any similar good, article, service, right, or interest that 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, *as amended by subsection (b) of this section,* is amended by inserting after paragraph (38) the following new paragraphs:

''(38A) the term 'master netting agreement'—

''(A) 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; except that

''(B) if a master netting agreement contains provisions relating to agreements or transactions that are not contracts described in paragraphs (1) through (5) of section 561(a), the master netting agreement shall be deemed to be a master netting agreement only with respect to those agreements or transactions that are described in any 1 or more of the paragraphs (1) through (5) of section 561(a);

''(38B) the term 'master netting agreement participant' means an entity that, at any time before the filing of the petition, is a party to an outstanding master netting agreement with the debtor;''.

(d) SWAP AGREEMENTS, SECURITIES CONTRACTS, COMMODITY CONTRACTS, FORWARD CONTRACTS, REPURCHASE AGREEMENTS, AND MASTER NETTING AGREEMENTS UNDER THE AUTOMATIC STAY.—

(1) IN GENERAL.—Section 362(b) of title 11, United States Code, as amended by section 718 of this Act, 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 striking paragraph (17) and inserting the following:

''(17) under subsection (a), of the setoff by a swap participant of a mutual debt and claim under or in connection with a swap agreement that constitutes the setoff of a claim against the debtor for a payment or transfer due from the debtor under or in connection with a swap agreement against a payment due to the debtor from the swap participant under or in connection with a 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 guarantee, secure, or settle a swap agreement;'';

(D) in paragraph (26), by striking ''or'' at the end;

(E) in paragraph (27), by striking the period at the end and inserting ''; or''; and

(F) by inserting after paragraph (27) the following:

''(28) 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 section 432(2) of this Act, is amended by adding at the end the following:

''(1) LIMITATION.—The exercise of rights not subject to the stay arising under subsection (a) pursuant to paragraph (6), (7), or (17) of subsection (b) shall not be stayed by an order of a court or administrative agency in any proceeding under this title.''.

(e) LIMITATION OF AVOIDANCE POWERS UNDER MASTER NETTING AGREEMENT.—Section 546 of title 11, United States Code, is amended—

(1) in subsection (g) (as added by section 103 of Public Law 101–311 (104 Stat. 267 et seq.))—

(A) by striking ''under a swap agreement''; and

(B) by striking ''in connection with a swap agreement'' and inserting ''under or in connection with any swap agreement''; and

(2) by inserting before subsection (i) (as redesignated by section 407 of this Act) the following new subsection:

''(h) Notwithstanding sections 544, 545, 547, 548(a)(2)(B), and 548(b), 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, and except to the extent that the trustee could otherwise avoid such a transfer made under an individual contract covered by such master netting agreement (except under section 548(a)(1)(A)).''.

(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 at the end 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 that 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 striking the section heading and inserting the following:

''§ 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 striking the section heading and inserting the following:

''§ 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 striking the section heading and inserting the following:

''§ 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 striking the section heading and inserting following:

''§ 560. Contractual right to liquidate, terminate, or accelerate a swap agreement'';

(2) in the first sentence, by striking ''termination of a swap agreement'' and inserting ''liquidation, termination, or acceleration of a swap agreement''; and

(3) by striking ''in connection with any swap agreement'' and inserting ''in connection with the termination, liquidation, or acceleration of a swap agreement''.

(k) LIQUIDATION, TERMINATION, ACCELERATION, OR OFFSET UNDER A MASTER NETTING AGREEMENT AND ACROSS CONTRACTS.—Title 11, United States Code, is amended by inserting after section 560 the following [new section]:

''§ 561. Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts

''(a) 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)(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 that the party has [no] positive net equity in the commodity accounts at the debtor, as calculated under *such* 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 referred to in subsection (a).

''(c) As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a national securities exchange, a national securities association, or a securities clearing agency, a right set forth in a bylaw of a clearing organization or contract market or in a resolution of the governing board thereof, and a right, whether or not evidenced in writing, arising under common law, under law merchant, or by reason of normal business practice.''.

(l) ANCILLARY PROCEEDINGS.—Section 304 of title 11, United States Code, is amended by adding at the end the following:

''(d) Any provisions of this title relating to securities contracts, commodity contracts, forward contracts, repurchase agreements, swap agreements, or master netting agreements shall apply in a case ancillary to a foreign proceeding under this section or any other section of this title, so that enforcement of contractual provisions of such contracts and agreements in accordance with their terms—

''(1) shall not be stayed or otherwise limited by—

''(A) operation of any provision of this title; or

''(B) order of a court in any case under this title;

''(2) shall limit avoidance powers to the same extent as in a proceeding under chapter 7 or 11; and

''(3) shall not 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)]*(28)*, 555, 556, 559, or 560)'' before the period; and

(2) in subsection (b)(1), by striking ''362(b)(14),'' and inserting ''362(b)(17), [362(b)(19)] *362(b)(28)*, 555, 556, 559, 560,''.

(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 '', 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], *United States Code*, is amended—

(1) in the table of sections for chapter 5—

(A) by striking the items relating to sections 555 and 556 and inserting the following:

''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.'';

(B) by striking the items relating to sections 559 and 560 and inserting the following:

''559. Contractual right to liquidate, terminate, or accelerate a repurchase agreement.

''560. Contractual right to liquidate, terminate, or accelerate a swap agreement.'';

and

(C) by adding 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.'';

and

(2) in the table of sections for 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. 902. DAMAGE MEASURE.

(a) IN GENERAL.—Title 11, United States Code, 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), forward contract, commodity contract (as defined in section 761) repurchase agreement, or master netting agreement under section 365(a), 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 for 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 inserting ''(1)'' after ''(g)''; and

(2) by adding at the end the following:

''(2) A claim for damages calculated in accordance with section 561 shall be allowed under subsection (a), (b), or (c) of this section, or disallowed under subsection (d) or (e) of this section, as if such claim had arisen before the date of the filing of the petition.''.

SEC. 903. ASSET-BACKED SECURITIZATIONS.

Section 541 of title 11, United States Code, is amended—

(1) in subsection (b), by striking ''or'' at the end of paragraph (4);

(2) by redesignating paragraph (5) of subsection (b) as paragraph (6);

(3) by inserting after paragraph (4) of subsection (b) the following new paragraph:

''(5) any eligible asset (or proceeds thereof), to the extent that such eligible asset was transferred by the debtor, before the date of commencement of the case, to an eligible entity in connection with an asset-backed securitization, except to the extent that such asset (or proceeds or value thereof) may be recovered by the trustee under section 550 by virtue of avoidance under section 548(a); or''; and

(4) by adding at the end the following [new subsection]:

''(e) 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 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.

''(5) The term 'transferred' means the debtor, under 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. 904. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—This title shall take effect on the date of enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this title shall apply 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 X—PROTECTION OF FAMILY FARMERS

SEC. 1001. REENACTMENT OF CHAPTER 12.

(a) REENACTMENT.—

(1) IN GENERAL.—Chapter 12 of title 11, United States Code, as reenacted by section 149 of division C of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277), and amended by this Act, is reenacted.

(2) EFFECTIVE DATE.—Subsection (a) shall take effect on [April 1, 1999] *October 1, 1999*.

(b) CONFORMING AMENDMENT.—Section 302 of the Bankruptcy, Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note) is amended by striking subsection (f).

SEC. 1002. DEBT LIMIT INCREASE.

Section 104(b) of title 11, United States Code, is amended by adding at the end the following:

''(4) The dollar amount in section 101(18) shall be adjusted at the same times and in the same manner as the dollar amounts in paragraph (1) of this subsection, beginning with the adjustment to be made on April 1, 2001.''.

SEC. 1003. ELIMINATION OF REQUIREMENT THAT FAMILY FARMER AND SPOUSE RECEIVE OVER 50 PERCENT OF INCOME FROM FARMING OPERATION IN YEAR PRIOR TO BANKRUPTCY.

Section 101(18)(A) of title 11, United States Code, is amended by striking ''the taxable year preceding the taxable year'' and inserting ''at least 1 of the 3 calendar years preceding the year''.

SEC. 1004. CERTAIN CLAIMS OWED TO GOVERNMENTAL UNITS.

(a) CONTENTS OF 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''.

(b) 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''.

[TITLE XI—HEALTH CARE AND EMPLOYEE BENEFITS

[SEC. 1101. DEFINITIONS.

[(a) HEALTH CARE BUSINESS DEFINED.—Section 101 of title 11, United States Code, as amended by section 1004(a) of this Act, is amended—

[(1) by redesignating paragraph (27A) as paragraph (27C); and

[(2) inserting after paragraph (27) the following:

[''(27A) 'health care business'—

[''(A) means any public or private entity (without regard to whether that entity is organized for profit or not for profit) that is primarily engaged in offering to the general public facilities and services for—

[''(i) the diagnosis or treatment of injury, deformity, or disease; and

[''(ii) surgical, drug treatment, psychiatric or obstetric care; and

[''(B) includes—

[''(i) any—

[''(I) general or specialized hospital;

[''(II) ancillary ambulatory, emergency, or surgical treatment facility;

[''(III) hospice;

[''(IV) health maintenance organization;

[''(V) home health agency; and

[''(VI) other health care institution that is similar to an entity referred to in subclause (I), (II), (III), (IV), or (V); and

[''(ii) any long-term care facility, including any—

[''(I) skilled nursing facility;

[''(II) intermediate care facility;

[''(III) assisted living facility;

[''(IV) home for the aged;

[''(V) domicilary care facility; and

[''(VI) health care institution that is related to a facility referred to in subclause (I), (II), (III), (IV), or (V), if that institution is primarily engaged in offering room, board,

laundry, or personal assistance with activities of daily living and incidentals to activities of daily living;''.

[(b) HEALTH MAINTENANCE ORGANIZATION DEFINED.—Section 101 of title 11, United States Code, as amended by subsection (a), is amended by inserting after paragraph (27A) the following:

[''(27B) 'health maintenance organization' means any person that undertakes to provide or arrange for basic health care services through an organized system that—

[''(A)(i) combines the delivery and financing of health care to enrollees; and

[''(ii)(I) provides—

[''(aa) physician services directly through physicians or 1 or more groups of physicians; and

[''(bb) basic health care services directly or under a contractual arrangement; and

[''(II) if reasonable and appropriate, provides physician services and basic health care services through arrangements other than the arrangements referred to in clause (i); and

[''(B) includes any organization described in subparagraph (A) that provides, or arranges for, health care services on a prepayment or other financial basis;''.

[(c) PATIENT.—Section 101 of title 11, United States Code, as amended by subsection (b), is amended by inserting after paragraph (40) the following:

[''(40A) 'patient' means any person who obtains or receives services from a health care business;''.

[(d) PATIENT RECORDS.—Section 101 of title 11, United States Code, as amended by subsection (c), is amended by inserting after paragraph (40A) the following:

[''(40B) 'patient records' means any written document relating to a patient or record recorded in a magnetic, optical, or other form of electronic medium;''.

[SEC. 1102. DISPOSAL OF PATIENT RECORDS.

[(a) IN GENERAL.—Subchapter III of chapter 3 of title 11, United States Code, is amended by adding at the end the following:

["§ 351. Disposal of patient records

[''If a health care business commences a case under chapter 7, 9, or 11, and the trustee does not have a sufficient amount of funds to pay for the storage of patient records in the manner required under applicable Federal or State law, the following requirements shall apply:

[''(1) The trustee shall mail, by certified mail, a written request to each appropriate Federal or State agency to request permission from that agency to deposit the patient records with that agency.

[''(2) If no appropriate Federal or State agency agrees to permit the deposit of patient records referred to in paragraph (1) by the date that is 60 days after the trustee mails a written request under that paragraph, the trustee shall—

[''(A) publish notice, in 1 or more appropriate newspapers, that if those patient records are not claimed by the patient or an insurance provider (if applicable law permits the insurance provider to make that claim) by the date that is 60 days after the date of that notification, the trustee will destroy the patient records; and

[''(B) during the 60-day period described in subparagraph (A), the trustee shall attempt to notify directly each patient that is the subject of the patient records concerning the patient records by mailing to the last known address of that patient an appropriate notice regarding the claiming or disposing of patient records.

[''(3) If, after providing the notification under paragraph (2), patient records are not claimed during the 60-day period described in paragraph (2)(A) or in any case in which a notice is mailed under paragraph (2)(B), during the 90-day period beginning on the date on which the notice is mailed, by a patient or insurance provider in accordance with that paragraph, the trustee shall destroy those records by—

[''(A) if the records are written, shredding or burning the records; or

[''(B) if the records are magnetic, optical, or other electronic records, by otherwise destroying those records so that those records cannot be retrieved.''.

[(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 3 of title 11, United States Code, is amended by inserting after the item relating to section 350 the following:

[''351. Disposal of patient records.''.

[SEC. 1103. ADMINISTRATIVE EXPENSE CLAIM FOR COSTS OF CLOSING A HEALTH CARE BUSINESS.

[Section 503(b) 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 at the end and inserting ''; and''; and

[(3) by adding at the end the following:

[''(7) the actual, necessary costs and expenses of closing a health care business incurred by a trustee, including any cost or expense incurred—

[''(A) in disposing of patient records in accordance with section 351; or

[''(B) in connection with transferring patients from the health care business that is in the process of being closed to another health care business.''.

[SEC. 1104. APPOINTMENT OF OMBUDSMAN TO ACT AS PATIENT ADVOCATE.

[(a) IN GENERAL.—

[(1) APPOINTMENT OF OMBUDSMAN.—Subchapter II of chapter 3 of title 11, United States Code, is amended by inserting after section 331 the following:

["§ 332. Appointment of ombudsman

[''(a) Not later than 30 days after a case is commenced by a health care business under chapter 7, 9, or 11, the court shall appoint an ombudsman to represent the interests of the patients of the health care business.

[''(b) An ombudsman appointed under subsection (a) shall—

[''(1) monitor the quality of patient care, to the extent necessary under the circumstances, including reviewing records and interviewing patients and physicians;

[''(2) not later than 60 days after the date of appointment, and not less frequently than every 60 days thereafter, report to the court, at a hearing or in writing, regarding the quality of patient care at the health care business involved; and

[''(3) if the ombudsman determines that the quality of patient care is declining significantly or is otherwise being materially compromised, notify the court by motion or written report, with notice to appropriate parties in interest, immediately upon making that determination.

[''(c) An ombudsman shall maintain any information obtained by the ombudsman under this section that relates to patients (including information relating to patient records) as confidential information.''.

[(2) CLERICAL AMENDMENT.—The chapter analysis for chapter 3 of title 11, United States Code, is amended by inserting after the item relating to section 331 the following:

[''332. Appointment of ombudsman.''.

[(b) COMPENSATION OF OMBUDSMAN.—Section 330(a)(1) of title 11, United States Code, is amended—

[(1) in the matter proceeding subparagraph (A), by inserting ''an ombudsman appointed under section 331, or'' before ''a professional person''; and

[(2) in subparagraph (A), by inserting ''ombudsman,'' before ''professional person''.

[SEC. 1105. DEBTOR IN POSSESSION; DUTY OF TRUSTEE TO TRANSFER PATIENTS.

[(a) IN GENERAL.—Section 704(a) of title 11, United States Code, as amended by section 219 of this Act, is amended—

[(1) in paragraph (9), by striking ''and'' at the end;

[(2) in paragraph (10), by striking the period and inserting ''; and''; and

[(3) by adding at the end the following:

[''(11) use all reasonable and best efforts to transfer patients from a health care business that is in the process of being closed to an appropriate health care business that—

[''(A) is in the vicinity of the health care business that is closing;

[''(B) provides the patient with services that are substantially similar to those provided by the health care business that is in the process of being closed; and

[''(C) maintains a reasonable quality of care.''.

[(b) CONFORMING AMENDMENT.—Section 1106(a)(1) of title 11, United States Code, is amended by striking ''and 704(9)'' and inserting ''704(9), and 704(10)''.]

TITLE [XII] *XI*—TECHNICAL AMENDMENTS

SEC. [1201.] *1101.* DEFINITIONS.

Section 101 of title 11, United States Code, as amended by section [1101] *1003* of this Act, 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 striking paragraph (54) and inserting the following:

''(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. [1202.] *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. [1203.] *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. [1204.] *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 541(b)(4), by adding ''or'' at the end; and

(3)] *(2)* in section 552(b)(1), by striking ''product'' each place it appears and inserting ''products''.

SEC. [1205.] *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. [1206.] *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. [1207.] *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. [1208.] *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. [1209.] *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. 1210. PRIORITIES.

[Section 507(a) of title 11, United States Code, as amended by sections 211 and 229 of this Act, is amended—

[(1) in paragraph (4)(B), by striking the semicolon at the end and inserting a period; and

[(2) in paragraph (8), by inserting ''unsecured'' after ''allowed''.

[SEC. 1211. EXEMPTIONS.

[Section 522(g)(2) of title 11, United States Code, as amended by section 311 of this Act, is amended by striking ''subsection (f)(2)'' and inserting ''subsection (f)(1)(B)''.]

SEC. [1212.] *1110.* EXCEPTIONS TO DISCHARGE.

Section 523 of title 11, United States Code, as amended by section [229] *714* of this Act, is amended—

(1) 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] *such paragraph* after paragraph (14) of subsection (a);

[(2) in subsection (a)—

[(A) in paragraph (3), by striking ''or (6)'' each place it appears and inserting ''(6), or (15)'';

[(B) in paragraph (9), by striking ''motor vehicle or vessel'' and inserting ''motor vehicle, vessel, or aircraft''; and

[(C) in paragraph (15), as so redesignated by paragraph (1) of this subsection, by inserting ''to a spouse, former spouse, or child of the debtor and'' after ''(15)''; and]

(2) in subsection (a)(9), by striking ''motor vehicle or vessel'' and inserting ''motor vehicle, vessel, or aircraft''; and

(3) in subsection (e), by striking ''a insured'' and inserting ''an insured''.

SEC. [1213.] *1111.* 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), or that''.

SEC. [1214.] *1112.* 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. [1215.] *1113.* 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. [1216.] *1114.* PREFERENCES.

(a) IN GENERAL.—Section 547 of title 11, United States Code, *as amended by section 201(b) of this Act*, 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 security interest given between 90 days and 1 year before the date of the filing of the petition, by the debtor to an entity that is not an insider for the benefit of a creditor that is an insider, such security interest shall be considered to be avoided under this section only with respect to the creditor that is an insider.''.

(b) APPLICABILITY.—The amendments made by this section shall apply to any case that pending or commenced on or after the date of enactment of this Act.

SEC. [1217.] *1115.* 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. [1218.] *1116.* DISPOSITION OF PROPERTY OF THE ESTATE.

Section 726(b) of title 11, United States Code, is amended by striking ''1009,''.

SEC. [1219.] *1117.* GENERAL PROVISIONS.

Section 901(a) of title 11, United States Code, as amended by section [901(k)] *502* of this Act, is amended by inserting ''1123(d),'' after ''1123(b),''.

SEC. [1220.] *1118.* 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. [1221.] *1119.* 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. [1222.] *1120.* 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. [1223.] *1121.* 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. [1224.] *1122.* 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. [1225.] *1123.* TRANSFERS MADE BY NONPROFIT CHARITABLE CORPORATIONS.

(a) SALE OF PROPERTY OF ESTATE.—Section 363(d) of title 11, United States Code, is amended 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.''.

(b) CONFIRMATION OF PLAN FOR REORGANIZATION.—Section 1129(a) of title 11, United States Code, as amended by section 212 of this Act, 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, 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 construed 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. [1226.] *1124.* 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. [1227.] *1125.* 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. [1228.] *1126.* 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 positions.

(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:

''(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).''.

TITLE [XIII] *XII*—GENERAL EFFECTIVE DATE; APPLICATION OF AMENDMENTS

SEC. [1301.] *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 enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this Act shall not apply with respect to cases commenced under title 11, United States Code, before the effective date of this Act.

CLOTURE MOTION

Mr. LOTT. Mr. President, I send a cloture motion to the desk to the pending bankruptcy bill.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative assistant read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Calendar No. 109, S. 625, a bill to amend title 11 of the United States Code, and for other purposes.

Trent Lott, Chuck Grassley, Paul Coverdell, Mike Crapo, Craig Thomas, Larry Craig, Orrin Hatch, Don Nickles, Conrad Burns, Mitch McConnell, Pat Roberts, Fred Thompson, Slade Gorton, Phil Gramm, and Mike DeWine.

Mr. LOTT. Mr. President, I ask unanimous consent that the vote occur on this motion at 5:30 p.m. on Tuesday, September 21, with the mandatory live quorum waived.

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

MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business with Members permitted to speak for up to 10 minutes each.

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

ORDER OF BUSINESS

Mr. LOTT. I know Senators are interested in the schedule for the remainder of the day. We believe we have worked out an agreement of a reasonable time for discussion on the District of Columbia appropriations conference report. Then that would be followed with a recorded vote. We would need to have a recorded vote under our arrangement where if we do not have a recorded vote on an appropriations bill when it goes through the Senate, then we do have a recorded vote on it when it comes back from conference. So we will need that recorded vote.

We hope to get the UC locked down, and hopefully, then, at around 2 or so we could get to final passage on the D.C. appropriations conference report. Therefore, then, there would not be the necessity, obviously, for there to be a vote on it at 10 o'clock on Friday.

JUDICIAL NOMINATIONS

Mr. LOTT. Mr. President, we have one other block of remaining issues of consideration, and that is judicial nominations. We had planned to go forward with three judges—two that have been cleared and one that may require time for discussion, and a vote on that at some point. There may need to be, as I said, time for discussion. I hope we can get a reasonable agreement on that.

I would not want to have to file cloture on Federal judges. I think it would be a bad practice if we began to have filibusters on Federal judicial nominations, requiring only 41 votes to defeat a judicial nomination. I guess that has been done in the past but not recently, not since I have been majority leader, that I know of.

So I hope we can work out an agreement on time, as we have done on the nomination of Mr. White of Missouri. We have a time agreement. At some

point in the next 2 or 3 weeks that will be called up, and it will have a discussion period and a vote.

I hope that would be the case with any of these three that we had hoped to bring up. If we can't get an agreement of how to deal with all three of them, then we will not be able to move any of the three. But we are still working on that, and we hope to get it worked out.

Mr. LEAHY. Mr. President, will the distinguished leader yield on that point?

Mr. LOTT. Mr. President, I apologize.

Mr. LEAHY. Will the distinguished leader yield on that point?

Mr. LOTT. Surely.

Mr. LEAHY. Mr. President, there are one, two, three, four, five, six, seven judicial nominations on the calendar. I tell the distinguished leader that on this side of the aisle, at least, we are willing to agree to a time certain to vote on all of them—right now. We will be glad to enter into a time agreement to vote on each and every one of them. Obviously, our concern is that they all be considered and we suggest that they be in the order in which they appear on the calendar.

Mr. LOTT. Mr. President, I apologize again. I think the Senator is propounding a question. What I am trying to do is to move forward on judicial nominations. We have already cleared six, I believe, since we have been back. I believe we can move two more without any problem. That would be eight. Then it would be my intent to move in that block of three also the nomination of Mr. Stewart of Utah, Brian Theadore Stewart. It would be those three. If we could clear those three, that would be nine we have moved since we have been back from the August recess, leaving, I believe, only four on the calendar.

As I indicated, we have gotten tentative agreement on time on the nomination of White of Missouri, that we hope within the next week or so—at some point—when we find a window, in fact, we will call it up, and there will be a period of debate and a vote on that one, leaving only three judges on the calendar.

I understand the Judiciary Committee is moving toward reporting out other judges and will begin to move those right away who are not controversial and won't take time. If there is controversy, and we can get a time agreement, a limited time agreement and then a vote on some, then we would do that.

The three remaining on the calendar are Ninth Circuit judges, where there is considerable problem and concern about the size of the circuit, whether or not that circuit needs to be dealt with, whether it is split in two, and there are concerns about the judges themselves. So that is a complicated problem. I cannot give any indication of a time agreement at this point.

I call on the Senators on both sides of the aisle to allow me to continue to move forward. I have been showing good faith. Before the August recess, I tried to move some of these judges, and if I did not include certain judges, there was objection from that side. If I did not include certain other judges, there was objection on this side.

So what I said was: This is not reasonable. It does not make good sense. I am going to just start calling them up, one by one, and clearing them and getting them done. And by doing that, I have done six, and I am on the verge of doing three more. So I would hope we would get cooperation on that.

I think Judge Stewart of Utah is a qualified nominee. He is obviously supported by the Senator from Utah, the chairman of the Judiciary Committee, who has been working in good faith. He was not particularly happy with my plan to just go forward and start calling up judges. I assured him that after we had done several of them that had been cleared, his would be next. His is going to be next. He will be in this package of three.

I understand Senators may want to talk some more about this in the next few minutes. I don't want to file cloture on Judge Stewart. I will do that, and then we will start down this 41-vote trail, which I don't think is wise. Let's try to have some cooperation with each other and a modicum of good faith, and we will continue to work on them.

It takes a lot of time for the majority leader and the minority leader to clear these judges—a lot of time. I have to check with 54 other Senators before I can enter into any kind of agreement. Sometimes the objections are: I need time to think about it; I need to meet with this person or that person. Sometimes it is a legislative issue. Sometimes they say: Well, I have a problem; I am going to vote no. Sometimes they say: I need a lot of time.

I have to work through all that. I will withhold right now on these three, on either of the three. I urge Senator LEAHY, Senator HATCH, Senator FEINSTEIN, anybody else who is involved and interested, to talk this out. I will be back here in a couple of hours, and I will see if we can't work out a way we can move the two who have been cleared already and move Judge Stewart. I do think you will want to talk about it some and perhaps discuss it further with Senator DASCHLE. That would be fine, too.

UNANIMOUS CONSENT AGREEMENT—H.R. 2587 CONFERENCE REPORT

Mr. LOTT. Mr. President, I ask unanimous consent that at 2 p.m., the Senate turn to the conference report to accompany the D.C. appropriations bill under the same terms as outlined in the earlier consent, with a recorded vote to occur at approximately 2:30.

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

Mr. LOTT. I thank the Senators, and I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

NOMINATIONS

Mr. LEAHY. Mr. President, while the distinguished majority leader is still on the floor, I note I, too, do not want to see the Senate go down a path where a minority of the Senate is determining a judge's fate on votes of 41. In fact, the distinguished majority leader is perhaps aware of the fact that during the Republican administrations I rarely ever voted against a nomination by either President Reagan or President Bush. There were a couple I did.

I also took the floor on occasion to oppose filibusters to hold them up and believe that we should have a vote up or down. Actually, I was one of those who made sure, on a couple controversial Republican judges, that we did. That meant 100 Senators voted on them, 100.

In this case, unfortunately, we have at least one judge who has been held for 3 years by one or two or three or four Senators, not 41 but less than a handful. All I am asking is that we give them the fairness of having the whole Senate vote on them.

Unfortunately, in the last couple years, women and minorities have been held up longer than anybody else on these Federal judgeships. They ought to be allowed a vote up or down. If Senators want to vote against them, then vote against them. If they want to vote for them, vote for them. But to have two or three people, quietly, in the back room, never be identified as being the ones holding them up, I think that is unfair to the judiciary, it is unfair to the nominees, and, frankly, it demeans the Senate.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. I thank the Chair.

Mr. President, as a Senator representing California, who sits on the Judiciary Committee, I have to say a word or two on this subject.

First, I believe the chairman of our committee, Senator HATCH, has been very fair with respect to these judges. I believe he has tried his level best to move the calendar along.

I think what we on this side are encountering is the holding up of judges, particularly on the Ninth Circuit Court of Appeals, for years on end. That must stop. A nominee is entitled to a vote. Vote them up; vote them down. To keep them hanging on—the court has 750 cases waiting for a judge. These judges are necessary. If someone has opposition to a judge, which I believe to be the case in at least one, they should come to the floor and say that.

It is also my understanding and my desire to ask that there be some commitment from the other side as to when specifically the nominations of Judge Paez, Marsha Berzon, and Ray Fisher, pending on this calendar—

Judge Paez pending for 4 years; Marsha Berzon through two sessions now—can at least be brought to the floor for a vote.

I am prepared to vote on the judges that the majority leader mentioned. I am prepared to vote affirmatively, but I can't do that unless I have some knowledge that judges who have stood on this calendar for years can be brought up before this body for a vote. I don't think that is too much to ask the other side to do.

What this does to a judge's life is, it leaves them in limbo—I should say, a nominee's life—whether they have a place to live, whether they are going to make a move. It is our job to confirm these judges. If we don't like them, we can vote against them. That is the honest thing to do. If there are things in their background, in their abilities that don't pass muster, vote no.

I think every one of us on this side is prepared for that. The problem is, we have a few people who prevent them from having a vote, and this goes on month after month, year after year.

The ranking member of the committee said something that I believe is concurred in on this side; that is, women and minorities have an inordinately difficult time having their nominations processed in an orderly and expeditious way. I don't think that befits this body.

What I am asking for, as a Senator from California, on these three judges, is to just tell us when we might see their nominations before the Senate for a vote up or down. I think there is also an understanding by the White House that will be the case as well.

I ask the majority party to please take this into consideration, allow us a vote up or down, and give us a time when this might happen.

Once again, I thank the ranking member and the chairman of the committee. I know the Senator from Utah has done everything he possibly can to move these nominations. I, for one, very much appreciate it. I am hopeful the leadership of his side will be able to give us some accommodation on this.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I appreciate my colleague's kind remarks. I support Mr. Stewart's nomination, and I urge my colleagues to do the same, and not to filibuster any nominee, let alone this nominee.

I am pleased, with regard to the judicial nominations that have been voted on so far this session—and there have been well over 300 since this President became President—that no one on our side, to my knowledge, has threatened to filibuster any of these judges. I think that is the way to proceed.

I think it is a travesty if we ever start getting into a game of filibustering judges. I have to admit that my colleagues on the other side attempted to do that on a number of occasions during the Reagan and Bush years. They always backed off, but maybe they did because they realized there were enough votes to stop a filibuster against Federal judges. I think it is a travesty if we treat this third branch of government with such disregard that we filibuster judges.

I also have appreciated the comments of the ranking member of the Judiciary Committee, Senator LEAHY, who stated on this floor in the past:

> I would object and fight against any filibuster on a judge, whether it is somebody I opposed or supported. . . .

The Republican leadership, the Democratic President, the Republican chairman, and the Democratic ranking member of the Judiciary Committee all support Mr. Stewart's nomination. The nomination should not be filibustered. As I understand it, the only reason there would be a filibuster is because some Senators want their judges up. They have no real reason to filibuster Mr. Stewart.

The only way I could ever see a filibuster would be justified is if a nominee is so absolutely unqualified to sit on the Federal bench that the only way to stop that person is a filibuster. I can understand it under those circumstances. Even then, I would question whether that should be done. If a person is so unqualified, we ought to be able to beat that person on the floor.

Even when I opposed a nominee of the current President, I voted for cloture to stop the filibuster of that nominee. That was for Lee Sarokin.

We are dealing with a coequal branch of government. We are dealing with some of the most important nominations the President, whoever that President may be, will make. We are also dealing, hopefully, with good faith on both sides of the floor. For years, I thought our colleagues on the other side did some reprehensible things with regard to Reagan and Bush judges—very few, but it was serious. By and large, the vast majority of them were put through without any real fuss or bother even though my colleagues on the other side, had they been President, would not have appointed very many of those judges. We have to show the same good faith on our side, it seems to me.

And unless you have an overwhelming case, then certainly I don't see any reason for anybody filibustering judges. I hope that we never get into that. Let's make our case if we have disagreement, and then vote. And I reach this conclusion after having been part of this process for over 20 years now and always trying to be fair, whoever is the President of the United States and whoever the nominees are.

It is important to not filibuster judicial nominees on the floor of the Senate. The fight over a nomination has to occur between honest people in the White House and honest people up here. And that is where the battles are. When they get this far, generally most of them should be approved. There are some we still have problems with in the Judiciary Committee, but that is our job to look at them. It is our job to look into their background. It is our job to screen these candidates.

We have had judicial nominees withdraw after we have approved them in the Judiciary Committee because something has come up to disturb their nomination. This was generally handled between the White House, the Senate, and the nominee. That is the way it should work.

We must remember that these are among the most important nominations that any President can make and that the Senate can ever work on. We should not play politics with them.

I have really worked hard on the Judiciary Committee to try to not allow politics. It is no secret that there are some on the right who decry the fact that I have put through Clinton judges. Some of them don't want any Clinton judges put through —some just because they are liberal. If we get to the point where we deny people a chance to serve because they are liberal or conservative, I think we will be in real trouble. Politics should not be played with judicial nominees. President Clinton did win this Presidency. He has a right to nominate these people, and we have an obligation to confirm them if they are qualified. In every case where we have confirmed them, they are qualified, even though there may be some questions in the minds of some.

In the case of Ted Steward, we have examined the whole record. The President has examined the whole record. The President and I and Senator BENNETT agree that Mr. Stewart is qualified to serve as an Article III, judgeship in Utah. The Judiciary Committee reported Mr. Steward's nomination favorably to the floor.

Now we have the unusual situation of a Democratic President and Republican Chairman and Democratic Ranking Member agreeing on a nomination, but certain Democratic Senators who really don't oppose Ted Steward's nomination want to hold the nomination hostage in order to get other judges up. The majority leader said he will try to do so in good faith, but he must consult with 54 other Senators on our side.

There is some angst on at least the background of two of the 9th Circuit Court judges on the part of some on our side. I could not disagree more with the threat of filibuster here. Unless there is an overwhelming case to be made against a judge that he or she is unqualified or will not respect the limited role which Article III prescribes for a judge, there should be no filibuster.

Mr. Steward is definitely qualified and will certainly respect the limited role that Article III provides for a federal judge. He will be a credit to the federal bench in Utah and throughout the country.

In sum, Mr. President, I oppose filibusters of judicial nominees as a general matter and I support Mr. Stewart's nomination in this specific case. I

would like to see these three judges go through today because we put them through the Judiciary Committee. I would like to see all of those on the list have an opportunity to be voted up or down. I will work to try to do that.

On the other hand, I understand the problems of the majority leader and I hope my colleagues on the other side do. I hope colleagues on both sides of the aisle will not hold up the business of the Senate to play politics with Ted Stewart's nomination. I have to say that I think we do a great injustice if we do not support this nomination.

Having said all of that, let me conclude by saying I have been willing to and have enjoyed working with my distinguished friend from Vermont. He has done a good job as the Democrat leader on the committee. I just have to say that I hope he can clear his side on these matters and that we can get them through because I intend to put more judges out from the committee and to move forward with as much dispatch as I can.

Earlier, when I said there was some angst concerning the background of some Ninth Circuit nominees, I was referring to their legal background and some of the matters that came before the committee. Be that as it may, I was really referring to the Ninth Circuit Court of Appeals, which seems to be out of whack with the rest of the country. It is reversed virtually all the time by the Supreme Court. There is a great deal of concern that Ninth Circuit court has become so activist that it is a detriment to the Federal judicial system. Some on our side believe that to put any additional activists on that court would be a travesty and would be wrong. I am concerned about that, too.

All I can say is that it is important we work together to try to get these nominees through, both in the Judiciary Committee and in the Senate. Should we be fortunate enough to have a Republican President next time, I hope our colleagues on the other side will treat our nominees as fairly as I certainly did and the Senate Republicans as a whole treated the Democrat nominees who have been brought before the committee. We are going to keep working on them, and we will do the best we can to get as many of them through as we can. Thus far, I am proud of the record we have.

I yield the floor.

Mr. LEAHY. Mr. President, we have a number of highly-qualified nominees for judicial vacancies before the Senate and on the Executive Calendar. I want to be sure that the Senate treats them all fairly and accords each of them an opportunity for an up or down vote. I want to share with you a few of the cases that cry out for a Senate vote:

The first is Judge Richard Paez. He is a judicial nominee who has been awaiting consideration and confirmation by the Senate since January 1996—for over 3 and one-half years. The vacancy for which Judge Paez was nominated became a judicial emergency during the time his nomination has been pending without action by the Senate. His nomination was first received by the Senate almost 44 months ago and is still without a Senate vote. That is unconscionable.

Judge Paez has twice been reported favorably by the Senate Judiciary Committee to the Senate for final action. He is again on the Senate calendar. He was delayed 25 months before finally being accorded a confirmation hearing in February 1998. After being reported by the Judiciary Committee initially in March 1998, his nomination was held on the Senate Executive Calendar without action or explanation for over 7 months, for the remainder of the last Congress.

Judge Paez was renominated by the President again this year and his nomination was stalled without action before the Judiciary Committee until late July, when the Committee reported his nomination to the Senate for the second time. The Senate refused to consider the nomination before the August recess. I have repeatedly urged the Republican leadership to call this nomination up for consideration and a vote. The Republican leadership in the Senate has refused to schedule this nomination for an up or down vote.

Judge Paez has the strong support of both California Senators and a ''well-qualified'' rating from the American Bar Association. He has served as a municipal judge for 13 years and as a federal judge for four years.

In my view Judge Paez should be commended for the years he worked to provide legal services and access to our justice system for those without the financial resources otherwise to retain counsel. His work with the Legal Aid Foundation of Los Angeles, the Western Center on Law and Poverty and California Rural Legal Assistance for nine years should be a source of praise and pride.

Judge Paez has had the strong support of California judges familiar with his work, such as Justice H. Walter Crosky, and support from an impressive array of law enforcement officials, including Gil Garcetti, the Los Angeles District Attorney; the late Sherman Block, then Los Angeles County Sheriff; the Los Angeles County Police Chiefs' Association; and the Association for Los Angeles Deputy Sheriffs.

The Hispanic National Bar Association, the Mexican American Legal Defense and Educational Fund, the League of United Latin American Citizens, the National Association of Latino Elected and Appointed Officials, and many, many others have been seeking a vote on this nomination for what now amounts to years.

I want to commend the Chairman of the Judiciary Committee for his steadfast support of this nominee and Senator BOXER and Senator FEINSTEIN of California for their efforts on his behalf.

Last year the words of the Chief Justice of the United States were ringing in our ears with respect to the delays in Senate consideration of judicial nomination. He had written:

> Some current nominees have been waiting considerable time for a Senate Judiciary Committee vote or a final floor vote. . . . The Senate is surely under no obligation to confirm any particular nominee, but after the necessary time for inquiry it should vote him up or vote him down.

Richard Paez's nomination to the Ninth Circuit had already been pending for 24 months when the Chief Justice issued that statement—and that was almost two years ago. The Chief Justice's words resound in connection with the nomination of Judge Paez. He has twice been reported favorably by the Judiciary Committee. It was been pending for almost 44 months. The court to which he was nominated has multiple vacancies. In fairness to Judge Paez and all the people served by the Ninth Circuit, the Senate should vote on this nomination.

Justice Ronnie White is another nominee who has been pending before the Senate without a vote for an exceedingly long time. In June I gave a Senate speech marking the 2-year anniversary of the nomination of this outstanding jurist to what is now a judicial emergency vacancy on the U.S. District Court for the Eastern District of Missouri. He is currently a member of the Missouri Supreme Court.

He was nominated by President Clinton in June of 1997. It took 11 months before the Senate would even allow him to have a confirmation hearing. His nomination was then reported favorably on a 13 to 3 vote by the Senate Judiciary Committee on May 21, 1998. Senators HATCH, THURMOND, GRASSLEY, SPECTER, KYL, and DEWINE were the Republican members of the Committee who voted for him along with the Democratic members. Senators ASHCROFT, ABRAHAM and SESSIONS voted against him.

Even though he had been voted out overwhelmingly, he sat on the calendar last year, and the nomination was returned to the President after 16 months with no action.

The President renominated him and on July 22 the Senate Judiciary Committee again reported the nomination favorably to the Senate, this time by a vote of two to one.

Justice White deserves better than benign neglect. The people of Missouri deserve a fully qualified and fully staffed Federal bench.

Justice White has one of the finest records—and the experience and standing—of any lawyer that has come before the Judiciary Committee. He has served in the Missouri legislature, the office of the city counselor for the City of St. Louis, and he was a judge in the Missouri Court of Appeals for the Eastern District of Missouri before his current service as the first African-American ever to serve on the Missouri Supreme Court.

Having been voted out of Committee twice, he has now been forced to wait

for more than two years for Senate action. This distinguished African-American at least deserves the respect of this Senate, and he should be allowed a vote, up or down. Senators can stand up and say they will vote for or against him, but let this man have his vote. Twenty-seven months after being nominated, the nomination remains pending before the Senate. I would certainly like to see Justice White be accorded an up or down vote.

I have been concerned for the last several years that it seems women and minority nominees are being delayed and not considered. I spoke to the Senate about this situation on May 22, June 22 and, again, on October 8 last year. Over the last couple of years the Senate has failed to act on the nominations of Judge James A. Beaty, Jr. to be the first African-American judge on the Fourth Circuit; Jorge C. Rangel to the Fifth Circuit; Clarence J. Sundram to the District Court for the Northern District of New York; Anabelle Rodriguez to the District Court in Puerto Rico; and many others.

In explaining why he chose to withdraw from consideration for renomination after waiting 15 months for Senate action, Jorge Rangel wrote to the President and explained:

> Our judicial system depends on men and women of good will who agree to serve when asked to do so. But public service asks too much when those of us who answer the call to service are subjected to a confirmation process dominated by interminable delays and inaction. Patience has its virtues, but it also has its limits.

Last year the average for all nominees confirmed was over 230 days and 11 nominees confirmed last year took longer than 9 months: Judge William Fletcher's confirmation took 41 months—it became the longest-pending judicial nomination in the history of the United States; Judge Hilda Tagle's confirmation took 32 months, Judge Susan Oki Mollway's confirmation took 30 months, Judge Ann Aiken's confirmation took 26 months, Judge Margaret McKeown's confirmation took 24 months, Judge Margaret Morrow's confirmation took 21 months, Judge Sonia Sotomayor's confirmation took 15 months, Judge Rebecca Pallmeyer's confirmation took 14 months, Judge Ivan Lemelle's confirmation took 14 months, Judge Dan Polster's confirmation took 12 months, and Judge Victoria Roberts' confirmation took 11 months. Of these 11, eight are women or minority nominees. Another was Professor Fletcher was held up, in large measure because of opposition to his mother, Judge Betty Fletcher.

In 1997, of the 36 nominations eventually confirmed, 9, fully one-quarter of all those confirmed, took more than 9 months before a final favorable Senate vote.

In 1996, the Republican Senate shattered the record for the average number of days from nomination to confirmation for judicial confirmation. The average rose to a record 183 days. In 1997, the average number of days from nomination to confirmation rose dramatically yet again, and that was during the first year of a presidential term. From initial nomination to confirmation, the average time it took for Senate action on the 36 judges confirmed in 1997 broke the 200-day barrier for the first time in our history. It was 212 days.

Unfortunately, that time is still growing and the average is still rising to the detriment of the administration of justice. Last year the Senate broke its dismal record. The average time from nomination to confirmation for the 65 judges confirmed in 1998 was over 230 days.

Acting to fill judicial vacancies is a constitutional duty that the Senate—and all of its members—are obligated to fulfill. In its unprecedented slowdown in the handling of nominees since the 104th Congress, the Senate is shirking its duty. That is wrong and should end. The Senate recesses with a sorry record of inaction on judicial nominations.

Another example of a longstanding nominee who is being denied a Senate vote is Marsha Berzon. Fully one-quarter of the active judgeships authorized for that Court remain vacant, as they have been for several years. The Judicial Conference recently requested that Ninth Circuit judgeships be increased in light of its workload by an additional five judges. That means that while Ms. Berzon's nomination has been pending, that Court has been forced to struggle through its extraordinary workload with 12 fewer judges than it needs.

Marsha Berzon is an outstanding nominee. By all accounts, she is an exceptional lawyer with extensive appellate experience, including a number of cases heard by the Supreme Court. She has the strong support of both California Senators and a well-qualified rating from the American Bar Association.

She was initially nominated in January 1998, almost 20 months ago. She participated in an extensive two-part confirmation hearing before the Committee back on July 30, 1998. Thereafter she received a number of sets of written questions from a number of Senators and responded in August of last year. A second round of written questions was sent and she responded by the middle of September of last year. Despite the efforts of Senator FEINSTEIN, Senator KENNEDY, Senator SPECTER and myself to have her considered by the Committee, she was not included on an agenda and not voted on during all of 1998. Her nomination was returned to the President without action by this Committee or the Senate last October.

This year the President renominated Ms. Berzon in January. She participated in her second confirmation hearing in June, was sent additional sets of written questions, responded and got and answered another round. I do not know why those questions were not asked last year.

Finally, on July 1 more than two months ago and before Mr. Stewart was even nominated, the Committee considered the nomination and agreed to report it to the Senate favorably. After more than a year and one-half the Senate should, at long last, vote on the nomination. Senators who find some reason to oppose this exceptionally qualified woman lawyer can vote against her if they choose, but she should be accorded an up or down vote. That is what I have been asking for and that is what fairness demands.

Unfortunately, the list goes on and on. In addition, there is the nomination of Timothy Dyk to the Federal Circuit. Tim Dyk was initially nominated in April 1998, and participated in a confirmation hearing last July. He was favorably reported to the Senate by a vote of 14 to 4 last September. His was one of the several judicial nominations not acted upon by the Senate last year before it adjourned. Instead, the Senate returned this nomination to the President without action.

The President proceeded to renominate Mr. Dyk in January 1999. Since then, his nomination, which had been favorably reported last year, has been in limbo. I raised his nomination at our first Committee meeting of the year in February and a number of times thereafter. Still, he is being held hostage in the Committee without action.

There are the nominations of Barry Goode to the Ninth Circuit, who was first nominated in June 1998 and is still patiently awaiting a confirmation hearing; of Julio Fuentes to the Third Circuit, has been pending three times longer than the Stewart nomination and is still awaiting his confirmation hearing; of Ray Fisher to the Ninth Circuit, who is an outstanding lawyer and public servant now Associate Attorney General of the United States Department of Justice and was reported by the Committee on a vote of 16 to 2 but remains held on the Senate Calendar. There are the nominations of Alston Johnson to the Fifth Circuit, James Duffy to the Ninth Circuit, and Elena Kagan to the D.C. Circuit, among others who were nominated before Mr. Stewart. There are the district court nominations of Legrome Davis and Lynette Norton in Pennsylvania, Virginia Phillips, James Lorenz, Dolly Gee and Frederic Woocher in California, Rich Leonard in North Carolina, Frank McCarthy in Oklahoma, Patricia Coan in Colorado, and William Joseph Haynes, Jr. in Tennessee, to name a few.

All together, there are more than 30 pending judicial nominations that were received by the Senate before it received the Stewart nomination and they need our attention, too. That is the point I am trying to make. I understand that nominations are not considered in lockstep order based on the date of receipt. I understand and respect the prerogatives of the majority

party and the Majority Leader. I appreciate the interest of the Chairman of the Committee in filling vacancies in his State and want to work with him. I ask only that the Senate be fair to these other nominees, as well. In my view, Ted Stewart is entitled to a vote on his nomination and should get it, but these other nominees should be accorded fair treatment, as well. Nominees like Judge Richard Paez, Justice Ronnie White, and Marsha Berzon should be voted on up or down by the Senate. We are asking and have been asking the Republican leadership to schedule votes on those nominations so that action on all the nominations can move forward.

Mr. EDWARDS addressed the Chair.

The PRESIDING OFFICER (Mr. BUNNING). The Senator from North Carolina.

Mr. EDWARDS. Mr. President, I ask unanimous consent to speak up to 10 minutes as in morning business.

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

HURRICANE DAMAGE IN NORTH CAROLINA

Mr. EDWARDS. Mr. President, I want to speak for a moment today about the hurricane and report to my colleagues on what we have learned about the damage Hurricane Floyd has done in North Carolina.

As most folks know, North Carolina, unfortunately, has borne the brunt of hurricanes over the last few years. I think this is the fifth major hurricane to hit North Carolina since 1996. What we know thus far is that four people have died in traffic-related accidents as a result of the hurricane.

First, of course, our thoughts and prayers go to the families of those folks who have lost loved ones. Secondly, we have had enormous flooding. That flooding will continue, and there will be some period of time before that flooding recedes. Wilmington has received over 18 inches of rain in the last approximately 48 hours, and other areas of eastern North Carolina have received enormous amounts of rain during the same period of time.

We have also had enormous problems with crop damage and injury and damage to our farms, particularly in eastern North Carolina. These farmers are already struggling and suffering and having a difficult time making ends meet. Now they have received a blow, which may very well be a death blow, to the crops they still have in the fields. As I said, these are people who are already teetering on the edge. Now these farmers and their families must deal with the damage that Hurricane Floyd has caused their farms.

We have also had roads washed out in eastern North Carolina. We know we have power outages all over eastern North Carolina, and we have and will continue to have enormous problems with increased erosion as a result of this hurricane hitting the coast of North Carolina.

Let me say, first, that I have been in regular contact with Governor Jim Hunt, the Governor of North Carolina, since this hurricane began to approach the southeastern coast of the United States in order to help prepare for what we knew was inevitable—that this would do great damage for our State. In addition, I have been in constant contact with mayors from eastern North Carolina whose counties have been hit the hardest by this hurricane. Yesterday afternoon, I spent some time at the FEMA headquarters with James Lee Witt looking at the FEMA operation—looking at what they were doing to prepare for the onslaught of this hurricane and their preparations for going in after the hurricane and dealing with destruction created by the hurricane.

I have to say, first of all, it was an incredibly impressive operation. James Lee Witt has done an extraordinary job of turning FEMA around. They are well prepared and well organized. I strongly suspect they will respond quickly and efficiently to the destruction this particular storm creates.

In addition to that, I talked to the Secretary of Transportation, Mr. Slater, about the problems with roads and roads being washed out, keeping in mind that North Carolina has just recently been hit with Hurricane Dennis, which washed out Highway 12 up on the Outer Banks of North Carolina, and now it has been hit again by a larger, more serious hurricane. We are going to have enormous problems with our roads in eastern North Carolina.

I have also spoken with Secretary Glickman, Secretary of Agriculture, because of our concern for the farmers in North Carolina. The tobacco farmers and the farmers of all kinds in eastern North Carolina are going to suffer enormous crop damage as a result of the devastation created by this hurricane.

As I mentioned earlier, these are folks who are already struggling, already suffering, and already under enormous financial stress. And now here comes Hurricane Floyd putting what for many of them, I am afraid, will be the final nail in the coffin. These folks are going to need our help.

The bottom line is that while this hurricane has now moved out of North Carolina, it has created enormous damage. I think the devastation will be extraordinary once we have had a chance to go in and assess exactly what the damage has been.

As we go through the process of passing these various appropriations bills that the Senate is working very diligently on, I have asked my colleagues to keep in mind that the people of North Carolina, including the farmers of North Carolina, are desperately going to need help. They need help quickly, and they need that help getting to them in time to respond to the devastation that Hurricane Floyd has created.

I ask my colleagues in the Senate to keep that in mind. We will be in regular touch with the folks involved in appropriations in order to make them aware of the specific problems that we have in North Carolina.

I also add that this injury and this damage is not limited to North Carolina. I am absolutely certain there is damage in Florida, Georgia, and South Carolina. As the storm moves north through Virginia and Maryland, I anticipate there will also be damage in those States.

I ask my colleagues not only from those States but all of my colleagues in the Senate to be prepared to respond and respond quickly to a devastating blow that has been dealt to my State of North Carolina and to the surrounding States that have been hit by Hurricane Floyd.

