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PROCEEDINGS AND DEBATES OF THE 107th CONGRESS, FIRST SESSION

SENATE—*Tuesday, July 17, 2001*

The Senate met at 9 a.m. and was called to order by the Presiding Officer, the Honorable HILLARY RODHAM CLINTON, a Senator from the State of New York.

PRAYER

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

God of peace, we confess anything that may be disturbing our peace with You as we begin this day. We know that if we want peace in our hearts, we cannot harbor resentment. We seek forgiveness for any negative criticism, gossip, or destructive innuendos we may have spoken. Forgive any way that we have brought acrimony to our relationships instead of helping to bring peace into any misunderstanding among or between the people of our lives. You have shown us that being a reconciler is essential for continued, sustained experience of Your peace. Most of all, we know that lasting peace is the result of Your indwelling spirit, Your presence in our minds and hearts.

Show us how to be communicators of peace that passes understanding, bringing healing reconciliation, deeper understanding, and hope and communication.

In the name of the Prince of Peace. Amen.

PLEDGE OF ALLEGIANCE

The Honorable HILLARY RODHAM CLINTON 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.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 17, 2001.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HILLARY RODHAM CLINTON, a Senator from the State of New York, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mrs. CLINTON thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader.

SCHEDULE

Mr. DASCHLE. Madam President, today the Senate will resume consideration of the Bankruptcy Reform Act. The prior agreement called for 3 hours of debate prior to a rollcall vote on cloture of a substitute amendment at approximately 12 o'clock today. There will be a recess for the weekly party conferences from 12:30 to 2:15. We expect to return then to the Energy and Water Appropriations Act today, with rollcall votes on amendments expected throughout the afternoon.

Last week the Senate confirmed 53 nominations. I don't know that there has been a week in recent times where we have accomplished that much with regard to nominations. I expect to continue that level of progress this week. There are currently 10 nominations on the Executive Calendar. Our caucus is prepared to move immediately on 8 of those 10. One of the remaining two, Mr. GRAHAM, already has a time agreement regarding his consideration. I expect to be able to dispose of his nomination between the energy and water appropriations bill, which we will resume after the bankruptcy bill is sent to conference, and the Transportation appropriations bill. I also expect to dispose of the Ferguson nomination at that time.

The legislative branch appropriations bill is on the calendar. The committee staff has informed us that they know of no amendments. So we hope to be able to complete action on that bill as well this week.

If we can accomplish these items, including the Transportation bill, by the close of business on Thursday, then we will not have votes this Friday. If not, of course, we will then be on the bill on Friday with votes possible throughout the day.

That is the plan for the week. We will do bankruptcy this morning, energy and water this afternoon for whatever length of time it takes. Tomorrow we will do the Graham nomination, then the Transportation and legislative appropriations bills.

This will be a busy week but, I think, a productive week. Hopefully, we can accomplish a good deal by continuing to work together.

BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2001

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of H.R. 333, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 333) to amend title 11, United States Code, and for other purposes.

Pending:

Leahy/Hatch/Grassley amendment No. 974, in the nature of a substitute.

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be 3 hours for debate, 2 hours under the control of the Senator from Minnesota, Mr. WELLSTONE, and 1 hour to be equally divided between the chairman and ranking member of the Judiciary Committee or their designees.

The Senator from Iowa.

Mr. GRASSLEY. Madam President, I yield myself such time as I need from the time allotted to Senator HATCH.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GRASSLEY. Madam President, I urge my colleagues to support the cloture motion to substitute the language

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

of S. 420 to H.R. 333, the House bankruptcy bill.

As we all know, the substitute amendment to the House bill is the text of the bill that passed the Senate on March 15 by an overwhelmingly bipartisan vote of 83–15. This bill went through hearings and markups in Judiciary, went through an extensive amendment process on the floor, so no one can dispute that this is a bipartisan bill that has gone through a bipartisan process in the Senate.

The bill has gone through the regular order and we should proceed to conference under the regular order.

There are a lot of reports out there that have distorted the truth about this bill. Many groups have said this bill is very controversial. That is not the case. I first started working on bankruptcy reform back in the 1990s, when Senator Heflin, now retired, and I set up a Bankruptcy Review Commission to study the bankruptcy system. This commission was not made up of any Members of the Congress. It was made up of experts in the area of bankruptcy to study the issue so that what we did in this Chamber, with their recommendations, would be done right.

The debate that set up the Bankruptcy Review Commission was prompted by small business and other small proprietors that had problems with individuals who were reneging on their debts but then turned out, it seemed, to have the ability to pay their bills. The impact on these small businesses, obviously, was significant: Prices had to be raised for items; maybe some businesses went out of business. When that happens, employees are laid off. There is no sense having this economic condition, not because we want to deny people a fresh start, because it has been a policy of our bankruptcy laws to let people have a fresh start when they are in financial straits through no fault of their own—natural disaster, high medical bills, et cetera—but when people have the ability to repay, then they should not get off scot-free and cause employees of businesses that go out of business to lose jobs.

We want to be fair to everybody. You can't be fair to businesses and employees that lose their businesses and jobs when somebody who has the ability to pay bills gets off without paying those bills.

I was interested in what was going on in the bankruptcy system in the early 1990s when we set up this commission because of my concern about fundamental fairness.

Why should people get out of repaying their debts if they can pay them? The issue is not new. In fact, the issue of bankruptcy and personal responsibility has been debated since the 1930s, and Congress has made numerous attempts to decrease the moral stigma associated with bankruptcy. As in previous versions of the bankruptcy bill, the language in the substitute amendment is part of an effort to ensure that bankruptcy is reserved for those who truly need it, and that persons with the means to repay their debts should assume their responsibilities.

Some say this bill is unfair and unbalanced because it makes it harder for normal people to avail themselves of bankruptcy. This is just not true either.

First, the bankruptcy bill applies to everyone, rich and poor, and the premise behind the bill—that you should pay your debts if you can—does not discriminate against poor people. In fact, there is a safe harbor provision for lower income people. The bill specifically exempts people who earn less than the median income for their State. And for those consumers to which the bill does apply, the means test that is set forth in the bill is flexible, as it should be. It takes into account the reasonable expenses of a debtor as applicable under standards not set by me but issued by the IRS for the area in which the debtor resides. The means test permits every person to deduct 100 percent of medical expenses. The means test permits every person to deduct expenses for the support and care of elderly parents, grandparents, and disabled children. In addition, the means test would permit battered women to deduct domestic violence expenses and protects their privacy. Furthermore, the means test allows every consumer to show ''special circumstances'' to avoid a repayment plan, just in case there is something within this formula that just doesn't fit every particular family in America.

Let me again remind people about the enhanced consumer protections and credit card disclosures that are contained in the bill. The bankruptcy bill requires credit card companies to provide key information about how much a customer owes on his credit card, as well as how long it is going to take to pay off the balance by making just a minimum payment. We do that by requiring that the credit card companies set up a toll-free number for consumers to get information on their specific credit card balances.

The bill prohibits deceptive advertising of low introductory rates. The bill provides for penalties on creditors who refuse to renegotiate reasonable payment schedules outside of bankruptcy. The bill strengthens enforcement against abusive creditors and increases penalties for predatory debt collection practices. The bill also includes credit counseling programs to help avoid and break the cycle of indebtedness.

Let me remind colleagues about the provisions contained in this bill that will help women and children because there has been a dramatic change in the direction of this legislation when it was introduced three Congresses ago until it now has reached the point where it is today. The bill before us makes family support obligations the first priority in bankruptcy. The bill makes staying current on child support a condition of discharge. The bill gives parents and State child support enforcement collection agencies notice when a debtor who owes child support or alimony files for bankruptcy. It also requires bankruptcy trustees to notify child support creditors of their right to use State support child support enforcement agencies to collect outstanding amounts due. The bill also permits battered women to deduct domestic violence expenses and protects their privacy in bankruptcy.

I also remind colleagues that we adopted a number of amendments in the Judiciary Committee and in this Chamber that make this a bipartisan bill. It started out as a bipartisan bill anyway, through the help of Senator TORRICELLI of New Jersey. If I am correct, I believe we adopted something on the order of 8 amendments in the Judiciary Committee and 30 amendments on the floor of the Senate. For example, the Senate adopted an amendment that, for the first time, would protect consumer privacy when businesses go into bankruptcy. Specifically, the Senate agreed that personally identifiable information given by a consumer to a business debtor in bankruptcy should have privacy protections. The Senate also created a consumer privacy ombudsman in the bankruptcy court.

The Senate agreed to amendments that expand farmer eligibility in bankruptcy and facilitate postbankruptcy proceedings for farmers. The list goes on. While I did not agree with all of the amendments adopted, the Senate went through a lengthy and fair process. That is why it got an 83–15 vote. The whole process doesn't need to be repeated now. Some of those 15 who voted against it won't give up, and that is their right under the Senate rules. But, eventually, an overwhelming majority in the Senate wins out. Maybe all the time a majority in the Senate doesn't win out, but eventually an overwhelming majority in the Senate wins out. And if it doesn't, it should. This is one of those times. So we need to go to conference now and iron out the differences with the House.

I am asking my colleagues to join me in supporting this bill. We need to send a message that people cannot use bankruptcy as a financial tool or an easy way out of paying their debt. The bill promotes responsible borrowing and provides financial education to financially troubled consumers. It also provides some of the more proconsumer provisions relative to credit card companies in years. We have not dealt with these issues in years. This bill deals with it and it should. We all recognize that the proliferation of advertising for

credit cards and the junk mail we get is part of the cause that we have people in bankruptcy.

It also creates new protections for patients when hospitals and nursing homes declare bankruptcy. The bill makes permanent chapter 12 bankruptcy for family farmers and lessens the capital gains tax burden on financially strapped farmers who declare bankruptcy. This is a bill that the Senate passed with this overwhelming margin, which my colleagues probably get tired of my mentioning so many times, but it was 83–15. So I think it is just common sense. Maybe common sense doesn't rule around this institution enough, but it is common sense that we move on to the next step. I urge my colleagues to vote in support of the cloture and in support of the Leahy-Hatch-Grassley substitute amendment.

I yield the floor, and since there are no other Members present, I suggest the absence of a quorum and that it be charged to Senator WELLSTONE. I have been advised by staff that that is the proper thing to do.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WELLSTONE. Madam President, I ask unanimous consent the order for the quorum call be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. WELLSTONE. Madam President, my understanding is that there may be a number of other Senators who are coming to the floor to speak in opposition to the bankruptcy bill. Senator DURBIN may try to come down. So Senator DURBIN and others know, when they come I will simply break my remarks and others can speak at their convenience.

At the beginning of last week, the majority leader moved to proceed to the bill and I objected. Then we had a cloture vote on the motion to proceed. In the time I had, I implored, called upon, begged the Senate to step back from the brink and to decline to go to conference with the House on this so-called bankruptcy reform. I believe we would be making a grave mistake.

I am trying to figure out a way not to repeat all the arguments I made last week. I will simply say I think this is a measure we are going to deeply regret. There are a lot of people—Elizabeth Warren comes to mind, law professor at Harvard—who have done some very important scholarship at Harvard in this area. I don't know that I can think of a single law professor who has argued in favor of this bill. Maybe there is someone somewhere. The opinion of the scholars in the field, the opinion of people who work in the field, is almost unanimous that this is a huge mistake.

We need to understand that bankruptcy is something most families do not think they will ever need. They do not think they will ever need to file for bankruptcy. But it is really a safety net, not just for low-income families but for middle-income families as well.

Fifty percent of the people who file for bankruptcy in our country today do it because of a medical bill. You have a double whammy. It is not just the situation where you have the expense of the medical bills but also it may be that, because of the illness or injury, you yourself are not able to work so you are hit both ways, or it might be your child's medical bill, but also you may not be able to bring in the income because you are not able to go to work because you need to be at home taking care of your child. That is 50 percent of the people. We are not talking about deadbeats.

Frankly, most of the rest of the cases can be explained—it should not surprise anybody—by loss of job or divorce. These are the major explanatory variables why people file for bankruptcy, file for chapter 7. The irony of it—and I tried to make this argument last week as well—is that for a long time my colleagues were facing a problem that did not exist; that is to say, they were talking about all the abuse and all the ways in which people were gaming the system in American bankruptcy, but they came out with a record that said that is 3 percent of the debt. So let's come out with legislation that deals with the 3 percent, but let's not have legislation where people who find themselves in terrible economic circumstances no longer are able to rebuild their lives, all because of a small number of people who abuse the system.

Moreover, actually the bankruptcies were going down. So quite to the contrary of the claim we had this rash of bankruptcies and people no longer felt any stigma or shame and people were no longer responsible, none of it really held up very well if you closely examined the arguments.

Now what we have, in case anybody has not noticed, is an economy that is leveling off with a turn downward. It is not the boom economy we saw while the Presiding Officer's husband, President Clinton, was President of the United States of America. It is a different economy now. There are going to be more people who will lose their jobs and more people who will be faced with these difficult economic circumstances through no fault of their own. We are going to make it well nigh impossible for them to rebuild their lives.

Madam President, I argued last week that we are hardly talking about deadbeats. This bill assumes people who file for chapter 7 are deadbeats and they are not. The means test aside, there are 15 provisions in the House and Senate-passed bills that will affect all debtors, regardless of their income—15 provisions. The means test will not protect them. The safe harbor will not protect them. These provisions are going to make bankruptcy relief more complicated, more expensive, and therefore harder to achieve for debtors—again, regardless of income. That means they will also fall the hardest, in terms of the people who will be most affected by this legislation, on low- and moderate-income debtors.

The irony is that those who advocate for this bill justify it by arguing that we need to go after the wealthy deadbeats. But if the cost of filing for bankruptcy doubles, which is exactly what it does in this bill, who gets hurt the most? A middle-income family who had to save for 6 months, under current law, to pay for an attorney and for filing fees, or a multimillionaire like the ones the proponents cite in this statement? It just makes no sense.

There will be no problem for millionaires who are gaming the system. They are not the people who get hurt by this legislation. This legislation is the most harsh on the most vulnerable.

I also argued and tried to make the case that this couldn't be a worse time to do this in terms of where the economy is headed.

So while the bill would be terrible for consumers and for regular working-class families even in the best of times, its effects will be all the more devastating now that we have a weakening economy.

Colleagues, you are going to regret this.

It boggles the mind that at a time when Americans are most economically vulnerable and when they are most in need for protection from financial disaster we would eviscerate the major fiscal safety net in our society for the middle class. It is the height of insanity that we would be contemplating doing what we are doing right now given what is happening to this economy.

Colleagues, I couldn't support this legislation in the best of times. Even in the sunniest of economic circumstances, there are many families who are down on their luck and who are sent to the sidelines. Bankruptcy relief lets these families rebuild their lives again. It is a little bit like ''there but for the grace of God go I.''

I think Time magazine had a series which was just a blistering attack on this bill. They did it in two ways. They did it, first of all, by talking about what this legislation means in times—which quite often on the floor of the Senate we don't make those connections as we should—to a lot of these families and what happened to these families because of their economic circumstances. They did not ask that

their child be stricken by a terrible illness. They did not ask for the physical pain. They did not ask for the economic pain. But we are going to make it harder for them to rebuild their lives. People do not ask to be laid off work. People do not ask that their families be shredded because there is a divorce. You wish it would not have to happen. But it does happen. Sometimes someone is at fault and sometimes no one is at fault, but it happens.

It is usually the woman who is the one taking care of the children, and she doesn't have the income she once had. These are the kinds of citizens who file for bankruptcy relief. That is why every labor organization, civil rights, women's, and consumer organizations in the country and more—religious organizations—oppose this legislation.

This legislation is a testimony to the absolutely sickening power of the financial services industry in Congress. We wouldn't be doing this otherwise.

I did not say this is a one-to-one correlation. Anyone can play the game that people vote this way because they are in the pockets of the financial services. That is not the argument that I make. Everybody can say that about everybody who votes in the Senate on every issue.

What I am saying is not at the personal level but at the institutional level in terms of who has the lobbying coalition, who is ever present, who has all the financial resources, and who has the political power. This industry has a heck of a lot more power than ''ordinary consumers and ordinary citizens'' who are the very people we ought to be representing.

I want to make it clear that this is not a debate about winners and losers because we all lose if we erode the middle class in this country. We all lose if we take away some of the critical underpinnings that shore up working families. Sure, in the short run big banks and credit card companies may take their profits. But in the long run, it is going to be ordinary families and entrepreneurs—all businesspeople—who take the risk and who are going to pay the price.

This isn't a debate about reducing the high number of bankruptcies. In no way will this legislation do that. Indeed, I would argue that by rewarding reckless lending that got us here in the first place, you are going to see more consumers overburdened by debt.

By the way, there isn't hardly a word in this legislation that calls on these credit card companies to be accountable. It is all a one-way street.

This debate is about punishing failure—whether self-inflicted or uncontrolled and unexpected. This is a debate about punishing failure. If there is one thing that our country has learned, punishing failure doesn't work. You need to correct the mistakes. You need to prevent abuse. But you also need to lift people up when they stumble and not beat them down.

I thought I made a pretty good case last week. I didn't think it was really refuted. The proponents of the bill came down and they did their thing, but I don't think they did much damage to my argument.

What did the proponents of this legislation say? We need to talk about this. It might be that it is going to go through. But, darn it, there ought to be some discussion before the Senate about what we are doing.

What do the proponents say? My friend from Alabama got up and complained that I was taking on or presenting this critique of the big banks and credit card companies. He said this is a bankruptcy bill, and it only deals with the bankruptcy code and bankruptcy court reform. Therefore, holding the lender accountable is not appropriate.

That was one criticism. It sounded a little bizarre to me, as much fondness as I have for him. I think it sounds kind of bizarre to most commonsense Americans in Minnesota who reach in their mailboxes every day of the week and pull out a handful of credit card solicitations. But apparently some of my colleagues see no connection whatsoever between the irresponsibility of the lenders and the high number of bankruptcies. That is preposterous.

The reason colleagues do not see any connection between the irresponsibility of the lenders and the high number of bankruptcies is because they don't want to see any connection because these folks have a lot of clout and a lot of power.

Both the House and the Senate bills basically give a free ride to banks and credit card companies that deserve much of the blame for the high number of bankruptcy filings because of their lose credit card standards. Even the Senate bill, which is better than the House bill, does very little to address this problem. There are some minor disclosure provisions in the Senate bill. But even those don't go nearly as far as they should. Lenders should not be rewarded for reckless lending.

Where is the balance? If you are holding a debtor accountable, why are you not holding lenders accountable in this legislation?

Let me just give you some examples of some of the poor choices that can be made. In this particular case I am talking about the lenders—not the borrowers. Here are some real world examples.

In June of 1999 the Office of the Comptroller of the Currency reached a settlement with Providian Financial Corporation in which Providian agreed to pay at least $300 million to its customers to compensate them for using deceptive marketing tactics. Among these were baiting customers with ''no annual fees'' but then charging an annual fee unless the customer accepted the $156 credit protection program—coverage which was itself deceptively marketed. The company also misrepresented the savings their customers would get from transferring account balances from another card.

In 1999, Sears, Roebuck & Co. paid $498 million in settlement damages and $60 million in fines for illegally coercing reaffirmations—agreements with borrowers to repay debt—from its cardholders. But apparently this is just the cost of doing business: bankruptcy judges in California, Vermont, and New York have claimed that Sears is still up to its old strong arm tactics but is now using legal loopholes to avoid disclosure. Now, I say to my colleagues, Sears is a creditor in one third of all personal bankruptcies. And by the way, this legislation contains provisions that would have protected Sears from paying back any monies that customers were tricked into paying under these plans.

That is unbelievable. I will tell you something. With the one-sidedness of this legislation, there is no wonder. Again, I am not attacking colleagues at a personal level but at an institutional level. No wonder ordinary people think the political process in Washington is dominated by powerful folks and that powerful interests are opposed to them.

How else can one explain the complete lack of balance? July 2000, North American Capital Corporation, a subsidiary of GE, agreed to pay a $250,000 fine to settle charges brought by the Federal Trade Commission that the company had violated the Fair Debt Collection Practices Act by lying to and harassing customers during collections.

Another example: October 1998, the Department of Justice brought an antitrust suit against Visa and Mastercard, the two largest credit card associations, charging them with illegal collusion that reduced competition and made credit cards more expensive for borrowers.

To make the argument that when we look at bankruptcies we only hold those who are the lenders accountable and not the creditors makes no sense whatsoever.

The goal of this bill was supposed to be to reduce bankruptcies. That is why the big banks and credit card companies have been pushing for it. They are the only ones pushing for it. I am hard pressed to find one bankruptcy judge in the United States who supports this legislation. I am hard pressed to find one bankruptcy expert in the United States who supports this legislation. This legislation was written by and for the lenders. It is that simple.

Maybe it is different in Rhode Island; I doubt it. I can't remember a conversation in a coffee shop anywhere in Minnesota, be it metro or be it in

greater Minnesota, out in rural Minnesota, where people have rushed up to me and said: What we want you to do is please support that bankruptcy bill which will make it more difficult for people who are going under because of medical bills or because they have lost their job or because of a divorce in their family to rebuild their lives. Please, Senator, that is our priority.

I hear people talking about children and a good education. I hear young working people talking about affordable child care. I hear elderly people talking about the price of prescription drugs. I hear elderly people terrified, along with their children, about what will happen to them at the end of their life if they are faced with catastrophic medical expenses. I hear people talking about all of the health insecurity they feel because they don't believe they have good coverage or because it costs much more than they can afford.

I hear veterans who are concerned about veterans health care. This Thursday we are going to have a hearing in the veterans committee, which Senator ROCKEFELLER chairs, on homeless veterans. I am guessing that probably a third of all the homeless males—too many are women and children—are veterans, and most of them are Vietnam vets. Many of them are struggling with PTSD. Many are struggling with substance abuse. It is a scam that these veterans are homeless in America.

I hear discussion about why can't we do better for veterans. I hear concern about the environment. I hear concern about energy costs. I hear concern about a fair price in farm country. I hear small businesspeople talk to me about how hard it is to have access to capital. I don't see the ground swell of support all around the United States for this piece of legislation.

What in the world are we doing debating this piece of legislation in the Senate today? Why is this legislation out here? What kind of good does this do for the people we represent? It does a lot of good for the credit card companies. It does a lot of good for the financial services industry. I know that. I would just like somebody to explain to me how it does a lot of good for ordinary people, those folks who don't hire the lobbyists, the people who don't have the big bucks, the people we see every day. I hope we see them every day when we are back home.

It is ridiculous on its face that we can divorce the behavior of the credit card companies from the high number of bankruptcies. Indeed, all the evidence points to the fact that the lenders and their poor practices are a big part of the problem. It is just outrageous we don't take them on.

I call this going down the path of least political resistance. It is easy to pass legislation that has such a cruel and harsh effect on people who are being put under because of medical bills or because they have lost their jobs. They don't have that much economic clout, and they don't have that much political clout. As a matter of fact, I will come up with an amendment on our bill sometime when there is an appropriate vehicle that will go after the credit card companies and the lenders on their lending practices; we will have a vote on it. Then it will be more difficult because we have to go against those interests, but we ought to at least have some balance.

In the debate last week, my friend from Alabama stood up and said that the core of this bill is the means test. All the means test does is force those folks with high incomes to go to chapter 13. What is wrong with that? Therefore, the bill doesn't hurt low-income people.

The means test is only 9 pages of a 200-page bill. If the means test were all this bill consisted of, then it would have passed 12 years ago. We have been trying to hold this matter up for 2½ years, something such as that.

The bankruptcy bill purports to target abuses of the bankruptcy code by wealthy scofflaws and deadbeats who make up 3 percent of the filers, according to the American Bankruptcy Institute. Yet hundreds of thousands of Americans file for bankruptcy every year, not to game the system but because they are overwhelmed by medical bills or job loss or divorce.

Unfortunately, there are at least 15 provisions in both bills that make it harder to get a fresh start regardless of whether the debtor is a scofflaw and/or a person who must file because they are made insolvent by their medical debt. These include, but are in addition to, the means test.

Neither the means tests nor the safe harbor in this bill applies to the vast majority of the new burdens placed on debtors under both bills. Debtors will face these hurdles to filing regardless of their circumstance.

The final point made by proponents last week was actually made by several Senators. I think in some ways it is the most insidious. The argument advanced is that the bill is good for women and children because it places child support as the first priority debt to be paid in bankruptcy.

First, it is the case that this is a useful change in the law as far as it goes. Unfortunately, it doesn't go very far. Child support is already nondischargeable in bankruptcy. In theory under this bill, a woman who is owed child support is more likely to receive that support from her deadbeat husband while he is going through bankruptcy. But once he emerges from bankruptcy, the other provisions of these bills will make it less likely that his ex-wife or kids will get anything.

Under current law, an ex-spouse postbankruptcy often has few other debts; they have all been discharged. The child support is nondischargeable. After his other debts are gone, the ex-spouse can devote more of their income to their support obligations. In this way, the current law actually helps women and children because they don't have to compete with other more sophisticated creditors postbankruptcy. But under this bill, the ex-spouse will emerge with much more debt than under current law. Less credit card debt is dischargeable. Creditors will have more leeway to force reaffirmations, agreements where debtors reaffirm their intention to pay back debt, and so the debt is not wiped out in bankruptcy.

The net effect is that women and children whose spouses file for bankruptcy under this bill will have to compete more than ever with auto dealers, with big retailers such as Sears, and with credit card companies for the paycheck of their ex-husband. Do we think they are going to do well?

The Senate giveth with one hand and taketh away with the other. That is part of the reason that 31 groups that are devoted to women's and children's issues oppose this bill.

I can't think of one women's or children's organization that supports this legislation.

May I make one other point. There is another reason. That is, one group of citizens—in fact, it is the fastest growing number of citizens who file for bankruptcy—are women. Since 1981, the number of women filing increased 700 percent. Divorced women are the ones who end up supporting the children. Income drops.

Are single women with children deadbeats? This bill assumes they are. The new nondischargeability of credit card debt will hit hard those women who use the cards to tide them over after a divorce until their income stabilizes. The ''safe harbor'' in the House bill, which proponents argue will shield low- and moderate-income debtors from the means test, will not benefit many single mothers who need help the most because it is based on the combined income of the debtor and the debtor's spouse—are you ready for this—even if they are separated, the spouse is not filing for bankruptcy, and the spouse is providing no debt for the debtor and her children. That is figured in as the mother's income.

I will tell you something. This is one harsh, mean-spirited piece of legislation, and I am stunned that so many Senators are supporting it.

Now, while I am waiting for Senator DURBIN to come to the floor, let me talk about the pending amendment to this bill, which is actually the text of the bill that the Senate passed earlier this year. Here is where I will give the Senate some credit. We started this year with a truly terrible, completely

one-sided bill. It was basically identical to the House version. The committee marked it up over the chairman's objections and made improvements. Once it was considered by the Senate, additional improvements were made. The Senate bill is still a very bad piece of legislation. Unfortunately, most of what we have accomplished has been nibbling around the edges. But it is better than the House bill; that is clear.

The Senate bill has better credit card disclosure provisions. They are inadequate, but the House is completely silent on that. The Senate bill allows more credit to be discharged, thanks to an amendment by Senator BOXER. The Leahy amendment fixed the ''separated spouse problem'' with the safe harbor. Why there was even a fight on that is beyond me. The House bill has no such fix.

The Senate bill is less harsh when it comes to filing chapter 13 cases. We also limited some but not all of the hurdles this bill creates in the successful filing of chapter 13 cases.

A Feingold amendment adopted in committee protects, to some degree, renters from eviction if they pay the overdue rent when they file for bankruptcy.

Very significant is the Kohl amendment on the homestead exemption. With its adoption, the Senate takes on wealthy debtors who file frivolous claims and shield their assets in multimillion-dollar mansions. This is a real abuse of the current system and it ought to be corrected. Five States, under current law, allow a debtor to shield from creditors an unlimited amount of equity in their home. In fact, the Florida Supreme Court, in a case last month, established that even if a debtor uses Florida's unlimited homestead exemption for nakedly fraudulent purposes, there is nothing the courts can do. You would think that with all the bluster of the proponents of the bill about curbing abuse of the deadbeats they would rush to close this loophole. Not so. Senator KOHL had to drag the Senate kicking and screaming to plug this obvious gap.

Unfortunately, the House and the President have drawn a line in the sand over this issue. While the House of Representatives—or at least the majority party in the House—and the President of the United States of America support harsh, punitive hurdles to a fresh start for low- and moderate-income folks who virtually nobody claims are abusing the system, they are unprepared to go to the mat for folks who want to protect their mansions and who are openly flouting their obligation.

May I repeat this again. The Republicans in the House of Representatives and the President of the United States support a very harsh and punitive piece of legislation making it very difficult for people to rebuild their lives—people who have been put under because of medical bills, for example. On the other hand, they have no problem with folks who want to protect their property and protect their income by buying these multimillion-dollar mansions in States in the country and shielding themselves from any obligation.

It doesn't get any weirder than that—actually, it does. It does if the Senate conferees—and I don't have any illusion; this bill will go to conference—knuckle under to the House on any of these issues. I think the Senate conferees should be trying to improve this bill further in conference. I think that is Senator LEAHY's intention, and I salute him for it. But I certainly hope you can get the backing of the Senate conferees.

I have to worry about what is going to happen in the conference committee. Look at the past. Look at the evidence from the past. Since 1998, the House has passed terrible bills. The Senate has passed better bills. Every time it emerges from conference, it is a nightmare. I hope that doesn't happen again, and I certainly hope all of the Senate conferees will stick with the Senate position on the Kohl amendment, the Schumer amendment, and other efforts which have made the bill at least slightly better.

This time, I am sorry to say, this legislation is much more likely to become law. With this President, this ridiculous giveaway to the big banks and credit card companies is going to make it. To the everlasting credit of President Clinton, he vetoed this legislation. Look, I was certainly one of his critics in the Senate. I have to admit that sometimes as I look at the values and policy preferences of this administration, I certainly miss the Clinton administration. I certainly do. But to give credit where it is due, President Clinton vetoed this legislation.

The White House has all but said they will sign the bill, as long as it protects wealthy deadbeats and their mansions. That is the position of the White House: We will sign this piece of legislation as long as you guarantee us that you will protect the wealthy deadbeats and their mansions—as in Texas.

I am afraid, given what wealth and power get you in this town, given the kind of backing this bill has, and given that some of the biggest investors of both parties are involved, it is going to be far too easy for the majority of the conferees to go along with this proposition. I am sorry, I am going to repeat this again. People in Minnesota—I do no damage to the truth—and I think people in Rhode Island do not know about this legislation or any of the details. I promise you, they will be deeply offended with this proposition, that a whole lot of people—because a few people game the system. True, a small percentage. Every independent study says that regarding bankruptcy. If we pass this piece of legislation that basically makes it impossible for a lot of good people, middle-class people, low- and moderate-income people, who, through no fault of their own—there but for the grace of God go I—through the loss of job, medical bills, you name it, find themselves in brutal circumstances, this legislation is going to make it difficult to rebuild their lives.

At the same time, this piece of legislation, because of the insistence of the President and the Republicans in the House of Representatives, is going to protect wealthy deadbeats and their mansions and enable people to shield their assets—not the people I am talking about but the wealthy people. Does that make any sense whatsoever? That offends me as a Senator from Minnesota.

I hope I am wrong. I hope the Democratic conferees in the Senate will support Senator LEAHY, the chairman. He has done good work on this bill under very difficult circumstances. He did good work with an equally divided Senate. I don't agree on the final product, but I am not going to ignore some of the improvements. I just hope the Democrats in the Senate do not let him down.

Mr. President, I will conclude on this note. Last week, the Senate voted to move forward to conference. The Senate voted overwhelmingly. I think it is fair to say that. The die is cast. It is going to happen. I can block the Senate, I suppose, for a week, but the result will be no different. I know that.

I came to the Chamber last week. I have come to the Chamber today. I will have another amendment probably postcloture, but I do not know how to stop this any longer. I do not know of any way to stop it.

Let me say this: I will have an amendment that is going to call for a GAO study of this bill over the next 2 years, and I say to Senators, there should be 100 votes for it. I will wait to use my hour after the vote to talk about it, but there should be 100 votes for it.

I am going to go over each of the arguments and ask GAO to look at them, and we will see who is right or wrong. I am not saying that in some macho way. I am saying at a minimum we ought to be willing to have an evaluation of this legislation and what it is going to do to people.

I do not regret holding up this legislation. Maybe it comes with being 5 foot 6 inches. I am almost defiantly proud, along with the help of other Senators, in stopping this, in blocking it, in fighting it. I do not regret it at all. This bill should not be moving forward. I do not think it should be a priority. I am in disagreement with the Senate majority leader on this question. I think it is too harsh and too one-sided. Unfortunately, it is a perfect

reflection of who all too often has the power in the Nation's Capital. With the economy heading in the wrong direction right now and slowing up and people losing jobs and people being underemployed—that is to say, they are not counted among the ranks of the official unemployed, but they are not working at the kinds of jobs they would be working at with a better economy, and people under more economic pressure and more economic strain—this is the worst time to pass this legislation.

In fact, I do not know—maybe this is a stretch. I read an article the other day in the New York Times that a number of economists were expressing their concern that it has been the consumer spending which has kept the economy going because a lot of business investment is way down now. They are saying they do not know how much longer consumers will continue to spend. There is a fair amount of debt.

I imagine this legislation may, in fact, add to our economic troubles. People may be even more skiddish about consuming; they may be even more reluctant to be buyers, especially if they are going to wind up in the poorhouse for the rest of their life.

This legislation does not make sense on economic grounds. It does not make sense in terms of what people in our States are asking us to do and what our priorities should be. This legislation should not be before the Senate. I am in disagreement with my majority leader on this question. This legislation violates the basic standard of elementary justice. It is going to pass, but it should not.

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

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

The assistant legislative clerk proceeded to call the roll.

Mr. WELLSTONE. 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. WELLSTONE. Mr. President, I ask unanimous consent that the quorum call be charged to both sides.

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

Mr. WELLSTONE. My understanding, Mr. President, is Senator HUTCHISON of Texas and Senator BROWNBACK want to speak, and if they do, I allocate to each one of them 10 minutes. My understanding is Senator DURBIN also wants to speak. I allocate to the Senator the rest of my time.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Under the previous order, the Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, I rise today, as I did earlier this year, in opposition to the Senate-passed bankruptcy bill, Senate bill 420. It is likely this week we will appoint conferees and start the debate about this bankruptcy bill.

Let me say at the outset, I support bankruptcy reform. A few years ago, as a member of the Judiciary Committee, I was the ranking Democrat on the subcommittee that produced a bankruptcy bill. At the time, we saw a rather dramatic increase of public bankruptcy filings across America, and there also appeared to be, and I believe there are, serious abuses where people are going to bankruptcy court to be discharged from debts when, in fact, they could pay many of those debts. When a person is able to pay their debts and does not, for whatever reason, the economy absorbs it and all of us as consumers are taxed or end up paying the cost of those unpaid debts. It is passed along in one version or another.

So bankruptcy reform in and of itself is warranted and should be part of our agenda. I was happy to be part of the creation of a bill a few years ago which dealt with changing our bankruptcy code.

Bankruptcy law is one of the most arcane laws in America. Although it affects probably more Americans than we imagine, it is an area of the law to which very few people pay attention. Almost by accident, I took a course in bankruptcy law in law school at Georgetown. As a practicing attorney in Springfield, IL, I was appointed as a trustee in bankruptcy for a local truckstop that was going bankrupt. Those were my two brushes in the law with bankruptcy. Other than that, I didn't include it in my practice, and I paid little attention to it. When the time came to debate it in the Senate Judiciary Committee, it turned out I had more experience in bankruptcy law than any other Senator. It is a rather obscure area of the law that, unless it is focused on, is difficult to understand, and more difficult to suggest meaningful reforms that make a difference.

What I tried to do in the earlier debate on the bankruptcy law was to suggest that if there are abuses, there should be reforms so people do not abuse the bankruptcy process. But we should also look to the other side of the ledger. There are abuses on the credit side, on the financing of debt side, which also should be addressed as part of bankruptcy reform. I believe this balanced approach, saying don't go in and abuse the bankruptcy courts, is a good one as long as we couple it with an admonition, warning, a prohibition in the law, if necessary, against those who abuse the credit side.

I still remember and I have repeated it often, those who came to see me first about bankruptcy reform—these are people from banks and financial industry and credit card companies—said it used to be filing bankruptcy was something of which people were ashamed. They didn't want to do it, they didn't want to admit they had done it. They were embarrassed by the experience. Now, in the words of those who came to see me, bankruptcy has lost its moral stigma.

I am not sure if that is altogether true. In fact, I question whether it is true except in isolated cases. I said back to them: Do you believe there is a moral stigma attached to credit practices, as well?

The fact is, when I went to a college football game in Illinois and went up the ramp, and as I started to go into the stadium in Champaign-Urbana there stood someone offering me a free T-shirt for signing up for a University of Illinois credit card sponsored by one of the major credit card companies. Let me make it clear, they were not looking for me at the top of the stairs. They were looking for students to try to get them to sign up for credit cards and get deeper into debt. Where is the moral stigma there? Who is asking the hard question whether that student can pay off a debt?

At the University of Indiana a few years ago, the dean of students said the No. 1 reason kids were dropping out of school and taking some time away from school was to pay off credit card debts. So I say to the credit industry, when we are talking about moral stigma, do you think twice about offering credit cards?

I suggest to anybody listening to this debate, go home tonight and open your mail. How many new solicitations will you receive for a new credit card? Literally hundreds of millions of them descend on America. Are hard questions asked whether a person is creditworthy? Perhaps. But in many cases, no.

You see people getting deeper and deeper into debt, finally being pushed over the edge into bankruptcy court. I suggest as part of this bankruptcy debate, let's ask the question on both sides: Who is abusing the bankruptcy court? But also, who is abusing when it comes to offering credit in the United States?

I think, to address bankruptcy reform in that context is an honest approach. It is one that I think is sensible and balanced. The bill I supported that passed this Senate a few years ago with 97 votes was a balanced bill. This bill we have before us is not. This bill, which has been pushed through by the

credit industry, by the financial institutions, sadly, does not have the balance that I think is absolutely essential.

I had hoped we would be able to come up with such a bill. That has not happened. We had a conference committee after we passed this bill a few years ago. It was a conference committee in name only because what it boiled down to was the Republican members of the conference committee did not invite the Democrats to attend. They sat down with the financial industry and wrote a bill and said take it or leave it, and we left it, as we should have.

Fast forward a couple of years: Same experience, credit industry comes forward with a bill, they refuse to include in there protections for consumers when it comes to credit, and that bill died as well.

Now we are in the third chapter of this long saga and we are considering this bankruptcy bill, which is S. 420. The question is whether or not we will report out a bill from conference that addresses some of the issues I have raised.

I think this bill has some serious defects and weaknesses. I am disappointed the Senate failed to take the opportunity to achieve meaningful reform on credit card disclosure and marketing practices.

There was a recent study by the Federal Reserve Bank in Boston. It concludes that the rise in personal bankruptcy in America roughly mirrors the increase in credit card loans outstanding—a direct relationship. So we see people getting deeper and deeper into credit card debt until a moment comes that pushes them over the edge. What is that moment? Perhaps it is when the debt becomes intolerably high, or the loss of a job, or a serious illness, or a divorce. These sorts of things push people over the edge and into bankruptcy court. But the reason they reach these terrible situations has a lot to do with credit card debt in America that continues to grow.

I was back in Illinois over the weekend and ran into a couple who started talking about some of the outrageous things happening to them. They told me a story about some of the things of which I was not aware. The fellow said:

> Our family, like a lot of families, has several credit cards.

This is on a Friday night at the Navy Pier in Chicago. He pulled me over, and we weren't even talking about bankruptcy. He said:

> I wanted to ask you about credit card companies. Did you know if you fail to make a timely payment on one of your credit cards that information is shared among the credit card companies? What happened is that I missed a payment on one of my furniture loans. As a result, my monthly interest rate on all my credit cards went from 12 to 20 percent. I called them and said I made timely payments on all these credit cards. They said, ''But you missed your furniture loan over here.''

He said:

> Is that right? Is that fair?

I said:

> The sad reality is, that is probably part of your contract.

I am a lawyer. When I flip over that monthly statement from the credit card companies—I have reached the point where I need pretty good glasses to read something, but I could not even make sense of the fine print on the back of my monthly credit card statement. I imagine most Americans, when they sign up for a credit card or see the monthly statement, don't say, Dear, we are not going to be able to go out to the movie because I need to take the next half-hour and read the back of my monthly credit card statement. People don't do that. But there are things going on with those credit cards that can severely disadvantage you.

We had an opportunity to do something about it in this bill and we did not do it. We did not do it. One of the things I pushed for I think is so basic, I cannot believe the credit card industry opposed it. Let me tell you what it was. On each monthly statement they say: Here is the minimum monthly payment. This is all we really want to receive from you.

I suggested as part of that monthly statement they say: This is the minimum monthly payment which you can make on your credit card balance. If you make that minimum monthly payment, here are the number of months you will have to pay to eliminate the balance completely. Here is how much you will have paid in principal and how much in interest. So people would be knowledgeable when they made a minimum monthly payment that in fact they were really signing up for paying off that balance over a period of years—and it is literally years—if they made the minimum monthly payment. Because what credit card companies do is keep charging interest so you just never catch up with yourself.

I suggested the credit card companies at least give us that information so consumers across America will be knowledgeable: OK, I have a $2,000 balance. If the minimum monthly payment is $25—or whatever it happens to be—how long is it going to take me to pay off that balance? Guess what. It is about 5 or 6 years or more. So, will I just pay $25? If I could, I would pay more. Let's get rid of that balance because the interest is going to accumulate.

I went to the credit card industry and said: Include that information in the monthly statement. That cannot be something you would oppose. Do you know what they said? We just can't figure that out. We can't calculate that. We cannot produce that information for every borrower, it is just too complicated.