Finally, I would like to say just a word about the people of North Carolina and their response to this hurricane.

The people of North Carolina, fortunately, are very experienced in dealing with hurricanes. They have been hit time and time again. I have to say we have gotten way more than our fair share of hurricanes and hurricane damage. The response of folks in eastern North Carolina has been heroic. It was absolutely extraordinary to watch their discipline and preparation when they saw the storm coming, their organized and coordinated effort to evacuate the coast when those evacuations were necessary, and their preparation for what they knew was inevitable, which was that Hurricane Floyd was going to come through eastern North Carolina and wreak havoc and devastation.

I am so proud of the people of North Carolina who have responded so heroically and in such a well-organized way to what they knew was coming, and I expect that response will continue over the next weeks and months as we begin the efforts of cleaning up the devastation that has been created by Hurricane Floyd.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I ask unanimous consent for 20 minutes as in morning business.

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

OPERATION ALLIED FORCE: LESSONS RELEARNED

Mr. ROTH. Mr. President, over the couse of the next several months, countless ''lessons learned'' studies assessed Operation Allied Force will be conducted by NATO authorities as well as by our armed services, our own Committees here in Congress, and their counterparts found among our NATO allies.

What I wish to do today is to approach this matter of ''lessons learned'' from the vantage point of one who regards the NATO Alliance to be a vital

interest of the United States. I want to ensure that NATO's experience in Kosovo contributes to an Alliance that is better prepared for the challenges it will face in the next millennium.

The conflict over Kosovo was NATO's first war, and the Alliance did win. Operation Allied Force forced the regime of Serbian Prime Minister Slobodan Milosevic to withdraw his forces from Kosovo. It thereby ended the systematic brutality that regime exercised against the province's Albanian population.

It was in many ways a military campaign of unprecedented success. Not a single NATO airman lost his or her life to enemy fire in the course of over 35,000 sorties. Despite a few tragic errors, the bombing campaign featured unmatched accuracy and precision.

However, while Operation Allied Force did attain victory, the accomplishment of its goals did not yield a shared sense of triumph and finality. This absence of triumph is the product of how NATO exercised its power in this war in light of the tremendous military advantages it had over its opponent, the forces of the Milosevic regime.

Among NATO's first and foremost objectives in this war was to stop the atrocities then being committed against Kosovar Albanians. Yet, in the course of Operation Allied Force, Milosevic accelerated and expanded his campaign of terror. Before the war was over, nearly 90% of Kosovar Albanians were driven from their homes by Serbian para-military and military forces. Nearly one half were actually expelled from Kosovo.

Moreover, no less than 10,000 Albanians were executed by Milosevic's henchmen during the course of the NATO campaign. As we learn daily from the grim excavations of body-filled wells and mass graves, the actual figure is probably much, much higher. And then there were the countless rapes of Albanian women, which for cultural reasons will unfortunately never be fully reported—all occurring during the course of Operation Allied Force.

When assessing the lessons learned from the Kosovo war, we must not forget that the primary purpose of NATO's threats and then its bombing campaign was to prevent these tragedies from occurring.

Then there are the facts concern the balance of power between NATO and Serbia. It took the Alliance 78 days to force Milosevic from Kosovo, a region that size of Los Angeles County whose population was 90% Albanian—a population that wanted NATO's support and that would have warmly welcomed Alliance ground forces as was done when Operation Joint Guardian commenced.

That this campaign took 78 days is especially disturbing when one takes into account that, according to a Washington Post report, NATO was a standing force some 37 times larger than that fielded by Slobodan Milosevic and a combined economy that is 696 times larger than that of Serbia. These statistics do not come close to capturing the vast technological advantages NATO forces have over the Serbian military.

That NATO won the war is obvious. That in the course of Operation Allied Force, NATO demonstrated its awesome capabilities is indisputable. But, when assessing the lessons learned from this war, one cannot avoid the haunting fact that its results included an acute and brutal increase in the suffering of the Kosovar population, that an Alliance of such power and magnitude took over two months to defeat an exponentially far weaker foe, and that in the aftermatch of Operation Allied Force, the regime that created this crisis remains not only in place, but belligerent.

So what are the key lessons and issues raised by NATO's first war, a war that brought NATO victory yet, denied it triumph?

The first and foremost lesson concerns the Alliance's political cohesion. Many have stated that NATO's greatest success in this conflict was that its 19 members hung together.

There can be no doubt that this cohesion was rooted in the common values and interests that bind the 19 Allies. But in recognizing this, one must not overlook a central fact: The first lesson from Operation Allied Force is that the trust among Allied military personnel promoted by NATO is an invaluable reinforcer of the political cohesion binding NATO Allies. Allied unity in this war was never a given. Several allies floated proposals to temporarily halt the bombing campaign. Others publicly denied the use of their territory for forced entry into Kosovo or Serbia proper. NATO's political cohesion was vulnerable in an often very visible manner.

The trust and unity fostered among allied militaries through fifty years of joint planning, training, command and operations significantly buttressed the durability of Alliance cohesion during the conflict. Unfortunately, I fear that the significance of this military bond may never be fully appreciated. I am disturbed that French Defense Minister Alain Richard recently asserted that the experience of Operation Allied Force has only further legitimized Paris' inclination to remain outside of NATO's Integrated Military Command.

Quite the contrary, the war over Kosovo underscored the need for all Allies to become full members of that integrated command structure. It is an institution that facilitates and orchestrates more effective military operations by the NATO coalition. Its day-to-day operation is a cornerstone of trust and credibility that in times of crisis and war not only maximizes NATO's military effectiveness, but also its political unity.

As I just stated, numerous studies assessing the strategy behind Operation Allied Force are underway. Much attention will be directed, as it should, toward the factors that contributed to Milosevic's capitulation. These, of course, include that regime's intensified international isolation, the actual damage done to its military and civilian infrastructure, the role of the KLA, and the influence of slowly increasing NATO ground force deployments around Kosovo, among others.

We also need to ensure a fair and objective assessment of the Alliance's decision to tailor the bombing campaign around a strategy of gradual escalation. And, there has to be a thorough review of the decision to preclude the use of NATO ground forces for a forced entry into Kosovo. An important question will be whether a more severe and overwhelming application of force would have more effectively prevented the suffering that occurred in Kosovo over those 78 days.

Because so much attention will be directed toward these issues and others related to what went right and wrong in Kosovo, we must, however, avoid the mistake of making Kosovo a singular template for NATO's planning and preparations for future conflicts. As a matter of prudence, we have to assume that the future will present contingencies that are more demanding than that which we encountered over Kosovo.

Hence, the central focus of our assessments must be the following issue: Did Operation Allied Force demonstrate that NATO benefits from a force structure that can deploy on suitably short notice, be sustained over long distances, and readily provide Alliance leaders the option of swiftly delivering overwhelming force, be it from the sea, from the air, or from the ground?

These are not new standards. The Alliance's Strategic Concept of 1991, which was updated in the course of the Washington Summit last April, postulated a NATO force featuring ''enhanced flexibility and mobility and an assured capability for augmentation when necessary.'' That same doctrine also called upon the Alliance to have available ''appropriate force structures and procedures, including those that would provide an ability to build up, deploy and draw down forces quickly and discriminately.'' With this in mind, NATO established in 1991 its ''Rapid Reaction Forces.''

So after eight years, just how rapid and overwhelming are NATO's forces?

Operation Allied Force yielded a very mixed answer to this question. And, it generates concern on my part about the overall readiness of Allied forces, including those of our own country, and, thus, the overall health of the Alliance.

First, it is clear that the Alliance's ability to deliver devastating firepower from the air emerges almost solely from the United States. The U.S. provided 70% of the aircraft flown in Operation Allied Force. And, an overwhelming majority of the precision

guided missions launched in the conflict were American.

While Allied Force demonstrated the awesome capacities of American air power, it also highlighted glaring shortfalls in European inventories, including: fighter-bombers; electronic jamming aircraft; advanced command, control, and communications capacities; intelligence capacities; and, precision-guided munitions.

Instead of becoming a symbol of NATO power, Operation Allied Force emerged as a symbol of the imbalance that exists between the military capabilities of the United States and its Allies. While it is true that our allies are bearing their share of responsibility in Operation Just Cause, we cannot ignore the unequal capabilities the Allies bring to the forward edge of NATO's sword.

The Alliance's singular dependence upon the United States is neither conducive to transatlantic unity nor is it the best way to provide an Alliance capability that is robust in the fullest sense of the term. An Alliance is simply not healthy if it is solely dependent upon the capabilities of but one member.

It is, thus, especially disturbing that both France and Germany announced planned cuts in their defense budgets just weeks after the end of Operation Allied Force. It raises questions as to how seriously they take this matter.

Second, the Kosovo war highlighted great gaps in inter-operability that divide Allied forces. No military commander has dedicated more time and focus on this urgent concern than General Klaus Naumann, who stepped down in April as Chairman of NATO's military Committee. He has repeatedly warned that ''the growing gap of capabilities which we see inside NATO. . .will lead to an inter-operability problem.''

Operation Allied Force showed that this inter-operability problem is not a matter of military theory, but that it is matter of real and urgent concern. As we all know, Serbian forces were given advance warning of Allied attacks, including specific targets, when Allied aircraft were forced to communicate over open and insecure radio channels because they did not benefit from suitably compatible and secure communications systems. This, needless to say, undercut the effectiveness of the bombing campaign. More importantly, it subjected Allied pilots to unnecessarily greater danger.

Third, the Kosovo war highlighted the limited mobility of Allied forces. In April, I was disturbed to hear our nation's premier military experts assert that it would take months for the Alliance to deploy a ground force in the Balkans suitable for a forced entry into Kosovo or Serbia. Considering the relative size and capability of Serbia's armed forces to that of NATO and the proximity of Kosovo to available staging grounds for such a forced entry, this assertion does not reflect well on the mobility of NATO military capacities.

This is a matter relevant not only to our European Allies, but also to the United States as well. As the Kosovo War demonstrated, not every conflict of the future will be like that of Operation Desert Storm where the United States was able to use literally months to build-up the offensive force necessary to expel Saddam Hussein from Kuwait. In 1991, NATO established its Rapid Reaction Corps. I repeat in 1991! Where was this corps and its rapidly deployable assets when NATO found itself confronted by a regime that was exponentially weaker and situated in its backyard, if not on its doorstep?

These are not new issues nor new conclusions. Burden-sharing has always been an acute thorn in the side of Alliance unity. For several years, numerous European and American commanders, in addition to General Naumann, have been warning of the growing technology gap between the armed forces of the United States and Europe. And, NATO's own Strategic Concepts have been urging the Alliance to field forces that are rapidly deployable and assets that can sustain these forces over long distances and long periods of time. What is disturbing is that after nearly a decade, the need for such forces has been so loudly reaffirmed by the Kosovo war.

Considering what can happen in war, Operation Allied Force provides a not-so-gentle reminder of the need to more seriously address these challenges. If one believes, as I do, that one has to assume that NATO will in the future face contingencies more challenging than that presented in Kosovo, it is imperative that NATO do more than study these issues. Alliance members must dedicate the resources necessary to overcome these shortcomings. To quote General Naumann again, what ''we require [is] action, and not just more paper declarations.''

In addition to reviewing and studying the insights provided by Operation Allied Force upon Allied military strategy and capabilities, we have to remember that NATO is first and foremost a political Alliance. The conduct and procedures used in the course of the Kosovo war by NATO's political authorities must also be reviewed and critiqued.

It was discomfiting, to say the least, to observe inter-Alliance disputes over target lists emerge on the public scene. NATO stumbled in the first phase of the campaign when individual NATO heads of state were personally reviewing and squabbling over daily targets lists.

These disputes, which concerned how to achieve ends through the use of force, raise a number of questions that must be addressed over the coming months. These include the following:

Was Operation Allied Force an example of coalition warfare or a ''war by committee.''

Should the Alliance establish procedures that will further separate the political and diplomatic decisions defining the objectives of war as well as the decision to go to war from those military decisions through which the war is executed?

In the course of Operation Allied Force, did the SACEUR benefit from the flexibility and freedom of action his office requires in the conduct of war? Are there alternative arrangements between the SACEUR and the NAC that the Alliance should consider?

Does the SACEUR have sufficient command and control over his subordinate commanders?

With regard to the last question, it has been widely reported that in the course of the NATO-Russia showdown over the Pristina airport, British Commander General Robertson refused an order from SACEUR General Clark to seize that airport prior to the arrival of the Russian battalion. General Robertson balked at the order and successfully appealed to his British senior political authorities to have that order rescinded. This example demonstrated the inherently political nature of NATO's multi-national command structures, one that warrants close examination.

The questions I have raised constitute the core issues of coalition warfare. They are central to the Alliance's ability to sustain unity in times of crisis and conflict. They are also core issues of civilian control over the military, a cornerstone of democracy.

While it is widely known that many NATO officers were not totally enamored of the political constraints they were dealt in Operation Allied Force, the evidence currently available indicates that they accepted and respected these constraints. They fully respected the authorities of their civilian leaders. That is another overlooked NATO success story in Operation Allied Force.

In posing the aforementioned questions, the intention is not necessarily to yield structural change, but to ensure a fuller understanding of what to expect and demand of our Alliance's political and military leadership in times of conflict. In doing so we may be better able, and I quote again General Naumann, ''to find a way to reconcile the conditions of a coalition war with the principles of military operations such as surprise and the use of overwhelming force.'' That sustaining Allied unity was one of the success stories of Operations Allied Force is a fact that shows how NATO manages war is as important a matter as the capacities NATO brings to war.

The Kosovo war also yielded lessons about another issue of great importance to the Alliance, the relationship between NATO and Russia. Over the last decade the alliance has made great efforts to transform that relationship into one of partnership. Toward that end, it invited Russia to join its Partnership to Peace Program, and in 1997 the NATO-Russia Founding Act was signed establishing a unique consultative relationship between Brussels

and Moscow. This effort to build a genuine partnership must be continued, but it also must be pursued with greater realism.

The Kosovo war was the first major test of the progress made in relations between the Alliance and Russia since the end of the Cold War. Moscow's conduct in the course of this conflict and its immediate aftermath demonstrated that while Russia may not be the protagonist it was in the Cold War, it is certainly not a partner, at least not today. To paraphrase Russia analyst Tom Graham, Russia is more often than not, sometimes purposely and sometimes inadvertently, a troublesome problem.

A brief review of Russia's role in the Kosovo conflict underscores this point. First, remember that Russia still calls for NATO's dissolution. Second, from the very start of Operation Allied Force, Moscow harshly condemned the bombing campaign and sided with Slobodan Milosevic. Russia continued oil transfers to Serbia despite a request by nearly all other European democracies to impose an embargo. So-called ''Russian volunteers'' operated with Milosevic's forces in Kosovo and Serbia and with the blessing of Moscow authorities. Third, Russia's successful dash to Pristina and its airport required a great deal of coordination with Serbian authorities. Moreover, let us not forget that Russian and Serbian soldiers jointly manned roadblocks in Kosovo that impeded the movement of Allied units in the initial days of Operation Just Cause.

Russia's conduct in the course of Operation Allied Force and its self-invited role in Operation Just Cause demonstrated the volatility that still characterizes Russia's foreign policy, particularly its approach to NATO. Russian participation in NATO diplomatic and military operations is a double-edged sword, and has to be treated as such, particularly when sensitive Alliance operations are at stake.

Engaging Russia should remain a significant priority of the Alliance. Introducing greater realism to this effort does not mean isolating Russia. It does involve recognizing the difficult challenge of simultaneously promoting cooperation and mutual accommodation while avoiding propitiating risk-taking behavior by Moscow, such as that which occurred in Pristina.

The lesson from Kosovo is that while we must engage Russia with the goal of creating partnership, greater realism and caution in this endeavor is more likely to yield more stable and enduring cooperation.

The Kosovo war demonstrated the continued centrality of NATO to transatlantic security. It has demonstrated the awesome power that emanates from allied unity. It underscored the profound political and military pay-off that comes from fifty years of intensive military consultation, cooperation, coordination, joint planning, joint training, and all the day-to-day activities the Allied militaries conduct to protect and defend our common values and interests and peace.

The war over Kosovo tangibly reminded us of the military and political challenges NATO will likely face in the future. It was a firm reminder of the need for the Alliance's force structure to become more mobile and more capable of rapid deployment. It was an urgent call for improvements in the inter-operability of Allied forces and in the balance of transatlantic military capabilities. And it provided the first test of NATO's ability to manage war in the post-Cold War era.

As Operation Allied Force was NATO's first war, it is essential that we ensure that it is comprehensively reviewed. In objectively assessing what went right and wrong, we must keep our eyes upon NATO's future. We must also work to ensure that the lessons learned and relearned from Operation Allied Force will not just reside in dusty reports but actually prompt decisions and actions that improve NATO's ability to decisively manage the political and military levels of war.

Mr. President, I have quoted General Klaus Naumann several times and wish to share with my colleagues the transcript of his farewell remarks of May 4, 1999, the last day of his tenure as Chairman of NATO's Military Committee. They provide sage advise concerning NATO's future from an experienced military commander, and I urge my colleagues to take the time necessary to review them. I ask unanimous consent they be printed in the RECORD.

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

TRANSCRIPT OF PRESS CONFERENCE

(By General Klaus Naumann, Chairman of the Military Committee)

GENERAL NAUMANN. Ladies and Gentlemen, first of all thank you very much for coming. I thought I should not hand over my Chairmanship of the Military Committee after three and a quarter years without having addressed you once again and giving you a little bit of I should say an up-date. Where do we stand at this point in time, after three and a quarter years which presumably will go down in history as the most turbulent years in NATO's 50 years of history, years in which the Alliance changed more profoundly than ever before.

I think it is best expressed by two political data which marked my tour, It started more or less with the Berlin Foreign Ministers meeting in June 1996 when the Alliance set sail to give itself a new set of missions, and it ended more or less with the Washington Summit a couple of days ago, where we published a number of documents in which all this progress which we made I think is really enshrined.

Of course you may be focused, as I am these days, on Kosovo. But I think we should not forget the bigger picture as well and I think I would like to bring to your attention a few points which belong to the bigger picture. When I assumed office as Chairman of the Military Committee, I had 14 nations sitting around the table—14. Then France joined, then Iceland, after 49 years, joined the military Committee. And now we have three new members at the table. It is a clear indication that NATO maintains and has strengthened cohesion and achieved improvements.

One of the improvements which I would like to mention is the new command structure which hopefully over time will lead to marked improvements, particularly in the southern region of NATO, and I dare to say no Chairman of the Military Committee before me has invested so much time and devoted so much attention to the problems of the southern region, and in particular of southeastern Europe. And as a matter of fact we have made big progress in this area and we planted seeds which hopefully will produce over time a really big and powerful tree.

We also began to work in these three years in the EAPMC format. We got partners to contribute and to engage in a dialogue. This has been for me the most fascinating experience. We should never forget most of these partners were just 10 years ago in the camp of NATO's enemy, and now we are working together. And we got them in this new format of the EAPMC to contribute, to engage in dialogue, and I believe this instrument of the EAPMC has the biggest gross potential for crisis management and conflict prevention in Europe if we handle it properly. So this is something we should dwell on in the future.

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QUESTION. General, that was the first confirmation we have heard that the two planes lost by NATO were shot down. Can you reconfirm that they were shot down?

GENERAL NAUMANN. I think that we have said in previous statements that they were shot down.

QUESTION. And I have a follow-up. You have been a key player in the Kosovo operation since it started. How difficult is it going to be for somebody else to take over your position and how do you feel about it personally? Is it going to be difficult for you to be no longer operationally involved in something that you have been involved in from the beginning, and is there a risk of you turning into one of those people that you have criticised in the past, an armchair General, who will be advocating sending in ground troops the minute you take your uniform off?

GENERAL NAUMANN. Starting with your last point, I can assure you I will not join the league of armchair generals and I will refrain from any comment with regard to the activities of any of my successors. That is for me part of fair play. And I am pretty well aware that it is very easy to sit in an armchair and to make wonderful proposals since you do not feel the burden of responsibility on your shoulders. The only responsibility you have is to cater for the cheque you receive in some of the broadcasting stations for giving interviews, and I do not want to join that league.

Secondly, with regard to how I feel personally, well of course you are not entirely happy in such a situation. It is like leaving a group of friends aboard a ship which is in stormy seas and suddenly I am whisked away by a helicopter. I haven't ordered the helicopter and I am not entirely happy that I have to leave and pack, but there is no choice, that is not my choice.

And with regard to how I feel to be replaced, I think no-one is irreplaceable. Had I run my car into a tree yesterday night, they had to face the problem to replace me as well, or had I hit myself with a golf club by trying to have too good a swing, they may have a problem as well. So that is not a question, everyone is replaceable.

MARK LAITY (BBC). You are not yet an armchair general so can I invite you to talk

about ground forces? You have said in interviews that military doctrine states that air power has never yet won a war on its own so do you think this one can and if so why? And taking up your theme of the limitations of coalition warfare, do you think the lack of a ground option is a result of the limitations of coalition warfare and the lack of agreement on that?

GENERAL NAUMANN. First of all, it's true that military experience so far has suggested that an air campaign so far in history never won a war, that is true and we have mentioned this again and again. But as I said in my briefing, we see a real chance that we can make it and for that reason I think there is no necessity at this point in time to change strategy. We would give out all the wrong signals. We are making progress, we are nibbling away night by night and day by day at some of his military capabilities? Why should we change?

You should also not forget that this air campaign is after all, as far as I can see, presumably one of, if not the most successful one which we have seen so far. That is to some extent related to technology since we have many new assets in our inventory which we use successfully, and it is on the other hand related to the fact that we succeeded in winning the necessary air superiority in mid- to high-altitudes.

Furthermore, I should say this campaign was never planned without a ground force option at the end but the ground force option is based on a permissive environment. So that will come at the end of the campaign, and for that reason we still stick to military doctrine and, as you know, we are advised to keep all our plans under permanent review—which by the way is a good old military custom and experience. I hope with that I have answered the question.

MARK LAITY. Could you take up the point about whether coalition warfare is the problem here that has restricted your options regarding a non-permissive ground force?

GENERAL NAUMANN. I said earlier on that from my perspective we have seen really good co-operation between the military and the political sides in the planning and preparation of this campaign. For that reason, I simply cannot confirm the notion that the conditions of coalition warfare prevented us from taking up any options at all.

QUESTION. General, the strategy behind the air campaign has been criticized in that it limited the number of initial targets and that the phased nature of the campaign gave time to the Yugoslav forces to adjust. With the benefit of hindsight, what would you have done differently to make this campaign more effective?

GENERAL NAUMANN. First of all, I really dispute that the campaign is not effective. It is not working as quickly as perhaps many of you had expected. What I think, with hindsight, worth considering are the two points, which I made earlier when I spoke about the two principles of military operations, and that is surprise and overwhelming power. That of course is not possible as far as I can see under the conditions of coalition warfare and that makes a difference between a coalition facing a national state and a coalition facing another coalition. For that reason, I think we need to think through how we can make sure in future operations how we can achieve one or both of them.

QUESTION. General, there are assessments that the present operation would have been more effective if NATO had launched the whole operation sooner. Can you share this view?

I would come back again to the air campaign. Taking just a military point, what could we achieve just through an air campaign within the different time-scale?

And thirdly, if I may, how seriously has NATO/Russian military co-operation been damaged?

GENERAL NAUMANN. On the last point, better leave it to the judgement of our Russian colleagues. It is not we who have left co-operation, it is them, and so they have the onus to come back.

With regard to the air campaign, I believe that the air campaign is properly working but you should also take into account that we have conditions which we have to follow which are degrading to some extent the impact of the air campaign, most notably the conditions that we have to avoid collateral damage.

The Serb military forces are hiding their vehicles, their armour, their artillery in Kosovo next to civilian buildings, to churches, to mosques and what have you. We don't attack them under these circumstances, although we technically could do it, but this would destroy something which we don't want to destroy. I think we have the justified value of all of our society—after all in sharp contrast to Mr. Milosevic—that we don't like war, we the democracies hate war. And for that reason we have got the task of avoiding the loss of human life and I think you would have to look for quite a time in your history books to find an air campaign which lasted 41 days, being conducted in quite an impressive air-defense environment, without one soldier wounded let alone killed. It is not a bad result.

On the question of how long it will take us, I cannot give you an answer. There are two to tango and we have a lot of patience if he wants to challenge us.

QUESTION (New York Times). General Naumann, you said in your opening statement that an air campaign alone can't stop the ethnic cleansing operation.

GENERAL NAUMANN. Entirely, I said.

SAME QUESTIONER. Entirely. If President Milosevic doesn't change his mind and back down and accept the five points, is it possible do you think that ground forces would not be able to go in a permissive environment and get the refugees back home before the winter sets in, which comes early in Kosovo, at the end of September or October?

GENERAL NAUMANN. First of all, when I said ''cannot entirely stop ethnic cleansing and killing from the air'' I think I simply referred to the fact that if we have a policeman or one of these paramilitary thugs running around chasing unarmed civilians with rifles or threatening them with knives, you cannot stop this from the air. It is asking the impossible. But what we can do is to make life for these people so miserable that they will think twice whether they should continue. And then of course we should not speculate at this point in time under which conditions an implementation force will go in. Of course, we will see the impact of a continued air campaign and we will see how they will feel after a few more weeks, months or what have you of continuously pounding them into pieces.

QUESTION. General Naumann, I think you said, if I heard right, that President Milosevic's campaign of mass deportation is still achievable. Could you expand on that and tell us what you mean? Although there are still many hundreds of thousands of Albanians still in Kosovo, do you believe it is still achievable?

GENERAL NAUMANN. I think if he really wants to get them out and if he uses in the same way the brutal tactics he has used so far, he may have a chance to do this. I don't know how long they will be able to hide, how long they will be able to sustain their lives under very miserable conditions. And we should not forget what we have seen and statements we have seen of his brutal shelling of unarmed civilians with artillery and with tanks. This will have an impact over time and I only hope that the appropriate international bodies will take care of those who committed these crimes of war.

QUESTION (Newsweek Magazine). General Naumann, this seems to be a war in which we count the bodies of our friends and the people we're defending. We count them by the hundreds of thousands, the people we are defending, who have been thrown out of their country and we are proud that we have killed a couple of dozen of the enemy. Does this strike you, as a soldier, as ironic or as a good way to fight a war?

And why do we think that the Serbs will capitulate if they are left untouched while the people we are defending are massacred and deported en masse?

GENERAL NAUMANN. First of all, I think it is a wrong impression that they are untouched. What we do not know is how many casualties they have, but if I take the fact which presumably was briefed—I didn't have the time to follow the briefing this afternoon—of what result they achieved last night and during the day, if you take it that several tanks and artillery pieces were hit, this is not free of cost of life.

SAME QUESTIONER. But we don't count those, we are not given those numbers, we are only given the numbers of the people being deported.

GENERAL NAUMANN. We don't count—and we cannot count—since, as you all know and you can hear it day by day if you watch CNN when they issue their pictures from Serbia they mention after—I would appreciate it much more if they could do it in the beginning before they make their reports from Mr. Sadler—they mention that this has been censored and that they have to submit their film material to the Yugoslav authorities so that they can control what they are allowed to report. That is the daily statement which we hear on CNN and for me it is quite amazing as a military man that we have not heard one single statement about loss of military life from the Serb side. They mention buses, just the one yesterday which they alleged we had hit with an air bomb, but if you looked at the bus only a layman could believe that this was the impact of an air-delivered weapon, since the bus looks different if you hit it with a bomb as we have seen. But they get credibility for that and many of you take the story up and say: ''This was NATO!''

I think you are all experts to some extent and I think many of you are capable of differentiating whether a bus was hit by a bomb or by something like infantry weapons and regarding this last one, I have seen buses which were hit by real weapons and they look different.

SAME QUESTIONER. But why are we so worried about Serb civilians in fact? Why are we worried so much—not the press—why are you so worried about killing Serb civilians when the Serb government that they support very strongly is massacring and deporting hundreds of thousands of people?

GENERAL NAUMANN. You may be right from a moral point of view but we have got the clear order to avoid civilian causalities and that order we execute. And so you should not be surprised if we regard it as a mistake if one civilian has been killed. And it is not our judgement to establish the moral balance. For us it is a deficiency if we kill innocent lives, and I leave aside what the inmates of this bus were doing. That doesn't matter for us. It is deplorable that we hit this bus—the one on the bridge I mean—and that people lost their lives since it was something we were told to avoid. But as I told you, the overall performance in executing this order I think is good and if I compare the number of

approximately 15,000 pieces of ordnance dropped and six mishaps, I think it is really not a bad performance.

QUESTION (CBS News). General, you said just a few moments ago that there is no reason to change tactics, to bring in ground troops and then in the next breath you say that Milosevic, if he really wants to, can ethnically-cleanse all of Kosovo. We have had figures today of 90 percent of people thrown out of their homes, of killings, of rapes. Is that not reason enough?

GENERAL NAUMANN. You are asking a moral question, I understand you fully and from a moral point of view I also hate to see this news, but on the other hand, you can only do what is achievable and what is acceptable by our nations in this Alliance. And for that reason I have to tell you once again that we have no reason at this point in time to change the strategy which is focused to some extent on the philosophy of our democracies that we should avoid casualties, we should avoid the loss of life. That is the basic point. You may be morally dissatisfied with that but that is how life is.

QUESTION. General, you had the opportunity and the experience to meet Milosevic. You said before that we needed two to tango. Do you think that the international community can still ask Milosevic for a tango and make a political agreement with him? Secondly, according to your statement before, are the Albanians paying the price of an experiment which wants to show that the war can be won without ground troops?

GENERAL NAUMANN. No, to your last point definitely no. I think I explained to you where we stand in our societies and I think I also mentioned to you that we have to have consensus among 19 nations and that is something which you can't get on this critical issue. With regard to Milosevic and my personal experience of him, the only thing which I am really looking forward to in my imminent retirement is that this makes sure that I will never see him again!

QUESTION: General, you said that Milosevic was the best recruiting agent for the KLA but in fact it seems to me that NATO is really the best recruiting agent of the KLA since the air campaign which is taking place is partly to their benefit. You pointed out that it was impossible to eliminate the forces that merely clear villages and so on, two or three policemen could do that, but it was possible of course to degrade the Serb forces. Is in fact NATO, since there is no consensus of putting in forces in a non-permissive environment, basically hoping that the KLA will be able to do that job for them, thereby really becoming the KLA's air force?

GENERAL NAUMANN: We clearly do not want to become the KLA's air force. We have no intention of clearly siding with the KLA since we know pretty well what the political consequences may be and we still stick to the line—and I hope that President Milosevic will eventually understand it—that Kosovo should remain part of the FRY, that is part of the five points, and if he is really responsible with regard to his own people and the future of his own country, he would really grasp the opportunity.

QUESTION: General, how serious is the lack of deeds you mentioned in your statement that we need to see concerning the ESDI and the Combined Joint Task Forces. How serious is this lack in your opinion?

GENERAL NAUMANN: I have to tell you that if I read all these wonderful declarations on European Security and Defence Identity, I always admire the fantasy of those who are drafting but I am a very pragmatic, very simple-minded soldier, I would like to see something and then I compare what the Europeans can do in this present campaign and what they cannot do and for that reason for me the very simple conclusion is that they have got to do something. And there are very simple things which you can do that do not eat up a tremendous amount of money. I am not talking of launching a European satellite programme or what have you but you have deficiencies in the European forces which have to be corrected as a matter of urgency.

Many of our air forces, for instance, do not dispose of stand-off weaponry. They have to fly more or less over the target which is the most stupid thing you can do since you expose yourself to the enemy air defence.

Another essential capability, the capabilities of the Europeans with regard to combat search and rescue are not very impressive. That is not a thing which costs tremendous billions of dollars, it is not something which would make the armaments industry open the bottles of champagne but it is extremely important for the morale of the pilots and for them nothing counts more than the assurance ''We'll get you out!'' And for the morale of our pilots I think nothing was more important than these two successful search-and-rescue operations and that is something we need to do.

And if I look at the deplorably slow deployment of our forces to Albania and FYROM, had we something like a European transport aircraft capability then we could do better.

Take the example of the humanitarian effort. We looked into this but most of the European transport aircraft are two-engine aircraft and they cannot climb to an altitude where you can safely travel without being exposed to missile air defences.

These are all things which can easily be done and for that you don't need another voluminous conceptual paper—we Germans are very good at liking concepts, nothing without concepts. It buys you time by the way so you have a lot of time to talk of the concepts before you have to take action!—and that is what we need to avoid. And we can take decisions, we can take them now and it would not blow up the defence budgets of the nations.

Another point which from my point of view is really the core of the issue is that if we really want to do something in Europe then we have to start to harmonise the research and development programmes of our nations. The United States of America is spending $36 billion dollars per year for research and development, the Europeans all together—I think plus Canada—spend $10 billion dollars per year but in contrast to them, the European programmes are not co-ordinated. So what we see expressed in these facts is an ever-growing gap between the Europeans and the Americans, and this needs to be redressed. And for something like this you don't need a European summit, you need something like the will to decide.

QUESTION. Are we positive that the VJ is digging-in in Kosovo. Jamie Shea talked this afternoon about Maginot Line kind of works. What conclusions do you draw from that and do you have the impression that still quite a lot of the refugees in Kosovo are being kept there for tactical reasons? And did you solve the problem with spies when it was talked about. That the target list was known in Belgrade at the beginning of the campaign have you any news on that?

GENERAL NAUMANN. I do not wish to comment on such speculations like the last one. That the VJ is digging-in we have seen for the last couple of weeks. They are preparing for the defence of Kosovo and they follow the good old tactics which we learned in the days of the Cold War of the Soviet tactics of defence, so it is exactly what we have in our text books that we see right now. We are not surprised by that and by the way, the more they dig in the more fixed the targets will be, the easier to hit them.

QUESTION. For the last question, General, to sum up all this discussion, what would be your vision for the development of NATO's armed forces for the future?

GENERAL NAUMANN. First of all, I think we need to find ways in which we can achieve a complementary contribution between the United States and Europe. This does not mean competition but we need to harmonise our capabilities in such a way that they really complement each other. I think that is feasible and I think it is necessary since after all we will continue to be confronted with very scarce defence dollars or euros and so we have to follow the line which our American friends are expressing with the simple sentence: ''We have to get the biggest bang possible for the buck!'' That is something we are not doing right now.

Secondly, we need armed forces which are ready for quick deployment, which are capable of operating under austere conditions. Whether this will be inside or outside the NATO treaty is unimportant.

We need to have forces which have a mission effectiveness and by that I mean they have to be able to project power from a distance. This means in the initial phase presumably something like unmanned vehicles like the Cruise missile, or similar capabilities, but also it goes in the direction of stand-off weaponry for our air forces and for some of our ships.

Then we need the capability to command and control such forces wherever they will be employed. We need very mobile Command, Control and Communications (C3) and we need excellent intelligence.

And if we think added as a fifth point that we have to be able to sustain these forces then I think you have the description of the future alliance forces. This means employed only on their own territory, this does not fit into NATO's future pattern and we have too think this through. By the way that is not only a problem for Germany, it is a problem for many other countries in this Alliance but if politicians are serious about using their armed forces—which I think is presumably the proper answer to the security environment—then we have to be sure that the remaining forces are so flexible and so deployable that we will be able to defend an ever-increasing NATO treaty area with ever-decreasing forces.

The PRESIDING OFFICER. The Senator from Colorado.

TAX CUTS HELP AMERICAN FAMILIES

Mr. ALLARD. Mr. President, the Congress has just sent to the President a tax relief package. I believe very strongly that we can do three things: We can cut taxes, we can make substantial strides in paying down the debt, and we can save Social Security.

I do not think that asking for a tax cut of between 3 and 3.5 percent of the total anticipated budget spending in the next 10 years is being irresponsible. That is how this administration—the President and the Vice President, AL GORE—would like to characterize it. We have the highest tax burden since World War II. I think this Congress is being responsible to the American people in saying: You deserve some relief, too.

I am very disappointed that the President is saying he is going to veto this tax-relief package. I have believed all along that he really does not support any tax cuts. I have believed all

along that he really does not want to pay down the debt and that he really does not care that much about Social Security. I have believed all along that his real agenda is spending. As we move forward this fall with some of the debate, I think it will become more and more clear that the President's agenda is really spending, while the Republicans' agenda in the Congress—and I want to be part of that team—will be to fight to keep taxes down, will be to fight especially hard to pay down the debt, and to save Social Security.

I would like to take a moment to make some comments on tax cuts. I believe we took an important step toward addressing our Nation's future by passing the $792 billion tax cut package last month. We passed a bill that pays down the debt, ensures that our obligations to Social Security are met, and provides tax relief for millions of Americans.

This tax cut package returns the tax overpayment to those who paid it. I believe this is a far better option than the plans we have seen from the other side of the aisle that would merely spend the extra money. Under our plan, a middle-class family of four will receive over $1,000 a year in tax relief when the plan is fully implemented.

In addition to broad-based relief for all taxpayers, the tax bill provides relief in many important areas, including the marriage penalty, the alternative minimum tax, savings and investment, education, health care, the estate tax, and housing.

I, for one, believe in the ''opportunity society.'' I believe in success and that people should not be punished when they succeed and prosper. The surplus belongs to those who are succeeding and paying record levels of taxes. When we cut taxes, people are motivated to work harder, and the economy does well. When the economy does well, everyone does well.

Some are trying to claim that the Republicans want to return money to the people instead of paying down the debt. Nothing could be further from the truth. In fact, in 2000, the Republican plan, along with a significant tax cut, leaves the public debt $220 billion less than the President's budget proposal. The Republican plan saves 75 percent of the total surplus, as compared to the President's plan which only saves 67 percent of the surplus.

I also point out that the Republican plan saves every penny of the Social Security surplus. The President's budget spends $29 billion of the Social Security surplus.

These numbers come from the Congressional Budget Office, which Members of Congress can rely on, on a nonpartisan basis, to provide us with accurate figures.

Clearly, the recent debate in the Senate was not about debt repayment. The debate was about what to do with the surplus money after addressing debt repayment. I happen to believe we should refund this overpayment to the taxpayers. Some of my colleagues believe we should spend it. I believe the American people are in a better position to know what they need than the Government, particularly the Government here in Washington. I believe we should let the people keep more of their own money to spend on their priorities, not Washington's priorities. I believe the tax package we passed will do just that.

By contrast, the President's budget increases taxes—I repeat that, increases taxes—by nearly $100 billion over 10 years. I find it interesting that the President claims we cannot afford $792 billion in tax cuts but believes we can afford $1 trillion in new spending.

Although some have tried to portray the tax-relief package as large and irresponsible, I have to disagree. The tax cuts only equal 3.5 percent of what the Congressional Budget Office projects the Federal Government will take in over the next 10 years. In light of the fact Federal tax receipts are already at a record high, I consider this tax cut to be extremely modest.

In response to the claim that tax cuts only help the rich, first of all, tax cuts are for taxpayers. If you do not pay taxes, you can't get a tax cut. Under the recently passed tax bill, every American who pays income taxes will get an income tax cut.

Our income tax system is progressive. The top 1 percent of earners make 16 percent of the income but pay 32 percent of the income taxes. The top 25 percent of earners pay 81 percent of the income tax, and the top half of earners pay nearly all of the income taxes.

Looking more closely at who pays the income taxes, as I noted, the top half of earners pay nearly all of the Federal income taxes. As taxpayers, they will be the ones to receive a tax cut.

I would like to examine who those so-called rich are. The rich are 62 percent of all homeowners; 66 percent of those between the ages of 45 and 64; 67 percent of those with a child in the home; 68 percent of those who have attended college, even just one quarter of college; 69 percent of married couples; and 80 percent of two-earner households.

I want to comment about the 80 percent of two-earner households. I believe most of those are young Americans who are trying to get started. They are young families, people who have just graduated from college, maybe just come from high school and have the first job. They are trying to buy a house, get a family started, and pay for a very expensive education. In order to do that, both the husband and the wife work. We are taking 80 percent of those two-earner households and we are taxing them at record levels. This particular tax bill is going to help young families getting started, future citizens of this country, the future leaders of this country.

I think this is a very good piece of legislation. I remind Senators, again, to remember when they hear our Democrat colleagues talk about the rich who benefit from those tax cuts, this is really who they are talking about.

I am pleased this body has taken steps to address tax relief for hard-working Americans. I will continue to support efforts to cut taxes and downsize Government. I believe Congress should reject new taxes and new spending in favor of meaningful tax relief. It is time we return Government money to the rightful owner—the American people.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. SANTORUM). Without objection, it is so ordered.

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 2000—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the clerk will state the conference report to accompany H.R. 2587.

The legislative assistant read as follows:

> The committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2587), have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 9, 1999.)

Mrs. HUTCHISON. Mr. President, today I am pleased to bring to the Senate floor the conference report making appropriations for the Government of the District of Columbia for fiscal year 2000. The conference report endorses the District's $5.3 billion operating budget and its $1.4 billion capital budget, as adopted by the mayor, the District council, and the financial authority.

The conference report appropriates $429.1 million in Federal funds. In fact, having worked out this legislation with the House, the conference report is actually $18.3 million more than the President's request. This is a good bill for the residents of the District of Columbia and for the people of America, whose capital this is.

Let me list some of the positive provisions.

For education, we have provided $17 million in funding for a new and unique tuition program that will allow D.C. students to pay instate tuition rates at universities. The District is home to only one public university. This legislation will allow D.C. students the opportunity to attend universities outside the District of Columbia without

having to pay exorbitant out-of-State tuition rates. This is a major advancement for D.C. students.

We have also provided equal funding for charter schools in the District of Columbia. Charter schools are holding great promise to improving education in the District. Just this week, I visited the Edison Friendship Charter School, less than a mile from the Capitol. This is a school that has school uniforms, teaches Spanish in kindergarten, provides take-home computers by the third grade, and every student there has doubled their test scores in 1 year. There are 700 students in the school, with 900 on the waiting list. I have to tell you, that was one of the most fun experiences I have had, seeing those bright, inquisitive kids who really love where they are. I asked one young girl, as I walked in, if she liked the school, and she said, ''`Like' is not the right word.'' I said, ''Do you love this school?'' She said, ''I love it.''

Good education in the District is possible. We just have to allow good parents, teachers, and principals the flexibility to provide it without the top-down interference of the entrenched bureaucratic rule.

This conference report also addresses the issue of crime in the District. No one doubts that there is a drug problem in the District. At the request of Senator DURBIN, our bill provides an extra $1 million for the District police to wipe out open-air drug markets in the city.

The conference report also provides funds for drug testing people on probation in the District. We know from studies that when people on probation return to drug use, they also return to criminal behavior. This bill will get them off the streets if they flunk the drug test.

Another important part of the bill is continuing on a path of fiscal discipline for the city. The city's finances used to be a disaster. In fact, it was the reason the control board was created. There was a time when the city's debt was rated ''junk'' status by the bond-rating agencies. With the leadership of Mayor Anthony Williams, the control board, and the city council, working together, this situation has changed dramatically. I want to keep it that way. In fact, I want to make it better. The city's bond rating is still the lowest rank of investment-grade quality. I think it can be higher. The conference report provides that the District budget maintain a $150 million reserve—a true rainy day fund.

We have also required the District to maintain a 4-percent budget surplus. But we have provided the flexibility above that surplus to pay down the debt and spend more on services, should the District have funds. The triple combination of a strong reserve, a surplus budget, and the requirement above that surplus that half must go for debt reduction and half for increased spending will increase the bond rating of the District and reduce debt costs in the long run.

The economic revitalization of this city is also an important priority for me. For years, the city has lost population and many areas of the city have fallen into disrepair. In this conference report, I have included a program that I believe will be helpful for the District—a $5 million fund to be used for commercial revitalization. I have introduced legislation similar to this in Congress for other cities, and I believe it will provide an incentive to rebuild and refurbish blighted areas in low- and moderate-income neighborhoods, helping clean them up and make them more safe for the children and people who live there.

For the environment, the conference report provides $5 million to clean up the Anacostia River. It has been a polluted river. Cleaning it up will be a significant environmental advancement for the people of the District.

Finally, the conference report includes a provision that will allow the D.C. Superior Court to spend $1.2 million in interest from its fiscal year 1999 appropriation to pay the District's defense attorneys for indigents. Payment to these attorneys was halted by the Superior Court this week.

Until the conference report is signed into law by the President, these attorneys will not be paid salaries they have earned representing the District's indigent clients and children.

The administration has signaled Congress that the President could veto this bill because of certain riders. I hope the President will look at all of the provisions and realize that all of the so-called riders have been part of past D.C. appropriations bills he has signed.

This is a good conference report. It supports and strengthens the Mayor's new administration. It supports the council's tax cut provisions. It funds the District of Columbia Resident Tuition Support Program and it adds $18.3 million over and above the President's request for the District. It does not allow the legalization of marijuana, it does not allow needle exchanges, and it does not allow city expenditures to sue the United States for voting rights for Senators and Congress representatives.

I think it is a good bill. I hope the President will not choose to veto the bill because it doesn't allow for the legalization of marijuana and needle exchanges. I urge my colleagues to support this conference report so the District will have the funds in time to begin the new fiscal year.

Thank you, Mr. President.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Thank you, Mr. President.

Today we are here to talk about the appropriations for the District of Columbia, a special city—the Nation's Capital—and our constitutional responsibility to oversee it.

As the Senator from Texas has already said, a substantial portion of tax dollars is involved in the D.C. budget, and for that reason and others, historically and legally, Congress has accepted the responsibility to oversee the budget of the District of Columbia. About 8 percent of the funds the District spends come from the Federal Government. As a result, we assume a responsibility in managing this city unlike any other city in America.

I have been puzzled over the years as I have dealt with this challenge about how many Members of Congress—House and Senate—who have never given a thought to running for mayor or city council anxiously play that role when it comes to the District of Columbia. I think that is unfortunate. I believe in home rule.

I have had some serious misgivings about policy changes made by the District of Columbia City Council—for instance, when it comes to tax cuts—but I have made those public. I have gone no further in this bill because I think it is their decision to make.

I also want to say at this moment that it has been a pleasure to work with my colleague from Texas, Senator HUTCHISON. It is the first time we have been in this role together in her position as the Chair of the subcommittee and mine as the minority spokesman. She has been honest, open, and professional in our dealings. Though we disagree on many issues, it has been a pleasure to work with her on this.

I also want to compliment her staff, Mary Beth Nethercutt and Jim Hyland for their cooperation.

I salute as well those on my side—Terry Sauvain, who is not only the minority clerk for this bill but who also serves as the minority deputy staff director for the Appropriations Committee. Our good friend and colleague, Senator ROBERT BYRD, was kind enough to lend Terry for our effort. And without him, we wouldn't be here today.

I also want to thank Marianne Upton, a member of my personal staff, who has been working on this tirelessly since we received this assignment.

Let me say a word or two about some others who are not members of the Senate staff but deserve recognition. My former House colleague, Congresswoman ELEANOR HOLMES NORTON has worked tirelessly for the District of Columbia. And a difficult job she has. Not being a voting Member of the House of Representatives, she has to use the powers of persuasion to be an advocate for the people of this city. I admire her greatly for the leadership she has shown. I also note that she opposes this conference report before us, as do many of the leaders in the District of Columbia.

Finally, let me say a word about the new Mayor. I have the greatest hope for this Mayor. I think he is an exceptional individual. I have known him for years in our professional relationship on Capitol Hill. He marks a real change in pace in the District of Columbia. I think he has done a great job to date with a very difficult assignment. I have

the greatest hope that he will continue and be very successful in those efforts to make our Nation's Capital a source of pride for everyone in America.

When people come to the District of Columbia to visit as tourists, or from other countries, there are certain impressions they leave with. The beautiful buildings of our Nation's Capital, perhaps the workings of our Government, but, of course, an image of the city. I am sorry to say that image is not always positive. I have cautioned people from Illinois and members of my family when they visit the District of Columbia to be careful. There is a lot of crime here, a lot of violent crime. You have to take care where you might not at home. That is not to say this is the most dangerous city. That would be an overstatement. But it is an urban city with many urban crime problems. Frankly, I think we can and should do a better job in impressing them.

I also have to concede that there are problems in the District of Columbia that may not be obvious. But they go to the heart of these riders that have been put on the District of Columbia appropriations bills. Let me tell you what has happened.

Republican Members of Congress unable or unwilling to impose changes in legislation in their own home States or on the Nation use these appropriations bills as the happy hunting grounds for every extreme viewpoint you can find. It is the last recourse for scoundrels who will not impose on their own cities and States changes in the law but will do it to the District of Columbia.

Time and time again, limitations put on the District of Columbia are not being imposed on other States across the Nation. Members of Congress think they have free reign; it is a playground to introduce any amendment to any issue they would like knowing the District of Columbia is almost powerless in this process. They are victims of this congressional excess.

That is why the President should veto this bill and say to the Republican leadership and those on the Democratic side who have joined them that enough is enough. These riders are unfair to the people of the District of Columbia. Let me give you an example.

You may visit Washington, DC, and be impressed with many things. You probably would not know unless you were told that the District of Columbia faces a severe crisis. It has the highest rate of new HIV infections and deaths due to AIDS in the Nation. It is more than seven times the national average right here in Washington, DC.

Exhaustive scientific studies that have been underway by the National Institutes of Health and the Centers for Disease Control and Prevention, and others, have concluded that some programs can help to reduce the spread of AIDS and HIV in the District of Columbia.

One of those programs, controversial as it is, is a needle exchange program. This bill bans the District of Columbia from using any funds, Federal or local, to operate a program for needle exchange. To make it even worse, it says any entity which carries out such a program using private money is barred from eligibility for any Federal funding for any purpose.

I will tell you, there are 113 needle exchange programs across America. In virtually every instance they not only reduce the incidence of AIDS but they reduce the incidence of drug addiction.

I sat in that conference committee as my fellow colleagues in that conference said piously: We don't want to see this in the District of Columbia. I produced a map showing that many of these same Congressmen represent cities across America with similar programs and have never voted to bar or prohibit but they do in the District of Columbia where we have such a terrible epidemic of HIV and AIDS. That is sad.

Seventy-five percent of the babies born with HIV in the District of Columbia are due to the use of dirty needles by either their mother or their father. The District of Columbia has the highest rate of new HIV infections in the country. And yet we would put this provision in the law to stop even a modest effort to reduce this epidemic. I think that is awful. For that reason alone, I hope the President will veto this bill. But there are others.

There is also a ban in this bill to stop the use of any funds to implement a locally enacted law allowing District of Columbia employees to purchase health insurance or take family and medical leave to care for a domestic partner. The bill unfairly singles out the District of Columbia, discriminating against law-abiding citizens who happen to be unmarried but cohabitating.

Over 67 State and local governments, 95 colleges and universities, almost 70 of the Fortune 500 companies, and at least 450 other companies and not-for-profits and unions offer these same benefits. Not one Member of Congress is proposing to stop these programs anywhere other than the District of Columbia. That is basically unfair.

On the question of voting representation, another rider precludes the District of Columbia from using any funds, Federal or local, to finance a court challenge aimed at securing voting rights in the District of Columbia. This effectively means that the lawyers for the District of Columbia are prohibited from even reviewing legal documents on the question. I cannot imagine a Member of Congress or the Senate imposing a similar limitation on any municipality or unit of local government in their own State.