Baloney. With computers today and all the information we have available, that would be an easy calculation. But the credit card industry doesn't want you to know it. They want you to dig that hole deeper and deeper because they make money in the process.

People who genuinely need credit, who may in a bad month only be able to make that minimum monthly payment—that is a situation that families can face. But shouldn't consumers be informed in America? When we talk about a bankruptcy reform bill, is it unreasonable to suggest that kind of credit card disclosure be part of that bill? The credit card industry said flat no, and it is not included.

Let me tell you another area that really rankles me. This is an amendment I offered on the bill, the bankruptcy bill here on the floor. It relates to a situation called predatory lenders. You read about them occasionally and see them on television. We see stories on some of the news reports. Here is what it is. You have people who prey on those who are elderly and not well informed and have them sign up for new debt on their homes, particularly for home improvements or vinyl siding or a new furnace or whatever it happens to be. They put provisions in those predatory loans that give them an opportunity to make extraordinarily high interest profits off those predatory loans, and they include other provisions called balloon payments and the like.

How many times have you read in the newspaper or watched on TV the story of a retired widow—and it has happened in the city of Chicago where I represent a lot of people—a retired widow who was safely in her little home for which she saved up for her life, and some smooth talker came by and had her sign up for what turned out to be a new mortgage on her home with really bad conditions and terms. So as time went on—usually the work turns out to be shoddy and the debt turns out to be intolerable, and it reaches a breaking point. When it reaches that breaking point, sometimes this person, in retirement, in their safe little family home, stands the risk of losing their home because of these predatory lending situations.

These are the most deceptive loans in America. They cost borrowers an estimated $11 billion each year in lost equity, back-end penalties, and excess interest paid.

The American Association of Retired Persons, the largest group of seniors in America, did a survey. Eight out of ten Americans over the age of 65 own their home free of any mortgage. That is good. It shows people have planned ahead. When they reach retirement, they want to have that home and not have to worry about a monthly mortgage payment. We want seniors to be in that position.

However, the unscrupulous lenders out there know those seniors have an

asset and if they can get their hands on it, get their hooks into that senior, they set out to do that, and foreclosure is often the result when the senior fails to make these outrageous loan payments. The elderly person, the senior living alone or a person from a low-income neighborhood, can get a cold call from a telemarketer or a visit from somebody knocking on the door, telling them how they can get a new roof or windows: We can give you insulated windows with a little cheap loan; just sign up. It usually puts the unsuspecting victim in danger of losing their home. Almost before the victims know what hit them, they are whacked with outrageous fees, $8,000 or more, slapped with skyrocketing interest rates and battered into a financial hole they never get out of.

This is what happened to Janie and Gilbert Coleman from Bellwood. The Colemans had purchased their home with a court settlement and had no mortgage payment at all. But this elderly couple with a 9th grade education had Social Security disability income and predators mortgage lenders moved in for the kill.

Although the Colemans were first able to meet the $200 monthly payments on a $12,000 loan, 8 years and 5 refinancings later they found themselves $130,000 buried in debt.

They borrowed $12,000. Over a period of 8 years, with all of the refinancing and all of the interest payments on this little home, the debt grew to $130,000. That is what I am talking about.

Six loans were made to the Colemans. Four of these loans were made by a national lender, Associates, including two loans made just seven weeks apart.

Associates repeatedly sold the Colemans insurance that they did not want or need. And twice they were charged more for fees and insurance than they received.

Associates, a lending arm of Citigroup, is now the target of a multimillion dollar lawsuit filed by the Federal Trade Commission.

Associates earned over $1 billion in premiums last year but paid only $668 million in benefits.

This is a situation that is also going to illustrate what I am talking about.

People like 72-year-old Bessy Alexander from the South Side who believed that she was getting a fixed rate but really received a mortgage with an interest rate adjusting upward every 6 months—from an initial rate 10.75 percent to as high as 17.25 percent.

People like Nancy and Harry Swank of Roanoke, IL, who took a small loan from Associates to pay for a new stove and ended up with two loans, one at nearly 19 percent interest, totaling over $76,000, well above the $60,000 value of their home.

They started off buying a stove for their $60,000 home. When it was all over, they owed $76,000 more than the value of their home.

People like 70-year-old Mrs. Genie McNab and other victims of predatory lending practices testified in 1998 before the Special Committee on Aging in a hearing chaired by Senator GRASSLEY.

If my colleagues have not done so already, I would encourage them to read the committee report from this hearing for a human face on this issue.

You ask yourself, what does this have to do with the bankruptcy bill that is before us? I will tell you what it does. I said in my amendment that if you have been guilty of violating fair credit practices, if you have taken advantage of people such as those I have described, if you are in a position as a company where you have used the law improperly and now have a foreclosure against someone who is going into bankruptcy court, we will not allow you to walk in and claim you have clean hands in bankruptcy court and take the home. Predatory lenders would have been put on notice that when it was all said and done after they battered these elderly people to the point where they can no longer make payments and force them into bankruptcy that our bankruptcy code will not protect these vultures.

My amendment lost on the floor of the Senate by one vote. You think to yourself, if you are going to have a balanced bill that says people shouldn't file for bankruptcy who have used the process, shouldn't the balance in the law also extend to creditors who walk into bankruptcy court and want the protection of our legal system to collect from these poor people who have been swindled out of their life savings? That seems fairly obvious to me. Doesn't it really suggest a balance in the law that we should have?

My amendment was defeated. Who defeated it? The financial institutions that don't want to be held accountable for their lending practices. That to me is one of the sad realities of the law that faces us.

We know who these predatory lenders are. When we had this testimony before our committees, we asked them: How do you pick out the homes of the people who you are going after? Well, they said, we look for primarily elderly people—primarily elderly widows, those who appear to be able to make a decision and sign the document but don't have a lot of advice from lawyers, or relatives, or anyone on whom they can rely.

They catch them in the most vulnerable situation. They take advantage of them. They take their money. They take their homes away, and they take it away in our court system. This bankruptcy law which we are now considering should be protecting those people instead of preying on them as it does.

There is a study I would like to share with you entitled ''Unequal Burden: Income and Racial Disparities in Subprime Lending in America'' by the U.S. Department of Housing and Urban Development. They found that: subprime loans are five times more likely in black neighborhoods than in white neighborhoods. In addition, homeowners in high-income black areas are twice as likely as homeowners in low-income white areas to have subprime loans.

Unsuspecting minority and low- to moderate-income consumers—often equity rich and cash poor—are targeted by predatory lenders that extend credit to high-risk borrowers ineligible for conventional loans. Of course, predatory lenders do not commit outright fraud. Many of these borrowers lack not only sufficient funds but also financial literacy. And they take advantage of them.

Let me tell you what one of these predatory lenders said when he was assured that he would be testifying behind the screen so that the television cameras couldn't see his face. He was so embarrassed and afraid that he didn't want to say this in public.

My perfect customer would be an uneducated woman who is living on a fixed income, hopefully from her deceased husband's pension and Social Security, who has her house paid off, is living off of credit cards, but having a difficult time keeping up with payments, and who must make a car payment in addition to her credit card payments.

There you have it. When you are out there looking for your prey as a predatory lender, that is what you are looking for. Your hope is that you push them so deeply into debt that they make all the payments they can until they reach the breaking point and then they go into bankruptcy court and you take the home.

Oh, what a happy day it must be that these predatory lending offices just picked up another home from another widow in bankruptcy court.

When I put the amendment on the floor, I basically wanted to spoil this party that these predatory lenders have at the expense of senior citizens across America. My amendment failed by one vote. This bill does not address that problem. To think we can call this bankruptcy reform and not offer that kind of balance, as far as I am concerned, is disgraceful.

We have seen the percentage of these predatory loans in precincts across the United States. It seems over and over again that these situations are where elderly people have become victims. Predatory lending is an epidemic.

Seven years ago, mortgages to people with below average credit was a $35 billion business. Today, it is a $140 billion business.

Who are we talking about? We are talking about somebody's parents, or

grandparents, who are caught unsuspecting by one of these predatory lenders who are ultimately going to run the risk of losing the home they saved for their entire lives. AARP—with 34 million members—has launched a campaign to fight this problem.

I know Senator SARBANES of Maryland, the Senate Banking Committee chairman, is going to have hearings this month on lenders that take advantage of vulnerable borrowers. I commend him for his leadership on this important issue.

Why wasn't this included in the bankruptcy bill? We have Senators standing up and saying: We need to protect these predator lenders. That is exactly what happened. I lost by one vote.

Let me talk to you for a moment about credit card disclosure and whether or not there is more information that we can ask for so we can have some balance when it comes to credit card predators across the United States.

There are 78 million creditworthy households in America. Remember that number—78 million. Each year there are 3.5 billion credit card solicitations. As I said, go home tonight and look through your mail. You are going to find them. If it is not there tonight, it will be there tomorrow night asking you to sign up for a new credit card. They are coming at you in every direction—not just through the mail, but in magazines, television; wherever you turn, they want us to sign up for more credit cards. Frankly, I think you understand what they are looking for.

One of the things they like to do is go after college students. There is a brand loyalty here. Major credit card companies think that when they set up a college student for a credit card, the college student will stick with their credit card for the rest of their lives. They do not ask hard questions as to whether the student will pay off the debt.

One of the things that I suggested about the minimum monthly payments was rejected by the credit card industry. I don't think it is a difficult thing to calculate. If you were to pay a 2-percent monthly minimum on a balance of about $1,300, it would take you 93 months to pay it off. We are talking about over 7 years with your minimum monthly payment.

I am not for credit rationing. I believe credit cards have done quite a bit of good for a number of people. The credit card industry knows the fact that 10 or 20 years ago it might have been impossible for someone such as a waitress to get a credit card. Today they can in America. That is a good thing. There are times when credit cards are invaluable for individuals and their families. But we see that the credit card industry is not just offering credit to people who otherwise might not have a chance to get it; we see them overwhelmingly offering credit way beyond the means of people to pay it off. I think the monthly statement should be a lot more informative.

Let me also go to one other issue before I give the floor to my colleague from Kansas. One of the issues which is part of this is the so-called homestead exemption. The homestead exemption is this: If you go into bankruptcy court and you say you have more debts than you can possibly pay off, you list all of your debts and all of your assets. And many States have said one of the things that you are able to retain is your homestead or your home. The value that you are able to keep depends on the State in which you live. So each State kind of defines what a home can be worth to be exempt from bankruptcy.

On its face it doesn't sound unreasonable that people would be allowed to keep their home even if they are bankrupt. You wouldn't want them to be homeless or out on the street. But there is such a gross disparity in the exemptions States offer for this homestead that we have seen some terrible and outrageous abuses.

There was a fellow who was the commissioner of baseball, Bowie Kuhn, who many years ago decided to file for bankruptcy. Before he filed, he moved to Florida. Why did he move to Florida? He bought himself a mansion worth hundreds of thousands of dollars. Then he filed for bankruptcy in Florida, and he was able to keep all of the money that he put in that mansion set aside and not opened to the creditors because Florida had a very generous homestead exemption.

The same thing is true in many other States. One of the famous actors, Burt Reynolds, did the same thing; he bought himself a big ranch worth over $2 million and then filed for bankruptcy realizing that he had protected his assets. That is allowed; that is part of State law.

The PRESIDING OFFICER (Ms. LANDRIEU). The time of the Senator has expired.

Mr. DURBIN. I ask unanimous consent for an additional 3 minutes.

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

Mr. DURBIN. If we are going to have real bankruptcy reform, then shouldn't we have some consistency? The poor person I mentioned earlier who goes into court suffering from a predatory lender and is about to lose her home, for which she saved for a lifetime, is not going to have the same advantages that this actor and this commissioner of baseball had when it comes to a homestead exemption.

If it is real bankruptcy reform, it should address all levels of income in this country. It should be fair to every one. This bill is not.

O.J. Simpson filed for bankruptcy after being ordered by the court to pay a $33.5 million judgment. He got to keep his $650,000 Los Angeles home. These poor people I talked about in Chicago who are about to lose their little home over predatory lenders don't have the advantage O.J. Simpson had in California. That isn't fair.

Actor Burt Reynolds' home was worth $2.5 million. He got to keep that. Onetime corporate raider Paul A. Bilzerian kept his extravagant 11-bedroom, 36,000 square foot estate, the largest in the Tampa Bay area. It had a basketball court, movie theater, nine-car garage, elevator, and it was worth $5 million. Because Florida law is very generous to wealthy people filing for bankruptcy, he was able to keep his home. The person I talked about in the city of Chicago didn't have that benefit.

Elmer Hill, Tennessee coal broker, 3 days before being ordered to pay $15 million to a company he defrauded, shielded his assets by purchasing a $650,000 waterfront home in Florida and paying $75,000 to furnish it. Then he declared bankruptcy. The Florida Supreme Court recently ruled he was permitted to keep his home. The court said that ''a debtor with specific intent to hinder, delay or defraud creditors'' is presently able to shield his or her assets in their home.

Senator KOHL of Wisconsin offered an amendment to reform this. I supported it. The amendment passed. But, the interests that support wealthy people here want this provision stripped in conference.

When we consider bankruptcy reform, should we not have basic fairness? Shouldn't all families across America, regardless of their wealth and income, be treated fairly? Sadly, this bill does not.

I will not be supporting this bankruptcy bill in its current form.

I ask unanimous consent that Senator TORRICELLI be allocated 10 minutes of the time controlled by the proponents of the substitute amendment.

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

Pursuant to the previous order, the Senator from Kansas is recognized.

Mr. BROWNBACK. Mr. President, I appreciate the comments of my colleague from Illinois who I have some agreement with on the bankruptcy bill, although not on the homestead provision. I want to articulate why I have a different viewpoint.

Overall, I believe the House version of this legislation, the bankruptcy legislation, is a good piece of legislation with which we can work. I have worked hard on it. We have worked hard for a number of years on getting bankruptcy reform. The last conference report on bankruptcy passed with over 70 votes, which is a substantial vote and the agreement of a number of people.

One of the key provisions that was worked out on this overall bankruptcy

legislation was the homestead provision. That is key to me. It is key to my State because of the nature of the homestead provision throughout bankruptcy and the bankruptcy code's history, how we have left that to the States. In previous bankruptcy bills, we have constantly left the homestead provision to the States, which is where it should be. The States should determine this.

In seven States in this country, including my own of Kansas, there is a homestead provision that is in our State's constitution. The founders of my State saw as so important the protection of the homestead that they provided in the constitution of our State a protection for the homestead of 160 acres, 160 contiguous acres to be in a farm, or one acre in town of contiguous acreage in protecting that home. They said this is something that is central to us. I will talk about why that is central.

It is central because farming, agriculture has been so much a part of our State's past. A number of farmers would borrow to protect, not against the homestead; they would borrow against other areas for the farm and leave the homestead out of it because if they would lose the farm, they could at least protect their home and 160 contiguous acres.

I used to be a lawyer in private practice prior to getting involved in public office. As such, I would examine a number of abstracts. Abstracts are titles to the land. They are histories of the land—who used to own it, who had a mortgage against the land, who had a lien against the property. You would examine that to see if there was clear title to the land or not.

You could track a piece of property and see the farm cycles in it. If the years were going well, there wouldn't be a mortgage against the property. If it was going poorly, there would be a mortgage against the property. But almost always they would leave clear and free, if they possibly could, that homestead because just as sure as you would get one bad year, you might get 2, and then you might get 3, and then you would lose the farm.

The history would follow the farm cycle. Just as farm prices and farm production would go down, mortgages would mount up. And then you would have a loss of the farm.

They would set aside and protect this homestead. They wouldn't put a mortgage against it, if at all possible, because our State's constitution said they could keep that homestead to start farming again. If they got on the bottom of the trough, lost the rest of the farm, lost livestock, they could still have that home and 160 acres to be able to start farming again and build back up in a cycle.

We built this into our State's constitution. Seven other States did. It was an important part of maintaining that farming tradition and of keeping people on the farm. That is what it did.

In the last cycle we went through, which was the early 1980s, I was still practicing law at that time. We continued to have at that time the homestead provision for family farmers, where you would leave within that a home and 160 acres. There are a number of people in Kansas who are still farming today because they didn't mortgage the homestead. They lost much of the rest of the farm in the downturn of the farm cycle, but they were able to rebuild around that home and 160 acres and start and move forward again.

It was used then. It will be used again in the next farm cycle, if we don't take that right away in the Bankruptcy Reform Act of 2001.

What has taken place is that this has been a long, hard-fought battle over the past several years—the bankruptcy reform that we have put forward. We worked out a compromise in the House that protects the sanctity of those State laws on homestead provisions and allows accumulation of a certain amount of property. It doesn't allow fraud. If you are trying to move money into the homestead within 5 years of bankruptcy, that can get pulled back out in bankruptcy proceedings. It doesn't allow you to fraudulently say: I am going to cash out this asset and put that into my homestead as a way of building up equity on the homestead. That can all be set aside by the court. This was a carefully compromised package that came from the House bill.

The problem is in the Senate bill where it takes away the States rights to establish a homestead. There was an exemption provision carved out for the family farm by Senator KOHL, for which I am grateful; but it wasn't within the home in town. So now you have the Federal Government, for the first time in 120 years, telling the States what is the homestead. They have not done that for 120 years. We should not do that now. This is the wrong time for us to start; it is the wrong thing for us to do to take that away.

As I understand it, we are going to vote on inserting the Senate package, which takes away this homestead right from the States. That is in the Senate package on which we will soon be voting. I am opposed to doing that, and I will vote against that bill if it continues to maintain that type of homestead provision which takes away the homestead rights from the States and puts it into Federal bankruptcy law. That is against our State's constitution and against the constitution in seven other States in this country. We should not be doing that. It is a bad precedent to start.

I have no doubt that if we start it in this bankruptcy reform, in the next bankruptcy reform we do we will go after the family farm homestead provision because there will be some allegation of, OK, there was somebody who shielded assets here and they were able to protect too much, going through a family farm type of setting, and then we will set it aside. There will undoubtedly be an example or two, but we find in most of the lawsuits—the vast majority—that there are not abuses taking place to the homestead provisions. It would be wrong for us to say we have a couple of examples, and because of the abuse in a couple of cases we want to take this right completely away from the States for thousands of people, hundreds of thousands of people who have depended upon this for the past 120, 130 years.

I think particularly if we start down this road of Federalizing the homestead provision, while we may not hit the family farmers now, we will the next time around, and that would be a wrong way for us to go.

I want to make it clear on this point again that if there is fraud involved, if somebody is taking assets from another area and putting them in the homestead to hide from a creditor, that is covered by the law. You cannot do that today. You cannot do that under the provision that is in the House bill, and we should not allow people to do that. So we are not talking about fraudulent transactions. Many examples cited by my colleagues on the homestead provision actually involve fraudulent transactions. They are against the law and they should be. We should not allow people to fraudulently hide assets. But we should not, as well, take away this homestead provision from States on homes and family farms because of allegations of examples that don't even apply in the situation. This is not fraud—what I am talking about. This is about a basic home, a home on 160 acres in the country, if you are a family farmer.

The Kohl amendment in the Senate version is one that I vigorously oppose because it jeopardizes the compromise that was worked out last year in the bankruptcy bill, and I believe it jeopardizes the fate of the entire bill, as well, because of what it does to the homestead provision. That is what this amendment is about.

I urge my colleagues to vote against inserting the text of the Senate bill into H.R. 333 and to support, instead, the House version, which contains the compromise language with which I am comfortable, and with which I believe Senator HUTCHISON of Texas is comfortable as well. It maintains the homestead provision and authority in the States, with some limitation on it, which is a concession on our part.

The Senate bankruptcy bill, if it is inserted in the House version with the Kohl amendment included, radically alters the homestead provision from what was crafted last year. It is in this

carefully balanced legislation we have before us. If the Senate language is put in with the Kohl amendment that takes away the homestead rights from the States, I will be vigorously opposing this legislation, as will a number of other colleagues who have similar homestead problems, given the constitutions within their States. I urge my colleagues to vote against doing that.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Under the previous order, the Senator from New Jersey is recognized for up to 10 minutes.

Mr. TORRICELLI. I thank the Chair.

Madam President, for more than 4 years, the Senate has been considering various proposals to address the bankruptcy system in the United States. Everyone on all sides of this debate seems to have agreed the bankruptcy system is in need of serious repair.

There have, however, been many questions about how to address the problem. In both the 105th and 106th Congresses, efforts to pass bankruptcy reform came very close. In the final days of each session, we could not make the mark.

At the start of the 106th Congress when I assumed the role of the ranking Democratic member on the Judiciary subcommittee of jurisdiction, I felt some optimism that we could succeed. In the previous Congress, Senator DURBIN had come very close, and we began with an outline of his legislation.

During the 106th Congress, literally hundreds of hours were spent with Senators GRASSLEY, BIDEN, HATCH, SESSIONS, and LEAHY over many of these very difficult issues.

The bill before the Senate today is a culmination of all of those hours, months, indeed, years of work. It represents the suggestions of many Members of this Senate now included in provisions of this bill.

It is a fair bill. It genuinely represents the sentiments of the Senate and both political parties. It improves the bankruptcy system, eliminating many of its abuses without doing injury to vulnerable Americans and continuing the protection that Americans need to reorganize their lives. It may be tougher than current law, but it is also fair.

The best indication, I believe, of our success in this effort is the bipartisan vote in the Senate itself earlier this year when the bill passed by an 83–15 vote.

For the Senate to speak in such a loud, consistent, and bipartisan voice is probably a reflection of the understanding of the depth of the problem. In 1998, during the largest economic expansion in American history, 1.4 million Americans sought bankruptcy protection. That is a staggering 350-percent increase since 1980.

In 1999, filings were reduced by 100,000 but still remained at the 1.3 million filing level. It is estimated that 70 percent of these filings were made in chapter 7, allowing a debtor to obtain relief from most of their unsecured debts. Conversely, only 30 percent of filings were in chapter 13 which requires a repayment plan.

The Department of Justice has estimated that 182,000 people per year, people currently filing under chapter 7 to avoid their debts, properly belong in chapter 13 where they will repay part of their debts. The difference is not insignificant. If those 182,000 people were moved into chapter 13 and were paying those debts which were affordable, $4 billion would be returned to creditors.

Critics of the bill argue that $4 billion would only enrich large financial institutions, transferring money from people who live marginal economic lives to wealthy institutions. That claim ignores the fact that much of the debt burden that is avoided by chapter 7 filings also goes to local contractors—the mechanic on the corner, the small retailer, the family business which provides services or goods, only to face someone entering into bankruptcy and avoiding paying their debts. This creates a situation where one debtor passes a debt on to a family business and causes that business to fail and then another family business. It is not fair, and it is not right.

Critics have also argued that bankruptcy reform will deny poor people the protection of the bankruptcy system, recognizing the bankruptcy system has always been an important part of American life, giving people a second chance, ensuring that because someone has made a mistake or, more likely, through a problem of health in the family or divorce, illness, they are not denied a chance of fulfilling a prosperous life.

This claim simply is not true. No American is being denied access to bankruptcy. Indeed, the bill contains several provisions to ensure that no one genuinely in need of debt cancellation is prevented from receiving a fresh start under chapter 7. It is done in several ways.

First, the bill gives the judge discretion to consider the debtor's special circumstances under which they are unable to meet a payment plan, an escape clause where a judge can always ensure that a person with no means is given chapter 7 protection.

Second, it contains a safe harbor to ensure that all debtors earning less than the State median income will have access to chapter 7 without qualification. If one is under the median income, one is in chapter 7, period.

Third, the bill adds a floor to the means test to guarantee that debtors unable to pay more than $6,000 of their outstanding debt will not be moved into chapter 13: Again, protection for people of modest means.

All this gives people of lower income a chance to sweep away their debts and to start again an American life. It has always been our way.

Finally, probably the most unfair criticism and the one to which I am most sensitive is the issue of whether this adds a new burden to women and children. The bill contains language that Senator HATCH and I offered in an amendment to protect exactly this element of our society: single parents and children in need of protection.

Under current law, when it comes to prioritizing which debts must be paid off first, child support is seventh in bankruptcy court. It ranks after rent, storage garages, accountant fees, tax claims, or other claims by government, and that is wrong.

Not only does this new bill not make it worse, we make it better. Under the bill, child support is moved to where it belongs: First, ahead of government, other businesses, or financial institutions. The obligations of a father or mother to their child will never be put behind another debt.

Finally, this compromise deals with one other area of the law that is equally important. We were not going to reform bankruptcy laws without doing something about the overreaching efforts by the credit card industry itself.

The credit card industry yearly has more than 3.5 billion solicitations of Americans, encouraging them to incur debt. That is 41 mailings for every American household, 14 for every man, woman, and child in the Nation. Not surprisingly, with this level of solicitation, Americans with incomes below the poverty line have doubled their credit usage in the last decade. The result is not surprising. This doubling of credit usage has involved 27 percent of families earning less than $10,000 a year, having consumer debt that is 40 percent or more of their income.

If we are going to do something about the abuse of bankruptcy laws, it is only right and fair we do something about the credit industry encouraging Americans to incur debts they cannot afford and in which they should not have become involved.

We deal with these abuses of the credit industry in several ways. First, we require that lenders prominently disclose the following aspects of their debt solicitations: The effects of making only the minimum payment every month; second, when late fees will be imposed; third, the date on which introductory or teaser rates will expire, as well as what the permanent rate will be after that time.

This is balanced legislation protecting the most vulnerable Americans who have marginal economic lives; ensuring that single parents and children are protected; ensuring that the credit industry itself has new obligations but also ensuring that bankruptcy laws are not misused and do not become an opportunity for Americans to escape the financial obligations they have willfully encountered and passing that burden on to other small businesses or institutions that cannot afford them.

Madam President, $4 billion of unpaid bills, unfairly passed on to others, is more than American businesses, industries, family firms, and farms should have to incur.

At long last we have reached reform of our bankruptcy laws. It is a good moment for the Senate and for the Judiciary Committee for these years of struggle with this legislation. I commend again Senator LEAHY, Senator HATCH, and all who joined in the process through the years.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. HATCH. Madam President, I am pleased to rise today to support the motion to invoke cloture on the substitute amendment to H.R. 333. The substitute language is the text of S. 420, the Bankruptcy Reform Act, which passed this Chamber with a bipartisan vote of 83 to 15 on March 15. As you may recall, the conference report to last year's bill, H.R. 833, passed the Senate by a similarly wide margin just last December, but was pocket-vetoed by President Clinton at the end of the legislative session.

Today, we are another step closer to getting this bill to conference and heading down the home stretch of this legislative marathon. It is time to wrap up this debate and appoint conferees who will present a good bill to the President for his signature so American consumers can reap the benefits.

As my colleagues well know, we have cooperated and compromised at every step along the way in order to produce a fair piece of legislation that provides new consumer protections, helps children in need of child support, and makes other necessary reforms to a system that is open to abuse.

Contrary to the views of the bill's opponents, this legislation does not make it more difficult for people to file for bankruptcy, but it does eliminate some of the opportunities for abuse that exist under the current system. Right now, certain debtors with the demonstrated ability to pay continue to abuse the system at the expense of everyone else. Current law perpetuates a system in which people with high incomes can run up massive debts, and then use bankruptcy to get out of honoring them. In the end, all of us pay the price for those who abuse the system in the form of higher interest rates and rising consumer prices.

I am optimistic that this much needed bankruptcy reform legislation will be signed into law this year once the procedural roadblocks put down by the narrow opposition have been removed. It is beyond time to appoint conferees and to enact meaningful bankruptcy reform. As I have said many times here on the floor, and just as lately as last week, the American people have waited long enough.

I also oppose amendments that may be offered at this stage after we invoke cloture.

I take very seriously the role of the Senate as a deliberative body, but with respect to this reform bill, I am beginning to feel like the passenger on the *Titanic* who said, ''I asked for ice, but this is ridiculous.'' The offering of any additional amendments on this bill at this stage will set a dangerous precedent for reopening bills that have already been fully considered here on the Senate floor. I urge any and all of the 83 Senators who voted for this bill in March to vote to defeat these amendments to send a clear message that ''final passage'' means just that. Resolving remaining issues is the job of a conference committee. It is simply fortunate, and, in my opinion bad faith, to reopen issues after holding a hearing and mark-up in committee followed by a prolonged debate on the floor, with almost one hundred amendments considered at that time.

No one can say that the Senate has not already adequately considered bankruptcy reform. The Senate has literally been engaged in the process of deliberating on this issue for years, with numerous hearings, markups, and votes. Back in 1997, a comprehensive bankruptcy reform bill was developed by Senators GRASSLEY and DURBIN which we marked up and reported out of committee in May of 1998. In September of that year, the Senate passed bankruptcy reform by a vote of 97 to 1. This overwhelming Senate vote in favor of bankruptcy reform was followed by the appointment of conferees, negotiations with the House, and in October of 1998, an overwhelming House vote in favor of the conference report.

Although the motion to proceed to consideration of the conference report was agreed to in the Senate by a strong vote of 94 to 2, the Senate ran out of time for a vote on final passage before the end of the Congress.

In February of 1999, Representative GEORGE GEKAS introduced bankruptcy reform again, which passed out of the House in May of 1999 by another overwhelming vote of 313 to 108. Then, the Senate Judiciary Committee once again marked up Senator GRASSLEY's bill and in May of 1999, we reported it out of committee.

Then, in February of last year, the reform legislation passed the Senate by another impressive margin of 83 to 14. The Senate requested a conference, but the objection of a single member from the other side of the aisle blocked the appointment of conferees. As a result, we had to turn to an informal conference process with the House. With a great deal of effort by members on both sides of the aisle, we reached a compromise agreement on over 400 pages of legislation, and on all but one issue.

In October of 2000, the House passed the bankruptcy reform conference report, and in December, the Senate passed it by yet another vote of 70 to 28. And, as my colleagues know, later that month, the President pocket-vetoed the legislation.

The issue of bankruptcy reform is not a new one. We have studied it, held hearings on it, compromised on it, and come to resolution on it with veto-proof margins, in both houses time and again. An elaborate record that sets out the issues, documents the debate and makes the compelling case for reform is available to anyone who cares to give it their attention. At some point, the process of deliberation needs to come to a close, and the will of the Congress needs to be exercised

Only those who want to use delay to kill bankruptcy reform altogether could possibly argue for more process. Now is our opportunity to enact into law the legislation that the Congress supports and that the American people want. Let's get on with the Nation's business.

I would hope that we defeat any obstructionist amendments at this stage, or we may never see the end to any legislation already passed by this body ever again.

I yield the floor:

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

Mr. FEINGOLD. Mr. President, I ask unanimous consent to speak on this motion for up to 15 minutes, and at the conclusion of my remarks that the vote on the motion commence.

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

Mr. FEINGOLD. Mr. President, I commend the Senator from Minnesota for his efforts to educate our colleagues and the American people about the unfairness of this bankruptcy bill. It has been a lonely struggle for him, but the Senator from Minnesota has never avoided a struggle because it is lonely. He has succeeded in framing the issues for the conference quite well. Are we passing this reform for the credit card companies or for consumers? Who is the Senate working on behalf of here?

Are we going to pass a bill that passes muster with bankruptcy law experts in the law schools and the courts or with the big banks?

I spoke back when we considered this bill in March about the problems with this legislation and why I believe it should not be passed. Even with the addition of a number of important amendments during the Senate debate—and I hope that the bill that emerges from conference is more like that bill than the House bill—I still believe that the bill will do terrible damage to the bankruptcy system in this country, and even more importantly, to many hard-working American families who will bear the brunt of the unfair so-called ''reforms'' that are included in this bill. It is unfortunate to have to say it, but this is a harsh and unfair measure pushed by the most powerful and wealthy lobbying forces in this country, and it will harm the most vulnerable of our citizens. I voted against the bill when it came up for final passage in March, and I voted against proceeding to it last week. I continue to support bankruptcy reform, but not this version.

One of the major problems with the bill that came to the Senate floor was fixed by an amendment offered by the senior Senator from my State, Mr. KOHL. Senator KOHL has been crusading for years against the millionaire's loophole in the bankruptcy law—abuse of the unlimited homestead exemption. By a lopsided vote of 60–39, the Senate voted not to table his amendment to set a national ceiling on the use of that exemption. It is clear to everyone that the fate of Senator KOHL's homestead exemption will be the most fiercely contested issue in a House-Senate conference.

Let me put it as simply and clearly as I can: A bankruptcy reform bill that does not contain limits on abuse of the homestead exemption is a fraud on the American people. We cannot claim to be acting in an even handed fashion if we leave this major loophole untouched, while at the same time imposing harsh new limitations on average hard working people forced by circumstances to seek the protection of the bankruptcy laws.

There are a number of other problems with the bill that I hope the conference committee will try to work out. I will take my remaining time this morning to highlight one. It has to do with the new definition of ''household goods'' in section 313 of the substitute amendment.

As written, this bill very quietly undermines an extremely important protection that current bankruptcy law offers to debtors. Section 313 is a gift to finance companies who have what I consider to be a questionable practice of taking liens on the personal property of the people to whom they lend money.

To understand how unfair the bill is here, my colleagues must be aware that the practice of taking a non-purchase money security interest in certain household goods has been illegal for many years. Under 16 C.F.R. § 444.2, a regulation first promulgated by the Federal Trade Commission during the Reagan Administration, it is an unfair credit practice under section 5 of the Federal Trade Commission Act for a lender to ''take or receive from a consumer an obligation that constitutes or contains a non-possessory security interest in household goods other than a purchase money security interest.''

Let me take a step back and remind my colleagues of the difference between a purchase money security interest and a non-purchase money security interest. A purchase money security interest is a lien that is taken on the property that is being purchased with the proceeds of a loan. For example, an auto manufacturer or a bank takes a purchase money security interest in your car when you get a loan to pay for it. That security means the lender can repossess the car to satisfy the loan if you don't make your payments. Major department stores might take a purchase money security interest in a home entertainment center or a computer or a major appliance that you buy on credit. It makes perfect sense for these lenders to be secured creditors and to protect their interest in getting their loans repaid. No one has a problem with that.

But when a finance company takes an interest in property already in the home to secure a loan, property that is already purchased and paid for, that is a non-purchase money security interest. And as I said, the FTC determined long ago that such an interest on household goods is illegal. The FTC's definition of household goods, however, is limited. On this chart, you can see the definition of household goods in the FTC regulation—clothing, furniture, appliances, one radio and one television, linens, crockery, kitchenware, and personal effects, including wedding rings.

So this definition of household goods is relatively narrow. It includes only a single TV, for example, and it doesn't cover things such as CD players that hadn't even been invented in 1984, or personal computers that were not nearly as common in family homes as they are today. Nonetheless, the FTC rule prohibits finance companies from taking non-purchase money liens on items covered by this definition.

But finance companies that like having these liens as a bargaining chip with their borrowers have hardly been deterred. They want to turn what is essentially an unsecured loan into a secured loan. So they take liens in everything in the house they can get their hands on that is not on the FTC's list of household goods.

This chart shows a typical form that the finance companies use to get borrowers to list their personal property when they apply for a loan. They take a lien on everything that a borrower identifies—things like garden tools, jewelry, rugs, cameras, exercise equipment. Make no mistake, these companies have no intention of repossessing these items—most of them are probably worthless—they just use them as a threat to try to get their loans repaid. This chart shows a typical loan application with a list of household goods that these lenders try to take an interest in. They try to cover it all: bicycles, tennis rackets, hedge trimmers, leaf blowers, mirrors, model airplanes, sleeping bags, the list goes on and on and on.

Under section 522(f) of the Bankruptcy Code, a debtor can apply to the bankruptcy court to avoid these non-purchase money liens in household goods. And the courts have generally interpreted household goods broadly to include all items kept in or around the home to facilitate the day-to-day living of the debtor. The courts have specifically rejected the narrow list of household goods contained in the FTC's regulation as too narrow.

Remember, in bankruptcy, liens can't be avoided on extremely expensive items. The power of lien avoidance under section 522(f) only applies to property that falls under an exemption from the bankruptcy estate, and there are strict limits on the value of property that is exempt from liquidation in bankruptcy under State and Federal law. But the power of lien avoidance serves the purpose of treating creditors equally and fairly, particularly in Chapter 13, and it protects debtors from being pressured into reaffirming debts that they would otherwise be able to discharge in bankruptcy because they fear they will lose their family heirlooms or their child's model airplanes.

Section 313 of the bill is a new and very restrictive definition of household goods for purposes of the lien avoidance power. It essentially codifies the FTC's list of household goods and makes it the exclusive list of household goods on which liens can be avoided in bankruptcy.

This chart shows how section 313 compares to the FTC's definition. The bill would turn the law on its head. In effect, it says that virtually the only liens that can be avoided are those that the FTC's regulation already prohibits. As you can see here, liens can be avoided on clothing, furniture, appliances, one radio and one television, linens, crockery, kitchenware, and personal effects, including wedding rings—all items that are on the FTC's list already.

Thus, under this definition, section 522(f) lien avoidance, which is intended to protect the exemptions for personal

property that states and federal law provide, is almost completely gutted.

All of the things I mentioned before that finance companies commonly take liens in are not included in the definition—garden tools, jewelry, rugs, cameras, exercise equipment, bicycles, tennis rackets, hedge trimmers, leaf blowers, mirrors, model airplanes, and sleeping bags. Finance companies can take liens in these items and enforce them in a bankruptcy case.

The real problem here is that no list can be exhaustive. And there is really no reason to have an exhaustive list anyway. The courts are fully capable of determining in a bankruptcy case what kinds of things are standard household items. The list in the bill is far too narrow, and there is absolutely no evidence that there are abuses taking place that need to be addressed.

The reason that this provision is in the bill is simple—the finance companies that support the bill want more power to take these borderline unethical liens. They want more power to coerce people into reaffirming debts because they don't want their home stripped bare by a company that holds an interest in everything in it. This provision is part of the ''deal'' between all the creditors that support this bill. All of them are getting their special protections in this bill, and consumers are left with nothing.

Mr. President, I was prepared to offer an amendment to strike section 313 back in March, but time ran out before I could offer it. I filed it so that it could be offered once cloture is invoked. I will not offer it today, but I believe we should remove this offensive provision in conference. That would move this bill just a little closer to one that actually treats American families fairly.

I thank my colleague from Minnesota for all he has done to fight for American families on this issue. I yield back the balance of my time.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The senior assistant bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the substitute amendment No. 974, the text of S. 420, as passed by the Senate, for H.R. 333, the bankruptcy reform bill:

John Breaux, Harry Reid, Byron Dorgan, E. Benjamin Nelson of Nebraska, Kent Conrad, Thomas Carper, Chuck Grassley, Daniel Inouye, Joe Biden, Robert Torricelli, Joseph Lieberman, Blanche Lincoln, Max Baucus, Zell Miller, James Jeffords, Tim Johnson, and Patrick Leahy.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived. The question is, Is it the sense of the Senate that debate on amendment No. 974 to H.R. 333, an act to amend title 11, United States Code, and for other purposes, shall be brought to a close?

The yeas and nays are required under the rule.

The clerk will call the roll.

The senior assistant bill clerk called the roll.

Mr. FITZGERALD (when his name was called). Present.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

Mr. NICKLES. I announce that the Senator from New Hampshire (Mr. SMITH) is necessarily absent.

I further announce that if present and voting, the Senator from New Hampshire (Mr. SMITH) would vote ''yea.''

The yeas and nays resulted—yeas 88, nays 10, as follows:

[Rollcall Vote No. 234 Leg.]

YEAS—88

Akaka	Ensign	Mikulski
Allard	Enzi	Miller
Allen	Feinstein	Murkowski
Baucus	Frist	Murray
Bayh	Graham	Nelson (FL)
Bennett	Gramm	Nelson (NE)
Biden	Grassley	Nickles
Bingaman	Gregg	Reed
Bond	Hagel	Reid
Breaux	Hatch	Roberts
Bunning	Helms	Rockefeller
Burns	Hollings	Santorum
Byrd	Hutchinson	Sarbanes
Campbell	Inhofe	Schumer
Cantwell	Inouye	Sessions
Carnahan	Jeffords	Shelby
Carper	Johnson	Smith (OR)
Chafee	Kennedy	Snowe
Cleland	Kerry	Specter
Clinton	Kohl	Stabenow
Cochran	Kyl	Stevens
Collins	Landrieu	Thomas
Conrad	Leahy	Thompson
Craig	Levin	Thurmond
Crapo	Lieberman	Torricelli
Daschle	Lincoln	Voinovich
DeWine	Lott	Warner
Domenici	Lugar	Wyden
Dorgan	McCain	
Edwards	McConnell	

NAYS—10

Boxer	Dodd	Hutchison
Brownback	Durbin	Wellstone
Corzine	Feingold	
Dayton	Harkin	

ANSWERED ''PRESENT''—1

Fitzgerald

NOT VOTING —- 1

Smith (NH)

The PRESIDING OFFICER. On this question, the yeas are 88, the nays are 10, with 1 Senator responding ''present.'' Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. REID. Mr. President, I know the hour for recess is here, but at 2:15 I will renew a unanimous consent agreement that Senator DOMENICI and I have offered on at least two or three separate occasions on previous days to have a cutoff time for the filing of amendments to the energy and water appropriations bill. I hope both the Democrats and Republicans during their noon conferences take up this issue. It is an important bill. Until there is a filing of amendments, staff cannot work on these to see if we can accept some of them. It would be helpful in moving this bill and having a fair, responsible piece of legislation so we wouldn't have to work on these at the last minute.

I will renew my request at 2:15.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I ask what is the pending matter before the Senate?

The PRESIDING OFFICER. Under the previous order, the Senate is to stand in recess until 2:15.

Mr. DODD. Mr. President, I ask unanimous consent I may be allowed to address the Senate as in morning business for the next 5 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, the Senator is recognized.