On the medical use of marijuana, I know it is controversial, but let me name some of the States which have decided if a doctor makes a decision that the operative chemical in marijuana is important for therapy, that it can be legal, if prescribed by a doctor. These States include the States of Washington, California, Oregon, Nevada, Alaska, and Arizona. All have voted for medical use of marijuana. Yet we have a situation where Members of Congress and the Senate have said to the District of Columbia: No, you cannot do the same. I think that is unfair.

There is a cap on attorney's fees in special education cases. If someone is trying to raise a child with a serious learning disability and wants that child in a special ed program, we have provisions in the law across America in terms of access to those programs and who will pay for the attorney's fees. It is only in the District of Columbia that some Members of Congress want to limit the amount paid to those attorneys to no more than $1,300 per case. It is basically unfair to do it only in the District of Columbia. The same Congressmen and Senators would never impose that limitation on their own States and districts.

My friends, those and many others are riders which I find objectionable. They are clear evidence of excess on the part of the conferees—primarily on the House side—who have insisted on keeping these provisions in place. I am going to vote against this bill. I refuse to sign the conference report. To my knowledge, I don't believe any Democratic Member did. Perhaps one did, I may be mistaken. For the most part, the Democrats decided this bill went entirely too far.

One thing I put in this bill which I hope will have some benefit if ultimately the President vetoes it and this provision survives is a requirement that the District of Columbia city council and mayor report to Congress on some very basic things which we think need to be addressed in the District of Columbia. The District of Columbia has decided they have so much money they will give away $59 million in tax cuts next year. They have declared a dividend in a city with a high murder rate, in a city with terrible public health services, a city overrun with rats in the street, and a city where the schools are deplorable. Despite all of these things, they have said: We have too many dollars. We are going to give them away, give them back, $100 to a family.

I think it is more important that families in the District of Columbia have protection in their homes, protection in their neighborhoods, that visitors to the city feel safe on the streets; that enough policemen are hired, and others are brought in to make certain that security is there. They are caught up in the notion that a $100 tax cut for each family will transform the District of Columbia. I think they should get to the basics first.

That is why I requested a quarterly report from the District of Columbia to Congress on very basic things, including the reduction in crime, providing the basic city services, the application and management of Federal grants,

and most importantly, to deal with the problem that children in the District of Columbia have been graded by many foundations as being worse off than any children in the United States of America.

When it comes to the basics, low-birthweight babies, infant mortality, child death rate, rates of teen death, teen birth rates, these things, unfortunately, the District of Columbia is doing worse on than any other State in the Nation. Wouldn't it be better to take some of the $59 million tax cut and put it back for the benefit of these children? I hope this quarterly report will demonstrate that the mayor and city council have proven me wrong. If they have, I will gladly concede.

In the meantime, I urge my colleagues on the Democratic side to oppose this legislation, to vote no on this appropriations bill, to urge the Republican leadership to give a clean bill, send it to the President so it can be signed, and the District can continue in their efforts to reform this government.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I want to highlight the points the Senator from Illinois raised and try to give the view of the majority on those points because I think there are some clear differences.

I appreciate the working relationship that Senator DURBIN and I have had on this committee. In the main, we have agreed on this bill. I think the very positive parts of the bill that I outlined earlier were agreed to and enhanced by our ability to work together. I do also want to thank the members of his staff, Terry Sauvain and Marianne Upton, for working with our staff, Mary Beth Nethercutt and Jim Hyland.

I think our disagreements have been very open and honest. I will address the points the Senator made. I think it should be understood why we are doing some of the things that are called riders in this bill.

The District of Columbia belongs to every American. This is our Capital City. Every American taxpayer pays for the upkeep of the city. We all point to this city, hoping that it represents the best that America is. The buildings in this city rival any, anywhere in the world. I am proud of the city. That is why, when I was chosen to be the chairman of the D.C. Subcommittee, I readily agreed because it is important to my constituents in Texas, just as much as it is to the people who live here full time. I think we do want to have standards that every American believes are the right standards for our Capital City.

Let me take the points that Senator DURBIN said he believes the President may veto the bill over because these points are in disagreement.

First, the needle exchange program. Yes, it is true we do not allow for Government funding or city funding of needle exchanges for clean needles for drug abusers. Barry McCaffrey, the drug czar of the United States, who is the President's appointee, said the following about clean needle exchanges:

> [General McCaffrey has] strongly objected to needle exchange programs.

In his words:

> The problem is not dirty needles, the problem is heroin addiction. The focus should be on bringing health to this suffering population, not giving them more effective means to continue their addiction. One doesn't want to facilitate this dreadful scourge on mankind.

That was in the Orlando Sentinel on March 13, 1996.

Janet Lapey, in the New York Times magazine, said this was probably not in the best interests of the people who are suffering from addictions. We do put a lot in the District budget to help people with drug addictions. We try to take the hard line on drug addiction so people who are doing criminal acts in addition to using drugs, some of which also are criminal acts in themselves, do not prey on innocent citizens.

In most of the drug needle exchange programs it has been shown that it has increased the use of illegal drugs. I think it would be a tragic mistake in our Capital City to have a federally funded or locally funded needle exchange program that gives any indication that we want to foster this habit. We want to help these people get off drugs, not make it easier for them to do it with clean needles.

Second, on the issue of marijuana, it is true this bill does ban legalization of marijuana in the District of Columbia for any purpose. I think it is important that we not have this become a haven for marijuana use, even for medicinal purposes, because I don't think we should take an illegal drug and allow it to be legalized in our Capital City. The majority on the conference committee agreed.

Last but not least, the other issue I think we have a legitimate disagreement on is the voting rights in the District. In the District of Columbia, the people do elect a city council and a mayor. We work with them because the Federal taxpayers do fund a good part of the District of Columbia budget. I think because this is our Capital City and because it was provided that the city not be in a State, but, rather be overseen by Congress in our Constitution, that most certainly we need to take those steps.

But the issue of having two Senators and a Congressman from the District of Columbia should not be decided in a D.C. appropriations bill. That is banned, using city funds for that purpose. I stand by that.

Mr. President, I think the time has expired.

Mr. DOMENICI. Mr. President, I rise in support of the conference report accompanying H.R. 2587, the District of Columbia Appropriations bill for FY 2000.

The bill provides $429 million in new budget authority and $389 million in new outlays for federal contributions to the District of Columbia government. When outlays from prior-year budget authority and other completed actions are taken into account, the Senate bill totals $429 million in budget authority and $393 million in outlays for FY 2000.

I commend the distinguished Chairman of the Senate Subcommittee, Senator Hutchison, for her hard work and diligence in fashioning this bill. The bill is exactly at the Senate Subcommittee's revised 302(b) allocation. The bill is $36 million in budget authority above the President's request, due in part to the inclusion of a tuition assistance program for D.C. students who attend out-of-state colleges. The Administration has requested these funds, however, through the Department of Education rather than directly to the District of Columbia.

Mr. President, I ask unanimous consent that the Senate Budget Committee scoring of the conference agreement on the District of Columbia Appropriations bill be placed in the RECORD at this point, and I urge my colleagues to support the bill.

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

H.R. 2587, D.C. APPROPRIATIONS, 2000—SPENDING COMPARISONS—CONFERENCE REPORT

[Fiscal year 2000, in millions of dollars]

	General purpose	Crime	Mandatory	Total
Conference report:				
Budget authority	429			429
Outlays	393			393
Senate 302(b) allocation:				
Budget authority	429			429
Outlays	393			393
1999 level:				
Budget authority	621			621
Outlays	616			616
President's request:				
Budget authority	393			393
Outlays	393			393
House-passed bill:				
Budget authority	453			453
Outlays	448			448
Senate-passed bill:				
Budget authority	410			410
Outlays	405			405
CONFERENCE REPORT COMPARED TO:				
Senate 302(b) allocation:				
Budget authority				
Outlays				
1999 level:				
Budget authority	−192			−192
Outlays	−223			−223
President's request:				
Budget authority	36			36
Outlays				
House-passed bill:				
Budget authority	−24			−24
Outlays	−55			−55
Senate-passed bill:				
Budget authority	19			19
Outlays	−12			−12

Note: Details may not add to totals due to rounding. Totals adjusted for consistency with scorekeeping conventions.

Mr. DURBIN. Mr. President, I have an inquiry. Is there time remaining?

The PRESIDING OFFICER. All time has expired.

Mrs. HUTCHISON. The vote has been called for.

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 conference report.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Rhode Island (Mr. CHAFEE), the Senator from Idaho (Mr. CRAPO), and the Senator from Arizona (Mr. MCCAIN), are necessarily absent.

Mr. REID. I announce that the Senator from Louisiana (Mr. BREAUX), the Senator from South Dakota (Mr. DASCHLE), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Massachusetts (Mr. KERRY), and the Senator from Minnesota (Mr. WELLSTONE), are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. WELLSTONE) would vote ''no.''

The result was announced—yeas 52, nays 39, as follows:

[Rollcall Vote No. 279 Leg.]

YEAS—52

Abraham	Fitzgerald	Murkowski
Allard	Frist	Nickles
Ashcroft	Gorton	Roberts
Bennett	Gramm	Roth
Bond	Grams	Santorum
Brownback	Grassley	Sessions
Bunning	Gregg	Smith (NH)
Burns	Hagel	Smith (OR)
Byrd	Hatch	Snowe
Campbell	Helms	Specter
Cochran	Hutchinson	Stevens
Collins	Hutchison	Thomas
Conrad	Inhofe	Thompson
Coverdell	Kyl	Thurmond
Craig	Lott	Voinovich
DeWine	Lugar	Warner
Domenici	Mack	
Enzi	McConnell	

NAYS—39

Akaka	Feinstein	Lincoln
Baucus	Graham	Mikulski
Bayh	Harkin	Moynihan
Biden	Hollings	Murray
Bingaman	Jeffords	Reed
Boxer	Johnson	Reid
Bryan	Kerrey	Robb
Cleland	Kohl	Rockefeller
Dodd	Landrieu	Sarbanes
Dorgan	Lautenberg	Schumer
Durbin	Leahy	Shelby
Edwards	Levin	Torricelli
Feingold	Lieberman	Wyden

NOT VOTING—9

Breaux	Daschle	Kerry
Chafee	Inouye	McCain
Crapo	Kennedy	Wellstone

The conference report was agreed to.

Mrs. HUTCHISON. Mr. President, I thank my colleagues for this vote. I think it is important that we fund the District at a responsible level. I hope the President will look at the merits of this bill and let the District have the additional funding that is included. I think the vast majority of the people in the leadership of the District realize this is a giant step forward not only for the people of the District but for every American whose capital this is.

MORNING BUSINESS

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that there now be a period for morning business for the remainder of the today's session, with Members permitted to speak therein for up to 10 minutes each.

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

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

UPDATE ON CRIME CONFERENCE AND THE RELEASE OF REPORT ''CRIME COMMITTED WITH FIREARMS''

Mr. HATCH. Mr. President, I want to comment briefly on the status of the youth violence bill conference. Conferees from the House and Senate had planned to meet later today to complete consideration of the conference report. Last night, conference staff met jointly with Administration officials. And discussions on firearms and culture related issues are moving forward. Chairman HYDE felt that his talks with Mr. CONYERS are going very well. Accordingly, I felt we should keep working. however, my hope and plan is to meet next week so we can complete action on this bill this month.

I also want to comment briefly on why this bill is so important. Too many violent crimes involve juveniles. According to the Justice Department, the number of juvenile arrests for violent crime, including crimes committed with a firearm, exceeds 1988 levels by 48 percent. Our youth violence problem is a compel problems that demand comprehensive solution. Our legislation makes our schools safer; it empowers parents; it recognizes the importance of prevention; and it emphasize the need for enforcement and getting tough on violent criminals. Part of any comprehensive solution to deal with crime must be a commitment to enforcing the laws on the books. Actions speak louder than words, whether we're talking about how the government deals with gun offenders or how it deals with terrorists.

I am deeply saddened by the news out of Texas concerning a crazed gunman's senseless, hate-for-religion rampage at a Forth Worth church which left seven innocent people dead and many others wounded. My prayers go out to the victims and their families and my energies will be all the more dedicated towards trying to reach a consensus on the youth violence bill. This event—and others like it in recent months—have energized a well-deserved and beneficial debate about the criminal use of firearms. Limiting criminal access to firearms, beefing up prosecutions, and responding to a popular culture which glamorizes firearms violence should all be parts of our response. But as I just noted, violent crime—violent juvenile crime, in particular—is a complex problem which deserves a comprehensive response.

In today's Washington Post, which appropriately reports on the Texas shooting on its front page, is buried an article about how a Maryland juvenile court judge released from custody—over the objections of prosecutors—a 16-year-old, confessed violent sex offender who had been sent to Maryland's maximum security prison. He was released because the he was not receiving ''individualized counseling.''—Washington Post, Sept. 16, 1999, B–7. According to the article, the judge's view is that the purpose of the juvenile justice system is to ''rehabilitate rather than punish young offenders.'' The teenager in question—whose identity has been protected, by the way—was one of six teenagers who, in March of last year, lured a 15-year-old girl from a bus stop to a vacant apartment where they took turns raping, sodomizing, and beating her for three hours. Three teenagers who participated in the rape were sentenced to life but this offender has been set free by a soft-headed juvenile justice system. According to the article, this violent sex-offender (whose fellow offenders are serving life-terms) will live with his relatives in near-by Prince George's County and will be enrolling in High Point High School.

Where's the greatest threat to the public? Ask the parents of High Point High School this question. The greatest threat to the public is from criminals who are set free by a soft-headed justice system, be they rapists or terrorists. And criminals who commit crimes but are not prosecuted are left free to commit more crimes. yesterday, I released a report reported entitled ''*Crimes Committed With Firearms—A report for Parent, Prosecutors, and Policy Markers.*'' Our report found that over 90% of criminals age 18 to 24 who had an substantial arrest record prior to being imprisoned are rearrested within three years for a felony or serious misdemeanor.

I mention this article and our report to illustrate, as I have said repeatedly, that this is a complex problem which demands a comprehensive solution. Simply passing more laws which get printed in DOJ's law books but which go unenforced will not nothing to fight violent crime, let alone violent juvenile crime. And legislation which fails to make meaningful reforms which promotes juvenile accountability and juvenile record disclosure—as the Hatch-Sessions bill does—will prove to be a hollow accomplishment.

In closing, we must do all we can to come together and resolve our differences and reach consensus. When I hear members drawing lines in the sand over specific provisions in the youth violence bill, I get concerned because it tells me that the politics of party are trumping the obligation to lead and do what's right.

That is what I intend to do in this juvenile justice conference. I hope we have the cooperation of everybody on both sides. I hope the rumors that some want to play this as a political matter are not true. I think we need to pass a juvenile justice bill this year, and we need to do the very best we can do in doing that. I intend to get that

done, and I thank all those who cooperate in helping to get it done.

I yield the floor.

The PRESIDING OFFICER (Mr. FITZGERALD). The Senator from California.

Mrs. BOXER. Thank you, Mr. President. For the benefit of my colleagues, I will be finished in 5 minutes.

FIT GUN CONTROL

Mrs. BOXER. Mr. President, I seek recognition because my comments follow on the same topic as the Senator from Utah, who I know wants very much to have a juvenile justice bill. But as I listened to his comments, I fear that perhaps we are not headed in the right direction with that legislation.

Yesterday, I know that all of us were shocked, as all Americans were, to hear about a gunman walking into the back of a church in Ft. Worth, TX, killing six people, wounding seven, and then killing himself.

I have a very simple message for my colleagues. If you can't feel safe from gun violence in the sanctuary of your church, where can you feel safe?

On Tuesday, in a story in my home State, not even widely reported, a man walked into the West Anaheim Medical Center and killed three hospital workers because he was grief stricken that his mother died in that hospital. He went on the hunt for particular nurses. If you can't feel safe from gun violence in a hospital in America, where can you feel safe?

What seems like yesterday is actually a couple of months now when in the Los Angeles region of California a crazed man walked into a Jewish center where there was a child care operation and shot his weapon. I will never forget the picture of the police holding the hands of that tiny little toddler as they tried to escape from the situation.

These are memories that are imprinted in our minds. If we don't do anything about it in this Senate, we do not deserve to call ourselves the Senate, let alone the greatest deliberative body in the world.

I feared, as I listened to the comments of the chairman of the Judiciary Committee, he seems to be saying that if we insist on modest gun control measures that are already in the Senate version, somehow we are playing politics.

I want to say right here in the most straightforward way I can that it is not playing politics to say we should keep guns out of the hands of criminals and people who are mentally disturbed and out of the hands of children. That is not playing politics. That is doing what needs to be done in America in 1999 going into the next century.

The modest gun control measures that we passed on this floor of the Senate—those modest measures that the Vice President cast the tie breaking vote for—are common sense and close the gun show loophole that allows criminals and mentally unbalanced people to walk into a gun show and immediately get a weapon. It is common sense to stop that.

Senator LAUTENBERG's amendment would do so.

Senator FEINSTEIN's amendment on banning the importation of high-capacity ammunition clips which are used in semiautomatic weapons—common sense.

Senator KOHL's amendment requiring that child safety devices be sold with every handgun—common sense.

My own amendment asking the FTC and the Attorney General to study the extent to which the gun industry markets to children—common sense.

The Ashcroft amendment making it illegal to sell or give a semiautomatic weapon to anyone under the age of 18—that is all we did in that bill.

Yet we have the chairman of the Judiciary Committee out here talking as if, my goodness, those measures were political.

Listen. I don't think the American people can stand this anymore.

In closing my remarks, I am going to mention some of the shootings that took place in 1999.

January 14, office building, Salt Lake City, Utah, one dead, one injured;

March 18, law office, Johnson City, Tennessee, two dead;

April 15, Mormon Family History Library, Salt Lake City, Utah, three dead, including gunman (who was shot by police), four injured;

April 20, Columbine High School, Littleton, Colorado, 15 dead, including the two teenage gunmen, 23 injured;

May 20, Heritage High School, Conyers, Georgia, six injured;

June 3, grocery story, Las Vegas, Nevada, four dead;

June 11, psychiatrist's clinic, Southfield, Michigan, three dead, including the gunman, four injured;

July 12, private home, Atlanta, Georgia, seven dead, including the gunman;

July 29, two brokerage firms, Atlanta, Georgia, 10 dead, including the gunman, 13 injured;

August 5, two office buildings, Pelham, Alabama, three dead;

August 10, North Valley Jewish Community Center, Los Angeles, California, five injured (Postal worker killed later);

September 14, West Anaheim Medical Center, Anaheim, California, three dead; and, just last night,

September 15, Wedgwood Baptist Church, Fort Worth, Texas, seven dead, including gunman, seven injured.

That is a partial list.

We have to do something. We have the opportunity. What are we waiting for? I have to say that if we cannot vote out these modest gun control proposals which are common sense, and if we cannot pick up some votes from the other side of the aisle, including the President who is sitting in the Chair, if we can't do that, we should be ashamed to go home and say we did the people's business.

Thank you very much.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Thank you.

THE CONSERVATION AND REINVESTMENT ACT

Ms. LANDRIEU. Mr. President, I wish to take this opportunity to speak on issues that are of importance to us. I will take the next 5 minutes to speak about a subject that is important to many Members of this body—something that over 20 of us have been working on now very diligently on both the House side, as well as the Senate, Republican and Democrat, to bring closure to this year in this Congress.

I come to the floor very appropriately today as this terrible storm, Floyd, actually rages outside of this building. The wind and the rain have battered this building as we have worked through the day. Of course, we feel relatively blessed in that the storm damage has been kept to a minimum. It is quite a deadly storm and quite a tremendous threat.

There are schoolchildren and families at home throughout the entire eastern portion of our Nation because they have been unable to get to work, or to school, or to other places because of the storm.

I want to speak for a few minutes about the Conservation and Reinvestment Act and how it will help us deal not with the emergency of the storm, not necessarily with the specific preparation for a particular storm, but how this particular bill by rededicating a portion of our offshore oil and gas revenues could be used by States and counties and coastal areas throughout the United States to help repair damages from these particular storms.

I want to take a minute to thank some Governors and Senators and to read a few statements into the RECORD about some of their thoughts regarding this bill.

As this storm moves through the eastern part of our Nation today, and hopefully will dissipate over the next few hours, we have experienced tremendous damage. Since 1960, the United States has sustained over $50 billion in damage. From Florida to Louisiana, to Texas, to South and North Carolina and Virginia, many coastal States have been battered over and over by hurricanes just since 1960.

In a major publication last week, one of the headlines was reminding us of the deadly storm that literally wiped out Galveston, TX, in the year 1900. It is now the 99th anniversary of one of the deadliest storms to ever hit the United States.

While some on this floor might argue, what is the reason for setting aside a specific amount of money to help coastal States, I suggest what we see on television now says it better than I could say it on the floor of the Senate. We see storms of this magnitude pounding the coast, we see them

season after season, gulf coast to east coast, sometimes very big storms on the western coast, washing away our beaches, eroding our barrier islands, causing tremendous damage.

It is important for this Senate to act now, while we have the opportunity, to set aside a portion of our offshore oil and gas revenues, to join in partnership with our local officials, Governors and county commissioners, to help, whether the hurricane season is tough or not, whether we are in the mood for it or not, for Congress to provide a permanent source of revenue, year in and year out, to help with these matters. That is what S. 25 will provide. Hopefully, in a few weeks we will be marking up this bill.

I will read into the RECORD and specifically thank several Governors who have experienced over the last days the effects of Hurricane Floyd. I begin by thanking Governor Roy Barnes of the State of Georgia, whose State was spared the brunt of this particular storm but who did a beautiful job preparing the people of Florida, along with the emergency personnel.

I read from his letter:

> This legislation [referring to S. 25] would provide critically needed funding for a variety of wildlife-conservation, land conservation, and coastal-area projects in Georgia. I fully support this legislation and ask you to work for its passage.

Jim Hodges, Governor of South Carolina, who probably hasn't slept in the last 48 hours as his State has been battered by this storm, wrote a couple of months ago:

> South Carolina has a unique diversity of natural resources which we must strive to conserve for future generations.
>
> The current proposal which provides for a dedicated and secure funding source has long-term significance for both our natural resources and the people who enjoy all types of outdoor recreation. The plans embodied in CARA are high priorities for South Carolina. These include: coastal zone management and impact assistance, wetlands restoration, state and local outdoor recreation programs, fish and wildlife conservation, and environmental education.

He goes on to say:

> Congress enacted the Coastal Management Act in 1972 to preserve, restore and enhance the resources of the nation's coastal zone.

Mr. President, S. 25 is structured in such a way that it can build on that good work. I thank Governor Jim Hodges of South Carolina for having the forethought and not waiting for the hurricanes, for thinking ahead as to how we could provide some much needed dollars to minimize the cost of the damage that has been caused.

Governor Jim Hunt of North Carolina writes:

> We are making significant progress in North Carolina to enhance and protect our environment and public spaces. We have made historic commitments this year to the expansion of public lands in our western mountains, and we recognize the value of our public spaces for assuring a prosperous and livable future.

I thank these Governors for their leadership and acknowledge the fact that Governor Whitman, who was also prepared for the effects of this storm, was here in the Capitol not that many months ago stating her case for why we should come to the aid of States and local governments to help protect our coasts, to provide funding that will help to restore beaches, and to help with hurricane evacuation and the infrastructure necessary to provide for the fact that over two-thirds of the people in the United States live within 50 miles of a coast.

The State of Louisiana is happy to provide a lot of this money, or a great portion of it, from our oil and gas resources. I say thanks to Senator CAMPBELL from Colorado; to Senator BREAUX; to Senator COCHRAN; Senator KIT BOND; Senator TIM JOHNSON; Senator MIKULSKI; Senator SESSIONS from Alabama, a sister southern State; Senator CLELAND from Georgia; Senator LOTT; Senator MURKOWSKI, the chairman of our committee; Senator LINCOLN from Arkansas; Senator BUNNING; Senator BAYH; Senator COVERDELL; Senator FRIST; Senator ROBB; Senator TIM HUTCHINSON from Arkansas; Senator BOB KERREY from an interior State; and Senator ROBERTS from Kansas, another interior State. I thank these Senators for joining the broad coalition of Senators both from our coastal and interior States recognizing hurricanes are dangerous and can have devastating impact to life and to property.

While we have all sorts of programs in effect—flood insurance and emergency preparedness—if we could spend a small amount of money matching the efforts that States and local governments do year in and year out, we could help to preserve the precious resources that are literally washed away season after season.

I believe the American people want Congress to help. I believe they think we have the resources to do so. Mostly, I believe they think this is the year we should act. Let's not wait until another storm rips up another part of our coastline. Let's act in the next few months, as this Congress comes to a close, to adopt this important piece of legislation.

I thank these Senators for their hard work and acknowledge the work of Chairman MURKOWSKI and acknowledge the work of Members of the House, Chairman YOUNG and others in the House who are working on a similar proposal. I thank the Presiding Officer for his interest in this particular piece of legislation.

I ask unanimous consent to have printed in the RECORD several letters I discussed as well as the costs of hurricanes in this century.

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

STATE OF GEORGIA,
OFFICE OF THE GOVERNOR,
Atlanta, GA, February 10, 1999.

Hon. JACK KINGSTON,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE KINGSTON: The U.S. Congress is presently considering some important conservation legislation that would benefit Georgia. The Conservation and Reinvestment Act was introduced in the Senate (S. 25) on January 19 and similar legislation is expected to be introduced in the House soon. This legislation would provide critically needed funding for a variety of wildlife-conservation, land conservation and coastal-area projects in Georgia. I fully support this legislation and ask you to work for its passage.

The Conservation and Reinvestment Act would dedicate 50% or more of annual revenues from offshore gas and oil leases-projected at $4.59 billion in the year 2000—into three separate funds. Georgia would receive a wide range of benefits from each of these titles as follows:

Title I would dedicate 27% of annual offshore oil and gas revenue to coastal states and local communities. For impact assistance, including environmental remediation and infrastructure needs. Georgia would receive approximately $5.8 million annually for air and water quality improvements, coastal zone management, beach replenishment and similar activities.

Title II would dedicate 16% in S. 25 or 23% in the 1998 House version of offshore oil and gas revenue for funding the Land and Water Conservation Fund and the Urban Park and Recreation Recovery Programs. Georgia's share would be roughly $8 million annually. I prefer the House version since more funding would come to the states.

Title III deals with Wildlife Conservation and Restoration. This section would dedicate 10% in the House version or 7% in S. 25 of offshore oil and gas revenue to fund state-level wildlife conservation, wildlife education and wildlife associated recreation projects, such as hiking trails, education centers and programs, and other wildlife conservation projects. Georgia's share of this money would be approximately $8 million annually in the House version which I favor.

These bills would provide a much needed, permanent funding source to meet a variety of environmental conservation needs that face our growing state. I encourage you to use your influence to help reconcile these bills in the House and Senate to ensure their passage. It is important that states receive as much of this funding as possible to address critical conservation needs here at home.

Thank you in advance for your support of the legislation.

Kindest regards.

Sincerely,

ROY E. BARNES.

STATE OF SOUTH CAROLINA,
OFFICE OF THE GOVERNOR,
Columbia, SC, March 1, 1999.

Mr. R. MAX PETERSON,
Executive Vice-President, International Association of Fish and Wildlife Agencies, Washington, DC.

DEAR MR. PETERSON: It is with great pleasure that I write to you to endorse the principles embodied in ''Conservation and Reinvestment Act of 1999 (CARA),'' which was recently introduced in the U.S. Senate and the U.S. House of Representatives introduction in the near future. South Carolina has a unique diversity of national resources which we must strive to conserve for future generations.

The current proposal which provides for a dedicated and secure funding source has

long-term significance for both our natural resources and the people who enjoy all types of outdoor recreation. The plans embodied in CARA are high priorities for South Carolina. These include: coastal zone management and impact assistance, wetlands restoration, state and local outdoor recreation programs, fish and wildlife conservation, and environmental education.

Congress enacted the Coastal Zone Management Act in 1972 to preserve, restore and enhance the resources of the nation's coastal zone. Title I of CARA will allow South Carolina to partner with the federal government in managing our coastal zone for the improvement of air and water quality, fish and wildlife habitat, and wetlands protection.

Title II will restore funding for the Land and Water Conservation fund, allowing a continuation of the process of building a national network of parks, recreation and conservation areas to touch all communities. This reinvests assets of lasting value for all Americans.

I am particularly pleased that Title III of the legislation includes the principles from the original ''Teaming with Wildlife'' initiative, and I trust that the language will ultimately provide the states with the means to protect and manage the vast majority of wildlife species which presently have no reliable source of funding. I am hopeful that the final bill will dedicate 10% of the annual revenue to Title III, as was proposed in the House version last year.

I am impressed by the strong bipartisan support in Congress for the CARA concept and I will be working with South Carolina's delegation to secure their support. As a newly elected governor, I have a clear vision of the legacy that I want to leave the citizens of South Carolina in general and our children in particular. A critical component of my campaign platform included increasing the quantity and quality of education opportunities in this state. This legislation will not only help conserve natural areas and enhance outdoor recreational opportunities, but also promote conservation education programs for coming generations.

Thank you for your efforts on behalf of our valuable natural resources.

Sincerely,

JIM HODGES,
Governor.

STATE OF NORTH CAROLINA,
OFFICE OF THE GOVERNOR,
Raleigh, SC, December 8, 1998.

The President,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: I am writing to congratulate you on your success with environmental initiatives in the past year, and to urge inclusion of a significant environmental and conservation funding package supported by offshore energy royalties in your FY 2000 Budget.

We are making significant progress in North Carolina to enhance and protect our environment and our public spaces. We have made historic commitments this year to the expansion of public lands in our western mountains, and we recognize the value of our public spaces for assuring a prosperous and livable future. We are aware of interest in Congress, among the conservation and environmental communities, and elsewhere in proposals for a truly significant recommitment of available offshore royalty revenues to preserve and enhance public lands, parks and recreation, wildlife habitat, coastal protections, and other vital natural concerns. This type of legislative package would put in place an ongoing source of funds to support federal and state needs and enable us to fulfill important environmental and conservation goals.

This would also be a fitting and winning follow up to your successes this year with the American Heritage Rivers Initiative and Clean Water Action Plan. I hope you can include this type of broad conservation initiative supported by offshore energy revenues in your priorities for the FY 2000 Budget.

My warmest personal regards.

Sincerely,

JAMES B. HUNT Jr.

TESTIMONY OF GOVERNOR CHRISTINE TODD WHITMAN BEFORE THE U.S. SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, WASHINGTON, D.C., TUESDAY, APRIL 27, 1999

Thank you, Mr. Chairman.

I am pleased to have the opportunity to testify on the various legislative proposals before the Committee that address land and natural resources conservation.

States and local governments are leading the way in the preservation of land and natural resources, and we welcome federal efforts that build on and complement what we are already doing.

I want to applaud the Committee and the sponsors of the various bills for the bipartisan and inclusive process that recognizes the critical role of state and local governments in preserving and protecting natural resources.

Before I comment specifically on the federal legislation, I would like to briefly discuss what we have already done in New Jersey.

By way of background, New Jersey is a state of 8 million people living on 5 million acres. Ours is the most densely populated state in the country, yet it maintains five national wildlife areas, two national park areas, three nationally designated estuaries, the internationally recognized and environmentally sensitive New Jersey Pinelands, and 127 miles of ocean shoreline.

The Garden State has made consistent and aggressive efforts to preserve and protect its natural resources. In fact, between 1961 and 1995, our voters approved bond issues totaling more than $1.4 billion to acquire 390,000 acres of open space, protect 50,000 acres of farmland, preserve historic sites, and develop parks. And last November, by a 2-to-1 margin, New Jersey voters approved a long-term stable source of funding to preserve forever 1 million additional acres of open space and farmland.

Saving our precious land is the centerpiece of New Jersey's effort to build a future in which we can sustain both the strength of our economy and the integrity of our environment.

That effort includes directing future growth to areas that have the infrastructure already in place, such as our cities and town centers. In support of that effort, we are working hard to revitalize our cities as thieving centers of culture and commerce. We are also committing some of our preservation funds to protect and preserve our most significant historic treasures.

New Jersey's commitment to land preservation dates back to the 1960s. Since 1965, the Land and Water Conservation Fund and the Urban Park and Recreation Recovery program have provided New Jersey with over $145 million in matching funds to acquire open space and develop and maintain recreational facilities and urban parks.

Some recent projects the Land and Water Conservation Fund has supported include the first county park in Hudson County in 80 years and the development of Liberty State Park, one of New Jersey's most culturally and historically significant attractions.

Clearly, while my state will continue to make open space preservation a priority, the need to preserve land exceeds state and local funding levels, particularly given the federal government's decision in 1995 to stop the flow of land and water conservation funds to the states.

Restoring the stateside funding of the Land and Water Conservation Fund would assist New Jersey's open space and farmland preservation efforts by enhancing our ability to partner with local governments and nonprofit agencies in order to achieve our million acre goal.

Mr. Chairman, an important priority in New Jersey is preserving our farmland, and I would encourage the Committee to allow Land and Water Conservation Fund money to be used to purchase farmland conservation easements to assist us in this effort.

When it comes to wildlife, the reinvestment of Outer Continental Shelf revenues will enable states to ensure that we bequeath to our children and grandchildren healthy and abundant species populations with adequate habitat.

Federal funding would allow New Jersey to fully implement projects that protect critical wildlife habitats and species and encourage private landowners to do the same. We have saved the peregrine falcon and the osprey, and we have increased the number of nesting bald eagles from one pair in 1988 to 22 pairs in 1999. Increased revenue would allow New Jersey to continue these efforts and develop a strategic plan for the preservation of all species and their habitat.

Mr. Chairman, I also want to comment on the coastal impact assistance provision in your proposal. The New Jersey coast generates more than $20 billion per year. Supporting a thriving coastline is critical to our economy and our environment. Coastal impact assistance could be used for vital projects such as restoring beaches, dunes, and wetlands as well as state and local smart growth planning.

New Jersey does not have oil and gas exploration or production off our coast, and we support the existing moratorium on oil and gas production off New Jersey's coast.

Members of the Committee, I recognize that approving the proposals before you would require a shift in the budgets of other federal programs. It is important that funds provided to states under this legislation not come at the expense of other federally supported state programs.

I do believe, however, that since Outer Continental Shelf revenues come from a nonrenewable resource, it makes sense to dedicate them to natural resource conservation rather than dispersing them for general government purposes.

I would urge the Committee to give state and local governments maximum flexibility in determining how to invest these funds. In this way, federal resources can be tailored to complement state plans, priorities, and resources.

I look forward to continuing to work with you as this legislation moves forward. Thank you for this opportunity to testify on an issue of great importance to New Jersey and the nation. I would be happy to answer any questions.

THE COSTLIEST HURRICANES IN THE UNITED STATES, 1900–1996

Ranking: Hurricane	Year	Category	Damage (U.S.)
1. Andrew (SE FL/SE LA)	1992	4	$26,500,000,000
2. Hugo (SC)	1989	4	7,000,000,000
3. Fran (NC)	1996	3	3,200,000,000
4. Opal (NW FL/AL)	1995	3	3,000,000,000
5. Frederic (AL/MS)	1979	3	2,300,000,000
6. Agnes (NE U.S.)	1972	1	2,100,000,000
7. Alicia (N TX)	1983	3	2,000,000,000
8. Bob (NC and NE U.S.)	1991	2	1,500,000,000

THE COSTLIEST HURRICANES IN THE UNITED STATES, 1900–1996—Continued

Ranking: Hurricane	Year	Category	Damage (U.S.)
9. Juan (LA)	1985	1	1,500,000,000
10. Camille (MS/AL)	1969	5	1,420,700,000
11. Betsy (FL/LA)	1965	3	1,420,500,000
12. Elena (MS/AL/NW FL)	1985	3	1,250,000,000
13. Gloria (Eastern U.S.)	1985	3	900,000,000
14. Diane (NE U.S.)	1955	1	831,700,000
15. Erin (Central & NW FL/SW AL)	1995	2	700,000,000
16. Allison (N TX)	1989	T.S.	500,000,000
16. Alberto (NW FL/GA/AL)	1994	T.S.	500,000,000
18. Eloise (NW FL)	1975	3	490,000,000
19. Carol (NE U.S.)	1954	3	461,000,000
20. Celia (S TX)	1970	3	453,000,000
21. Carla (TX)	1961	4	408,000,000
22. Claudette (N TX)	1979	T.S.	400,000,000
22. Gordon (S & Cent. FL/NC)	1994	T.S.	400,000,000
24. Donna (FL/Eastern U.S.)	1960	4	387,000,000

EDUCATION FUNDING

Mrs. LINCOLN. Mr. President, I rise, as did my other colleagues today, to talk about something of great importance to each Member individually. I think we have not taken full advantage to discuss what I think is our greatest blessing in this world, one of our greatest investments. That is our children.

Today I will discuss the importance of education funding and why it is imperative the Senate act quickly and responsibly on this issue. We have an opportunity to do something on behalf of our children, to give them the capability they need. We talk about the magnitude of education on behalf of our children, but we don't often talk about the timeliness that is needed here on this issue today.

I question the wisdom of delaying the vote on the appropriations bill that funds education, the Labor-HHS bill, until after we have completed the other 12 spending bills. I know for myself, as a working mother, and as do all of my colleagues here as working family individuals—we have to prioritize. We have to look at what is important and we make a list. We recognize what is important and then we go about accomplishing it. It seems our priorities are in the wrong place when we vote on the legislative appropriations bill before funding education, waiting until the last minute, the last issue, to try and drum up the necessary funding to educate our children for the future.

School has started all over this country. Kids are taking tests; they are turning in papers; they are getting grades. We, as parents, as aunts and uncles, as mentors to our children all over this country, are encouraging them to aim for the best, to work towards that A, to do what it is they can to accomplish their best, to work hard at their education because it will pay off for them in the end.

What are we doing? We are setting a very poor example. If this Congress was to be graded on its performance on prioritizing our children's education, it would be given a big red F.

I know there is always a contentious debate over how to fund education, but it seems our colleagues on the Republican side are out of touch with the American people on this issue. A recent survey of the American public found that 73 percent of Americans favor increased Federal investment in education and placed it as the highest priority among the 19 other issues they were asked about. Yet we in Washington have failed to act, and the situation is only getting worse.

During the August recess, instead of having townhall meetings, I set about having five back-to-school meetings across our State of Arkansas. I spent a great deal of time listening to parents, students, teachers, and school administrators at all of these different schools in these meetings that I organized across our State. One school superintendent told me that in his area, an enormously depressed area, they were starting the school year with 22 job openings; short 22 people in that school district. As a result, classrooms are overcrowded, teachers are overworked, and students are not receiving the kind of attention and education they deserve. We must send Federal money immediately to hire new teachers. We must look for incentives to get our young people into teaching.

Do you realize the enormous brick wall we will hit soon, as we are having fewer and fewer of our young people going into the teaching profession? It doesn't matter if we have smaller class sizes or if we have new school buildings; we are not going to have the teachers to put in them. That is essential.

We want to give our teachers the capability to be well qualified. We send our children to school 8 hours a day, 5 days a week. Teachers are some of the most important people in their lives, and they are not given the appropriate time to prepare nor are they receiving the reasonable accommodation in resources they need to be able to teach our children. We must send those Federal dollars to hire new teachers. Waiting until next year is not an option. Schools are already open this year. If we wait as planned, we will have missed an entire grade of children.

I have talked to my colleagues: Oh, we won't get to that this year, or we will do it next year, or we will do it in the next Congress. Think about those years. Think about those first graders from this year. They will be second graders next year and then third graders. By the time we have finally done something on their behalf, we will have missed the most critical stage in their educational process. How irresponsible on our part.

By the time the money is allocated and school districts can begin to make those hiring decisions, they have missed that opportunity. Our children will be the ones who suffer if we do not do the right thing in the Senate. I also think it is such a shame, as we look at the tax package that has been presented to the President, what it will do in robbing our children of the money that is needed to build new schools, hire new teachers, reduce class size, wire classrooms with the latest technology, and enhance the access to affordable higher education.

Under the Republican plan that has been presented to the President, education funding will be cut by 17 percent. How inexcusable is that, our greatest resource in this Nation, our children, our future, and not even anteing up what we need to do to meet those needs. That is an embarrassment.

It is in our Nation's long-term interest to give our children the very best, highest quality education that we can. But even if we would not do it for our children, should we not do it for our Nation? That is the future of our Nation, our children, their capability to compete with other children across this globe. We should make that a priority in the Senate. The American people have indicated to us that they have made it a priority on their wish list. They are the future of our workforce. They are the future of our country. If we fail our children, we have failed our Nation.

So I rise today to encourage my Senate colleagues to reconsider their priorities and to support public schools by restoring full funding to education and supporting efforts to hire more teachers, to build more schools, and to establish valuable afterschool programs. Now is the time to act—not next year, not next Congress, but right here and right now. Let's get over the partisan bickering and political posturing and get on with the people's work.

More important, let's move beyond the process posturing that the Senate is famous for and really reflect on our priorities, what our priorities should be, what is our greatest blessing, which I believe is our children. Their success is without a doubt the biggest measure of our Nation's success. I encourage my colleagues to do just as I am doing, and that is to talk about the education of our children and move this bill forward.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I compliment my colleague, the Senator from Arkansas, for a great statement on education. That is why I am taking the floor now, to talk about it and to lay out what has happened this year in education funding.

I think my colleague, my friend from Arkansas, has really encapsulated it. There should be no higher priority in our country than the education of our children. I thank my colleague. We will work together on this.

Education should not be a partisan issue. It should be bipartisan; it should have strong support from both parties. However, I am constrained to say at the beginning of this year, the Republican leadership said they were going to make education No. 1, the No. 1 priority. That is what the Senate majority leader said in January. That is what the chairman of the Budget Committee said. I am the ranking member on the appropriations subcommittee for education. When we got our initial allocation, we were then at a cut, in

the beginning, of $8 billion below a freeze from last year.

I think my colleague, the chairman of our subcommittee, Senator SPECTER, has done a splendid job trying to get us moving forward. We were supposed to have a markup in May. That was postponed. This is for education. Then in June, postponed. Then we were supposed to mark up after the Fourth of July recess—postponed. They were supposed to do it before the August recess. We were supposed to have marked up last week—postponed. We were supposed to mark up this week—postponed. Why? Because the education subcommittee's funding has been raided to pay for other things. So I say to my friend from Arkansas, we have gone from No. 1 to No. 13. We can act on every other appropriations bill in the Senate, but education is dead last.

Talk about priorities. I do not run the floor. The Republican leadership runs this floor and how we bring up the bills. We have not even brought the education appropriations bill up yet. We have 14 days left in this fiscal year. We passed a bill today that includes a pay raise for all the Senators and Congressmen. We passed that. We had time for that. We had the money for that. We had the money for defense. We have had the money for everything else. But we do not seem to have the money for education.

What kind of a signal does that send? I said the other day, I feel sort of like that movie actor Bill Murray in ''Ground Hog Day.'' We keep getting the promise we are going to mark up education and it never happens. It never quite gets there. We never quite get to that day.

So we have gone from 1st to 13th—dead last—in the Senate in terms of the priority for education.

So what happened this week? Again, the education budget was raided, with $7.5 billion taken out of the education budget for VA–HUD. I am all for veterans. We have to fund our veterans' programs and medical care and housing. But they had to take it out of our education budget. In fact, even as I speak right now, the Appropriations Committee is marking up the VA–HUD bill with money that ought to be in there for education.

So where does that leave us? That has left our Appropriations Subcommittee $15.5 billion below a freeze from last year. That translates into a 17-percent cut below last year.

What does that mean for education? When you factor out education from all the other things we have in our bill, that is a $5.6 billion cut in education below what we had last year. And education is the No. 1 priority of the Republican leadership? Say again? I do not understand this. We can fund everything else. We can pass every other bill. We can give huge increases to the Pentagon. But right now, as we stand here today, education is going to take a $5.6 billion cut.

That translates into real cuts—real cuts for teachers, for example. We figured this out. We had an initiative last year of reducing class sizes. Everyone agrees, reducing class sizes is a goal that we ought to be pursuing diligently. This year we funded reducing class sizes by $1.2 billion. If this cut, where it stands right now, goes through, we will have to fire 5,246 teachers we just hired will lose their jobs. So 5,000 teachers we hired for this school year, to reduce class sizes, will have to be let go with the 17-percent cut.

Then I looked to see what it would do in my own State of Iowa. In Iowa, for example, some of the things that are most meaningful in education, title I—the title I reading and math program will be cut $11.3 million with this 17-percent cut; special education, IDEA, will be cut $8.5 million; class size reduction—the one I just spoke about; cutting the teachers—will be cut $1.6 million in the State of Iowa; safe and drug-free schools will be cut $717,000 from a $3.6 million level. That is just in my State of Iowa.

I suggest to Senators that they might want to take a look at how much in each of their States' education funding will be cut where we are right now with that 17-percent across-the-board cut with what we have in our Education appropriations bill right now.

Check your State. Then go back and tell your Governors and tell your State legislators, tell your school boards, tell your principals and superintendents and teachers how much education is going to get cut and how much they are going to have to come up with in increased property taxes. I bet the Governors will love that in the States.

So right now education is dead last in the priorities in what is going on in the Senate. What does that say to our kids? What does that say to the people in general? We have increased defense spending. Oh, yes, we increased defense spending $16 billion. We have cut education by $5.6 billion. I guess we are going to have the strongest military in the world, and we are going to have a bunch of dummies in it or have more money in the military for remedial math and reading programs to bring them up to standards.

Mr. President, I end where I started. We went from first in priority to dead last. That is unacceptable. We have to turn it around for the future of this country.

I yield the floor.

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I thank Senator HARKIN for his statement and his commitment to education and the tremendous job he is doing to do the right thing, to get education back as the top priority of this Senate and not the last priority. I very much appreciate his strong words and his work, and I look forward to working with him.

Mr. President, I remind my colleagues, at the beginning of this year,—as we were discussing budget priorities—virtually every Member of this Chamber—Republican and Democrat—came before you to say how important education is. I was proud to see that the issues that American families talk about around the kitchen table were finally being talked about here on the Senate floor.

As the year has progressed, however, we have seen that it was just that—a lot of talk and no action. Members have not matched their talk about education funding with actual funds.

For example, earlier this year, the budget chairman indicated he would increase funding for education and training by $5.6 billion. Including yesterday's actions on VA-HUD appropriations, we are now looking at—not an increase of $5.6 billion—but a decrease of more than $15 billion in education funding from last year.

How are we going to look the American public in the eye and honestly say that we are doing what we have promised?

This Congress has turned its back on the bipartisan commitment we made only last year. Schools in my State—and all across the country—are using the Federal money we appropriated last year to hire more teachers right now. And it is working. But the current budget process cuts this progress off at the knees.

A budget document is a statement of our values. When you look at the budgets that have come out this year, they show that Congress' values don't match Americans' values. How can we say that education is a priority if it receives only 1.6 percent of Federal spending?

I cannot in good conscience sit quietly as this Congress goes back on its word and ignores the priorities of the American public.

This is the most important discussion we can have right now. School is back in session, and people are talking about improving education. Only Congress is not listening.

Sometimes in this Chamber it is hard to hear what our actions sound like across the country. Let me tell you what it sounds like to my constituents. They have told me in no uncertain terms that education funding matters.

The people are speaking, but Congress is not listening.

The American people have said that our children should not sit in overcrowded classrooms. When a child's hand goes up in the classroom, we all want the teacher to be able to focus on that child's question.

What is Congress's reply? The Republican budget will cut education funding by more than 17 percent and guarantee that we keep our children in overcrowded classrooms.

The people are speaking, but Congress is not listening.

The American people have said that our teachers should be well-trained and have the most recent skills and resources to meet today's complex

needs— including knowing how to use technology to boost student achievement.

What is Congress' reply? The Republican budget will cut education funding by more than 17 percent and guarantee that we cannot give our students the well-trained teachers they deserve. The people are speaking; Congress is not listening.

The American people have said they want their children to learn in modern schools, not schools where plugging in a computer blows all the electrical circuits. What is Congress' reply? The Republican budget will cut education funding by more than 17 percent and guarantee that we will not be able to modernize our aging schools. The people are speaking; Congress is not listening.

Over the past year, one place where our children should be the safest, our schools, has become a home to unspeakable acts of violence. At the end of last school year, we had tragedies in Colorado and Georgia. The American people have told us they want their children to be safe in school. What is Congress' reply? The Republican budget will cut education funding by more than 17 percent and guarantee that we take away resources for safe and drug-free schools now, when we need them the most. The people are speaking; Congress is not listening.

When my colleagues say they are listening to the American people, they must be listening with their hands over their ears because they aren't getting the message.

Let me be clear: Cutting education funding by more than 17 percent is not what the American people want. It is not what our students need, and it is not what this Congress said it would do.

Why do I feel so strongly about this? Because making sure that we invest in public education and prepare our students and our country for tomorrow is at the core of who I am and why I am a United States Senator. When I was raising my children and my State was about to cut a small but very essential preschool program, I started talking to people around me about how we could keep that program. It wasn't very long before I had 15,000 people behind me making their voices heard in my State capital to save that preschool program. We fought very hard over a very small program, and we prevailed. The program wasn't cut, and today it is still helping students as it has been for the past 40 years.

These same parents and parents like them from around my State have responded so deeply to the need to invest in education that they sent me to the school board, the State senate, and now to the United States Senate. I stand before you as a person with a mission—to make sure that policymakers across this country do not walk away from their responsibility to the future of America and that they understand the importance of the Federal education dollar.

Since I have been in the Senate, I have noticed a change. Because of the efforts of Members like myself, TOM HARKIN, TED KENNEDY, CHRIS DODD, BARBARA BOXER, JACK REED, and Republicans such as Senator JEFFORDS and others, this body is finally talking about education in a way that it never has before. This Chamber's discussion is more reflective of the discussions that go on around kitchen tables all over this country. But you don't get points for talk alone.

I am sure that after my remarks today, some Members of this body will come here to say our public schools are failing, and they will paint us all a picture of woe and despair. The truth is, our public schools are doing a good job educating our children, and they are doing that good work in the face of enormous challenges today.

I have to say it again because it has never been more clear: Our public schools have not failed us, but if we don't stop this Republican budget, we will be failing our public schools.

The American people say education should be the highest priority. This Congress is making it our last priority. The American people say education should be our first priority. This Congress made it the last bill we will debate, after all the dollars have been spent, and there is only a little bit of spare change left.

Some of the proposals out there would have you believe that we can solve everything just by making our Federal programs more flexible. We all want our programs to be flexible. But you can have all the flexibility in the world, and it won't solve our education problems. Our schools need resources and our schools need funding.

The education budget has been left for the last. When we go home in a month, how will we explain the resulting decisions to our constituents? Which 17 percent of the kids are we going to say are not worth educating? To which 17 percent of the parents and families are we going to say: Sorry, we didn't have enough money to teach your child? Which 17 percent of schools are not worth making safe, secure, and drug free?

We cannot waste a single student. Even though it is very late in the game, and there is a lot of work to be done, we can turn this around. We can still decide to keep our word on education and to keep in step with the wishes of the American public.

It is not too late. I urge all of my colleagues to act now to increase education funding and do right by our children.

I thank the Chair and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GORTON. 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. GORTON. Mr. President, is the Senate in morning business?

The PRESIDING OFFICER. The Senator is correct.

BELLEVUE INTERNATIONAL'S INNOVATION IN EDUCATION AWARD

Mr. GORTON. Mr. President, today is National Student Day. In honor of this day, I would like to congratulate an outstanding group of students from my home state. Recently, the SAT scores for Washington state's graduating classes of 1999 were released. At the top of the public school list were the graduates of the International School of Bellevue, averaging 601 on verbal and 590 on math. Both scores surpassed the national averages by almost one-hundred points.

In my visits to hundreds of schools across Washington state, I have seen the benefits of countless innovative reforms and programs. The International School of Bellevue is an example of what local educators can do when they are given the freedom and flexibility to create new and better ways to educate.

The International School is a public school that was created approximately eight years ago by highly innovative teachers from the Bellevue School District. The founders' vision was to create a school in which a student would be placed in the classroom based on his or her ability—not his or her age. The founders also wanted to create an atmosphere in which each student would maintain close relationships with the teachers, and would gain clear understanding of how our country fits into today's world.

At the Bellevue International School, each student is required to take seven classes each year which include humanities, international studies, math, science, a foreign language, fine arts, and fitness. Even though this school serves grades 6–12, there are not specific grade levels. Each student takes his or her courses at the student's own performance level, starting at level one and ranging up to level seven for each of the seven courses.

The students are also encouraged to spend one month abroad at one of the International School's sister schools. While abroad, the students attend classes and are treated as regular students of their guest schools.

In order to attend the International School, students are not required to take an exam, submit test scores or previous grades. Any student with the desire and motivation to attend this school can submit his or her name into a lottery out of which names of the new students are chosen.

The Principal of the International School said that her students, ''are not necessarily the smartest kids, but they have a terrific work ethic, converse with their teachers, and are highly resourceful and responsible for themselves and for others.''

I applaud the International School's class of 1999 for its magnificent scores

on the SAT. I also applaud the rest of the student body for its passion for learning and for taking advantage of this tremendous opportunity. I know that each student who graduates from the International School will leave with an outstanding education and greater understanding of our country, our world, and his or her place in it.

The International School's impressive performance on the SAT demonstrates that when given the flexibility to create a program, local educators will succeed. I believe that we must give control of federal education dollars to the states and local school districts because those who work with out children on a daily basis—their parents, teachers, principals, superintendents, and school board members—best understand the needs of our children and should have the most significant role in setting education policy and priorities in our schools.

Mr. President, I might be a bit disingenuous in sharing this praise with you if I were not to point out that my oldest grandchild, my granddaughter, Betsy Nortz, just won the lottery last spring and started last week as a sixth grader at Belleview International. Already, in just a few days, she reports great interest in the intellectual challenges to which she is subjected. She and I and her parents look forward to a fine career in the single school, I believe, in the State of Washington in the public system with the highest SAT scores.

The students and educators at the International School of Bellevue deserve our recognition and I hope my colleagues will join me in applauding their achievements.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. GORTON). Without objection, it is so ordered.

THE UNITED STATES COAST GUARD

Mr. DEWINE. Mr. President, I rise this afternoon to talk for a few moments about the Transportation appropriations bill we just passed and about one major component of that bill, and that is the U.S. Coast Guard.

I rise this afternoon to make one point very clear. The U.S. Coast Guard needs our help and needs our support. The future of the Coast Guard depends on a continued congressional commitment to provide adequate resources to the Coast Guard to carry out its very important mission.

Now, Congress—only in the last few years, with the leadership of a number of my colleagues—has begun to devote resources toward rebuilding the readiness of the Coast Guard. But we have to understand that this is a continuous process. These investments we have made have come at a time when we have seen the missions of this important agency increase and expand.

Let me pause to congratulate Senators SHELBY, LAUTENBERG, and the rest of the committee. They have been very supportive of the Coast Guard and have worked very hard to come up with the very scarce dollars that are needed for the Coast Guard. I appreciate their work. I understand very well that they know and understand the challenges the Coast Guard faces. They have supported investments in the Coast Guard and understand the important role it plays in fighting drug trafficking.

I also know that in crafting the Transportation appropriations bill, my colleagues were faced with very difficult budget constraints. It is essential, however, that our overall investment in the Coast Guard keeps pace with the demands we are now placing on the Coast Guard and that we build on the recent successes we have seen in regard to the Coast Guard. We simply, as a Congress and as a Nation, in very tough and difficult budget times, must make funding for the Coast Guard a top priority.

It is obvious why a Senator from Ohio would have an interest in the Coast Guard. In my home State of Ohio, the Ninth Coast Guard District performs many vital functions critical to human safety and economic development. With more than 2.3 million of America's 11.5 million recreational boaters residing in the Great Lakes region, the Ninth Coast Guard District search and rescue units handle close to 7,500 cases annually, saving hundreds and hundreds of lives.

Further, to facilitate commerce on the Great Lakes during the winter months, Coast Guard cutters work closely with the Canadian Coast Guard to clear the way for approximately $62 million worth of commercial cargo annually. This Ninth District also maintains more than 3,300 buoys, navigational lights, and fixed aids throughout this critical shipping region.

In addition to this role of the Coast Guard in my State of Ohio, it plays a significant role in the international drug fight. This may not be what people have historically thought about regarding the Coast Guard, but let me tell you, based on my own experience in going out with the Coast Guard and seeing what they do, if we give them the money, if we give them the resources, they are not only capable but they are willing and eager to go out and fight our antidrug battle for us.

To quantify it, because of the Coast Guard, each year close to $3 billion worth of drugs never reach our neighborhoods, never reach our schools, and never reach our children. They are stopped before they get there, and they are stopped by our Coast Guard.

I have spoken on the Senate floor on several occasions in the past about U.S. counternarcotics policy. I have spoken about the Coast Guard's ability to enforce that policy. As I have said before, I believe we need a balanced program to attack the drug problem on all fronts. We need to invest in domestic reduction and law enforcement programs. But we also need to invest in international programs to increase interdiction and reduce production of illegal narcotics, and we need to do our best to stop drugs from ever reaching our shores.

A balanced program means international drug interdiction. It means domestic law enforcement. It also means prevention, education, and treatment. We have to do all of these, and we have to do all of them all the time.

Sadly, though, for the last 7 years this administration has pursued an antidrug strategy that I believe is clearly out of balance—a strategy that has failed to reverse a dramatic rise in youth drug use and a strategy that has allowed drug trafficking organizations to become a dominant source of political instability in Latin America and countries to our south.

Before the Clinton administration took office, almost a third of our entire antidrug Federal budget was committed to stopping drugs from ever getting into our borders—international drug interdiction and eradication. We invested in a 24-hour-a-day, 7-day-a-week antidrug operation in the Caribbean. It worked. Drug prices increased and drug consumption went down.

But tragically this all changed in 1993 when the Clinton administration came into power and began to change things. Our counternarcotics budget dedicated to international eradication and interdiction efforts went from one-third of the total budget in the late 1980s and early 1990s to less than 14 percent by 1995. This change in policy meant significant cuts in the Coast Guard. In fact, Coast Guard funding for counternarcotics decreased from $443 million in 1992 to $301 million in 1995, almost a one-third reduction. As a consequence, the number of ship days that were devoted to overall counterdrug activities declined from 4,872 in 1991 to 1,649 in 1994—a huge decrease.

As a result, with the reduced Coast Guard presence, more and more drugs are making their way into our country through the Caribbean. That is the main reason why drugs are more affordable. It is also one of the reasons why youth drug use in this country is dramatically higher now than at the beginning of the Clinton administration.

Last year, as I have shared with Members of the Senate before, I saw firsthand what the Coast Guard can do. I went with the Coast Guard to see the counterdrug operations off the coast of Haiti, off the coast of the Dominican Republic, and off the coast of Puerto Rico. These personal visits convinced me that the Coast Guard can do more if we simply provide the right levels of

material and manpower to fight drug trafficking. They are ready to do it. They just need the resources. These visits also convinced me that this Congress had to address the state of drug-fighting readiness in our country.

Thanks to the majority leader, Senator LOTT, thanks to the Senate Appropriations Committee, and thanks to my colleagues, Senator COVERDELL, Senator GRAHAM of Florida, Congressman MCCOLLUM, and Speaker HASTERT, who all share my dedication to fighting drugs, we passed, last year, the Western Hemisphere Drug Elimination Act. This act authorizes a $2.7 billion, 3-year investment to rebuild our drug-fighting capability outside our borders to stop drugs, quite frankly, where it is easiest to stop them—at the source and in transit.

This new law that Congress passed is about reclaiming the Federal Government's sole responsibility to prevent drugs from ever reaching our borders. Last year, Congress made an $800 million downpayment for this initiative, including $375 million for the Coast Guard.

Why is it significant? It is significant because international drug interdiction—stopping drugs at the border, stopping them on the high seas, stopping them at the source—is the sole responsibility of the Federal Government. It is not a shared responsibility with the States or the local communities. Every other facet of our anti-drug effort—whether it is treatment, prevention, education, or domestic law enforcement—are all shared responsibilities between us in Congress, the President, the Federal Government, and the local communities. But when we are talking about stopping drugs on the high seas, when we are talking about funding the Coast Guard, that is solely the responsibility of this body, the House, and the President of the United States.

This year, thanks to this added investment that Congress made last year for the Coast Guard, we are seeing results.

Just this week, the national media has focused, highlighted, and put considerable attention on the Coast Guard's successful use of force capability to disable the drug trade's ''go-fast'' boats. These are boats I have talked about before on the Senate floor. These ''go-fast'' boats are souped-up motorboats capable of outrunning most ships in the Coast Guard fleet. They now carry more than 85 percent of all maritime drug shipments—85 percent goes in these ''go-fast'' boats. These boats typically carry drug shipments from the northern coast of Colombia, for example, to the southern tip of Haiti, to the southern tip of that great island, Hispaniola. Drug traders use the boats along the coasts of the United States to pick up drugs dropped into the ocean by small aircraft.

The Coast Guard traditionally has been cautious in using lethal airpower to stop these boats due to the high likelihood of casualties. But thanks to a combination of technology and funding from this Congress, the Coast Guard has now demonstrated success in being able to target precisely the engines of ''go-fast'' boats and forcibly disable them, thus allowing the capture of the perpetrators and the ceasing of the illicit cargo, all while minimizing the risk to human life. It is because of these and other operations that cocaine seizures are now at an all-time high of 53 tons, with a street value of $3.7 billion.

We must continue to invest in Coast Guard readiness if we are to see this kind of success over the long run. It has been a challenge for Congress, given the fact the administration has not made readiness and well-being of the Coast Guard a national priority.

The fact is, despite the recent successes, readiness remains a problem. According to Adm. James Loy, Commandant of the Coast Guard, the Coast Guard is being stretched very thin. Aircraft deployments have more than doubled, with helicopter deployments increasing by more than 25 percent. These increases did not happen with extra manpower and resources. These increases were achieved by working existing crews harder. In some cases, crews were working continuous 72-hour shifts. The Pacific area alone increased its temporary duty travel by 70 percent just to maintain the pace of routine operations.

So what we are saying is that we are asking the Coast Guard to do more. We began to give them significant resources last year. They are doing more. They are having successes. But unless we continue to support the Coast Guard, unless we continue to give them the resources they need, they will not be able to do the job we are asking them to do. It is as simple as that.

In placing these additional demands upon our service members, we have to worry about safety. I understand lost workdays and shore injuries are up 29 percent and aircraft ground mishaps are up almost 50 percent from previous years. This is something we need to be concerned about. We are talking about human lives. Further, downtime of air and marine craft is on the rise.

The demands on the Coast Guard are simply not decreasing; they are increasing. They have to have our support. This is why I will continue to call for the strongest investment possible for our Coast Guard. I applaud my colleagues who worked with me, including the Senator from Georgia, Mr. COVERDELL, and the Senator from Florida, Mr. GRAHAM, who stepped up to the challenge to gain additional investments last year. They and others in the House and the Senate and our Appropriations Committee particularly in the Senate deserve a great deal of the credit for the recent successes we are seeing in drug interdiction. These successes simply would not have happened but for what Congress did last year.

However, this is not a one-shot deal. This is not something we can do in 1 year and think it is done. We have to continue year after year. The additional 1999 funding is simply not the sole cure. It is just the downpayment.

We must have a sustained, multiyear effort if we expect our Coast Guard to be able to meet daily challenges and if we expect them to provide the critical services the American people expect and demand. Unless we continue with the investments we began least year, we will be sending a signal to the drug lords that this is just a temporary, maybe even a headline-grabbing effort, a politically expedient exercise. In fact, the writing is on the wall. If we fail to maintain and build on our support for the Coast Guard, these drug dealers will not believe we are serious and the Coast Guard will not be able to continue the current level of counterdrug operations in the future.

The bottom line is we need to continue more resources. I applaud the efforts of my colleagues on the Appropriations Committee. I know they tried to allocate a more sizable portion of the budget. They were faced with daunting challenges. As a Congress and as a people we must do more. We have to. As further opportunities in this Congress present themselves, we must take those opportunities and try to provide additional funds. As I said, adequate funding for the Coast Guard should be a top national priority. So much hinges on it.

I urge my colleagues to join me in sending a message to all of the hard-working men and women of the U.S. Coast Guard that we do not take them for granted. We will continue to make sure they have the tools necessary to accomplish the many demanding missions we ask of them on behalf of our country.

AMAZING GRACE

Mr. DEWINE. Mr. President, I am troubled today. I am troubled because I find myself standing on the Senate floor once again raising an issue that cuts to the very core of human cruelty and moral disregard. I have stood here before, many of my colleagues have stood here before, repeatedly speaking about my strong belief that the partial-birth abortion procedure is wrong. Not only is it wrong, it is evil. The procedure is a reprehensible act of human violence, violence against a human being.

I recently stood here not too many weeks ago and told Members of the Senate about a helpless baby named ''Hope.'' On April 6, 1999, Baby Hope's mother entered a Dayton, OH, abortion clinic with the intention of having her pregnancy terminated through a partial-birth abortion. However, the abortion did not succeed.

Here is what happened: Dr. Haskell, who we have heard so much about on the Senate floor, the infamous Dayton abortionist, started the procedure as

usual by inserting instruments known as laminaria into the woman and by applying seaweed. This process is supposed to slowly dilate the cervix so the child eventually can be removed and killed. That is the procedure. That is what they do.

After this initial step, in this particular instance, Dr. Haskell sent the woman home because it usually takes 2 or 3 days before the baby can be removed from the womb and the abortion completed. Expecting to return in 2 or 3 days, this woman followed the doctor's orders and went home to Cincinnati.

Soon after she left the abortion clinic, her cervix started dilating too quickly, causing her to go into labor. Shortly after midnight, on the first day of the procedure, she entered the hospital and gave birth to a very much alive but very tiny baby. The neonatologist determined that Baby Hope's lungs were too underdeveloped to sustain life without the help of a respirator. Baby Hope, however, was not placed on a respirator. Instead, the poor, defenseless creature was left to die only a little more than 3 hours after birth.

I am back on the floor again today because we now, tragically, have another example of a partial-birth abortion in Ohio that did not go according to the abortionist's plan, this one occurring on August 19, a couple of weeks ago.

The Dayton Daily News reported this incident. The procedure was again at the hands of Dr. Haskell. Here, too, he started the barbaric procedure by dilating the mother's cervix. Similarly, this woman went into labor only 1 hour later, was admitted to Good Samaritan Hospital, and gave birth to a baby girl a short time later. This time, however, a miracle occurred. This little baby lived.

A medical technician appropriately named this precious little ''Baby Grace.'' After her birth, she was transferred to a neonatal intensive care unit at Children's Hospital in Dayton. The Montgomery County Children's Services Board has temporary, interim custody of little Baby Grace. She likely will face months of hospitalization and possible lifelong complications, we don't know, all resulting from being premature and the induced abortion.

I am appalled and sickened by the fact that both of these partial-birth abortions occurred anywhere. I am particularly offended by the fact they occurred in my home State of Ohio. But wherever they occur, it is a human tragedy.

I have said this before and I will say it again; the partial-birth abortion should be outlawed. Partial-birth abortion should be outlawed in our civilized society.

When we hear about the brutal death of Baby Hope and we think about the miracle of Baby Grace, we have to stop and ask, to what depths have we sunk in this country? Partial-birth abortion is a very clear matter of right and wrong, good versus evil. It is my wish there will come a day, I hope and pray, when I no longer have to come to this Senate floor and talk about partial-birth abortions. Until that day arrives, the day when the procedure has been outlawed in our country, I must continue to plead for the protection of unborn fetuses threatened by partial-birth abortions.

In the name of Baby Hope, let's stop the killing. In the name of Baby Grace, let's protect the living.

I yield the floor.

PARTIAL-BIRTH ABORTION

Mr. NICKLES. Mr. President, first, I compliment my friend and colleague from Ohio for the statement he made. Frankly, the announcement he made that this tragedy called partial-birth abortion is happening today and it is happening very frequently—I appreciate him calling attention to it. I hope our colleagues listened and I hope our colleagues this year will pass a ban on that very gruesome procedure which is the murder of a child as it is being born.

I thank my friend and colleague. I hope and expect Congress will pass it this year. Maybe with the votes necessary to overturn the President's veto.

I thank him for his statement.

CORRECTING THE RECORD ON THE REPUBLICAN EDUCATION BUDGET

Mr. NICKLES. Mr. President, I would like to correct the record, because I know I heard a number of my colleagues say the Republican budget is slashing education, it's at the lowest end, it's the last appropriation bill we are taking up. Let me correct the record. Let me give you some facts.

One, the budget the Republicans passed earlier this year had an increase for education, not a decrease. The Appropriations Committee has yet to mark up the Labor-HHS bill. They are going to mark it up next week. I understand from Senator SPECTER and others they plan on appropriating $90 billion. The amount of money we have in the current fiscal year is $83.8 billion. So that is an increase of about $6.2 billion for FY2000. That is an increase of about 9 percent. That is well over inflation. I think it is too much. I think we should be freezing spending. We should not be increasing spending. But I just want to correct the record. It bothers me to think some people are trying to manipulate the facts, to build up their case.

The Democrats are well aware that the Appropriations Committee is going to be marking up a bill that is going to have at least as much money this year as we spent last year in education. I hope we change the priorities. I hope we follow the guidance of my colleague from Washington, the Presiding Officer, and give the States some flexibility. I haven't heard anybody say ''Let's cut the total amount of funds going to education,'' but I have heard, ''Let's give the States, Governors and school boards more flexibility so they can do what they need to do in improving quality education. Let's hold them accountable to improve the quality of education. Let's not just come up with more Federal programs.''

I heard both of my colleagues say, ''Boy, we need more Federal teachers or more school buildings.'' Is that really the business of the Federal Government? Are we supposed to make that decision that this school district or this school needs more teachers, or this school should be repaired, or this school should be replaced? Is that a Federal decision? I don't think so. It just so happens that within the last hour I met with the Governor of Oklahoma, the Governor of Nevada and the Governor of Utah. They say they have already reduced class size and some of them have already made significant investments in schools. But, they need more help. They want flexibility. They want to be able to use the money for individual students with disabilities. We should give them that flexibility. But our colleagues seem to think, ''Oh, no, we have to have 100,000 Federal teachers. The Governor of Nevada said that in the city of Las Vegas alone they hire 18,000 new teachers every year. Why in the world should we be dictating? In last year's budget agreement we needed 30,000 teachers. Now we need to go to 100,000 teachers? Is that the Federal governments responsibility? I don't think so.

I don't think the Federal Government should be dictating that this State or this school district needs to hire more teachers or build more buildings or put in more computers. Let's give them the money we spend—and altogether the Federal Government spends over $100 billion on education—let's give the States the flexibility to spend that money in ways that will really improve the quality of education. Maybe that will go to increasing the number of teachers or to buildings and construction. Maybe it will be in computers and in training. Maybe it will be in retention or it will be in bonuses for the best teachers. Why should we be making that decision? We don't know those schools. We don't know those districts. We don't know those superintendents. We are not serving on those PTAs. This really should not be a Federal responsibility. Let's give that responsibility to the local school boards and to the States and not have more dictates and more Federal programs.

There are already over 760 Federal education programs to date. Our colleagues on the Democrat side would like to add even more programs, as if that is going to improve the quality of education. I don't think so.

Just a couple more facts: Labor-HHS funding, which is the appropriations bill we are talking about, has been rising and growing dramatically. Yet I

hear, ''Oh, they are slashing this bill by 17 percent.'' Wait a minute, let's get the bill on the floor before we start saying we are slashing the bill. What we passed and appropriated and spent in 1997 was $71 billion. In 1996, it was $64.4 billion. It went to $71 billion in 1997, that's over a 10 percent increase. From 1997 to 1998 it went from $71 billion to $80.7 billion, again well over a 10 percent increase. Last year it went from $80.7 to $83.9 billion, plus there were some advanced appropriations of about $6 billion.

So, again there was a big increase from last year and we are talking about increasing it even further for next year, for the year 2000. So this rhetoric by the Democrats that is designed to scare people and to get people activated on the education bill, is not substantiated by the facts.

I want to address a couple of other things we can do for education and for the American taxpayer. But the President has to help us do it by signing the tax bill that is now before him. We have $11 billion of tax relief targeted towards education in the tax bill. If the President wants to improve education he can sign the tax bill and I hope he will. We allow for student loans, greater deductions and we provide extended assistance for education. Right now, people can save $500 on educational savings accounts. We increase that to $2,000.

It is vitally important that the President sign the tax bill. In addition, we have a lot of relief for taxpayers in the bill. I will just mention a couple of them.

I have heard a lot of people, Democrats and Republicans, say the marriage penalty is unfair. It's unfair for the present day Tax Code to penalize a couple because they happen to be married. In other words, when they get married their combined tax load should not be greater then when they were single and paying separately. And it is. The marriage penalty averages out about $1,400. For the privilege of being married you have to pay an extra $1,400. A lot of us think that is grossly unfair. We want to change it.

The President can change it. We, in Congress, have changed it. We sent the bill to the President's desk. If he signs it we will be eliminating the marriage penalty, for all practical purposes, for almost all married couples.

We also want to give relief to individuals who, in many cases, are at the lowest end of the economic ladder in the tax bill. I have heard some people say, ''Oh, that tax cut package, that's a tax cut for the wealthiest people.'' That's hogwash. We cut taxes for taxpayers, people who are in the lowest end of the income-tax schedule. They get a 7 percent reduction because we reduced the rate from 15 percent to 14 percent. It doesn't sound like much, but that is a 7 percent reduction for somebody on the lowest end of the economic ladder. That is a significant tax reduction.

Wait a minute, what are you doing for the wealthier people? We are reducing the rate from 39.6 to 38.6, and we do not do that until the outyears. That doesn't happen until several years later. That would amount to a little less than 3 percent. So we give a much greater percentage reduction in tax cuts to the people on the lower end of the scale. We actually make the tax schedule a little more progressive.

We provide a tax cut for taxpayers, and honestly it is not very much of one. Somebody says that's too much, you have cut taxes too much. Think about this for a second. When President Clinton was sworn into office in January of 1993, the maximum tax bracket for any American, personal income tax, was 31 percent. The Democrat controlled Congress, with a tie vote broken by Vice President Gore acting as President of the Senate—increased the maximum tax bracket from 31 percent to 39.6. So, at the end of 10 years we reduce that 39.6 to 38.6, wow, we have reduced it about one tenth as much as he increased it. And that is too much? We are being too fair to the rich? Wait a minute, they increased the rate from 31 percent to 39.6 percent; and we reduce it to 38.6 percent. It is still a whole lot higher than it was when President Clinton was elected. That is too much? The President claims that if you cut taxes that much, you won't be able to pay for all these programs.

We take two-thirds of the surplus and use it to pay down debt, to pay down our national debt by over $2 trillion. We take two-thirds of it and we pay down the national debt with the Social Security surplus. You cannot spend one dime of it for anything else.

In the President's original budget he said he wanted to spend billions for other things. We said, no we are not going to do that. We want to use 100 percent of the Social Security surplus to pay down the debt, period—no ifs and or buts about it. The President wanted to try to raid the fund and we said no.

Then we said, out of the surplus we want two thirds of it to pay down debt, one-fourth of it can go back to taxpayers. We do not want the taxpayers to have to send all of their hard earned money to Washington, DC. We certainly do not want to have to return it, we want them to keep it in the first place. It is theirs. It is not ours. It is not the Government's to spend. If they are sending in too much in taxes, let them keep it, why should they have to filter it through Washington, DC, and hope they get something back in the form of a so-called targeted tax cut?

President Clinton—his definition of ''targeted'' means: It applies to somebody—not you, not me, not anybody I know—so targeted that, in effect it is Government deciding who wins and who loses. It is Government making economic decisions. I think that is a mistake.

I would hope the President would sign the tax bill that we have on his desk that makes these changes and includes many more. I also believe we should be repealing this so-called death tax. I do not think it is right to have a death tax of 55 percent on somebody's estate that they worked their entire life on, and the Government comes in and says: Because you passed away, and you are trying to give this to your kids or grandkids, the Federal Government is entitled to take 55 percent of it. That is the present law.

If you have a taxable estate of $3 million, the Government gets 55 percent. So people who have those estates, they spend their lives trying to figure out ways to minimize this tax or get around this tax.

You do not have to be very wealthy to be paying a lot. You can have a taxable estate of $1 million, and the Government gets 39 percent. So that is 39 percent for a taxable estate of $1 million. Uncle Sam says: Hey, give me about half of it. This tax bill repeals that.

Mr. President, I urge you to sign this tax bill. I know you have said that you are going to veto it. I know you would rather spend the money. You think you can spend the money better than the taxpayers. I remember the statement you made in New York, in February I believe, that said: Well, wait a minute, I guess we could give it back to the taxpayers, and let them keep it, but what if they don't spend it right?

Obviously, there are lots of ways that this President wants to spend the money. There is no limit. And there is no doubt Congress will find lots of ways to spend the money as well.

A lot of us believe it is the people's money. They should be the ones making the decision. If they want to spend it on education, or if they want to spend it on housing, or if they want to spend it on a vacation, or if they want to spend it on helping their family in different ways, let people make that decision instead of Washington, DC. We think it would help the economy more and certainly be more pro-family. Let the families make those decisions, not politicians.

So, Mr. President, again, I urge you to sign this bill. I do not have any doubt you are going to veto the bill and the real losers are going to be the taxpayers.

I also remember we passed a tax cut in 1995. The President vetoed it. We came back in 1997 and passed another tax cut, and he eventually signed it. He did not want to sign it, but he did.

As a matter of fact, in that tax bill, in 1997, we reduced the capital gains from 28 percent to 20 percent. Secretary Rubin was against it and the President was against it although he eventually signed it. He did not want to increase the estate tax exemption. We had a small exemption rate from $650,000 to a $1 million. He was not in favor of it, but he eventually signed it. Those very things have helped the economy. They have helped grow the economy at a faster rate than people

anticipated. And now we are in a position to make further gains.

In the bill we have on your desk, Mr. President, we cut capital gains from 20 percent to 18 percent, and index it for inflation in the future. That will help the economy. That will make the economy grow faster. That will increase jobs. That will probably raise more money for the Federal Government.

So, Mr. President, we once again, urge you to sign this tax bill. It will be a good thing for the economy. It will be a good thing for American taxpayers. It will be a good thing for American families.

Let's get rid of the marriage penalty. Let's get rid of the death tax. Let's cut taxes across the board for taxpayers. We do that in the tax bill and still save over two-thirds of the budget for debt reduction.

So, Mr. President, let's allow taxpayers to have one-fourth of the surplus. Let's let them keep it. I urge you to rise to the challenge and sign the bill.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. First, Mr. President, I thank Senator NICKLES, the assistant majority leader, for the speech he just delivered. Probably more of us should be making those points on the floor of the Senate today about the importance of the tax cut proposal, what it means to working Americans, and the fact that the President could sign it so it would become the law and we would have a fairer Tax Code. But if he vetoes it, it is going to be a real shame. I appreciate the specifics Senator NICKLES pointed out.

NOMINATION OF BRIAN T. STEWART TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF UTAH

Mr. LOTT. Mr. President, in an effort to continue to move forward on judicial nominations, I ask unanimous consent that the Senate immediately proceed to executive session to consider the nomination of Brian Theadore Stewart to be a U.S. District Judge for the District of Utah.

The PRESIDING OFFICER. Is there objection?

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. No objection to going to the measure.

Mr. LOTT. The Chair notes there was no objection to that?

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

Mr. LOTT. Mr. President, I further ask unanimous consent that there be a time agreement on the pending nomination of not to exceed 2 hours under the control of Senator LEAHY and 30 minutes under the control of Senator HATCH.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object, we have spent a lot of time talking about this issue.

I spoke to the chairman of the committee today. We really want to try to be helpful and move along these judicial appointments, including the one that is so important to the Senator from Utah, Mr. HATCH.

But we would ask the majority leader if he would modify his request to provide for the same time limitation for those nominees: Berzon, White, and Paez. Maybe having made this suggestion, modification of the time agreement, we could have all these done. We could do it probably in a morning or certainly with a little added time. In fact, we would even be willing to cut down the time or add to the time if the majority leader would agree.

Mr. LOTT. Mr. President, if I could respond to the Senator from Nevada on his proposal. If he can get this agreement I have just propounded worked out, we will be able to move not only this nomination of Mr. Stewart, we will also be able to move tonight the nominees, M. James Lorenz, of California, for the Southern District of California, and Victor Marrero, of New York, for the Southern District of New York.

With regard to the nomination of Ronnie L. White, of Missouri, for the Eastern District of Missouri, we do have a time agreement we had worked out earlier. I think it was for only 35 minutes. It might require more time than that since a lot of time has lapsed, but I am satisfied we will get a time agreement on that, and we will have a vote on that one.

I think there is a possibility we could get some sort of a time agreement to consider also the nominee, Raymond C. Fisher, of California, for the Ninth Circuit, which is a very controversial circuit. But I have not had an opportunity to check on the time on that one.

So I think if we could get an understanding, an agreement with regard to Mr. Stewart, we could, as a matter of fact, move as many as five judges—two in wrapup and three with time agreements and recorded votes. The other two—Berzon and Paez—I will have to go to all of my colleagues to check and see how we can handle those. I have not been able to get a time agreement as yet. I have to confess that I have not tried it lately because I have been trying to move the other judges where there was either not an objection or there were limited objections or we could get time agreements.

So I think this is a way to keep moving the process forward. I remind the Senate that we have moved six Federal judicial nominations over the last 2 weeks and that we have the opportunity tonight to move three more. We have the opportunity, within the next 2 weeks, to move three more. That is pretty good progress. I understand the Judiciary Committee is moving toward, reporting out a number of other nominations.

So I hope we will find a way to work through all this. Everybody knows that this nominee, Stewart, is important to the chairman of the Judiciary Committee. If we get into a situation where we are not going to move him until we get agreement on all others, then we will wind up with an all stop. I have been through that before. I wish we wouldn't do that. I don't think it is good for the people who have been nominated. Why hold up those who can be cleared or voted on and probably approved because we want to get others who are a major problem and we haven't been able to get cleared?

I will have to object at this time because I haven't had a chance to do a hotline to see how we could handle Raymond Fisher—I would have to check on all three of those. Having said that, I will have to object to that change.

Mr. REID. I say to the majority leader, I think this dialogue on the floor is constructive. I think the suggestion of the leader that we move some of these other people is something we need to do. We, of course, need to have more hearings. I see the ranking member of the Judiciary Committee, who has certainly been engaged in this and has spoken with the Senator from Utah, much more than either you or I, about this issue.

Mr. LOTT. I wish they would work this out, frankly. Then you and I wouldn't have to worry with it.

I did object. The Chair has heard objection?

The PRESIDING OFFICER. Objection was heard.

Mr. REID. We still have the leader's unanimous consent request pending though.

Mr. LOTT. I could make another one, but before I do, I am glad to yield the floor to the Senator.

Mr. LEAHY. If the distinguished majority leader will yield, the distinguished senior Senator from Utah and I have been in discussion within the last 2 or 3 minutes. We are trying to move this along and work it out. I understand the concerns the majority leader has.

As he knows, both the two times I have served here with the Democrats in the majority and the two times I have served with Republicans in the majority, I have always respected the majority leader's prerogatives in bringing things up.

My concern is not that this be a lockstep matter, but I say to my friend from Mississippi—and this is one of the things that concerns many people on this side of the aisle—there were 30 pending judicial nominations that were received by the Senate prior to the Stewart nomination coming, and they deserve our attention, too.

Obviously, I understand the special circumstances of the Stewart nomination. If we work out some of these other things, I expect to be voting for him. But there were 30 ahead of it, not all of which are on the calendar, but were received ahead of it and 6 in front of him on the Senate Executive Calendar. We have concern that they are

going to get consideration, that each of them will be accorded a Senate vote. People should be fair to them all. Some of them have been there for 2 or 3 years, some for a matter of months. What I am trying to do with the distinguished Senator from Utah is work out some kind of understanding where we have Senate votes on the nominations on the Executive Calendar, will have the hearings that are needed to move others along. I was hoping we could work out some kind of a package that the distinguished Republican leader and the distinguished Democratic leader could agree to today, but I don't think we can.

Mr. LOTT. I just offered basically a package that could involve five judges.

Mr. LEAHY. I understand.

Mr. LOTT. I do want to make the point that, as the majority leader, I can nudge a chairman and/or his ranking member, but I am not chairman or ranking of Judiciary. The majority leader can only deal with the nominations that hit the calendar. With the proposal I just made, two would be on the calendar, at which point I would then have the time to see how those might be dealt with.

Mr. LEAHY. With all due respect, the last few years the Senate has moved slower on judicial nominations than any time I think I can remember in my time here. I have attended more judiciary hearings, voted on more judicial nominations, than virtually anybody in this body, with the exception of the distinguished President pro tem, who tells me he may have been doing them in Thomas Jefferson's time. But for the rest of us, I have. I have never seen it go quite so slowly. In 1996, 1997 and again this year the Senate has been moving slowly with respect to a number of judicial nominees.

We are trying to work that out. Obviously, it is not going to get solved today. I do not want to get having to invoke cloture on judicial nominations. I think it is a bad precedent. That may be necessary.

Mr. LOTT. If I could reclaim my time, I agree with you on that. I don't want to do that. I have discouraged it ever since I have been the majority leader. I don't believe we have had cloture on a Federal judge since I have been majority leader. The idea that we would begin defeating Federal judicial nominations with 41 of the 100 Senators' votes, that is a bad thing to start. I hope we will not do it.

I have to try to find a way to force us to some agreements and to force us into some action. I would be inclined to file cloture today. I want to emphasize, I would prefer to vitiate and not do that. I will go ahead and put it in place tonight, but if Senator HATCH and Senator LEAHY will come to me and say, we have something worked out here, or if we can work it out to move these five judges, I will be delighted to move to vitiate that and not go forward with it. Then we can keep this process moving.

Remember, right before the August recess, I was the one who tried to move judges. I would get an objection from the Democratic side, if I didn't include certain judges. Then, if I did it a different way, I would get objections from the Republican side because certain judges weren't included. The net result was, none of them were included.

When I came back, I called Senator DASCHLE and I called Senator HATCH. I said: I am going to start at the beginning. I am going to start with the easiest ones to get done, and if people are going to object, then they will have to object to them one by one. As a result of that, everybody kind of relaxed and we moved six of them. We are now ready to move at least two more, and I thought we could move three more. If we keep this thing going, it has a lubricating effect. When you act, you tend to act.

Let me say this about the vacancies, the number of judges appointed. This Sunday, I am going to be in Cleveland, MS, to attend the investiture of my college roommate, one of the finest men I have ever known in my life. He was nominated by President Clinton to be a Federal judge. He is going to be the North Mississippi Federal judge.

I guess on paper he is a Democrat, but aside from that, he is a great guy and will make a wonderful, ethical judge. But when I attend this meeting, I am going to be basically saying: My good friend, Judge Pepper, goodbye. I hope to see you again some day. You are going to the Federal bench.

I am glad he is going there. He is going to be a credit. But let me tell you, out there, there are not a lot of people saying: Give us more Federal judges. They just are not. For us to be pontificating about this and gnashing, how unfair, this appointment of more Federal judges, it is just not there.

I am willing to do my job. I know they deal with a lot of important issues. I know there is a problem when we don't have a full complement. Some people might argue that we have plenty of Federal judges to do the job. I hope they will do that. I am saying to you, I am trying to help move this thing along, but getting more Federal judges is not what I came here to do.

Mr. LEAHY. If the distinguished leader will yield on that point, I believe, of course, he is gaining himself a higher place in Heaven for the suffering he goes through with this—probably not made up by the office and the limo in the meantime. In Heaven, he will finally have his reward, I am sure.

Mr. LOTT. I look forward to that great day.

Mr. LEAHY. When you get there, you will be able to tell St. Peter that one of the trials you had on Earth was the senior Senator from Vermont, who is your friend, as you know. We have been friends for many years.

On the number of Federal judges, though, I do get letters from lawyers all over the country, and I believe even from the State of Mississippi, from their trial bar, in several cases where, having paid all kinds of taxes, they now have to hire arbitrators to hear the cases because the dockets are too full. I am hearing from Federal prosecutors all over this country this is a matter of some concern, that because of the speedy trial rules under the Constitution and practice, they are concerned about their cases. There aren't enough judges to try them. So there are some areas where we do have some serious problems. We know that the Chief Justice of the United States has criticized the lack of enough judges to do the work of the courts and the time it takes to get vacancies filled.

We have two judges we could voice vote right now—there would be no objection—James Lorenz and Victor Marrero, Calendar Nos. 213 and 214.

Mr. LOTT. I would be glad to move those. If we can get an agreement on Stewart, they will be moved immediately.

Mr. LEAHY. What I would suggest is this: Obviously, the distinguished leader can file cloture on any motion at any time. I think that is appropriate, and whoever is the majority leader should always have that right. I have always supported that. Such a vote would not ripen, it is my understanding, until Tuesday evening.

Mr. LOTT. Tuesday at 5:30. That would give you and us time to talk more tonight, or Tuesday.

Mr. LEAHY. The Republicans will probably be having a caucus, as we will be, in the normal course of business. Might I suggest to the leader that might be the thing to do. We would have an objection today, he can file the cloture today if he chooses, and still Senator HATCH and I will continue our discussions. He and the distinguished Democratic leader would continue theirs. I think there have been a number of times when the 4 of us, in 5 minutes off the floor, have accomplished more than we could in 5 hours on the floor. Then we can see where we are at that time. We may be in a situation where having prayed about it over the weekend and thought about it—and you have had the great feeling of being in Cleveland, and I didn't know there was a Cleveland, Mississippi.

Mr. LOTT. They don't have a professional football team, but they have an excellent college team, Delta State University.

Mr. LEAHY. I have been in Mississippi a number of times. I have gone down with your distinguished colleague, Senator COCHRAN, in different hearings. I have always enjoyed it. I have always eaten too much, and I have always felt I understood what Southern hospitality means. I tried to reciprocate with his colleague on a visit to Vermont, and it dropped to 30 below zero. He didn't think it was very good reciprocation, so he came back in the summertime.

Mr. LOTT. I would like to make one last point.

Mr. REID. Mr. President, I ask the leader this. I have listened to the two

of you in your dialog. I have a different idea. I think that and I respectfully submit this—we would be better off if you did not file your motion for cloture. You can do that next week. I feel that, knowing the minority as well as I do, we would be better off. If things don't work out by Tuesday at this time, you can still file your motion to invoke cloture.

I don't think we should be filing motions to invoke cloture on these judges. I don't think we need to do that. Give us a little time to work this out. I respectfully submit to my dear friend that I think we would be making a mistake procedurally. I have only been to Mississippi once, and that was when I went to Senator John Stennis' funeral, a man who I had the pleasure of serving with years ago. I had great respect for him. I feel that, in the Stennis way of doing business, we need to do a little more deliberating and less pushing people's backs to the wall. I feel this motion would be the wrong thing.

As I say, I have spoken to the Senator from Utah. I know how badly he wants this judge to be approved. I think you have gone some way this evening in saying that you have mentioned four people that I think we can approve pretty quickly.

Mr. LOTT. Possibly a fifth one. I would have to get clearance on it.

Mr. REID. I say to my friend—and I am not begging; I don't want to do that—I think we would all be better off if the cloture motion were not filed today. If you need to do it, do it Tuesday. That is going to move along, and we are going to be around here next week and the week after. I think we would be better off. Let's not get into a motion to invoke cloture on judges. The big problem is with Ted Stewart from Utah. Let's see if we can work through that.

Mr. LOTT. Is there any possibility that we can get a time agreement on Stewart? I know Senators would like to make themselves heard, perhaps, on that nomination, or perhaps as it relates to other nominees. I have no desire to cut Senators off at will. Maybe the time I asked for was too short, with 2 hours for Senator LEAHY and only 30 minutes for Senator HATCH, where the nominee is from. We can go to 4 hours on each side.

Mr. REID. I respectfully submit that I don't think the time is the issue. I think we have to work our way through a little bit of the politics of this judicial appointment stuff. In my opinion, I think we could do it much easier if there weren't that cloture motion filed.

Mr. LOTT. I have a couple of problems: One, Senator HATCH, I think, feels that I embarked upon a strategy that has disadvantaged him because I started moving judges—6 of them. And now 2 more are ready to go. Then when we got to the ninth one, his judge, we are told, no. Even though you have 8 judges nominated by Democrats, we have one now that is supported by Senator HATCH, the chairman of the Judiciary Committee, and you can't do that unless we get an agreement to move 5 other judges.

So I understand what you are saying. I really prefer not to do this. But the problem I have now is that I told Senators who have now left that I would do this, and I believe we have told Senators we will have two votes at 5:30 Tuesday. This is one of them. That is my problem. Another problem is time. We are getting to the end of the fiscal year. If we don't do this now and get closure on Judge Stewart, with next week being a four-day week—assuming we can get the Senators to work 4 days—and with five the next week, which are the last 2 weeks of the fiscal year, we are not going to be able to get through any of these judges until October. I hope that we can go ahead and resolve the Stewart matter. I could vitiate the request, and then we could move five judges, I hope.

Mr. REID. The problem that I have, though—and you already touched upon it—we know where the votes are on this issue. We don't need to have a Federal judge decided on less than a majority vote. So why can't we just wait and see if we can work this out? I think it would be better. I think we are going to be forced into a vote here.

Mr. LOTT. Can you give me a commitment that we will get a vote next week on Judge Stewart?

Mr. REID. Well, the only problem with that is, if we can't work things out, then you will be stuck with the cloture motion. I think it would be better if that were done after we really saw, based upon the feelings that the Judiciary Committee chairman has on this——

Mr. LOTT. I want to pay a compliment to Senator REID. As always, he is persistent, and he is trying to find a solution. That is the way we have to work around here. I appreciate that attitude. I appreciate the way he has done his job since he has been the assistant Democratic leader and whip. So I weigh that carefully.

At this point, I think I will have to go forward with this. But I will be here tomorrow. I will be here all day Tuesday. Senator HATCH and Senator LEAHY will be working together. I will not let this happen without personal conversation with Senator DASCHLE. I talked with him briefly about it this morning. He won't be here tomorrow, but he will be back next Tuesday. It is a high holy day for the Jewish community. I believe he will be around during the day. We will try to work this out. I want to work this out. ''I ain't got a dog in this fight,'' except I'm trying to do my job. So I want to do it in such a way that everybody is satisfied that we are being fair. I don't think it is fair that the nominees from California, New York, Utah, and Missouri all get balled up in this web. I hope we can avoid that.

Mr. LEAHY. Touching on another subject—and obviously the two leaders can determine what they want as far as the cloture point is concerned—on the timing on Mr. Stewart's nomination, in my experience and my judgment, I say to my friend from Mississippi that: If we had worked out an arrangement to vote on these judicial nominees on the calendar, the sort of thing we are talking about doing now, working out the amount of time to be taken on Stewart would be the least of our worries; it would be a relatively short time because it would be all part of the same package.

We could spend more time talking about how much time there will be on the floor than probably what there would be at that time. That is going to be the least of our problems. If we get some of these judges worked out and some idea of when other judges are coming up, that is going to be the easy thing to do.

Mr. LOTT. I may have an idea or the staff, as quite often is the case, may have come up with an idea.

Mr. LEAHY. We have a constitutional impediment to the staff, I say to the leader.

Mr. LOTT. Let me explain what it is. Then I will explain what it means.

First of all, I ask unanimous consent that notwithstanding rule XXII, it be in order for the majority leader to file a cloture motion on the pending nomination at 5:30 p.m. on Tuesday, and if that motion is filed, that vote occur on Tuesday immediately following the 5:30 p.m. vote. Needless to say, this will give all Members until 5:30 on Tuesday to discuss the nomination.

What I am asking for is an opportunity to not file it, but by getting this agreement, it will be the same as if I had filed it. If we get an agreement, no problem. If we don't, then there will be a vote at 5:30.

Mr. LEAHY. That is OK with me.

Mr. REID. No objection.

The PRESIDING OFFICER. The majority has a previous unanimous consent request. Does he withdraw that?

Mr. LOTT. I do, and I propound this one which I just read, and ask for its consideration.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LOTT. Mr. President, I thank Senator REID and Senator LEAHY very much for their cooperation.

PROGRAM

Mr. LOTT. Mr. President, for the information of all Senators, there will be no further rollcall votes today.

The Senate will be in pro forma session on Friday, and there will be no session on Monday in recognition of the Jewish holy day.

The next rollcall votes will occur at 5:30 p.m. on Tuesday in a back-to-back sequence, if there are two votes, with the first vote on cloture on the bankruptcy bill, and the second vote on the nomination of Ted Stewart, if one is required.

The Senate may also consider the Department of Defense authorization conference report under a 2-hour time limit.

Finally, the fiscal year is coming to an end. Therefore, Members should expect late sessions during next week, and they should anticipate being in session each day—Tuesday, Wednesday, Thursday, and Friday—so that we can complete action on the Department of Defense authorization conference report, the Interior appropriations bill, the HUD, and the Veterans' Administration appropriations bills, and any other actions that can be cleared.

I think we have made good progress today in spite of the rain and sometimes windy weather. I think we made the right decision to stay here. As a result of us staying and working today, we passed the Treasury and Postal Service appropriations conference report, the District of Columbia appropriations conference report, and the Transportation appropriations bill, and have put in place a process to move a number of Federal judicial nominations.

I thank my colleagues for their patience, and for being here today as we have made that effort.

AUGUST 1999 VISIT TO THE HAGUE, UKRAINE, ISRAEL, JORDAN, EGYPT, KOSOVO, AND ITALY

Mr. SPECTER. Mr. President, on August 14, I landed in Amsterdam, Holland, and proceeded directly to the War Crimes Tribunal in The Hague. There, I met with a team of the leading prosecutors/investigators at the Tribunal including John Ralston, Bob Reid, Graham Blewitt, and J. Clint Williamson. Ralston, Reid, and Blewitt are all Australians who got their start together hunting Nazis who had immigrated to Australia following World War II. They have been at War Crimes Tribunal since 1994. Williamson is an American who used to work for the Department of Justice.

Recently the prosecutors obtained a very important indictment against five individuals: Yugoslav President Slobodan Milosevic, the President of Serbia, the Serbian Interior Minister, the Deputy Prime Minister of Yugoslavia, and the Chief of Staff of the Yugoslav Army. They have been charged with crimes against humanity in the deportation of more than 700,000 ethnic Albanians from Kosovo and mass murder. Their theory of prosecution is that the atrocities in Kosovo were so systematic and widespread that they must have been orchestrated at the highest levels of the Yugoslav/Serbian government and military.

No arrests in connection with this indictment have been made to date. When I asked about the prospects of detaining Milosevic and bringing him to trial, my hosts told me that this will happen only when a new government comes to power in Yugoslavia. It is possible that such a government may quickly find that Milosevic is too great a liability and hand him over.

I also asked about the prospects of capturing another indicted war criminal, Radovan Karadzic, the leader of the Bosnian Serbs during the fighting in Bosnia. Karadzic is still in Bosnia and to date remains at large. Karadzic is believed to be in the French sector of Bosnia, and the French have shown no interest in arresting him. Unfortunately, the United States has also shown a lack of resolve on this issue. I believe that capturing Karadic and trying him before the War Crimes Tribunal would send a powerful signal to leaders around the world that they are not immune from prosecution, and that prosecution will not be limited merely to the troops on the ground. Had Karadzic been in custody in the Hague awaiting or standing trial, one wonders whether Milosevic would have acted as brazenly as he did in Kosovo.

The war crimes team all stressed that there was a great deal of work to do collecting evidence of the war crimes in Kosovo and that this work needed to be done prior to October, when winter weather would prevent further excavations until the Spring. They also told me that the work was particularly challenging because the Serbs had gone to great lengths to hide their crimes, including burning the bodies of their victims, bulldozing houses in which mass murders took place, and dispersing bodies from mass graves.

In early summer, the FBI sent a team of forensic experts to help collect evidence of war crimes in Kosovo, and the FBI was preparing to send a second team at the end of August. I had helped to get funding for these FBI missions, and was interested in hearing about what the FBI was doing. The team at the War Crimes Tribunal told me that the FBI had been sent to work at a number of massacre sights where most of the evidence had been destroyed, usually by burning the victims' corpses. Despite the difficulties, the FBI was able to find evidence, including bone fragments, blood stains, shell castings, and petrol cans used to start the fires. They have exhumed victim bodies and conducted autopsies. This evidence will prove invaluable when the individuals under indictment are finally brought to trial.

I asked my hosts if they needed any additional resources. Mr. Blewitt told me that resources continued to be a problem—the tribunal was currently borrowing against other areas of its budget in order to fund its Kosovo operations and would run out of money by early October. He mentioned that the $9 million dollars recently pledged by President Clinton would carry them through the end of 1999.

After leaving the War Crimes Tribunal, we proceeded to meet with General Wesley Clark, the Supreme Allied Commander of NATO forces. General Clark ran our war effort in Kosovo and continues to manage the day-to-day operations there, and is a valuable source of information about the situation on the ground.

I asked the General about the odds of capturing Milosevic and bringing him to trial. The General stated that he was optimistic that one day Milosevic and the others would indeed be captured and brought to justice. I also asked him about the chances of capturing Karadzic. He mentioned that Karadzic is in hiding, surrounded by guards, and goes to great lengths to avoid being located such as avoiding the use of cell phones. Still, I got the impression that if NATO were truly determined to capture him, they could do so.

I also asked General Clark about the Apache helicopters that were sent to Kosovo with much fanfare but were never used. He told me that the Pentagon had conducted a risk/benefit analysis and decided that the risk of losing one of these expensive helicopters outweighed the benefit that could be derived by their use. I expressed my view that there is no point in having all of this high priced machinery unless it is going to be used.

Our next stop was Kiev, the capitol of Ukraine. We arrived in Ukraine shortly before the celebration of its 8th Independence Day. During this short period, Ukraine has become an important country for U.S. foreign policy. After the dissolution of the Soviet Union, Ukraine was left with one of the largest nuclear arsenals in the world. Our work with Ukraine has eliminated all of these nuclear weapons. In addition, Ukraine is a young country making the difficult transition from totalitarian rule to democracy and from a planned economy to a market economy. If Ukraine succeeds, it can lead the way for Russia and other former Soviet Republics to follow. If Ukraine fails, it could revert to communism and possibly join Russia and others in a union that would once again seek to pursue global power through militarism. The United States has a lot at stake here.