ELECTIONS

Mr. DODD. Mr. President, I am going to come to the floor later with lengthier remarks, but there are two subject matters I want to bring to the attention of my colleagues that I am sure they have taken note of over the last several days. The first is the continuing reports about last year's elections in the United States. Obviously, there was particular focus on the State of Florida. But, Mr. President, as you know because of your deep interest in the subject as well, we believe this was not exclusively a Florida issue. Nor was it merely an issue involving the national election last year. Mr. President, we have a serious problem, based on a number of studies that have been conducted by Members of the other body as well as the Civil Rights Commission and the Massachusetts Institute of Technology, whereby as many as 6 million people did not have their votes counted last year. That is in addition, I suppose, to the 3 million people we now know who actually tried to vote but were told they were not allowed to vote despite the fact they actually had the right.

That is now 9 million people. I know of 10 million people who are blind in this country who did not vote last year. Only one State in the United States actually allows people who are blind to go in and vote on their own. In any other jurisdiction, if you are blind you must be accompanied by someone else. You never get to vote in private, in spite of the fact there is hardly an elevator in America built in the last 5 years where there is not Braille to assist you. You can operate an elevator alone but you cannot cast a ballot alone in the United States.

So there is a growing sense of scandal, in my view, not because someone

was involved in some criminal enterprise to deprive people of the right to vote or to manufacture or manipulate the outcome of the election. I use the word ''scandal'' to speak of a situation in which only one out of every two eligible Americans is casting his or her vote. And even those who do are not having their votes counted properly; that is of deep concern to me.

Patrick Henry, one of the great voices that gave birth to this Nation, once said that the right to vote is the right upon which all other rights depend. I believe he was correct more than 230 years ago, and even now, as we enter into the 21st century.

We lecture the world all the time on how to conduct free and democratic elections, yet there is a growing body of evidence that suggests we could do a much better job in America in how our elections are conducted, in what support we provide our local communities and precincts, and by setting some national standards so we never again idly sit and watch an election during which as many as 6 million votes went uncounted. These were people who exercised their civic responsibility and showed up on election day to cast a ballot and, because of faulty machinery or other shortcomings, their ballots were never counted—not to mention the people suffering a variety of physical disabilities who were denied that right as well.

It is my hope that in the coming weeks, as we gather more information from across the country about how we could do a better job, we will put adequate resources into this. I say this as my seatmate, normally sitting to my right, is now sitting over here in a chair to the left—the chairman of the Appropriations Committee. I have not had a chance to speak with the chairman about this. I will not abuse a public forum to do so at this moment, but I know he cares about these issues as much as I do, and we might talk about how we might provide some resources to our States to ensure that the equipment is modernized, that we no longer have machinery that is a half century old in some cases, as it is, to be used by people who wish to cast their ballots. My hope is we can come up with some national standards, provide the resources to our States, and do a much better job, a much better job in seeing to it that people vote in this country and that their votes are then counted.

I cannot begin adequately to express the sense of outrage I sense among people all across this country who were so terribly disappointed, to put it mildly, who went to vote and discovered their votes were not counted.

Put aside your feelings about the outcome of the election. We have a President. His name is George W. Bush. I stood on the west front of the Capitol on January 20, and I certainly believe in the depths of my soul that this is the President of the United States. My concerns are not about the legitimacy of the person who sits in the White House. My concerns are about the legitimacy of a process that I think is in dire need of repair—the election process in this country.

I don't know how much more evidence we need to have accumulated by independent studies based on last year's results, especially now that the New York Times, Miami Herald, other newspapers, as well as the organizations I have already mentioned, have looked at the elections of last year and have concluded by and large that there are serious problems with the present electoral process.

I would like to address this issue at greater length later today, but I wanted to raise the matter here before we went into recess over the next hour or two.

Finally, I would like to mention a matter that I think is tremendously important—and I should point out to my colleagues here that the Presiding Officer shares an equal passion about this issue as the Senator from Connecticut. I look forward very much, working with him as a member of the Judiciary Committee that has very specific jurisdiction over the Voting Rights Act of 1965, on how we can listen to people across this country, gather as much adequate information as we can and then propose to our colleagues some meaningful ideas, both resources and ideas, on how we can minimize the electoral problems that occurred not just last year but have been occurring over the last number of years.

THE ELEMENTARY AND SECONDARY EDUCATION ACT

Mr. DODD. The second subject matter is the Elementary and Secondary Education Act. This morning the New York Times as well as others reported that there were serious reservations being expressed by superintendents of schools and educators across the country about this mandating of testing in the third, fourth, fifth, sixth, seventh, and eighth grades. I certainly want to see young people tested. I think it is worthwhile to know how children are doing under the elementary and secondary educational system of the country, but I am getting concerned that we are merely taking the educational temperature of these children without really dealing with the problem that has caused the public to lose faith in our public school system.

Every day the numbers indicate there is greater concern about the quality of public education. I think we can do a better job. But I do not necessarily believe that just testing kids every year, and at what cost, is necessarily going to improve the quality of education. So while I am not opposed to testing, I think we ought to think more about what we can do for those children who are failing, what ideas can we come up with and work on with our local communities and States to improve the quality of teachers, the quality of classrooms, the quality of educational materials, wiring schools to take advantage of the explosion in technology and information that is available.

I always find it somewhat mortifying when the Federal Government lectures the country about the quality of education, where we lecture local school districts, States and school boards about what they ought to be doing. The Federal Government contributes less than one-half of 1 percent of the entire Federal budget dedicated to elementary and secondary education. I find that scandalous, to use the word I used when talking about the election process. The fact that the Federal Government in its resources only contributes one-half of 1 percent of its budget to the elementary and secondary educational needs of America's children; that of every dollar that gets spent on education the Federal Government's one-half of 1 percent amounts to about 6 cents. Mr. President, 94 cents of every education dollar comes mostly from local property taxes and some from the States.

In my view, in the 21st century we ought to become an equal partner with local communities and States: one-third, one-third, one-third. That can reduce property taxes and provide more meaningful resources to communities that do not have the wealth, the support for the kinds of educational opportunities their students should have. No child in America ought to have the quality of their educational opportunity be determined solely by the wealth of the community in which they happen to have been born. That is just wrong.

If you are born in America, you ought to have an equal opportunity for a good education. It seems to me that the Federal Government ought to do a better job of being supportive, particularly as we write bills that mandate testing, without putting the resources there to allow communities to pay for these additional burdens.

For the last 35 years we did that on special education. We mandated a law that said you had to provide for the special education needs of children. Then we never came up with the money to pay for those costs. The bill we just passed in the Senate now mandates full funding of the 40-percent requirement of special education, but it has taken 35 years to do it. We have allowed for full funding of title I, but I would like to know when President Bush is going to tell us what sort of resources the Federal Government is going to commit to these elementary and secondary educational needs.

The President talks about how he wants this done, but I am waiting yet

to hear from the White House. How much money is the administration willing to commit to full funding of title I and to special education needs?

They are telling us that they want to have mandatory testing. They want accountability, but they are unwilling to say whether or not they will commit the necessary resources to achieve those goals.

I hope the administration, as they urge us to get ready to pass this bill in conference, will also heed their own advice and more quickly expedite the commitments made by the President as to what resources will be provided.

It is now only a matter of a few weeks before children and their parents start to prepare to go back to school. We ought not wait much longer to get the job done.

My point of these brief remarks is to urge the administration to step up to the plate and tell us what the resources are. If they are not going to make any at all, then we ought to rethink this bill. Do not tell me the administration will mandate costs on the local community and then not have the resources to pay for it. And do not tell me that Americans will have to watch property taxes go through the ceiling because Uncle Sam tested their children every year from the third to the eighth grade without providing the resources to help communities and parents meet those greater educational goals.

Both on election reform, and on education, I hope we can get something done.

I wish the President would support election reform. I hope he will speak up and tell us what sort of resource commitments he is willing to make to support the elementary and secondary education needs of America's children.

I appreciate the indulgence of the Chair in listening to these brief remarks.

I yield the floor.

The PRESIDING OFFICER. I thank the Senator from Connecticut.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:51 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. CLELAND).

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ORDER OF BUSINESS

Mr. REID. Mr. President, I have been in conversation with my counterpart, Senator NICKLES. We both recognize the importance of moving this bill and other appropriation bills. At this time, however, after consulting with Senator NICKLES, we are not going to ask for a unanimous consent agreement that there be a time for filing of amendments.

Senator DOMENICI and I will work through these amendments. We know there are several amendments, and as soon as we get off the bankruptcy bill, Senator STABENOW is going to offer one. There may be others. Senator DOMENICI and I will work through them.

When we get to a point where we think the amendments are not coming in, we will move to third reading, and we will keep the leadership of the minority advised as to what we are doing.

I appreciate the advice and counsel and suggestions made by my friend from Oklahoma. We will do our best to abide by these.

The PRESIDING OFFICER. The assistant Republican leader.

Mr. NICKLES. Mr. President, I thank my friend and colleague, Senator REID. I appreciate his not entering a request to limit or say that all amendments would have to be filed by a certain period of time. I encourage my colleagues to work with the managers of this bill, Senator DOMENICI on our side, if they have amendments, to bring those to his attention.

It is certainly not our intention to procrastinate on this bill. We would like to see the amendments that are pending and do some homework on the amendments, consider them, take them up, pass them or defeat them, and come to final passage in the not too distant future.

I urge all of our colleagues, Republicans and Democrats, if they have amendments, to please bring those forward so we can deal with those appropriately and finish consideration of this important bill.

Mr. REID. Mr. President, if my friend will yield, the other thing I would like to bring to the attention of the Senate is, as soon as we finish this bill, we move to one of President Bush's very important nominations; that is, of Mr. Graham. The agreement that has been made by the two leaders and that is now part of the Senate record is that as soon as we finish this bill, we will move to that nomination. There is a time agreement that has already been made on that matter. The sooner we finish this bill, the sooner we can get to this important nomination of President Bush.

Mr. NICKLES. Mr. President, I concur. I compliment Senator REID for bringing forward Mr. Graham's nomination. That is a very important nomination. It deals with the Office of Regulatory Affairs. It deals with the cost of regulations. You cannot go a day without seeing some regulations that have an impact in the billions and billions of dollars. It is very difficult for President Bush to deal with this issue and not have his person installed as head of the office. We will have 7 hours of debate on Mr. Graham's nomination. I look forward to that debate and to his confirmation as well.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, I thank my two colleagues. This is reasonable. I am concerned that when we have before us an important issue such as this energy bill, which really bears a lot on where we are going in this whole area of energy—and it is very important to me and to the American people—we get the amendments in. But this idea of having them filed by a certain time I think is really tough. We need a list perhaps. But thank you very much for this little change in direction.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2001—Continued

Mr. WELLSTONE. I say to the majority whip, am I to do my amendment to the bankruptcy bill?

Mr. REID. The Senator is right. I believe the Chair would tell us that there is only one amendment to be in order, which is the amendment of the Senator from Minnesota. The Senator agreed to an hour time limit, it is my understanding. I think the Senator should move forward so we can get to the energy bill as soon as possible.

AMENDMENT NO. 977 TO AMENDMENT NO. 974

Mr. WELLSTONE. Mr. President, I send amendment No. 977 to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE] proposes an amendment numbered 977 to amendment No. 974.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To require the General Accounting Office to conduct a study of the effects of the Act on bankruptcy filings, and for other purposes)

At the appropriate place, insert the following:

SEC. ___. STUDY OF THE EFFECT OF THE BANKRUPTCY REFORM ACT OF 2001.

(a) STUDY.—The General Accounting Office (in this section referred to as the ''GAO'') shall conduct a study to determine—

(1) the impact of this Act and the amendments made by this Act on—

(A) the number of filings under chapter 7 and chapter 13 of title 11, United States Code;

(B) the number of plan confirmations under chapter 13 of title 11, United States Code, and the number of such plans that are successfully completed; and

(C) the cost of filing for bankruptcy under chapter 7 and chapter 13 of title 11, United States Code, in each State;

(2) the effect of the enactment of this Act on—

(A) the availability and marketing of credit; and

(B) the price and terms of credit for consumers; and

(3) the extent to which this Act and the amendments made by this Act impact the ability of debtors below median income to obtain bankruptcy relief.

(b) REPORT TO CONGRESS.—Not later than 2 years after the effective date of this Act, the GAO shall submit a report to the Congress on the results of the study conducted under subsection (a).

(c) DATA COLLECTION BY UNITED STATES TRUSTEES.—

(1) IN GENERAL.—The Director of the Executive Office for United States Trustees shall collect data on the number of reaffirmations by debtors under title 11, United States Code, the identity of the creditors in such reaffirmations, and the type of debt that is reaffirmed.

(2) AVAILABILITY.—Periodically, but not less than annually, the Director shall make available to the public the data described in paragraph (1) in such manner as the Director may determine.

Mr. WELLSTONE. Mr. President, I want to get to the substance of my amendment in a moment. I want to respond for a moment to some of the comments from my colleague from Utah, Senator HATCH. The Senator from Utah said he was going to oppose this amendment because it was a ''delaying'' amendment.

I want Senators to know that I offer this amendment in good faith as an effort, in a modest way, to improve this bill. It says let's have a GAO study and look at the bankruptcy bill and analyze the effect of it. I don't know how Senators can vote against this, but I want to make it clear that a Senator could file a thousand amendments if this was all about delay. To my knowledge, this is the only amendment—my colleague from Wisconsin, Senator FEINGOLD, had filed an amendment, but I don't think he is going to offer it.

I just want to be clear that your vote on this amendment is a vote on whether or not you think we should be accountable for our vote. That is really what it is. So I don't want anybody to say I can vote against this amendment because it is some kind of a delaying tactic. That is simply not the case. What we have to say to people back in our States is: Look, in good conscience, I voted against an amendment to do a careful evaluation of this bankruptcy bill to see how it is working. You can figure out how you want to fill in the blank. That is the argument you have to make. You can't say: I voted against this amendment because it was a strategy of delay. That is ridiculous. It is just one amendment.

The second thing I have to do because you have to have a twinkle in your eye, and I think the Chair is one of the best at that. I just received today a solicitation from MBNA, which I think is the largest credit card bank in the country. They offered me a credit line of up to $100,000. There is an introductory 1.7-percent annual percentage rate, including cash advance. I thank the credit card industry for not taking this personally. This is sent to people—to our kids and grandchildren—every day.

This amendment is straightforward. I hope, I say to the Chair, that it will garner universal support. It should. It doesn't attempt to undo anything the Senate did earlier this year. It doesn't revisit any of the debate that we have had. This is no trick.

Look, if I had my way, I would kill this bill. For 2½ years, I have been trying to do that. This amendment is all about accountability. The main provision of the amendment requires that the GAO do a study of the impact of the bankruptcy bill on debtors and consumers of credit. It is that simple. Both sides have made dramatic arguments or dramatic claims about this legislation. In my case, they have been negative. In the case of some of my colleagues, they have been positive.

My amendment says, OK, 2 years after this bill has become effective, let's have the General Accounting Office give us a report on how things have turned out. How in the world—I am amazed that there is opposition. There was a great Swedish sociologist, Gunnar Myrdal, who wrote, ''Ignorance is never random.'' Sometimes maybe we don't want to know what we don't want to know. But I think it is really hard for Senators, Democrats and Republicans, to make an argument that you are unwilling to let the GAO do a study of this careful policy evaluation. That is what this amendment says. Will we be accountable for the votes we cast? For those who think it will be a great bill, you will get a chance to see. For those who think it is going to be harsh in its impact on people, of course, we want to know.

We are going to ask the GAO to study six things.

First, we are going to ask the GAO to report on the impact of the bill on the number of filings under chapter 7 and chapter 13. This is important because the proponents of the bill have been something of a moving target on this issue. They argue that the point of the bill—particularly the means test—is to force more debtors who are now filing for chapter 7 into chapter 13—the logic being they can afford to do so.

I have heard colleagues say that is the only thing this is about. People should not get away with filing chapter 7 when they really have the money and they can instead file for chapter 13. But then the American Bankruptcy Institute found that very few people abuse chapter 7. Perhaps as low as 3 percent do that. And then the chapter 13 trustees reported that this bill will actually reduce chapter 13 filings by 20 percent from the current level because of the problem through additional burdens that the bill creates for chapter 13 filers.

Now, the proponents admit there may be fewer successful 13s. Also, I have argued that access to both chapters 7 and 13 are going to be reduced because of the means test and other burdensome requirements.

Let's find out. Those of you who say you are for the bill, you say it is because people have been gaming the system, but the evidence doesn't support that claim. I have talked about who the people are. Fifty percent of the people file for bankruptcy because of medical bills, or people have lost jobs, or there has been a divorce. But what I am saying is, since now we know that, in fact, there may not be so much abuse, and that many people can't file successfully for chapter 13, and maybe even are less able to do so under this legislation, let's have a study. Let's look at this. Two years hence, let's look at how this has worked. How can anybody be opposed to a careful policy evaluation?

Second, the GAO will look at chapter 13 specifically and the impact of this act on the number of plan confirmations in chapter 13 and the number of chapter 13 plans successfully completed. This is a key question because 67 percent of chapter 13 cases fail under current law. I will repeat that. Under current law, 67 percent of the people can't make it. If this legislation is going to make it even more difficult for people to make it, and this is what my colleagues call reform, what this amendment says is let's see what has happened. Let's see if I am right. Or forget me. Let's see if the U.S. Trustees are right, and if we aren't, no harm has been done. But if we are right, then perhaps the Congress might want to revisit this legislation.

When it becomes clear that a lot of hard-working people, through no fault of their own, wound up in very difficult, hellish financial circumstances, and then could not rebuild their lives because of this legislation, don't you think we want to know?

Colleagues, if you are right, you are right. But if you are wrong, you want to know if you are wrong. How can any Senator vote against this amendment?

Third, the General Accounting Office will examine the impact on the cost of

filing chapter 7 and chapter 13 bankruptcies in each State. This is another key question—whether or not this bill will allow debtors to get bankruptcy relief. There is overwhelming evidence that the cost of filing bankruptcy is a major hurdle. Some families are going to have to save for months in order to do it.

They are, after all, insolvent. It is also a virtual certainty that this bill will make it more expensive to file, as the Wall Street Journal noted earlier this year. Again, let's hold ourselves accountable and have the General Accounting Office study this issue for certain.

Fourth, the GAO will report on the impact of the bill on the availability and marketing of credit. Something very interesting happened in 1999 and 2000 while the proponents of so-called reform were bleating about the rising number of bankruptcies. The bean counters in the consumer credit industry realized that all these bankruptcies were not good for profits so they started lending less money, and they were more careful about who they lent the money to and, in fact, overall consumer debt level actually declined in 1998, and guess what. We had fewer bankruptcies. This trend continued to 1999 and 2000. Bankruptcies only started rising again as the economy started to turn downward.

Several economists have suggested that when you restrict access to bankruptcy protection, as this bill does, you are going to increase the number of filings and defaults because the banks are going to be more willing to lend the money to marginal candidates because they do not have to worry about people then filing for bankruptcy. Indeed, it is no accident that that is exactly what happened after the bill was passed in 1984.

As the May 21 issue of Business Week notes in an article titled ''Reform That Could Backfire'':

> Indeed, [Mark] Zandi believes that tougher bankruptcy laws will simply induce lenders to ease their standards even more. States with the highest bankruptcy rates already have stringent wage garnishment laws, yet net losses to credit card issuers in such States have been similar to those in States following less restrictive bankruptcy rules.

Let's see if the experts are right. Have the General Accounting Office do a study.

Fifth, we want to look at the effective so-called reform bill on the price and terms of credit for consumers. What we hear by the credit card companies and proponents of these bills is that all of these bankruptcies have led to higher interest charges and fees for honest consumers. That is because, they say, the credit card companies and banks pass on the costs of the default to consumers.

In fact, I remind colleagues, the credit card companies have calculated the cost of this tax on consumers to be $400 per year. This has been cited as a reason that we need reform. The decent, hard-working people are getting charged $400 more a year because of people who are the slackers and are gaming the system, although there are not very many slackers.

Maybe this is all true, but it only matters in the context of the bill if passing this ''reform'' measure actually results in savings to consumers.

By the way, there is not much evidence that is going to happen. Consider this: In 1999 and 2000, when bankruptcy rates and defaults were dropping sharply, interest rates and fees on credit cards were actually rising, and the bank and credit card lender profits were also rising. This suggests that if there were any savings, they were not passed on to consumers.

If this industry is going to run the show, let's insist, after this bill passes, there are going to be these great savings for consumers. Let's just do a careful study of that.

Sixth, the GAO will investigate the extent to which the bill impacts the ability of debtors below median income to obtain bankruptcy relief.

I have heard colleagues say over and over that nothing in this bill will affect the ability of low-income debtors to get a fresh start. In fact, I heard the Senator from Alabama make that claim the other day. If that is the case and if the only thing this legislation is about is going after those people who are the slackers or the cheaters, then let's take a look at it.

As I said before, there are a lot of provisions in this bill that are going to make it much harder for people to get a fresh start, and it has nothing to do with whether or not they were cheaters or slackers. I am talking about the people who have really been put under, no fault of their own.

Let's have the GAO take a look at this question: Are we going to have a lot of debtors who are going to face these hurdles to filing regardless of their circumstances?

Finally, there is one other part of this amendment. It directs the Director of the Office of U.S. Trustees to collect data on reaffirmation agreements, the identity of the creditors in such reaffirmations, and the type of debt that is reaffirmed.

Under this bill, creditors will have more leeway to force reaffirmations—agreements where debtors reaffirm their intention to pay back the debt and so the debt is not wiped out in bankruptcy. Unfortunately, these agreements are commonly abused by creditors under current law.

I talked about what happened with Sears, Roebuck. They paid $498 million in settlement damages in 1999 and $60 million in fines for illegally coercing reaffirmations—agreements with borrowers to repay debt—from its cardholders. Apparently this is just the cost of doing business. Bankruptcy judges in California, Vermont, and New York have claimed that Sears is still up to its old strong-arm tactics but is now using legal loopholes to avoid disclosure. This amendment will bring some transparency to the reaffirmations and allow us to study how they are being abused.

This is a modest amendment. I have been fighting this bankruptcy bill for a long time, and other Senators have been out here fighting. If it is going to go to conference committee, then I am going to depend on Senator LEAHY and others to improve this bill, although I think there is going to be a vote we are going to deeply regret.

The most vulnerable people are the ones who are going to pay the price. The economy is turning downward and a lot of people may find themselves in terrible circumstances—no fault of their own—and are going to have a very difficult time rebuilding their lives.

I am amazed that the credit card industry in institutional terms—not Senator to Senator. Every Senator votes how he or she thinks is right. I am saying can we not at least do an evaluation? Can we not at least make sure that 2 years from now we have the General Accounting Office do a study so we know what is happening around the country?

If the proponents of this legislation are right and this truly was a reform and it truly works well and all of the harsh and negative consequences I have spent hours talking about do not turn out to be the case, I will be glad to be proven wrong. But for those of you who support this legislation, surely you also, first of all, want to be right, but if you are wrong and I am right, then you want to know you are wrong so you can change the course of policy. You do not want to see a lot of innocent people, ordinary citizens hurt by this legislation just because the large financial service industry has such clout. We all know about their power. We all know that this is one-sided.

There is not a word in this legislation—I am sorry, on the Senate side, there is a minuscule piece on disclosure, but nowhere are they called into question or called into accountability. They pump this stuff out every day. I got one today. Credit line up to $100,000. Our children get it. Every day they send this stuff out in the mail. Every day they try to hook people on their credit, and we are arguing that when it comes to bankruptcy, the only people who are at fault are the people who wind up in trouble, not these big credit card companies for their irresponsible, reckless lending policies.

Shouldn't we call on them to be more accountable? We have not. Shouldn't there be more balance to this legislation? There is not. Am I right that a lot of low- and moderate-income people

are going to be hurt, that a lot of single-parent families headed by women are going to be hurt? Am I right that a lot of children who live in these families are going to be hurt? Am I right that a lot of families who have been put under because of medical bills are going to be hurt? Am I right that families—because the husband or the wife, the major wage earner, loses his or her job and finds themselves in terrible circumstances—are going to be hurt?

I think I am right. If I am wrong, I will be prayerfully thankful to be wrong. If I am right and you are wrong, you will want to know you are wrong so we can do something in a hurry before a whole lot of ordinary citizens get hurt very badly by this legislation.

Every Senator should vote for this amendment. There is no reason to vote no.

I 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.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. 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. REID. Mr. President, I ask unanimous consent that we leave the bankruptcy legislation now before the Senate until the hour of 3:20, at which time we expect Senator HATCH to return and speak on the amendment of the Senator from Minnesota. Senator DOMENICI and I would like to go to the energy and water bill during this short period of time.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent the order for the quorum call be dispensed with.

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

The Senator from New Mexico is recognized.

Mr. DOMENICI. I thank the Chair.

(The remarks of Mr. DOMENICI pertaining to the introduction of S. 1186 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2002—Resumed

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2311) making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes.

AMENDMENT NO. 987

Ms. STABENOW. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Ms. STABENOW) for herself, Mr. FITZGERALD, Mr. LEVIN, Mr. DURBIN, Mr. DAYTON, Mr. FEINGOLD, Mr. SCHUMER, Mr. KOHL, Mr. WELLSTONE, Mrs. CLINTON, Mr. BAYH, and Mr. VOINOVICH proposes an amendment numbered 987.

Ms. STABENOW. 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:

(Purpose: To set aside funds to conduct a study on the effects of oil and gas drilling in the Great Lakes)

On page 2, line 18, before the period, insert the following: '', of which such sums as are necessary shall be used by the Secretary of the Army to conduct and submit to Congress a study that examines the known and potential environmental effects of oil and gas drilling activity in the Great Lakes (including effects on the shorelines and water of the Great Lakes): *Provided*, That during the fiscal year for which this Act makes funds available and during each subsequent fiscal year, no Federal or State permit or lease shall be issued for oil and gas slant, directional, or offshore drilling in or under 1 or more of the Great Lakes (including in or under any river flowing into or out of the lake)''.

Ms. STABENOW. Mr. President, my amendment, which is a bipartisan amendment and which shares the strong support of colleagues from around the Great Lakes Basin, seeks to protect the waters of the Great Lakes by asking for a study of the impact of any oil and gas drilling in our Great Lakes. And it places a moratorium on new drilling until we have factual scientific review of the danger of any potential oil and gas drilling.

In case my colleagues are not aware, 30 to 50 new oil and gas drilling permits could be issued as soon as the next few weeks for extraction under Lake Michigan and Lake Huron. This is moving forward only in the waters of the State of Michigan despite the overwhelming opposition of almost all local communities that would be affected by drilling and by the public at large.

We don't want to see these oil rigs dotting the shoreline of Lake Michigan or any of our beaches around the Great Lakes.

This amendment says that before anything as serious as this picture shows would occur we want to make sure that the Army Corps of Engineers does a complete study and analysis, and that we have thoughtful consideration of the impact this would create.

I want to make it clear that this is a local and regional issue. Drilling in the Great Lakes is not a part of President Bush's energy strategy, nor is it a component of any of the major energy bills pending in Congress.

We are talking about the Great Lakes Basin. We have one of our Nation's most precious public natural resources. As you can imagine, the citizens of the Great Lakes and all of the States involved are very proud and protective of the Great Lakes waters. We have 33 million people who rely on the Great Lakes for their drinking water, including 10 million from Lake Michigan alone.

Millions of people use the Great Lakes each year to enjoy the beaches, great fishing, and boating. We welcome everyone to come and enjoy the splendor of the Great Lakes.

The latest estimate shows that recreational fishing totals $1.5 billion to Michigan's tourist economy alone. The Great Lakes confines also are home to wetlands, dunes, and endangered species and plants, including the rare piping plover, Michigan monkey flower, Pitcher's thistle, and the dwarf-lake iris. Lake Michigan alone contains over 417 coastal wetlands, the most of any Great Lake.

As you can see, we are proud of our lakes. All of the States surrounding the Great Lakes have a stake in what happens in these waters, as do all of us, because this is 20 percent of the world's fresh water. All of us have a stake in making sure we are wise stewards of this important waterway.

Great Lakes drilling would place the tourism economy, the Great Lakes ecosystem, and a vital source of drinking water at great risk for a small amount of oil.

Last year, Michigan produced about 2 minute's worth of oil from Great Lakes drilling of seven wells that have been in place since 1979. Since 1979, Michigan's wells have only produced 33 minutes of oil. U.S. consumers use 7 billion barrels per year.

This is not about a large source of oil. We are deeply concerned about the risks involved in drilling.

I cannot stress enough how important tourism is to the Michigan economy. Families from all over the country come to visit Mackinaw Island and the hundreds and hundreds of miles of

beaches up and down Michigan's coastline.

As I know my colleagues feel the same about their borders and their coasts around Wisconsin, Ohio, Indiana, Illinois, New York, and Minnesota, all around the Great Lakes we are proud of and depend on tourism as a part of our economy.

As it gets warmer and warmer and more and more humid here, we welcome people to come and visit the beautiful Great Lakes' shoreline and the wonderful weather that we are now having in Michigan.

It is estimated, unfortunately, that a single quart of oil—a single quart of oil—through a mishap of any kind could foul as much as 2 million gallons of water. That is our fear.

If an oil spill happened in one of Michigan's tourist locations, it could ruin these local economies forever.

The Great Lakes are all interconnected and they border eight States, as we know, from Minnesota, Wisconsin, Illinois, Indiana, Michigan, Ohio, Pennsylvania, and New York.

This means that an oil spill in Lake Michigan could wash up on the shores of Michigan, Indiana, Illinois, and Wisconsin. That is why we need to have the Federal Government study this issue because it affects more than just one State.

My amendment is a reasonable and prudent approach to the issue of any oil and gas drilling in the Great Lakes. It asks the Army Corps of Engineers to study the safety and environmental impact of drilling under the Great Lakes. It places a moratorium on new drilling.

Once this study is concluded, Congress can review this information and decide whether or not the moratorium should continue.

This is not a partisan issue. I am joining with colleagues on both sides of the aisle led by Senator FITZGERALD from Illinois, my Republican colleague.

I am so pleased to have colleagues on both sides of the aisle coming together to protect our wonderful natural resource called the Great Lakes.

We have in addition two prominent Republican Governors who have come out strongly against drilling in the Great Lakes.

If I might read their statements, Ohio Governor Bob Taft has stated that he cannot see any situation where he would support drilling under Lake Erie.

Governor Taft has ruled out drilling under the lake, saying many environmental issues would need to be considered before any drilling could be approved.

That was April 11 of this year.

Second, the Governor of Wisconsin, Gov. Scott McCullum, also stated his opposition to Great Lakes drilling. Governor McCullum's spokeswoman stated that he ''doesn't want any oil exploration in the Great Lakes. If it's for oil and it's going to interfere with the Great Lakes, then he opposes it.''

That was June 5 of this year.

This is a bipartisan issue—a joining together of those of us who believe very strongly that we have a special responsibility as stewards of this wonderful natural resource.

I encourage my colleagues to join us from both sides of the aisle to support this study and this prudent approach by placing a moratorium and studying this critical issue before anything moves forward.

It is important that 20 percent of the world's supply of fresh water be protected and that we be responsible in our approach. I am pleased I have from around the Great Lakes colleagues who are joining me in this important amendment.

I thank the chairman of the subcommittee for his assistance as well, Senator REID, and colleagues and staff who have been involved in putting this critical amendment together.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. LEVIN. Mr. President, 33 million people rely on the Great Lakes for drinking water, including 10 million on Lake Michigan alone. Millions of people use our Great Lakes for recreation, such as swimming, fishing, and boating. It is simply irresponsible to risk contamination of this source of drinking water and a large portion of our tourism industry and our recreation without studying the potential damages of drilling.

Our pristine Great Lakes' coastlines are home to wetlands, over 400 of them along Lake Michigan alone, and to some of the world's most spectacular sand dunes. They are home to endangered species. Even advocates of drilling acknowledge that some damage at the shoreline is inevitable from more and more slant drilling. It just is not worth the potential harm for the small amount of oil that could be produced in the Great Lakes. That is all we are talking about, a very small drop in a very large bucket, taking risks that we should not be taking with about 20 percent of the world's supply of fresh water.

The Great Lakes are a shared natural resource. That means that many of the States need to work together in order to protect them. What that also means is that if we are going to protect them, we must work at a broader level than just one State. That is why Governors of many States have stated their opposition to drilling of the kind which is being proposed.

One of our highest priorities in the Great Lakes area is to protect the ecological health of the Great Lakes and the economic and recreational value of our lands, our wetlands, our beaches, and our shorelines.

This amendment would accomplish that goal. I hope this body will support the amendment. I believe most of the Senators from the Great Lakes States support the amendment. It is an issue which is much broader than one State. We should be very leery, and very careful, before action is taken without adequate study of slant drilling beneath the Great Lakes because of the potential ecological damage that could be done, particularly along our shorelines.

For that reason, I hope this body will give a strong endorsement to the amendment of Senator STABENOW. It is the cautious, conservative thing to do. It does not jeopardize more than a minute amount of our energy supply, and it does that for a very good cause—the protection of one of the world's truly great natural assets, the source of about 20 percent of the world's fresh water.

I yield the floor.

Mr. DOMENICI. 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. REID. 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. REID. Mr. President, we have conferred with the two managers, and Senators STABENOW, LEVIN, and FITZGERALD who have an interest in this issue. We are confident we will resolve the issue. We have staff now working on preparing the necessary amendment, and we will do that subject to the approval of the movers of this amendment. In the meantime, we ask that we move off this amendment, that it be set aside, and that we move to Senator HATCH, who wants to move to the bankruptcy bill, which is now part of the order before the Senate.

The PRESIDING OFFICER. Under a previous order, the Senate will resume consideration of the bankruptcy bill——

Mr. DOMENICI. Mr. President, may I have 30 seconds before we do that?

I want to clear up the record. We have not spoken yet. This idea about drilling in the Great Lakes is not part of President Bush's energy policy. So we are not here arguing that the President should not get what he wants; their policy does not involve the notion of drilling in the Great Lakes. We are trying to put something together that would be a moratorium that would be

satisfactory to the Great Lakes' Senators. We should have that ready soon, which we will be willing to accept and go to conference and do everything we can to keep it.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. FITZGERALD. Mr. President, I thank Senator DOMENICI and Senator REID and also the sponsor of this amendment, Senator STABENOW. I have been pleased to support this amendment, which would place a moratorium on drilling for oil in the Great Lakes. As a Senator from a State which has a large urban area—namely, the city of Chicago—and the surrounding communities that rely on Great Lakes water for drinking water, I think this moratorium is well advised.

Illinois, as a practical matter, doesn't allow any drilling off its Lake Michigan coast. The issue has arisen, however, in Senator STABENOW's State. I think this amendment has worked out very well. I appreciate Senator DOMENICI's commitment to work to try to hold this amendment in conference.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, I rise to thank Senator DOMENICI and Senator REID for working with us on this amendment to put together something that is a reasonable moratorium while a study is being conducted by the Army Corps of Engineers. As my friend from Illinois mentioned, this is important to all of us in the Great Lakes. We want to make sure that wise decisions are made. And for those of us in Michigan, we are extremely concerned about any effort to move ahead now with drilling in oil and gas reserves.

I thank my colleagues and I look forward to working with them to make sure this language moves all the way through the process and, in fact, becomes law.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, I commend Senators STABENOW and FITZGERALD and all the cosponsors of this amendment. It is a very reasonable outcome that has been agreed to. Their leadership is really important in getting this done. We are very grateful for the support of Senator REID and Senator DOMENICI for this outcome and their commitment to fight for the Senate position in conference.

I yield the floor.

Mr. DURBIN. Mr. President, I rise in support of Senator STABENOW's amendment. This amendment simply asks that a study be conducted on the environmental effects of drilling in the Great Lakes. And to give that study time to be completed, a moratorium be placed on drilling for the next 2 years.

Before we put in jeopardy one of the world's largest bodies of freshwater, it is sound public policy that we first have a better understanding of the impact drilling would have on the Great Lakes.

After all, the Great Lakes contain 20 percent of the world's freshwater and 95 percent of the freshwater in the United States. The Great Lakes contain 6 quadrillion gallons of freshwater—only the polar ice caps and Lake Baikal in Siberia contain more.

Preserving our world's supply of freshwater is becoming increasingly important as the population grows. Think of it this way, if you put all the water in the world in a 1 gallon container, 1 tablespoon of that would represent all the freshwater in the world. And ⅕ of that tablespoon would represent the freshwater from the Great Lakes.

Lake Michigan alone provides safe drinking water for more than 10 million people every day. More than 33 million people live in the Great Lakes basin.

In addition to providing vital drinking water, the Great Lakes are a source of a thriving tourism industry, and provide ecological diversity and habitat for migratory waterfowl and fish.

Last week, the Senate passed my amendment to the Interior spending bill to prevent energy developing in our national monuments. Much like our national monuments, the Great Lakes will do little to add to our energy independence.

The 13 directionally drilled wells on the Michigan shore (7 of which are still in operation) have produced, since 1979, less than half a million barrels of oil. In contrast, the United States consumes more than 18 million barrels of oil a day, according to the American Petroleum Institute. So all the oil drilled from the Great Lakes in the past 20 years has amounted to less than 1 hour's worth of U.S. oil consumption.

As many as 30 new wells have been proposed for oil drilling under Lake Michigan and Lake Huron. Even if we produced 30 times as much oil from these new wells as we have from the older ones, it wouldn't supply enough crude oil to keep the United States running for one day.

A serious accident could contaminate Lake Michigan and put at risk the drinking water used by millions of people from Illinois, Michigan, and Wisconsin. Putting our Nation's largest supply of fresh water at risk for less than a day's worth of oil makes no sense.

Modern technology may reduce the chances for a bad oil spill, but there are always uncontrollable factors, as we saw with the *Exxon Valdez*. Who would have thought that just one tanker could do so much damage? The *Exxon Valdez* measured 986 feet long—about the size of three football fields. But it spilled 10.8 million gallons of oil. It affected about 1,300 miles of shoreline. And it cost about $2.1 billion for Exxon to cleanup.

Proponents of drilling in the Great Lakes focus on the revenues to be gained or the oil to be produced. Sensible expansion of crude oil production can be a valuable component of a new energy strategy. But we should focus also on improved energy efficiency and target production in areas where the environmental risks are not as great.

Let's take care to protect our natural resources, and explore for oil and gas in environmentally safe locations. There is no sound reason to put the Great Lakes at risk.

BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2001—Continued

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I think we are ready to go to a vote on the Wellstone amendment. So I raise a point of order that the amendment of the Senator from Minnesota is not germane.

The PRESIDING OFFICER. The point of order is not well taken.

Mr. HATCH. As I understand it, the yeas and nays are ordered.

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. HATCH. Mr. President, I suggest we move to a vote.

The PRESIDING OFFICER. The clerk will call——

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WELLSTONE. 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. WELLSTONE. Mr. President, we are going to have a vote in a moment. I understand the Chair ruled in my favor on the point of order. I am glad that the Chair did so.

Let me be real clear about this amendment. There is no delay whatsoever. This is one amendment. There could be many amendments. This is one amendment. We have had Senators on both sides of this question. Some of us have argued very much in the positive about this legislation, and some of us have argued very much in the negative about this legislation.

Let the General Accounting Office take a look at this 2 years from now and give us a careful evaluation about how it is working, look at its impact on chapter 7, look at its impact on chapter 13, look at its impact on low- and moderate-income citizens, look at its impact on children and single-parent families. That is all my amendment says.

I say to colleagues, if I am wrong about this legislation, which I believe

is unbelievably harsh, which I think is a testimony to the power of the financial service industry, I will be pleased to be wrong. But if my colleagues are wrong, they are going to want to know they are wrong. They are going to want to know what the impact is. I hope Senators will vote for this amendment.

All it calls for is a General Accounting Office study. At the very minimum we should all be accountable for the vote we cast, and I believe that is what this amendment is about.

The yeas and nays have been ordered. I hope colleagues will support it.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, it calls for more than that. It calls for data collection and other matters. I rise in opposition to this amendment. I will be very short, and we can go to the vote.

Senator WELLSTONE's amendment, which I am sure is well intended, is both dilatory and duplicative. Section 205 of the Senate bill also includes a GAO study on the reaffirmation process. This amendment was offered by Senators LEAHY and REID and agreed to by unanimous consent just before final passage of the bankruptcy bill on March 15.

At this point, this boils down to a question of both process and substance. Again, final passage should mean final passage. I urge my colleagues to vote no on this amendment for these simple reasons.

I am prepared to go to the vote.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I say to my colleague from Utah, he is absolutely right, the legislation does call for some studies, but there is nothing in the legislation that calls for a GAO study of all of the issues I indicated which are terribly important in understanding whether this legislation works. That is all I am saying. Let's at least have a policy evaluation to see how this works. I certainly hope colleagues will support this amendment.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 977. The yeas and nays have been ordered. The clerk will call the roll.

The senior assistant bill clerk called the roll.

Mr. FITZGERALD (when his name was called). Present.

Mr. NICKLES. I announce that the Senator from New Hampshire (Mr. SMITH) is necessarily absent.

I further announce that, if present and voting, the Senator from New Hampshire (Mr. SMITH) would vote ''nay.''

The PRESIDING OFFICER (Mrs. MURRAY). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 52, nays 46, as follows:

[Rollcall Vote No. 235 Leg.]