During my stay in Ukraine, I met with the top leadership of the country including President Leonid Kuchma, Prime Minister Valeriy Pustovoitenko, Deputy Foreign Minister Oleksandr Chalyi, and Secretary Volodymyr Horbulyn, who is the head of the National Security and Defense Council. These meetings provided valuable information on the challenges facing Ukraine and the role the United States can play to help this country on the difficult path to democracy and free markets.

President Kuchma is up for reelection this October. He is generally considered to be a reformer and a man who will continue down the path towards democracy and free markets. His strongest opponents are the Communists and the Socialists, who have opposed Kuchma's market reforms.

I was curious to know what my hosts thought would be the major issues in the campaign. Both President Kuchma

and Prime Minister Pustovoitenko agreed that one of the most important issues in the campaign would be unpaid pensions and government salaries. The government has missed a number of monthly payments of pensions and salaries this year and last. Naturally, people owed money are likely to vote for the party they believe is most likely to pay it to them.

Beyond the specific issue of back pay, the economy in general will also play a pivotal role in the campaign. My hosts told me that they felt threatened on economic issues, because there are many who believe that their lives were better under Communism and would therefore support the Communists. The Prime Minister noted that as an opposition party, the Communists have been criticizing President Kuchma's economic reforms and have blocked more meaningful reform. President Kuchma agreed that it is possible, although unlikely, that the Communists could come to power and return the country to totalitarian rule.

Although Kuchma is considered to be a reformer, there have been complaints that the pace of reform is too slow and that his initiatives have been too modest. When asked about the pace of reform, my hosts put the blame largely on the shoulders of the left wing parties. They told me that the Communists, Socialists and some others are blocking the most important reform legislation his government has introduced. They suggested that the pace of reform would pick up after the election, provided President Kuchma wins.

Prime Minister Pustovoitenko confirmed that Ukraine has eliminated all of the nuclear arms in the substantial arsenal it inherited from the Soviet Union. Today, of course, countries are competing in the most aggressive way to acquire nuclear arms. Being a member of the nuclear club gives a country great prestige and bargaining power in the world. It is for this reason that I find it truly remarkable that Ukraine had voluntarily given up its nuclear arsenal.

I asked my hosts why they would agree to do this voluntarily. President Kuchma mentioned that after the disaster at the Chernobyl nuclear reactor, which is in Ukraine, Ukrainians understand better than most people the danger posed by nuclear power and simply did not want them. Deputy Foreign Minister Chalyi also gave me an interesting answer. He told me that he and others decided that the best development model for Ukraine to follow was Japan, which disarmed and focused on building its economy. Nuclear arms do not bring prosperity.

Given Ukraine's voluntary disarmament, I was interested to know what my hosts thought about the Comprehensive Nuclear Test Ban Treaty and the failure of the U.S. Senate to ratify this treaty. All of the government officials I spoke with felt very strongly that the Test Ban Treaty was an extremely important way to seek to prevent the proliferation of nuclear arms and slow this dangerous arms race. Likewise, they all agreed that the failure of the U.S. to ratify this Treaty was a serious impediment to the goal of disarmament. As President Kuchma noted, ratifying the Treaty gives a country the moral right to pressure others to stop their testing and construction of nuclear arms. Prime Minister Pustovoitenko sounded a similar note when he said that the United States must set an example for the world when it comes to disarmament and would be in much stronger position to pressure other countries to stop their tests once they formally committed to stopping their own.

Deputy Foreign Minister Chalyi told me a very interesting story in response to my question about the Test Ban Treaty. Mr. Chalyi serves as the Chairman of the South Asia Taskforce, a group of Asian nations and their trading partners including China, Japan, Australia, Argentina and Brazil. He told me that during a visit to Pakistan, he urged his Pakistani counterparts to ratify the Treaty. A Pakistani official responded that he did not see why Pakistan should have to ratify the Treaty when the Americans had not.

While in Ukraine, I also had a meeting with representatives of the Ukrainian Jewish Community. Of the 6 million Jews killed in the Holocaust, 1.7 million came from Ukraine. After the War, the Holocaust, and continuing emigration, the Ukrainian Jewish community now numbers approximately 500,000. I feel special concern for this community since both of my parents were Ukrainian Jews.

I found these Jewish leaders to be upbeat, even optimistic, about the future of their community. They told me that since the break-up of the Soviet Union, the Jewish community has begun to develop rapidly. Rabbis are coming to the country, and many Jewish schools and camps are opening. They told me that there is religious freedom and opportunities for Jews in every sector of society.

During the Communist era, I was told, Ukraine was one of the most anti-Semitic republics in the Soviet Union. No Jew could hope to be a leader in politics or industry. In contrast, one of the Jewish leaders we met with was a successful businessman and an advisor to President Kuchma. I was informed that a former Prime Minister of Ukraine was Jewish. Another Rabbi from the Lubavitcher Hasidic movement told me that he has been walking back and forth to synagogue in his town for two years without any incident. This is certainly different from the days when the Cossacks used to ride up and down the streets of my father's town looking for Jews to harass.

The only complaint I heard was on the issue of communal property. Jewish property confiscated by the Nazis became government property under the Soviet Union. Now that Communism is gone, representatives of the Jewish community would like to retrieve Jewish communal property—graveyards, synagogues, schools, etc. Some feel that the government has not moved fast enough on this issue. Others stressed that this is a sensitive topic affecting many ethnic groups in Ukraine and feared that to push too loudly for restitution would lead to anti-Semitism.

A number of the leaders I met with, including President Kuchma, asked that the United States repeal the Jackson-Vanik Amendment as it applies to Ukraine. Jackson-Vanik was originally passed during the days of the Iron Curtain as a way of pressuring the Soviet Union to allow Jews and other religious minorities to emigrate. Today in Ukraine, there are open borders and free emigration. The Ukrainians don't understand why they must come to the U.S. every year and ask for a waiver from the Jackson-Vanik sanctions, and they believe that the repeal of the amendment would have great symbolic importance.

When I met with the Jewish leaders, I asked them about this issue. They agreed that there is free emigration from Ukraine and seemed open to the idea of repealing Jackson-Vanik. Some raised a concern, however, that today Jackson-Vanik applies to issues beyond emigration, such as the restoration of communal property, and should therefore not be repealed until the communal property issue is settled. The U.S. Congress should review this issue.

On my final night in Kiev, I met with a group of American businessmen living in Ukraine to hear their view of the Ukrainian economy and business climate. They all complained about the slow pace of reform, corruption and inefficiency. They contrasted Ukraine with countries such as Poland, which have converted well to capitalism. Ukraine, they argue, is still a state run economy in many important ways. Private firms have made progress in some consumer product fields such as brewing beer and making chocolates. But in major industries, the government-owned companies still dominate. Despite these problems, however, these Americans still believed in the potential of Ukraine and were devoting themselves to the task of developing their economy.

From Ukraine we flew to Israel where we had a series of meetings relating to the Mid-East peace process. Our first meeting was with Israeli Prime Minister Barak. I found the Prime Minister to be optimistic about the prospects for peace in the Middle East. He stated that Israel will resume implementation of the Wye Accords as soon as possible. When I asked him about the risks of peace making, Barak explained to me why he is seeking to make peace so quickly. If Israel does not make peace now, he said, then he is certain that there will be another war in the Middle East. While he is confident that Israel will win this war and survive, he knows that Israel will never

win an unconditional surrender from her Arab neighbors. So after Israel and her neighbors have buried their dead and repaired their cities, they will sit down to negotiate exactly the same issues that are on the table now. The Prime Minister believes that by making peace now he will avoid this futile loss of life.

In addition, Barak believes that Israel is strong enough to take the risks inherent in pursuing peace. He drew a strong contrast between his view of Israel in the Middle East and the view of his predecessor, Binyamin Netanyahu. He noted that Netanyahu once analogized the situation of Israel in the Middle East to that of a carp in a tank of sharks. Barak rejected this analogy and stated that Israel is not a carp, but a ''benign killer whale.'' His message was clear—Israel is strong enough that it does not have to fear making territorial concessions to its neighbors.

But the Prime Minister is also a realist and he stressed that Israel will only enjoy peace so long as it is stronger than its neighbors. He stated, I believe correctly, that there is no second chance for the weak in the Middle East. During the peace process, Israel must stay militarily strong and even supplement her strength to compensate for lost military assets, namely land and strategic depth. Towards this end, he stressed the importance of U.S. aid and the need to continue to provide the aid to help convince the Israeli public that the peace process will not jeopardize Israel's security.

Under the Wye River accords, the U.S. pledged to provide $1.2 billion in aid to Israel beyond the almost $3 billion it currently receives in annual economic and military assistance. This $1.2 billion is meant to pay for the costs of moving two military bases that are currently located in territory that will be handed over to the Palestinians under Wye. The money will also pay for additional missile defense deployments and research.

I told the Prime Minister that while there is support in Congress for such aid, there will be difficulties in procuring it. Because of the caps established under the '97 Budget Act, there is great difficulty in meeting existing requirements in the FY 2000 budget. Nevertheless, I told the Prime Minister that I believed the U.S. would ultimately provide the promised funds to implement the Wye Accord.

After leaving Prime Minister Barak's office, we drove directly to Ramallah, a city in the West Bank which is under the control of the Palestinian Authority. There we met with Chairman Yasser Arafat and a number of his deputies. Mr. Arafat had some complaints about the pace of negotiations with Israel, but he was still optimistic that there would be progress.

Some of Arafat's deputes seemed more pessimistic. Towards the end of my talk with Arafat, Saeb Erakat entered the room. Mr. Erakat is the Palestinians' chief negotiator with the Israelis over the terms for resuming implementation of the Wye accord, and he had just returned from a negotiating session with the Israelis. I asked Mr. Erakat how the negotiations went. He refused to go into details, but was clearly frustrated with the lack of progress. He complained that the Israeli settlers had too much influence and were refusing to compromise. The next day the papers reported that the Israeli-Palestinian talks had reached and impasse over the release of Palestinian prisoners in Israeli jails.

Under the Wye Accords, the U.S. agreed to provide $400 million in aid to the Palestinians. I asked Arafat how he would use this money. He told me that it would go towards a variety of projects, including building a road from Jenin to Nablus, building a high tech industrial zone, and funding programs to help establish the rule of law in the Palestinian Authority territories.

I also asked Chairman Arafat about Syria and the possibility that Syria would cease to harbor Palestinian groups still pursing terrorism against Israel. Mr. Arafat told me that some of these groups may abandon terrorism on their own initiative. He told me that he is conducting negotiations with two reductionist groups—George Habash's Poplar Front for the Liberation of Palestine and Nayef Hawatmeh's Democratic Front for the Liberation of Palestine about the terms for ending hostilities against Israel and entering the political arena. If these negotiations succeed, the only major Palestinian groups opposed to peace with Israel will be the fundamentalist groups such as Hamas and Islamic Jihad.

Despite rumors about his poor health and the lip tremors that have been evident for some time, Mr. Arafat met me at his office at 8:30 in the evening. When our meeting ended at 9:40 he walked me out the door and then, I'm sure, returned to work.

The next morning we drove to Tel Aviv for a meeting with Foreign Minister David Levy. Mr. Levy was born in Morocco and moved to Israel in his teens. He speaks French, Arabic and Hebrew, but no English, so we spoke with the assistance of a translator. Mr. Levy reiterated the Prime Minister's commitment to quickly resume implementation of the Wye Accords. On Syria, he sounded a less optimistic note than Prime Minister Barak had. He stated that Israel cannot accept Syria's precondition for resuming negotiations that Israel accept Syria' interpretation of where negotiations with Prime Minister Rabin left off. Foreign Minister Levy stressed that Barak would be a tougher negotiator.

After these meetings with Barak and Levy, I though it would be worthwhile to hear from someone who is opposed to the peace process they are pursing. Perhaps no Israeli politician has been more consistent in his opposition to territorial concessions that former Prime Minister Yitzhark Shamir. So we dropped by Mr. Shamir's office in Tel Aviv for a visit. True to form, Mr. Shamir dismissed Oslo and Wye as dangerous concessions by Israel to her implacable enemies. He said that the Palestinians are real enemies of the State of Israel and that Syria will never be able to change. Shamir added that he would like to see 5 million more Jews move to Israel, but that there would be no room for such an expansion if the proposed territorial concessions take place.

After finishing our business in Jerusalem, we drove to Amman for a brief stay in the Jordanian capitol. Each time I visit Amman, I notice that the city has grown and developed substantially since my last visit.

We met with he new King of Jordan, King Abdullah, at his palace. I express my condolences to the King on the loss of his father, King Hussein. King Hussein was truly a valuable force for peace in the Middle East, and I am hopeful that King Abdullah will fill the void his father's death left behind.

The King was upbeat about the situation in the Middle East. He believed that Ehud Barak was sincere about pursuing peace and making the sacrifices it entailed. He was also optimistic that President Assad would be flexible about negotiating with Israel and would relent on its insistence that the peace talks pick up exactly where he believes they left off with Rabin. He told me that Syria is prepared to accept all of Israel's requests regarding security arrangements in exchange for the Golan.

I also asked the King about the Comprehensive Test Ban Treaty and the failure of the U.S. to ratify it. He expressed his view that this was an important treaty for the safety of the world and told me that he hoped that the United States would ratify it.

From Amman we flew to Alexandria, Egypt, a teeming city on Egypt's Mediterranean Coast. Egypt's leaders often spend the hot summer months by the sea in Alexandria. When I met with President Mubarak in Washington this past June, he told me that he, too, would be in Alexandria for much of the summer.

President Mubarak shared the optimism of the other leaders I met that the Israeli-Palestinian track was going in the right direction. He was less sanguine about the Israel-Syria track, but felt that progress with the Palestinians would help bring the Syrians along. He suggested that Syria is looking to receive more from the Israelis than the Egyptians received in their peace treaty to justify the 20-year delay in making peace.

President Mubarak also stressed that it is essential that Israel and the Palestinians reach a peace agreement while Yasser Arafat is still alive. Mubarak fears, for good reason, that after Arafat's death there will be a power struggle among various Palestinian

factions for control of the Palestinian Authority, and that terrorism against Israel will become a feature of this competition.

I asked Mubarak about reports that he wanted to hold a summit on terrorism. He told me that he does intend to hold such a summit, and that he would like the focus of this summit to be terrorism and weapons of mass destruction. I think this is an excellent idea and encouraged President Mubarak to proceed with his plans.

I asked the President his opinion of the situation in Iran and what the U.S. policy towards Iran should be. Mubarak was not optimistic that Iran would abandon its extremism any time soon. He told me that the Iranians have named a street in Teheran after the man who assassinated President Sadat. When President Mubarak complained about this, the Iranians placed a large mural of the assassin above the street that bears his name.

I next asked President Mubarak when he would warm up his relations with Israel. Mubarak blamed the cold peace with Israel on Prime Minister Netanyahu. He told me that prior to Netanyahu, things were warming up and economic cooperation was beginning. When I asked him if Egypt's relations with Israel would warm up now that Netanyahu was out of office, he responded that this would ''take time.'' I reminded President Mubarak that a lot of time has already passed since Egypt and Israel signed their peace treaty.

From Alexandria we flew to Skopje, Macedonia, where we met representatives of the U.S. army for a one-day tour of neighboring Kosovo. We were flown by helicopter from Skopje to Prishtina, the major city in Kosovo. On the way, we flew over a number of Kosovar villages and towns. In almost every village, we saw the burnt-out remains of houses that once belonged to the Kosovor Albanians.

In Prishtina, we met with Bernard Kouchner, the UN's top official in Kosovor. Mr. Kouchner told us that he has witnessed some positive developments since coming to Kosovor. Most importantly, he noted that the large majority of Albanians who fled Kosovor during the war have already returned home. In addition, the Kosovo Liberation Army appears willing to accept the transition from paramilitary force to civil service. KLA members will be given approximately 2,500 places in the UN-sponsored Kosovor police force.

The return of the Kosovor Albanians to Kosovor is creating challenges for the UN. Mr. Kouchner told us that 60,000 homes were destroyed in Kosovor during the war, and that the UN would not be able to provide sufficient housing for all of the returnees prior to winter. The UN is going to have to rely on winterized tents and rehabilitating damaged homes to make up for the shortfall.

Mr. Kouchner told us that the major challenge facing the UN in Kosovo is protecting the Serbian community from Albanian retribution attacks. While he felt he was making some progress in this area, Mr. Kouchner noted that there were still a number of attacks taking place on a daily basis, including assault, arson, and murder.

I asked Mr. Kouchner how long the UN would have to stay in Kosovor. He estimated that it would take ''several years'' until the UN could leave.

From Prishtina we flew by helicopter to Camp Bondsteel, the base for the U.S. contingent in NATO's Kosovo Force. There we were briefed by Brigadier General Peterson and his staff on the Army's mission in Kosovo. Although U.S. forces had only been in the country for 63 days, we saw a small city coming to life with rows of tents and some more permanent structures being built.

Although the war may be over, our forces still face great danger in Kosovo. General Peterson told us that up until 6 nights prior to our visit, U.S. forces had taken hostile fire every night since their arrival, mostly in the form of sniper and mortar fire at U.S. positions. Although there have been no fatalities from these attacks, some U.S. soldiers have been injured.

Our briefers confirmed that almost all of the Kosovar Albanians who left the U.S. sector during the fighting have since returned. Echoing what the UN's Kouchner told us, the soldiers said that one of the major problems they are now confronting is protecting the Serb population from retribution attacks by Albanians. Since some Albanians have sought to prevent the Serbs from harvesting their crops by targeting Serbian farmers, the U.S. must provide protection to Serbian farmers in the fields.

I asked the soldiers how long they thought the U.S. Army would need to be in Kosovo. They refused to hazard a guess. They pointed out that the region is less complex than Bosnia, since there are only two nationalities fighting each other in Kosovo, as opposed to three in Bosnia. On the other hand, they told me that by time the U.S. entered Bosnia, the Bosnians were exhausted from fighting and ready to lay down their arms. It is not clear that the parties in Kosovo have exhausted their will to fight.

Next we flew to the Kosovar village of Vlastica to view the sight of a massacre that took place during the war. As we entered the village, a large crowd of Albanian villagers came out to greet us. These people were clearly grateful for what the U.S. had done for them, and they were excited to hear that we wanted to help them rebuild and wanted to bring the war criminals to justice.

As we walked through the village, we passed a number of burned-out houses. Even the village mosque had been burned. We stopped at the charred remains of a home where 13 Albanians had been killed in one night. There, we met a 13-year-old girl named Vlora Shaboni. Vlora used to live in the house with her family, and she was at home the night the Serb soldiers came. She told us that the Serbs broke down the door and ordered everyone in the house to line up with their hands above their heads. Then they shot everyone with automatic weapons. To hide the evidence of this massacre, the Serbs set the house on fire and bulldozed the remains.

That night, Vlora saw the Serbs kill her mother and her brother. Vlora herself was shot in her face and the bullet lodged in her jaw, but she remained conscious and was able to escape before the house burned down. Vlora told me that she did not know her attackers but that she would be able to recognize them if she ever saw them again.

Vlora told her story with an anxious tremble in her voice and the frightened, downcast eyes. I don't know where she found the strength to talk about what happened that night at all.

The burnt remains of the victims of this massacre were left in the house, and have been recovered by a Canadian forensic team. That evidence, together with the statements of Vlora and others, will help the War Crimes prosecutors in The Hague prove their theory that Serbia's leaders orchestrated the systematic and widespread destruction of Albanian life in Kosovo.

From Skopje we flew to Naples, Italy, to visit the headquarters of Allied Forces Southern Europe, or ''AFSouth,'' which is NATO's southern command. There we were briefed by Lieutenant General Jack Nix, Jr., the Chief of Staff of AFSouth, and members of his staff. AFSouth is responsible for the region surrounding the Mediterranean and Black Seas. This region includes a number of hot spots such as the Middle East and the Balkans. AFSouth has been responsible for operations in both Bosnia and Kosovo.

We were briefed on the details of the air war in Kosovo. The allied bombing campaign was effective in Kosovo, and only 12% of bombing targets escaped without some damage. Still, our hosts agreed that there were problems with the air campaign. Most importantly, they noted that our forces were largely incapable of mounting the air campaign during bad weather. This experience convinced these soldiers that the U.S. must develop all-weather munitions that will free our forces from these weather-related limitations.

I asked if any broader military lessons could be learned from the Kosovo campaign. I noted that during the debate over whether to authorize the air campaign, some military experts had argued that a war can never be won by air power alone. Did Kosovo prove these experts wrong? My hosts responded that, in fact, our forces did not win in Kosovo by air power alone. Ground forces played a pivotal role in the conflict—they just weren't NATO ground forces. Towards the end of the conflict, the Kosovo Liberation Army began major ground operations against

Serbian positions. These operations pinned down large numbers of Serb troops in concentrated groups. These concentrations made the Serbian forces vulnerable to Allied air attacks for the first time in the war, and they sustained large numbers of casualties during this period. Had the KLA not undertaken this campaign, Serbian forces would have remained spread out and largely invulnerable to air attack.

During the air campaign, AFSouth was in charge of Operation Allied Harbor, which provided shelter to the hundreds of thousands of refugees who fled Kosovo. My hosts told me that during the height of the crisis, AFSouth actually exhausted the world's supply of tents in its effort to provide shelter for all the refugees. Now AFSouth is overseeing the repatriation of the Kosovar refugees to Kosovo. Our briefers confirmed what we heard in Kosovo—that most of the Kosovar Albanians who fled Kosovo during the war have already returned home. All of the refugees camps in Albania have been shut down. Among the small percentage of refugees who have not returned to Kosovo are the 20,000 who were brought to the United States and will most likely choose to remain here.

On August 26, I returned from Rome to Philadelphia.

THE NEED FOR MEDICARE COVERAGE OF PRESCRIPTION DRUGS

Mr. SARBANES. Mr. President, in the coming weeks, the Finance Committee will begin consideration of legislation to reform the Medicare program. While I am not a member of that Committee, I would like to urge my colleagues to take this opportunity to address one of the most widespread problems facing senior citizens today—the lack of prescription drug coverage under the Medicare program.

Providing access to prescription medication is essential to ensuring our older Americans receive the health care they need. Today more than ever, medical treatment is focused on the use of drug therapies. Prescription drugs are an effective substitute for more expensive care or surgery, and they are the only method of treatment for many diseases.

Medicare beneficiaries are particularly reliant on prescription medication. Nearly 77 percent of seniors take a prescription drug on a regular basis. Consequently, although seniors make up only 14 percent of the country's population, they consume about 30 percent of the prescription drugs sold. However, the Medicare program, the national program established to provide seniors with vital health care services, generally does not cover prescription drug costs.

Medicare beneficiaries can obtain some coverage for drugs by joining Medicare HMOs. However, these HMOs are not available in many parts of the country, particularly in the rural areas. As we have learned in Maryland, where 14 of our rural counties will no longer be served by any Medicare HMO as of next year, private companies cannot be relied upon to provide a benefit as crucial to the health of our older Americans as prescription drug coverage. Drug coverage must be added as a core element of our basic Medicare benefits package.

Beneficiaries may also purchase drug coverage through a Medigap insurance policy. However, these plans are extremely expensive and generally provide inadequate coverage. In addition, for most Medigap plans, the premiums substantially increase with age. Thus, just as beneficiaries need drug coverage the most and are least able to afford it, this drug coverage is priced out of reach. This cost burden particularly affects women who make up 73 percent of people over age 85.

Those with access to employer-sponsored retiree health plans do generally receive adequate drug coverage. However, only about one quarter of Medicare beneficiaries have access to such plans. Thus, although most beneficiaries have access to some assistance, only a lucky few have access to supplemental coverage that offers a substantial drug benefit. Moreover, at least 13 million Medicare beneficiaries have absolutely no prescription drug coverage.

To make matters worse, the cost of prescription drugs has been rising dramatically over the past few years. Pharmaceutical companies claim that today's higher drug prices reflect the growing cost of research and development. However, recent increases in drug prices have also resulted in large part from the enormous investment the industry has made in advertising directly to the public.

Moreover, recent studies have shown that seniors who buy their own medicine, because they do not belong to HMOs or have additional insurance coverage, are paying twice as much on average as HMOs, insurance companies, Medicaid, Federal health programs, and other bulk purchasers. Medicare beneficiaries are paying more as the pharmaceutical industry is facing increasing pressures from cost-conscious health plans to sell them drugs at cheaper prices. In addition, the industry offers lower prices to veterans' programs and other Federal health programs because the price schedule for these programs is fixed in law. Apparently, pharmaceutical companies are making up the revenues lost in bulk sales by charging exorbitant prices to individual buyers who lack negotiating power.

Despite these market pressures and increased research and development costs, the prices being charged to seniors and other individual purchasers are hardly justified when financial reports show drug companies reaping enormous profits.

Many seniors live on fixed incomes, and a substantial number of them cannot afford to take the drugs their doctors prescribe. Many try to stretch their medicine out by skipping days or breaking pills in half. Many must choose between paying for food and paying for medicine.

In the context of the budget resolution debate, proposals were made to provide for the added cost of including prescription drug coverage in the Medicare program. I voted for an amendment to create a reserve fund of $101 billion over 10 years to cover the cost of Medicare reform including the addition of a prescription drug benefit. This provision was included in the final version of the Senate budget resolution. However, legislation creating the drug benefit still must be enacted before coverage could be extended.

Helping senior citizens get the prescription drugs they need should be one of our top priorities this session. Unfortunately, the Majority is more interested in enacting deep and unreasonable tax cuts that largely benefit the wealthy. Just before the August recess, Congress passed the Majority's FY 2000 budget reconciliation bill. I voted against this bill because it would spend nearly all of the on-budget surplus projected to accrue over the next ten years and would use none of this projected surplus to protect the Social Security System, to shore up Medicare, or to give senior citizens the prescription drug benefit they so desperately need.

I am pleased that the Finance Committee will be focusing on Medicare reform, and I hope that the legislation they develop will establish a prescription drug benefit for our older Americans. Providing seniors with drug coverage is essential to ensuring they receive quality health care. I believe that access to quality health care is a basic human need that in my view must be a fundamental right in a democratic society.

THE ABCs OF GUN CONTROL

Mr. LEVIN. Mr. President, students in Detroit are now back in school, just like their peers across the river in Windsor, Ontario. Each classroom of students is going through virtually the same routine. They are writing about their summer vacations, obtaining textbooks, signing up for sports teams, and trying to memorize locker combinations. They are figuring out bus routes, testing new backpacks and worrying about that third period teacher who assigns too much homework. There is just one major difference between the students in Detroit and those in Windsor. Students in Detroit have to worry about guns in school.

In the United States, another classroom of children is killed by firearms every two days. That doesn't mean that every few days, there is another Columbine mass murder. But statistics show that each day 13 children die from gunfire, and every two days, the equivalent of a classroom of American children is struck by the tragedy of gun violence. In Windsor, the Canadian town

that borders Detroit, there were only 4 firearm homicides in 1997. In Detroit, for that same year, there were 354 firearm homicides. If the population of Detroit and Windsor were equal, the number of firearm deaths would be nearly eighteen times higher in Detroit, a city less than 1,000 yards away.

I'd like to include in the RECORD, an op-ed printed in the USA Today, showing the differences between Canadian and American death rates involving firearms, and specifically the differences between Windsor and Detroit. If there's one thing Congress needs to study this school year, it's how to rewrite the books and end the senseless slaughter of our school children.

I ask unanimous consent that the article be printed in the RECORD.

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

[From the USA Today, Aug. 30, 1999]

CANADA SHOWS GUN RESTRICTIONS WORK

(By Paul G. Labadie)

I was crossing the bridge that spans the one-half mile of the Detroit River, a physical buffer separating Detroit from Windsor, Ontario. The lineup at the Canadian Customs checkpoint was unusually long. Inching forward, I finally arrive at the custom agents' booth.

''Citizenship?'' he asks.

''United States,'' I reply.

''Are there any firearms in the vehicle or on your person?''

''No.''

The customs agent shined a flashlight behind the seats as he circled my car.

''You're sure, no long guns, handguns, shotguns?''

''No, none.''

''No ammunition, bullets?''

''None,'' I replied.

After a search of my trunk and a last looking over, he waved me through.

I later found out the reason for the guard's concerns. Someone had been caught with a gun in Windsor.

In Canada, that's all it takes. Its strict policies on gun ownership are strongly enforced and get progressively tougher, with even more stringent laws set to go into effect in the year 2001. To argue against the results of their efforts would be foolhardy, as the statistics are too impressive.

In 1997, Detroit had 354 firearm homicides. Windsor, 1,000 yards away, had only 4. Even taking into account the population difference (Windsor's population is about one-fifth of Detroit's) the comparison is still staggering. And as of July, with Detroit opening its first casino, both cities have legalized gambling. It will be elementary for gamblers to calculate on which side of the river the better odds lie of reaching your car in the parking lot unscathed.

To many Americans, the Canadian solution of handgun bans and restrictions is, at the least, unpalatable and, at the most, unconstitutional. Instead of dealing with the situation directly and restricting civilian ownership of handguns, it has become fashionable to pick the group of one's choice and point the j'accuse-atory finger: the NRA, profiteering gun manufacturers, absentee parents, genetically flawed children, paranoid gun owners, lazy teachers, a fast and loose legal system, and a society of victims. A multiple-choice public indictment of blame, in which, since everyone is at fault, no one is accountable.

The recent school shootings in Colorado and Georgia have many laying blame on the media, pointing to television and movies that glorify violence and gunplay, and music that is designed to incite a riot of anger, resentment and sarcasm in youths who are barely off their training wheels.

But if these mediums are to blame, then how do the youths of Windsor have such immunity? They watch the same TV stations, go to the same movies, listen to the same music as Detroit youths, and yet they have a juvenile crime rate that is a fraction of Detroit's. The lack of availability of handguns certainly must play a role.

According to the Office of Juvenile Justice, in the States between 1983 and 1993, juvenile homicides involving firearms grew 182%. By contrast, only a 15% increase was seen among homicides involving other types of weapons. In the U.S. from 1985 to 1995, 52% of all homicides involved handguns, compared with 14% for Canada.

Canada's willingness to accept gun restrictions might rise from its history. The settlement of Canada's ''Wild West'' was far different from the settlement of the United States'. In Canada, wherever settlers moved west, law and order was already in place in the form of the Hudson's Bay Company. From that spawned a culture that was more structured, less creative, less violent and more likely to look to established authorities for the settlement of disputes. In the United States, however, as the settlers moved west they found virtually no law existed, causing them to take matters into their own hands. Thus a culture was spawned that was more independent, more creative, more violent and more likely to settle disputes themselves. And when an abundance of numerous and easily available firearms are factored in, the results can be bloody.

According to statistics, Canada in 1997 had 193 homicides by firearms. The United States had 12,380. It is hard to change a culture, but clearly the easy access to firearms has to be addressed before we can expect any significant drop in our homicide rate.

I used to be a member of the National Rifle Association. I had the logo on my car, was skilled in the parry and thrust of debates, and was saturated with persuasive data from this organization, which covets statistics more than major league baseball. I am not a member anymore, not because of any complete, radical shift in beliefs, but more from a weariness, a battle fatigue of being caught in the No Man's Land among the immutable NRA, the anti-gun lobby and the evening news, lately filled with terrified schoolchildren, emergency-response crews and black-clad SWAT teams. Perhaps the time has come to lose our ''Wild West'' roots and, at the least, look to put the same restrictions on our guns that we put on our automobiles and the family dog: licensing and registration.

On my way back to Detroit, I stopped at the American Customs booth. I faced a U.S. customs agent.

''Citizenship?'' he asks.

''United States,'' I reply.

He waves his hand to pass me on.

And I could not help but wonder whether the next students getting diplomas would be the ''Class of 2000'' or the ''Class of .357.''

FISCAL YEAR 2000 VA HEALTH CARE FUNDING

Mr. CONRAD. Mr. President, today I was informed of the concern of two North Dakotans who have distinguished themselves on behalf of veterans and their families regarding FY' 2000 funding for VA medical care-incoming National Commander of the Disabled Veterans of America Michael Dobmeier of Grand Forks, North Dakota and Lorraine Frier, National President of the Ladies Auxiliary to the Veterans of Foreign Wars of West Fargo. Let me take this opportunity to warmly congratulate Mike and Lorraine on their recent election to these important national offices, and to thank them for their many years of distinguished service to our country.

Yesterday, the Senate VA–HUD Subcommittee reported an appropriations measure for the Department of Veterans Affairs that will provide $18.4 billion for medical care for veterans. This figure is $1.1 billion above the Administration's budget request of $17.3 billion earlier this year, however, more than $600 below House appropriations recommendation of $1.7 billion for veterans medical care. The House action would increase VA medical care funding to $19 billion.

While the House action does not meet the recommendations from the Independent Budget, Fiscal Year 2000 of $20.2 billion, the funding level does come closer to ensuring that the VA may not have to curtail medical services, close community-based clinics or layoff critical health care workers. Earlier this week, the Veterans of Foreign Wars warned that unless the Senate approves funding close to the House level of $19 billion, ''scores of community-based clinics will have to be closed, veterans will wait longer for care and some 8,500 health care workers laid off''.

Mr. President, the crisis in funding for veterans medical care is shameful, particularly in light of the strong economic news that we have received almost daily over the past few months. How can a nation that has experienced such strong economic growth during the past few years, witnessed stock market growth beyond all expectations and discussed how to spend the Federal surplus, deny veterans the very best health care. How can we justify making veterans wait for months for specialized health care, closing outpatient clinics or reducing VA staffing levels. In my state of North Dakota, we have been working for several years to secure funding for $10 million in critical patient privacy and environmental improvements at the Fargo VA Medical Center—a medical center more than 70 years old.

Earlier this year when the Senate, during consideration of the budget resolution, failed to increase funding for VA medical care as recommended in the Independent Budget, Senator DORGAN and I introduced legislation, S. 1022, to authorize an emergency appropriation of $1.7 billion, above the Administration request, for veterans health care. In view of VA–HUD Subcommittee action in the Senate this week, we must work together to find additional funding for VA health care to bring that level closer to the recommended level in the Independent

Budget. We must do better for our veterans; we can do no less for the sacrifices they and their families have made on our behalf.

MEASURE READ THE FIRST TIME—H.R. 17

Mr. LOTT. Mr. President, I understand that H.R. 17 is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 17) to amend the Agricultural Trade Act of 1978 to require the President to report to Congress on any selective embargo on agricultural commodities, to provide a termination date for the embargo, to provide great assurances for contract sanctity, and for other purposes.

Mr. LOTT. I now ask for its second reading, and object to my own request.

The PRESIDING OFFICER. Objection is heard.

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT 106–10

Mr. LOTT. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following treaty transmitted to the Senate on September 16, 1999, by the President of the United States:

1997 Amendment to Montreal Protocol (Treaty Document 106–10).

I further ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and the President's message be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

I transmit herewith, for the advice and consent of the Senate to ratification, the Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer (the ''Montreal Protocol''), adopted at Montreal on September 15–17, 1997, by the Ninth Meeting of the Parties to the Montreal Protocol. The report of the Department of State is also enclosed for the information of the Senate.

The principal features of the 1997 Amendment, which was negotiated under the auspices of the United Nations Environment Program (UNEP), are the addition of methyl bromide to the substances that are subject to trade control with non-Parties; and the addition of a licensing requirement for import and export of controlled substances. The 1997 Amendment will constitute a major step forward in protecting public health and the environment from potential adverse effects of stratospheric ozone depletion.

By its terms, the 1997 Amendment was to have entered into force on January 1, 1999, provided that at least 20 states had deposited their instruments of ratification, acceptance, or approval. However, because this condition was not met until August 12, 1999, the 1997 Amendment will enter into force on November 10, 1999.

I recommend that the Senate give early and favorable consideration to the 1997 Amendment to the Montreal Protocol and give its advice and consent to ratification.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *September 16, 1999*.

NATIONAL HOME EDUCATION WEEK

Mr. LOTT. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from consideration of S. Res. 183, and the Senate proceed to consideration of this bill, which is a resolution designating the week beginning September 19, 1999, and ending September 25, 1999, as National Home Education Week.

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

The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 183) designating the week beginning on September 19, 1999, and ending on September 25, 1999, as ''National Home Education Week.''

There being no objection, the Senate proceeded to consider the bill.

Mr. LOTT. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to this resolution be printed in the RECORD.

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

The resolution (S. Res. 183) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 183

Whereas the United States is committed to excellence in education;

Whereas the United States recognizes the importance of family participation and parental choices in pursuit of that excellence;

Whereas the United States recognizes the fundamental right of parents to direct the education and upbringing of their children;

Whereas parents want their children to receive a first-class education;

Whereas training in the home strengthens the family and guides children in setting the highest standards for their lives which are essential elements to the continuity of morality in our culture;

Whereas home schooling families contribute significantly to the cultural diversity important to a healthy society;

Whereas the United States has a significant number of parents who teach their own children at home;

Whereas home education was proven successful in the lives of George Washington, Patrick Henry, John Quincy Adams, John Marshall, Robert E. Lee, Booker T. Washington, Thomas Edison, Abraham Lincoln, Franklin Roosevelt, Woodrow Wilson, Mark Twain, John Singleton Copley, William Carey, Phyllis Wheatley, and Andrew Carnegie;

Whereas home school students exhibit self-confidence and good citizenship and are fully prepared academically to meet the challenges of today's society;

Whereas dozens of contemporary studies continue to confirm that children who are educated at home score exceptionally well on nationally normed achievement tests;

Whereas a March 1999 study by the Educational Resources Information Center Clearinghouse on Assessment and Evaluation at the University of Maryland found that home school students taking the Iowa Test of Basic Skills or the Tests of Achievement and Proficiency scored in the 70th to 80th percentiles among all the students nationwide who took those exams, and 25 percent of home schooled students were studying at a level one or more grades above normal for their age;

Whereas studies demonstrate that home schoolers excel in college with the average grade point average of home schoolers exceeding the college average; and

Whereas United States home educators and home instructed students should be recognized and celebrated for their efforts to improve the quality of education: Now, therefore, be it

Resolved, That the week beginning on September 19, 1999, and ending on September 25, 1999, is designated as National Home Education Week. The President is authorized and requested to issue a proclamation recognizing the contributions that home schooling families have made to the Nation.

NATIONAL HISTORICALLY BLACK COLLEGES AND UNIVERSITIES WEEK

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of S. Res. 178, which was reported by the Judiciary Committee.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:.

A resolution (S. Res. 178) designating the week beginning September 19, 1999, as ''National Historically Black Colleges and Universities Week.''

There being no objection, the Senate proceeded to consider the resolution.

Mr. LOTT. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the resolution be printed in the report.

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

The resolution (S. Res. 178) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 178

Whereas there are 105 historically black colleges and universities in the United States;

Whereas black colleges and universities provide the quality education so essential to full participation in a complex, highly technological society;

Whereas black colleges and universities have a rich heritage and have played a prominent role in American history;

Whereas black colleges and universities have allowed many underprivileged students to attain their full potential through higher education; and

Whereas the achievements and goals of historically black colleges and universities are deserving of national recognition: Now, therefore, be it

Resolved,

SECTION 1. DESIGNATION OF "NATIONAL HISTORICALLY BLACK COLLEGES AND UNIVERSITIES WEEK".

The Senate—

(1) designates the week beginning September 19, 1999, as ''National Historically Black Colleges and Universities Week''; and

(2) requests that the President of the United States issue a proclamation calling on the people of the United States and interested groups to observe the week with appropriate ceremonies, activities, and programs to demonstrate support for historically black colleges and universities in the United States.

Mr. LOTT. Mr. President, I should note that the principal sponsor of this legislation is the venerable Senator THURMOND of South Carolina.

But I also want to note on behalf of my own State, where we have some outstanding historically black colleges and universities, I think it is appropriate that we have this week for Alcorn State University, Jackson State University, and Tougaloo in my own State, and we have outstanding academic institutions which have done a wonderful job over a long period of time.

I commend Senator THURMOND for doing this.

DAY OF NATIONAL CONCERN ABOUT YOUNG PEOPLE AND GUN VIOLENCE

Mr. LOTT. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res 158, and that the Senate proceed to its immediate consideration.

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

The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 158) designating October 21, 1999, as a ''Day of National Concern About Young People and Gun Violence.''

There being no objection, the Senate proceeded to consider the resolution.

Mr. LOTT. Mr. President, I ask unanimous consent that the resolution and the 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.

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

The resolution (S. Res. 158) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 158

Whereas every day in the United States, 14 children under the age of 19 are killed with guns;

Whereas in 1994, approximately 70 percent of murder victims aged 15 to 17 were killed with a handgun;

Whereas in 1995, nearly 8 percent of high school students reported having carried a gun in the past 30 days;

Whereas young people are our Nation's most important resource, and we, as a society, have a vested interest in enabling children to grow in an environment free from fear and violence;

Whereas young people can, by taking responsibility for their own decisions and actions, and by positively influencing the decisions and actions of others, help chart a new and less violent direction for the entire Nation;

Whereas students in every school district in the Nation will be invited to take part in a day of nationwide observance involving millions of their fellow students, and will thereby be empowered to see themselves as significant agents in a wave of positive social change; and

Whereas the observance of October 21, 1999, as a ''Day of National Concern about Young People and Gun Violence'' will allow students to make a positive and earnest decision about their future in that such students will have the opportunity to voluntarily sign the ''Student Pledge Against Gun Violence'', and promise that they will never take a gun to school, will never use a gun to settle a dispute, and will actively use their influence in a positive manner to prevent friends from using guns to settle disputes: Now, therefore, be it

Resolved, That the Senate—

(1) designates October 21, 1999, as a ''Day of National Concern about Young People and Gun Violence''; and

(2) requests that the President issue a proclamation calling on the school children of the United States to observe the day with appropriate ceremonies and activities.

FAMILY FRIENDLY PROGRAMMING ON TELEVISION

Mr. LOTT. Mr. President, I ask unanimous consent that S. Con. Res. 56 be discharged from the Commerce Committee, and further, that the Senate proceed to its immediate consideration.

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

The clerk will report the resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 56) expressing the sense of Congress regarding the importance of ''family friendly'' programming on television.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. LOTT. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the concurrent resolution be printed in the RECORD.

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

The concurrent resolution was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 56

Whereas American children and adolescents spend between 22 and 28 hours each week viewing television;

Whereas American homes have an average of 2.75 television sets, and 87 percent of homes with children have more than 1 television set;

Whereas there is a need to increase the availability of programs suitable for the entire family during prime time viewing hours;

Whereas surveys of television content demonstrate that many programs contain substantial sexual or violent content;

Whereas although parents are ultimately responsible for appropriately supervising their children's television viewing, it is also important to provide positive, ''family friendly'' programming that is suitable for parents and children to watch together;

Whereas efforts should be made by television networks, studios, and the production community to produce more quality family friendly programs and to air those programs during times when parents and children are likely to be viewing together;

Whereas members of the Family Friendly Programming Forum are concerned about the availability of family friendly television programs during prime time viewing hours; and

Whereas Congress encourages activities by the Forum and other entities designed to promote family friendly programming, including—

(1) participating in meetings with leadership of major television networks, studios, and production companies to express concerns;

(2) expressing the importance of family friendly programming at industry conferences, meetings, and forums;

(3) honoring outstanding family friendly television programs with a new tribute, the Family Program Awards, to be held annually in Los Angeles, California;

(4) establishing a development fund to finance family friendly scripts; and

(5) underwriting scholarships at television studies departments at institutions of higher education to encourage student interest in family friendly programming: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) recognizes and honors the efforts of the Family Friendly Programming Forum and other entities supporting family friendly programming;

(2) supports efforts to encourage television networks, studios, and the production community to produce more quality family friendly programs;

(3) supports the proposed Family Friendly Programming Awards, development fund, and scholarships, all of which are designed to encourage, recognize, and celebrate creative excellence in, and commitment to, family friendly programming; and

(4) encourages the media and American advertisers to further a family friendly television environment within which appropriate advertisements can accompany the programming.

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 a treaty and sundry nominations that were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF DRAFT LEGISLATION ENTITLED: ''CYBERSPACE ELECTRONIC SECURITY ACT OF 1999'' (CESA)—MESSAGE FROM THE PRESIDENT—PM #57

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States which was referred to the Committee on the Judiciary.

To the Congress of the United States:

I am pleased to transmit for your early consideration and speedy enactment a legislative proposal entitled the ''Cyberspace Electronic Security Act of 1999'' (CESA). Also transmitted herewith is a section-by-section analysis.

There is little question that continuing advances in technology are changing forever the way in which people live, the way they communicate with each other, and the manner in which they work and conduct commerce. In just a few years, the Internet has shown the world a glimpse of what is attainable in the information age. As a result, the demand for more and better access to information and electronic commerce continues to grow—among not just individuals and consumers, but also among financial, medical, and educational institutions, manufacturers and merchants, and State and local governments. This increased reliance on information and communications raises important privacy issues because Americans want assurance that their sensitive personal and business information is protected from unauthorized access as it resides on and traverses national and international communications networks. For Americans to trust this new electronic environment, and for the promise of electronic commerce and the global information infrastructure to be fully realized, information systems must provide methods to protect the data and communications of legitimate users. Encryption can address this need because encryption can be used to protect the confidentiality of both stored data and communications. Therefore, my Administration continues to support the development, adoption, and use of robust encryption by legitimate users.

At the same time, however, the same encryption products that help facilitate confidential communications between law-abiding citizens also pose a significant and undeniable public safety risk when used to facilitate and mask illegal and criminal activity. Although cryptography has many legitimate and important uses, it is also increasingly used as a means to promote criminal activity, such as drug trafficking, terrorism, white collar crime, and the distribution of child pornography.

The advent and eventual widespread use of encryption poses significant and heretofore unseen challenges to law enforcement and public safety. Under existing statutory and constitutional law, law enforcement is provided with different means to collect evidence of illegal activity in such forms as communications or stored data on computers. These means are rendered wholly insufficient when encryption is utilized to scramble the information in such a manner that law enforcement, acting pursuant to lawful authority, cannot decipher the evidence in a timely manner, if at all. In the context of law enforcement operations, time is of the essence and may mean the difference between success and catastrophic failure.

A sound and effective public policy must support the development and use of encryption for legitimate purposes but allow access to plaintext by law enforcement when encryption is utilized by criminals. This requires an approach that properly balances critical privacy interests with the need to preserve public safety. As is explained more fully in the sectional analysis that accompanies this proposed legislation, the CESA provides such a balance by simultaneously creating significant new privacy protections for lawful users of encryption, while assisting law enforcement's efforts to preserve existing and constitutionally supported means of responding to criminal activity.

The CESA establishes limitations on government use and disclosure of decryption keys obtained by court process and provides special protections for decryption keys stored with third party ''recovery agents.'' CESA authorizes a recovery agent to disclose stored recovery information to the government, or to use stored recovery information on behalf of the government, in a narrow range of circumstances (e.g., pursuant to a search warrant or in accordance with a court order under the Act). In addition, CESA would authorize appropriations for the Technical Support Center in the Federal Bureau of Investigation, which will serve as a centralized technical resource for Federal, State, and local law enforcement in responding to the increasing use of encryption by criminals.

I look forward to working with the Congress on this important national issue.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *September 16, 1999*.

MESSAGE FROM THE HOUSE

At 11:42 a.m., a message from the House of Representatives, delivered by Ms. Niland, 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. 417. An act to amend the Federal Election Campaign Act of 1971 to reform the financing of campaigns for elections for Federal office, and for other purposes.

H.R. 1551. An act to authorize the Federal Aviation Administration's civil aviation research and development programs for fiscal years 2000 and 2001, and for other purposes.

H.R. 1665. An act to authorize appropriations for fiscal years 2000 and 2001 for the civilian energy and scientific research, development, and demonstration and related commercial application of energy technology programs, projects, and activities of the Department of Energy, and for other purposes.

MEASURES REFEREED

The following bills were reach and the first and second times by unanimous consent and referred as indicated:

H.R. 1551. An act to authorize the Federal Aviation Administration's civil aviation research and development programs for fiscal years 2000 and 2001, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 1665. An act to authorize appropriations for fiscal years 2000 and 2001 for the civilian energy and scientific research, development, and demonstration and related commercial application of energy technology programs, projects, and activities of the Department of Energy, and for other purposes; to the Committee on Energy and Natural Resources.

MEASURE READ THE FIRST TIME

The following bill was read the first time:

H.R. 17. An act to amend the Agricultural Trade Act of 1978 to require the President to report to Congress on any selective embargo on agricultural commodities, to provide a termination date for the embargo, to provide greater assurances for contract sanctity, 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–5184. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on rescissions and deferrals dated August 25, 1999; transmitted jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, to the Committee on the Budget, to the Committee on Energy and Natural Resources; to the Committee on Environment and Public Works and to the Committee on Foreign Relations.

EC–5185. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report entitled ''OMB Sequestration Update Report to the President and Congress for Fiscal Year 2000'' transmitted jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, and to the Committee on the Budget.

EC–5186. A communication from the Director, Congressional Budget Office, transmitting, pursuant to law, a report entitled ''Sequestration Update Report for Fiscal Year 2000'' transmitted jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, and to the Committee on the Budget.

EC–5187. A communication from the Director, Office of Regulatory Management and

Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting a report entitled ''Draft Economic Incentive Program Guidance''; to the Committee on Environment and Public Works.

EC–5188. A communication from the Chief Justice of the Supreme Court, transmitting a report relative to the October 1999 Term of the Court; to the Committee on the Judiciary.

EC–5189. A communication from the Deputy Associate Director for Royalty Management, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report relative to refunds of offshore lease revenues; to the Committee on Energy and Natural Resources.

EC–5190. A communication from the Acting Director, Office of Federal Housing Enterprise Oversight, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''Debt Collection'' (RIN2550–AA07), received September 13, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC–5191. A communication from the Chairman, Appraisal Subcommittee, Federal Financial Institutions Examination Council, transmitting, pursuant to law, the annual report for fiscal year 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–5192. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a report on the audited fiscal years 1998 and 1997 financial statements of the U.S. Mint; to the Committee on Banking, Housing, and Urban Affairs.

EC–5193. A communication from the Board, Railroad Retirement Board, transmitting, pursuant to law, a report relative to the budget request for fiscal year 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–5194. A communication from the Chairman, National Science Board, transmitting, pursuant to law, a report entitled ''Environmental Science and Engineering for the 21st Century: The Role of the National Science Foundation''; to the Committee on Commerce, Science, and Transportation.

EC–5195. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to Federal agency drug-free workplace plans; to the Committee on Appropriations.

EC–5196. A communication from the Acting Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Special Anchorage Areas/Anchorage Grounds Regulations; Delaware Bay and River (CGD05–99–080)'' (RIN2115–AA98) (1999–0006), received September 9, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5197. A communication from the Acting Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; City of Yonkers Fireworks, NY, Hudson River (CGD01–99–154)'' (RIN2115–AA97) (1999–0058), received September 9, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5198. A communication from the Acting Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Periphonics Corp. 30th Anniversary Fireworks, New York Harbor, Upper Bay (CGD01–99–152)'' (RIN2115–AA97) (1999–0057), received September 9, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5199. A communication from the Acting Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Gulf of Alaska, Southeast of Narrow Cape, Kodiak Island, AK (COTP Western Alaska 99–012)'' (RIN2115–AA97) (1999–0056), received September 9, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5200. A communication from the Acting Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Mystic River, CT (CGD–99–159)'' (RIN2115–AE47) (1999–0041), received September 9, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5201. A communication from the Acting Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Gowanus Canal, NY (CGD–99–156)'' (RIN2115–AE47) (1999–0040), received September 9, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5202. A communication from the Acting Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Chevron Oil Company Canal, LA (CGD–08–99–055)'' (RIN2115–AE47) (1999–0042), received September 9, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5203. A communication from the Acting Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Fireworks, 100YR Anniversary for Architect Society, Boston Harbor, Boston, MA (CGD–01–99–147)'' (RIN2115–AA97) (1999–0059), received September 9, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5204. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the annual report relative to the proliferation of missiles and essential components of nuclear, biological, and chemical weapons for the period December 1, 1997 through December 31, 1998; to the Committee on Foreign Relations.