YEAS—52

Akaka	Dayton	Levin
Baucus	Dodd	Lieberman
Bayh	Dorgan	Lincoln
Biden	Durbin	Mikulski
Bingaman	Edwards	Murray
Bond	Feingold	Nelson (FL)
Boxer	Feinstein	Nelson (NE)
Breaux	Graham	Reed
Brownback	Harkin	Reid
Byrd	Hollings	Rockefeller
Cantwell	Hutchison	Sarbanes
Carnahan	Inouye	Schumer
Cleland	Johnson	Snowe
Clinton	Kennedy	Stabenow
Collins	Kerry	Wellstone
Conrad	Kohl	Wyden
Corzine	Landrieu	
Daschle	Leahy	

NAYS—46

Allard	Gramm	Nickles
Allen	Grassley	Roberts
Bennett	Gregg	Santorum
Bunning	Hagel	Sessions
Burns	Hatch	Shelby
Campbell	Helms	Smith (OR)
Carper	Hutchinson	Specter
Chafee	Inhofe	Stevens
Cochran	Jeffords	Thomas
Craig	Kyl	Thompson
Crapo	Lott	Thurmond
DeWine	Lugar	Torricelli
Domenici	McCain	Voinovich
Ensign	McConnell	Warner
Enzi	Miller	
Frist	Murkowski	

ANSWERED ''PRESENT''—1

Fitzgerald

NOT VOTING—1

Smith (NH)

The amendment (No. 977) was agreed to.

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

Mr. FEINGOLD. I move to lay that motion on the table. The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Is there further debate on the amendment in the nature of a substitute?

If not, the question is on agreeing to amendment No. 974, as amended.

The amendment (No. 974), as amended, was agreed to.

The PRESIDING OFFICER. The question is one the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read the 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?

Mr. REID. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FITZGERALD (when his name was called). Present.

Mr. NICKLES. I announce that the Senator from New Hampshire (Mr. SMITH) is necessarily absent.

I further announce that, if present and voting, the Senator from New Hampshire (Mr. SMITH) would vote ''yea.''

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 82, nays 16, as follows:

[Rollcall Vote No. 236 Leg.]

YEAS—82

Akaka	Dorgan	McCain
Allard	Edwards	McConnell
Allen	Ensign	Mikulski
Baucus	Enzi	Miller
Bayh	Feinstein	Murkowski
Bennett	Frist	Murray
Biden	Graham	Nelson (NE)
Bingaman	Gramm	Nickles
Bond	Grassley	Reid
Breaux	Gregg	Roberts
Bunning	Hagel	Santorum
Burns	Hatch	Schumer
Byrd	Helms	Sessions
Campbell	Hollings	Shelby
Cantwell	Hutchinson	Smith (OR)
Carnahan	Inhofe	Snowe
Carper	Inouye	Specter
Chafee	Jeffords	Stabenow
Cleland	Johnson	Stevens
Clinton	Kohl	Thomas
Cochran	Kyl	Thompson
Collins	Landrieu	Thurmond
Conrad	Leahy	Torricelli
Craig	Levin	Voinovich
Crapo	Lieberman	Warner
Daschle	Lincoln	Wyden
DeWine	Lott	
Domenici	Lugar	

NAYS—16

Boxer	Feingold	Reed
Brownback	Harkin	Rockefeller
Corzine	Hutchison	Sarbanes
Dayton	Kennedy	Wellstone
Dodd	Kerry	
Durbin	Nelson (FL)	

ANSWERED ''PRESENT''—1

Fitzgerald

NOT VOTING—1

Smith (NH)

The bill (H.R. 333), as amended, was passed, as follows:

Resolved, That the bill from the House of Representatives (H.R. 333) entitled ''An Act to amend title 11, United States Code, and for other purposes.'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Bankruptcy Reform Act of 2001''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—NEEDS-BASED BANKRUPTCY

Sec. 101. Conversion.
Sec. 102. Dismissal or conversion.
Sec. 103. Sense of Congress and study.
Sec. 104. Notice of alternatives.
Sec. 105. Debtor financial management training test program.
Sec. 106. Credit counseling.
Sec. 107. Schedules of reasonable and necessary expenses.

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. Discouraging abuse of reaffirmation practices.

Sec. 204. Preservation of claims and defenses upon sale of predatory loans.
Sec. 205. GAO study on reaffirmation process.

Subtitle B—Priority Child Support

Sec. 211. Definition of domestic support obligation.
Sec. 212. Priorities for claims for domestic support obligations.
Sec. 213. Requirements to obtain confirmation and discharge in cases involving domestic support obligations.
Sec. 214. Exceptions to automatic stay in domestic support obligation proceedings.
Sec. 215. Nondischargeability of certain debts for alimony, maintenance, and support.
Sec. 216. Continued liability of property.
Sec. 217. Protection of domestic support claims against preferential transfer motions.
Sec. 218. Disposable income defined.
Sec. 219. Collection of child support.
Sec. 220. Nondischargeability of certain educational benefits and loans.

Subtitle C—Other Consumer Protections

Sec. 221. Amendments to discourage abusive bankruptcy filings.
Sec. 222. Sense of Congress.
Sec. 223. Additional amendments to title 11, United States Code.
Sec. 224. Protection of retirement savings in bankruptcy.
Sec. 225. Protection of education savings in bankruptcy.
Sec. 226. Definitions.
Sec. 227. Restrictions on debt relief agencies.
Sec. 228. Disclosures.
Sec. 229. Requirements for debt relief agencies.
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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 11 or 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 of'' and inserting ''trustee, bankruptcy administrator, or'';

(II) by inserting '', or, with the debtor's consent, convert such a case to a case under chapter 11 or 13 of this title,'' after ''consumer debts''; and

(III) by striking ''a substantial abuse'' and inserting ''an 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 $6,000, whichever is greater; or

''(II) $10,000.

''(ii)(I) The debtor's monthly expenses shall be the debtor's applicable monthly expense amounts specified under the National Standards and Local Standards, and the debtor's actual monthly expenses for the categories specified as Other Necessary Expenses issued by the Internal Revenue Service for the area in which the debtor resides, as in effect on the date of the entry of the order for relief, for the debtor, the dependents of the debtor, and the spouse of the debtor in a joint case, if the spouse is not otherwise a dependent. Notwithstanding any other provision of this clause, the monthly expenses of the debtor shall not include any payments for debts. In addition, the debtor's monthly expenses shall include the debtor's reasonably necessary expenses incurred to maintain the safety of the debtor and the family of the debtor from family violence as identified under section 309 of the Family Violence Prevention and Services Act (42 U.S.C. 10408), or other applicable Federal law. The expenses included in the debtor's monthly expenses described in the preceding sentence shall be kept confidential by the court. In addition, if it is demonstrated that it is reasonable and necessary, the debtor's monthly expenses may also include an additional allowance for food and clothing of up to 5 percent of the food and clothing categories as specified by the National Standards issued by the Internal Revenue Service.

''(II) In addition, the debtor's monthly expenses may include, if applicable, the continuation of actual expenses paid by the debtor that are reasonable and necessary for care and support of an elderly, chronically ill, or disabled household member or member of the debtor's immediate family (including parents, grandparents, siblings, children, and grandchildren of the debtor, the dependents of the debtor, and the spouse of the debtor in a joint case) who is not a dependent and who is unable to pay for such reasonable and necessary expenses.

''(III) In addition, for a debtor eligible for chapter 13, the debtor's monthly expenses may include the actual administrative expenses of administering a chapter 13 plan for the district in which the debtor resides, up to an amount of 10 percent of the projected plan payments, as determined under schedules issued by the Executive Office for United States Trustees.

''(IV) In addition, the debtor's monthly expenses may include the actual expenses for each dependent child under the age of 18 years up to $1,500 per year per child to attend a private or public elementary or secondary school, if the debtor provides documentation of such expenses and a detailed explanation of why such expenses are reasonable and necessary, and that such expenses are not already accounted for in the Internal Revenue Service standards referred to in section 707(b)(2) of this title.

''(V) In addition, if it is demonstrated that it is reasonable and necessary, the debtor's monthly expenses may also include an additional allowance for housing and utilities, in excess of the allowance specified by the Local Standards for housing and utilities issued by the International Revenue Service, based on the actual expenses for home energy costs, if the debtor provides documentation of such expenses.

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

''(I) the sum of—

''(aa) the total of all amounts scheduled as contractually due to secured creditors in each month of the 60 months following the date of the petition; and

''(bb) any additional payments to secured creditors necessary for the debtor, in filing a plan under chapter 13 of this title, to maintain possession of the debtor's primary residence, motor vehicle, or other property necessary for the support of the debtor and the debtor's dependents, that serves as collateral for secured debts; 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 only be rebutted by demonstrating special circumstances that justify additional expenses or adjustments of current monthly income for which there is no reasonable alternative.

''(ii) 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 expense or adjustment to income; and

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

''(iii) The debtor shall attest under oath to the accuracy of any information provided to demonstrate that additional expenses or adjustments to income are required.

''(iv) The presumption of abuse may only 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) when multiplied by 60 to be less than the lesser of—

''(I) 25 percent of the debtor's nonpriority unsecured claims, or $6,000, whichever is greater; or

''(II) $10,000.

''(C) 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.

''(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.

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

''(i) a trustee appointed under section 586(a)(1) of title 28 or from a panel of private trustees maintained by the bankruptcy administrator 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 violated rule 9011 of the Federal Rules of Bankruptcy Procedure.

''(B) If the court finds that the attorney for the debtor violated rule 9011 of the Federal Rules of Bankruptcy Procedure, 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 trustee, the United States trustee, or the bankruptcy administrator.

''(C) In the case of a petition, pleading, or written motion, the signature of an attorney shall constitute a certification that the attorney has—

''(i) performed a reasonable investigation into the circumstances that gave rise to the petition, pleading, or written motion; and

''(ii) determined that the petition, pleading, or written motion—

''(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).

''(D) The signature of an attorney on the petition shall constitute a certification that the attorney has no knowledge after an inquiry that the information in the schedules filed with such petition is incorrect.

''(5)(A) Except as provided in subparagraph (B) and subject to paragraph (6), the court may award a debtor all reasonable costs (including reasonable attorneys' fees) in contesting a motion brought by a party in interest (other than a trustee, United States trustee, or bankruptcy administrator) under this subsection 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 violated rule 9011 of the Federal Rules of Bankruptcy Procedure; 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 small business that has a claim of an aggregate amount less than $1,000 shall not be subject to subparagraph (A)(ii)(I).

''(C) For purposes of this paragraph—

''(i) the term 'small business' means an unincorporated business, partnership, corporation, association, or organization that—

''(I) has less than 25 full-time employees as determined on the date the motion is filed; and

''(II) is engaged in commercial or business activity; and

''(ii) the number of employees of a wholly owned subsidiary of a corporation includes the employees of—

''(I) a parent corporation; and

''(II) any other subsidiary corporation of the parent corporation.

''(6) Only the judge, United States trustee, or bankruptcy administrator may bring a motion under section 707(b), if the current monthly income of the debtor, or in a joint case, the debtor and the debtor's spouse, as of the date of the order for relief, when multiplied by 12, is equal to or less than—

''(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner last reported by the Bureau of the Census;

''(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals last reported by the Bureau of the Census; or

''(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals last reported by the Bureau of the Census, plus $525 per month for each individual in excess of 4.

''(7) No judge, United States trustee, panel trustee, bankruptcy administrator or other party in interest may bring a motion under paragraph (2), if the current monthly income of the debtor, or in a joint case, the debtor and the debtor's spouse, as of the date of the order for relief when multiplied by 12, is equal to or less than—

''(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner last reported by the Bureau of the Census;

''(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals last reported by the Bureau of the Census; or

''(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals last reported by the Bureau of the Census, plus $525 per month for each individual in excess of 4.''.

(b) DEFINITION.—Section 101 of title 11, United States Code, is amended 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 6-month period preceding the date of determination, which shall be the date which is the last day of the calendar month immediately preceding the date of the bankruptcy filing. If the debtor is providing the debtor's current monthly income at the time of the filing and otherwise the date of determination shall be such date on which the debtor's current monthly income is determined by the court for the purposes of this Act; 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), but excludes benefits received under the Social Security Act and payments to victims of war crimes or crimes against humanity on account of their status as victims of such crimes;''.

(c) UNITED STATES TRUSTEE AND BANKRUPTCY ADMINISTRATOR DUTIES.—Section 704 of title 11, United States Code, is amended—

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

(2) by adding at the end the following:

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

''(A) the United States trustee or bankruptcy administrator shall review all materials filed by the debtor and, not later than 10 days after the date of 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 the date of filing a statement under paragraph (1), either 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 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) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner last reported by the Bureau of the Census; or

''(B) in the case of a debtor in a household of 2 or more individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals last reported by the Bureau of the Census.

''(3) In any case in which a motion to dismiss or convert, or a statement is required to be filed by this subsection, the United States trustee or bankruptcy administrator may decline to file a motion to dismiss or convert pursuant to section 704(b)(2) if the product of the debtor's current

monthly income multiplied by 12 exceeds 100 percent, but does not exceed 150 percent of—

''(A)(i) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner last reported by the Bureau of the Census; or

''(ii) in the case of a debtor in a household of 2 or more individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals last reported by the Bureau of the Census; and

''(B) the product of the debtor's current monthly income, reduced by the amounts determined under section 707(b)(2)(A)(ii) (except for the amount calculated under the other necessary expenses standard issued by the Internal Revenue Service) and clauses (iii) and (iv) of section 707(b)(2)(A), multiplied by 60 is less than the lesser of—

''(i) 25 percent of the debtor's nonpriority unsecured claims in the case or $6,000, whichever is greater; or

''(ii) $10,000.''.

(d) NOTICE.—Section 342 of title 11, United States Code, is amended by adding at the end the following:

''(d) In an individual case under chapter 7 in which the presumption of abuse is triggered under section 707(b), the clerk shall give written notice to all creditors not later than 10 days after the date of the filing of the petition that the presumption of abuse has been triggered.''.

(e) NONLIMITATION OF INFORMATION.—Nothing in this title shall limit the ability of a creditor to provide information to a judge (except for information communicated ex parte, unless otherwise permitted by applicable law), United States trustee, bankruptcy administrator or trustee.

(f) DISMISSAL FOR CERTAIN CRIMES.—Section 707 of title 11, United States Code, as amended by this section, is amended by adding at the end the following:

''(c)(1) In this subsection—

''(A) the term 'crime of violence' has the meaning given that term in section 16 of title 18; and

''(B) the term 'drug trafficking crime' has the meaning given that term in section 924(c)(2) of title 18.

''(2) Except as provided in paragraph (3), after notice and a hearing, the court, on a motion by the victim of a crime of violence or a drug trafficking crime, may when it is in the best interest of the victims dismiss a voluntary case filed by an individual debtor under this chapter if that individual was convicted of that crime.

''(3) The court may not dismiss a case under paragraph (2) if the debtor establishes by a preponderance of the evidence that the filing of a case under this chapter is necessary to satisfy a claim for a domestic support obligation.''.

(g) CONFIRMATION OF PLAN.—Section 1325(a) of title 11, United States Code, is amended—

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

(2) in paragraph (6), by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

''(7) the action of the debtor in filing the petition was in good faith;''.

(h) APPLICABILITY OF MEANS TEST TO CHAPTER 13.—Section 1325(b) of title 11, United States Code, is amended—

(1) in paragraph (1)(B), by inserting ''to unsecured creditors'' after ''to make payments''; and

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

''(2) For purposes of this subsection, the term 'disposable income' means current monthly income received by the debtor (other than child support payments, foster care payments, or disability payments for a dependent child made in accordance with applicable nonbankruptcy law to the extent reasonably necessary to be expended for such child) less amounts reasonably necessary to be expended—

''(A) for the maintenance or support of the debtor or a dependent of the debtor or for a domestic support obligation that first becomes payable after the date the petition is filed and for charitable contributions (that meet the definition of 'charitable contribution' under section 548(d)(3) to a qualified religious or charitable entity or organization (as that term is defined in section 548(d)(4)) in an amount not to exceed 15 percent of gross income of the debtor for the year in which the contributions are made; and

''(B) if the debtor is engaged in business, for the payment of expenditures necessary for the continuation, preservation, and operation of such business.

''(3) Amounts reasonably necessary to be expended under paragraph (2) shall be determined in accordance with subparagraphs (A) and (B) of section 707(b)(2), if the debtor has current monthly income, when multiplied by 12, greater than—

''(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner last reported by the Bureau of the Census;

''(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals last reported by the Bureau of the Census; or

''(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals last reported by the Bureau of the Census, plus $525 per month for each individual in excess of 4.''.

(i) SPECIAL ALLOWANCE FOR HEALTH INSURANCE.—Section 1329(a) of title 11, United States Code, is amended by inserting the following new paragraph—

''(4) reduce amounts to be paid under the plan by the actual amount expended by the debtor to purchase health insurance for the debtor and any dependent of the debtor (if those dependents do not otherwise have health insurance coverage) if the debtor documents the cost of such insurance and demonstrates that—

''(A) such expenses are reasonable and necessary;

''(B)(i) if the debtor previously paid for health insurance, the amount is not materially larger than the cost the debtor previously paid or the cost necessary to maintain the lapsed policy, or;

''(ii) if the debtor did not have health insurance, the amount is not materially larger than the reasonable cost that would be incurred by a debtor who purchases health insurance and who has similar income, expenses, age, health status, and lives in the same geographic location with the same number of dependents that do not otherwise have health insurance coverage; and

''(C) the amount is not otherwise allowed for purposes of determining disposable income under section 1325(b) of this title.

Upon request of any party in interest the debtor shall file proof that a health insurance policy was purchased.''.

(j) 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 11 or 13.''.

SEC. 103. SENSE OF CONGRESS AND STUDY.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of the Treasury has the authority to alter the Internal Revenue Service standards established to set guidelines for repayment plans as needed to accommodate their use under section 707(b) of title 11, United States Code.

(b) STUDY.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Director of the Executive Office for United States Trustees shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives containing the findings of the Director regarding the utilization of Internal Revenue Service standards for determining—

(A) the current monthly expenses of a debtor under section 707(b) of title 11, United States Code; and

(B) the impact that the application of such standards has had on debtors and on the bankruptcy courts.

(2) RECOMMENDATION.—The report under paragraph (1) may include recommendations for amendments to title 11, United States Code, that are consistent with the findings of the Director under paragraph (1).

SEC. 104. NOTICE OF ALTERNATIVES.

Section 342(b) of title 11, United States Code, is amended to read as follows:

''(b) Before the commencement of a case under this title by an individual whose debts are primarily consumer debts, the clerk shall give to such individual written notice containing—

''(1) a brief description of—

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

''(B) the types of services available from credit counseling agencies; and

''(2) statements specifying that—

''(A) a person who knowingly and fraudulently conceals assets or makes a false oath or statement under penalty of perjury in connection with a bankruptcy case shall be subject to fine, imprisonment, or both; and

''(B) all information supplied by a debtor in connection with a bankruptcy case is subject to examination by the Attorney General.''.

SEC. 105. DEBTOR FINANCIAL MANAGEMENT TRAINING TEST PROGRAM.

(a) DEVELOPMENT OF FINANCIAL MANAGEMENT AND TRAINING CURRICULUM AND MATERIALS.—The Director of the Executive Office for United States Trustees (in this section referred to as the ''Director'') shall consult with a wide range of individuals who are experts in the field of debtor education, including trustees who are appointed under chapter 13 of title 11, United States Code, and who operate financial management education programs for debtors, and shall develop a financial management training curriculum and materials that can be used to educate individual debtors on how to better manage their finances.

(b) TEST.—

(1) SELECTION OF DISTRICTS.—The Director shall select 6 judicial districts of the United States in which to test the effectiveness of the financial management training curriculum and materials developed under subsection (a).

(2) USE.—For an 18-month period beginning not later than 270 days after the date of enactment of this Act, such curriculum and materials shall be, for the 6 judicial districts selected under paragraph (1), used as the instructional course concerning personal financial management for purposes of section 111 of title 11, United States Code.

(c) EVALUATION.—

(1) IN GENERAL.—During the 18-month period referred to in subsection (b), the Director shall evaluate the effectiveness of—

(A) the financial management training curriculum and materials developed under subsection (a); and

(B) a sample of existing consumer education programs such as those described in the Report of the National Bankruptcy Review Commission (October 20, 1997) that are representative of consumer education programs carried out by the

credit industry, by trustees serving under chapter 13 of title 11, United States Code, and by consumer counseling groups.

(2) REPORT.—Not later than 3 months after concluding such evaluation, the Director shall submit a report to the Speaker of the House of Representatives and the President pro tempore of the Senate, for referral to the appropriate committees of the Congress, containing the findings of the Director regarding the effectiveness of such curriculum, such materials, and such programs and their costs.

SEC. 106. 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 180-day period preceding the date of filing of the petition of that individual, received from an approved nonprofit budget and credit counseling agency described in section 111(a) an individual or group briefing (including a briefing conducted by telephone or on the Internet) 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 budget and credit counseling agencies for that district are not reasonably able to provide adequate services to the additional individuals who would otherwise seek credit counseling from that agency 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. Notwithstanding the preceding sentence, a nonprofit budget and credit counseling service may be disapproved by the United States trustee or bankruptcy administrator at any time.

''(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 budget and credit counseling agency, 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, except that the court, for cause, may order an additional 15 days.''.

(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.

''(12)(A) Paragraph (11) shall not apply with respect to a debtor who resides in a district for which the United States trustee or bankruptcy administrator of that district determines that the approved instructional courses are not adequate to service the additional individuals required to complete such instructional courses under this section.

''(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.''.

(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 approved nonprofit budget and credit counseling agency that provided the debtor services under section 109(h) describing the services provided to the debtor; and

''(2) a copy of the debt repayment plan, if any, developed under section 109(h) through the approved nonprofit budget and credit counseling agency 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 publicly available list of—

''(1) credit counseling agencies that provide 1 or more programs described in section 109(h) currently approved by the United States trustee or the bankruptcy administrator for the district, as applicable; and

''(2) instructional courses concerning personal financial management currently approved by the United States trustee or the bankruptcy administrator for the district, as applicable.

''(b) The United States trustee or bankruptcy administrator shall only approve a credit counseling agency or instructional course concerning personal financial management as follows:

''(1) The United States trustee or bankruptcy administrator shall have thoroughly reviewed the qualifications of the credit counseling agency or of the provider of the instructional course under the standards set forth in this section, and the programs or instructional courses which will be offered by such agency or provider, and may require an agency or provider of an instructional course which has sought approval to provide information with respect to such review.

''(2) The United States trustee or bankruptcy administrator shall have determined that the credit counseling agency or course of instruction fully satisfies the applicable standards set forth in this section.

''(3) When an agency or course of instruction is initially approved, such approval shall be for a probationary period not to exceed 6 months. An agency or course of instruction is initially approved if it did not appear on the approved list for the district under subsection (a) immediately prior to approval.

''(4) At the conclusion of the probationary period under paragraph (3), the United States trustee or bankruptcy administrator may only approve for an additional 1-year period, and for successive 1-year periods thereafter, any agency or course of instruction which has demonstrated during the probationary or subsequent period that such agency or course of instruction—

''(A) has met the standards set forth under this section during such period; and

''(B) can satisfy such standards in the future.

''(5) Not later than 30 days after any final decision under paragraph (4), that occurs either after the expiration of the initial probationary period, or after any 2-year period thereafter, an interested person may seek judicial review of such decision in the appropriate United States District Court.

''(c)(1) The United States trustee or bankruptcy administrator shall only approve a credit counseling agency that demonstrates that it will provide qualified counselors, maintain adequate provision for safekeeping and payment of client funds, provide adequate counseling with respect to client credit problems, and deal responsibly and effectively with other matters as relate to the quality, effectiveness, and financial security of such programs.

''(2) To be approved by the United States trustee or bankruptcy administrator, a credit counseling agency shall, at a minimum—

''(A) be a nonprofit budget and credit counseling agency, the majority of the board of directors of which—

''(i) are not employed by the agency; and

''(ii) will not directly or indirectly benefit financially from the outcome of a credit counseling session;

''(B) if a fee is charged for counseling services, charge a reasonable fee, and provide services without regard to ability to pay the fee;

''(C) provide for safekeeping and payment of client funds, including an annual audit of the trust accounts and appropriate employee bonding;

''(D) provide full disclosures to clients, including funding sources, counselor qualifications, possible impact on credit reports, and any costs of such program that will be paid by the debtor and how such costs will be paid;

''(E) provide adequate counseling with respect to client credit problems that includes an analysis of their current situation, what brought them to that financial status, and how they can develop a plan to handle the problem without incurring negative amortization of their debts;

''(F) provide trained counselors who receive no commissions or bonuses based on the counseling session outcome, and who have adequate experience, and have been adequately trained to provide counseling services to individuals in financial difficulty, including the matters described in subparagraph (E);

''(G) demonstrate adequate experience and background in providing credit counseling; and

''(H) have adequate financial resources to provide continuing support services for budgeting plans over the life of any repayment plan.

''(d) The United States trustee or bankruptcy administrator shall only approve an instructional course concerning personal financial management—

''(1) for an initial probationary period under subsection (b)(3) if the course will provide at a minimum—

''(A) trained personnel with adequate experience and training in providing effective instruction and services;

''(B) learning materials and teaching methodologies designed to assist debtors in understanding personal financial management and that are consistent with stated objectives directly related to the goals of such course of instruction;

''(C) adequate facilities situated in reasonably convenient locations at which such course of instruction is offered, except that such facilities may include the provision of such course of instruction or program by telephone or through the Internet, if the course of instruction or program is effective; and

''(D) the preparation and retention of reasonable records (which shall include the debtor's bankruptcy case number) to permit evaluation of the effectiveness of such course of instruction or program, including any evaluation of satisfaction of course of instruction or program requirements for each debtor attending such course of instruction or program, which shall be available for inspection and evaluation by the Executive Office for United States Trustees, the United States trustee, bankruptcy administrator, or chief bankruptcy judge for the district in which such course of instruction or program is offered; and

''(2) for any 1-year period if the provider thereof has demonstrated that the course meets the standards of paragraph (1) and, in addition—

''(A) has been effective in assisting a substantial number of debtors to understand personal financial management; and

''(B) is otherwise likely to increase substantially debtor understanding of personal financial management.

''(e) The District Court may, at any time, investigate the qualifications of a credit counseling agency referred to in subsection (a), and request production of documents to ensure the integrity and effectiveness of such credit counseling agencies. The District Court may, at any time, remove from the approved list under subsection (a) a credit counseling agency upon finding such agency does not meet the qualifications of subsection (b).

''(f) The United States trustee or bankruptcy administrator shall notify the clerk that a credit counseling agency or an instructional course is no longer approved, in which case the clerk shall remove it from the list maintained under subsection (a).

''(g)(1) No credit counseling service may provide to a credit reporting agency information concerning whether an individual debtor has received or sought instruction concerning personal financial management from the credit counseling service.

''(2) A credit counseling service that willfully or negligently fails to comply with any requirement under this title with respect to a debtor shall be liable for damages in an amount equal to the sum of—

''(A) any actual damages sustained by the debtor as a result of the violation; and

''(B) any court costs or reasonable attorneys' fees (as determined by the court) incurred in an action to recover those damages.''.

(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 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.

''(j) On request of a party in interest, the court shall issue an order under subsection (c) confirming that the automatic stay has been terminated.''.

SEC. 107. SCHEDULES OF REASONABLE AND NECESSARY EXPENSES.

For purposes of section 707(b) of title 11, United States Code, as amended by this Act, the Director of the Executive Office for United States Trustees shall, not later than 180 days after the date of enactment of this Act, issue schedules of reasonable and necessary administrative expenses of administering a chapter 13 plan for each judicial district of the United States.

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 described in section 111 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 prior to expiration of 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), unless the plan is dismissed, in default, or the creditor has not received payments required to be made under the plan 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) if the act of the creditor to collect and failure to credit payments in the manner required by the plan caused material injury to the debtor.

''(j) Subsection (a)(2) does not operate as an injunction against an act by a creditor that is the holder of a secured claim, if—

''(1) such creditor retains a security interest in real property that is the principal residence of the debtor;

''(2) such act is in the ordinary course of business between the creditor and the debtor; and

''(3) such act is limited to seeking or obtaining periodic payments associated with a valid security interest in lieu of pursuit of in rem relief to enforce the lien.''.

SEC. 203. DISCOURAGING ABUSE OF REAFFIRMATION PRACTICES.

(a) IN GENERAL.—Section 524 of title 11, United States Code, as amended by this Act, is amended—

(1) in subsection (c), by striking paragraph (2) and inserting the following:

''(2) the debtor received the disclosures described in subsection (k) at or before the time at which the debtor signed the agreement;'';

(2) by adding at the end the following:

''(k)(1) The disclosures required under subsection (c)(2) shall consist of the disclosure statement described in paragraph (3), completed as required in that paragraph, together with the agreement, statement, declaration, motion and order described, respectively, in paragraphs (4) through (8), and shall be the only disclosures required in connection with the reaffirmation.

''(2) Disclosures made under paragraph (1) shall be made clearly and conspicuously and in writing. The terms 'Amount Reaffirmed' and 'Annual Percentage Rate' shall be disclosed more conspicuously than other terms, data or information provided in connection with this disclosure, except that the phrases 'Before agreeing to reaffirm a debt, review these important disclosures' and 'Summary of Reaffirmation Agreement' may be equally conspicuous. Disclosures may be made in a different order and may use terminology different from that set forth in paragraphs (2) through (8), except that the terms 'Amount Reaffirmed' and 'Annual Percentage Rate' must be used where indicated.

''(3) The disclosure statement required under this paragraph shall consist of the following:

''(A) The statement: 'Part A: Before agreeing to reaffirm a debt, review these important disclosures:';

''(B) Under the heading 'Summary of Reaffirmation Agreement', the statement: 'This Summary is made pursuant to the requirements of the Bankruptcy Code';

''(C) The 'Amount Reaffirmed', using that term, which shall be—

''(i) the total amount which the debtor agrees to reaffirm, and

''(ii) the total of any other fees or cost accrued as of the date of the disclosure statement.

''(D) In conjunction with the disclosure of the 'Amount Reaffirmed', the statements—

''(i) 'The amount of debt you have agreed to reaffirm'; and

''(ii) 'Your credit agreement may obligate you to pay additional amounts which may come due after the date of this disclosure. Consult your credit agreement.'.

''(E) The 'Annual Percentage Rate', using that term, which shall be disclosed as—

''(i) if, at the time the petition is filed, the debt is open end credit as defined under the Truth in Lending Act (15 U.S.C. 1601 et seq.), then—

''(I) the annual percentage rate determined under paragraphs (5) and (6) of section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b) (5) and (6)), as applicable, as disclosed to the debtor in the most recent periodic statement prior to the agreement or, if no such periodic statement has been provided the debtor during the prior 6 months, the annual percentage rate as it would have been so disclosed at the time the disclosure statement is given the debtor, or to the extent this annual percentage rate is not readily available or not applicable, then

''(II) the simple interest rate applicable to the amount reaffirmed as of the date the disclosure statement is given to the debtor, or if different

simple interest rates apply to different balances, the simple interest rate applicable to each such balance, identifying the amount of each such balance included in the amount reaffirmed, or

''(III) if the entity making the disclosure elects, to disclose the annual percentage rate under subclause (I) and the simple interest rate under subclause (II);

''(ii) if, at the time the petition is filed, the debt is closed end credit as defined under the Truth in Lending Act (15 U.S.C. 1601 et seq.), then—

''(I) the annual percentage rate under section 128(a)(4) of the Truth in Lending Act (15 U.S.C. 1638(a)(4)), as disclosed to the debtor in the most recent disclosure statement given the debtor prior to the reaffirmation agreement with respect to the debt, or, if no such disclosure statement was provided the debtor, the annual percentage rate as it would have been so disclosed at the time the disclosure statement is given the debtor, or to the extent this annual percentage rate is not readily available or not applicable, then

''(II) the simple interest rate applicable to the amount reaffirmed as of the date the disclosure statement is given the debtor, or if different simple interest rates apply to different balances, the simple interest rate applicable to each such balance, identifying the amount of such balance included in the amount reaffirmed, or

''(III) if the entity making the disclosure elects, to disclose the annual percentage rate under (I) and the simple interest rate under (II).

''(F) If the underlying debt transaction was disclosed as a variable rate transaction on the most recent disclosure given under the Truth in Lending Act (15 U.S.C. 1601 et seq.), by stating 'The interest rate on your loan may be a variable interest rate which changes from time to time, so that the annual percentage rate disclosed here may be higher or lower.'.

''(G) If the debt is secured by a security interest which has not been waived in whole or in part or determined to be void by a final order of the court at the time of the disclosure, by disclosing that a security interest or lien in goods or property is asserted over some or all of the obligations you are reaffirming and listing the items and their original purchase price that are subject to the asserted security interest, or if not a purchase-money security interest then listing by items or types and the original amount of the loan.

''(H) At the election of the creditor, a statement of the repayment schedule using 1 or a combination of the following—

''(i) by making the statement: 'Your first payment in the amount of $_____ is due on _____ but the future payment amount may be different. Consult your reaffirmation or credit agreement, as applicable.', and stating the amount of the first payment and the due date of that payment in the places provided;

''(ii) by making the statement: 'Your payment schedule will be:', and describing the repayment schedule with the number, amount and due dates or period of payments scheduled to repay the obligations reaffirmed to the extent then known by the disclosing party; or

''(iii) by describing the debtor's repayment obligations with reasonable specificity to the extent then known by the disclosing party.

''(I) The following statement: 'Note: When this disclosure refers to what a creditor ''may'' do, it does not use the word ''may'' to give the creditor specific permission. The word ''may'' is used to tell you what might occur if the law permits the creditor to take the action. If you have questions about your reaffirmation or what the law requires, talk to the attorney who helped you negotiate this agreement. If you don't have an attorney helping you, the judge will explain the effect of your reaffirmation when the reaffirmation hearing is held.'.

''(J)(i) The following additional statements:

'''Reaffirming a debt is a serious financial decision. The law requires you to take certain steps to make sure the decision is in your best interest. If these steps are not completed, the reaffirmation agreement is not effective, even though you have signed it.

'''1. Read the disclosures in this Part A carefully. Consider the decision to reaffirm carefully. Then, if you want to reaffirm, sign the reaffirmation agreement in Part B (or you may use a separate agreement you and your creditor agree on).

'''2. Complete and sign Part D and be sure you can afford to make the payments you are agreeing to make and have received a copy of the disclosure statement and a completed and signed reaffirmation agreement.

'''3. If you were represented by an attorney during the negotiation of the reaffirmation agreement, the attorney must have signed the certification in Part C.

'''4. If you were not represented by an attorney during the negotiation of the reaffirmation agreement, you must have completed and signed Part E.

'''5. The original of this disclosure must be filed with the court by you or your creditor. If a separate reaffirmation agreement (other than the one in Part B) has been signed, it must be attached.

'''6. If you were represented by an attorney during the negotiation of the reaffirmation agreement, your reaffirmation agreement becomes effective upon filing with the court unless the reaffirmation is presumed to be an undue hardship as explained in Part D.

'''7. If you were not represented by an attorney during the negotiation of the reaffirmation agreement, it will not be effective unless the court approves it. The court will notify you of the hearing on your reaffirmation agreement. You must attend this hearing in bankruptcy court where the judge will review your agreement. The bankruptcy court must approve the agreement as consistent with your best interests, except that no court approval is required if the agreement is for a consumer debt secured by a mortgage, deed of trust, security deed or other lien on your real property, like your home.

'''Your right to rescind a reaffirmation. You may rescind (cancel) your reaffirmation at any time before the bankruptcy court enters a discharge order or within 60 days after the agreement is filed with the court, whichever is longer. To rescind or cancel, you must notify the creditor that the agreement is canceled.

'''What are your obligations if you reaffirm the debt? A reaffirmed debt remains your personal legal obligation. It is not discharged in your bankruptcy. That means that if you default on your reaffirmed debt after your bankruptcy is over, your creditor may be able to take your property or your wages. Otherwise, your obligations will be determined by the reaffirmation agreement which may have changed the terms of the original agreement. For example, if you are reaffirming an open end credit agreement, the creditor may be permitted by that agreement or applicable law to change the terms of the agreement in the future under certain conditions.

'''Are you required to enter into a reaffirmation agreement by any law? No, you are not required to reaffirm a debt by any law. Only agree to reaffirm a debt if it is in your best interest. Be sure you can afford the payments you agree to make.

'''What if your creditor has a security interest or lien? Your bankruptcy discharge does not eliminate any lien on your property. A ''lien'' is often referred to as a security interest, deed of trust, mortgage or security deed. Even if you do not reaffirm and your personal liability on the debt is discharged, because of the lien your creditor may still have the right to take the security property if you do not pay the debt or default on it. If the lien is on an item of personal property that is exempt under your State's law or that the trustee has abandoned, you may be able to redeem the item rather than reaffirm the debt. To redeem, you make a single payment to the creditor equal to the current value of the security property, as agreed by the parties or determined by the court.'.

''(ii) In the case of a reaffirmation under subsection (m)(2), numbered paragraph 6 in the disclosures required by clause (i) of this subparagraph shall read as follows:

'''6. If you were represented by an attorney during the negotiation of the reaffirmation agreement, your reaffirmation agreement becomes effective upon filing with the court.'.

''(4) The form of reaffirmation agreement required under this paragraph shall consist of the following:

'''Part B: Reaffirmation Agreement. I/we agree to reaffirm the obligations arising under the credit agreement described below.

'''Brief description of credit agreement:

'''Description of any changes to the credit agreement made as part of this reaffirmation agreement:

'''Signature: Date:

'''Borrower:

'''Co-borrower, if also reaffirming:

'''Accepted by creditor:

'''Date of creditor acceptance:'.

''(5)(A) The declaration shall consist of the following:

'''Part C: Certification by Debtor's Attorney (If Any).

'''I hereby certify that (1) this agreement represents a fully informed and voluntary agreement by the debtor(s); (2) this agreement does not impose an undue hardship on the debtor or any dependent of the debtor; and (3) I have fully advised the debtor of the legal effect and consequences of this agreement and any default under this agreement.

'''Signature of Debtor's Attorney: Date:'.

''(B) In the case of reaffirmations in which a presumption of undue hardship has been established, the certification shall state that in the opinion of the attorney, the debtor is able to make the payment.

''(C) In the case of a reaffirmation agreement under subsection (m)(2), subparagraph (B) is not applicable.

''(6)(A) The statement in support of reaffirmation agreement, which the debtor shall sign and date prior to filing with the court, shall consist of the following:

'''Part D: Debtor's Statement in Support of Reaffirmation Agreement.

'''1. I believe this agreement will not impose an undue hardship on my dependents or me. I can afford to make the payments on the reaffirmed debt because my monthly income (take home pay plus any other income received) is $_____, and my actual current monthly expenses including monthly payments on post-bankruptcy debt and other reaffirmation agreements total $_____, leaving $_____ to make the required payments on this reaffirmed debt. I understand that if my income less my monthly expenses does not leave enough to make the payments, this reaffirmation agreement is presumed to be an undue hardship on me and must be reviewed by the court. However, this presumption may be overcome if I explain to the satisfaction of the court how I can afford to make the payments here: _____.

'''2. I received a copy of the Reaffirmation Disclosure Statement in Part A and a completed and signed reaffirmation agreement.'.

''(B) Where the debtor is represented by counsel and is reaffirming a debt owed to a creditor

defined in section 19(b)(1)(A)(iv) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)(iv)), the statement of support of the reaffirmation agreement, which the debtor shall sign and date prior to filing with the court, shall consist of the following:

''`I believe this agreement is in my financial interest. I can afford to make the payments on the reaffirmed debt. I received a copy of the Reaffirmation Disclosure Statement in Part A and a completed and signed reaffirmation agreement.'.

''(7) The motion, which may be used if approval of the agreement by the court is required in order for it to be effective and shall be signed and dated by the moving party, shall consist of the following:

''`Part E: Motion for Court Approval (To be completed only where debtor is not represented by an attorney.). I (we), the debtor, affirm the following to be true and correct:

''`I am not represented by an attorney in connection with this reaffirmation agreement.

''`I believe this agreement is in my best interest based on the income and expenses I have disclosed in my Statement in Support of this reaffirmation agreement above, and because (provide any additional relevant reasons the court should consider):

''`Therefore, I ask the court for an order approving this reaffirmation agreement.'.

''(8) The court order, which may be used to approve a reaffirmation, shall consist of the following:

''`Court Order: The court grants the debtor's motion and approves the reaffirmation agreement described above.'.

''(9) Subsection (a)(2) does not operate as an injunction against an act by a creditor that is the holder of a secured claim, if—

''(A) such creditor retains a security interest in real property that is the debtor's principal residence;

''(B) such act is in the ordinary course of business between the creditor and the debtor; and

''(C) such act is limited to seeking or obtaining periodic payments associated with a valid security interest in lieu of pursuit of in rem relief to enforce the lien.

''(l) Notwithstanding any other provision of this title:

''(1) A creditor may accept payments from a debtor before and after the filing of a reaffirmation agreement with the court.

''(2) A creditor may accept payments from a debtor under a reaffirmation agreement which the creditor believes in good faith to be effective.

''(3) The requirements of subsections (c)(2) and (k) shall be satisfied if disclosures required under those subsections are given in good faith.

''(m)(1) Until 60 days after a reaffirmation agreement is filed with the court (or such additional period as the court, after notice and hearing and for cause, orders before the expiration of such period), it shall be presumed that the reaffirmation agreement is an undue hardship on the debtor if the debtor's monthly income less the debtor's monthly expenses as shown on the debtor's completed and signed statement in support of the reaffirmation agreement required under subsection (k)(6)(A) is less than the scheduled payments on the reaffirmed debt. This presumption shall be reviewed by the court. The presumption may be rebutted in writing by the debtor if the statement includes an explanation which identifies additional sources of funds to make the payments as agreed upon under the terms of the reaffirmation agreement. If the presumption is not rebutted to the satisfaction of the court, the court may disapprove the agreement. No agreement shall be disapproved without notice and hearing to the debtor and creditor and such hearing shall be concluded before the entry of the debtor's discharge.

''(2) This subsection does not apply to reaffirmation agreements where the creditor is a credit union, as defined in section 19(b)(1)(A)(iv) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)(iv)).''.