EC–5205. A communication from the President of the United States, transmitting, pursuant to law, the annual report on foreign economic collection and industrial espionage; to the Select Committee on Intelligence.

EC–5206. A communication from the Assistant General Counsel for Regulations, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''Fair Housing Complaint Processing; Plain Language Revision and Reorganization'' (RIN2529–AA86) (FR–4433–F–02), received September 15, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC–5207. A communication from the Assistant General Counsel for Regulations, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''Public Housing Drug Elimination Program Formula Allocation'' (RIN2577–AB95) (FR–4451–F–04), received September 15, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC–5208. A communication from the Assistant General Counsel for Regulations, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''Section 8 Tenant-Based Assistance Programs Statutory Merger of Section 8 Certificate and Voucher Programs; Correction'' (RIN2577–AB91) (FR–4428–C–03), received September 15, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC–5209. A communication from the Assistant General Counsel for Regulations, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''Requirements for Notification, Evaluation and Reduction of Lead-Based Paint Hazards in Federally Owned Residential Property and Housing Receiving Federal Assistance'' (RIN2501–AB57) (FR–3482–F–06), received September 15, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC–5210. A communication from the Secretary of Agriculture, transmitting a draft of proposed legislation relative to the Working Capital Fund; to the Committee on Agriculture, Nutrition, and Forestry.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–349. A joint resolution adopted by the Legislature of the State of Wisconsin relative to tobacco settlement funds; to the Committee on Finance.

ASSEMBLY JOINT RESOLUTION 15

Whereas, the state of Wisconsin, together with 45 other states, has initiated litigation against the tobacco industry seeking damages and other relief for the alleged misconduct of the tobacco industry; and

Whereas, the claims against the tobacco industry include the recovery of damages for the violation of consumer protection and antitrust laws, for common law conspiracy and for the expenditure of public funds for health care services; and

Whereas, the tobacco industry has agreed to a proposed settlement of the states' litigation, which includes the states' recovery of substantial money damages; and

Whereas, the states, which initiated the litigation and settlement of legal claims for the violation of a number of state laws by the tobacco industry, should recover the full amount of damages in the proposed settlement without any offset or withholding by the federal government; and

Whereas, the federal department of health and human services does not and should not have a claim to any portion of the funds agreed to in the tobacco settlement as payments to the states for damages, based on receipt by the states of federal funds for Medicaid costs; now, therefore, be it

Resolved by the assembly, the senate concurring, That the members of the Wisconsin legislature request that the Congress of the United States enact legislation that would specify that no portion of the money received by the states as part of the tobacco settlement or of any other resolution of the tobacco litigation may be withheld, offset or claimed by the federal government or by any agency of the federal government; and, be it further

Resolved, That the assembly chief clerk shall provide copies of this joint resolution to the members of this state's congressional delegation, the clerk of the U.S. house of representatives and the secretary of the U.S. senate.

POM–350. A resolution adopted by the Assembly of the Legislature of the State of New Jersey relative to funding for the Clean Water State Revolving Fund Program; to the Committee on Appropriations.

ASSEMBLY RESOLUTION 163

Whereas, the proposed Federal Fiscal Year 2000 budget contains a cut of $535 million in funding for the Clean Water State Revolving Fund (Clean Water SRF) program established pursuant to the federal Clean Water Act in 1987, which, if allowed to stand, will have a significant negative impact on New Jersey's ability to enhance water quality conditions, protect the public health and safety and preserve and maintain the State's surface and ground water resources; and

Whereas, since the federal government ended the Construction Grants Program in the 1980's, the Clean Water SRF program has been the only significant source of federal funds for addressing the severe water pollution problems that continue to plague this State and our Nation; and

Whereas, addressing the State's water pollution problems, preserving clean water and enhancing water quality conditions are essential to the public health and safety, and are fundamental requirements for a thriving economy, in particular New Jersey's tourism industry, the second largest in the State, which is heavily dependent on our reputation for clean ocean waters and beaches; and

Whereas, since 1987 the New Jersey Environmental Infrastructure Trust and the Department of Environmental Protection have leveraged the federal moneys in the Clean Water SRF to enable the investment of more than $1.5 billion in wastewater treatment and other water pollution abatement strategies under the New Jersey Environmental Infrastructure Financing Program, a consolidated approach to federal and State clean water, drinking water and stormwater management project financing; and

Whereas, the New Jersey Environmental Infrastructure Financing Program, which has been the primary source available for either federal or State funding to assist local governments in financing necessary wastewater treatment and water quality improvements, may justifiably be characterized as an unqualified success and, without exaggeration, is genuinely considered one of the most successful Clean Water SRF programs in the country; and

Whereas, it is altogether fitting and proper that the Legislature memorialize Congress to restore funding for the Clean Water State Revolving Fund program in the proposed Federal Fiscal Year 2000 budget, as the uninterrupted full-funding for, and unimpaired continuation of, New Jersey's thriving Clean Water SRF program is in the public interest; now, therefore,

Be It Resolved by the General Assembly of the State of New Jersey:

1. The Congress of the United States is respectfully memorialized to restore the $535 million cut in funding for the Clean Water State Revolving Fund program in the proposed Federal Fiscal Year 2000 budget.

2. Duly authenticated copies of this resolution, signed by the Speaker of the General Assembly and attested by the Clerk thereof, shall be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, the Administrator of the United States Environmental Protection Agency, the Commissioner of the Department of Environmental Protection, the Chairman of the New Jersey Environmental Infrastructure Trust, and each member of Congress from the State of New Jersey.

POM–351. A joint resolution adopted by the Legislature of the State of California relative to the export of cryptographic products; to the Committee on Banking, Housing, and Urban Affairs.

ASSEMBLY JOINT RESOLUTION NO. 10

Whereas, current United States export control laws governing cryptographic products are adversely affecting California and American companies; and

Whereas, with California poised to greatly benefit from the rapid growth of electronic commerce, which is predicted to amount to as much as $200 billion per year by the year 2000, outdated cryptographic provisions dating back to World War II and the Cold War retard the ability of California producers of cryptographic products to compete and succeed in the global market; and

Whereas, there exists a tremendous worldwide market for cryptographic products incorporating secure encryption features; and

Whereas, foreign competitors of data-scrambling technology, unfettered by strict government export controls on cryptographic products, are able to successfully develop, market, and sell sophisticated encryption systems well above the United States limit; and

Whereas, any benefit to American law enforcement or national security realized by American export controls on cryptographic products has been minimized by the rapid availability of strong, robust cryptographic systems produced by non-American companies and even by the ability to lawfully import these systems into the United States; and

Whereas, the Computer Systems Policy Project estimates that if the current outdated policy remains in effect, the cost to American companies could be up to $96 billion by the year 2002 and the loss of over 200,000 high-skill, high-wage jobs by the year 2000; and

Whereas, the National Research Council of the National Academy of Sciences has concluded after exhaustive study that United States export controls on cryptography may be causing American software and hardware companies to lose a significant share of a rapidly growing market, with losses of at least several hundred million dollars per year; and

Whereas, the current administration supports a ''key recovery'' system that would force computer users to give the government access to their encryption keys, thus allowing the federal government to monitor an individual's communications and on-line transactions without that individual's knowledge or consent; and

Whereas, there is pending in the United States Congress H.R. 850, which will substantially ease or eliminate current federal export controls on American cryptographic products, and other legislation related to cryptography and export controls is being introduced and considered in the Congress; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That there be greater discussion between industry, government, and the public in this policy area; and be it further

Resolved, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to act immediately to consider the relaxation of current United States export control laws governing cryptographic products and to discourage the implementation of a federally mandated ''key recovery'' program; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

POM–352. A joint resolution adopted by the Legislature of the State of California relative to special education funding; to the Committee on Appropriations.

ASSEMBLY JOINT RESOLUTION NO. 12

Whereas, the Congress of the United States enacted the Education for All Handicapped Children Act of 1975 (P.L. 94–142), now known as the Individuals with Disabilities Education Act (IDEA), to ensure that all children with disabilities in the United States have available to them a free and appropriate public education that emphasizes special education and related services designed to meet their unique needs, to assure that the rights of children with disabilities and their parents or guardians are protected, to assist states and localities to provide for the education of all children with disabilities, and to assess and assure the effectiveness of efforts to educate children with disabilities; and

Whereas, since 1975, federal law has authorized appropriation levels for grants to states under the IDEA at 40 percent of the average per-pupil expenditure and public elementary and secondary schools in the United States; and

Whereas, Congress continued the 40-percent funding authority in Public Law 105–17, the Individuals with Disabilities Education Act Amendments of 1997; and

Whereas, Congress has never appropriated funds equivalent to the authorized level, has never exceeded the 15-percent level, and has usually only appropriated funding at about the 8-percent level; and

Whereas, the California Master Plan for Special Education was approved for statewide implementation in 1980 on the basis of the anticipated federal commitment to fund special education programs at the federally authorized level; and

Whereas, the Governor's Budget for the 1999–2000 fiscal year proposes $2.2 billion in General Fund support for the state's share of funding for special education programs; and

Whereas, the State of California anticipates receiving approximately $410,500,000 in federal special education funds under Part B of IDEA for the 1999–2000 school year, even though the federal authorized level of funding would provide over $1.8 billion annually to California; and

Whereas, local educational agencies in California are required to pay for the underfunded federal mandates for special education programs, at a statewide total cost approaching $1 billion annually, from regular education program money, thereby reducing the funding that is available for other education programs; and

Whereas, the decision of the Supreme Court of the United States in the case of Cedar Rapids Community Sch. Dist. v. Garret F. ((1999) 143 L.Ed 2d 154), has had the effect of creating an additional mandate for providing specialized health care, and will significantly increase the costs associated with providing special education services; and

Whereas, whether or not California participates in the IDEA grant program, the state has to meet the requirements of Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 701) and its implementing regulations (34 C.F.R. 104), which prohibit recipients of federal financial assistance, including educational institutions, from discriminating on the basis of disability, yet no federal funds are available under that act for state grants; and

Whereas, California is committed to providing a free and appropriate public education to children and youth with disabilities, in order to meet their unique needs; and

Whereas, the California Legislature is extremely concerned that, since 1978, Congress has not provided states with the full amount of financial assistance necessary to achieve

its goal of ensuring children and youth with disabilities equal protection of the law; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature respectfully memorializes the President and Congress of the United States to provide the full 40-percent federal share of funding for special education programs so that California and other states participating in these critical programs will not be required to take funding from other vital state and local programs in order to fund this underfunded federal mandate; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Majority Leader of the Senate, to the Chair of the Senate Committee on Budget, to the Chair of the House Committee on the Budget, to the Senate Committee on Appropriations, to the Chair of the House Committee on Appropriations, to each Senator and Representative from California in the Congress of the United States, and to the United States Secretary of Education.

POM–353. A petition from a citizen of the state of Pennsylvania relative to prisons; to the Committee on the Judiciary.

POM–354. A resolution adopted by the Board of Education of the Baldwin Park, California, Unified School District relative to special education funding; to the Committee on Appropriations.

POM–355. A resolution adopted by the Board of Supervisors of Florence County, Wisconsin, relative to the Forest Plan Revision of the Ten Year Plan for the Nicolet National Forest; to the Committee on Energy and Natural Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THOMPSON, from the Committee on Governmental Affairs, with amendments:

S. 1214: A bill to ensure the liberties of the people by promoting federalism, to protect the reserved powers of the States, to impose accountability for Federal preemption of State and local laws, and for other purposes (Rept. No. 106–159).

By Mr. ROTH, from the Committee on Finance: Report to accompany the bill (S. 1389) to provide additional trade benefits to certain beneficiary countries in the Caribbean (Rept. No. 106–160).

By Mr. BOND, from the Committee on Appropriations, without amendment:

S. 1596: An original bill making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 2000, and for other purposes (Rept. No. 106–161).

By Mr. HATCH, from the Committee on the Judiciary, without amendment and with a preamble:

S. Res. 178: A resolution designating the week beginning September 19, 1999, as ''National Historically Black Colleges and Universities Week.''

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. McCAIN (for himself and Mr. FEINGOLD):

S. 1593. A bill to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform; to the Committee on Rules and Administration.

By Mr. KERRY (for himself, Mr. WELLSTONE, Mr. BINGAMAN, Mr. SARBANES, Mr. LEVIN, and Mr. CLELAND):

S. 1594. A bill to amend the Small Business Act and Small Business Investment Act of 1958; to the Committee on Small Business.

By Mr. KYL (for himself and Mr. McCAIN):

S. 1595. A bill to designate the United States courthouse at 401 West Washington Street in Phoenix, Arizona, as the ''Sandra Day O'Connor United States Courthouse''; to the Committee on Environment and Public Works.

By Mr. BOND:

S. 1596. An original bill making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 2000, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. KERREY:

S. 1597. A bill to amend the Internal Revenue Code of 1986 to provide enhanced tax incentives for charitable giving, and for other purposes; to the Committee on Finance.

By Mr. ROBERTS:

S. 1598. A bill to amend title 5, United States Code, to provide for appropriate overtime pay for National Weather Service forecasters performing essential services during severe weather events, and to limit Sunday premium pay for employees of the National Weather Service to hours of service actually performed on Sunday; to the Committee on Governmental Affairs.

By Mr. DASCHLE (for himself and Mr. JOHNSON):

S. 1599. A bill to authorize the Secretary of Agriculture to sell or exchange all or part of certain administrative sites and other land in the Black Hills National Forest and to use funds derived from the sale or exchange to acquire replacement sites and to acquire or construct administrative improvements in connection with Black Hills National Forest; to the Committee on Energy and Natural Resources.

By Mr. HARKIN (for himself, Mr. LEAHY, Mr. JEFFORDS, Mr. REID, Mr. KENNEDY, and Mr. WELLSTONE):

S. 1600. A bill to amend the Employee Retirement Income Security Act of 1974 to prevent the wearing away of an employee's accrued benefit under a defined benefit plan by the adoption of a plan amendment reducing future accruals under the plan; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BAUCUS:

S. 1601. A bill to amend title XVIII of the Social Security Act to exclude small rural providers from the prospective payment system for hospital outpatient department services; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. McCAIN (for himself and Mr. FEINGOLD):

S. 1593. A bill to amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform; to the Committee on Rules and Administration.

BIPARTISAN CAMPAIGN REFORM ACT OF 1999

Mr. McCAIN. 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. 1593

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 ''Bipartisan Campaign Reform Act of 1999''.

SEC. 2. SOFT MONEY OF POLITICAL PARTIES.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following:

''SEC. 323. SOFT MONEY OF POLITICAL PARTIES.

''(a) NATIONAL COMMITTEES.—

''(1) IN GENERAL.—A national committee of a political party (including a national congressional campaign committee of a political party) and any officers or agents of such party committees, shall not solicit, receive, or direct to another person a contribution, donation, or transfer of funds, or spend any funds, that are not subject to the limitations, prohibitions, and reporting requirements of this Act.

''(2) APPLICABILITY.—This subsection shall apply to an entity that is directly or indirectly established, financed, maintained, or controlled by a national committee of a political party (including a national congressional campaign committee of a political party), or an entity acting on behalf of a national committee, and an officer or agent acting on behalf of any such committee or entity.

''(b) STATE, DISTRICT, AND LOCAL COMMITTEES.—

''(1) IN GENERAL.—An amount that is expended or disbursed by a State, district, or local committee of a political party (including an entity that is directly or indirectly established, financed, maintained, or controlled by a State, district, or local committee of a political party and an officer or agent acting on behalf of such committee or entity) for Federal election activity shall be made from funds subject to the limitations, prohibitions, and reporting requirements of this Act.

''(2) FEDERAL ELECTION ACTIVITY.—

''(A) IN GENERAL.—The term 'Federal election activity' means—

''(i) voter registration activity during the period that begins on the date that is 120 days before the date a regularly scheduled Federal election is held and ends on the date of the election;

''(ii) voter identification, get-out-the-vote activity, or generic campaign activity conducted in connection with an election in which a candidate for Federal office appears on the ballot (regardless of whether a candidate for State or local office also appears on the ballot); and

''(iii) a communication that refers to a clearly identified candidate for Federal office (regardless of whether a candidate for State or local office is also mentioned or identified) and is made for the purpose of influencing a Federal election (regardless of whether the communication is express advocacy).

''(B) EXCLUDED ACTIVITY.—The term 'Federal election activity' does not include an amount expended or disbursed by a State, district, or local committee of a political party for—

''(i) campaign activity conducted solely on behalf of a clearly identified candidate for State or local office, provided the campaign activity is not a Federal election activity described in subparagraph (A);

''(ii) a contribution to a candidate for State or local office, provided the contribution is not designated or used to pay for a

Federal election activity described in subparagraph (A);

''(iii) the costs of a State, district, or local political convention;

''(iv) the costs of grassroots campaign materials, including buttons, bumper stickers, and yard signs, that name or depict only a candidate for State or local office;

''(v) the non-Federal share of a State, district, or local party committee's administrative and overhead expenses (but not including the compensation in any month of an individual who spends more than 20 percent of the individual's time on Federal election activity) as determined by a regulation promulgated by the Commission to determine the non-Federal share of a State, district, or local party committee's administrative and overhead expenses; and

''(vi) the cost of constructing or purchasing an office facility or equipment for a State, district or local committee.

''(C) GENERIC CAMPAIGN ACTIVITY.—The term 'generic campaign activity' means an activity that promotes a political party and does not promote a candidate or non-Federal candidate.

''(c) FUNDRAISING COSTS.—An amount spent by a national, State, district, or local committee of a political party, by an entity that is established, financed, maintained, or controlled by a national, State, district, or local committee of a political party, or by an agent or officer of any such committee or entity, to raise funds that are used, in whole or in part, to pay the costs of a Federal election activity shall be made from funds subject to the limitations, prohibitions, and reporting requirements of this Act.

''(d) TAX-EXEMPT ORGANIZATIONS.—A national, State, district, or local committee of a political party (including a national congressional campaign committee of a political party), an entity that is directly or indirectly established, financed, maintained, or controlled by any such national, State, district, or local committee or its agent, and an officer or agent acting on behalf of any such party committee or entity, shall not solicit any funds for, or make or direct any donations to, an organization that is described in section 501(c) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code (or has submitted an application for determination of tax exempt status under such section).

''(e) CANDIDATES.—

''(1) IN GENERAL.—A candidate, individual holding Federal office, agent of a candidate or individual holding Federal office, or an entity directly or indirectly established, financed, maintained or controlled by or acting on behalf of one or more candidates or individuals holding Federal office, shall not—

''(A) solicit, receive, direct, transfer, or spend funds in connection with an election for Federal office, including funds for any Federal election activity, unless the funds are subject to the limitations, prohibitions, and reporting requirements of this Act; or

''(B) solicit, receive, direct, transfer, or spend funds in connection with any election other than an election for Federal office or disburse funds in connection with such an election unless the funds—

''(i) are not in excess of the amounts permitted with respect to contributions to candidates and political committees under paragraphs (1) and (2) of section 315(a); and

''(ii) are not from sources prohibited by this Act from making contributions with respect to an election for Federal office.

''(2) STATE LAW.—Paragraph (1) does not apply to the solicitation, receipt, or spending of funds by an individual who is a candidate for a State or local office in connection with such election for State or local office if the solicitation, receipt, or spending of funds is permitted under State law for any activity other than a Federal election activity.

''(3) FUNDRAISING EVENTS.—Notwithstanding paragraph (1), a candidate may attend, speak, or be a featured guest at a fundraising event for a State, district, or local committee of a political party.''.

SEC. 3. INCREASED CONTRIBUTION LIMITS FOR STATE COMMITTEES OF POLITICAL PARTIES AND AGGREGATE CONTRIBUTION LIMIT FOR INDIVIDUALS.

(a) CONTRIBUTION LIMIT FOR STATE COMMITTEES OF POLITICAL PARTIES.—Section 315(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(1)) is amended—

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

(2) in subparagraph (C)—

(A) by inserting ''(other than a committee described in subparagraph (D))'' after ''committee''; and

(B) by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(D) to a political committee established and maintained by a State committee of a political party in any calendar year which, in the aggregate, exceed $10,000.''.

(b) AGGREGATE CONTRIBUTION LIMIT FOR INDIVIDUAL.—Section 315(a)(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(3)) is amended by striking ''$25,000'' and inserting ''$30,000''.

SEC. 4. REPORTING REQUIREMENTS.

(a) REPORTING REQUIREMENTS.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) is amended by adding at the end the following:

''(d) POLITICAL COMMITTEES.—

''(1) NATIONAL AND CONGRESSIONAL POLITICAL COMMITTEES.—The national committee of a political party, any national congressional campaign committee of a political party, and any subordinate committee of either, shall report all receipts and disbursements during the reporting period.

''(2) OTHER POLITICAL COMMITTEES TO WHICH SECTION 323 APPLIES.—In addition to any other reporting requirements applicable under this Act, a political committee (not described in paragraph (1)) to which section 323(b)(1) applies shall report all receipts and disbursements made for activities described in subparagraphs (A) and (B)(v) of section 323(b)(2).

''(3) ITEMIZATION.—If a political committee has receipts or disbursements to which this subsection applies from any person aggregating in excess of $200 for any calendar year, the political committee shall separately itemize its reporting for such person in the same manner as required in paragraphs (3)(A), (5), and (6) of subsection (b).

''(4) REPORTING PERIODS.—Reports required to be filed under this subsection shall be filed for the same time periods required for political committees under subsection (a).''.

(b) BUILDING FUND EXCEPTION TO THE DEFINITION OF CONTRIBUTION.—Section 301(8)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)(B)) is amended—

(1) by striking clause (viii); and

(2) by redesignating clauses (ix) through (xiv) as clauses (viii) through (xiii), respectively.

SEC. 5. CODIFICATION OF BECK DECISION.

Section 8 of the National Labor Relations Act (29 U.S.C. 158) is amended by adding at the end the following:

''(h) NONUNION MEMBER PAYMENTS TO LABOR ORGANIZATION.—

''(1) IN GENERAL.—It shall be an unfair labor practice for any labor organization which receives a payment from an employee pursuant to an agreement that requires employees who are not members of the organization to make payments to such organization in lieu of organization dues or fees not to establish and implement the objection procedure described in paragraph (2).

''(2) OBJECTION PROCEDURE.—The objection procedure required under paragraph (1) shall meet the following requirements:

''(A) The labor organization shall annually provide to employees who are covered by such agreement but are not members of the organization—

''(i) reasonable personal notice of the objection procedure, the employees eligible to invoke the procedure, and the time, place, and manner for filing an objection; and

''(ii) reasonable opportunity to file an objection to paying for organization expenditures supporting political activities unrelated to collective bargaining, including but not limited to the opportunity to file such objection by mail.

''(B) If an employee who is not a member of the labor organization files an objection under the procedure in subparagraph (A), such organization shall—

''(i) reduce the payments in lieu of organization dues or fees by such employee by an amount which reasonably reflects the ratio that the organization's expenditures supporting political activities unrelated to collective bargaining bears to such organization's total expenditures; and

''(ii) provide such employee with a reasonable explanation of the organization's calculation of such reduction, including calculating the amount of organization expenditures supporting political activities unrelated to collective bargaining.

''(3) DEFINITION.—In this subsection, the term 'expenditures supporting political activities unrelated to collective bargaining' means expenditures in connection with a Federal, State, or local election or in connection with efforts to influence legislation unrelated to collective bargaining.''.

By Mr. KERRY (for himself, Mr. WELLSTONE, Mr. BINGAMAN, Mr. SARBANES, Mr. LEVIN and Mr. CLELAND):

S. 1594. A bill to amend the Small Business Act and Small Business Investment Act of 1958; to the Committee on Small Business.

COMMUNITY DEVELOPMENT AND VENTURE CAPITAL ACT OF 1999

Mr. KERRY. Mr. President, the bill that I am sending to the desk is the Community Development and Venture Capital Act of 1999. I am pleased to share the introduction of this with Senators WELLSTONE, BINGAMAN, SARBANES, LEVIN, and CLELAND as cosponsors of it. This small business legislation is designed to promote economic development, business investment, productive wealth, and stable jobs in new markets.

It establishes a New Markets Venture Capital program that is part of President Clinton's New Markets Initiative that he mentioned in the ''State of the Union Address'' and promoted on a 4-day tour this summer.

New Markets are our country's low- and moderate-income communities where there is little to no sustained economic activity but many overlooked business opportunities. According to Michael Porter, a respected business analyst who has written extensively on competitiveness, ''. . . inner

cities are the largest underserved market in America, with many tens of billions of dollars of unmet consumer and business demand.'' Many rural areas also contain low- and moderate-income communities.

Think of the inner-city areas of Boston's Roxbury or New York's East Harlem, or the rural desolation of Kentucky's Appalachia or Mississippi's Delta region. These are our neediest communities—urban and rural pockets that are so depleted that no internal resource exists to jump start the economy. These are places where there have been multi-generations of unemployment and abandoned commercial centers and main streets.

To get at this complex and deep-rooted economic problem, this legislation has three parts: a venture capital program to funnel investment money into our poorest communities, a program to expand the number of venture capital firms that are devoted to investing in such communities, and a mentoring program to link established, successful businesses with businesses and entrepreneurs in stagnant or deteriorating communities in order to facilitate the learning curve.

The center piece is the New Markets Venture Capital Program. Its purpose is to stimulate economic development through public-private partnerships that invest venture capital in smaller businesses that are located in impoverished rural and urban areas or that employ low-income people.

Both innovative and fiscally sound, this legislation creates a new venture capital program within the Small Business Administration that is built on two of the agency's most popular programs. It is financially structured similar to the Agency's successful Small Business Investment Company program, and incorporates a technical assistance component similar to that successfully used in SBA's microloan program.

However, unlike the SBIC program which focuses solely on small businesses with high-growth potential and claims successes such as Staples and Calloway Golf, the New Markets Venture Capital program will focus on smaller businesses that show promise of financial and social returns—what we call a ''double bottomline.'' These businesses tend to be higher risk, need longer periods to pay back money, need intensive, ongoing financial, management and marketing assistance, and have more modest prospects for return on investment than SBIC investments. For example, the returns on investments typically range from five to ten percent for community development venture capital funds versus SBIC's expected 20 to 30 percent rates of returns.

To balance out the equation, they also provide quality, stable jobs, create productive wealth in and among our neediest communities and need a smaller equity investment. Equity investments for community development investment funds will range from $50,000 to $300,000 versus the $300,000 to $5 million of typical deal sizes in the Agency's SBIC program.

Among other conditions, in order for an organization to be eligible to participate and approved as a New Markets Venture Capital company, it must have a management team with experience in community development financing or venture capital financing, be able to raise at least $5 million of non-SBA money for debentures, and raise matching funds for SBA's technical assistance grants.

Community development venture capitalists, we should be reminded, use all the discipline of traditional venture capitalists.

At the Small Business Committee roundtable we held in May on the Agency's SBIC program and other venture capital proposals, community development venture capital groups from Massachusetts to Minnesota to Kentucky talked about profit. Like traditional venture capital funds, community development funds have to make prudent investments to earn profits in order to attract and keep investors. But they balance that with social objectives. One of the most important social goals for Boston Community Venture Fund is job creation and job quality.

Elyse Cherry, who is President of the Boston Community Venture Fund, invited me, former Treasury Secretary Robert E. Rubin and former Congressman Joseph P. Kennedy II and others to tour a company her Fund invested in called City Fresh Foods. Located in Roxbury, one of Boston's neediest neighborhoods, Glynn and Sheldon Lloyd started a company that manufactures prepares African-American and Hispanic meals for the community and corporate clients. And through the Meals-on-Wheels program, this company serves the elderly in Roxbury and Dorchester districts. In addition to providing a needed service, City Fresh Foods has created 20 jobs, hires from the community, pays its employees from $8 to $16 per hour, and offers training and opportunity for them to move from entry-level jobs to supervisory positions.

There are more success stories like this around the country. The Community Development Venture Capital funds across the country have a proven track record in making smart, responsible investments in small businesses in their communities, but the capital needs of firms in economically distressed areas far outweigh the existing capacity of these organizations. Compared to the more than 1,143 traditional and SBIC venture capital firms in the U.S., only some 40 funds nationwide concentrate on investing in companies that show promise of financial and social returns. We simply need more community development venture capital funds to reach more of these underserved communities.

The second component of this bill, the ''Community Development Venture Capital Assistance Program,'' recognizes that need and is designed to increase the number and expertise of community development venture capital funds, such as New Markets Venture Capital companies, around the country. A Community Development Venture Capital organization has a primary mission of promoting community development in low-income communities through investment in private businesses.

Senator WELLSTONE has carried the water on community development venture capital concept and deserves special credit for educating the Small Business Committee about this important economic development tool. He introduced this initiative in March. It is virtually identical to the bill he introduced in the last Congress and passed the full Senate as part of a comprehensive small business bill, H.R. 3412.

First, the Community Development Venture Capital Assistance program would authorize $15 million for SBA grants to private, nonprofit organizations with expertise in making venture capital investments in poor communities. These organizations would use these grants to provide hands-on technical assistance to spawn and develop new and emerging CDVC or NMVC companies. The intermediary organizations would match the grants dollar-for-dollar with non-Federal sources.

Second, this program would provide $5 million in SBA grants to colleges, universities, and other firms or organizations—public or private—to create and operate training and intern programs, organize a national conference, and fund academic research and studies dealing with community development venture capital.

Finally, to complement the venture capital investments and the program to foster the emergence and growth of more community development venture capital companies, this legislation would build on the BusinessLINC grant program. Already a successful public-private partnership that the SBA and Department of Treasury launched last June, it encourages larger businesses to mentor smaller businesses, enhancing the economic vitality and competitive capacity of small businesses located in the targeted areas. This Act will authorize $3 million a year to further promote and expand this program.

It's easy to stare past the broken inner cities and boarded up rural towns to the intrigues and fantasies of a booming Wall Street, flourishing suburbs and record-low national unemployment. But as we trumpet the successes of our economy, we must be smart and leverage that prosperity to jumpstart and strengthen our communities that are struggling. This legislation aims to do just that.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KERRY. Mr. President, I ask unanimous consent that letters of support be printed in the RECORD.

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

BOSTON COMMUNITY CAPITAL,
Boston, MA, July 16, 1999.

Hon. JOHN F. KERRY,
Ranking Member, Committee on Small Business, U.S. Senate, Washington, DC.

DEAR SENATOR KERRY: I am writing to you as president of Boston Community Venture Fund, an affiliate of Boston Community Capital, and as a Board Member of the Community Development Venture Capital Alliance (CDVCA), in strong support of your leadership regarding the Administration's New Markets Venture Capital legislative proposal. I appreciate your positive public remarks concerning New Markets, including at your Committee's recent ''roundtable.'' It is my understanding that you plan to introduce the administration's proposal soon, and I will be extremely pleased and proud to have you as our leading advocate in the Senate. CDVCA has worked closely with the Small Business Administration as they have drafted their proposal, and I have enjoyed working with Patty Forbes of your Small Business Committee staff, as well.

As you know, a New Markets Venture Capital program would help to direct private, equity financing to small, high-potential growth firms in economically distressed urban and rural areas. As the nation's leading practitioners of community development venture capitalism, the Alliance and its member organizations have begun to establish a strong record of effectively promoting such investment through what we call social entrepreneurship—equity investing with a ''double bottom-line'' mission of creating jobs and wealth among economically disadvantaged populations.

CDVCA strongly supported the Senate's action last year in passing community development venture capital ''capacity-building'' legislation. Unfortunately, that effort, initiated by Senator Wellstone, did not pass in the House before the end of the last Congress. We continue to believe that capacity-building assistance for the community development venture capital field would be crucial to the success of a New Markets program at SBA. We urge you to consider adding a provision to incorporate this capacity-building, or ''Wellstone,'' concept into any bill you might introduce.

CDVCA also believes that a New Markets Venture Capital program could be more workably and effectively targeted if the Administration's discussion draft were modified. CDVCA's member-organizations all have a primary mission of serving low-income people. Indeed, we would prefer that such a mission be a requirement for eligibility for applicants to become New Markets Venture Capital companies in the bill. However, even as our organizations pursue that mission, none of our member-funds restricts itself to investing within geographical bounds as narrow as those suggested by the Administration. Serious pockets of poverty exist outside the census tracts which are the primary basis for that Administration proposal's geographical targeting. We have provided your staff with suggestions for amending that provision, and we would appreciate it if you could consider such changes before introducing a bill.

We strongly support the Administration's proposal, and we are especially hopeful regarding its prospects for enactment following the President's important recent tour of low-income urban and rural communities. I look forward to continuing to work with you and your office, and I hope you will feel free to contact me or Bob Rapoza, who represents our Alliance in Washington, should you have any questions. Bob's number is 292–393–5225.

Thank you for your attention to this issue. I hope to be discussing it further with you in the very near future.

Sincerely,

ELYSE D. CHERRY,
President,
Boston Community Venture Fund.

SEPTEMBER 15, 1999.

DEAR MEMBERS OF CONGRESS: We urge you to support the President's proposal for a ''New Markets Venture Capital Companies'' program to be administered by the Small Business Administration. The program would help establish 10–20 new venture capital investment funds with a mission of creating good jobs and new businesses in economically distressed communities across America.

The remarkable prosperity now enjoyed by much of the country unfortunately is leaving large numbers of Americans behind. One reason is lack in many urban and rural communities of the needed equity capital and technical assistance which are key to starting and expanding new businesses.

An emerging industry of community development venture capitalists is addressing this need. Committed to a ''double bottom-line'' of rigorously promoting profit-making growth companies while also creating large numbers of good jobs in low-income communities, these funds have demonstrated impressive results. The same model of business development that has driven economic expansion in the Silicon Valley and Route 128 in Massachusetts, coupled with a focus on poor communities and job creation, is beginning to make a powerful difference in areas such as rural Appalachia, Minnesota's Iron Range, inner-city Baltimore, Boston and elsewhere.

We need to build on the success of this grassroots model to help ensure that all of America's communities have a chance to participate in current growth. A modest public investment, leveraging significant private capital, would yield tremendous national benefits.

The Administration's proposal is contained in the President's FY 2000 budget request. Bills to be introduced by Senator John Kerry and Representative Nydia Velazquez, the Ranking Members of their respective Small Business Committees, faithfully embody the same concept. We are very hopeful that this idea, grounded in local self-help principles and targeted to where it is most needed, can be enacted as a bipartisan legislative accomplishment.

A New Markets Venture Capital program would allow participating funds to issue SBA-guaranteed debentures for urgently needed equity capital and to receive matching technical assistance grants to allow the intensive, hands-on management and direction which is key to the success of community development venture capital. A $45-million Federal investment would match other sources on a dollar-for-dollar basis and be directed over 10 years to generate hundreds of millions of dollars in economic activity.

All this would take place in communities that currently have the most trouble attracting private investment, despite numerous potential business opportunities with good returns and outstanding social benefits. Participation would be on a competitive basis and geared toward funds with a combination of a strong financial track record and a mission of community development. The program would be community-based to meet the specific needs of each area in which it operates.

Community development venture capital funds are proving that the tools of venture capital can fuel business creation and expansion, create good jobs and improve the lives of people in low-income communities. We hope you can give a boost to this extremely promising new tool for genuine economic development by supporting and passing New Markets Venture Capital legislation this year.

Sincerely,

African-American Venture Capital Fund, LLC, Louisville, KY
Alternatives Federal Credit Union, Ithaca, NY
Appalachian Center for Economic Networks, Athens, OH
Arkansas Enterprise Group, Arkadelphia, AR
Association for Enterprise Opportunity, Chicago, IL
Banc of America SBIC Corporation, Charlotte, NC
Bank One, Chicago, IL
Boston Community Capital, Boston, MA
Carras Community Investment, Inc, Fort Lauderdale, FL
Cascadia Revolving Fund, Seattle, WA
CDFI Coalition, Philadelphia, PA
CEI Ventures, Inc, Portland, ME
Center for Community Self-Help, Durham, NC
Commons Capital, Nantucket, MA
Community Loan Fund of Southwestern Pennsylvania, Inc, Pittsburgh, PA
Development Corporation of Austin, Austin, MN
DVCRF Ventures, Philadelphia, PA
Enterprise Corporation of the Delta, Jackson, MS
Enterprise Foundation, Columbia, MD
First Nations Development Institute, Fredericksburg, VA
Gulf South Capital, Inc, Jackson, MS
Illinois Facilities Fund, Chicago, IL
Impact Seven, Inc, Almena, WI
Intrust USA, Wilmington, DE
J.P. Morgan Community Development Corporation, New York, NY
Kentucky Highlands Investment Corporation, London, KY
Karen H. Lightman, Senior Policy Associate, Carnegie Mellon University Center for Economic Development, Pittsburgh, PA
Local Economic Assistance Program, Inc, Oakland, CA
LEAP, Inc, Brooklyn, NY
Millennium Fund, LLC, Seattle, WA
Minnesota Investment Network Corporation, Minneapolis MN
Mountain Ventures, Inc, London, KY
MSBDFA Management Group, Inc, Baltimore, MD
National Association of Affordable Housing Lenders, Washington, DC
National Community Capital Association, Philadelphia, PA
National Congress for Community Economic Development, Washington, DC
National Cooperative Bank Development Corporation, Washington, DC
National Council of LaRaza, Washington, DC
New York City Investment Fund, New York, NY
New York Community Investment Company L.L.C. New York, NY
Northern Community Investment Corporation, St. Johnsbury, VT
Northern Initiatives, Marquette, MI
Northeast Ventures Corporation, Duluth, MN
Pioneer Human Services, Seattle, WA
Resources for Human Development, Philadelphia, PA
The Roberts Enterprise Development Fund, San Francisco, CA
Rural Development & Finance Corp, San Antonio, TX

Silicon Valley Community Ventures, San Francisco, CA
Southern Development Bank, Arkadelphia, AR
Southern Tier West Regional Planning and Development Board, Salamanca, NY
Sustainable Jobs Fund, Durham, NC
Woodstock Institute, Chicago, IL
Vermont Community Loan Fund, Inc, Montpelier, VT
Virgin Islands Capital Resources, Inc, St. Thomas, USVI

NORTHEAST VENTURES,
Duluth, MN, September 16, 1999.

Senator JOHN F. KERRY,
Small Business Committee/Democratic Staff, Washington, DC.

DEAR SENATOR KERRY: I am writing in support of the New Markets Venture Capital bill, which I understand you are introducing today. I serve as chair and chief executive officer of Northeast Ventures, a $12 million community development venture capital firm investing in northeastern Minnesota, a restructured iron mining area of the country. Over the last ten years, we have invested almost $10 million in 21 growth companies which would not exist but for the presence of our equity capital. We apply market disciplines along side a frankly stated social purpose of intervening in this distressed area.

I also serve as chair of the Community Development Venture Capital Alliance, a national alliance of community development venture capital funds. We have 40 funds throughout the United States and eastern Europe. All these funds have a mission of poverty alleviation through the disciplined use of venture capital in distressed areas and among distressed populations.

The New Markets Venture Capital legislation has the potential of providing significant additional funding and catalyzing the creation of a significant number of new funds for this important purpose.

We thank you very much for your support. Nothing could be more important than job and wealth creation in the most distressed urban and rural areas of our country.

Respectfully submitted,

NICK SMITH,
Chairman.

• Mr. SARBANES. Mr. President, we have spent a lot of time in the Senate praising the booming American economy and low unemployment rates. I, like the rest of the colleagues, am proud to see our country benefitting from such prosperity, but all Americans are not participating in these benefits.

In reality, Americans that live in low income areas, either in cities or rural areas, are not experiencing today's prosperity. This is largely because they do not have the economic infrastructure in their communities to take advantage of it. Poor communities frequently lack local businesses to employ residents and provide services, creating no point of entrance for participation in the larger American economy.

It is for these reasons that I am cosponsoring the Community Development and Venture Capital Act of 1999 introduced by Senator KERRY. This legislation is part of President Clinton's New market Initiatives Proposal. As my colleagues know, I have already introduced America's Private Investment Companies Act of 1999, or APIC, which is another part of the New Market initiative.

The Community Development and Venture Capital Act makes a three pronged effort to infuse capital into distressed communities, and establish small businesses in our nations most needy neighborhoods. First, the bill will use federal money to leverage private funding for venture capital companies with a commitment to community development, referred to as New market Venture Capital Companies (NMVC). This will help to nurture new businesses in poor areas. The companies funding by this bill will function much like the successful SBIC program that the Small Business Administration sponsors, but will focus on businesses in targeted neighborhoods that need more patient, long term capital funding, and added technical assistance to ensure success.

Furthermore, the bill will increase the number of community development venture capital funds so that more communities can be served by the program and expand the successful business mentoring program, BusinessLINC, already in place.

I have long argued that the best social policy is a job. This legislation, combined with the APIC bill and the New markets Tax Credit introduced by Senator ROCKEFELLER, will be a catalyst to the creation of new businesses and the jobs and economic opportunities they bring in those areas most in need.•

By Mr. KERREY:

S. 1597. A bill to amend the Internal Revenue Code of 1986 to provide enhanced tax incentives for charitable giving, and for other purposes; to the Committee on Finance.

ENHANCED INCENTIVES FOR CHARITABLE GIVING ACT OF 1999

• Mr. KERREY. Mr. President, I am introducing legislation today to provide enhanced incentives for charitable giving.

I very much believe that we ought to do what we can to encourage those who are doing so well in this economy to give generously to organizations who serve those who have been left behind in these prosperous times. I worked to have a number of charitable giving provisions included in the Senate version of the tax bill we passed earlier this year and was delighted that those provisions were included in that bill. Regrettably these provisions were deleted from the final version of the tax bill, something which contributed to my decision to vote against the conference report on that bill. The bill I am introducing today is a stand-alone version of the charitable giving provisions that I was proud to have worked to include in the Senate version of the tax bill.

The purpose of this bill is simple: to provide powerful incentives for those who have more to give to those who have less.

The first provision in this bill would allow taxpayers some extra time to decide to make donations to low-income schools in a given tax year. Under current law individuals can already take charitable deductions for contributions to public and private schools. Clearly, wealthier schools, where parents have the resources to make these contributions, benefit most from this tax treatment.

What this provision attempts to do is highlight the fact that a charitable deduction can be taken for these types of donations generally while providing an incentive for giving to low-income private and public schools in particular. Since the parents in these schools are low-income, this provision is not aimed at getting them to give—it is aimed at getting taxpayers outside of these low-income schools to help the children in those schools. Wealthier public and private schools already get these contributions, this provision attempts to get some contributions going to schools where more than half of the children are economically disadvantaged.

This provision tracks the way we allow contributions to Individual Retirement Accounts, IRAs, to be made. Under current law, taxpayers can make contributions to an IRA up until the date their taxes are due—April 15—and still have those contributions qualify for the previous taxable year. This provision would simply allow contributions to low income elementary and secondary schools to be made up until April 15—thereby highlighting and encouraging taxpayers to make these contributions.

The second provision in this bill allows taxpayers who do not itemize their deductions, to take a small deduction for charitable contributions. Across the country, seventy-three percent of all taxpayers do not itemize and therefore are not able to take a charitable deduction. In Nebraska, that number is even higher, a full seventy-eight percent of Nebraska's taxpayers do not itemize. This bill would allow a single taxpayer who does not itemize a $50 deduction and taxpayers filing jointly a $100 charitable deduction. While this provision may not cover all of the charitable giving that these individuals and families make, it recognizes and encourages charitable giving by people who may not give a million dollars, but give donations that are meaningful nonetheless to good causes like their church or synagogue, or their children's PTA, or the Girl Scouts or the Salvation Army. We ought to encourage that giving and provide a small incentive to do so. That is the purpose behind this provision.

The legislation I am introducing today also raises the percentage amount of income that an individual may deduct in a given year from 50 percent of their adjusted gross income to 75 percent. It also raises the limits on gifts of capital gain property to charities from 30 percent to 50 percent. In

addition, this bill increases the corporate charitable deduction limit from 10 to 20 percent of taxable income.

These provisions are designed to encourage those who give a lot, to give even more. While I recognize that those who receive these tax benefits are apt to be higher-income taxpayers, I also recognize that the charities that will receive these increased donations are apt to use these donations to help low-income individuals. In short, I'm not overly troubled by distributional tables on a policy which will induce those with more to give to those who need help the most.

And finally, this bill contains an important reform of what is known as the excess business holdings rule. That rule limits the ability of a private foundation to hold more than twenty percent of a corporation's voting stock for more than five years. At present, I believe this rule discourages potential donors with major stockholdings in publicly-trade corporate stock from making significant contributions of these holdings to charitable foundations. This is just the opposite of what we should be doing, particularly at a time when we are expecting more, not less, from organizations with charitable purposes. The proposal I have included in this bill would allow private foundations to increase their holding in publicly traded stock of a corporation received by bequest from 20 percent to 49 percent.

Taken together I believe these proposals do much to encourage people to give more. I urge my colleagues to support this legislation and hope that it will be included in any broad tax legislation that we consider.

I ask that the text of the bill be printed in the RECORD.

The bill follows:

S. 1597

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 ''Enhanced Incentives for Charitable Giving Act of 1999''.

SEC. 2. CHARITABLE CONTRIBUTIONS TO CERTAIN LOW INCOME SCHOOLS MAY BE MADE IN NEXT TAXABLE YEAR.

(a) IN GENERAL.—Section 170(f) of the Internal Revenue Code of 1986 (relating to disallowance of deduction in certain cases and special rules) is amended by adding at the end the following new paragraph:

''(10) TIME WHEN CERTAIN CONTRIBUTIONS DEEMED MADE.—

''(A) IN GENERAL.—At the election of the taxpayer, a qualified low-income school contribution shall be deemed to be made on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof). The election may be made at the time of the filing of the return for such table year, and shall be made and substantiated in such manner as the Secretary shall by regulations prescribe.

''(B) QUALIFIED LOW-INCOME SCHOOL CONTRIBUTION.—For purposes of subparagraph (A), the term 'qualified low-income school contribution' means a charitable contribution to an educational organization described in subsection (b)(1)(A)(ii)—

''(i) which is a public, private, or sectarian school which provides elementary or secondary education (through grade 12), as determined under State law, and

''(ii) with respect to which at least 50 percent of the students attending such school are eligible for free or reduced-cost lunches under the school lunch program established under the National School Lunch Act.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1999.

SEC. 3. DEDUCTION FOR PORTION OF CHARITABLE CONTRIBUTIONS TO BE ALLOWED TO INDIVIDUALS WHO DO NOT ITEMIZE DEDUCTIONS.

(a) IN GENERAL.—Section 170 of the Internal Revenue Code of 1986 (relating to charitable, etc., contributions and gifts) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) DEDUCTION FOR INDIVIDUALS NOT ITEMIZING DEDUCTIONS.—In the case of an individual who does not itemize his deductions for the taxable year, there shall be taken into account as a direct charitable deduction under section 63 an amount equal to the lesser of—

''(1) the amount allowable as a deduction under subsection (a) for the taxable year, or

''(2) $50 ($100 in the case of a joint return).''.

(b) DIRECT CHARITABLE DEDUCTION.—

(1) IN GENERAL.—Subsection (b) of section 63 of the Internal Revenue Code of 1986 is amended by striking ''and'' at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting '', and'', and by adding at the end the following new paragraph:

''(3) the direct charitable deduction.''.

(2) DEFINITION.—Section 63 of such Code is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) DIRECT CHARITABLE DEDUCTION.—For purposes of this section, the term 'direct charitable deduction' means that portion of the amount allowable under section 170(a) which is taken as a direct charitable deduction for the taxable year under section 170(m).''.

(3) CONFORMING AMENDMENT.—Subsection (d) of section 63 of such Code is amended by striking ''and'' at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting '', and'', and by adding at the end the following new paragraph:

''(3) the direct charitable deduction.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1999.

SEC. 4. INCREASE IN LIMIT ON CHARITABLE CONTRIBUTIONS AS PERCENTAGE OF AGI.

(a) IN GENERAL.—

(1) INDIVIDUAL LIMIT.—Section 170(b)(1) of the Internal Revenue Code of 1986 (relating to percentage limitations) is amended—

(A) by striking ''50 percent'' in subparagraph (A) and inserting ''the 75 percent'', and

(B) by striking ''30 percent'' each place it appears in subparagraph (C) and inserting ''50 percent''.

(2) CORPORATE LIMIT.—Section 170(b)(2) of such Code is amended by striking ''10 percent'' and inserting ''20 percent''.

(b) CONFORMING AMENDMENTS.—Section 170(d)(1)(A) of the Internal Revenue Code of 1986 is amended by striking ''50 percent'' each place it appears and inserting ''75 percent''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1999.

SEC. 5. LIMITED EXCEPTION TO EXCESS BUSINESS HOLDINGS RULE.

(a) IN GENERAL.—Section 4943(c)(2) of the Internal Revenue Code of 1986 (relating to permitted holdings in a corporation) is amended by adding at the end the following new subparagraph:

''(D) RULE WHERE VOTING STOCK IS PUBLICLY TRADED.—

''(i) IN GENERAL.—If—

''(I) the private foundation and all disqualified persons together do not own more than the 49 percent of the voting stock and not more than the 49 percent in value of all outstanding shares of all classes of stock of an incorporated business enterprise,

''(II) the voting stock owned by the private foundation and all disqualified persons together is stock for which market quotations are readily available on an established securities market, and

''(III) the requirements of clause (ii) are met,

then subparagraph (A) shall be applied by substituting '49 percent' for '20 percent'.

''(ii) REQUIREMENTS TO BE MET.—The requirements of this clause are met during any taxable year—

''(I) in which disqualified persons with respect to the private foundation do not receive compensation (as an employee or otherwise) from the corporation or engage in any act with such corporation which would constitute self-dealing within the meaning of section 4941(d) if such corporation were a private foundation and if each such disqualified person were a disqualified person with respect to such corporation,

''(II) in which disqualified persons with respect to such private foundation do not own in the aggregate more than 2 percent of the voting stock and not more than 2 percent in value of all outstanding shares of all classes of stock in such corporation, and

''(III) for which there is submitted with the annual return of the private foundation for such year (filed within the time prescribed by law, including extensions, for filing such return) a certification which is signed by all the members of an audit committee of the Board of Directors of such corporation consisting of a majority of persons who are not disqualified persons with respect to such private foundation and which certifies that such members, after due inquiry, are not aware that any disqualified person has received compensation from such corporation or has engaged in any act with such corporation that would constitute self-dealing within the meaning of section 4941(d) if such corporation were a private foundation and if each such disqualified person were a disqualified person with respect to such corporation.