(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 and materially fraudulent statements in bankruptcy schedules

''(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. In addition to addressing the violations referred to in the preceding sentence, the individuals described under subsection (b) shall address violations of section 152 or 157 relating to materially fraudulent statements in bankruptcy schedules that are intentionally false or intentionally misleading.

''(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, in addition to any other responsibilities, have primary responsibility for carrying out the duties of a United States attorney under section 3057.

''(d) BANKRUPTCY PROCEDURES.—The bankruptcy courts shall establish procedures for referring any case which may contain a materially fraudulent statement in a bankruptcy schedule to the individuals designated under this section.''.

(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 and materially fraudulent statements in bankruptcy schedules.''.

SEC. 204. PRESERVATION OF CLAIMS AND DEFENSES UPON SALE OF PREDATORY LOANS.

Section 363 of title 11, United States Code, is amended by adding at the end the following:

''(p) Notwithstanding subsection (f), if a person purchases any interest in a consumer credit transaction that is subject to the Truth in Lending Act (15 U.S.C. 1601 et seq.), or any interest in a consumer credit contract as defined by the Federal Trade Commission Preservation of Claims Trade Regulation, and that interest is purchased through a sale under this section, then that person shall remain subject to all claims and defenses that are related to the consumer credit transaction or contract, to the same extent as that person would be subject to such claims and defenses of the consumer had the sale taken place other than under title 11.

SEC. 205. GAO STUDY ON REAFFIRMATION PROCESS.

(a) STUDY.—The General Accounting Office (in this section referred to as the ''GAO'') shall conduct a study of the reaffirmation process under title 11, United States Code, to determine the overall treatment of consumers within the context of that process, including consideration of—

(1) the policies and activities of creditors with respect to reaffirmation; and

(2) whether consumers are fully, fairly and consistently informed of their rights pursuant to this title.

(b) REPORT TO CONGRESS.—Not later than 1½ years after the date of enactment of this Act, the GAO shall submit a report to the Congress on the results of the study conducted under subsection (a), together with any recommendations for legislation to address any abusive or coercive tactics found within the reaffirmation process.

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, including interest that accrues on that debt as provided under applicable nonbankruptcy law notwithstanding any other provision of 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, legal guardian, or responsible relative; 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, 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, legal guardian, or responsible relative of the child for the purpose of collecting the debt;''.

SEC. 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—

(A) by striking ''Third'' and inserting ''Fourth''; and

(B) by striking the semicolon at the end and inserting a period;

(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:

''(A) Allowed unsecured claims for domestic support obligations that, as of the date of the filing of the petition, are owed to or recoverable by a spouse, former spouse, or child of the debtor, or the parent, legal guardian, or responsible relative of such child, without regard to whether the claim is filed by such person or is filed by

a governmental unit on behalf of that person, on the condition that funds received under this paragraph by a governmental unit under this title after the date of filing of the petition shall be applied and distributed in accordance with applicable nonbankruptcy law.

''(B) Subject to claims under subparagraph (A), allowed unsecured claims for domestic support obligations that, as of the date the petition was filed are assigned by a spouse, former spouse, child of the debtor, or such child's parent, legal guardian, or responsible relative to a governmental unit (unless such obligation is assigned voluntarily by the spouse, former spouse, child, parent, legal guardian, or responsible relative of the child for the purpose of collecting the debt) or are owed directly to or recoverable by a government unit under applicable nonbankruptcy law, on the condition that funds received under this paragraph by a governmental unit under this title after the date of filing of the petition be applied and distributed in accordance with applicable nonbankruptcy law.''.

SEC. 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 first become payable after the date on which the petition is filed.'';

(2) in section 1208(c)—

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

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

(C) by adding at the end the following:

''(10) failure of the debtor to pay any domestic support obligation that first becomes payable after the date on which the petition is filed.'';

(3) in section 1222(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 at the end the following:

''(4) notwithstanding any other provision of this section, a plan may provide for less than full payment of all amounts owed for a claim entitled to priority under section 507(a)(1)(B) only if the plan provides that all of the debtor's projected disposable income for a 5-year period, beginning on the date that the first payment is due under the plan, will be applied to make payments under the plan.'';

(4) in section 1222(b)—

(A) by redesignating paragraph (11) as paragraph (12); and

(B) by inserting after paragraph (10) the following:

''(11) provide for the payment of interest accruing after the date of the filing of the petition on unsecured claims that are nondischargeable under section 1328(a), except that such interest may be paid only to the extent that the debtor has disposable income available to pay such interest after making provision for full payment of all allowed claims;'';

(5) 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 debtor has paid all amounts payable under such order for such obligation that first become payable after the date on which the petition is filed.'';

(6) in section 1228(a), in the matter preceding paragraph (1), by inserting '', and in the case of a debtor who is required by a judicial or administrative order to pay a domestic support obligation, after such debtor certifies that all amounts payable under such order or statute that are due on or before the date of the certification (including amounts due before the petition was filed, but only to the extent provided for in the plan) have been paid'' after ''completion by the debtor of all payments under the plan'';

(7) in section 1307(c)—

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

(B) in paragraph (10), by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(11) failure of the debtor to pay any domestic support obligation that first becomes payable after the date on which the petition is filed.'';

(8) 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 at the end the following:

''(4) notwithstanding any other provision of this section, a plan may provide for less than full payment of all amounts owed for a claim entitled to priority under section 507(a)(1)(B) only if the plan provides that all of the debtor's projected disposable income for a 5-year period beginning on the date that the first payment is due under the plan will be applied to make payments under the plan.'';

(9) in section 1322(b)—

(A) in paragraph (9), by striking ''; and'' and inserting a semicolon;

(B) by redesignating paragraph (10) as paragraph (11); and

(C) inserting after paragraph (9) the following:

''(10) provide for the payment of interest accruing after the date of the filing of the petition on unsecured claims that are nondischargeable under section 1328(a), except that such interest may be paid only to the extent that the debtor has disposable income available to pay such interest after making provision for full payment of all allowed claims; and'';

(10) in section 1325(a) (as amended by this Act), by adding at the end the following:

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

(11) in section 1328(a), in the matter preceding paragraph (1), by inserting '', and in the case of a debtor who is required by a judicial or administrative order to pay a domestic support obligation, after such debtor certifies that all amounts payable under such order or statute that are due on or before the date of the certification (including amounts due before the petition was filed, but only to the extent provided for in the plan) have been paid'' after ''completion by the debtor of all payments under the plan''.

SEC. 214. EXCEPTIONS TO AUTOMATIC STAY IN DOMESTIC SUPPORT OBLIGATION PROCEEDINGS.

Section 362(b) of title 11, United States Code, is amended by striking paragraph (2) and inserting the following:

''(2) under subsection (a)—

''(A) of the commencement or continuation of a civil action or proceeding—

''(i) for the establishment of paternity;

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

''(iii) concerning child custody or visitation;

''(iv) for the dissolution of a marriage, except to the extent that such proceeding seeks to determine the division of property that is property of the estate; or

''(v) regarding domestic violence;

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

''(C) with respect to the withholding of income that is property of the estate or property of the debtor for payment of a domestic support obligation under a judicial or administrative order;

''(D) 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));

''(E) the reporting of overdue support owed by a 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));

''(F) the interception of tax refunds, as specified in sections 464 and 466(a)(3) of the Social Security Act (42 U.S.C. 664 and 666(a)(3)) or under an analogous State law; or

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

SEC. 215. NONDISCHARGEABILITY OF CERTAIN DEBTS FOR ALIMONY, MAINTENANCE, AND SUPPORT.

Section 523 of title 11, United States Code, is amended—

(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 ''to a spouse, former spouse, or child of the debtor and'' before ''not of the kind'';

(ii) by inserting ''or'' after ''court of record,'';

and

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

(C) by striking paragraph (18); and

(2) in subsection (c), by striking ''(6), or (15)'' each place it appears and inserting ''or (6)''.

SEC. 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));'';

(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''; and

(3) in subsection (g)(2), by striking ''subsection (f)(2)'' and inserting ''subsection (f)(1)(B)''.

SEC. 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;''.

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 ''or for a domestic support obligation that first becomes payable after the date on which the petition is filed'' 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

domestic support obligation that first becomes payable after the date on which the petition is filed'' 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 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 a semicolon; and

(C) by adding at the end the following:

''(10) if, with respect to an individual debtor, there is a claim for a domestic support obligation, provide the applicable notification specified in subsection (c); and''; 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. 664, 666) for the State in which the holder resides for assistance in collecting child support during and after the bankruptcy procedures;

''(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;

''(III) the last recent known name and address of the debtor's employer; and

''(IV) 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) A holder of a claim or a State child support agency may request from a creditor described in paragraph (1)(B)(iii)(IV) 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 (a)—

(A) in paragraph (6), by striking ''and'' at the end;

(B) in paragraph (7), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(8) if, with respect to an individual debtor, there is a claim for a domestic support obligation, 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)(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, 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;

''(III) the last recent known name and address of the debtor's employer; and

''(IV) with respect to the debtor's case, the name of each creditor that holds a claim that—

''(aa) is not discharged under paragraph (2), (3), or (14) of section 523(a); or

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

''(2)(A) A holder of a claim or a State child support agency may request from a creditor described in paragraph (1)(B)(iii)(IV) 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 a domestic support obligation, 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, 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), and the holder of the claim, 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;

''(III) the last recent known name and address of the debtor's employer; and

''(IV) 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 (14) of section 523(a); or

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

''(2)(A) A holder of a claim or a State child support agency may request from a creditor described in paragraph (1)(B)(iii)(IV) 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.''.

(d) DUTIES OF TRUSTEE UNDER CHAPTER 13.—Section 1302 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (4), by striking ''and'' at the end;

(B) in paragraph (5), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(6) if, with respect to an individual debtor, there is a claim for a domestic support obligation, provide the applicable notification specified in subsection (d).''; and

(2) by adding at the end the following:

''(d)(1) In any case described in subsection (b)(6), the trustee shall—

''(A)(i) notify in writing the holder of the claim of the right of 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, 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 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;

''(III) the last recent known name and address of the debtor's employer; and

''(IV) 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 (14) of section 523(a); or

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

''(2)(A) A holder of a claim or a State child support agency may request from a creditor described in paragraph (1)(B)(iii)(IV) 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.''.

SEC. 220. NONDISCHARGEABILITY OF CERTAIN EDUCATIONAL BENEFITS AND LOANS.

Section 523(a) of title 11, United States Code, is amended by striking paragraph (8) and inserting the following:

''(8) unless excepting such debt from discharge under this paragraph would impose an undue hardship on the debtor and the debtor's dependents, for—

''(A)(i) an educational benefit overpayment or loan made, insured, or guaranteed by a governmental unit, or made under any program funded in whole or in part by a governmental unit or nonprofit institution; or

''(ii) an obligation to repay funds received as an educational benefit, scholarship, or stipend; or

''(B) any other educational loan that is a qualified education loan, as that term is defined in section 221(e)(1) of the Internal Revenue Code of 1986, incurred by an individual debtor;''.

Subtitle C—Other Consumer Protections

SEC. 221. AMENDMENTS TO DISCOURAGE ABUSIVE BANKRUPTCY FILINGS.

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

(1) in subsection (a)(1), by striking ''an attorney or an employee of an attorney'' and inserting ''the attorney for the debtor or an employee of such attorney under the direct supervision of such attorney'';

(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.''; and

(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 redesignated, the following:

''(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—

(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, 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 striking ''or the United States trustee'' and inserting ''the United States trustee, the bankruptcy administrator, 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)(1) 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, United States trustee, or bankruptcy administrator, 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, the United States trustee, or the bankruptcy administrator.''; 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, the United States trustee, or the bankruptcy administrator may file a motion for an order imposing a fine on the bankruptcy petition preparer for each violation of this section.

''(4)(A) Fines imposed under this subsection in judicial districts served by United States trustees 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 subparagraph shall be available to fund the enforcement of this section on a national basis.

''(B) Fines imposed under this subsection in judicial districts served by bankruptcy administrators shall be deposited as offsetting receipts to the fund established under section 1931 of title 28, and shall remain available until expended to reimburse any appropriation for the amount paid out of such appropriation for expenses of the operation and maintenance of the courts of the United States.''.

SEC. 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. 223. ADDITIONAL AMENDMENTS TO TITLE 11, UNITED STATES CODE.

Section 507(a) of title 11, United States Code, is amended by inserting after paragraph (9) the following:

''(10) Tenth, allowed claims for death or personal injuries resulting from the operation of a motor vehicle or vessel if such operation was unlawful because the debtor was intoxicated from using alcohol, a drug, or another substance.''.

SEC. 224. PROTECTION OF RETIREMENT SAVINGS IN BANKRUPTCY.

(a) IN GENERAL.—Section 522 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (2)—

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

(ii) in subparagraph (B), by striking the period at the end and inserting ''; and'';

(iii) 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.''; and

(iv) by striking ''(2)(A) any property'' and inserting:

''(3) Property listed in this paragraph is—

''(A) any property'';

(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) by striking ''(b) Notwithstanding'' and inserting ''(b)(1) Notwithstanding'';

(D) by striking ''paragraph (2)'' each place it appears and inserting ''paragraph (3)'';

(E) by striking ''paragraph (1)'' each place it appears and inserting ''paragraph (2)'';

(F) by striking ''Such property is—''; and

(G) by adding at the end 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 under 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 under 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, under 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, is amended—

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

(2) in paragraph (18), by striking the period and inserting a semicolon;

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

''(19) under subsection (a), of withholding of income from a debtor's wages and collection of amounts withheld, under 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 chapter 84 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 (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.''.

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

''(18) 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, under—

''(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 chapter 84 of title 5, that satisfies the requirements of section 8433(g) of such title.

Nothing in paragraph (18) 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)(19) and any amounts required to repay such loan shall not constitute 'disposable income' under section 1325.''.

(e) ASSET LIMITATION.—Section 522 of title 11, United States Code, is amended by adding at the end the following:

''(n) For assets in individual retirement accounts described in section 408 or 408A of the Internal Revenue Code of 1986, other than a simplified employee pension under section 408(k) of that Code or a simple retirement account under section 408(p) of that Code, the aggregate value of such assets exempted under this section, without regard to amounts attributable to rollover contributions under section 402(c), 402(e)(6), 403(a)(4), 403(a)(5), and 403(b)(8) of the Internal Revenue Code of 1986, and earnings thereon, shall not exceed $1,000,000 (which amount shall be adjusted as provided in section 104 of this title) in a case filed by an individual debtor, except that such amount may be increased if the interests of justice so require.''.

SEC. 225. PROTECTION OF EDUCATION SAVINGS IN BANKRUPTCY.

(a) EXCLUSIONS.—Section 541 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (4), by striking ''or'' at the end;

(B) by redesignating paragraph (5) as paragraph (10); and

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

''(5) funds placed in an education individual retirement account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986) not later than 365 days before the date of filing of the petition, but—

''(A) only if the designated beneficiary of such account was a son, daughter, stepson, stepdaughter, grandchild, or step-grandchild of the debtor for the taxable year for which funds were placed in such account;

''(B) only to the extent that such funds—

''(i) are not pledged or promised to any entity in connection with any extension of credit; and

''(ii) are not excess contributions (as described in section 4973(e) of the Internal Revenue Code of 1986); and

''(C) in the case of funds placed in all such accounts having the same designated beneficiary not earlier than 720 days nor later than 365 days before such date, only so much of such funds as does not exceed $5,000;

''(6) funds used to purchase a tuition credit or certificate or contributed to an account in accordance with section 529(b)(1)(A) of the Internal Revenue Code of 1986 under a qualified State tuition program (as defined in section 529(b)(1) of such Code) not later than 365 days before the date of filing of the petition, but—

''(A) only if the designated beneficiary of the amounts paid or contributed to such tuition program was a son, daughter, stepson, stepdaughter, grandchild, or step-grandchild of the debtor for the taxable year for which funds were paid or contributed;

''(B) with respect to the aggregate amount paid or contributed to such program having the same designated beneficiary, only so much of such amount as does not exceed the total contributions permitted under section 529(b)(7) of such Code with respect to such beneficiary, as adjusted beginning on the date of the filing of the petition by the annual increase or decrease (rounded to the nearest tenth of 1 percent) in the education expenditure category of the Consumer Price Index prepared by the Department of Labor; and

''(C) in the case of funds paid or contributed to such program having the same designated beneficiary not earlier than 720 days nor later than 365 days before such date, only so much of such funds as does not exceed $5,000;''; and

(2) by adding at the end the following:

''(e) In determining whether any of the relationships specified in paragraph (5)(A) or (6)(A) of subsection (b) exists, a legally adopted child of an individual (and a child who is a member of an individual's household, if placed with such individual by an authorized placement agency for legal adoption by such individual), or a foster child of an individual (if such child has as the child's principal place of abode the home of the debtor and is a member of the debtor's household) shall be treated as a child of such individual by blood.''.

(b) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

''(c) In addition to meeting the requirements under subsection (a), a debtor shall file with the court a record of any interest that a debtor has in an education individual retirement account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986) or under a qualified State tuition program (as defined in section 529(b)(1) of such Code).''.

SEC. 226. DEFINITIONS.

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

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

''(3) 'assisted person' means any person whose debts consist primarily of consumer debts and whose non-exempt assets are less than $150,000;'';

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

''(4A) 'bankruptcy assistance' means any goods or services sold or otherwise provided to an assisted person with the express or implied purpose of providing information, advice, counsel, document preparation, or filing, or attendance at a creditors' meeting or appearing in a proceeding on behalf of another or providing legal representation with respect to a case or proceeding under this title;''; and

(3) by inserting after paragraph (12) the following:

''(12A) '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—

''(A) any person that is an officer, director, employee or agent of that person;

''(B) a nonprofit organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986;

''(C) a creditor of the person, to the extent that the creditor is assisting the person to restructure any debt owed by the person to the creditor;

''(D) a depository institution (as defined in section 3 of the Federal Deposit Insurance Act) or any Federal credit union or State credit union (as those terms are defined in section 101 of the Federal Credit Union Act), or any affiliate or subsidiary of such a depository institution or credit union; or

''(E) an author, publisher, distributor, or seller of works subject to copyright protection under title 17, when acting in such capacity.''.

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

SEC. 227. RESTRICTIONS ON DEBT RELIEF AGENCIES.

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

''§ 526. Restrictions on debt relief agencies

''(a) A debt relief agency shall not—

''(1) fail to perform any service that such agency informed an assisted person or prospective assisted person it would provide in connection with a case or proceeding under this title;

''(2) make any statement, or counsel or advise any assisted person or prospective assisted person to make a statement in a document filed in a case or proceeding under this title, that is untrue and misleading, or that upon the exercise of reasonable care, should have been known by such agency to be untrue or misleading;

''(3) misrepresent to any assisted person or prospective assisted person, directly or indirectly, affirmatively or by material omission, with respect to—

''(i) the services that such agency will provide to such person; or

''(ii) the benefits and risks that may result if such person becomes a debtor in a case under this title; or

''(4) advise an assisted person or prospective assisted person to incur more debt in contemplation of such person filing a case under this title or 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 case under this title.

''(b) Any waiver by any assisted person of any protection or right provided under this section shall not be enforceable against the debtor by any Federal or State court or any other person, but may be enforced against a debt relief agency.

''(c)(1) Any contract for bankruptcy assistance between a debt relief agency and an assisted person that does not comply with the material requirements of this section, section 527, or section 528 shall be void and may not be enforced by any Federal or State court or by any other person, other than such assisted person.

''(2) Any debt relief agency shall be liable to an assisted person in the amount of any fees or charges in connection with providing bankruptcy assistance to such person that such debt relief agency has received, for actual damages, and for reasonable attorneys' fees and costs if such agency is found, after notice and hearing, to have—

''(A) intentionally or negligently failed to comply with any provision of this section, section 527, or section 528 with respect to a case or proceeding under this title for such assisted person;

''(B) provided bankruptcy assistance to an assisted person in a case or proceeding under this title that is dismissed or converted to a case under another chapter of this title because of such agency's intentional or negligent failure to file any required document including those specified in section 521; or

''(C) intentionally or negligently disregarded the material requirements of this title or the Federal Rules of Bankruptcy Procedure applicable to such agency.

''(3) In addition to such other remedies as are provided under State law, whenever the chief law enforcement officer of a State, or an official or agency designated by a State, has reason to believe that any person has violated or is violating this section, the State—

''(A) may bring an action to enjoin such violation;

''(B) may bring an action on behalf of its residents to recover the actual damages of assisted persons arising from such violation, including any liability under paragraph (2); and

''(C) in the case of any successful action under subparagraph (A) or (B), shall be awarded the costs of the action and reasonable attorney fees as determined by the court.

''(4) The United States District Court for any district located in the State shall have concurrent jurisdiction of any action under subparagraph (A) or (B) of paragraph (3).

''(5) Notwithstanding any other provision of Federal law and in addition to any other remedy provided under Federal or State law, if the court, on its own motion or on motion of the United States trustee or the debtor, finds that a person intentionally violated this section, or engaged in a clear and consistent pattern or practice of violating this section, the court may—

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

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

''(d) No provision of this section, section 527, or section 528 shall—

''(1) annul, alter, affect, or exempt any person subject to such 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; or

''(2) be deemed to limit or curtail the authority or ability—

''(A) of a State or subdivision or instrumentality thereof, to determine and enforce qualifications for the practice of law under the laws of that State; or

''(B) of a Federal court to determine and enforce the qualifications for the practice of law before that court.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, is amended by inserting before the item relating to section 527, the following:

''526. Debt relief enforcement.''.

SEC. 228. DISCLOSURES.

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

''§ 527. Disclosures

''(a) A debt relief agency providing bankruptcy assistance to an assisted person shall provide—

''(1) the written notice required under section 342(b)(1) of this title; and

''(2) to the extent not covered in the written notice described in paragraph (1), 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 that the assisted person is required to provide with a petition and thereafter during a case under this title is required to be complete, accurate, and truthful;

''(B) all assets and all liabilities are required to be completely and accurately disclosed in the documents filed to commence the case, and the replacement value of each asset as defined in section 506 of this title must be stated in those documents where requested after reasonable inquiry to establish such value;

''(C) current monthly income, the amounts specified in section 707(b)(2), and, in a case under chapter 13, disposable income (determined in accordance with section 707(b)(2)), are required to be stated after reasonable inquiry; and

''(D) information that an assisted person provides during their case may be audited pursuant to this title, and that failure to provide such information may result in dismissal of the proceeding under this title or other sanction including, in some instances, criminal sanctions.

''(b) A debt relief agency providing bankruptcy assistance to an assisted person shall provide each assisted person at the same time as the notices required under subsection (a)(1) with the following statement, to the extent applicable, or one substantially similar. The statement shall be clear and conspicuous and shall be in a single document separate from other documents or notices provided to the assisted person:

''''IMPORTANT INFORMATION ABOUT BANKRUPTCY ASSISTANCE SERVICES FROM AN ATTORNEY OR BANKRUPTCY PETITION PREPARER.

''''If you decide to seek bankruptcy relief, you can represent yourself, you can hire an attorney to represent you, or you can get help in some localities from a bankruptcy petition preparer who is not an attorney. THE LAW REQUIRES AN ATTORNEY OR BANKRUPTCY PETITION PREPARER TO GIVE YOU A WRITTEN CONTRACT SPECIFYING WHAT THE ATTORNEY OR BANKRUPTCY PETITION PREPARER WILL DO FOR YOU AND HOW MUCH IT WILL COST. Ask to see the contract before you hire anyone.

''''The following information helps you understand what must be done in a routine bankruptcy case to help you evaluate how much service you need. Although bankruptcy can be complex, many cases are routine.

''''Before filing a bankruptcy case, either you or your attorney should analyze your eligibility

for different forms of debt relief made available by the Bankruptcy Code and which form of relief is most likely to be beneficial for you. Be sure you understand the relief you can obtain and its limitations. To file a bankruptcy case, documents called a Petition, Schedules and Statement of Financial Affairs, as well as in some cases a Statement of Intention need to be prepared correctly and filed with the bankruptcy court. You will have to pay a filing fee to the bankruptcy court. Once your case starts, you will have to attend the required first meeting of creditors where you may be questioned by a court official called a ''trustee'' and by creditors.

'''If you choose to file a chapter 7 case, you may be asked by a creditor to reaffirm a debt. You may want help deciding whether to do so and a creditor is not permitted to coerce you into reaffirming your debts.

'''If you choose to file a chapter 13 case in which you repay your creditors what you can afford over 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 shall be provided in a clear and conspicuous writing) to the assisted person on how to provide all the information the assisted person is required to provide under this title pursuant to section 521, including—

''(1) how to value assets at replacement value, determine current monthly income, the amounts specified in section 707(b)(2) and, in a chapter 13 case, how to determine disposable income in accordance with section 707(b)(2) and related calculations;

''(2) how to complete the list of creditors, including how to determine what amount is owed and what address for the creditor should be shown; and

''(3) how to determine what property is exempt and how to value exempt property at replacement value as defined in section 506 of this title.

''(d) A debt relief agency shall maintain a copy of the notices required under subsection (a) of this section for 2 years after the date on which the notice is given the assisted person.''.

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

''527. Disclosures.''.

SEC. 229. REQUIREMENTS FOR DEBT RELIEF AGENCIES.

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

''§ 528. Requirements for debt relief agencies

''(a) A debt relief agency shall—

''(1) not later than 5 business days after the first date such agency provides any bankruptcy assistance services to an assisted person, but prior to such assisted person's petition under this title being filed, execute a written contract with such assisted person that explains clearly and conspicuously—

''(A) the services such agency will provide to such assisted person; and

''(B) the fees or charges for such services, and the terms of payment;

''(2) provide the assisted person with a copy of the fully executed and completed contract;

''(3) clearly and conspicuously 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 bankruptcy relief under this title; and

''(4) clearly and conspicuously using the following statement: 'We are a debt relief agency. We help people file for bankruptcy relief under the Bankruptcy Code.' or a substantially similar statement.

''(b)(1) An advertisement of bankruptcy assistance services or of the benefits of bankruptcy directed to the general public includes—

''(A) descriptions of bankruptcy assistance in connection with a chapter 13 plan whether or not chapter 13 is specifically mentioned in such advertisement; and

''(B) statements such as 'federally supervised repayment plan' or 'Federal debt restructuring help' or other similar statements that could lead a reasonable consumer to believe that debt counseling was being offered when in fact the services were directed to providing bankruptcy assistance with a chapter 13 plan or other form of bankruptcy relief under this title.

''(2) An advertisement, directed to the general public, indicating that the debt relief agency provides assistance with respect to credit defaults, mortgage foreclosures, eviction proceedings, excessive debt, debt collection pressure, or inability to pay any consumer debt shall—

''(A) disclose clearly and conspicuously in such advertisement that the assistance may involve bankruptcy relief under this title; and

''(B) include the following statement: 'We are a debt relief agency. We help people file for bankruptcy relief under the Bankruptcy Code.' or a substantially similar statement.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, as amended by this Act, is amended by inserting after the item relating to section 527, the following:

''528. Debtor's bill of rights.''.

SEC. 230. GAO STUDY.

(a) STUDY.—Not later than 270 days after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study of the feasibility, effectiveness, and cost of requiring trustees appointed under title 11, United States Code, or the bankruptcy courts, to provide to the Office of Child Support Enforcement promptly after the commencement of cases by individual debtors under such title, the names and social security numbers of such debtors for the purposes of allowing such Office to determine whether such debtors have outstanding obligations for child support (as determined on the basis of information in the Federal Case Registry or other national database).

(b) REPORT.—Not later than 300 days after the date of enactment of this Act, the Comptroller General shall submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report containing the results of the study required by subsection (a).

SEC. 231. PROTECTION OF NONPUBLIC PERSONAL INFORMATION.

(a) IN GENERAL.—Section 363(b)(1) of title 11, United States Code, is amended by striking the period at the end and inserting the following:'', except that if the debtor has disclosed a policy to an individual prohibiting the transfer of personally identifiable information about the individual to unaffiliated third persons, and the policy remains in effect at the time of the bankruptcy filing, the trustee may not sell or lease such personally identifiable information to any person, unless—

''(A) the sale is consistent with such prohibition; or

''(B) the court, after notice and hearing and due consideration of the facts, circumstances, and conditions of the sale or lease, approves the sale or lease.''.

(b) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (41) the following:

''(41A) 'personally identifiable information', if provided by the individual to the debtor in connection with obtaining a product or service from the debtor primarily for personal, family, or household purposes—

''(A) means—

''(i) the individual's first name (or initials) and last name, whether given at birth or adoption or legally changed;

''(ii) the physical address for the individual's home;

''(iii) the individual's e-mail address;

''(iv) the individual's home telephone number;

''(v) the individual's social security number; or

''(vi) the individual's credit card account number; and

''(B) means, when identified in connection with one or more of the items of information listed in subparagraph (A)—

''(i) an individual's birth date, birth certificate number, or place of birth; or

''(ii) any other information concerning an identified individual that, if disclosed, will result in the physical or electronic contacting or identification of that person;''.

SEC. 232. CONSUMER PRIVACY OMBUDSMAN.

(a) IN GENERAL.—

(1) APPOINTMENT ON REQUEST.—If the trustee intends to sell or lease personally identifiable information in a manner which requires a hearing described in section 363(b)(1)(B), the trustee shall request, and the court shall appoint, an individual to serve as ombudsman during the case not later than—

(A) on or before the expiration of 30 days after the date of the order for relief; or

(B) 5 days prior to any hearing described in section 363(b)(1)(B) of title 11, United States Code, as amended by this Act.

(2) DUTIES OF OMBUDSMAN.—It shall be the duty of the ombudsman to provide the court information to assist the court in its consideration of the facts, circumstances, and conditions of the sale or lease under section 363(b)(1)(B) of title 11, United States Code, as amended by this Act. Such information may include a presentation of the debtor's privacy policy in effect, potential losses or gains of privacy to consumers if the sale or lease is approved, potential costs or benefits to consumers if the sale or lease is approved, and potential alternatives which mitigate potential privacy losses or potential costs to consumers.

(3) NOTICE TO OMBUDSMAN.—The ombudsman shall receive notice of, and shall have a right to appear and be heard, at any hearing described in section 363b(1)(B) of title 11, United States Code, as amended by this Act.

(4) CONFIDENTIALITY.—The ombudsman shall maintain any personally identifiable information obtained by the ombudsman under this title as confidential information.

(b) APPOINTMENT.—If the court orders the appointment of an ombudsman under this section, the United States Trustee shall appoint 1 disinterested person, other than the United States trustee, to serve as the ombudsman.

(c) COMPENSATION OF CONSUMER PRIVACY OMBUDSMAN.—Section 330(a)(1) of title 11, United States Code, is amended in the matter preceding subparagraph (A), by inserting ''an ombudsman appointed under section 332,'' before ''an examiner''.

SEC. 233. PROHIBITION ON DISCLOSURE OF IDENTITY OF MINOR CHILDREN.

(a) PROHIBITION.—Chapter 1 of title 11, United States Code, is amended by adding after section 111, as added by this Act, the following:

''§ 112. Prohibition on disclosure of identity of minor children

''In a case under this title, the debtor may be required to provide information regarding a minor child involved in matters under this title, but may not be required to disclose in the public records in the case the name of such minor child. Notwithstanding section 107(a), the debtor may be required to disclose the name of such minor child in a nonpublic record maintained by the court. Such nonpublic record shall be available for inspection by the judge, United States Trustee, the trustee, or an auditor under section 603 of the Bankruptcy Reform Act of 2001. Each such judge, United States Trustee, trustee, or auditor shall maintain the confidentiality of the identity of such minor child in the nonpublic record.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 1 of title 11, United States Code, is amended by adding at the end the following:

''112. Prohibition on disclosure of identity of minor children.''.

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 shall 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 or any other reason to conclude that the later case will be concluded—

''(aa) if a case under chapter 7, with a discharge; or

''(bb) if a case under chapter 11 or 13, 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 the date of entry of such order by the court, except that a debtor in a subsequent case may move for relief from such order based upon changed circumstances or for good cause shown, after notice and a hearing. Any Federal, State, or local governmental unit that accepts notices of interests or liens in real property shall accept any certified copy of an order described in this subsection for indexing and recording.''.

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, is amended by inserting after paragraph (19), as added by this Act, the following:

''(20) 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;

''(21) 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 designated by this Act)—

(A) in paragraph (4), by striking '', and'' at the end and inserting a semicolon;

(B) in paragraph (5), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(6) in an individual case under chapter 7 of this title, not retain possession of personal property as to which a creditor has an allowed claim for the purchase price secured in whole or in part by an interest in that personal property unless, in the case of an individual debtor, the debtor, not later than 45 days after the first meeting of creditors under section 341(a), either—

''(A) enters into an agreement with the creditor pursuant to section 524(c) of this title with respect to the claim secured by such property; or

''(B) redeems such property from the security interest pursuant to section 722 of this title.

If the debtor fails to so act within the 45-day period referred to in paragraph (6), the stay under section 362(a) of this title is terminated with respect to the personal property of the estate or of the debtor which is affected, such property shall no longer be property of the estate, and the creditor may take whatever action as to such property as is permitted by applicable nonbankruptcy law, unless the court determines on the motion of the trustee brought before the expiration of such 45-day period, and after notice and a hearing, that such property is of consequential value or benefit to the estate, orders appropriate adequate protection of the creditor's interest, and orders the debtor to deliver any collateral in the debtor's possession to the trustee.''; and

(2) in section 722, by inserting ''in full at the time of redemption'' before the period at the end.

SEC. 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)'';

(B) by redesignating subsection (h) as subsection (k); and

(C) by inserting after subsection (g) the following:

''(h)(1) In an individual case under chapter 7, 11, or 13, the stay provided by subsection (a) is terminated with respect to personal property of the estate or of the debtor securing in whole or in part a claim, or subject to an unexpired lease, and such personal property shall no longer be property of the estate if the debtor fails within the applicable time set by section 521(a)(2) of this title—

''(A) to file timely any statement of intention required under section 521(a)(2) of this title with respect to that property or to indicate in that statement that the debtor will either surrender the property or retain it and, if retaining it, either redeem the property pursuant to section 722 of this title, reaffirm the debt it secures pursuant to section 524(c) of this title, or assume the unexpired lease pursuant to section 365(p) of this title if the trustee does not do so, as applicable; and

''(B) to take timely the action specified in that statement of intention, as it may be amended before expiration of the period for taking action, unless the statement of intention specifies reaffirmation and the creditor refuses to reaffirm on the original contract terms.

''(2) Paragraph (1) does not apply if the court determines, on the motion of the trustee filed before the expiration of the applicable time set by section 521(a)(2), after notice and a hearing, that such property is of consequential value or benefit to the estate, and orders appropriate adequate protection of the creditor's interest, and orders the debtor to deliver any collateral in the debtor's possession to the trustee. If the court does not so determine, the stay provided by subsection (a) shall terminate upon the conclusion of the proceeding on the motion.''; and

(2) in section 521—

(A) in subsection (a)(2), as so designated by this Act, by striking ''consumer'';

(B) in subsection (a)(2)(B), as so designated by this Act—

(i) by striking ''forty-five days after the filing of a notice of intent under this section'' and inserting ''30 days after the first date set for the meeting of creditors under section 341(a) of this title''; and

(ii) by striking ''forty-five day'' and inserting ''30-day'';

(C) in subsection (a)(2)(C), as so designated by this Act, by inserting '', except as provided in section 362(h) of this title'' before the semicolon; and

(D) by adding at the end the following:

''(d) If the debtor fails timely to take the action specified in subsection (a)(6) of this section, or in paragraphs (1) and (2) of section 362(h) of this title, with respect to property which a lessor or bailor owns and has leased, rented, or bailed to the debtor or as to which a creditor holds a security interest not otherwise voidable under section 522(f), 544, 545, 547, 548, or 549 of this title, nothing in this title shall prevent or limit the operation of a provision in the underlying lease or agreement which has the effect of placing the debtor in default under such lease or agreement by reason of the occurrence, pendency, or existence of a proceeding under this title or the insolvency of the debtor. Nothing in this subsection shall be deemed to justify limiting such a provision in any other circumstance.''.

SEC. 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 creditor has a purchase money security interest securing the debt that is the subject of the claim, the debt was incurred within the 3-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 1-year period preceding that filing.''.

(c) DEFINITIONS.—Section 101 of title 11, United States Code, as amended by 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, a mobile or manufactured home, or trailer;''; 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. DOMICILIARY REQUIREMENTS FOR EXEMPTIONS.

Section 522(b)(3)(A) of title 11, United States Code, as so designated by this Act, is amended—

(1) by striking ''180 days'' and inserting ''730 days''; and

(2) by striking '', or for a longer portion of such 180-day period than in any other place'' and inserting ''or if the debtor's domicile has not been located at a single State for such 730-day period, the place in which the debtor's domicile was located for 180 days immediately preceding the 730-day period or for a longer portion of such 180-day period than in any other place''.

SEC. 308. LIMITATION.

Section 522 of title 11, United States Code, is amended—

(1) in subsection (b)(3)(A), as so designated by this Act, by inserting ''subject to subsection (o),'' before ''any property''; and

(2) by adding at the end the following new subsection:

''(o)(1) As a result of electing under subsection (b)(3)(A) to exempt property under State or local law, a debtor may not exempt any amount of interest that exceeds, in the aggregate, $125,000 in value in—

''(A) real or personal property that the debtor or a dependent of the debtor uses as a residence;

''(B) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence; or

''(C) a burial plot for the debtor or a dependent of the debtor.

''(2) The limitation under paragraph (1) shall not apply to an exemption claimed under subsection (b)(3)(A) by a family farmer for the principal residence of that farmer.''.

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 a case under chapter 11 or 12, but not in a case converted to a case under 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, not later than 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 in which the debtor is an individual and in a case under chapter 13, 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) 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 commence making payments not later than 30 days after the date of the filing of the plan or the order for relief, whichever is earlier, in the amount—

''(A) proposed by the plan to the trustee;

''(B) scheduled in a lease of personal property directly to the lessor for that portion of the obligation that becomes due after the order for relief, reducing the payments under subparagraph (A) by the amount so paid and providing the trustee with evidence of such payment, including the amount and date of payment; and

''(C) that provides adequate protection directly to a creditor holding an allowed claim secured by personal property to the extent the claim is attributable to the purchase of such property by the debtor for that portion of the obligation that becomes due after the order for relief, reducing the payments under subparagraph (A) by the amount so paid and providing the trustee with evidence of such payment, including the amount and date of payment.

''(2) A payment made under paragraph (1)(A) shall be retained by the trustee until confirmation or denial of confirmation. 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 and not yet due and owing to creditors pursuant to paragraph (3) to the debtor, after deducting any unpaid claim allowed under section 503(b).

''(3) Subject to section 363, the court may, upon notice and a hearing, modify, increase, or reduce the payments required under this subsection pending confirmation of a plan.

''(4) Not later than 60 days after the date of 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 the lessor or secured creditor 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.''.

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 $750 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 the 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.

(a) IN GENERAL.—Section 362(b) of title 11, United States Code, is amended—

(1) by inserting after paragraph (21), as added by this Act, the following:

''(23) under subsection (a)(3), of the commencement or continuation of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor seeking possession of residential property—

''(A) on which the debtor resides as a tenant; and

''(B) with respect to which—

''(i) the debtor fails to make a rental payment that first becomes due under the unexpired specific term of a rental agreement or lease or under a tenancy under applicable State or local rent control law, after the date of filing of the petition or during the 10-day period preceding the date of filing of the petition, if the lessor files with the court a certification that the debtor has not made a payment for rent and serves a copy of the certification upon the debtor; or

''(ii) the debtor has a month to month tenancy (or one of shorter term) other than under applicable State or local rent control law where timely payments are made pursuant to clause (i) if the lessor files with the court a certification that the requirements of this clause have been met and serves a copy of the certification upon the debtor.

''(24) under subsection (a)(3), of the commencement or continuation of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor seeking possession of residential property, if during the 2-year period preceding the date of filing of the petition, the debtor or another occupant of the leased premises—

''(A) commenced another case under this title; and

''(B) failed to make any rental payment that first became due under applicable nonbankruptcy law after the date of filing of the petition for that other case;

''(25) under subsection (a)(3), of an eviction action, to the extent that it seeks possession based on endangerment of property or the illegal use of controlled substances on the property, if the lessor files with the court a certification that such an eviction has been filed or the debtor has endangered property or illegally used or allowed to be used a controlled substance on the property during the 30-day period preceding the date of filing of the certification, and serves a copy of the certification upon the debtor;'';

(2) by adding at the end of the flush material at the end of the subsection the following: ''With respect to the applicability of paragraph (23) or (25) to a debtor with respect to the commencement or continuation of a proceeding described in any such paragraph, the exception to the automatic stay shall become effective on the 15th day after the lessor meets the filing and notification requirements under any such paragraph, unless—

''(A) the debtor files a certification with the court and serves a copy of that certification upon the lessor on or before that 15th day, that—

''(i) contests the truth or legal sufficiency of the lessor's certification; or

''(ii) states that the tenant has taken such action as may be necessary to remedy the subject of the certification under paragraph (23)(B)(i), except that no tenant may take advantage of such remedy more than once under this title; or

''(B) the court orders that the exception to the automatic stay shall not become effective, or provides for a later date of applicability.''; and

(3) by adding at the end of the flush material added by paragraph (2), the following:

''Where a debtor makes a certification under subparagraph (A), the clerk of the court shall set a hearing on a date no later than 10 days after the date of the filing of the certification of the debtor and provide written notice thereof. If the debtor can demonstrate to the satisfaction of the court that the rent payment due post-petition or 10 days prior to the petition was made prior to the filing of the debtor's certification under subparagraph (A), or that the situation giving rise to the exception in paragraph (25) does not exist or has been remedied to the court's satisfaction, then a stay under subsection (a) shall be in effect until the termination of the stay under this section. If the debtor cannot make this demonstration to the satisfaction of the court, the court shall order the stay under subsection (a) lifted forthwith. Where a debtor does not file a certification under subparagraph (A), the stay under subsection (a) shall be lifted by operation of law and the clerk of the court shall certify a copy of the bankruptcy docket as sufficient evidence that the automatic stay of subsection (a) is lifted.''.