For purposes of this clause, the fact that a disqualified person has received compensation from such corporation or has engaged in any act with such corporation which would constitute self-dealing within the meaning of section 4941(d) shall be disregarded if such receipt or act is corrected not later than the due date (not including extensions thereof) for the filing of the private foundation's annual return for the year in which the receipt or act occurs and on the terms that would be necessary to correct such receipt or act and thereby avoid imposition of tax under section 4941(b).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to foundations established by bequest of decedents dying after December 31, 1999.●

By Mr. DASCHLE (for himself and Mr. JOHNSON):

S. 1599. A bill to authorize the Secretary of Agriculture to sell or exchange all or part of certain administrative sites and other land in the Black Hills National Forest and to use funds derived from the sale or exchange to acquire replacement sites and to acquire or construct administrative improvements in connection with Black Hills National Forest; to the Committee on Energy and Natural Resources.

BLACK HILLS NATIONAL FOREST LEGISLATION

Mr. DASCHLE. Mr. President, today I am introducing legislation to authorize the Black Hills National Forest to sell or exchange property it owns in order to acquire new property for the purpose of constructing two new district offices for the forest. The legislation is cosponsored by my colleague from South Dakota, Senator JOHNSON.

On February 27, 1998, the Forest Service approved the consolidation of the Black Hills National Forest's seven Ranger Districts into four districts. As a result, the Pactola/Harney and Spearfish/Nemo Ranger Districts are each currently managed by one District Ranger, but utilize two offices each. Combining these four separate offices into two district offices would save money in the long-term, be more efficient, and ensure good customer service for users of the forest.

One of the new district offices would be located on federally-owned property in Spearfish Canyon and house the Spearfish/Nemo Ranger District employees. The other new district office would be located on property to be procured near Rapid City, and would house the Pactola/Harney Ranger District and the Rapid City Research Station employees.

It is important to note that this legislation is particularly necessary given the extraordinarily poor working conditions experienced by the employees of the Rapid City Research Station. Their building is literally falling apart and fails to meet basic safety standards. In fact, due to a lack of proper ventilation and a failure to meet fire codes, the fire marshal has prohibited the research station from carrying out any of the chemical analysis critical to its mission. As a result, that work must be contracted out, using funds that could more appropriately be spent elsewhere.

Much of the resources necessary for the implementation of this legislation can be gained by selling property that will be made unnecessary by the construction of the new offices. However, the legislation does authorize any additional funds that may be necessary to complete this important project.

I have worked carefully with the Forest Service to develop this legislation. I believe it is a sensible and efficient way to ensure that the agency can meet the needs of the public. I urge my colleagues to give it their support.

By Mr. BAUCUS:

S. 1601. A bill to amend title XVIII of the Social Security Act to exclude small rural providers from the prospective payment system for hospital outpatient department services; to the Committee on Finance.

SMALL RURAL PROVIDER ACT OF 1999

Mr. BAUCUS. Mr. President, I rise today to introduce the Small Rural Provider Act of 1999.

Small, rural hospitals have always played a vital role in ensuring access to quality health care. Today, rural hospitals are as important as ever. Half of all American hospitals are in rural areas, and these institutions account for fully one-quarter of the hospital beds in our country. And rural hospitals across America are expanding and improving their services, from disease prevention to rehabilitation to outpatient surgery.

But if the outpatient prospective payment system (PPS) goes into effect as currently proposed, rural hospitals in Montana and across the nation will lose millions of dollars in Medicare payments each year. Some of our smallest hospitals—the ones we should be supporting the most—will lose more than half of their current payments. That's just not right, and we should pass legislation to fix it.

Why does the outpatient PPS pose such a threat to small, rural hospitals? As you know, Mr. President, instead of reimbursing hospitals for the actual costs that they incur, a PPS would pay hospitals on a fixed, limited rate. That might make sense for a large hospital in Chicago or New York City that sees thousands of patients every day. But it doesn't make sense for a small hospital that doesn't enjoy the same economies of scale. It certainly doesn't make sense for Madison Valley Hospital, in Ennis, Montana, which would face an estimated 62.6 percent cut in outpatient payments under PPS.

Mr. President, how can small, rural hospitals, already struggling to improve their services with limited funds, survive and operate with half as much money? How can hospitals that rely on Medicare patients for most of their revenue endure a 50 percent pay-cut? The simple answer is: they cannot.

And let's remember, Mr. President, many of these hospitals are home to skilled nursing facilities (SNFs) and home health agencies (HHAs). These are the same SNFs and HHAs that have already been harmed by new prospective payment systems of their own.

This is a very simple bill. It would allow small, rural hospitals to opt out of the outpatient PPS. Without this bill, hospitals all across rural America will face devastating shortfalls in the coming year—and the quality of our country's health care will suffer. With this bill, the small hospitals that serve rural Americans throughout the nation can continue to improve the quality of their services.

Passing this bill is the right thing to do, and I urge my colleagues to join me in supporting it.

Mr. President, 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. 1601

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 Rural Provider Act of 1999''.

SEC. 2. EXCLUSION OF SMALL RURAL PROVIDERS FROM PPS FOR HOSPITAL OUTPATIENT DEPARTMENT SERVICES.

(a) IN GENERAL.—Section 1833(t)(1) of the Social Security Act (42 U.S.C. 1395l(t)(1)) is amended—

(1) in subparagraph (B), by striking ''For purposes of this'' and inserting ''Subject to subparagraph (C), for purposes of this''; and

(2) by adding at the end the following:

''(C) EXCLUSION FOR SERVICES FURNISHED BY SMALL RURAL PROVIDERS.—The term 'covered OPD services' does not include services furnished by a—

''(i) medicare-dependent, small rural hospital, as defined in section 1886(d)(5)(G)(iv);

''(ii) a critical access hospital, as defined in section 1861(mm)(1);

''(iii) sole community hospital, as defined in section 1886(d)(5)(D)(iii); or

''(iv) a hospital (determined as of the date of enactment of the Small Rural Provider Act of 1999) that—

''(I) has less than 50 beds; and

''(II) performed less than 5,000 outpatient procedures during the 12-month period ending on such date;

if such hospital, within the 180-day period beginning on the date of enactment of the Small Rural Provider Act of 1999, requests the Secretary to exclude services furnished by such hospital from the prospective payment system established under this subsection.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the enactment of the Balanced Budget Act of 1997.

ADDITIONAL COSPONSORS

S. 386

At the request of Mr. GORTON, the names of the Senator from Utah (Mr. HATCH) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 386, a bill to amend the Internal Revenue Code of 1986 to provide for tax-exempt bond financing of certain electric facilities.

S. 391

At the request of Mr. KERREY, the name of the Senator from Missouri (Mr. ASHCROFT) was added as a cosponsor of S. 391, a bill to provide for payments to children's hospitals that operate graduate medical education programs.

S. 482

At the request of Mr. ABRAHAM, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 482, a bill to amend the Internal Revenue Code of 1986 to repeal the increase in the tax on the social security benefits.

S. 635

At the request of Mr. MACK, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 635, a bill to amend the Internal

Revenue Code of 1986 to more accurately codify the depreciable life of printed wiring board and printed wiring assembly equipment.

S. 693

At the request of Mr. HELMS, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 693, a bill to assist in the enhancement of the security of Taiwan, and for other purposes.

S. 708

At the request of Mr. DEWINE, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 708, a bill to improve the administrative efficiency and effectiveness of the Nation's abuse and neglect courts and the quality and availability of training for judges, attorneys, and volunteers working in such courts, and for other purposes consistent with the Adoption and Safe Families Act of 1997.

S. 897

At the request of Mr. BAUCUS, the name of the Senator from Washington (Mrs. MURRAY) 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. 980

At the request of Mr. BAUCUS, the name of the Senator from Nevada (Mr. BRYAN) was added as a cosponsor of S. 980, a bill to promote access to health care services in rural areas.

S. 1053

At the request of Mr. BOND, the name of the Senator from Arkansas (Mr. HUTCHINSON) was added as a cosponsor of S. 1053, a bill to amend the Clean Air Act to incorporate certain provisions of the transportation conformity regulations, as in effect on March 1, 1999.

S. 1091

At the request of Mr. DEWINE, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1091, a bill to amend the Public Health Service Act to provide for the establishment of a pediatric research initiative.

S. 1172

At the request of Mr. BURNS, his name was withdrawn as a cosponsor of S. 1172, a bill to provide a patent term restoration review procedure for certain drug products.

S. 1175

At the request of Ms. COLLINS, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1175, a bill to amend title 49, United States Code, to require that fuel economy labels for new automobiles include air pollution information that consumers can use to help communities meet Federal air quality standards.

S. 1242

At the request of Mr. AKAKA, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 1242, a bill to amend the Immigration and Nationality Act to make permanent the visa waiver program for certain visitors to the United States.

S. 1272

At the request of Mr. NICKLES, the name of the Senator from Alaska (Mr. MURKOWSKI) was added as a cosponsor of S. 1272, a bill to amend the Controlled Substances Act to promote pain management and palliative care without permitting assisted suicide and euthanasia, and for other purposes.

S. 1277

At the request of Mr. GRASSLEY, the names of the Senator from Missouri (Mr. BOND) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S. 1277, a bill to amend title XIX of the Social Security Act to establish a new prospective payment system for Federally-qualified health centers and rural health clinics.

S. 1384

At the request of Mr. ABRAHAM, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1384, a bill to amend the Public Health Service Act to provide for a national folic acid education program to prevent birth defects, and for other purposes.

S. 1414

At the request of Mr. MACK, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of S. 1414, a bill to amend title XVIII of the Social Security Act to restore access to home health services covered under the medicare program, and to protect the medicare program from financial loss while preserving the due process rights of home health agencies.

S. 1473

At the request of Mr. ROBB, the names of the Senator from Indiana (Mr. BAYH) and the Senator from Ohio (Mr. DEWINE) were added as cosponsors of S. 1473, a bill to amend section 2007 of the Social Security Act to provide grant funding for additional Empowerment Zones, Enterprise Communities, and Strategic Planning Communities, and for other purposes.

S. 1547

At the request of Mr. BURNS, the names of the Senator from North Dakota (Mr. DORGAN) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of S. 1547, a bill to amend the Communications Act of 1934 to require the Federal Communications Commission to preserve low-power television stations that provide community broadcasting, and for other purposes.

SENATE RESOLUTION 92

At the request of Mrs. BOXER, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of Senate Resolution 92, a resolution expressing the sense of the Senate that funding for prostate cancer research should be increased substantially.

SENATE RESOLUTION 158

At the request of Mr. CRAIG, his name was added as a cosponsor of Senate Resolution 158, a resolution designating October 21, 1999, as a ''Day of National Concern About Young People and Gun Violence.''

SENATE RESOLUTION 178

At the request of Mr. THURMOND, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of Senate Resolution 178, a resolution designating the week beginning September 19, 1999, as ''National Historically Black Colleges and Universities Week.''

SENATE RESOLUTION 179

At the request of Mr. BIDEN, the names of the Senator from Arkansas (Mrs. LINCOLN), the Senator from Mississippi (Mr. COCHRAN), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Maryland (Mr. SARBANES), the Senator from Nebraska (Mr. KERREY), the Senator from Maryland (Ms. MIKULSKI), and the Senator from Arizona (Mr. MCCAIN) were added as cosponsors of Senate Resolution 179, a resolution designating October 15, 1999, as ''National Mammography Day.''

SENATE RESOLUTION 180

At the request of Mr. SPECTER, the names of the Senator from Mississippi (Mr. COCHRAN), the Senator from Nebraska (Mr. HAGEL), and the Senator from California (Mrs. BOXER) were added as cosponsors of Senate Resolution 180, a resolution reauthorizing the John Heinz Senate Fellowship Program.

SENATE RESOLUTION 183

At the request of Mr. ASHCROFT, the name of the Senator from Minnesota (Mr. GRAMS) was added as a cosponsor of Senate Resolution 183, a resolution designating the week beginning on September 19, 1999, and ending on September 25, 1999, as National Home Education Week.

AMENDMENTS SUBMITTED

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 2000

LAUTENBERG AMENDMENT NO. 1678

Mr. LAUTENBERG proposed an amendment to the bill (H.R. 2084) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2000, and for other purposes; as follows:

At the appropriate place in the bill, insert:

SEC. . It is the sense of the Senate that the Secretary should expeditiously amend Title 14, Chapter II, Part 250, Code of Federal Regulations, so as to double the applicable penalties for involuntary denied boardings and allow those passengers that are involuntarily denied boarding the option of obtaining a prompt cash refund for the full value of their airline ticket.

DASCHLE (AND OTHERS) AMENDMENT NO. 1679

Ms. LANDRIEU (for Mr. DASCHLE (for himself, Ms. LANDRIEU, and Mr. WYDEN)) proposed an amendment to the bill, H.R. 2084, supra; as follows:

On page 65, line 22, before the period at the end of the line, insert the following ": *Provided it is the sense of the Senate*, That the funds made available under this heading shall be used for the submission to the appropriate committees of Congress by the Inspector General, not later than July 15, 2000, of a report on the extent to which air carriers and foreign carriers deny travel to airline consumers with non-refundable tickets from one carrier to another, including recommendations to develop a passenger-friendly and cost-effective solution to ticket transfers among airlines when seats are available.

SHELBY (AND LAUTENBERG) AMENDMENT NO. 1680

Mr. SHELBY (for himself and Mr. LAUTENBERG) proposed an amendment to the bill, H.R. 2084, supra; as follows:

On page 7, line 22, before the period, insert the following: ": *Provided further*, That the Secretary of Transportation shall use any surplus funds that are made available to the Secretary, to the maximum extent practicable, to provide for the operation and maintenance of the Coast Guard".

On page 18, lines 4 and 5, strike "notwithstanding Public Law 105–178 or any other provision of law,".

On page 18, line 24, insert after "Code:" insert the following: "*Provided further*, That $6,000,000 of the funds made available under 104(a) of title 23, United States Code, shall be made available to carry out section 5113 of Public Law 105–178:"

On page 19, lines 12 and 13, strike "notwithstanding any other provision of law,".

On page 20, lines 7 and 8, strike "notwithstanding any other provision of law,".

On page 20, line 12, strike all after "That" through "of law," on line 21.

On page 20, line 22, strike "not less than" and insert the following: $5,000,000 shall be made available to carry out the Nationwide Differential Global Positioning System program, and".

On page 22, line 15, strike "Notwithstanding any other provision of law, for" and insert the following: "For".

On page 24, lines 4 through 8, strike: ": *Provided further*, That none of the funds made available under this Act may be obligated or expended to implement section 656(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (42 U.S.C. 405 note)".

On page 40, between lines 14 and 15, insert the following: "Gees Bend Ferry facilities, Wilcox County, Alabama".

On page 40, between lines 16 and 17, insert the following: "Georgia Regional Transportation Authority, Southern Crescent Transit bus service between Clayton County and MARTA rail stations, Georgia".

On page 42, between lines 17 and 18, insert the following: "Jasper buses, Alabama".

On page 43, line 16, insert after "Lane County, Bus Rapid Transit" the following: "buses and facilities".

On page 44, between lines 12 and 13, insert the following: "Los Angeles/City of El Segundo Douglas Street Green Line connection".

On page 47, between lines 4 and 5, insert the following: "Newark intermodal center, New Jersey".

On page 48, between lines 14 and 15, insert the following: "Parkersburg intermodal transportation facility, West Virginia".

On page 56, strike line 18, and insert the following: "Dane County/Madison East-West Corridor".

On page 57, between lines 19 and 20, insert the following: "Northern Indiana South Shore commuter rail project;".

On page 59, line 10, strike "and the".

On page 59, line 11, after "projects" insert the following: "; and the Washington Metro Blue Line extension—Addison Road".

On page 61, strike lines 1 and 2, 11 and 12.

On page 62, strike lines 1 and 2.

On page 62, line 4, strike "and the" and insert: "Wilmington, DE downtown transit connector; and the".

On page 80, line 24, strike "; and" and inserts".".

On page 81, strike lines 1 through 8.

On page 90, strike lines 4 through 22, and insert the following:

"SEC. . (a) None of the funds in this act shall be available to execute a project agreement for any highway project in a state that sells drivers' license personal information as defined in 18 U.S.C. 2725(3) (excluding individual photograph), or motor vehicle record, as defined in 18 U.S.C. 2725(1), unless that state has established and implemented an opt-in process for the use of personal information or motor vehicle record in surveys, marketing (excluding insurance rate setting), or solicitations.

"(b) None of the funds in this act shall be available to execute a project agreement for any highway project in a state that sells individual's drivers' license photographs, unless that state has established and implemented an opt-in process for such photographs."

On page 91, between lines 9 and 10, insert the following:

"SEC. . Of funds made available in this Act, the Secretary shall make available not less than $2,000,000, to remain available until expended, for planning, engineering, and construction of the runway extension of Eastern West Virginia Regional Airport, Martinsburg, West Virginia: *Provided further*, That the Secretary shall make available not less than $400,000 for the Concord, New Hampshire transportation planning project: Provided further, That the Secretary shall make available not less than $2,000,000 for an explosive detection system demonstration at a cargo facility at Huntsville International Airport.

"SEC. . Section 656(b) of Division C of the Omnibus Consolidated Appropriations Act of 1997 is repealed.

"SEC. . Notwithstanding any other provision of law, the amount made available pursuant to Public Law 105–277 for the Pittsburgh North Shore central business district transit options MIS project may be used to fund any aspect of preliminary engineering, costs associated with an environmental impact statement, or a major investment study for that project.

"SEC. . For necessary expenses for engineering, design and construction activities to enable the James A. Farley Post Office in New York City to be used as a train station and commercial center, to become available on October 1 of the fiscal year specified and remain available until expended: fiscal year 2001, $20,000,000.".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. SHELBY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, September 16, 1999, at 2:30 p.m. to hold a hearing.

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

COMMITTEE ON THE JUDICIARY

Mr. SHELBY. Mr. President, the Committee on the Judiciary requests unanimous consent to conduct a markup on Thursday, September 16, 1999 beginning at 10 a.m. in room 226 Dirksen.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. SHELBY. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, September 16, 1999 at 2 p.m. to hold a closed hearing on intelligence matters.

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

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. SHELBY. Mr. President, I ask unanimous consent that the Subcommittee on Forests and Public Land Management of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, September 16, for purposes of conducting a hearing, Subcommittee on Forests and Public Lands Management hearing which is scheduled to begin at 2:30 p.m. The purpose of this oversight hearing is to receive testimony on the Administration's Northwest Forest Plan.

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

SUBCOMMITTEE ON INTERNATIONAL SECURITY, PROLIFERATION, AND FEDERAL SERVICES

Mr. SHELBY. Mr. President, I ask unanimous consent that the Governmental Affairs Committee, Subcommittee on International Security, Proliferation, and Federal Services be permitted to meet on Thursday, September 16, 1999, at 2 p.m. for a hearing on the annual report of the Postmaster General.

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

SUBCOMMITTEE ON INVESTIGATIONS

Mr. SHELBY. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Governmental Affairs Committee be permitted to meet on Thursday, September 16, 1999, at 9:30 a.m. for a hearing entitled "Day Trading: An Overview."

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

SUBCOMMITTEE ON PUBLIC HEALTH

Mr. SHELBY. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions, Subcomimttee on Public Health, be authorized to meet for a hearing on Children's Health during the session of the Senate on Thursday, September 16, 1999, at 10 a.m.

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

SUBCOMMITTEE ON YOUTH VIOLENCE

Mr. SHELBY. Mr. President, the Subcommittee on Youth Violence of the Committee on the Judiciary requests

unanimous consent to conduct a hearing on Thursday, September 16, 1999 beginning at 2 p.m. in Dirksen 226.

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

ADDITIONAL STATEMENTS

PROMOTING RESPONSIBLE FATHERHOOD

• Mr. BAYH. Mr. President, I respectfully request that the attached statement delivered by Governor Pedro Rossello, of Puerto Rico, before the Human Resources Committee of the National Governors' Association be printed in the RECORD. This statement was made in reference to S. 1364, the Promoting Responsible Fatherhood Act of 1999.

The statement follows.

REMARKS BY THE HONORABLE PEDRO ROSSELLÓ, GOVERNOR OF PUERTO RICO AND CO-LEAD GOVERNOR ON FATHERHOOD IN THE NATIONAL GOVERNORS' ASSOCIATION, DELIVERED AT A MEETING OF THE COMMITTEE ON HUMAN RESOURCES OF THE NATIONAL GOVERNORS' ASSOCIATION, SAINT LOUIS, MISSOURI, AUGUST 8, 1999

Thank you, Mister Chairman.

Governor Tom Ridge and I are extremely enthusiastic about the duties we have been discharging as the N–G–A's Lead Governors on Fatherhood.

And in that regard, I certainly want to acknowledge the superb collaboration that we have received from the colleagues who serve with us as fellow members of the Governors' Task Force on Fatherhood Promotion.

As has been documented by the N–G–A Center for Best Practices, the efforts we've been undertaking have yielded a rich harvest.

That harvest encompasses: An intensification of public awareness campaigns—in nearly all of the states and territories—to promote positive father involvement; a sharper focus for programs, throughout the nation, that are aimed at developing the parenting skills of new fathers; and better targeted support services for disadvantaged or noncustodial fathers, so that they can learn how to improve their relationships with their children.

During this past year, our Task Force also expanded its outreach, while joining with the National Fatherhood Initiative, as a co-sponsor of the 1999 National Summit on Supporting Urban Fathers.

At the event 2 months ago, we helped spearhead the creation of a brand new Mayors' Task Force on Fatherhood Promotion.

As a result, Governors and Mayors are now pooling their resources and putting their heads together on multi-sectoral approaches that can meet the challenge of promoting responsible fatherhood in those urban communities where absenteeism and neglect place very large numbers of children at risk.

We Governors can take considerable satisfaction in the progress we have made since we last gathered to discuss the need for an aggressive campaign to foster conscientious fatherhood.

Nevertheless, it remains a fact that we still have a long way to go in this important quest to improve the home environments and—by extension—the learning environments of countless thousands of girls and boys and teenagers . . . all across America.

And with that in mind, I strongly recommend that this Committee renew its support for N–G–A Policy H–R 28, on the subject of Paternal Involvement in Child-Rearing.

However, I would also submit that we must go further.

In addition to re-committing ourselves to a policy statement which underscores our collective determination to enter the new millennium with stronger families and a brighter future for the nation's young people, we must likewise re-commit ourselves to a partnership with other elected officials who share those indispensable aspirations.

So it is that I hope each and every one of us will emphatically endorse Congressional enactment of the Responsible Fatherhood Act of 1999.

This bill, introduced less than a month ago by Senators EVAN BAYH and PETE DOMENICI, will empower states and communities with new tools to encourage the formation—and the maintenance—of two-parent households, as well as the acceptance by absent fathers of personal responsibility for their children. This bipartisan legislation will provide states and communities with flexible funding to promote responsible fatherhood, through alliances with news media, charities, community-based organizations and religious institutions.

The bill will also amend the ''high-performance bonus'' that was created by the 1996 Federal welfare reform statute; the amendment will establish that the formation and maintenance of two-parent families shall henceforward be taken into account as one of the factors considered when granting bonuses to states that are successful in obtaining private-sector jobs for welfare recipients.

These and other provisions of the Responsible Fatherhood Act of 1999 will lend tangible support to our own pioneering efforts on behalf of fatherhood promotion.

And I am confident that the initiatives contemplated under this bill can be put into effect without jeopardizing any of the existing appropriations that mean so much to our states and communities.

In summary, then, I invite your attention and your allegiance to both the renewal of our N–G–A Policy-Plank, H–R 28, and to this very promising new Federal legislation measure.

That concludes what I hope we can agree has been a report that was at once brief and to the point.

Thank you very much, Mr. Chairman.•

NATIONAL PAYROLL WEEK

• Mr. COVERDELL. Mr. President, I rise today to acknowledge the efforts of thousands of hard-working Americans who are members of the American Payroll Association. As you may know, this week, September 13 through 17, has been designated National Payroll Week, a time to take note of the efforts of our nation's payroll professionals.

Payroll taxes are the largest source of revenue for the federal government. While I for one would like to see these rates reduced, we should not let this detract from the hard work which payroll professionals put into their efforts. Payroll work is also a vital component of facilitating child-support payments. It is my understanding that more than 60 percent of all child support collections are derived from payroll deductions for this purpose.

While many of us here often make note of Americans working in the factories, in our retail outlets, and on our farms, many times we overlook those who monitor the systems that ensure Americans receive their wages quickly and efficiently. I encourage my colleagues to also acknowledge our nation's payroll professionals during this week.•

CONDEMNATION OF PREJUDICE AGAINST INDIVIDUALS OF ASIAN AND PACIFIC ISLAND ANCESTRY

• Mr. AKAKA. Mr. President, I am a cosponsor of S. Con. Res. 53, a sense of Congress resolution relating to the recent allegations of espionage and illegal campaign financing that have brought into question the loyalty of individuals of Asian Pacific ancestry.

Mr. President, I am concerned about the negative impact that the recent investigation of Wen Ho Lee, a scientist at Los Alamos, New Mexico, is having on the Chinese American community. Certain recent media coverage of this investigation has chosen to portray Chinese and Chinese Americans with a broad brush, using loaded words that are offensive and implying that certain people should be treated with suspicion solely because of their ethnicity or national origin. Cartoons exaggerate and poke fun at physical appearances of individuals by depicting slanted eyes and buck teeth.

In one particularly offensive example, a recent editorial in a Santa Fe, New Mexico, newspaper made fun of Asian accents, unnecessarily referred to the ''Fu Manchu'' character, and tried to link the allegations of stolen nuclear secrets and the bombing of the Chinese embassy in Belgrade.

Mr. President, Asian Pacific Americans are an important part of our body politic. They have made significant contributions to politics, business, industry, science, sports, education, and the arts. Men and women like the late Senator Sparky Matsunaga, Olympic Champion Kristi Yamaguchi, Architect I.M. Pei, Maxine Hong Kingston, Ellison Onizuka, and many others have enhanced and invigorated the life of this nation.

Asian Americans have played a fundamental part in making this country what it is today. Asian immigrants helped build the great transcontinental railroads of the 19th century. They labored on the sugar plantations of Hawaii, on the vegetable and fruit farms of California, and in the gold mines of the West. They were at the forefront of the agricultural labor movement, especially in the sugarcane and grape fields, and were instrumental in developing the fishing and salmon canning industries of the Pacific Northwest. They were importers, merchants, grocers, clerks, tailors, and gardeners. They manned the assembly lines during America's Industrial Revolution. They opened laundries, restaurants, and vegetable markets. They also served our nation in war: the famed all-Nisei 100th/442nd combat team of World War II remains the most decorated unit in U.S. military history.

Despite their contributions, Asian immigrants and Asian Pacific Americans suffered social prejudice and economic, political, and institutional discrimination. They were excluded from churches, barber shops, and restaurants. They were forced to sit in the balconies of movie theaters and the back seats of buses. They attended segregated schools. They were even denied burial in white cemeteries; in one instance, a decorated Asian American soldier killed in action was refused burial in his hometown cemetery. Rather than receive equal treatment, Asians and Pacific Islanders were historically paid lower wages than their white counterparts, relegated to menial jobs, or forced to turn to businesses and industries in which competition with whites was minimized.

For more than 160 years, Asians were also denied citizenship by a law that prevented them from naturalizing, a law that remained in effect until 1952. Without citizenship, Asians could not vote, and thus could not seek remedies through the Tammany Halls or other political organizations like other immigrant groups. The legacy of this injustice is seen today in the relative lack of political influence and representation of Asian Americans at every level and in every branch of government.

Mr. President, as a member of the Energy Committee and governmental Affairs Committee, where I am Ranking Member on the International Security, Proliferation, and Federal Services Subcommittee, I have expressed my concern about the unfair and unwarranted negative impact this issue is having on the image of the Asian Pacific American community. We need to move quickly beyond the search for ethnic scapegoats. This is the lesson of the recent concern over national security leaks. We should not overreact.

Mr. President, I applaud President Clinton's executive order of June 7, 1999, to establish a commission to study and suggest ways to improve the quality of life for Asian Pacific Americans. President Clinton rightfully stated that many Asian Pacific Americans are underserved by federal programs. The order outlines steps to ensure that federal programs, especially those that gather data on health and social services, are responsible to Asian Pacific Americans needs. It's a step in the right direction and it may focus on some of the more compelling issues involving Asian Pacific Americans in terms of improving the quality of their lives.●

TRIBUTE TO WILLIAM B. GREENWOOD ON COMPLETION OF TERM AS PRESIDENT OF INDEPENDENT INSURANCE AGENTS OF AMERICA

● Mr. BUNNING. Mr. President, I rise today to commend a fellow Kentuckian and my friend, William B. Greenwood of Central City, who is completing his highly successful term as president of the Independent Insurance Agents of America (IIAA)—the nation's largest insurance association—later this month in Las Vegas. Bill is president of C.A. Lawton Insurance, an independent insurance agency in Central City.

Bill's career as an independent insurance agent has been marked with outstanding contribution and dedication to his clients, community, IIAA, the Independent Insurance Agents of Kentucky, and his independent agent colleagues.

Bill began his service to his industry colleagues with the Independent Insurance Agents of Kentucky. He served as president of the State association in 1983, and was named its Insuror of the Year in 1986. He was Kentucky's representative to IIAA's national board of State directors for seven years beginning in 1985.

Bill also was very active with IIAA activities before moving into the organization's leadership structure. He was chairman of its communications and membership committees as well as chairman of the future one communications task force. Bill was elected to IIAA's executive committee in 1992 as an at-large member. Since that time, he has exhibited a spirit of tireless dedication to and genuine concern for his 300,000 independent agent colleagues around the country.

In addition to his outstanding work with IIAA and the Kentucky association, Bill also is involved with numerous Central City-area community activities. He is a past recipient of the Kentucky Chamber of Commerce Volunteer of the Year Award. He is on the boards of directors for the Leadership Kentucky Foundation, Kentucky Audubon Council Boy Scouts of America, and Central City, Main Street, Inc.

In the past, Bill served on the board of directors of the Muhlenberg Community Theatre, the Everly Brothers Foundation, and the Central City Main Street and Redy Downtown Development Corporation. Also, Bill is past president of the Central City Chamber of Commerce and the Central City Lions Club.

I laud Bill for leading the Independent Insurance Agents of America with distinction and strong leadership over the past year. Even though Bill will step aside as IIAA president soon, he will remain actively involved with the association because he is a concerned leader and wants to continue helping his colleagues build for the new millennium.●

THE COMMUNITY DEVELOPMENT AND VENTURE CAPITAL ACT OF 1999

● Mr. WELLSTONE. Mr. President, I speak today in support of the Community Development and Venture Capital Act of 1999 introduced today by Senator KERRY. I am proud to be an original cosponsor of this measure which, if enacted, will make a real difference in the growth of small business, and the creation of quality jobs, in underdeveloped areas around the country.

I think the critical issue in communities which experience enduring poverty is job creation through promotion of business opportunities and entrepreneurship. This has been my experience when I have traveled to places like rural Appalachia, inner city Minneapolis or Chicago or the Iron Range in Minnesota. I also believe that an area can be made as pro-business as possible though tax policies and zoning ordinances, but at some point businesses simply need capital so that they can grow and create good jobs.

No business can grow without infusions of capital for equipment purchases, to conduct research, to expand capacity, or to build infrastructure. At some point all successful ventures outgrow incubation in the entrepreneur's garage or living room; additional staff must be hired and the complexity of managing supply and demand increases. Yet it is clear that throughout the country there are small business owners who are being starved of the capital necessary to take this step. They have viable businesses or ideas for businesses but cannot fully transform their aspirations into reality because of this financial roadblock.

Businesses can secure capital through loans, but there is a limit to the amount of debt that a business can safely carry and lenders are wary of businesses with low equity. Equity investment also differs from lending in that the equity investor acquires an ownership stake in the business. The fortunes of the investor rise and fall with the success of the venture. This means making an equity investment is riskier than making a loan, and it also means that the investor has a greater vested interest in promoting healthy growth. Investment of equity capital into an enterprise has a multiplier effect in that it allows the business owner to access necessary credit.

Traditional venture capital firms are not meeting the need for equity capital in disadvantaged communities. In addition, the Small Business Administration's Small Business Investment Companies program—with a few exceptions—has not reached into the most economically backward communities in the country. Such investments are risky in the best of circumstances, but they can and do succeed with adequate time and attention. These communities need patient investors who are willing to work closely with small business owners to realize a financial return over the long term. Often, the investments needed are smaller than those made by traditional sources.

There is no question that the lack of access to equity capital in disadvantaged areas around the country is a prime reason why those communities have been left behind by the historic economic expansion that the rest of the nation has enjoyed. But there are success stories in many states which I

believe that we can emulate and build on to allow distressed communities to reach their full potential.

Throughout America, organizations known as Community Development Venture Capital funds are making these kinds of equity investments in communities and are producing excellent results. CDVC funds make equity investments in small businesses for two purposes: to reap a financial return to the fund, and to generate a social benefit for the community through creation of well paying jobs. This ''double bottom line'' is what makes CDVC funds unique. There are around 40 CDVC funds currently operating throughout the country, in both rural and urban areas. These funds are demonstrating the success of socially conscious investment and entrepreneurial solutions to social and economic problems.

My own state of Minnesota is home to a good example of a seasoned, and successful CDVC fund: Northeast Ventures Corporation of Duluth. NEV serves a seven country rural area and focuses on creating good jobs in high value-added industries. NEV targets 50% of the jobs created through investments to women, and to low-income and structurally unemployed persons.

In 1990 a group a entrepreneurs approached Northeast Ventures about setting up a car wash equipment manufacturing facility in Tower, a town of 508 people, in one of the poorest parts of northeastern Minnesota. While NEV thought that the market opportunity was attractive, the company, called Powerain, had an incomplete business plan and lacked a Chief Operating Officer. NEV also felt that the business provided a good opportunity to create jobs and bring some economic vitality to an area that needed it badly.

Other assistance was needed before NEV could provide financing for the effort. Northeast worked closely with Powerain's founders to revise the business plan and identify a strong CEO candidate for the company. Northeast also invested $200,000 in equity into the business.

NEV staff conducted the strategic planning sessions of Powerain and continue to be essential in developing the company's strategic plan. They assist in identifying the need for key personnel; recruit the necessary staff; and are integral in qualifying the short list of candidates. Over a multi-year period, NEV has talked daily with the Powerain CEO regarding subjects as diverse as sales, distributor relationships and the financial structure of loans. Over an eight year period, NEV has assisted Powerain in all subsequent rounds of financing totaling $826,932.

Powerain had a record sales year in 1998 and is expecting another record year in 1999. The company currently employs 20 full-time people, and expects to increase that number significantly in the future. The company provides ongoing training to its staff and entry level positions begin at $8 an hour—with full benefits. Most employees earn well in excess of $10 per hour.

The Community Development and Venture Capital Act of 1999 is designed to build on the successful CDVC model by promoting equity investment in economically distressed communities. The first title of this legislation would create the New Market Venture Capital Companies Program, a new program within SBA that will fund at least ten venture capital companies dedicated to new markets—low- and moderate-income communities. $15 million in annual appropriations would support a $100 million program level for SBA-guaranteed debentures, and $30 million in matching technical assistance grants.

Title II of the bill basically consists of legislation I introduced last year, and again this year, entitled the Community Development Venture Capital Assistance Act. Last year, the Senate passed this legislation as part of a SBA technical amendments bill. This title is intended to build the capacity of the existing CDVC industry through technical assistance and SBA grants to colleges, universities, and other firms or organizations—public or private—to create and operate training programs, intern programs, a national conference, and academic research and study dealing with community development venture capital.

Title III would build on the BusinessLINC grant program which is a public-private partnership that the SBA and Department of Treasury launched last June. It encourages larger businesses to mentor smaller businesses, promoting the viability of small businesses located in disadvantaged areas.

I think this legislation speaks to the heart of reversing persistent poverty in America by promoting entrepreneurship, and encouraging responsible equity investment. The small business growth sparked by this legislation would in turn create jobs and wealth in those communities which have heretofore been overlooked. It is an absolutely essential addition to the SBA's current program offerings and I urge my colleagues to support it.•

HISPANIC HERITAGE MONTH

• Mr. McCAIN. Mr. President, as Co-Chair of the Senate Republican Task Force on Hispanic Affairs, I am pleased to note Hispanic Heritage month which began on September 15. During the month, we will focus on the vibrant Hispanic community that has made tremendous contributions to our nation and to my state of Arizona for many generations.

Projected to soon be the country's largest minority, this colorful and proud community is incredibly rich in culture and diverse in backgrounds. All too often, the various groups that make up ''Hispanics'' are lumped together and some forget the dynamic differences between Mexicans and Puerto Ricans, or Salvadorans and Chileans, for example. But when Hispanics come together—tied by social and cultural similarities—they form a powerful group to whom we must listen.

Much has been said lately about the Hispanics' burgeoning economic and political power. This group's contribution to the economy is significant. Their buying power has increased at an annual rate of 5.5 percent, far outdistancing inflation. This has resulted in an explosion of Hispanic advertising dollars. According to Hispanic Business Magazine, from 1997 to 1998, ad budgets targeting the Hispanic market jumped 21 percent to $1.71 billion. And study after study indicate that Hispanic businesses are the fastest growing segment of the small business community.

Politically, Hispanics are becoming a great force. They are voting in ever-larger numbers, projected as high as 5.5 million in the 2000 elections, up from 4.2 million in 1992. Currently, however, only one in every 20 votes is cast by a Hispanic, even though one in nine Americans is Hispanic. Unfortunately, low voter turnout, because of political cynicism, is a trend that is not only affecting the Hispanic community.

It is important that the political voice of Hispanics is not drowned out by money from special interests. When I look down the list of soft money donors to both political parties, I see corporate giants; I see large labor unions; I see the Fortune 500. I don't see the name of my friend Victor Flores, who started a small bakery in the town of Guadalupe, Arizona, and labored hard for years to feed the community and support his family. I don't see Victor's name or, frankly, the majority of Americans who deserve the attention, access and priority representation that only a select few can afford under today's corrupt campaign finance system. I will continue to fight for campaign finance reform, because without it, we will not achieve the other reforms that have a direct bearing on better quality of life for Hispanic Americans and all who make up the great American tapestry.

In today's global economy, education is essential for success. If the Hispanic high school dropout rate remains stubbornly high, resulting in a lack of needed job skills for the 21st century, income gaps will grow and our poverty rates will rise. This is bad for America. We must work harder on these issues.

Knowledge of English is as important as education in order to succeed. However, I will consistently oppose positions that are divisive, such as ''English-Only'' laws. There is no need to abandon the language of your birth to learn the language of your future. Hispanics should use and cherish both.

Finally, I wish to recognize the outstanding contributions Americans of Hispanic descent have made to our national defense. In 1997, I was pleased to successfully co-sponsor legislation to

grant a Federal charter to the American G.I. Forum, the largest association of Hispanic veterans in the United States. I remain terribly proud that our Armed Forces, in which I was privileged to serve many years ago, today reflect the composition of American society better than any other institution. Hispanic Americans have sacrificed enormously to secure the liberties many of us take for granted today; their service honors all of us.

Hispanic Americans are honest, hard working patriots, who want and deserve the equal opportunity that is our nation's promise. Hispanics have distinguished themselves in every walk of life. This month, let's recognize their contributions that exemplify the American Dream.●

U.S. BORDER INFRASTRUCTURE, FEDERAL OFFSHORE DRILLING ROYALTIES AND THE McGREGOR RANGE

● Mr. GRAMM. Mr. President, at the request of the Honorable Elton Bomer, Secretary of State for Texas, I rise today to bring to the attention of my colleagues House Concurrent Resolutions 2, 59 and 133, as passed by the 76th Legislature of the State of Texas. House Concurrent Resolution 2 urges the United States Congress to provide funding for infrastructure improvements, additional personnel and extended hours of operation at border crossings between Texas and Mexico. In order for all Americans to fully enjoy the economic benefits of trade, we must ensure that the Customs Service obtains the resources necessary to reduce delays, promote commerce and combat illicit drug trafficking. The Senate recently passed the Customs Authorization Act of 1999—largely based on legislation I crafted to facilitate trade along the Southwest border—which authorizes the funds necessary to improve our border infrastructure and stem the flow of illegal drugs into the United States.

Secondly, House Concurrent Resolution 59 urges the United States Congress to pass legislation allocating a portion of federal offshore drilling royalties to coastal states and local communities. I believe coastal states deserve more than the 5 percent of the $120 billion they helped generate during the past 43 years. States and local communities are more qualified than bureaucrats in Washington to allocate resources to address their specific local needs, and should be given the freedom to do so. By passing this resolution, the Texas Legislature has sent a clear message, and it is time for Congress to act. Common sense invites it, and fairness demands it.

In addition, House Concurrent Resolution 133 supports the United States Congress in ensuring that the critical infrastructure for the United States military defense strategy be maintained by withdrawing from public use the McGregor Range land beyond the year 2001. The Military Lands Withdrawal Act of 1986 requires that the withdrawal from public use of all military land governed by the Army, including the McGregor Range, must be terminated on November 6, 2001, unless the withdrawal is renewed by an Act of Congress. As my colleagues may know, the McGregor Range at Ft. Bliss is America's principal training facility for air defense systems, maintaining our military readiness in air-to-ground combat by providing the highest level of missile defense testing for advanced missile defense systems. Texas has a long and impressive history of supporting America's defense, both at home and on the front lines, and I strongly believe that no state contributes more to the defense of our nation than Texas. I look forward to working to ensure that if the lion and the lamb lie to down together in this world, that the United States of America always be the lion.

Mr. President, I commend the Texas Legislature for passing these resolutions and ask that they be printed in the RECORD.

The material follows:

THE STATE OF TEXAS,
OFFICE OF THE SECRETARY OF STATE,
Austin, TX, August 20, 1999.

Hon. PHIL GRAMM,
U.S. Senator,
Washington, DC.

DEAR SENATOR GRAMM: Enclosed is an official copy of Senate Concurrent Resolution 2, as passed by the 76th Legislature, Regular Session, 1999, of the State of Texas, wherein the 76th Legislature of the State of Texas respectfully urges the United States Congress to provide funding for infrastructure improvements, more customs inspection lanes and customs officials, and 24-hour customs operations at border crossings between Texas and Mexico.

The 76th Legislature of the State of Texas requests that this resolution be officially entered in the Congressional Record as a memorial to the Congress of the United States.

Sincerely,

ELTON BOMER,
Secretary of State.

SENATE CONCURRENT RESOLUTION NO. 2

Whereas, Bottlenecks at customs inspection lanes have contributed to traffic congestion at Texas-Mexico border crossing areas, slowing the flow of commerce and detracting from the economic potential of the North American Free Trade Agreement (NAFTA); and

Whereas, Smuggling of drugs inside truck parts and cargo containers compounds the problem, necessitating lengthy vehicle searches that put federal customs officials in a crossfire between their mandate to speed the movement of goods and their mandate to reduce the flow of illegal substances; and

Whereas, At the state level, the Texas comptroller of public accounts has released a report titled *Bordering the Future,* recommending among other items that U.S. customs inspection facilities at major international border crossings stay open around the clock; and

Whereas, At the federal level, the U.S. General Accounting Office is conducting a similar study of border commerce and NAFTA issues, and the U.S. Customs Service is working with a private trade entity to review and analyze the relationship between its inspector numbers and its inspection workload; and

Whereas, Efficiency in the flow of NAFTA commerce requires two federal customs-related funding commitments: (1) improved infrastructure, including additional customs inspection lanes; and (2) a concurrent expansion in customs personnel and customs operating hours; and

Whereas, Section 1119 of the federal Transportation Act for the 21st Century (TEA–21), creating the Coordinated Border Infrastructure Program, serves as a funding source for border and infrastructure improvements and regulatory enhancements; and

Whereas, Domestic profits and income increase in tandem with exports and imports, generating federal revenue, some portion of which deserves channeling into the customs activity that supports increased international trade; and

Whereas, Texas legislators and businesses, being close to the situation geographically, are acutely aware of the fixes and upgrades that require attention if NAFTA prosperity is truly to live up to the expectations of this state and nation; now, therefore, be it

Resolved, That the 76th Legislature of the State of Texas hereby respectfully urge the Congress of the United States to provide funding for infrastructure improvements, more customs inspection lanes and customs officials, and 24-hour customs operations at border crossings between Texas and Mexico; and, be it further

Resolved, That the Texas secretary of state forward official copies of this resolution to the President of the United States, to the Speaker of the House of Representatives and the President of the Senate of the United States Congress, and to all the members of the Texas delegation to the Congress with the request that this resolution be officially entered in the CONGRESSIONAL RECORD as a memorial to the Congress of the United States of America.

THE STATE OF TEXAS,
OFFICE OF THE SECRETARY OF STATE,
Austin, TX, July 28, 1999.

Hon. PHIL GRAMM,
U.S. Senator,
Washington, DC.

DEAR SENATOR GRAMM: Enclosed is an official copy of House Concurrent Resolution 59, as passed by the 76th Legislature, Regular Session, 1999, of the State of Texas. In this resolution the 76th Legislature of the State of Texas urges the United States Congress to pass legislation allocating a portion of federal offshore drilling royalties to coastal states and local communities.

The 76th Legislature of the State of Texas requests that this resolution be officially entered in the Congressional Record as a memorial to the Congress of the United States.

Sincerely,

ELTON BOMER,
Secretary of State.

HOUSE CONCURRENT RESOLUTION NO. 59

Whereas, One of Texas' richest and most diverse areas is that of the Gulf Coast; the Coastal Bend abounds with treasures for all, and every year thousands of visitors flock to its beaches and wetlands to enjoy the sun, fish the waters, appreciate its unique scenery and wildlife, and bolster their spirits simply by being near such awe-inspiring beauty; and

Whereas, In addition to $7 billion per year generated by coastal tourism, the area is also home to half of the nation's petrochemical industry and over a quarter of its petroleum refining capacity; and

Whereas, Coastal tourism, the petrochemical and petroleum industries, a robust commercial and recreational fishing trade,

and significant agricultural production make this region a vital economic and natural resource for both the state and the nation; and

Whereas, Like other coastal states located near offshore drilling activities, Texas provides workers, equipment, and ports of entry for oil and natural gas mined offshore; while these states derive numerous benefits from the offshore drilling industry, they also face great risks, such as coastline degradation and spill disasters, as well as the loss of nonrenewable natural resources; and

Whereas, Although state and local authorities have worked diligently to conserve and protect coastal resources, securing the funds needed to maintain air and water quality and to ensure the existence of healthy wetlands and beaches and protection of wildlife is a constant challenge; and

Whereas, The federal Land and Water Conservation Fund was established by Congress in 1964 and has been one of the most successful and far-reaching pieces of conservation and recreation legislation, using as its funding source the revenues from oil and gas activity on the Outer Continental Shelf; and

Whereas, The game and nongame wildlife resources of this state are a vital natural resource and provide enjoyment and other benefits for current and future generations; and

Whereas, The federal government has received more than $120 billion in offshore drilling revenue during the past 43 years, only five percent of which has been allotted to the states; it is fair and just that Texas and other coastal states should receive a dedicated share of the revenue they help generate; and

Whereas, Several bills are currently before the United States Congress that would allocate a portion of federal offshore drilling royalties to coastal states and local communities for wildlife protection, conservation, and coastal impact projects; and

Whereas, States and local communities know best how to allocate resources to address their needs, and block grants will provide the best means for distributing funds; and

Whereas, These funds would help support the recipients' efforts to renew and maintain their beaches, wetlands, urban waterfronts, parks, public harbors and fishing piers, and other elements of coastal infrastructure that are vital to the quality of life and economic and environmental well-being of these states and local communities; now, therefore, be it

Resolved, That the 76th Legislature of the State of Texas hereby respectfully urge the Congress of the United States to pass legislation embodying these principles; and, be it further

Resolved, That the Texas secretary of state forward official copies of this resolution to the president of the United States, to the speaker of the house of representatives and the president of the senate of the United States Congress, and tot all the members of the Texas delegation to the congress with the request that this resolution be officially entered in the Congressional Record as a memorial to the Congress of the United States of America.

THE STATE OF TEXAS,
OFFICE OF THE SECRETARY OF STATE,
Austin, TX, July 28, 1999.

Hon. PHIL GRAMM,
U.S. Senator,
Washington, DC.

DEAR SENATOR GRAMM: Enclosed is an official copy of House Concurrent Resolution 133, as passed by the 76th Legislature, Regular Session, 1999, of the State of Texas. In this resolution, the 76th Legislature of the State of Texas supports the United States Congress' efforts to ensure that the critical infrastructure for the United States military defense strategy be maintained be withdrawing from public use of the McGregor Range land beyond 2001.

The 76th Legislature of the State of Texas requests that this resolution be officially entered in the Congressional Record as a memorial to the Congress of the United States.

Sincerely,

ELTON BOMER,
Secretary of State.

HOUSE CONCURRENT RESOLUTION NO. 133

Whereas, Future military threats to the United States and its allies may come from technologically advanced rogue states that for the first time are armed with long-range missiles capable of delivering nuclear, chemical, or biological weapons to an increasingly wider range of countries; and

Whereas, The U.S. military strategy requires flexible and strong armed forces that are well-trained, well-equipped, and ready to defend our nation's interests against these devastating weapons of mass destruction; and

Whereas, Previous rounds of military base closures combined with the realignment of the Department of the Army force structure have established Fort Bliss as the Army's Air Defense Artillery Center of Excellence, thus making McGregor Range, which is a part of Fort Bliss, the nation's principal training facility for air defense systems; and

Whereas, McGregor Range is inextricably linked to the advance missile defense testing network that includes Fort Bliss and the White Sands Missile Range, providing, verifying, and maintaining the highest level of missile defense testing for the Patriot, Avenger, Stinger, and other advanced missile defense systems; and

Whereas, The McGregor Range comprises more than half of the Fort Bliss installation land area, and the range and its restricted airspace in conjunction with the White Sands Missile Range, is crucial to the development and testing of the Army Tactical Missile System and the Theater High Altitude Area Defense System; and

Whereas, The high quality and unique training capabilities of the McGregor Range allow the verification of our military readiness in air-to-ground combat, including the Army's only opportunity to test the Patriot missile in live fire, tactical scenarios, as well as execute the ''Roving Sands'' joint training exercises held annually at Fort bliss; and

Whereas, The Military Lands Withdrawal Act of 1986 requires that the withdrawal from public use of all military land governed by the Army, including McGregor Range, must be terminated on November 6, 2001, unless such withdrawal is renewed by an Act of Congress; now, therefore, be it

Resolved, that the 76th Legislature of the State of Texas hereby support the U.S. Congress in ensuring that the critical infrastructure for the U.S. military defense strategy be maintained through the renewal of the withdrawal from public use of the McGregor Range land beyond 2001; and, be it further

Resolved, That the Texas secretary of state forward official copies of this resolution to the president of the United States, to the speaker of the house of representatives and the president of the senate of the United States Congress, and to all the members of the Texas delegation to the Congress with the request that this resolution be officially entered in the Congressional Record as a memorial to the Congress of the United States of America.●

NATIONAL IDENTIFICATION CARD

● Mr. SMITH of New Hampshire. Mr. President, I rise to join with Senator SHELBY in supporting the repeal of the provisions in Federal law creating a National ID card. I am pleased that the managers have decided to accept this amendment.

Mr. President, the American people strongly oppose the institution of a national identification card.

And, I share their opposition.

The establishment of a national system of identification seriously threatens our personal liberties. It would allow Federal bureaucrats to monitor movements and transactions of every citizen.