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 inserting after subsection (e) 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—

''(1) in a case filed under chapter 7, 11, or 12 of this title during the three-year period preceding the date of the order for relief under this chapter, or

''(2) in a case filed under chapter 13 of this title during the two-year period preceding the date of such order, except that if the debtor demonstrates extreme hardship requiring that a chapter 13 case be filed, the court may shorten the two-year period.''.

SEC. 313. DEFINITION OF HOUSEHOLD GOODS AND ANTIQUES.

(a) DEFINITION.—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 the toys and hobby equipment of minor dependent children and wedding rings) 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.''.

(b) STUDY.—Not later than 2 years after the date of enactment of this Act, the Director of the Executive Office for United States Trustees shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives containing its findings regarding utilization of the definition of household goods, as defined in section 522(f)(4) of title 11, United States Code, as added by this section, with respect to the avoidance of nonpossessory, nonpurchase money security interests in household goods under section 522(f)(1)(B) of title 11, United States Code, and the impact that section 522(f)(4) of that title, as added by this section, has had on debtors and on the bankruptcy courts. Such report may include recommendations for amendments to section 522(f)(4) of title 11, United States Code, consistent with the Director's findings.

SEC. 314. DEBT INCURRED TO PAY NONDISCHARGEABLE DEBTS.

(a) IN GENERAL.—Section 523(a) of title 11, United States Code, is amended by inserting after paragraph (14) the following:

''(14A) incurred to pay a tax to a governmental unit, other than the United States, that would be nondischargeable under paragraph (1);''.

(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), (3), (4), (5), (8), or (9) of section 523(a);

''(3) for restitution, or a criminal fine, included in a sentence on the debtor's conviction of a crime; or

''(4) for restitution, or damages, awarded in a civil action against the debtor as a result of willful or malicious injury by the debtor that caused personal injury to an individual or the death of an individual.''.

SEC. 315. GIVING CREDITORS FAIR NOTICE IN CHAPTERS 7 AND 13 CASES.

(a) NOTICE.—Section 342 of title 11, United States Code, as amended by this Act, is amended—

(1) in subsection (c)—

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

(B) by striking '', but the failure of such notice to contain such information shall not invalidate the legal effect of such notice''; and

(C) by adding at the end the following:

''(2) If, within the 90 days prior to the date of the filing of a petition in a voluntary case, the creditor supplied the debtor in at least 2 communications sent to the debtor with the current account number of the debtor and the address at which the creditor wishes to receive correspondence, then the debtor shall send any notice required under this title to the address provided by the creditor and such notice shall include the account number. In the event the creditor would be in violation of applicable nonbankruptcy law by sending any such communication within such 90-day period and if the creditor supplied the debtor in the last 2 communications with the current account number of the debtor and the address at which the creditor wishes to receive correspondence, then the debtor shall send any notice required under this title to the address provided by the creditor and such notice shall include the account number.''; and

(2) by adding at the end the following:

''(e) 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.

''(f) 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 (e) with respect to a particular case.

''(g)(1) Notice given to a creditor other than as provided in this section shall not be effective notice until that notice has been brought to the attention of the creditor. 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(k) 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 this Act, is amended—

(1) in subsection (a), as so designated by this Act, 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 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;

''(v) a statement of the amount of monthly net income, itemized to show how the amount is calculated; and

''(vi) 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:

''(e)(1) At any time, a creditor, in the case of an individual under chapter 7 or 13, may file with the court notice that the creditor requests the petition, schedules, and a statement of affairs filed by the debtor in the case, and the court shall make those documents available to the creditor who requests those documents.

''(2)(A) The debtor shall provide either a tax return or transcript at the election of the debtor, for the latest taxable period prior to filing for which a tax return has been or should have been filed, to the trustee, not later than 7 days before the date first set for the first meeting of creditors, or the case shall be dismissed, unless the debtor demonstrates that the failure to file a return as required is due to circumstances beyond the control of the debtor.

''(B) If a creditor has requested a tax return or transcript referred to in subparagraph (A), the debtor shall provide such tax return or transcript to the requesting creditor at the time the debtor provides the tax return or transcript to the trustee, or the case shall be dismissed, unless the debtor demonstrates that the debtor is unable to provide such information due to circumstances beyond the control of the debtor.

''(3)(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.

''(f) An individual debtor in a case under chapter 7, 11, or 13 shall file with the court at the request of the judge, United States trustee, or any party in interest—

''(1) at the time filed with the taxing authority, the Federal tax returns or transcript thereof required under applicable law, 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, the Federal tax returns or transcript thereof required under applicable law, that were not filed with the taxing authority when the schedules under subsection (a)(1) were filed with respect to the period that is 3 years before the order of relief;

''(3) any amendments to any of the Federal tax returns or transcripts thereof, 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.

''(g)(1) A statement referred to in subsection (f)(4) shall disclose—

''(A) the amount and sources of income of the debtor;

''(B) the identity of any 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 subsection (e)(2)(A) and subsection (f) shall be available to the United States trustee, any bankruptcy administrator, any trustee, and any party in interest for inspection and copying, subject to the requirements of subsection (h).

''(h)(1) Not later than 180 days after the date of enactment of the Bankruptcy Reform Act of 2001, 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 and 180 days after the date of enactment of the Bankruptcy Reform Act of 2001, 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.

''(i) 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 this Act, is amended by adding at the end the following:

''(j)(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.

Section 1324 of title 11, United States Code, is amended—

(1) by striking ''After'' and inserting the following:

''(a) Except as provided in subsection (b) and after''; and

(2) by adding at the end the following:

''(b) The hearing on confirmation of the plan may be held not earlier than 20 days and not later than 45 days after the date of the meeting of creditors under section 341(a).''.

SEC. 318. CHAPTER 13 PLANS TO HAVE A 5-YEAR DURATION IN CERTAIN CASES.

Title 11, United States Code, is amended—

(1) by amending section 1322(d) to read as follows:

''(d)(1) If the current monthly income of the debtor and the debtor's spouse combined, when multiplied by 12, is not less than—

''(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner last reported by the Bureau of the Census;

''(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals last reported by the Bureau of the Census; or

''(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals last reported by the Bureau of the Census, plus $525 per month for each individual in excess of 4,

the plan may not provide for payments over a period that is longer than 5 years.

''(2) If the current monthly income of the debtor and the debtor's spouse combined, when multiplied by 12, is less than—

''(A) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner last reported by the Bureau of the Census;

''(B) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals last reported by the Bureau of the Census; or

''(C) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals last reported by the Bureau of the Census, plus $525 per month for each individual in excess of 4,

the plan may not provide for payments over a period that is longer than 3 years, unless the court, for cause, approves a longer period, but the court may not approve a period that is longer than 5 years.'';

(2) in section 1325(b)(1)(B), by striking ''three-year period'' and inserting ''applicable commitment period''; and

(3) in section 1325(b), as amended by this Act, by adding at the end the following:

''(4) For purposes of this subsection, the 'applicable commitment period'—

''(A) subject to subparagraph (B), shall be—

''(i) 3 years; or

''(ii) not less than 5 years, if the current monthly income of the debtor and the debtor's spouse combined, when multiplied by 12, is not less than—

''(I) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner last reported by the Bureau of the Census;

''(II) in the case of a debtor in a household of 2, 3, or 4 individuals, the highest median family income of the applicable State for a family of the same number or fewer individuals last reported by the Bureau of the Census; or

''(III) in the case of a debtor in a household exceeding 4 individuals, the highest median family income of the applicable State for a family of 4 or fewer individuals last reported by the Bureau of the Census, plus $525 per month for each individual in excess of 4; and

''(B) may be less than 3 or 5 years, whichever is applicable under subparagraph (A), but only if the plan provides for payment in full of all allowed unsecured claims over a shorter period.''; and

(4) in section 1329(c), by striking ''three years'' and inserting ''the applicable commitment period under section 1325(b)(1)(B)''.

SEC. 319. SENSE OF 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. CHAPTER 11 CASES FILED BY INDIVIDUALS.

(a) PROPERTY OF THE ESTATE.—

(1) IN GENERAL.—Subchapter I of chapter 11 of title 11, United States Code, is amended by adding at the end the following:

''§ 1115. Property of the estate

''(a) In a case concerning an individual debtor, property of the estate includes, in addition to the property specified in section 541—

''(1) all property of the kind specified in section 541 that the debtor acquires after the commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7, 12, or 13, whichever occurs first; and

''(2) earnings from services performed by the debtor after the commencement of the case but before the case is closed, dismissed, or converted to a case under chapter 7, 12, or 13, whichever occurs first.''.

''(b) Except as provided in section 1104 or a confirmed plan or order confirming a plan, the

debtor shall remain in possession of all property of the estate.''.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 11 of title 11, United States Code, is amended by adding at the end of the matter relating to subchapter I the following:

''1115. Property of the estate.''.

(b) CONTENTS OF PLAN.—Section 1123(a) of title 11, United States Code, is amended—

(1) in paragraph (6), by striking ''and'' at the end;

(2) in paragraph (7), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(8) in a case concerning an individual, provide for the payment to creditors through the plan of all or such portion of earnings from personal services performed by the debtor after the commencement of the case or other future income of the debtor as is necessary for the execution of the plan.''.

(c) CONFIRMATION OF PLAN.—

(1) REQUIREMENTS RELATING TO VALUE OF PROPERTY.—Section 1129(a) of title 11, United States Code, is amended by adding at the end the following:

''(15) In a case concerning an individual in which the holder of an allowed unsecured claim objects to the confirmation of the plan—

''(A) the value of the property to be distributed under the plan on account of such claim is, as of the effective date of the plan, not less than the amount of such claim; or

''(B) the value of the property to be distributed under the plan is not less than the debtor's projected disposable income (as that term is defined in section 1325(b)(2)) to be received during the 5-year period beginning on the date that the first payment is due under the plan, or during the term of the plan, whichever is longer.''.

(2) REQUIREMENT RELATING TO INTERESTS IN PROPERTY.—Section 1129(b)(2)(B)(ii) of title 11, United States Code, is amended by inserting before the period at the end the following: '', except that in a case concerning an individual, the debtor may retain property included in the estate under section 1115, subject to the requirements of subsection (a)(14)''.

(d) EFFECT OF CONFIRMATION.—Section 1141(d) of title 11, United States Code, is amended—

(1) in paragraph (2), by striking ''The confirmation of a plan does not discharge an individual debtor'' and inserting ''A discharge under this chapter does not discharge an individual debtor''; and

(2) by adding at the end the following:

''(5) In a case concerning an individual—

''(A) except as otherwise ordered for cause shown, the discharge is not effective until completion of all payments under the plan; and

''(B) at any time after the confirmation of the plan and after notice and a hearing, the court may grant a discharge to a debtor that has not completed payments under the plan only if—

''(i) for each allowed unsecured claim, the value, as of the effective date of the plan, of property actually distributed under the plan on account of that claim is not less than the amount that would have been paid on such claim if the estate of the debtor had been liquidated under chapter 7 of this title on such date; and

''(ii) modification of the plan under 1127 of this title is not practicable.''.

(e) MODIFICATION OF PLAN.—Section 1127 of title 11, United States Code, is amended by adding at the end the following:

''(e) In a case concerning an individual, the plan may be modified at any time after confirmation of the plan but before the completion of payments under the plan, whether or not the plan has been substantially consummated, upon request of the debtor, the trustee, the United States trustee, or the holder of an allowed unsecured claim, to—

''(1) increase or reduce the amount of payments on claims of a particular class provided for by the plan;

''(2) extend or reduce the time period for such payments; or

''(3) alter the amount of the distribution to a creditor whose claim is provided for by the plan to the extent necessary to take account of any payment of such claim made other than under the plan.

''(f)(1) Sections 1121 through 1128 of this title and the requirements of section 1129 of this title apply to any modification under subsection (a).

''(2) The plan, as modified, shall become the plan only after there has been disclosure under section 1125, as the court may direct, notice and a hearing, and such modification is approved.''.

SEC. 322. EXCLUDING EMPLOYEE BENEFIT PLAN PARTICIPANT CONTRIBUTIONS AND OTHER PROPERTY FROM THE ESTATE.

(a) IN GENERAL.—Section 541(b) of title 11, United States Code, is amended by inserting after paragraph (6), as added by this Act, the following:

''(7) any amount—

''(A) withheld by an employer from the wages of employees for payment as contributions to—

''(i) an employee benefit plan subject to title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.) or under an employee benefit plan which is a governmental plan under section 414(d) of the Internal Revenue Code of 1986, a deferred compensation plan under section 457 of the Internal Revenue Code of 1986, or a tax-deferred annuity under section 403(b) of the Internal Revenue Code of 1986, except that amount shall not constitute disposable income, as defined in section 1325(b)(2) of this title; or

''(ii) a health insurance plan regulated by State law whether or not subject to such title; or

''(B) received by the employer from employees for payment as contributions to—

''(i) an employee benefit plan subject to title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.) or under an employee benefit plan which is a governmental plan under section 414(d) of the Internal Revenue Code of 1986, a deferred compensation plan under section 457 of the Internal Revenue Code of 1986, or a tax-deferred annuity under section 403(b) of the Internal Revenue Code of 1986, except that amount shall not constitute disposable income, as defined in section 1325(b)(2) of this title; or

''(ii) a health insurance plan regulated by State law whether or not subject to such title;''.

(b) APPLICATION OF AMENDMENT.—The amendments made by this section shall not apply to cases commenced under title 11, United States Code, before the expiration of the 180-day period beginning on the date of enactment of this Act.

SEC. 323. EXCLUSIVE JURISDICTION IN MATTERS INVOLVING BANKRUPTCY PROFESSIONALS.

(a) IN GENERAL.—Section 1334 of title 28, United States Code, is amended—

(1) in subsection (b), by striking ''Notwithstanding'' and inserting ''Except as provided in subsection (e)(2), and notwithstanding''; and

(2) by striking subsection (e) and inserting the following:

''(e) The district court in which a case under title 11 is commenced or is pending shall have exclusive jurisdiction—

''(1) of all the property, wherever located, of the debtor as of the date of commencement of such case, and of property of the estate; and

''(2) over all claims or causes of action that involve construction of section 327 of title 11, United States Code, or rules relating to disclosure requirements under section 327.''.

(b) APPLICABILITY.—This section shall only apply to cases filed after the date of enactment of this Act.

SEC. 324. UNITED STATES TRUSTEE PROGRAM FILING FEE INCREASE.

(a) ACTIONS UNDER CHAPTER 7 OR 13 OF TITLE 11, UNITED STATES CODE.—Section 1930(a) of title 28, United States Code, is amended by striking paragraph (1) and inserting the following:

''(1) For a case commenced—

''(A) under chapter 7 of title 11, $160; or

''(B) under chapter 13 of title 11, $150.''.

(b) UNITED STATES TRUSTEE SYSTEM FUND.—Section 589a(b) of title 28, United States Code, is amended—

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

''(1)(A) 40.63 percent of the fees collected under section 1930(a)(1)(A) of this title in cases commenced under chapter 7 of title 11; and

''(B) 70.00 percent of the fees collected under section 1930(a)(1)(B) of this title in cases commenced under chapter 13 of title 11;'';

(2) in paragraph (2), by striking ''one-half'' and inserting ''three-fourths''; and

(3) in paragraph (4), by striking ''one-half'' and inserting ''100 percent''.

(c) COLLECTION AND DEPOSIT OF MISCELLANEOUS BANKRUPTCY FEES.—Section 406(b) of the Judiciary Appropriations Act, 1990 (28 U.S.C. 1931 note) is amended by striking ''pursuant to 28 U.S.C. section 1930(b) and 30.76 per centum of the fees hereafter collected under 28 U.S.C. section 1930(a)(1) and 25 percent of the fees hereafter collected under 28 U.S.C. section 1930(a)(3) shall be deposited as offsetting receipts to the fund established under 28 U.S.C. section 1931'' and inserting ''under section 1930(b) of title 28, United States Code, and 31.25 percent of the fees collected under section 1930(a)(1)(A) of that title, 30.00 percent of the fees collected under section 1930(a)(1)(B) of that title, and 25 percent of the fees collected under section 1930(a)(3) of that title shall be deposited as offsetting receipts to the fund established under section 1931 of that title''.

SEC. 325. SHARING OF COMPENSATION.

Section 504 of title 11, United States Code, is amended by adding at the end the following:

''(c) This section shall not apply with respect to sharing, or agreeing to share, compensation with a bona fide public service attorney referral program that operates in accordance with non-Federal law regulating attorney referral services and with rules of professional responsibility applicable to attorney acceptance of referrals.''.

SEC. 326. FAIR VALUATION OF COLLATERAL.

Section 506(a) of title 11, United States Code, is amended by—

(1) inserting ''(1)'' after ''(a)''; and

(2) by adding at the end the following:

''(2) In the case of an individual debtor under chapters 7 and 13, such value with respect to personal property securing an allowed claim shall be determined based on the replacement value of such property as of the date of filing the petition without deduction for costs of sale or marketing. With respect to property acquired for personal, family, or household purpose, replacement value shall mean the price a retail merchant would charge for property of that kind considering the age and condition of the property at the time value is determined.''.

SEC. 327. DEFAULTS BASED ON NONMONETARY OBLIGATIONS.

(a) EXECUTORY CONTRACTS AND UNEXPIRED LEASES.—Section 365 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1)(A), by striking the semicolon at the end and inserting the following: ''other than a default that is a breach of a provision relating to the satisfaction of any provision (other than a penalty rate or penalty provision) relating to a default arising from any failure to perform nonmonetary obligations under

an unexpired lease of real property, if it is impossible for the trustee to cure such default by performing nonmonetary acts at and after the time of assumption, except that if such default arises from a failure to operate in accordance with a nonresidential real property lease, then such default shall be cured by performance at and after the time of assumption in accordance with such lease, and pecuniary losses resulting from such default shall be compensated in accordance with the provisions of paragraph (b)(l);''; and

(B) in paragraph (2)(D), by striking ''penalty rate or provision'' and inserting ''penalty rate or penalty provision'';

(2) in subsection (c)—

(A) in paragraph (2), by inserting ''or'' at the end;

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

(C) by striking paragraph (4);

(3) in subsection (d)—

(A) by striking paragraphs (5) through (9); and

(B) by redesignating paragraph (10) as paragraph (5); and

(4) in subsection (f)(1) by striking ''; except that'' and all that follows through the end of the paragraph and inserting a period.

(b) IMPAIRMENT OF CLAIMS OR INTERESTS.—Section 1124(2) of title 11, United States Code, is amended—

(1) in subparagraph (A), by inserting ''or of a kind that section 365(b)(2) of this title expressly does not require to be cured'' before the semicolon at the end;

(2) in subparagraph (C), by striking ''and'' at the end;

(3) by redesignating subparagraph (D) as subparagraph (E); and

(4) by inserting after subparagraph (C) the following:

''(D) if such claim or such interest arises from any failure to perform a nonmonetary obligation, other than a default arising from failure to operate a non-residential real property lease subject to section 365(b)(1)(A), compensates the holder of such claim or such interest (other than the debtor or an insider) for any actual pecuniary loss incurred by such holder as a result of such failure; and''.

SEC. 328. NONDISCHARGEABILITY OF DEBTS INCURRED THROUGH VIOLATIONS OF LAWS RELATING TO THE PROVISION OF LAWFUL GOODS AND SERVICES.

Section 523(a) of title 11, United States Code, is amended—

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

(2) in paragraph (18), as added by section 224 of this Act, by striking the period at the end of subparagraph (B) and inserting ''; or'';

(3) by adding at the end of the flush material immediately following that paragraph (18), as added by section 224 of this Act, the following: ''Nothing in paragraph (19) shall be construed to affect any expressive conduct (including peaceful picketing or other peaceful demonstration) protected from legal prohibition by the first amendment to the Constitution of the United States.''; and

(4) by inserting before the flush material following that paragraph (18), the following:

''(19) that results from any judgment, order, consent order, or decree entered in any Federal or State court, or contained in any settlement agreement entered into by the debtor, including any court-ordered damages, fine, penalty, citation, or attorney fee or cost owed by the debtor, arising from—

''(A) an action alleging the violation of any Federal, State, or local statutory law, including but not limited to violations of sections 247 and 248 of title 18, that results from the debtor's—

''(i) harassment of, intimidation of, interference with, obstruction of, injury to, threat to, or violence against, any person—

''(I) because that person provides or has provided lawful goods or services;

''(II) because that person is or has been obtaining lawful goods or services; or

''(III) to deter that person, any other person, or a class of persons from obtaining or providing lawful goods or services; or

''(ii) damage or destruction of property of a facility providing lawful goods or services; or

''(B) a violation of a court order or injunction that protects access to a facility that provides lawful goods or services or the provision of lawful goods or services.''.

SEC. 329. CLARIFICATION OF POSTPETITION WAGES AND BENEFITS.

Section 503(b)(1)(A) of title 11, United States Code, is amended to read as follows:

''(A) the actual, necessary costs and expenses of preserving the estate, including wages, salaries, or commissions for services rendered after the commencement of the case, and wages and benefits awarded pursuant to an action brought in a court of law or the National Labor Relations Board as back pay attributable to any period of time after commencement of the case as a result of the debtor's violation of Federal or State law, without regard to when the original unlawful act occurred or to whether any services were rendered if the court determines that the award will not substantially increase the probability of layoff or termination of current employees or of nonpayment of domestic support obligations during the case;''.

TITLE IV—GENERAL AND SMALL BUSINESS BANKRUPTCY PROVISIONS

Subtitle A—General Business Bankruptcy Provisions

SEC. 401. ADEQUATE PROTECTION FOR INVESTORS.

(a) DEFINITION.—Section 101 of title 11, United States Code, as amended by 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. 78o–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, is amended by inserting after paragraph (24), as added by this Act, the following:

''(25) 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. 402. 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. 403. 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. 404. EXECUTORY CONTRACTS AND UNEXPIRED LEASES.

(a) IN GENERAL.—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)(i) The court may extend the period determined under subparagraph (A), prior to the expiration of the 120-day period, for 90 days upon motion of the trustee or lessor for cause.

''(ii) If the court grants an extension under clause (i), the court may grant a subsequent extension only upon prior written consent of the lessor in each instance.''.

(b) EXCEPTION.—Section 365(f)(1) of title 11, United States Code, is amended by striking ''subsection'' the first place it appears and inserting ''subsections (b) and''.

SEC. 405. CREDITORS AND EQUITY SECURITY HOLDERS COMMITTEES.

(a) APPOINTMENT.—Section 1102(a) of title 11, United States Code, is amended by adding at the end the following:

''(4) On request of a party in interest and after notice and a hearing, the court may order the United States trustee to change 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. The court may order the United States trustee to increase the number of members of a committee to include a creditor that is a small business concern (as described in section 3(a)(1) of the Small Business Act (15 U.S.C. 632(a)(1))), if the court determines that the creditor holds claims (of the kind represented by the committee) the aggregate amount of which, in comparison to the annual gross revenue of that creditor, is disproportionately large.''.

(b) INFORMATION.—Section 1102(b) of title 11, United States Code, is amended by adding at the end the following:

''(3) A committee appointed under subsection (a) shall—

''(A) provide access to information for creditors who—

''(i) hold claims of the kind represented by that committee; and

''(ii) are not appointed to the committee;

''(B) solicit and receive comments from the creditors described in subparagraph (A); and

''(C) be subject to a court order that compels any additional report or disclosure to be made to the creditors described in subparagraph (A).''.

SEC. 406. 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);

(2) in subsection (i), as so redesignated, by inserting ''and subject to the prior rights of holders of security interests in such goods or the proceeds thereof,'' after ''consent of a creditor,''; and

(3) by adding at the end the following:

''(j)(1) Notwithstanding paragraphs (2) and (3) of section 545, 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, as in effect on the date of enactment of the Bankruptcy Reform Act of 2001, or any successor thereto.''.

SEC. 407. AMENDMENTS TO SECTION 330(a) OF TITLE 11, UNITED STATES CODE.

Section 330(a) of title 11, United States Code, is amended—

(1) in paragraph (3)—

(A) by striking ''(A) In'' and inserting ''In''; and

(B) by inserting ''to an examiner, trustee under chapter 11, or professional person'' after ''awarded''; and

(2) by adding at the end the following:

''(7) In determining the amount of reasonable compensation to be awarded to a trustee, the court shall treat such compensation as a commission, based on section 326 of this title.''.

SEC. 408. 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. 409. 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 (8), by striking the period at the end and inserting ''; or''; and

(3) 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. 410. 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. 411. 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 (2), 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. 412. FEES ARISING FROM CERTAIN OWNERSHIP INTERESTS.

Section 523(a)(16) of title 11, United States Code, is amended—

(1) by striking ''dwelling'' the first place it appears;

(2) by striking ''ownership or'' and inserting ''ownership,'';

(3) by striking ''housing'' the first place it appears; and

(4) by striking ''but only'' and all that follows through ''such period'' and inserting ''or a lot in a homeowners association, for as long as the debtor or the trustee has a legal, equitable, or possessory ownership interest in such unit, such corporation, or such lot,''.

SEC. 413. CREDITOR REPRESENTATION AT FIRST MEETING OF CREDITORS.

Section 341(c) of title 11, United States Code, is amended by inserting at the end 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. 414. 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. 415. FACTORS FOR COMPENSATION OF PROFESSIONAL PERSONS.

Section 330(a)(3) of title 11, United States Code, as amended by this Act, is amended—

(1) in subparagraph (D), by striking ''and'' at the end;

(2) by redesignating subparagraph (E) as subparagraph (F); and

(3) by inserting after subparagraph (D) the following:

''(E) with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and experience in the bankruptcy field; and''.

SEC. 416. 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. 417. 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) and (4), 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 30-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.''.

SEC. 418. BANKRUPTCY FEES.

Section 1930 of title 28, United States Code, is amended—

(1) in subsection (a), by striking ''Notwithstanding section 1915 of this title, the'' and inserting ''The''; and

(2) by adding at the end the following:

''(f)(1) Under the procedures prescribed by the Judicial Conference of the United States, the district court or the bankruptcy court may waive the filing fee in a case under chapter 7 of title 11 for an individual if the court determines that such debtor has income less than 150 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved and is unable to pay that fee in installments. For purposes of this paragraph, the term ''filing fee'' means the filing required by subsection (a), or any other fee prescribed by the Judicial Conference under subsections (b) and (c) that is payable to the clerk upon the commencement of a case under chapter 7.

''(2) The district court or the bankruptcy court may waive for such debtors other fees prescribed under subsections (b) and (c).

''(3) This subsection does not restrict the district court or the bankruptcy court from waiving, in accordance with Judicial Conference policy, fees prescribed under this section for other debtors and creditors.''.

SEC. 419. MORE COMPLETE INFORMATION REGARDING ASSETS OF THE ESTATE.

(a) IN GENERAL.—

(1) DISCLOSURE.—The Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States, after consideration of the views of the Director of the Executive Office for United States Trustees, shall propose for adoption amended Federal Rules of Bankruptcy Procedure and Official Bankruptcy Forms directing

debtors under chapter 11 of title 11, United States Code, to disclose the information described in paragraph (2) by filing and serving periodic financial and other reports designed to provide such information.

(2) INFORMATION.—The information referred to in paragraph (1) is the value, operations, and profitability of any closely held corporation, partnership, or of any other entity in which the debtor holds a substantial or controlling interest.

(b) PURPOSE.—The purpose of the rules and reports under subsection (a) shall be to assist parties in interest taking steps to ensure that the debtor's interest in any entity referred to in subsection (a)(2) is used for the payment of allowed claims against debtor.

SEC. 420. DUTIES WITH RESPECT TO A DEBTOR WHO IS A PLAN ADMINISTRATOR OF AN EMPLOYEE BENEFIT PLAN.

(a) IN GENERAL.—Section 521(a) of title 11, United States Code, as so designated by section 106(d) of this Act, is amended-

(1) in paragraph (4), by striking ''and'' at the end;

(2) in paragraph (5), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(6) unless a trustee is serving in the case, if at the time of filing, the debtor, served as the administrator (as defined in section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002)) of an employee benefit plan, continue to perform the obligations required of the administrator.''.

(b) DUTIES OF TRUSTEES.—Section 704(a) of title 11, United States Code, as so designated and otherwise amended by this Act, is amended—

(1) in paragraph (10), by striking ''and'' at the end;

(2) in paragraph (11), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(12) where, at the time of the time of the commencement of the case, the debtor served as the administrator (as defined in section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002)) of an employee benefit plan, continue to perform the obligations required of the administrator;''.

(c) CONFORMING AMENDMENT.—Section 1106(a) of title 11, United States Code, is amended by striking paragraph (1) and inserting the following:

''(1) perform the duties of the trustee, as specified in paragraphs (2), (5), (7), (8), (9), (10), (11), and (12) of section 704;''.

Subtitle B—Small Business Bankruptcy Provisions

SEC. 431. FLEXIBLE RULES FOR DISCLOSURE STATEMENT AND PLAN.

Section 1125 of title 11, United States Code, is amended—

(1) in subsection (a)(1), by inserting before the semicolon ''and in determining whether a disclosure statement provides adequate information, the court shall consider the complexity of the case, the benefit of additional information to creditors and other parties in interest, and the cost of providing additional information''; and

(2) by striking subsection (f), and inserting the following:

''(f) Notwithstanding subsection (b), in a small business case—

''(1) the court may determine that the plan itself provides adequate information and that a separate disclosure statement is not necessary;

''(2) the court may approve a disclosure statement submitted on standard forms approved by the court or adopted under section 2075 of title 28; and

''(3)(A) the court may conditionally approve a disclosure statement subject to final approval after notice and a hearing;

''(B) acceptances and rejections of a plan may be solicited based on a conditionally approved disclosure statement if the debtor provides adequate information to each holder of a claim or interest that is solicited, but a conditionally approved disclosure statement shall be mailed not 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. 432. DEFINITIONS.

(a) DEFINITIONS.—Section 101 of title 11, United States Code, as amended by 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 engaged in commercial or business activities (including any affiliate of such person that is also a debtor under this title and excluding a person whose primary activity is the business of owning or operating real property or activities incidental thereto) 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 $3,000,000 (excluding debts owed to 1 or more affiliates or insiders) for a case in which the United States trustee has not appointed under section 1102(a)(1) a committee of unsecured creditors or where the court has determined that the committee of unsecured creditors is not 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 $3,000,000 (excluding debt owed to 1 or more affiliates or insiders);''.

(b) CONFORMING AMENDMENT.—Section 1102(a)(3) of title 11, United States Code, is amended by inserting ''debtor'' after ''small business''.

SEC. 433. STANDARD FORM DISCLOSURE STATEMENT AND PLAN.

Within a reasonable period of time after the date of 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. 434. 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

''(a) 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.

''(b) A small business debtor shall file periodic financial and other reports containing information including—

''(1) the debtor's profitability;

''(2) reasonable approximations of the debtor's projected cash receipts and cash disbursements over a reasonable period;

''(3) comparisons of actual cash receipts and disbursements with projections in prior reports;

''(4)(A) 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 other required government filings and paying taxes and other administrative claims when due;

''(B) if the debtor is not in compliance with the requirements referred to in subparagraph (A)(i) or filing tax returns and other required government filings and making the payments referred to in subparagraph (A)(ii), what the failures are and how, at what cost, and when the debtor intends to remedy such failures; and

''(C) 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. 435. 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. 436. DUTIES IN SMALL BUSINESS CASES.

(a) DUTIES IN CHAPTER 11 CASES.—Subchapter I of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

''§ 1116. 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 not later than 7 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 and other required government filings; and

''(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

''(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) CLERICAL AMENDMENT.—The table of sections for chapter 11 of title 11, United States Code, is amended by adding at the end of the matter relating to subchapter I the following:

''1116. Duties of trustee or debtor in possession in small business cases.''.

SEC. 437. 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 180 days after the date of the order for relief, unless that period is—

''(A) extended as provided by this subsection, after notice and hearing; or

''(B) the court, for cause, orders otherwise;

''(2) the plan, and any necessary disclosure statement, shall be filed not later than 300 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. 438. PLAN CONFIRMATION DEADLINE.

Section 1129 of title 11, United States Code, is amended by adding at the end the following:

''(e)(1) In a small business case, the plan shall be confirmed not later than 45 days after the date that a plan is filed with the court as provided in section 1121(e).

''(2) The 45-day period referred to in paragraph (1) may be extended only if—

''(A) the debtor, after notice and hearing, demonstrates 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 at which the extension is granted; and

''(C) the order extending time is signed before the existing deadline has expired.''.

SEC. 439. 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; and'';

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

(3) in paragraph (6), by striking the period at the end and inserting a semicolon; and

(4) by adding at the end 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. 440. SCHEDULING CONFERENCES.

Section 105(d) of title 11, United States Code, is amended—

(1) in the matter preceding paragraph (1), by striking '', may''; and

(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''.

SEC. 441. SERIAL FILER PROVISIONS.

Section 362 of title 11, United States Code, as amended by this Act is amended—

(1) in subsection (k), as redesignated by 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) of this subsection against such entity shall be limited to actual damages.''; and

(2) by adding at the end the following:

''(l)(1) Except as provided in paragraph (2) of this subsection, the provisions of subsection (a) do not apply in a case 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) This subsection does not apply—

''(A) to an involuntary case involving no collusion by the debtor with creditors; or

''(B) to the filing of a petition if—

''(i) the debtor proves by a preponderance of the evidence that 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

''(ii) 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. 442. 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) of this subsection, subsection (c) of this section, 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 that—

''(A) there is a reasonable likelihood that a plan will be confirmed within the timeframes established in sections 1121(e) and 1129(e) of this title, as amended, or in cases in which these sections do not apply, within a reasonable period of time; and

''(B) the grounds include an act or omission of the debtor—

''(i) for which there exists a reasonable justification for the act or omission; and

''(ii) that will be cured within a reasonable period of time fixed by the court.

''(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 not later than 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, the term '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 that poses a risk to the estate or to the public;

''(D) unauthorized use of cash collateral harmful to 1 or more creditors;

''(E) failure to comply with an order of the court;

''(F) repeated 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 or the bankruptcy administrator;

''(I) failure timely to pay taxes due after the date of the order for relief or to file tax returns due after the order for relief;

''(J) failure to file a disclosure statement, or to file or confirm a plan, within the time fixed by this title or by order of the court;

''(K) failure to pay any fees or charges required under chapter 123 of title 28;

''(L) revocation of an order of confirmation under section 1144;

''(M) inability to effectuate substantial consummation of a confirmed plan;

''(N) material default by the debtor with respect to a confirmed plan;

''(O) termination of a confirmed plan by reason of the occurrence of a condition specified in the plan; and

''(P) failure of the debtor to pay any domestic support obligation that first becomes payable after the date on which the petition is filed.

''(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 not later than 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 or an examiner is in the best interests of creditors and the estate.''.

SEC. 443. STUDY OF OPERATION OF TITLE 11, UNITED STATES CODE, WITH RESPECT TO SMALL BUSINESSES.

Not later than 2 years after the date of enactment of this Act, the Administrator of the Small Business Administration, in consultation with the Attorney General, the Director of the Administrative Office of United States Trustees, and the Director of the Administrative Office of the United States Courts, shall—

(1) conduct a study to determine—

(A) the internal and external factors that cause small businesses, especially sole proprietorships, to become debtors in cases under title 11, 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. 444. 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''.

SEC. 445. PRIORITY FOR ADMINISTRATIVE EXPENSES.

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 a semicolon; and

(3) by adding at the end the following:

''(7) with respect to a nonresidential real property lease previously assumed under section 365, and subsequently rejected, a sum equal to all monetary obligations due, excluding those arising from or relating to a failure to operate or penalty provisions, for the period of 2 years following the later of the rejection date or the date of actual turnover of the premises, without reduction or setoff for any reason whatsoever except for sums actually received or to be received from a nondebtor, and the claim for remaining sums due for the balance of the term of the lease shall be a claim under section 502(b)(6);''.

TITLE 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:

''(b) The commencement of a voluntary case under a chapter of this title constitutes an order for relief under such chapter.''.

SEC. 502. APPLICABILITY OF OTHER SECTIONS TO CHAPTER 9.

Section 901(a) of title 11, United States Code, is amended—

(1) by inserting ''555, 556,'' after ''553,''; and

(2) by inserting ''559, 560, 561, 562'' after ''557,''.

TITLE VI—BANKRUPTCY DATA

SEC. 601. IMPROVED BANKRUPTCY STATISTICS.

(a) IN GENERAL.—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 shall collect statistics regarding individual debtors with primarily consumer debts seeking relief under chapters 7, 11, and 13 of title 11. Those statistics shall be on a standardized form prescribed by the Director of the Administrative Office of the United States Courts (referred to in this section as the 'Director').

''(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, 2002, and annually thereafter, prepare, and submit to Congress a report concerning the information collected under subsection (a) that contains an analysis of the information.

''(c) The compilation required under subsection (b) shall—

''(1) be itemized, by chapter, with respect to title 11;

''(2) be presented in the aggregate and for each district; and

''(3) include information concerning—

''(A) the total assets and total liabilities of the debtors described in subsection (a), and in each category of assets and liabilities, as reported in the schedules prescribed pursuant to section 2075 of this title and filed by those debtors;

''(B) the current monthly income, average income, and average expenses of those debtors as reported on the schedules and statements that each such debtor files under sections 521 and 1322 of title 11;

''(C) the aggregate amount of debt discharged in the reporting period, determined as the difference between the total amount of debt and obligations of a debtor reported on the schedules and the amount of such debt reported in categories which are predominantly nondischargeable;

''(D) the average period of time between the filing of the petition and the closing of the case;

''(E) for the reporting period—

''(i) the number of cases in which a reaffirmation was filed; and

''(ii)(I) the total number of reaffirmations filed;

''(II) of those cases in which a reaffirmation was filed, the number of cases in which the debtor was not represented by an attorney; and

''(III) of those cases in which a reaffirmation was filed, the number of cases in which the reaffirmation was approved by the court;

''(F) with respect to cases filed under chapter 13 of title 11, for the reporting period—

''(i)(I) the number of cases in which a final order was entered determining the value of property securing a claim in an amount less than the amount of the claim; and

''(II) the number of final orders determining the value of property securing a claim issued;

''(ii) the number of cases dismissed, the number of cases dismissed for failure to make payments under the plan, the number of cases refiled after dismissal, and the number of cases in which the plan was completed, separately itemized with respect to the number of modifications made before completion of the plan, if any; and

''(iii) the number of cases in which the debtor filed another case during the 6-year period preceding the filing;

''(G) the number of cases in which creditors were fined for misconduct and any amount of punitive damages awarded by the court for creditor misconduct; and

''(H) the number of cases in which sanctions under rule 9011 of the Federal Rules of Bankruptcy Procedure were imposed against debtor's counsel or 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. 602. UNIFORM RULES FOR THE COLLECTION OF BANKRUPTCY DATA.

(a) AMENDMENT.—Chapter 39 of title 28, United States Code, is amended by adding at the end the following:

''§ 589b. Bankruptcy data

''(a) RULES.—The Attorney General shall, within a reasonable time after the effective date of this section, issue rules requiring uniform forms for (and from time to time thereafter to appropriately modify and approve)—

''(1) final reports by trustees in cases under chapters 7, 12, and 13 of title 11; and

''(2) periodic reports by debtors in possession or trustees, as the case may be, in cases under chapter 11 of title 11.

''(b) REPORTS.—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 possible access of the public,

both by physical inspection at one or more central filing locations, and by electronic access through the Internet or other appropriate media.

''(c) REQUIRED INFORMATION.—The information required to be filed in the reports referred to in subsection (b) shall be that which is in the best interests of debtors and creditors, and in the public interest in reasonable and adequate information to evaluate the efficiency and practicality of the Federal bankruptcy system. In issuing rules proposing the forms referred to in subsection (a), the Attorney General shall strike the best achievable practical balance between—

''(1) the reasonable needs of the public for information about the operational results of the Federal bankruptcy system;

''(2) economy, simplicity, and lack of undue burden on persons with a duty to file reports; and

''(3) appropriate privacy concerns and safeguards.

''(d) FINAL REPORTS.—Final reports proposed for adoption by trustees under chapters 7, 12, and 13 of title 11 shall, in addition to such other matters as are required by law or as the Attorney General in the discretion of the Attorney General, shall propose, include with respect to a case under such title—

''(1) information about the length of time the case was pending;

''(2) assets abandoned;

''(3) assets exempted;

''(4) receipts and disbursements of the estate;

''(5) expenses of administration, including for use under section 707(b), actual costs of administering cases under chapter 13 of title 11;

''(6) claims asserted;

''(7) claims allowed; and

''(8) distributions to claimants and claims discharged without payment,

in each case by appropriate category and, in cases under chapters 12 and 13 of title 11, date of confirmation of the plan, each modification thereto, and defaults by the debtor in performance under the plan.

''(e) PERIODIC REPORTS.—Periodic reports proposed for adoption by trustees or debtors in possession under chapter 11 of title 11 shall, in addition to such other matters as are required by law or as the Attorney General, in the discretion of the Attorney General, shall propose, include—

''(1) information about the standard industry classification, published by the Department of Commerce, for the businesses conducted by the debtor;

''(2) length of time the case has been pending;

''(3) number of full-time employees as of the date of the order for relief and at the end of each reporting period since the case was filed;

''(4) cash receipts, cash disbursements and profitability of the debtor for the most recent period and cumulatively since the date of the order for relief;

''(5) compliance with title 11, whether or not tax returns and tax payments since the date of the order for relief have been timely filed and made;

''(6) all professional fees approved by the court in the case for the most recent period and cumulatively since the date of the order for relief (separately reported, for the professional fees incurred by or on behalf of the debtor, between those that would have been incurred absent a bankruptcy case and those not); and

''(7) plans of reorganization filed and confirmed and, with respect thereto, by class, the recoveries of the holders, expressed in aggregate dollar values and, in the case of claims, as a percentage of total claims of the class allowed.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 39 of title 28, United States Code, is amended by adding at the end the following:

''589b. Bankruptcy data.''.

SEC. 603. AUDIT PROCEDURES.

(a) IN GENERAL.—

(1) ESTABLISHMENT OF PROCEDURES.—The Attorney General (in judicial districts served by United States trustees) and the Judicial Conference of the United States (in judicial districts served by bankruptcy administrators) shall establish procedures to determine the accuracy, veracity, and completeness of petitions, schedules, and other information which the debtor is required to provide under sections 521 and 1322 of title 11, and, if applicable, section 111 of title 11, in individual cases filed under chapter 7 or 13 of such title. Such audits shall be in accordance with generally accepted auditing standards and performed by independent certified public accountants or independent licensed public accountants, provided that the Attorney General and the Judicial Conference, as appropriate, may develop alternative auditing standards not later than 2 years after the date of enactment of this Act.

(2) PROCEDURES.—Those procedures required by paragraph (1) shall—

(A) establish a method of selecting appropriate qualified persons to contract to perform those audits;

(B) 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;

(C) 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 district in which the schedules were filed; and

(D) establish procedures for providing, not less frequently than annually, public information concerning the aggregate results of such audits including the percentage of cases, by district, in which a material misstatement of income or expenditures is reported.

(b) 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 section 603(a) of the Bankruptcy Reform Act of 2001; and''; and

(2) by adding at the end the following:

''(f)(1) The United States trustee for each district is authorized to contract with auditors to perform audits in cases designated by the United States trustee, in accordance with the procedures established under section 603(a) of the Bankruptcy Reform Act of 2001.

''(2)(A) The report of each audit referred to in paragraph (1) 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 in which a material misstatement of income or expenditures or of assets has been reported, the clerk of the bankruptcy court shall give notice of the misstatement to the creditors in the case.

''(B) If a material misstatement of income or expenditures or of assets is reported, the United States trustee shall—

''(i) report the material misstatement, if appropriate, to the United States Attorney pursuant to section 3057 of title 18; and

''(ii) if advisable, take appropriate action, including but not limited to commencing an adversary proceeding to revoke the debtor's discharge pursuant to section 727(d) of title 11.''.

(c) AMENDMENTS TO SECTION 521 OF TITLE 11, U.S.C.—Section 521(a) of title 11, United States Code, as so designated by this Act, is amended in each of paragraphs (3) and (4) by inserting ''or an auditor appointed under section 586(f) of title 28'' after ''serving in the case''.

(d) AMENDMENTS TO SECTION 727 OF TITLE 11, U.S.C.—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 referred to in section 586(f) of title 28; or

''(B) a failure to make available for inspection all necessary accounts, papers, documents, financial records, files, and all other papers, things, or property belonging to the debtor that are requested for an audit referred to in section 586(f) of title 28.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

SEC. 604. SENSE OF CONGRESS REGARDING AVAILABILITY OF BANKRUPTCY DATA.

It is the sense of Congress that—

(1) the national policy of the United States should be that all data held by bankruptcy clerks in electronic form, to the extent such data reflects only public records (as defined in section 107 of title 11, 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 Congress and 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)(4).

''(2) Claims for contributions to an employee benefit plan entitled to priority under section 507(a)(5).''.

(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. TREATMENT OF FUEL TAX CLAIMS.

Section 501 of title 11, United States Code, is amended by adding at the end the following:

''(e) A claim arising from the liability of a debtor for fuel use tax assessed consistent with the requirements of section 31705 of title 49 may be filed by the base jurisdiction designated pursuant to the International Fuel Tax Agreement and, if so filed, shall be allowed as a single claim.''.

SEC. 703. NOTICE OF REQUEST FOR A DETERMINATION OF TAXES.

Section 505(b) of title 11, United States Code, is amended—

(1) in the first sentence, by inserting ''at the address and in the manner designated in paragraph (1)'' after ''determination of such tax'';

(2) by striking ''(1) upon payment'' and inserting ''(A) upon payment'';

(3) by striking ''(A) such governmental unit'' and inserting ''(i) such governmental unit'';

(4) by striking ''(B) such governmental unit'' and inserting ''(ii) such governmental unit'';

(5) by striking ''(2) upon payment'' and inserting ''(B) upon payment'';

(6) by striking ''(3) upon payment'' and inserting ''(C) upon payment'';

(7) by striking ''(b)'' and inserting ''(2)''; and

(8) by inserting before paragraph (2), as so designated, the following:

''(b)(1)(A) The clerk of each district shall maintain a listing under which a Federal, State, or local governmental unit responsible for the collection of taxes within the district may—

''(i) designate an address for service of requests under this subsection; and

''(ii) describe where further information concerning additional requirements for filing such requests may be found.

''(B) If a governmental unit referred to in subparagraph (A) does not designate an address and provide that address to the clerk under that subparagraph, any request made under this subsection may be served at the address for the filing of a tax return or protest with the appropriate taxing authority of that governmental unit.''.

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

''(a) If any provision of this title requires the payment of interest on a tax claim or on an administrative expense tax, 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 the rate determined under applicable nonbankruptcy law.

''(b) In the case of taxes paid under a confirmed plan under this title, the 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. PRIORITY OF TAX CLAIMS.

Section 507(a)(8) of title 11, United States Code, is amended—

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by inserting ''for a taxable year ending on or before the date of filing of the petition'' after ''gross receipts'';

(B) in clause (i), by striking ''for a taxable year ending on or before the date of filing of the petition''; and

(C) 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; and

''(II) 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 90 days.''; and

(2) by adding at the end the following:

''An otherwise applicable time period specified in this paragraph shall be suspended for (i) any period during which a governmental unit is prohibited under applicable nonbankruptcy law from collecting a tax as a result of a request by the debtor for a hearing and an appeal of any collection action taken or proposed against the debtor, plus 90 days; plus (ii) any time during which the stay of proceedings was in effect in a prior case under this title or during which collection was precluded by the existence of 1 or more confirmed plans under this title, plus 90 days.''.

SEC. 706. PRIORITY PROPERTY TAXES INCURRED.

Section 507(a)(8)(B) of title 11, United States Code, is amended by striking ''assessed'' and inserting ''incurred''.

SEC. 707. NO DISCHARGE OF FRAUDULENT TAXES IN CHAPTER 13.

Section 1328(a)(2) of title 11, United States Code, as amended by section 314 of this Act, is amended by striking ''paragraph'' and inserting ''section 507(a)(8)(C) or in paragraph (1)(B), (1)(C),''.

SEC. 708. NO DISCHARGE OF FRAUDULENT TAXES IN CHAPTER 11.

Section 1141(d) of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

''(6) Notwithstanding paragraph (1), the confirmation of a plan does not discharge a debtor that is a corporation from any debt described in subparagraph (A) or (B) of section 523(a)(2) that is owed to a domestic governmental unit or owed to a person as the result of an action filed under subchapter III of chapter 37 of title 31, United States Code, or any similar State statute, or 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 LIMITED TO PREPETITION TAXES.

Section 362(a)(8) of title 11, United States Code, is amended by striking ''the debtor'' and inserting ''a corporate debtor's tax liability for a taxable period the bankruptcy court may determine or concerning an individual debtor's tax liability for a taxable period ending before the order for relief under this title''.

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;

(2) in subparagraph (C), by striking ''deferred cash payments,'' and all that follows through the end of the subparagraph, and inserting ''regular installment payments in cash—

''(i) of a total value, as of the effective date of the plan, equal to the allowed amount of such claim;

''(ii) over a period ending not later than 5 years after the date of the entry of the order for relief under section 301, 302, or 303; and

''(iii) in a manner not less favorable than the most favored nonpriority unsecured claim provided for in the plan (other than cash payments made to a class of creditors under section 1122(b)); and''; and

(3) by adding at the end the following:

''(D) with respect to a secured claim which would otherwise meet the description of 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 inserting before the semicolon at the end the following: '', 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 on or before the due date of the tax under applicable nonbankruptcy law, 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, an order of 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 an expense described in subparagraph (B) or (C), as a condition of its being an allowed administrative expense;''.

(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, as amended by this Act, is amended—

(1) in paragraph (1)(B)—

(A) in the matter preceding clause (i), by inserting ''or equivalent report or notice,'' after ''a return,'';

(B) in clause (i), by inserting ''or given'' after ''filed''; 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:

''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 or a final order 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.

Section 505(b)(2) of title 11, United States Code, as amended by 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 this Act, is amended by adding at the end the following:

''(9) the debtor has filed all applicable Federal, State, and local tax returns as required by section 1308.''.

(b) ADDITIONAL TIME PERMITTED FOR FILING TAX RETURNS.—

(1) IN GENERAL.—Subchapter I of chapter 13 of title 11, United States Code, is amended by adding at the end the following:

''§ 1308. Filing of prepetition tax returns

''(a) Not later than the day before the date on which the meeting of the creditors is first scheduled to be held under section 341(a), if the debtor was required to file a tax return under applicable nonbankruptcy law, the debtor shall file with appropriate tax authorities all tax returns for all taxable periods ending during the 4-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 meeting of creditors is first scheduled to be held under section 341(a), the trustee may hold open 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 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 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 is timely made, in accordance with 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 a preponderance of the 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 subsection (a) or (b) of section 6020 of the Internal Revenue Code of 1986, or a similar State or local law, or a written stipulation to a judgment or a final order entered by a nonbankruptcy tribunal.''.

(2) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 13 of title 11, United States Code, is amended by inserting after the item relating to section 1307 the following:

''1308. Filing of prepetition tax returns.''.

(c) DISMISSAL OR CONVERSION ON FAILURE TO COMPLY.—Section 1307 of title 11, United States Code, is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d) the following:

''(e) Upon the failure of the debtor to file a tax return under section 1308, on request of a party in interest or the United States trustee and after notice and a hearing, the court shall dismiss a case or convert a case under this chapter to a case under chapter 7 of this title, whichever is in the best interest of the creditors and the estate.''.

(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, a claim of a governmental unit for a tax with respect to a return filed under section 1308 shall be timely if the claim is filed on or before the date that is 60 days after the date on which such return was filed as required''.

(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 of the United States should, as soon as practicable 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, an objection to the confirmation of a plan filed by a governmental unit on or before the date that is 60 days after the date on which the debtor files all tax returns required under sections 1308 and 1325(a)(7) of title 11, United States Code, shall be treated for all purposes as if such objection had been timely filed before such confirmation; 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 1308 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 discussion of the potential material Federal tax consequences of the plan to the debtor, any successor to the debtor, and a hypothetical investor 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, is amended by inserting after paragraph (25), as added by this Act, the following:

''(26) under subsection (a), of the setoff under applicable nonbankruptcy law 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, except that in any case in which the setoff of an income tax refund is not permitted under applicable nonbankruptcy law because of a pending action to determine the amount or legality of a tax liability, the governmental unit may hold the refund pending the resolution of the action, unless the court, upon motion of the trustee and after notice and hearing, grants the taxing authority adequate protection (within the meaning of section 361) for the secured claim of that authority in the setoff under section 506(a);''.

SEC. 719. SPECIAL PROVISIONS RELATED TO THE TREATMENT OF STATE AND LOCAL TAXES.

(a) IN GENERAL.—Section 346 of title 11, United States Code, is amended to read as follows:

''§ 346. Special provisions related to the treatment of State and local taxes

''(a) Whenever the Internal Revenue Code of 1986 provides that a separate taxable estate or entity is created in a case concerning a debtor under this title, and the income, gain, loss, deductions, and credits of such estate shall be taxed to or claimed by the estate, a separate taxable estate is also created for purposes of any State and local law imposing a tax on or measured by income and such income, gain, loss, deductions, and credits shall be taxed to or claimed by the estate and may not be taxed to or claimed by the debtor. The preceding sentence shall not apply if the case is dismissed. The trustee shall make tax returns of income required under any such State or local law.

''(b) Whenever the Internal Revenue Code of 1986 provides that no separate taxable estate shall be created in a case concerning a debtor under this title, and the income, gain, loss, deductions, and credits of an estate shall be taxed to or claimed by the debtor, such income, gain, loss, deductions, and credits shall be taxed to or claimed by the debtor under a State or local law imposing a tax on or measured by income and may not be taxed to or claimed by the estate. The trustee shall make such tax returns of income of corporations and of partnerships as are required under any State or local law, but with respect to partnerships, shall make said returns only to the extent such returns are also required to be made under such Code. The estate shall be liable for any tax imposed on such corporation or partnership, but not for any tax imposed on partners or members.

''(c) With respect to a partnership or any entity treated as a partnership under a State or local law imposing a tax on or measured by income that is a debtor in a case under this title, any gain or loss resulting from a distribution of property from such partnership, or any distributive share of any income, gain, loss, deduction, or credit of a partner or member that is distributed, or considered distributed, from such partnership, after the commencement of the case, is gain, loss, income, deduction, or credit, as the

case may be, of the partner or member, and if such partner or member is a debtor in a case under this title, shall be subject to tax in accordance with subsection (a) or (b).

''(d) For purposes of any State or local law imposing a tax on or measured by income, the taxable period of a debtor in a case under this title shall terminate only if and to the extent that the taxable period of such debtor terminates under the Internal Revenue Code of 1986.

''(e) The estate in any case described in subsection (a) shall use the same accounting method as the debtor used immediately before the commencement of the case, if such method of accounting complies with applicable nonbankruptcy tax law.

''(f) For purposes of any State or local law imposing a tax on or measured by income, a transfer of property from the debtor to the estate or from the estate to the debtor shall not be treated as a disposition for purposes of any provision assigning tax consequences to a disposition, except to the extent that such transfer is treated as a disposition under the Internal Revenue Code of 1986.

''(g) Whenever a tax is imposed pursuant to a State or local law imposing a tax on or measured by income pursuant to subsection (a) or (b), such tax shall be imposed at rates generally applicable to the same types of entities under such State or local law.

''(h) The trustee shall withhold from any payment of claims for wages, salaries, commissions, dividends, interest, or other payments, or collect, any amount required to be withheld or collected under applicable State or local tax law, and shall pay such withheld or collected amount to the appropriate governmental unit at the time and in the manner required by such tax law, and with the same priority as the claim from which such amount was withheld or collected was paid.

''(i)(1) To the extent that any State or local law imposing a tax on or measured by income provides for the carryover of any tax attribute from one taxable period to a subsequent taxable period, the estate shall succeed to such tax attribute in any case in which such estate is subject to tax under subsection (a).

''(2) After such a case is closed or dismissed, the debtor shall succeed to any tax attribute to which the estate succeeded under paragraph (1) to the extent consistent with the Internal Revenue Code of 1986.

''(3) The estate may carry back any loss or tax attribute to a taxable period of the debtor that ended before the order for relief under this title to the extent that—

''(A) applicable State or local tax law provides for a carryback in the case of the debtor; and

''(B) the same or a similar tax attribute may be carried back by the estate to such a taxable period of the debtor under the Internal Revenue Code of 1986.

''(j)(1) For purposes of any State or local law imposing a tax on or measured by income, income is not realized by the estate, the debtor, or a successor to the debtor by reason of discharge of indebtedness in a case under this title, except to the extent, if any, that such income is subject to tax under the Internal Revenue Code of 1986.

''(2) Whenever the Internal Revenue Code of 1986 provides that the amount excluded from gross income in respect of the discharge of indebtedness in a case under this title shall be applied to reduce the tax attributes of the debtor or the estate, a similar reduction shall be made under any State or local law imposing a tax on or measured by income to the extent such State or local law recognizes such attributes. Such State or local law may also provide for the reduction of other attributes to the extent that the full amount of income from the discharge of indebtedness has not been applied.

''(k)(1) Except as provided in this section and section 505, the time and manner of filing tax returns and the items of income, gain, loss, deduction, and credit of any taxpayer shall be determined under applicable nonbankruptcy law.

''(2) For Federal tax purposes, the provisions of this section are subject to the Internal Revenue Code of 1986 and other applicable Federal nonbankruptcy law.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 728 of title 11, United States Code, is repealed.

(2) Section 1146 of title 11, United States Code, is amended—

(A) by striking subsections (a) and (b); and

(B) by redesignating subsections (c) and (d) as subsections (a) and (b), respectively.

(3) Section 1231 of title 11, United States Code, is amended—

(A) by striking subsections (a) and (b); and

(B) by redesignating subsections (c) and (d) as subsections (a) and (b), respectively.

SEC. 720. DISMISSAL FOR FAILURE TO TIMELY FILE TAX RETURNS.

Section 521 of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

''(k)(1) Notwithstanding any other provision of this title, if the debtor fails to file a tax return that becomes due after the commencement of the case or to properly obtain an extension of the due date for filing such return, the taxing authority may request that the court enter an order converting or dismissing the case.

''(2) If the debtor does not file the required return or obtain the extension referred to in paragraph (1) within 90 days after a request is filed by the taxing authority under that paragraph, the court shall convert or dismiss the case, whichever is in the best interests of creditors and the estate.''.

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.
''1516. Presumptions concerning recognition.
''1517. Order granting recognition.
''1518. Subsequent information.
''1519. Relief that may be granted upon filing petition for recognition.
''1520. Effects of recognition of a foreign main proceeding.
''1521. Relief that may be granted upon recognition.
''1522. Protection of creditors and other interested persons.
''1523. Actions to avoid acts detrimental to creditors.
''1524. Intervention by a foreign representative.
''SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES
''1525. Cooperation and direct communication between the court and foreign courts or foreign representatives.
''1526. Cooperation and direct communication between the trustee and foreign courts or foreign representatives.
''1527. Forms of cooperation.
''SUBCHAPTER V—CONCURRENT PROCEEDINGS
''1528. Commencement of a case under this title after recognition of a foreign main proceeding.
''1529. Coordination of a case under this title and a foreign proceeding.
''1530. Coordination of more than 1 foreign proceeding.
''1531. Presumption of insolvency based on recognition of a foreign main proceeding.
''1532. Rule of payment in concurrent proceedings.

''§ 1501. Purpose and scope of application

''(a) The purpose of this chapter is to incorporate the Model Law on Cross-Border Insolvency so as to provide effective mechanisms for dealing with cases of cross-border insolvency with the objectives of—

''(1) cooperation between—

''(A) United States courts, United States trustees, trustees, examiners, debtors, and debtors in possession; and

''(B) the courts and other competent authorities of foreign countries involved in cross-border insolvency cases;

''(2) greater legal certainty for trade and investment;

''(3) fair and efficient administration of cross-border insolvencies that protects the interests of all creditors, and other interested entities, including the debtor;

''(4) protection and maximization of the value of the debtor's assets; and

''(5) facilitation of the rescue of financially troubled businesses, thereby protecting investment and preserving employment.

''(b) This chapter applies where—

''(1) assistance is sought in the United States by a foreign court or a foreign representative in connection with a foreign proceeding;

''(2) assistance is sought in a foreign country in connection with a case under this title;

''(3) a foreign proceeding and a case under this title with respect to the same debtor are taking place concurrently; or

''(4) creditors or other interested persons in a foreign country have an interest in requesting the commencement of, or participating in, a case or proceeding under this title.

''(c) This chapter does not apply to—

''(1) a proceeding concerning an entity, other than a foreign insurance company, identified by exclusion in section 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, 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.

''(d) The court may not grant relief under this chapter with respect to any deposit, escrow, trust fund, or other security required or permitted under any applicable State insurance law or regulation for the benefit of claim holders in the United States.

''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;

''(7) 'recognition' means the entry of an order granting recognition of a foreign main proceeding or foreign nonmain proceeding under this chapter; and

''(8) '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 one or more other countries, the requirements of the treaty or agreement prevail.

''§ 1504. Commencement of ancillary case

''A case under this chapter is commenced by the filing of a petition for recognition of a foreign proceeding under section 1515.

''§ 1505. Authorization to act in a foreign country

''A trustee or another entity (including an examiner) may be authorized by the court to act in a foreign country on behalf of an estate created under section 541. An entity authorized to act under this section may act in any way permitted by the applicable foreign law.

''§ 1506. Public policy exception

''Nothing in this chapter prevents the court from refusing to take an action governed by this chapter if the action would be manifestly contrary to the public policy of the United States.

''§ 1507. Additional assistance

''(a) Subject to the specific limitations stated elsewhere in this chapter the court, if recognition is granted, may provide additional assistance to a foreign representative under this title or under other laws of the United States.

''(b) In determining whether to provide additional assistance under this title or under other laws of the United States, the court shall consider whether such additional assistance, consistent with the principles of comity, will reasonably assure—

''(1) just treatment of all holders of claims against or interests in the debtor's property;

''(2) protection of claim holders in the United States against prejudice and inconvenience in the processing of claims in such foreign proceeding;

''(3) prevention of preferential or fraudulent dispositions of property of the debtor;

''(4) distribution of proceeds of the debtor's property substantially in accordance with the order prescribed by this title; and

''(5) if appropriate, the provision of an opportunity for a fresh start for the individual that such foreign proceeding concerns.

''§ 1508. Interpretation

''In interpreting this chapter, the court shall consider its international origin, and the need to promote an application of this chapter that is consistent with the application of similar statutes adopted by foreign jurisdictions.

''SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND CREDITORS TO THE COURT

''§ 1509. Right of direct access

''(a) A foreign representative may commence a case under section 1504 by filing directly with the court a petition for recognition of a foreign proceeding under section 1515.

''(b) If the court grants recognition under section 1515, and subject to any limitations that the court may impose consistent with the policy of this chapter—

''(1) the foreign representative has the capacity to sue and be sued in a court in the United States;

''(2) the foreign representative may apply directly to a court in the United States for appropriate relief in that court; and

''(3) a court in the United States shall grant comity or cooperation to the foreign representative.

''(c) A request for comity or cooperation by a foreign representative in a court in the United States other than the court which granted recognition shall be accompanied by a certified copy of an order granting recognition under section 1517.

''(d) If the court denies recognition under this chapter, the court may issue any appropriate order necessary to prevent the foreign representative from obtaining comity or cooperation from courts in the United States.

''(e) Whether or not the court grants recognition, and subject to sections 306 and 1510, a foreign representative is subject to applicable nonbankruptcy law.

''(f) Notwithstanding any other provision of this section, the failure of a foreign representative to commence a case or to obtain recognition under this chapter does not affect any right the foreign representative may have to sue in a court in the United States to collect or recover a claim which is the property of the debtor.

''§ 1510. Limited jurisdiction

''The sole fact that a foreign representative files a petition under section 1515 does not subject the foreign representative to the jurisdiction of any court in the United States for any other purpose.

''§ 1511. Commencement of case under section 301 or 303

''(a) Upon recognition, a foreign representative may commence—

''(1) an involuntary case under section 303; or

''(2) a voluntary case under section 301 or 302, if the foreign proceeding is a foreign main proceeding.

''(b) The petition commencing a case under subsection (a) must be accompanied by a certified copy of an order granting recognition. The court where the petition for recognition has been filed must be advised of the foreign representative's intent to commence a case under subsection (a) prior to such commencement.

''§ 1512. Participation of a foreign representative in a case under this title

''Upon recognition of a foreign proceeding, the foreign representative in the recognized proceeding is entitled to participate as a party in interest in a case regarding the debtor under this title.

''§ 1513. Access of foreign creditors to a case under this title

''(a) Foreign creditors have the same rights regarding the commencement of, and participation in, a case under this title as domestic creditors.

''(b)(1) Subsection (a) does not change or codify present law as to the priority of claims under section 507 or 726 of this title, except that the claim of a foreign creditor under those sections shall not be given a lower priority than that of general unsecured claims without priority solely because the holder of such claim is a foreign creditor.

''(2)(A) Subsection (a) and paragraph (1) do not change or codify present law as to the allowability of foreign revenue claims or other foreign public law claims in a proceeding under this title.

''(B) Allowance and priority as to a foreign tax claim or other foreign public law claim shall be governed by any applicable tax treaty of the United States, under the conditions and circumstances specified therein.

''§ 1514. Notification to foreign creditors concerning a case under this title

''(a) Whenever in a case under this title notice is to be given to creditors generally or to any class or category of creditors, such notice shall also be given to the known creditors generally, or to creditors in the notified class or category, that do not have addresses in the United States. The court may order that appropriate steps be taken with a view to notifying any creditor whose address is not yet known.

''(b) Such notification to creditors with foreign addresses described in subsection (a) shall be given individually, unless the court considers that, under the circumstances, some other form of notification would be more appropriate. No letter or other formality is required.

''(c) When a notification of commencement of a case is to be given to foreign creditors, the notification shall—

''(1) indicate the time period for filing proofs of claim and specify the place for their filing;

''(2) indicate whether secured creditors need to file their proofs of claim; and

''(3) contain any other information required to be included in such a notification to creditors under this title and the orders of the court.

''(d) Any rule of procedure or order of the court as to notice or the filing of a claim shall provide such additional time to creditors with foreign addresses as is reasonable under the circumstances.

''SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING AND RELIEF

''§ 1515. Application for recognition

''(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) shall 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 granting recognition

''(a) Subject to section 1506, after notice and a hearing, an order recognizing a foreign proceeding shall be entered if—

''(1) the foreign proceeding for which recognition is sought is a foreign main proceeding or foreign nonmain proceeding within the meaning of section 1502;

''(2) the foreign representative applying for recognition is a person or body as defined in section 101; and

''(3) the petition meets the requirements of section 1515.

''(b) The foreign proceeding shall be recognized—

''(1) as a foreign main proceeding if it is taking place in the country where the debtor has the center of its main interests; or

''(2) as a foreign nonmain proceeding if the debtor has an establishment within the meaning of section 1502 in the foreign country where the proceeding is pending.

''(c) A petition for recognition of a foreign proceeding shall be decided upon at the earliest possible time. Entry of an order recognizing a foreign proceeding constitutes recognition under this chapter.

''(d) The provisions of this subchapter do not prevent modification or termination of recognition if it is shown that the grounds for granting it were fully or partially lacking or have ceased to exist, but in considering such action the court shall give due weight to possible prejudice to parties that have relied upon the order granting recognition. The case under this chapter may be closed in the manner prescribed under section 350.

"§ 1518. Subsequent information

''From the time of filing the petition for recognition of the foreign proceeding, the foreign representative shall file with the court promptly a notice of change of status concerning—

''(1) any substantial change in the status of the foreign proceeding or the status of the foreign representative's appointment; and

''(2) any other foreign proceeding regarding the debtor that becomes known to the foreign representative.

"§ 1519. Relief that may be granted upon filing petition for recognition

''(a) From the time of filing a petition for recognition until the court rules on the petition, the court may, at the request of the foreign representative, where relief is urgently needed to protect the assets of the debtor or the interests of the creditors, grant relief of a provisional nature, including—

''(1) staying execution against the debtor's assets;

''(2) entrusting the administration or realization of all or part of the debtor's assets located in the United States to the foreign representative or another person authorized by the court, including an examiner, in order to protect and preserve the value of assets that, by their nature or because of other circumstances, are perishable, susceptible to devaluation or otherwise in jeopardy; and

''(3) any relief referred to in paragraph (3), (4), or (7) of section 1521(a).

''(b) Unless extended under section 1521(a)(6), the relief granted under this section terminates when the petition for recognition is granted.

''(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.

''(f) The exercise of rights not subject to the stay arising under section 362(a) pursuant to paragraph (6), (7), (17), or (27) of section 362(b) or pursuant to section 362(l) shall not be stayed by any order of a court or administrative agency in any proceeding under this chapter.

"§ 1520. Effects of recognition of a foreign main proceeding

''(a) Upon recognition of a foreign proceeding that is a foreign main proceeding—

''(1) sections 361 and 362 apply with respect to the debtor and that property of the debtor that is within the territorial jurisdiction of the United States;

''(2) sections 363, 549, and 552 of this title apply to a transfer of an interest of the debtor in property that is within the territorial jurisdiction of the United States to the same extent that the sections would apply to property of an estate;

''(3) unless the court orders otherwise, the foreign representative may operate the debtor's business and may exercise the rights and powers of a trustee under and to the extent provided by sections 363 and 552; and

''(4) section 552 applies to property of the debtor that is within the territorial jurisdiction of the United States.

''(b) Subsection (a) does not affect the right to commence an individual action or proceeding in a foreign country to the extent necessary to preserve a claim against the debtor.

''(c) Subsection (a) does not affect the right of a foreign representative or an entity to file a petition commencing a case under this title or the right of any party to file claims or take other proper actions in such a case.

"§ 1521. Relief that may be granted upon recognition

''(a) Upon recognition of a foreign proceeding, whether main or nonmain, where necessary to effectuate the purpose of this chapter and to protect the assets of the debtor or the interests of the creditors, the court may, at the request of the foreign representative, grant any appropriate relief, including—

''(1) staying the commencement or continuation of an individual action or proceeding concerning the debtor's assets, rights, obligations or liabilities to the extent they have not been stayed under section 1520(a);

''(2) staying execution against the debtor's assets to the extent it has not been stayed under section 1520(a);

''(3) suspending the right to transfer, encumber or otherwise dispose of any assets of the debtor to the extent this right has not been suspended under section 1520(a);

''(4) providing for the examination of witnesses, the taking of evidence or the delivery of information concerning the debtor's assets, affairs, rights, obligations or liabilities;

''(5) entrusting the administration or realization of all or part of the debtor's assets within the territorial jurisdiction of the United States to the foreign representative or another person, including an examiner, authorized by the court;

''(6) extending relief granted under section 1519(a); and

''(7) granting any additional relief that may be available to a trustee, except for relief available under sections 522, 544, 545, 547, 548, 550, and 724(a).

''(b) Upon recognition of a foreign proceeding, whether main or nonmain, the court may, at the request of the foreign representative, entrust the distribution of all or part of the debtor's assets located in the United States to the foreign representative or another person, including an examiner, authorized by the court, provided that the court is satisfied that the interests of creditors in the United States are sufficiently protected.

''(c) In granting relief under this section to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the law of the United States, should be administered in the foreign nonmain proceeding or concerns information required in that proceeding.

''(d) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.

''(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under paragraphs (1), (2), (3), and (6) of subsection (a).

''(f) The exercise of rights not subject to the stay arising under section 362(a) pursuant to paragraph (6), (7), (17), or (27) of section 362(b) or pursuant to section 362(l) shall not be stayed by any order of a court or administrative agency in any proceeding under this chapter.

"§ 1522. Protection of creditors and other interested persons

''(a) The court may grant relief under section 1519 or 1521, or may modify or terminate relief under subsection (c), only if the interests of the creditors and other interested entities, including the debtor, are sufficiently protected.

''(b) The court may subject relief granted under section 1519 or 1521, or the operation of the debtor's business under section 1520(a)(3) of this title, to conditions it considers appropriate, including the giving of security or the filing of a bond.

''(c) The court may, at the request of the foreign representative or an entity affected by relief granted under section 1519 or 1521, or at its own motion, modify or terminate such relief.

''(d) Section 1104(d) shall apply to the appointment of an examiner under this chapter. Any examiner shall comply with the qualification requirements imposed on a trustee by section 322.

"§ 1523. Actions to avoid acts detrimental to creditors

''(a) Upon recognition of a foreign proceeding, the foreign representative has standing in a case concerning the debtor pending under another chapter of this title to initiate actions under sections 522, 544, 545, 547, 548, 550, 553, and 724(a).

''(b) When the foreign proceeding is a foreign nonmain proceeding, the court must be satisfied that an action under subsection (a) relates to assets that, under United States law, should be administered in the foreign nonmain proceeding.

"§ 1524. Intervention by a foreign representative

''Upon recognition of a foreign proceeding, the foreign representative may intervene in any proceedings in a State or Federal court in the United States in which the debtor is a party.

''SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES

''§ 1525. Cooperation and direct communication between the court and foreign courts or foreign representatives

''(a) Consistent with section 1501, the court shall cooperate to the maximum extent possible with foreign courts or foreign representatives, either directly or through the trustee.

''(b) The court is entitled to communicate directly with, or to request information or assistance directly from, foreign courts or foreign representatives, subject to the rights of parties in interest to notice and participation.

''§ 1526. Cooperation and direct communication between the trustee and foreign courts or foreign representatives

''(a) Consistent with section 1501, the trustee or other person, including an examiner, authorized by the court, shall, subject to the supervision of the court, cooperate to the maximum extent possible with foreign courts or foreign representatives.

''(b) The trustee or other person, including an examiner, authorized by the court is entitled, subject to the supervision of the court, to communicate directly with foreign courts or foreign representatives.

''§ 1527. Forms of cooperation

''Cooperation referred to in sections 1525 and 1526 may be implemented by any appropriate means, including—

''(1) appointment of a person or body, including an examiner, to act at the direction of the court;

''(2) communication of information by any means considered appropriate by the court;

''(3) coordination of the administration and supervision of the debtor's assets and affairs;

''(4) approval or implementation of agreements concerning the coordination of proceedings; and

''(5) coordination of concurrent proceedings regarding the same debtor.

''SUBCHAPTER V—CONCURRENT PROCEEDINGS

''§ 1528. Commencement of a case under this title after recognition of a foreign main proceeding

''After recognition of a foreign main proceeding, a case under another chapter of this title may be commenced only if the debtor has assets in the United States. The effects of such case shall be restricted to the assets of the debtor that are within the territorial jurisdiction of the United States and, to the extent necessary to implement cooperation and coordination under sections 1525, 1526, and 1527, to other assets of the debtor that are within the jurisdiction of the court under sections 541(a) of this title, and 1334(e) of title 28, to the extent that such other assets are not subject to the jurisdiction and control of a foreign proceeding that has been recognized under this chapter.

''§ 1529. Coordination of a case under this title and a foreign proceeding

''If 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 section 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 section 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 laws 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. OTHER AMENDMENTS TO TITLES 11 AND 28, 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, 362(l), 555 through 557, and 559 through 562 apply in a case under chapter 15''; and

(2) by adding at the end the following:

''(j) Chapter 15 applies only in a case under such chapter, except that—

''(1) sections 1505, 1513, and 1514 apply in all cases under this title; and

''(2) section 1509 applies whether or not a case under this title is pending.''.

(b) DEFINITIONS.—Section 101 of title 11, United States Code, is amended by striking paragraphs (23) and (24) and inserting the following:

''(23) 'foreign proceeding' means a collective judicial or administrative proceeding in a foreign country, including an interim proceeding, under a law relating to insolvency or adjustment of debt in which proceeding the assets and affairs of the debtor are subject to control or supervision by a foreign court, for the purpose of reorganization or liquidation;

''(24) 'foreign representative' means a person or body, including a person or body appointed on an interim basis, authorized in a foreign proceeding to administer the reorganization or the liquidation of the debtor's assets or affairs or to act as a representative of the foreign proceeding;''.

(c) AMENDMENTS TO TITLE 28, UNITED STATES CODE.—

(1) PROCEDURES.—Section 157(b)(2) of title 28, United States Code, is amended—

(A) in subparagraph (N), by striking ''and'' at the end;

(B) in subparagraph (O), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(P) recognition of foreign proceedings and other matters under chapter 15 of title 11.''.

(2) BANKRUPTCY CASES AND PROCEEDINGS.—Section 1334(c) of title 28, United States Code, is amended by striking ''Nothing in'' and inserting ''Except with respect to a case under chapter 15 of title 11, nothing in''.

(3) DUTIES OF TRUSTEES.—Section 586(a)(3) of title 28, United States Code, is amended by striking ''or 13'' and inserting ''13, or 15,''.

(4) VENUE OF CASES ANCILLARY TO FOREIGN PROCEEDINGS.—Section 1410 of title 28, United States Code, is amended to read as follows:

''§ 1410. Venue of cases ancillary to foreign proceedings

''A case under chapter 15 of title 11 may be commenced in the district court for the district—

''(1) in which the debtor has its principal place of business or principal assets in the United States;

''(2) if the debtor does not have a place of business or assets in the United States, in which there is pending against the debtor an action or proceeding in a Federal or State court; or

''(3) in a case other than those specified in paragraph (1) or (2), in which venue will be consistent with the interests of justice and the convenience of the parties, having regard to the relief sought by the foreign representative.''.

(d) OTHER SECTIONS OF TITLE 11.—

(1) Section 109(b)(3) of title 11, United States Code, is amended to read as follows:

''(3)(A) a foreign insurance company, engaged in such business in the United States; or

''(B) a foreign bank, savings bank, cooperative bank, savings and loan association, building and loan association, or credit union, that has a branch or agency (as defined in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101) in the United States.''.

(2) Section 303(k) of title 11, United States Code, is repealed.

(3)(A) Section 304 of title 11, United States Code, is repealed.

(B) The table of sections at the beginning of chapter 3 of title 11, United States Code, is amended by striking the item relating to section 304.

(C) Section 306 of title 11, United States Code, is amended by striking '', 304,'' each place it appears.

(4) Section 305(a)(2) of title 11, United States Code, is amended to read as follows:

''(2)(A) a petition under section 1515 of this title for recognition of a foreign proceeding has been granted; and

''(B) the purposes of chapter 15 of this title would be best served by such dismissal or suspension.''.

(5) Section 508 of title 11, United States Code, is amended—

(A) by striking subsection (a); and

(B) in subsection (b), by striking ''(b)''.

TITLE IX—FINANCIAL CONTRACT PROVISIONS

SEC. 901. TREATMENT OF CERTAIN AGREEMENTS BY CONSERVATORS OR RECEIVERS OF INSURED DEPOSITORY INSTITUTIONS.

(a) DEFINITION OF QUALIFIED FINANCIAL CONTRACT.—Section 11(e)(8)(D)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(i)) is amended by inserting '', resolution, or order'' after ''any similar agreement that the Corporation determines by regulation''.

(b) DEFINITION OF SECURITIES CONTRACT.—Section 11(e)(8)(D)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(ii)) is amended to read as follows:

''(ii) SECURITIES CONTRACT.—The term 'securities contract'—

''(I) means a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan, or any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or any option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

''(II) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan unless the Corporation determines by regulation, resolution, or order to include any such agreement within the meaning of such term;

''(III) means any option entered into on a national securities exchange relating to foreign currencies;

''(IV) means the guarantee by or to any securities clearing agency of any settlement of cash, securities, certificates of deposit, mortgage loans or interests therein, group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

''(V) means any margin loan;

''(VI) means any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

''(VII) means any combination of the agreements or transactions referred to in this clause;

''(VIII) means any option to enter into any agreement or transaction referred to in this clause;

''(IX) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this clause, except that the master agreement shall be considered to be a securities contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII); and

''(X) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.''.

(c) DEFINITION OF COMMODITY CONTRACT.—Section 11(e)(8)(D)(iii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(iii)) is amended to read as follows:

''(iii) COMMODITY CONTRACT.—The term 'commodity contract' means—

''(I) with respect to a futures commission merchant, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade;

''(II) with respect to a foreign futures commission merchant, a foreign future;

''(III) with respect to a leverage transaction merchant, a leverage transaction;

''(IV) with respect to a clearing organization, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization, or commodity option traded on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization;

''(V) with respect to a commodity options dealer, a commodity option;

''(VI) any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

''(VII) any combination of the agreements or transactions referred to in this clause;

''(VIII) any option to enter into any agreement or transaction referred to in this clause;

''(IX) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a commodity contract under this clause, except that the master agreement shall be considered to be a commodity contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII); or

''(X) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.''.

(d) DEFINITION OF FORWARD CONTRACT.—Section 11(e)(8)(D)(iv) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(iv)) is amended to read as follows:

''(iv) FORWARD CONTRACT.—The term 'forward contract' means—

''(I) a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade, or product or byproduct thereof, with a maturity date more than 2 days after the date the contract is entered into, including, a repurchase transaction, reverse repurchase transaction, consignment, lease, swap, hedge transaction, deposit, loan, option, allocated transaction, unallocated transaction, or any other similar agreement;

''(II) any combination of agreements or transactions referred to in subclauses (I) and (III);

''(III) any option to enter into any agreement or transaction referred to in subclause (I) or (II);

''(IV) a master agreement that provides for an agreement or transaction referred to in subclauses (I), (II), or (III), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a forward contract under this clause, except that the master agreement shall be considered to be a forward contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), or (III); or

''(V) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (II), (III), or (IV) including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.''.

(e) DEFINITION OF REPURCHASE AGREEMENT.—Section 11(e)(8)(D)(v) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(v)) is amended to read as follows:

''(v) REPURCHASE AGREEMENT.—The term 'repurchase agreement' (which definition also applies to a reverse repurchase agreement)—

''(I) means an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage-related securities (as such term is defined in the Securities Exchange Act of 1934), mortgage loans, interests in mortgage-related securities or mortgage loans, eligible bankers' acceptances, qualified foreign government securities or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests as described above, at a date certain not later than 1 year after such transfers or on demand, against the transfer of funds, or any other similar agreement;

''(II) does not include any repurchase obligation under a participation in a commercial mortgage loan unless the Corporation determines by regulation, resolution, or order to include any such participation within the meaning of such term;

''(III) means any combination of agreements or transactions referred to in subclauses (I) and (IV);

''(IV) means any option to enter into any agreement or transaction referred to in subclause (I) or (III);

''(V) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a repurchase agreement under this clause, except that the master agreement shall be considered to be a repurchase agreement under this subclause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), or (IV); and

''(VI) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (III), (IV), or (V) including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

For purposes of this clause, the term 'qualified foreign government security' means a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development (as determined by regulation or order adopted by the appropriate Federal banking authority).''.