It's Big Brother on an immense scale. It's even possible, perhaps more probable, that Federal officials could even punish innocent citizens for failure to produce the proper papers.

The authority was given for a national I.D. card in Section 656 of the Immigration Reform Act of 1996. That section sets the stage for the establishment of Federal standards for drivers' licenses, thus transforming drivers' licenses into a de facto national ID card.

Let me go through what Section 656 does.

It expands the use and dissemination of the Social Security Account number.

It requires Federal agencies to accept only documents that meet the standards laid out in the section, thus creating a de facto national identification card.

It preempts the traditional state function of issuing driver's licenses and places it in the hands of the National Highway Traffic Safety Administration.

In a time when we are trying to give control back to the states, the establishment of Federal standards for drivers' licenses usurps the states constitutionally-protected authority to set their own standards for drivers' licenses.

Only 7 states require the social security account number to be displayed on driver's licenses. 9 states have repealed their requirement that drivers license display the number since 1992.

The National Conference of State Legislatures is very concerned about the Federalizing of State drivers' licenses and has written letters to Congress calling for the repeal of Section 656. They rightly understand that, although the National Highway Transportation Safety Administration is not proceeding with any rulemaking at this time, the law is still on the books, the potential is still there.

Mr. President, in 1998, the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, contained a provision that prohibits the National Highway Transportation Safety Administration from issuing a final rule on National identification cards as required under section 656.

Today we have an opportunity, with my amendment, to prohibit the establishment of a national identification card by denying funding for Section 656.

Mr. President, let me read from a letter that was written by 13 groups in opposition to Section 656 and this national ID system.

This letter is from: The National Conference of State Legislators, the National Association of Counties, the American Civil Liberties Union, the American Immigration Lawyers Association, Concerned Women for America, Eagle Forum, Electronic Frontier Foundation, Free Congress Foundation, National Asian Pacific American Legal Consortium, National Council of La Raza, National Immigration law Center, Traditional Values Coalition, and the U.S. Catholic Conference.

It is addressed to Speaker HASTERT.

DEAR SPEAKER HASTERT, We represent a broad-based coalition of state legislators, county officials, public policy groups, civil libertarians, privacy experts, and consumer groups from across the political spectrum.

We urge Congress to repeal Section 656 of the Immigration Reform and Immigration Responsibilities Act of 1996 that requires states to collect, verify, and display social security numbers on state-issued driver's license and conform with federally-mandated uniform features for drivers license.

The law preempts state authority over the issuance of state driver's licenses, violates the Unfunded Mandate Reform Act of 1994, and poses a threat to the privacy of citizens. Opposition to the law and the preliminary regulation issued by the National Highway Traffic Safety Administration has been overwhelmingly evidenced by the more than 2,000 comments submitted by individuals, groups, state legislators, and state agencies to NHTSA.

The law and the proposed regulations run counter to devolution. The law preempts the traditional state function of issuing driver's licenses and places it in the hands of officials at NHTSA while imposing tremendous costs on the states that have been vastly underestimated in the Preliminary Regulatory Evaluation.

The actual cost of compliance with the law and the regulation fax exceeds the $100 million threshold established by the Unfunded Mandate Reform Act.

In addition, the law and proposed regulation require states to conform their drivers' licenses and other identity documents to a detailed federal standarde.

Proposals for a National ID have been consistently rejected in the United States as an infringement of personal liberty.

The law raises a number of privacy and civil rights concerns relating to the expanded use and dissemination of the Social Security Number, the creation of a National ID Card, the potential discriminatory use of such a card, and the violation of federal rules on privacy.

The law and proposed rule require each license contain either in visual or electronic form the individual's Social Security Number unless the state goes through burdensome and invasive procedures to check each individual's identity with the Social Security Administration.

This will greatly expand the dissemination and misuse of the Social Security Number at a time that Congress, the states, and the public are actively working to limit its dissemination over concerns of fraud and privacy.

Many states are taking measures to reduce the use of Social Security Numbers as the driver's identity number. Only a few states currently, require the Social Security Number to be used as an identifier on the driver's licenses.

While the impact of Section 656 may not have been fully comprehended in 1996, we urge the Congress now act swiftly to repeal this provision of law that has between challenged by many diverse groups.

Mr. SMITH of New Hampshire. Mr. President, I also have a letter from the Association of American Physicians and Surgeons:

I am writing today to express the support of the Association of American Physicians and Surgeons, a group of thousands of private physicians in the United States concerned about patient/physician confidentiality for repealing Section 656 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

In our system of government, not everything that people do or think is presumed to be within the government's right to know. By repealing the law establishing a national ID scheme, you help protect the threatened liberty of all Americans from a dangerous precedent, which allows bureaucrats the ability to inappropriately monitor private details.

As a doctor, I cannot allow the privacy of my patients to be at risk.

Sincerely,

JANE ORIENT, MD.

Mr. President, the Republican Party Platform, states clearly and unequivocally, ''We oppose the creation of any national ID card.''

Mr. President, let me read from a paper compiled by a group called Privacy International, entitled, ''ID Cards: Some Personal Views from around the world.''

I ask that this paper by Privacy International be printed in the RECORD at this point.

The material follows:

ID CARDS: SOME PERSONAL VIEWS FROM AROUND THE WORLD

In 1994, in an attempt to discover the problems caused by ID cards, Privacy International compiled a survey containing reports from correspondents in forty countries. Amongst the gravest of problems reported to Privacy International was the overzealous use or misuse of ID cards by police—even where the cards were supposed to be voluntary. One respondent wrote:

''On one occasion I was stopped in Switzerland when walking at night near Lake Geneva. I was living in Switzerland at the time and had a Swiss foreigner's ID card. The police were wondering why I should want to walk at night to look at the Chateau de Chillon. Really suspicious I suppose, to walk at night on the banks of the lake to look at an illuminated chateau (I am white and dress conservatively). I had to wait for 20 minutes whilst they radioed my ID number to their central computer to check on its validity.''

Correspondents in most countries reported that police had powers to demand the ID card. A correspondent in Greece reported:

''In my country the Cards are compulsory. If police for example stop you and ask for identification you must present them the ID or you are taken to the police department for identification research.''

Police were granted these powers in the late 1980s, despite some public misgivings. Non European countries reported more serious transgressions, In Brazil, for example:

They are compulsory, you're in big trouble with the police if they request it and you don't have one or left home without it. The Police can ask for my identity card with or without a valid motive, it's an intimidation act that happens in Brazil very, very often. The problem is not confined to the police. Everybody asks for your ID when you are for example shopping, and this is after you have shown your cheque guarantee card. We also had other similar cards. Nobody trusts anybody basically.

Predictably, political hot-spots have seen widescale abuse of the card system:

One problem that Afghans encountered carrying these ''tazkiras'' (ID cards) was during the rule of the communist regime in Afghanistan where people were stopped in odd hours and in odd places by the government's Soviet advisors and their KHALQI and PARCHAMI agents and asked for their ''tazkiras''. Showing or not showing the ''tazkira'' to the enquiring person at that time was followed by grave consequences. By showing it, the bearer would have revealed his age upon which, if it fell between 16–45, he would have been immediately taken to the nearest army post and drafted into the communist army, and if he refused to show, he would have been taken to the nearest secret service (KHAD) station and interrogated as a member of the resistance (Mujahideen), imprisoned, drafted in the army or possibly killed.

Many countries reported that their ID card had become an internal passport, being required for every dealing with people or institutions. In Argentina, according to this correspondent, the loss of the ID card would result in grave consequences:

''I got my first personal ID when I turned seven. It was the Provincial Identity Card. It looked like the hardcover of a little book with just two pages in it. It had my name, my photograph, the fingerprint of my right thumb, and some other personal data. I never questioned what was the logic about fingerprinting a seven-year old boy. It was suggested that identification was one of the major purposes for the existence of the Police of the Province which issued the card. It was required for enroling in the Provincial School I attended. Attending the primary school is compulsory, hence everybody under twelve is indirectly forced to have the Card. Well, this Book was required for any sort of proceedings that the person wanted to initiate, e.g. enrol at school, buy a car, get his driving license, get married. Nobody could do anything without it. In addition, it became a prerogative of the police to request it at any time and place. Whoever was caught without it was customarily taken to jail and kept there for several hours (or overnight if it happened in the evening) while they ''checked his personal record''. In effect, Argentine citizens have never been much better off than South-African negroes during the Apartheid, the only difference is that we Argentinians did not have to suffer lashings if caught without the pass cared. As for daily life without the ID, it was impossible.

Of greater significance is the information that ID cards are commonly used as a means of tracking citizens to ensure compliance with such laws as military service. Again, in Argentina:

''The outrage of the military service was something that many people was not ready to put up with. Nevertheless, something forced the people to present themselves to be drafted. It was nothing more or less than the ID. In fact, if somebody did not show up, the army never bothered to look for them. They just waited for them to fall by themselves, because the ID card showed the boy to be on military age and not having the necessary discharge records by the army. Provided that in the country you could not even go for a walk without risking to be detained by the police, being a no-show for military duty amounted to a civil death.''

Another respondent in Singapore noted that many people in his country were aware

that the card was used for purposes of tracking their movements, but that most did not see any harm in this:

''If that question is put to Singaporeans, they are unlikely to say that the cards have been abused. However, I find certain aspects of the NRIC (ID card) system disconcerting. When I finish military service (part of National service), I was placed in the army reserve. When I was recalled for reserve service, I found that the army actually knew about my occupation and salary! I interpreted this as an intrusion into my privacy. It might not be obvious but the NRIC system has made it possible to link fragmented information together.''

The consequences of losing ones card were frequently mentioned:

''A holiday in Rio was ruined for me when I was robbed on the beach and had to spend the rest of the brief holiday going through the bureaucracy to get a duplicate issued. One way round this (of dubious legality) is to walk around with a notarized xerox copy instead of the original.''

The Brazilian experience shows that the card is often misused by police:

''Of course violent police in metropolitan areas of Sao Paulo and Rio de Janeiro love to beat and arrest people (especially black/poor) on the pretext that they don't have their ID card with them.''

In some countries, denial of a card means denial of virtually all services:

ID cards are very important in Vietnam. They differentiate between citizens and noncitizens. People without an ID card are considered as being denied of citizenship and all the rights that come with it. For example, they cannot get legal employment, they cannot get a business license, they cannot go to school, they cannot join official organizations, and of course they cannot join the communist party. They cannot travel either. (Even though in practice, they bribe their way around within the country, they would face big trouble if got caught without ID card.)

The same problem occurs in China:

I personally feel that the card has the following drawbacks: It carries too much private info about a person. We have to use it in almost every situation. Such as renting a hotel room, getting legal service from lawyers, contacting government agencies, buying a plane ticket and train ticket, applying for a job, or getting permit to live with your parents, otherwise your residence is illegal. In a lot of cases, we are showing too much irrelevant information to an agency or person who should not know that. The card is subject to police cancellation, and thus without it, one can hardly do anything, including traveling for personal or business purposes, or getting legal help or obtaining a job. The government has been using this scheme too often as a measure against persons who run into troubles with it socially or politically. The identity card is showing your daily or every short-term movement, and can be used to regularize and monitor a person's behavior and activity.

One Korean professor reported that the national card was used primarily as a means of tracking peoples activities and movements:

''If you lose this card, you have to report and make another one within a certain period. Since it shows your current address, if you change your address then you must report and make a correction of the new address. If you go to a military service or to a prison, then the government takes away this identity card. You get the card back when you get out. You are supposed to carry this card everywhere you go, since the purpose is to check out the activity of people. There are fines and some jail terms if you do not comply. If you board a ship or an airplane, then you must show this card to make a record. You need to show this card when you vote. Former presidential candidate Kim, Dae Joong could not vote for his own presidential election because his secretary forgot to bring Kim's card. He had to wait for a while until somebody bring his card. Many government employees make lot of money selling information on this card to politicians during election season. Police can ask you to show this card and check whether your identity number is on the wanted list or not. There is a widespread prejudice between the people of some local areas. This card shows the permanent address of you. And it allows other people to successfully guess the hometown of your parents.''

One Portuguese man studying in the United States reported an obsession with identity in his country:

''I keep losing my ID. card, and people keep asking for it. It seems like it's needed for just about everything I want to do, and I should really carry it around my neck or have it tattooed on my palm. The information on it is needed for everything. Many buildings, perhaps most, will have a clerk sitting at a ''reception desk'' who will ask you for your id. They will keep it and give it back to you when you leave. Few people seem bothered with this, but then they don't keep loosing they're cards like I do. So I usually threw a little tantrum ''Are we under curfew? Why do I have to carry my id with me anyway?'' Our tolerant culture invariably leads the clerk to take whatever other document I happen to be carrying—usually my bus pass, which I loose less often. After a while I surrender and go get myself a new id. card. It take ½ a day or more to do this and—guess what—you need your old id. card. It's more complicated if you've lost it. Then finally I am legal again for a while. It's partly due to the Portuguese obsession with identity. Everyone carries both they're mother's and father's last names.''

Others confirmed the traditional problem of counterfeiting:

It costs only 300 rupees ($10) to get a counterfeit ID card. The system hardly works. We all know how fake IDs (one guy's photo, another one's name) can be obtained so people can have their friends take GREs and TOEFLs (national tests) for them.

Mr. SMITH of New Hampshire. Mr. President, when my colleagues come down here to vote, I want you to look around at some of the statues and portraits in this building.

What would some of these great men, Washington, Jefferson, Adams—our founding fathers—what would they think about the government they created setting up a system requiring every law-abiding citizen to carry a national ID card.

Is this what the Constitution intended?

Does the Tenth Amendment allow the Federal Government to dictate what information state governments must put on their drivers' licenses?

For the sake of nabbing a few illegal aliens—which a national ID card will not do—is it worth inconveniencing tens of millions of law-abiding American citizens and costing Federal, state, and local governments millions of dollars?

Mr. President, I again thank the managers for accepting this amendment to protect the rights of all Americans by opposing this misguided section in the law creating a National ID Card.●

THE INGHAM COUNTY WOMEN'S COMMISSION 25TH ANNIVERSARY

● Mr. ABRAHAM. Mr. President, I rise today to acknowledge and congratulate the Ingham County Women's Commission, as they celebrate their 25th Anniversary.

The Ingham County Women's Commission has taken great strides to meet the needs of women since it was founded in 1974. The commission, originally established to serve as a study and research center focusing on the issues concerning women in the county, was restructured in 1976 and took on an advisory role to the Board of Commissioners. They now focus on issues that impact the women of the county. They have continued their efforts in researching better ways to meet the needs of women through county resources.

What is truly remarkable about this select group is their dedication to helping enrich the lives of women. They work closely with the Equal Opportunity Commission to overcome discrimination against women. The commission also provides many important and beneficial services to women. Their greatest accomplishments include involvement with the New Way In and Rural Emergency Outreach and the provision of acquittance rape education for high school students. Additionally, they have experienced vast success in helping raise awareness of women's issues by developing a sexual harassment policy for county employees, sponsoring the Ingham County Sexual Assault Task Force and the Michigan Council of Domestic Violence.

This important group of women are to be commended for their accomplishments over the last 25 years. Their hard work and dedication to conveying the importance of women's issues will benefit many women for years to come.●

WITHDRAWAL OF COSPONSORSHIP

● Mr. BURNS. Mr. President, I rise today to withdraw my name as a cosponsor of Senate bill S. 1172, the Drug Patent Term Restoration Review Procedures Act of 1999. After much research and thought I have decided to do this for the senior citizens of Montana.

When I signed on this bill I believed that it was the right thing to do. Helping companies that have invested millions of dollars in research and development, only to see their property protections eroded by administrative delays, concerned me and I felt it was a good bill to help sponsor.

After many meetings, lots of research and careful thought I have now come to a different conclusion. I now believe that there is already an established patent extension process to compensate brand companies for regulatory delays. I feel that by allowing brand companies to seek additional

patent life for so-called ''pipeline drugs,'' this bill will deprive consumers, and especially the elderly with their limited incomes, the opportunity to purchase the more affordable generic drug equivalent. Generic drugs are often priced 25-60% below the brand name product.

Mr. President, I feel that this is a good bill, but if I continue to support S. 3372 I would be blocking patient access to generic medicines for three more years, forcing millions of Americans to pay inflated prices for these drugs. I cannot do this to the senior citizens in my great state. They are having a tough time getting by as is. Higher drug prices just add to their problems.●

ORDERS FOR FRIDAY, SEPTEMBER 17 AND TUESDAY, SEPTEMBER, 21, 1999

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 10 a.m. on Friday, September 17, for a pro forma session only. No business will be transacted during Friday's session of the Senate, and immediately following the pro forma session, the Senate will stand in adjournment until 2:15 p.m. on Tuesday, September 21.

I further ask that on Tuesday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed to have expired, the time for the two leaders be reserved, and there be a period for morning business until 5:30 p.m., with Members permitted to speak for up to 10 minutes each, with the following exceptions: the time from 2:15 to 3:15 to be under the control of Senator DURBIN or his designee; the time from 3:15 to 4:15 to be under the control of Senator THOMAS or his designee.

I further ask that the time from the conclusion of the THOMAS time until the 5:30 p.m. cloture votes be equally divided between Senator HATCH and Senator TORRICELLI or their designees.

Mr. LOTT. I also ask consent that it be in order for committees to file reported items from 10 a.m. to 11 a.m on Friday, September 17.

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

PROGRAM

Mr. LOTT. For the information of all Senators, the Senate will reconvene on Friday. As I said, it is a pro forma session. The Senate will not be in session Monday in order to honor the holy day of Yom Kippur. The Senate will reconvene at 2:15 on Tuesday and conduct morning business until 5:30.

At that time, there could be possibly two back-to-back rollcall votes. There will be at least one. The first vote is on a motion to invoke cloture on the bankruptcy bill. The second, if necessary, will be on the judicial nomination.

I also remind Members, the fiscal year is coming to an end, and they will be expected to be here next week so we can complete action on the HUD–VA appropriations bill by the close of business next Friday.

Mr. REID. Mr. President, I ask the majority leader if he would amend his unanimous consent request to include the Senator from Wisconsin, Mr. FEINGOLD, being allowed to speak on a matter dealing with East Timor, and then we would automatically go out of session.

Mr. LOTT. On Monday?

Mr. REID. Right now.

Mr. LOTT. Yes.

How much time does the Senator require?

Mr. FEINGOLD. Mr. President, I first have a unanimous consent and, pending the outcome, I ask to speak for up to 5 minutes.

Mr. LOTT. Reserving the right to object, is the Senator making a unanimous consent request?

Mr. FEINGOLD. I ask if it is appropriate to make my unanimous consent request?

Mr. LOTT. Mr. President, I want to make sure I understand what the Senator is asking. I have to object, if you want to make that request.

Mr. FEINGOLD. I ask unanimous consent that the Senate Foreign Relations Committee be discharged from consideration of S. 1568; that S. 1568 be taken up; that the amendment being offered by myself, Mr. HELMS, and Mr. HARKIN be adopted, and I ask unanimous consent to pass S. 1568, as amended.

Mr. LOTT. Mr. President, I object. I say to the Senator, this came at the last moment. I have not had a chance to check it out. I have Senators gone for the day with whom I have to check. I am sure we will work with the Senator on this tomorrow or next week.

At this time, I object.

The PRESIDING OFFICER. The objection is heard.

ORDER FOR ADJOURNMENT

Mr. LOTT. If there is no further business to come before the Senate, I ask the Senate stand in adjournment under the previous order, following the remarks of Senator FEINGOLD of Wisconsin.

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

Mr. FEINGOLD. Mr. President, reserving the right to object, I know Senator REED of Rhode Island would also like to address this issue briefly. So I ask he also, if he could, be allowed 5 minutes to address this issue after my remarks.

Mr. LOTT. Mr. President, I certainly will accommodate any Senator who wishes to speak. I have been the one who has kept us here all day. I will note one thing. The wind is picking up, the rain is coming in from the west, it is going to get worse, and it is 5:20. We do need to allow Senators and staff to go home. They have been very diligent to be here today but, again, please within reason I hope you will accommodate that, and I amend my remarks to say we will terminate the business following the remarks of Senator FEINGOLD and Senator REED, if he so wishes.

The PRESIDING OFFICER. Hearing no objection, it is so ordered.

The Senator from Wisconsin.

EAST TIMOR SELF-DETERMINATION ACT OF 1999

Mr. FEINGOLD. Mr. President, I sought a few minutes ago to get unanimous consent to have the Senate pass the East Timor Self-Determination Act of 1999, and I am extremely pleased with the support we received from both sides of the aisle on it. Apparently, there was some objection to taking this step by unanimous consent today. Time is clearly of the essence with regard to this very important legislation, in light of the situation in East Timor. We must send a strong statement from the Senate. We have to send a clear message to Jakarta that the Government of Indonesia must live up to its commitment to the people of East Timor. So I will again seek, along with Senator REED, Senator HARKIN, Senator LEAHY and others, early next week when we come back, to have this passed.

I especially thank the Senator from Rhode Island, Mr. REED, the Senator from Vermont, Mr. LEAHY, and the Senator from Iowa, Mr. HARKIN, for their longstanding commitment to realize self-determination for people of East Timor. I especially thank the chairman and the ranking member of the Senate Committee on Foreign Relations and the chairman and ranking member of the Subcommittee on East Asian and Pacific Affairs, Mr. THOMAS and Mr. KERRY, for their work to ensure swift passage of this important legislation by the Senate.

I reiterate, the chairman, Senator HELMS, has been enormously helpful in getting this bill through the committee, discharged from committee, and out to the Senate floor. This legislation is crucial to maintaining pressure on the Indonesian Government to live up to the obligations it has made to the people of East Timor and to the international community, including its commitment to admit and cooperate with an international peacekeeping force in East Timor. The bill suspends all military and most economic assistance to the Government of Indonesia, including assistance still in the pipeline, until the President determines the Government of Indonesia is cooperating with the efforts by the international community to establish a safe and secure environment in East Timor and is taking a series of specific, significant steps to that end.

I also take this moment to applaud the U.N. Security Council on its passage of a resolution authorizing the deployment of a multinational force to

East Timor, and to commend the nation of Australia and other countries in the region that have agreed to provide troops for that force.

I reiterate what I believe are the next crucial steps that have to be taken so the people of East Timor can finally realize the independence they so clearly on August 30 expressed a desire to have.

The international peacekeeping force must be deployed as rapidly as possible. We must quickly and concisely define the scope of a limited U.S. role in the peacekeeping mission. The international community must keep pressure on Indonesia, pressure that will be brought to bear by this legislation. The peacekeepers, humanitarian workers, and war crimes investigators must be allowed full access to East Timor.

Again, it is my hope this will be taken up quickly next week.

Mr. President, I ask unanimous consent the text of the amendment which Senator HELMS and I and Senator HARKIN have offered as a substitute be printed in the RECORD.

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

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''East Timor Self-Determination Act of 1999''.

SEC. 2. FINDING; PURPOSE.

(a) CONGRESSIONAL FINDING.—Congress recognizes that the Government of Indonesia took a positive and constructive step by agreeing on September 12, 1999, to the deployment of an international peacekeeping force to East Timor.

(b) PURPOSE.—The purpose of this Act is to encourage the Government of Indonesia to take such additional steps as are necessary to create a peaceful environment in which the United Nations Assistance Mission in East Timor (UNAMET) can fulfill its mandate and implement the results of the August 30, 1999, vote on East Timor's political status.

SEC. 3. SUSPENSION OF ECONOMIC ASSISTANCE.

(a) MULTILATERAL ECONOMIC ASSISTANCE.—

(1) IN GENERAL.—Except as provided in subsection (c), the Secretary of the Treasury shall instruct the United States executive directors to the international financial institutions to oppose, and vote against, any extension by those institutions of any financial assistance (including any technical assistance or grant) of any kind to the Government of Indonesia.

(2) SENSE OF CONGRESS.—It is the sense of Congress that the international financial institutions should withhold the balance of any undisbursed approved loans or other assistance to the Government of Indonesia.

(3) INTERNATIONAL FINANCIAL INSTITUTIONS DEFINED.—In this subsection, the term ''international financial institution'' includes the International Monetary Fund, the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Multilateral Investment Guaranty Agency, and the Asian Development Bank.

(b) RESTRICTION ON BILATERAL ECONOMIC ASSISTANCE.—Except as provided in subsection (c), none of the funds appropriated or otherwise made available to carry out chapter 1 of part I (relating to development assistance) or chapter 4 of part II (relating to economic support fund assistance) of the Foreign Assistance Act of 1961 may be available for Indonesia, except subject to the procedures applicable to reprogramming notifications under section 634A of that Act.

(c) EXCEPTION.—Subsections (a) and (b) shall not apply to the provision of humanitarian assistance (such as food or medical assistance) to Indonesia or East Timor.

(d) CONDITIONS FOR TERMINATION.—The measures described in subsections (a) and (b) shall apply until the President determines and certifies to the appropriate congressional committees that the Government of Indonesia is cooperating with efforts by the international community to establish a safe and secure environment in East Timor and is taking significant steps to—

(1) end the violence perpetrated by units of the Indonesian armed forces and by armed militias opposed to the independence of East Timor;

(2) enable displaced persons and refugees to return home;

(3) ensure freedom of movement within East Timor, including access by humanitarian organizations to all areas of East Timor; and

(4) enable UNAMET to resume its mandate, without threat or intimidation to its personnel.

SEC. 4. SUSPENSION OF SECURITY ASSISTANCE.

(a) PROHIBITIONS ON COOPERATION AND SUPPORT.—

(1) ASSISTANCE.—None of the funds appropriated or otherwise made available under the following provisions of law (including unexpended balances of prior year appropriations) may be available for Indonesia:

(A) The Foreign Military Financing Program under section 23 of the Arms Export Control Act.

(B) Chapter 2 of part II of the Foreign Assistance Act of 1961 (relating to military assistance).

(C) Chapter 5 of part II of the Foreign Assistance Act of 1961 (relating to international military education and training assistance).

(2) LICENSING.—None of the funds appropriated or otherwise made available under the following provisions of law (including unexpended balances of prior year appropriations) may be available for licensing exports of defense articles or defense services to Indonesia under section 38 of the Arms Export Control Act.

(3) DELIVERIES.—No defense article or defense service may be exported or delivered to Indonesia or East Timor by any United States person (as defined in section 16 of the Export Administration Act of 1979 (50 U.S.C. app. 2415) or any other person subject to the jurisdiction of the United States except as may be necessary to support the operations of an international peacekeeping force in East Timor or in connection with the provision of humanitarian assistance.

(b) CONDITIONS FOR TERMINATION.—The measures described in subsection (a) shall apply with respect to the Government of Indonesia until the President determines and certifies to the appropriate congressional committees that—

(1) a generally safe and secure environment exists in East Timor, including—

(A) an end to the violence perpetrated by units of the Indonesian armed forces and by armed militias opposed to the independence of East Timor;

(B) the ability of displaced persons and refugees to return home;

(C) freedom of movement within East Timor, including access by humanitarian organizations to all areas of East Timor; and

(D) the ability of UNAMET to resume its mandate, without threat or intimidation to its personnel;

(2) the armed forces of Indonesia clearly—

(A) have ceased engaging in violence in East Timor;

(B) have ceased their support and training of armed militias opposed to the independence of East Timor; and

(C) are withdrawing their forces from East Timor in cooperation with a United Nations-supervised process of transferring sovereignty from Indonesia to an independent East Timor; and

(3) significant steps have been taken to implement the results of the August 30, 1999, vote on East Timor's political status, which expressed the will of a majority of the Timorese people.

SEC. 5. MULTILATERAL EFFORTS.

The President should continue to coordinate with other countries, particularly member states of the Asia-Pacific Economic Cooperation (APEC) Forum, to develop a comprehensive, multilateral strategy to further the purposes of this Act, including urging other countries to take measures similar to those described in this Act.

SEC. 6. APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.

In this Act, the term ''appropriate congressional committees'' means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on International Relations and the Committee on Appropriations of the House of Representatives.

Mr. FEINGOLD. Mr. President, I received a note that Senator REED will not be able to join us on this short notice, according to his staff. I do want to take this last moment to say Senator REED has been an extremely devoted Senator with regard to this issue, in fact, taking what I consider to be the rather courageous and difficult step of going to East Timor just prior to the election. Of course, we all know what happened subsequently.

I express my admiration and thanks to Senator REED of Rhode Island for his work on this issue. I am sure he will address this at a future time.

I yield the floor.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

The PRESIDING OFFICER. The Senate, under the previous order, will stand adjourned until 10 a.m., Friday, September 17, 1999.

Thereupon, the Senate, at 5:25 p.m., adjourned until Friday, September 17, 1999, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate September 16, 1999:

THE JUDICIARY

KATHLEEN MCCREE LEWIS, OF MICHIGAN, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SIXTH CIRCUIT, VICE CORNELIA G. KENNEDY, RETIRED.

ENRIGUE MORENO, OF TEXAS, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIFTH CIRCUIT, VICE WILLIAM L. GARWOOD, RETIRED.

IN THE COAST GUARD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES COAST GUARD TO THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 271:

To be rear admiral (lower half)

CAPT. VIVIEN S. CREA, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES COAST GUARD TO THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 271:

To be rear admiral (lower half)

CAPT. KENNETH T. VENUTO, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES COAST GUARD TO THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 271:

To be rear admiral (lower half)

CAPT. JAMES W. UNDERWOOD, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES COAST GUARD TO THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 271:

To be rear admiral (lower half)

CAPT. JAMES C. OLSON, 0000.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. JOHN W. HENDRIX, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. KEVIN P. BYRNES, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. JAMES C. RILEY, 0000.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. JOHN A. VAN ALSTYNE, 0000.

Daily Digest

HIGHLIGHTS

Senate passed Transportation Appropriations bill, Conference Report on Treasury/Postal Service Appropriations, and Conference Report on District of Columbia Appropriations.

Senate

Chamber Action

Routine Proceedings, pages S10963–S11071

Measures Introduced: Nine bills were introduced, as follows: S. 1593–1601. **Page S11053**

Measures Reported: Reports were made as follows:

S. 1214, to ensure the liberties of the people by promoting federalism, to protect the reserved powers of the States, to impose accountability for Federal preemption of State and local laws, with amendments. (S. Rept. No. 106–159)

Report to accompany S. 1389, to provide additional trade benefits to certain beneficiary countries in the Caribbean. (S. Rept. No. 106–160)

S. 1596, making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 2000. (S. Rept. No. 106–161)

S. Res. 178, designating the week beginning September 19, 1999, as ''National Historically Black Colleges and Universities Week''. **Page S11053**

Measures Passed:

Transportation Appropriations: By a unanimous vote of 95 yeas (Vote No. 278), Senate passed H.R. 2084, making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2000, after taking action on the following amendments proposed thereto:

Pages S10964–65, S10968–81

Adopted:

Lautenberg Amendment No. 1678, to express the sense of the Senate that the Secretary of Transportation should double the applicable penalties for involuntary denied boardings and allow those passengers that are involuntarily denied boarding the option of obtaining a prompt cash refund for the full value of their airline ticket. **Pages S10964–65**

Landrieu (for Daschle) Modified Amendment No. 1679, to express the sense of the Senate that certain funds be made available to monitor and report on the transfer of passenger air transportation tickets among airlines. **Pages S10968–71**

Shelby (for Reid) Amendment No. 1673, to provide for the transfer of funds to the State of California for use on High Priority Project No. 829, Widen I–15 in San Bernardino County. **Page S10971**

Shelby (for Thomas) Amendment No. 1667, to provide that the cost sharing provisions of Section 5001(b) of the Transportation Equity Act for the 21st Century shall not apply. **Page S10971**

Shelby (for Durbin) Modified Amendment No. 1666, to express the Sense of the Senate regarding the need for reimbursement to the Village of Bourbonnais and Kankakee County, Illinois, for crash rescue and cleanup incurred in relation to the March 15, 1999, Amtrak train accident. **Page S10971**

Shelby/Lautenberg Amendment No. 1680, to make certain improvements to the bill. **Page S10972**

Senate insisted on its amendment (all previously agreed to amendments to the bill are being considered second degree amendments to Amendment No. 1624, adopted on September 14, 1999), requested a conference with the House thereon, and the Chair was authorized to appoint the following conferees on the part of the Senate: Senators Shelby, Domenici, Specter, Bond, Gorton, Bennett, Campbell, Stevens, Lautenberg, Byrd, Mikulski, Reid, Kohl, Murray, and Inouye. **Page S10981**

National Home Education Week: Committee on the Judiciary was discharged from further consideration of S. Res. 183, designating the week beginning on September 19, 1999, and ending on September 25, 1999, as National Home Education Week, and the resolution was then agreed to. **Page S11048**

National Historically Black Colleges and Universities Week: Senate agreed to S. Res. 178, designating the week beginning September 19, 1999, as ''National Historically Black Colleges and Universities Week''. **Pages S11048–49**

Day of National Concern About Young People and Gun Violence: Committee on the Judiciary was discharged from further consideration of S. Res. 158, designating October 21, 1999, as a ''Day of National Concern About Young People and Gun Violence'', and the resolution was then agreed to. **Page S11049**

Family Friendly Programming: Committee on Commerce, Science, and Transportation was discharged from further consideration of S. Con. Res. 56, expressing the sense of Congress regarding the importance of ''family friendly'' programming on television, and the resolution was then agreed to. **Page S11049**

Bankruptcy Reform: Senate began consideration of S. 625, to amend title 11, United States Code. **Pages S10981–S11013**

A motion was entered to close further debate on the bill and, in accordance with the provisions of Rules XXII of the Standing Rules of the Senate, a vote on the cloture motion will occur at 5:30 p.m., on Tuesday, September 21, 1999. **Page S11013**

Treasury/Postal Service Appropriations—Conference Report: By 54 yeas to 38 nays (Vote No. 277), Senate agreed to the conference report on H.R. 2490, making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 2000. **Pages S10965–68**

District of Columbia Appropriations—Conference Report: By 52 yeas to 39 nays (Vote No. 279), Senate agreed to the conference report on H.R. 2587, making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against revenues of said District for the fiscal year ending September 30, 2000. **Pages S11024–28**

National Defense Authorization—Agreement: A unanimous-consent-time agreement was reached providing for the consideration of the conference report on S. 1059, to authorize appropriations for fiscal year 2000 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces. **Page S10971**

Removal of Injunction of Secrecy: The injunction of secrecy was removed from the following treaty:

1977 Amendment to Montreal Protocol (Treaty Doc. No. 106–10).

The treaty was transmitted to the Senate today, considered as having been read for the first time, and referred, with accompanying papers, to the Committee on Foreign Relations and was ordered to be printed. **Page S11048**

Nomination—Agreement: A unanimous-consent agreement was reached providing that notwithstanding Rule 22 it be in order for the Majority Leader to file a cloture motion on the nomination of Brian Theadore Stewart, to be United States District Judge for the District of Utah, at 5:30 on Tuesday, September 21, 1999, and if that motion is filed that vote occur on Tuesday, immediately following the cloture vote at 5:30 p.m. **Pages S11039–41**

Authority for Committees: All committees were authorized to file reported items during the adjournment of the Senate on Friday, September 17, 1999, from 10 a.m. to 11 a.m. **Page S11069**

Messages From the President: Senate received the following messages from the President of the United States:

A message from the President of the United States transmitting, a draft of proposed legislation entitled ''Cyberspace Electronic Security Act of 1999'' (CESA); to the Committee on the Judiciary. (PM–57). **Page S11050**

Nominations Received: Senate received the following nominations:

Kathleen McCree Lewis, of Michigan, to be United States Circuit Judge for the Sixth Circuit.

Enrigue Moreno, of Texas, to be United States Circuit Judge for the Fifth Circuit.

4 Army nominations in the rank of general.

4 Coast Guard nominations in the rank of admiral. **Pages S11070–71**

Messages From the President: **Page S11050**

Messages From the House: **Page S11050**

Measures Referred: **Page S11050**

Measures Read First Time: **Page S11050**

Communications: **Pages S11050–51**

Petitions: **Pages S11051–53**

Statements on Introduced Bills: **Pages S11053–59**

Additional Cosponsors: **Pages S11059–60**

Amendments Submitted: **Pages S11060–61**

Authority for Committees: **Pages S11061–62**

Additional Statements: **Pages S11062–69**

Record Votes: Three record votes were taken today. (Total—279) **Pages S10968, S10981, S11028**

Adjournment: Senate convened at 9:30 a.m., and adjourned at 5:25 p.m., until 10 a.m., on Friday, September 17, 1999, for a pro forma session. (For Senate's program, see the remarks of the Majority Leader in today's Record on page S11069.)

Committee Meetings

(Committees not listed did not meet)

APPROPRIATIONS—VA/HUD

Committee on Appropriations: Committee ordered favorably reported an original bill (S. 1596), making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2000.

PACIFIC NORTHWEST FOREST PLAN

Committee on Energy and Natural Resources: Subcommittee on Forests and Public Land Management concluded oversight hearings on the Administration's Pacific Northwest Forest Plan, after receiving testimony from James Furnish, Deputy Chief, Forest Service, Department of Agriculture, who was accompanied by several of his associates.

FOREIGN MISSILE DEVELOPMENT

Committee on Foreign Relations: Committee concluded hearings on foreign missile developments and the ballistic missile threat to the United States through 2015, after receiving testimony from Bob Walpole, National Intelligence Officer for Strategic and Nuclear Programs, Central Intelligence Agency.

SECURITIES DAY TRADING INDUSTRY

Committee on Governmental Affairs: Permanent Subcommittee on Investigations held hearings on the practices and operations of the securities day trading industry, focusing on the similar characteristics to gambling, advertising practices, and the impact on the stability of the markets, receiving testimony from Arthur Levitt, Jr., Chairman, U.S. Securities and Exchange Commission; Mary L. Schapiro, NASD Regulation, Inc., Washington, D.C.; Peter C. Hildreth, New Hampshire Bureau of Securities, Concord, and David Shellenberger, Commonwealth of Massachusetts Securities Division, Boston, both on behalf of the North American Securities Administrators Association; and Saul S. Cohen, Electronic Traders Association, New York, New York.

Hearings recessed subject to call.

POSTMASTER GENERAL ANNUAL REPORT

Committee on Governmental Affairs: Subcommittee on International Security, Proliferation and Federal Services concluded hearings on the annual report of the Postmaster General, after receiving testimony from William J. Henderson, Postmaster General/Chief Executive Officer, United States Postal Service.

BUSINESS MEETING

Committee on the Judiciary: Committee ordered favorably reported S. Res. 178, designating the week beginning September 19, 1999, as ''National Historically Black Colleges and Universities Week''.

OFFICE OF JUSTICE PROGRAMS REORGANIZATION PLAN

Committee on the Judiciary: Subcommittee on Youth Violence concluded oversight hearings on activities of the Department of Justice Office of Justice Programs and to examine a proposed reorganization plan, after receiving testimony from Laurie Robinson, Assistant Attorney General, Office of Justice Programs, Department of Justice; Alfred Blumstein, Carnegie Mellon University H. John Heinz, III School of Public Policy and Management, Pittsburgh, Pennsylvania; Gene R. Voegtlin, International Association of Chiefs of Police, Alexandria, Virginia; and Donna F. Edwards, National Network to End Domestic Violence, Washington, D.C.

CHILDREN'S HEALTH

Committee on Health, Education, Labor, and Pensions: Subcommittee on Public Health held hearings to examine issues relating to children's health, focusing on autism, asthma, and traumatic brain injury, receiving testimony from Senators Gorton, Bond, and Durbin; Nicole Lurie, Principal Deputy Assistant Secretary of Health and Human Services for Health; Anthony Edwards, Cure Autism Now, Los Angeles, California; Geraldine Dawson, University of Washington, Seattle; Laura Lloyd, Autism Society of Middle Tennessee, and Dennis C. Stokes, Vanderbilt University School of Medicine, on behalf of the American Lung Association, both of Nashville, Tennessee; John C. Carl, Case Western Reserve University School of Medicine, and Robert Jackson, both of Cleveland, Ohio; Carlos Camargo, Massachusetts General Hospital, Boston; Allan I. Bergman, Brain Injury Association, Inc., Alexandria, Virginia; Augusta W. Cash, Alabama Department of Rehabilitation, Birmingham, on behalf of the National Association of State Head Injury Administrators; and Sue Mallonee, Oklahoma Department of Health, Oklahoma City.

Hearings recessed subject to call.

INTELLIGENCE

Select Committee on Intelligence: Committee held closed hearings on intelligence matters, receiving testimony from officials of the intelligence community.

Committee will meet again on Wednesday, September 22.

House of Representatives

Chamber Action

The House was not in session today. It will meet on Friday, September 17, in a pro forma session.

Committee Meetings

OVERSIGHT—NORTHERN MARIANA ISLANDS

Committee on Resources: Held an oversight hearing on the enforcement of Federal laws and the use of Federal funds in the Northern Mariana Islands. Testimony was heard from John Berry, Assistant Secretary, Policy, Management and Budget, Department of the Interior; John R. Fraser, Deputy Administrator, Wage and Hour Division, Employment Standards Administration, Department of Labor; Donald K. Shruhan, Jr., Executive Director, Domestic Operations West, U.S. Customs Service, Department of the Treasury; Nicholas M. Gess, Associate Deputy Attorney General, Department of Justice; the following officials of the Northern Mariana Islands: Pedro P. Tenorio, Governor; Paul Manglona, President of the Senate and Diego T. Benavente, Speaker, both with the Legislature; and Juan N. Babauta, Resident Representative of the Islands; and public witnesses.

COMMITTEE MEETINGS FOR FRIDAY, SEPTEMBER 17, 1999

Senate

No meetings/hearings scheduled.

House

No committee meetings are scheduled.

CONGRESSIONAL PROGRAM AHEAD

Week of September 20 through September 25, 1999

Senate Chamber

On *Monday,* Senate will not be in session.

On *Tuesday,* Senate will vote on the motion to close further debate on S. 625, Bankruptcy Reform, at 5:30 p.m.; Also, Senate may vote on the motion to close further debate on the nomination of Brian Theadore Steward, to be United States District Judge for the District of Utah.

During the balance of the week, Senate will consider the conference report on S. 1059, National Defense Authorization, and expects to complete consideration of H.R. 2466, Department of the Interior Appropriations, and begin consideration of S. 1596, VA/HUD Appropriations, and consider any other cleared legislative and executive business, including appropriation bills and conference reports, when available.

Senate Committees

(Committee meetings are open unless otherwise indicated)

Committee on Agriculture, Nutrition, and Forestry: September 23, to hold hearings on the nomination of Paul W. Fiddick, of Texas, to be an Assistant Secretary of Agriculture; and the nomination of Andrew C. Fish, of Vermont, to be an Assistant Secretary of Agriculture, and proposed legislation authorizing funds for the Commodity Exchange Act, focusing on the impact of electronic trading on regulation, 9 a.m., SH–216.

Committee on Armed Services: September 22, Subcommittee on Readiness and Management Support, to hold hearings to receive testimony on the national security requirements and continued training operations at the Vieques Training Range, 10 a.m., SR–222.

Committee on Banking, Housing, and Urban Affairs: September 23, business meeting to mark up the nomination of Harry J. Bowie, of Mississippi, to be a Member of the Board of Directors of the National Consumer Cooperative Bank; the nomination of John D. Hawke, Jr., of the District of Columbia, to be Comptroller of the Currency; the nomination of Dorian Vanessa Weaver, of Arkansas, to be a Member of the Board of Directors of the Export-Import Bank of the United States; the nomination of Dan Herman Renberg, of Maryland, to be a Member of the Board of Directors of the Export-Import Bank of the United States; and the nomination of Roger Walton Ferguson, Jr., of Massachusetts, to be Vice Chairman of the Board of Governors of the Federal Reserve System, and proposed legislation authorizing funds for the Export Administration Act, 10 a.m., SD–538.

Committee on Energy and Natural Resources: September 22, business meeting to consider pending calendar business, 9:30 a.m., SD–366.

September 23, Full Committee, to hold oversight hearings to explore the potential consequences of the year 2000 computer problem to the Nation's supply of electricity, 9:30 a.m., SD–366.

Committee on Environment and Public Works: September 23, to hold hearings on the nomination of Richard A. Meserve, of Virginia, to be a Member of the Nuclear Regulatory Commission; the nomination of Paul L. Hill, Jr., of West Virginia, to be Chairperson of the Chemical Safety and Hazard Investigation Board; the nomination of Major General Phillip R. Anderson, United States Army, to be a Member and President of the Mississippi River Commission, under the provisions of Section 2 of an Act of Congress, approved June 1879 (21 Stat. 37) (33 USC 642); the nomination of Sam Epstein Angel, of Arkansas, to be a Member of the Mississippi River Commission;

and the nomination of Brigadier General Robert H. Griffin, United States Army, to be a Member of the Mississippi River Commission, under the provisions of Section 2 of an Act of Congress, approved June 1879 (21 Stat. 37) (33 USC 642), 10 a.m., SD–406.

Committee on Foreign Relations: September 23, to hold hearings to examine issues on corruption in Russia, 2:30 p.m., SD–419.

Committee on Governmental Affairs: September 23, Subcommittee on Oversight of Government Management, Restructuring and the District of Columbia, to hold hearings to examine quality management issues at the federal level, 9:30 a.m., SD–628.

Committee on Health, Education, Labor, and Pensions: September 21, to hold hearings on issues relating to hybrid pension plans, 9:30 a.m., SD–106.

Committee on Indian Affairs: September 22, to hold hearings on Indian trust fund reform, 9:30 a.m., SR–485.

Select Committee on Intelligence: September 22, to hold closed hearings on pending intelligence matters, 2 p.m., SH–219.

September 23, Full Committee, to hold closed hearings on pending intelligence matters, 2 p.m., SH–219.

Committee on the Judiciary: September 23, business meeting to consider pending calendar business, 10 a.m., SD–226.

September 23, Subcommittee on Immigration, to hold hearings to examine Immigration and Naturalization Service reform issues, 2 p.m., SD–226.

United States Senate Caucus on International Narcotics Control: September 21, to hold hearings on counterinsurgency vs. counter-narcotics issues in regards to Colombia, 9 a.m., SH–216.

House Chamber

To be announced.

House Committees

Committee on Agriculture, September 22, to consider H.R. 2389, County Schools Funding Revitalization Act of 1999, 10 a.m., 1300 Longworth.

Committee on Armed Services, September 22, Subcommittee on Military Readiness, hearing on readiness implications concerning the Atlantic Fleet Training Center, Vieques, Puerto Rico, 1 p.m., 2118 Rayburn.

Committee on Banking and Financial Services, September 21 and 22, hearings on Russian Money Laundering, 10 a.m., 2128 Rayburn.

Committee on the Budget, September 23, hearing on Fixing Our Schools From the Bottom Up, State, Local and Private Reform Initiatives, 10:30 a.m., 210 Cannon.

Committee on Commerce, September 22, Subcommittee on Finance and Hazardous Materials, to continue hearings on legislation to Improve the Comprehensive Environmental Response, Compensation, and Liability Act, focusing on the following bills: H.R. 1300, Recycle America's Land Act of 1999; and H.R. 2580, Land Recycling Act of 1999, 10 a.m., 2123 Rayburn.

September 22, Subcommittee on Health and Environment, hearing on H.R. 2418, Organ Procurement and Transplantation Network Amendments of 1999, 1 p.m., 2322 Rayburn.

September 23, Subcommittee on Oversight and Investigations, hearing on Blood Safety and Availability, 9:30 a.m., 2322 Rayburn.

Committee on Education and the Workforce, September 24, Subcommittee on Oversight and Investigations, hearing on Federal Prison Industries: Recommendations for Reforms, 9:30 a.m., 2175 Rayburn.

Committee on Government Reform, September 22, Subcommittee on the Census, oversight hearing of the 2000 Census: Discussion of the Effects of Including Puerto Rico in the 2000 U.S. Population Totals, 10 a.m., 2203 Rayburn.

September 23, full Committee, hearing on Fighting Prostate Cancer: Are We Doing Enough? 10 a.m., 2154 Rayburn.

September 24, Subcommittee on Criminal Justice, Drug Policy and Human Resources, hearing on Examining the Drug Threat Along the Southwest Border, 9:30 a.m., 2203 Rayburn.

September 24, Subcommittee on the District of Columbia, oversight hearing on the Status of the District of Columbia's Year 2000 Conversion Compliance and Technology Improvement Plan, 11 a.m., 2154 Rayburn.

Committee on International Relations, September 22, hearing on Prospects for Peace and Stability in Kosovo, 10 a.m., 2172 Rayburn.

September 22, Subcommittee on International Economic Policy and Trade, hearing on Trade in the Americas: Progress, Challenges, and Prospect, 2 p.m., 2200 Rayburn.

Committee on the Judiciary, September 23, Subcommittee on Commercial and Administrative Law, oversight hearing on the Abuses of Individual Rights by Independent Counsel, 10 a.m., 2237 Rayburn.

September 23, Subcommittee on the Constitution, hearing on H.R. 1173, States' Choice of Voting Systems Act, 10 a.m., 2226 Rayburn.

Committee on Resources, September 21, Subcommittee on Forests and Forest Health, oversight hearing on Survey and Manage Species on the National Forests, 2 p.m., 1334 Longworth.

September 22, full Committee, to consider pending business, 11 a.m., 1324 Longworth.

September 23, Subcommittee on Fisheries Conservation, Wildlife and Oceans, hearing on the following bills: H.R. 2496, to reauthorize the Junior Duck Stamp Conservation and Design Program Act of 1994; H.R. 2821, to amend the North American Wetlands Conservation Act to provide for appointment of 2 additional members of the North American Wetlands Conservation Council; and H.R. 1775, Estuary Habitat Restoration Act of 1999, 10 a.m., 1334 Longworth.

Committee on Science, September 22, Subcommittee on Technology and the Subcommittee on Basic Research, joint hearing on Overcoming Barriers to Utilization of Technology in the Classroom, 2 p.m., 2318 Rayburn.

September 23, Subcommittee on Space and Aeronautics, hearing on Space Shuttle Safety, 10 a.m., 2318 Rayburn.

September 23, Subcommittee on Technology, hearing on Small Manufacturing and the Challenges of the New Millennium, 1 p.m., 2318 Rayburn.

Committee on Transportation and Infrastructure, September 22, Subcommittee on Water Resources and Environment, hearing on TVA: Electricity Restructuring and General Oversight, 10 a.m., 2167 Rayburn.

Committee on Veterans' Affairs, September 22, to mark up the following measures: H.R. 1663, National Medal of Honor Memorial Act; and H.J. Res. 65, commending the World War II veterans who fought in the Battle of the Bulge, 10 a.m., 334 Cannon.

September 23, Subcommittee on Oversight and Investigations, hearing on fraud and mismanagement in the Department of Veterans Affairs, 10 a.m., 334 Cannon.

Committee on Ways and Means, September 22, Subcommittee on Health, hearing on Strengthening Medicare for Future Generations, 2 p.m., 1100 Longworth.

September 23, Subcommittee on Human Resources, oversight hearing of the Child Support Enforcement Program, 11 a.m., B–318 Rayburn.

Next Meeting of the SENATE

10 a.m., Friday, September 17

Senate Chamber

Program for Friday: Senate will be in a pro forma session.

Next Meeting of the HOUSE OF REPRESENTATIVES

10 a.m., Friday, September 17

House Chamber

Program for Friday: Pro forma session.

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