(f) DEFINITION OF SWAP AGREEMENT.—Section 11(e)(8)(D)(vi) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(vi)) is amended to read as follows:

''(vi) SWAP AGREEMENT.—The term 'swap agreement' means—

''(I) any agreement, including the terms and conditions incorporated by reference in any such agreement, which is an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap; a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement; a currency swap, option, future, or forward agreement; an equity index or equity swap, option, future, or forward agreement; a debt index or debt swap, option, future, or forward agreement; a total return, credit spread or credit swap, option, future, or forward agreement; a commodity index or commodity swap, option, future, or forward agreement; or a weather swap, weather derivative, or weather option;

''(II) any agreement or transaction that is similar to any other agreement or transaction referred to in this clause and that is of a type that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap markets (including terms and conditions incorporated by reference in such agreement) and that is a forward, swap, future, or option on one or more rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments, quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial risk or value;

''(III) any combination of agreements or transactions referred to in this clause;

''(IV) any option to enter into any agreement or transaction referred to in this clause;

''(V) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this clause, except that the master agreement shall be considered to be a swap agreement under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), or (IV); and

''(VI) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in subclause (I), (II), (III), (IV), or (V) including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

Such term is applicable for purposes of this title only and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000.''.

(g) DEFINITION OF TRANSFER.—Section 11(e)(8)(D)(viii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(viii)) is amended to read as follows:

''(viii) TRANSFER.—The term 'transfer' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest and foreclosure of the depository institution's equity of redemption.''.

(h) TREATMENT OF QUALIFIED FINANCIAL CONTRACTS.—Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended—

(1) in subparagraph (A)—

(A) by striking ''paragraph (10)'' and inserting ''paragraphs (9) and (10)'';

(B) in clause (i), by striking ''to cause the termination or liquidation'' and inserting ''such person has to cause the termination, liquidation, or acceleration''; and

(C) by striking clause (ii) and inserting the following:

''(ii) any right under any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts described in clause (i);''; and

(2) in subparagraph (E), by striking clause (ii) and inserting the following:

''(ii) any right under any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts described in clause (i);''.

(i) AVOIDANCE OF TRANSFERS.—Section 11(e)(8)(C)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(C)(i)) is amended by inserting ''section 5242 of the Revised Statutes of the United States (12 U.S.C. 91) or any other Federal or State law relating to the avoidance of preferential or fraudulent transfers,'' before ''the Corporation''.

SEC. 902. AUTHORITY OF THE CORPORATION WITH RESPECT TO FAILED AND FAILING INSTITUTIONS.

(a) IN GENERAL.—Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended—

(1) in subparagraph (E), by striking ''other than paragraph (12) of this subsection, subsection (d)(9)'' and inserting ''other than subsections (d)(9) and (e)(10)''; and

(2) by adding at the end the following new subparagraphs:

''(F) CLARIFICATION.—No provision of law shall be construed as limiting the right or power of the Corporation, or authorizing any court or agency to limit or delay, in any manner, the right or power of the Corporation to transfer any qualified financial contract in accordance with paragraphs (9) and (10) of this subsection or to disaffirm or repudiate any such contract in accordance with subsection (e)(1) of this section.

''(G) WALKAWAY CLAUSES NOT EFFECTIVE.—

''(i) IN GENERAL.—Notwithstanding the provisions of subparagraphs (A) and (E), and sections 403 and 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, no walkaway clause shall be enforceable in a qualified financial contract of an insured depository institution in default.

''(ii) WALKAWAY CLAUSE DEFINED.—For purposes of this subparagraph, the term 'walkaway clause' means a provision in a qualified financial contract that, after calculation of a value of a party's position or an amount due to or from 1 of the parties in accordance with its terms upon termination, liquidation, or acceleration of the qualified financial contract, either does not create a payment obligation of a party or extinguishes a payment obligation of a party in whole or in part solely because of such party's status as a nondefaulting party.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 11(e)(12)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(12)(A)) is amended by inserting ''or the exercise of rights or powers by'' after ''the appointment of''.

SEC. 903. AMENDMENTS RELATING TO TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS.

(a) TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS TO FINANCIAL INSTITUTIONS.—Section 11(e)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(9)) is amended to read as follows:

''(9) TRANSFER OF QUALIFIED FINANCIAL CONTRACTS.—

''(A) IN GENERAL.—In making any transfer of assets or liabilities of a depository institution in default which includes any qualified financial contract, the conservator or receiver for such depository institution shall either—

''(i) transfer to one financial institution, other than a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding—

''(I) all qualified financial contracts between any person or any affiliate of such person and the depository institution in default;

''(II) all claims of such person or any affiliate of such person against such depository institution under any such contract (other than any claim which, under the terms of any such contract, is subordinated to the claims of general unsecured creditors of such institution);

''(III) all claims of such depository institution against such person or any affiliate of such person under any such contract; and

''(IV) all property securing or any other credit enhancement for any contract described in subclause (I) or any claim described in subclause (II) or (III) under any such contract; or

''(ii) transfer none of the qualified financial contracts, claims, property or other credit enhancement referred to in clause (i) (with respect to such person and any affiliate of such person).

''(B) TRANSFER TO FOREIGN BANK, FOREIGN FINANCIAL INSTITUTION, OR BRANCH OR AGENCY OF A FOREIGN BANK OR FINANCIAL INSTITUTION.—In transferring any qualified financial contracts and related claims and property under subparagraph (A)(i), the conservator or receiver for the depository institution shall not make such transfer to a foreign bank, financial institution organized under the laws of a foreign country, or a branch or agency of a foreign bank or financial institution unless, under the law applicable to such bank, financial institution, branch or agency, to the qualified financial contracts, and to any netting contract, any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts, the contractual rights of the parties to such qualified financial contracts, netting contracts, security agreements or arrangements, or other credit enhancements are enforceable substantially to the same extent as permitted under this section.

''(C) TRANSFER OF CONTRACTS SUBJECT TO THE RULES OF A CLEARING ORGANIZATION.—In the event that a conservator or receiver transfers any qualified financial contract and related claims, property, and credit enhancements pursuant to subparagraph (A)(i) and such contract is cleared by or subject to the rules of a clearing organization, the clearing organization shall not be required to accept the transferee as a member by virtue of the transfer.

''(D) DEFINITIONS.—For purposes of this paragraph, the term 'financial institution' means a broker or dealer, a depository institution, a futures commission merchant, or any other institution, as determined by the Corporation by regulation to be a financial institution, and the term 'clearing organization' has the same meaning as in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991.''.

(b) NOTICE TO QUALIFIED FINANCIAL CONTRACT COUNTERPARTIES.—Section 11(e)(10)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(10)(A)) is amended in the material immediately following clause (ii) by striking ''the conservator'' and all that follows through the period and inserting the following: ''the conservator or receiver shall notify any person who is

a party to any such contract of such transfer by 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver in the case of a receivership, or the business day following such transfer in the case of a conservatorship.''.

(c) RIGHTS AGAINST RECEIVER AND TREATMENT OF BRIDGE BANKS.—Section 11(e)(10) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(10)) is amended—

(1) by redesignating subparagraph (B) as subparagraph (D); and

(2) by inserting after subparagraph (A) the following new subparagraphs:

''(B) CERTAIN RIGHTS NOT ENFORCEABLE.—

''(i) RECEIVERSHIP.—A person who is a party to a qualified financial contract with an insured depository institution may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(A) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a receiver for the depository institution (or the insolvency or financial condition of the depository institution for which the receiver has been appointed)—

''(I) until 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver; or

''(II) after the person has received notice that the contract has been transferred pursuant to paragraph (9)(A).

''(ii) CONSERVATORSHIP.—A person who is a party to a qualified financial contract with an insured depository institution may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(E) of this subsection or sections 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a conservator for the depository institution (or the insolvency or financial condition of the depository institution for which the conservator has been appointed).

''(iii) NOTICE.—For purposes of this paragraph, the Corporation as receiver or conservator of an insured depository institution shall be deemed to have notified a person who is a party to a qualified financial contract with such depository institution if the Corporation has taken steps reasonably calculated to provide notice to such person by the time specified in subparagraph (A).

''(C) TREATMENT OF BRIDGE BANKS.—The following institutions shall not be considered to be a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding for purposes of paragraph (9):

''(i) A bridge bank.

''(ii) A depository institution organized by the Corporation, for which a conservator is appointed either—

''(I) immediately upon the organization of the institution; or

''(II) at the time of a purchase and assumption transaction between the depository institution and the Corporation as receiver for a depository institution in default.''.

SEC. 904. AMENDMENTS RELATING TO DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.

Section 11(e) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)) is amended—

(1) by redesignating paragraphs (11) through (15) as paragraphs (12) through (16), respectively;

(2) by inserting after paragraph (10) the following new paragraph:

''(11) DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.—In exercising the rights of disaffirmance or repudiation of a conservator or receiver with respect to any qualified financial contract to which an insured depository institution is a party, the conservator or receiver for such institution shall either—

''(A) disaffirm or repudiate all qualified financial contracts between—

''(i) any person or any affiliate of such person; and

''(ii) the depository institution in default; or

''(B) disaffirm or repudiate none of the qualified financial contracts referred to in subparagraph (A) (with respect to such person or any affiliate of such person).''; and

(3) by including at the end of section 11(e) the following new paragraph:

''(17) SAVINGS CLAUSE.—The meaning of terms used in this subsection (e) are applicable for purposes of this subsection (e) only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any similar terms under any other statute, regulation, or rule, including the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities law (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934), and the Commodity Exchange Act.''.

SEC. 905. CLARIFYING AMENDMENT RELATING TO MASTER AGREEMENTS.

Section 11(e)(8)(D)(vii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(vii)) is amended to read as follows:

''(vii) TREATMENT OF MASTER AGREEMENT AS ONE AGREEMENT.—Any master agreement for any contract or agreement described in any preceding clause of this subparagraph (or any master agreement for such master agreement or agreements), together with all supplements to such master agreement, shall be treated as a single agreement and a single qualified financial contract. If a master agreement contains provisions relating to agreements or transactions that are not themselves qualified financial contracts, the master agreement shall be deemed to be a qualified financial contract only with respect to those transactions that are themselves qualified financial contracts.''.

SEC. 906. FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991.

(a) DEFINITIONS.—Section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4402) is amended—

(1) in paragraph (2)—

(A) in subparagraph (A)(ii), by inserting before the semicolon '', or is exempt from such registration by order of the Securities and Exchange Commission''; and

(B) in subparagraph (B), by inserting before the period '', that has been granted an exemption under section 4(c)(1) of the Commodity Exchange Act, or that is a multilateral clearing organization (as defined in section 408 of this Act)'';

(2) in paragraph (6)—

(A) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively;

(B) by inserting after subparagraph (A) the following new subparagraph:

''(B) an uninsured national bank or an uninsured State bank that is a member of the Federal Reserve System, if the national bank or State member bank is not eligible to make application to become an insured bank under section 5 of the Federal Deposit Insurance Act;''; and

(C) by amending subparagraph (C) (as redesignated) to read as follows:

''(C) a branch or agency of a foreign bank, a foreign bank and any branch or agency of the foreign bank, or the foreign bank that established the branch or agency, as those terms are defined in section 1(b) of the International Banking Act of 1978;'';

(3) in paragraph (11), by inserting before the period ''and any other clearing organization with which such clearing organization has a netting contract'';

(4) by amending paragraph (14)(A)(i) to read as follows:

''(i) means a contract or agreement between 2 or more financial institutions, clearing organizations, or members that provides for netting present or future payment obligations or payment entitlements (including liquidation or closeout values relating to such obligations or entitlements) among the parties to the agreement; and''; and

(5) by adding at the end the following new paragraph:

''(15) PAYMENT.—The term 'payment' means a payment of United States dollars, another currency, or a composite currency, and a noncash delivery, including a payment or delivery to liquidate an unmatured obligation.''.

(b) ENFORCEABILITY OF BILATERAL NETTING CONTRACTS.—Section 403 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4403) is amended—

(1) by striking subsection (a) and inserting the following:

''(a) GENERAL RULE.—Notwithstanding any other provision of State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act or any order authorized under section 5(b)(2) of the Securities Investor Protection Act of 1970), the covered contractual payment obligations and the covered contractual payment entitlements between any 2 financial institutions shall be netted in accordance with, and subject to the conditions of, the terms of any applicable netting contract (except as provided in section 561(b)(2) of title 11, United States Code).''; and

(2) by adding at the end the following new subsection:

''(f) ENFORCEABILITY OF SECURITY AGREEMENTS.—The provisions of any security agreement or arrangement or other credit enhancement related to one or more netting contracts between any 2 financial institutions shall be enforceable in accordance with their terms (except as provided in section 561(b)(2) of title 11, United States Code), and shall not be stayed, avoided, or otherwise limited by any State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act and section 5(b)(2) of the Securities Investor Protection Act of 1970).''.

(c) ENFORCEABILITY OF CLEARING ORGANIZATION NETTING CONTRACTS.—Section 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4404) is amended—

(1) by striking subsection (a) and inserting the following:

''(a) GENERAL RULE.—Notwithstanding any other provision of State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act and any order authorized under section 5(b)(2) of the Securities Investor Protection Act of 1970), the covered contractual payment obligations and the covered contractual payment entitlements of a member of a clearing organization to and from all other members of a clearing organization shall be netted in accordance with and subject to the conditions of any applicable netting contract (except as provided in section 561(b)(2) of title 11, United States Code).''; and

(2) by adding at the end the following new subsection:

''(h) ENFORCEABILITY OF SECURITY AGREEMENTS.—The provisions of any security agreement or arrangement or other credit enhancement related to one or more netting contracts between any 2 members of a clearing organization

shall be enforceable in accordance with their terms (except as provided in section 561(b)(2) of title 11, United States Code), and shall not be stayed, avoided, or otherwise limited by any State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act and section 5(b)(2) of the Securities Investor Protection Act of 1970).''.

(d) ENFORCEABILITY OF CONTRACTS WITH UNINSURED NATIONAL BANKS, UNINSURED FEDERAL BRANCHES AND AGENCIES, CERTAIN UNINSURED STATE MEMBER BANKS, AND EDGE ACT CORPORATIONS.—The Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4401 et seq.) is amended—

(1) by redesignating section 407 as section 407A; and

(2) by inserting after section 406 the following new section:

"SEC. 407. TREATMENT OF CONTRACTS WITH UNINSURED NATIONAL BANKS, UNINSURED FEDERAL BRANCHES AND AGENCIES, CERTAIN UNINSURED STATE MEMBER BANKS, AND EDGE ACT CORPORATIONS.

''(a) IN GENERAL.—Notwithstanding any other provision of law, paragraphs (8), (9), (10), and (11) of section 11(e) of the Federal Deposit Insurance Act shall apply to an uninsured national bank or uninsured Federal branch or Federal agency, a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act, except that for such purpose—

''(1) any reference to the 'Corporation as receiver' or 'the receiver or the Corporation' shall refer to the receiver appointed by the Comptroller of the Currency in the case of an uninsured national bank or uninsured Federal branch or agency, or to the receiver appointed by the Board of Governors of the Federal Reserve System in the case of a corporation chartered under section 25A of the Federal Reserve Act or an uninsured State member bank;

''(2) any reference to the 'Corporation' (other than in section 11(e)(8)(D) of such Act), the 'Corporation, whether acting as such or as conservator or receiver', a 'receiver', or a 'conservator' shall refer to the receiver or conservator appointed by the Comptroller of the Currency in the case of an uninsured national bank or uninsured Federal branch or agency, or to the receiver or conservator appointed by the Board of Governors of the Federal Reserve System in the case of a corporation chartered under section 25A of the Federal Reserve Act or an uninsured State member bank; and

''(3) any reference to an 'insured depository institution' or 'depository institution' shall refer to an uninsured national bank, an uninsured Federal branch or Federal agency, a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act.

''(b) LIABILITY.—The liability of a receiver or conservator of an uninsured national bank, uninsured Federal branch or agency, a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act, shall be determined in the same manner and subject to the same limitations that apply to receivers and conservators of insured depository institutions under section 11(e) of the Federal Deposit Insurance Act.

''(c) REGULATORY AUTHORITY.—

''(1) IN GENERAL.—The Comptroller of the Currency in the case of an uninsured national bank or uninsured Federal branch or agency and the Board of Governors of the Federal Reserve System in the case of a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank that operates, or operates as, a multilateral clearing organization pursuant to section 409 of the Act, in consultation with the Federal Deposit Insurance Corporation, may each promulgate regulations solely to implement this section.

''(2) SPECIFIC REQUIREMENT.—In promulgating regulations, limited solely to implementing paragraphs (8), (9), (10), and (11) of section 11(e) of the Federal Deposit Insurance Act, the Comptroller of the Currency and the Board of Governors of the Federal Reserve System each shall ensure that their regulations generally are consistent with the regulations and policies of the Federal Deposit Insurance Corporation adopted pursuant to the Federal Deposit Insurance Act.

''(d) DEFINITIONS.—For purposes of this section, the terms 'Federal branch', 'Federal agency', and 'foreign bank' have the same meanings as in section 1(b) of the International Banking Act of 1978.''.

SEC. 907. BANKRUPTCY CODE AMENDMENTS.

(a) DEFINITIONS OF FORWARD CONTRACT, REPURCHASE AGREEMENT, SECURITIES CLEARING AGENCY, SWAP AGREEMENT, COMMODITY CONTRACT, AND SECURITIES CONTRACT.—Title 11, United States Code, is amended—

(1) in section 101—

(A) in paragraph (25)—

(i) by striking ''means a contract'' and inserting ''means—

''(A) a contract'';

(ii) by striking '', or any combination thereof or option thereon;'' and inserting '', or any other similar agreement;''; and

(iii) by adding at the end the following:

''(B) any combination of agreements or transactions referred to in subparagraphs (A) and (C);

''(C) any option to enter into an agreement or transaction referred to in subparagraph (A) or (B);

''(D) a master agreement that provides for an agreement or transaction referred to in subparagraph (A), (B), or (C), together with all supplements to any such master agreement, without regard to whether such master agreement provides for an agreement or transaction that is not a forward contract under this paragraph, except that such master agreement shall be considered to be a forward contract under this paragraph only with respect to each agreement or transaction under such master agreement that is referred to in subparagraph (A), (B), or (C); or

''(E) any security agreement or arrangement, or other credit enhancement related to any agreement or transaction referred to in subparagraph (A), (B), (C), or (D) including any guarantee or reimbursement obligation by or to a forward contract merchant or financial participant in connection with any agreement or transaction referred to in any such subparagraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562;'';

(B) in paragraph (46), by striking ''on any day during the period beginning 90 days before the date of'' and inserting ''at any time before'';

(C) by amending paragraph (47) to read as follows:

''(47) 'repurchase agreement' (which definition also applies to a reverse repurchase agreement)—

''(A) means—

''(i) an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage related securities (as defined in section 3 of the Securities Exchange Act of 1934), mortgage loans, interests in mortgage related securities or mortgage loans, eligible bankers' acceptances, qualified foreign government securities (defined as 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 securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests, with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptance, securities, mortgage loans, or interests of the kind described in this clause, at a date certain not later than 1 year after such transfer or on demand, against the transfer of funds;

''(ii) any combination of agreements or transactions referred to in clauses (i) and (iii);

''(iii) an option to enter into an agreement or transaction referred to in clause (i) or (ii);

''(iv) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), or (iii), together with all supplements to any such master agreement, without regard to whether such master agreement provides for an agreement or transaction that is not a repurchase agreement under this paragraph, except that such master agreement shall be considered to be a repurchase agreement under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in clause (i), (ii), or (iii); or

''(v) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in clause (i), (ii), (iii), or (iv) including any guarantee or reimbursement obligation by or to a repo participant or financial participant in connection with any agreement or transaction referred to in any such clause, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562; and

''(B) does not include a repurchase obligation under a participation in a commercial mortgage loan;'';

(D) in paragraph (48), by inserting '', or exempt from such registration under such section pursuant to an order of the Securities and Exchange Commission,'' after ''1934''; and

(E) by amending paragraph (53B) to read as follows:

''(53B) 'swap agreement'—

''(A) means—

''(i) any agreement, including the terms and conditions incorporated by reference in such agreement, which is—

''(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 equity swap, option, future, or forward agreement;

''(V) a debt index or debt swap, option, future, or forward agreement;

''(VI) a total return, credit spread or credit swap, option, future, or forward agreement;

''(VII) a commodity index or a commodity swap, option, future, or forward agreement; or

''(VIII) a weather swap, weather derivative, or weather option;

''(ii) any agreement or transaction that is similar to any other agreement or transaction referred to in this paragraph and that—

''(I) is of a type that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap markets (including terms

and conditions incorporated by reference therein); and

''(II) is a forward, swap, future, or option on one or more rates, currencies, commodities, equity securities, or other equity instruments, debt securities or other debt instruments, quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial risk or value;

''(iii) any combination of agreements or transactions referred to in this subparagraph;

''(iv) any option to enter into an agreement or transaction referred to in this subparagraph;

''(v) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), (iii), or (iv), together with all supplements to any such master agreement, and without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this paragraph, except that the master agreement shall be considered to be a swap agreement under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in clause (i), (ii), (iii), or (iv); or

''(vi) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in clause (i) through (v) including any guarantee or reimbursement obligation by or to a swap participant or financial participant in connection with any agreement or transaction referred to in any such clause, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562; and

''(B) 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, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000.'';

(2) in section 741(7), 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 certificate of deposit, a mortgage loan or any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including an interest therein or based on the value thereof), or option on any of the foregoing, including an option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

''(ii) any option entered into on a national securities exchange relating to foreign currencies;

''(iii) the guarantee by or to any securities clearing agency of a settlement of cash, securities, certificates of deposit, mortgage loans or interests therein, group or index of securities, or mortgage loans or interests therein (including any interest therein or based on the value thereof), or option on any of the foregoing, including an option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

''(iv) any margin loan;

''(v) any other agreement or transaction that is similar to an agreement or transaction referred to in this subparagraph;

''(vi) any combination of the agreements or transactions referred to in this subparagraph;

''(vii) any option to enter into any agreement or transaction referred to in this subparagraph;

''(viii) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), (iii), (iv), (v), (vi), or (vii), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this subparagraph, except that such master agreement shall be considered to be a securities contract under this subparagraph only with respect to each agreement or transaction under such master agreement that is referred to in clause (i), (ii), (iii), (iv), (v), (vi), or (vii); or

''(ix) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this subparagraph including any guarantee or reimbursement obligation by or to a stockbroker, securities clearing agency, financial institution, or financial participant in connection with any agreement or transaction referred to in this subparagraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562; and

''(B) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan.''; and

(3) in section 761(4)—

(A) by striking ''or'' at the end of subparagraph (D); and

(B) by adding at the end the following:

''(F) any other agreement or transaction that is similar to an agreement or transaction referred to in this paragraph;

''(G) any combination of the agreements or transactions referred to in this paragraph;

''(H) any option to enter into an agreement or transaction referred to in this paragraph;

''(I) a master agreement that provides for an agreement or transaction referred to in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H), together with all supplements to such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a commodity contract under this paragraph, except that the master agreement shall be considered to be a commodity contract under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H); or

''(J) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this paragraph including any guarantee or reimbursement obligation by or to a commodity broker or financial participant in connection with any agreement or transaction referred to in this paragraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562;''.

(b) DEFINITIONS OF FINANCIAL INSTITUTION, FINANCIAL PARTICIPANT, AND FORWARD CONTRACT MERCHANT.—Section 101 of title 11, United States Code, is amended—

(1) by striking paragraph (22) and inserting the following:

''(22) 'financial institution' means—

''(A) a Federal reserve bank, or an entity (domestic or foreign) that is a commercial or savings bank, industrial savings bank, savings and loan association, trust company, or receiver or conservator for such entity and, when any such Federal reserve bank, receiver, conservator or entity is acting as agent or custodian for a customer in connection with a securities contract, as defined in section 741, such customer; or

''(B) in connection with a securities contract, as defined in section 741, an investment company registered under the Investment Company Act of 1940;'';

(2) by inserting after paragraph (22) the following:

''(22A) 'financial participant' means—

''(A) an entity that, at the time it enters into a securities contract, commodity contract, swap agreement, repurchase agreement, or forward contract, or at the time of the filing of the petition, has one or more agreements or transactions described in paragraph (1), (2), (3), (4), (5), or (6) of section 561(a) 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 one or more such agreements or transactions with the debtor or any other entity (other than an affiliate) on any day during the previous 15-month period; or

''(B) a clearing organization (as that term is defined in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991);''; 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 in a commodity, as defined in section 761 or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade;''.

(c) DEFINITION OF MASTER NETTING AGREEMENT AND MASTER NETTING AGREEMENT PARTICIPANT.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (38) the following new paragraphs:

''(38A) 'master netting agreement'—

''(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 one or more contracts that are described in any one or more of paragraphs (1) through (5) of section 561(a), or any security agreement or arrangement or other credit enhancement related to one or more of the foregoing, including any guarantee or reimbursement obligation related to 1 or more of the foregoing; and

''(B) if the agreement contains provisions relating to agreements or transactions that are not contracts described in paragraphs (1) through (5) of section 561(a), shall be deemed to be a master netting agreement only with respect to those agreements or transactions that are described in any one or more of paragraphs (1) through (5) of section 561(a);

''(38B) 'master netting agreement participant' means an entity that, at any time before the filing of the petition, is a party to an outstanding master netting agreement with the debtor;''.

(d) SWAP AGREEMENTS, SECURITIES CONTRACTS, COMMODITY CONTRACTS, FORWARD CONTRACTS, REPURCHASE AGREEMENTS, AND MASTER NETTING AGREEMENTS UNDER THE AUTOMATIC-STAY.—

(1) IN GENERAL.—Section 362(b) of title 11, United States Code, as amended by 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 or financial participant of a

mutual debt and claim under or in connection with one or more swap agreements that constitutes the setoff of a claim against the debtor for any payment or other transfer of property due from the debtor under or in connection with any swap agreement against any payment due to the debtor from the swap participant or financial participant under or in connection with any swap agreement or against cash, securities, or other property held by, pledged to and under the control of, or due from such swap participant or financial participant to margin, guarantee, secure, or settle any swap agreement;''; and

(D) by inserting after paragraph (26), as added by this Act, the following new paragraph:

''(27) under subsection (a), of the setoff by a master netting agreement participant of a mutual debt and claim under or in connection with one 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 to 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 that 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; or''.

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

''(m) LIMITATION.—The exercise of rights not subject to the stay arising under subsection (a) pursuant to paragraph (6), (7), (17), or (27) of subsection (b) shall not be stayed by any order of a court or administrative agency in any proceeding under this title.''.

(e) LIMITATION OF AVOIDANCE POWERS UNDER MASTER NETTING AGREEMENT.—Section 546 of title 11, United States Code, as amended by this Act, is amended—

(1) in subsection (g) (as added by section 103 of Public Law 101–311)—

(A) by striking ''under a swap agreement'';

(B) by striking ''in connection with a swap agreement'' and inserting ''under or in connection with any swap agreement''; and

(C) by inserting ''or financial participant'' after ''swap participant'' each place that term appears; and

(2) by adding at the end the following:

''(k) Notwithstanding sections 544, 545, 547, 548(a)(1)(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, except under section 548(a)(1)(A) 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.''.

(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'' at the end;

(2) in subparagraph (D), by striking the period and inserting ''; and''; and

(3) by adding at the end the following new subparagraph:

''(E) a master netting agreement participant that receives a transfer in connection with a master netting agreement or any individual contract covered thereby takes for value to the extent of such transfer, except that, 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 amending the section heading to read as follows:

''§ 555. Contractual right to liquidate, terminate, or accelerate a securities contract'';

and

(2) in the first sentence, by striking ''liquidation'' and inserting ''liquidation, termination, or acceleration''.

(h) TERMINATION OR ACCELERATION OF COMMODITIES OR FORWARD CONTRACTS.—Section 556 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

''§ 556. Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract'';

(2) in the first sentence, by striking ''liquidation'' and inserting ''liquidation, termination, or acceleration''; and

(3) in the second sentence, by striking ''As used'' and all that follows through ''right,'' and inserting ''As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof and a right,''.

(i) TERMINATION OR ACCELERATION OF REPURCHASE AGREEMENTS.—Section 559 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

''§ 559. Contractual right to liquidate, terminate, or accelerate a repurchase agreement'';

(2) in the first sentence, by striking ''liquidation'' and inserting ''liquidation, termination, or acceleration''; and

(3) in the third sentence, by striking ''As used'' and all that follows through ''right,'' and inserting ''As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof and a right,''.

(j) LIQUIDATION, TERMINATION, OR ACCELERATION OF SWAP AGREEMENTS.—Section 560 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

''§ 560. Contractual right to liquidate, terminate, or accelerate a swap agreement'';

(2) in the first sentence, by striking ''termination of a swap agreement'' and inserting ''liquidation, termination, or acceleration of one or more swap agreements'';

(3) by striking ''in connection with any swap agreement'' and inserting ''in connection with the termination, liquidation, or acceleration of one or more swap agreements''; and

(4) in the second sentence, by striking ''As used'' and all that follows through ''right,'' and inserting ''As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof and a right,''.

(k) LIQUIDATION, TERMINATION, ACCELERATION, OR OFFSET UNDER A MASTER NETTING AGREEMENT AND ACROSS CONTRACTS.—

(1) IN GENERAL.—Title 11, United States Code, is amended by inserting after section 560 the following:

''§ 561. Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts; proceedings under chapter 15

''(a) IN GENERAL.—Subject to subsection (b), the exercise of any contractual right, because of a condition of the kind specified in section 365(e)(1), to cause the termination, liquidation, or acceleration of or to offset or net termination values, payment amounts, or other transfer obligations arising under or in connection with one or more (or the termination, liquidation, or acceleration of one or more)—

''(1) securities contracts, as defined in section 741(7);

''(2) commodity contracts, as defined in section 761(4);

''(3) forward contracts;

''(4) repurchase agreements;

''(5) swap agreements; or

''(6) master netting agreements,

shall not be stayed, avoided, or otherwise limited by operation of any provision of this title or by any order of a court or administrative agency in any proceeding under this title.

''(b) EXCEPTION.—

''(1) IN GENERAL.—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) COMMODITY BROKERS.—If a debtor is a commodity broker subject to subchapter IV of chapter 7—

''(A) a party may not net or offset an obligation to the debtor arising under, or in connection with, a commodity contract traded on or subject to the rules of a contract market designated under the Commodity Exchange Act or a derivatives transaction execution facility registered under the Commodity Exchange Act 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 positive net equity in the commodity accounts at the debtor, as calculated under that 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 and traded on or subject to the rules of a contract market designated under

the Commodity Exchange Act or a derivatives transaction execution facility registered under the Commodity Exchange Act against any claim arising under, or in connection with, other instruments, contracts, or agreements listed in subsection (a).

''(3) CONSTRUCTION.—No provision of subparagraph (A) or (B) of paragraph (2) shall prohibit the offset of claims and obligations that arise under—

''(A) a cross-margining agreement or similar arrangement that has been approved by the Commodity Futures Trading Commission or submitted to the Commodity Futures Trading Commission under paragraph (1) or (2) of section 5c(c) of the Commodity Exchange Act and has not been abrogated or rendered ineffective by the Commodity Futures Trading Commission; or

''(B) any other netting agreement between a clearing organization, as defined in section 761, and another entity that has been approved by the Commodity Futures Trading Commission.

''(c) DEFINITION.—As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) 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.

''(d) CASES ANCILLARY TO FOREIGN PROCEEDINGS.—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 under chapter 15 of this title, so that enforcement of contractual provisions of such contracts and agreements in accordance with their terms will not be stayed or otherwise limited by operation of any provision of this title or by order of a court in any case under this title, and to limit avoidance powers to the same extent as in a proceeding under chapter 7 or 11 of this title (such enforcement not to be limited based on the presence or absence of assets of the debtor in the United States).''.

(2) 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 560 the following:

''561. Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts; proceedings under chapter 15.''.

(l) 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, financial participants, 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, financial participant, 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.''.

(m) 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, financial participants, 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.''.

(n) SETOFF.—Section 553 of title 11, United States Code, is amended—

(1) in subsection (a)(2)(B)(ii), by inserting before the semicolon the following: ''(except for a setoff of a kind described in section 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(27), 555, 556, 559, 560, or 561)'';

(2) in subsection (a)(3)(C), by inserting before the period the following: ''(except for a setoff of a kind described in section 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(27), 555, 556, 559, 560, or 561 of this title)''; and

(3) in subsection (b)(1), by striking ''362(b)(14),'' and inserting ''362(b)(17), 362(b)(27), 555, 556, 559, 560, 561''.

(o) 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 sections 362(b)(7) and 546(f), by inserting ''or financial participant'' after ''repo participant'' each place that term appears;

(3) in section 546(e), by inserting ''financial participant,'' after ''financial institution,'';

(4) in section 548(d)(2)(B), by inserting ''financial participant,'' after ''financial institution,'';

(5) in section 548(d)(2)(C), by inserting ''or financial participant'' after ''repo participant'';

(6) in section 548(d)(2)(D), by inserting ''or financial participant'' after ''swap participant'';

(7) in section 555—

(A) by inserting ''financial participant,'' after ''financial institution,''; and

(B) by striking the second sentence and inserting the following: ''As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act), 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'';

(8) in section 556, by inserting '', financial participant,'' after ''commodity broker'';

(9) in section 559, by inserting ''or financial participant'' after ''repo participant'' each place that term appears; and

(10) in section 560, by inserting ''or financial participant'' after ''swap participant''.

(p) CONFORMING AMENDMENTS.—Title 11, United States Code, is amended—

(1) in the table of sections for chapter 5—

(A) by amending the items relating to sections 555 and 556 to read as follows:

''555. Contractual right to liquidate, terminate, or accelerate a securities contract.
''556. Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract.'';

and

(B) by amending the items relating to sections 559 and 560 to read as follows:

''559. Contractual right to liquidate, terminate, or accelerate a repurchase agreement.
''560. Contractual right to liquidate, terminate, or accelerate a swap agreement.'';

and

(2) in the table of sections 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, financial participants, 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, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.''.

SEC. 907A. SECURITIES BROKER/COMMODITY BROKER LIQUIDATION.

The Securities and Exchange Commission and the Commodity Futures Trading Commission may consult with each other with respect to whether, under what circumstances, and the extent to which security futures products will be treated as commodity contracts or securities in a liquidation of a person that is both a securities broker and a commodity broker, and with respect to the treatment in such a liquidation of accounts in which both commodity contracts and securities are carried.

SEC. 908. RECORDKEEPING REQUIREMENTS.

Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended by adding at the end the following new subparagraph:

''(H) RECORDKEEPING REQUIREMENTS.—The Corporation, in consultation with the appropriate Federal banking agencies, may by regulation require more detailed recordkeeping by any insured depository institution with respect to qualified financial contracts (including market valuations) only if such insured depository institution is in a troubled condition (as such term is defined by the Corporation pursuant to 12 U.S.C. 1831i).'';

SEC. 909. EXEMPTIONS FROM CONTEMPORANEOUS EXECUTION REQUIREMENT.

Section 13(e)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)(2)) is amended to read as follows:

''(2) EXEMPTIONS FROM CONTEMPORANEOUS EXECUTION REQUIREMENT.—An agreement to provide for the lawful collateralization of—

''(A) deposits of, or other credit extension by, a Federal, State, or local governmental entity, or of any depositor referred to in section 11(a)(2), including an agreement to provide collateral in lieu of a surety bond;

''(B) bankruptcy estate funds pursuant to section 345(b)(2) of title 11, United States Code;

''(C) extensions of credit, including any overdraft, from a Federal reserve bank or Federal home loan bank; or

''(D) one or more qualified financial contracts, as defined in section 11(e)(8)(D),

shall not be deemed invalid pursuant to paragraph (1)(B) solely because such agreement was not executed contemporaneously with the acquisition of the collateral or because of pledges, delivery, or substitution of the collateral made in accordance with such agreement.''.

SEC. 910. DAMAGE MEASURE.

(a) IN GENERAL.—Title 11, United States Code, is amended—

(1) by inserting after section 561, as added by this Act, 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 pursuant to 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 (as added by this Act) 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 562 of this title shall be allowed under subsection (a), (b), or (c), or disallowed under subsection (d) or (e), as if such claim had arisen before the date of the filing of the petition.''.

SEC. 911. SIPC STAY.

Section 5(b)(2) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78eee(b)(2)) is amended by adding at the end the following new subparagraph:

''(C) EXCEPTION FROM STAY.—

''(i) Notwithstanding section 362 of title 11, United States Code, neither the filing of an application under subsection (a)(3) nor any order or decree obtained by SIPC from the court shall operate as a stay of any contractual rights of a creditor to liquidate, terminate, or accelerate a securities contract, commodity contract, forward contract, repurchase agreement, swap agreement, or master netting agreement, as those terms are defined in sections 101, 741, and 761 of title 11, United States Code, to offset or net termination values, payment amounts, or other transfer obligations arising under or in connection with one or more of such contracts or agreements, or to foreclose on any cash collateral pledged by the debtor, whether or not with respect to one or more of such contracts or agreements.

''(ii) Notwithstanding clause (i), such application, order, or decree may operate as a stay of the foreclosure on, or disposition of, securities collateral pledged by the debtor, whether or not with respect to one or more of such contracts or agreements, securities sold by the debtor under a repurchase agreement, or securities lent under a securities lending agreement.

''(iii) As used in this subparagraph, the term 'contractual right' includes a right set forth in a rule or bylaw of a national securities exchange, a national securities association, or a securities clearing agency, a right set forth in a bylaw of a clearing organization or contract market or in a resolution of the governing board thereof, and a right, whether or not in writing, arising under common law, under law merchant, or by reason of normal business practice.''.

SEC. 912. ASSET-BACKED SECURITIZATIONS.

Section 541 of title 11, United States Code, is amended—

(1) in subsection (b), by inserting after paragraph (7), as added by this Act, the following:

''(8) any eligible asset (or proceeds thereof), to the extent that such eligible asset was transferred by the debtor, before the date of commencement of the case, to an eligible entity in connection with an asset-backed securitization, except to the extent such asset (or proceeds or value thereof) may be recovered by the trustee under section 550 by virtue of avoidance under section 548(a);''; and

(2) by adding at the end the following new subsection:

''(f) For purposes of this section—

''(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, including, without limitation, all securities issued by governmental units, at least one class or tranche of which was rated investment grade by one or more nationally recognized securities rating organizations, when the securities were initially issued by an issuer;

''(2) the term 'eligible asset' means—

''(A) financial assets (including interests therein and proceeds thereof), either fixed or revolving, whether or not the same are in existence as of the date of the transfer, including residential and commercial mortgage loans, consumer receivables, trade receivables, assets of governmental units, including payment obligations relating to taxes, receipts, fines, tickets, and other sources of revenue, and lease receivables, that, by their terms, convert into cash within a finite time period, plus any residual interest in property subject to receivables included in such financial assets plus any rights or other assets designed to assure the servicing or timely distribution of proceeds to security holders;

''(B) cash; and

''(C) securities, including without limitation, all securities issued by governmental units;

''(3) the term 'eligible entity' means—

''(A) an issuer; or

''(B) a trust, corporation, partnership, governmental unit, limited liability company (including a single member limited liability company), 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, governmental unit, limited liability company (including a single member limited liability company), or other entity engaged exclusively in the business of acquiring and holding eligible assets, issuing securities backed by eligible assets, and taking actions ancillary thereto; and

''(5) the term 'transferred' means the debtor, 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)(8) (whether or not reference is made to this title or any section hereof), irrespective and 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. 913. 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 on or 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.

SEC. 914. SAVINGS CLAUSE.

The meaning of terms used in this title are 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 similar terms under any other statute, regulation, or rule, including the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934), and the Commodity Exchange Act.

TITLE X—PROTECTION OF FAMILY FARMERS AND FAMILY FISHERMEN

SEC. 1001. PERMANENT 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, 112 Stat. 2681-610), and amended by this Act, is reenacted.

(2) EFFECTIVE DATE.—Subsection (a) shall be deemed to have taken effect on July 1, 2000.

(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.

(a) IN GENERAL.—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.''.

(b) EFFECTIVE DATE.—The first adjustment required by section 104(b)(4) of title 11, United States Code, as added by subsection (a) of this section, shall occur on the later of—

(1) April 1, 2001; or

(2) 60 days after the date of enactment of this Act.

SEC. 1003. 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;''.

(b) SPECIAL NOTICE PROVISIONS.—Section 1231(b) of title 11, United States Code, as so designated by this Act, is amended by striking ''a State or local governmental unit'' and inserting ''any governmental unit''.

SEC. 1004. DEFINITION OF FAMILY FARMER.

Section 101(18) of title 11, United States Code, is amended—

(1) in subparagraph (A)—

(A) by striking ''$1,500,000'' and inserting ''$3,000,000''; and

(B) by striking ''80'' and inserting ''50''; and

(2) in subparagraph (B)(ii)—

(A) by striking ''$1,500,000'' and inserting ''$3,000,000''; and

(B) by striking ''80'' and inserting ''50''.

SEC. 1005. 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. 1006. PROHIBITION OF RETROACTIVE ASSESSMENT OF DISPOSABLE INCOME.

(a) IN GENERAL.—Section 1225(b) of title 11, United States Code, is amended by adding at the end the following:

''(3) If the plan provides for specific amounts of property to be distributed on account of allowed unsecured claims as required by paragraph (1)(B), those amounts equal or exceed the debtor's projected disposable income for that period, and the plan meets the requirements for confirmation other than those of this subsection, the plan shall be confirmed.''.

(b) MODIFICATION.—Section 1229 of title 11, United States Code, is amended by adding at the end the following:

''(d)(1) A modification of the plan under this section may not increase the amount of payments that were due prior to the date of the order modifying the plan.

''(2) A modification of the plan under this section to increase payments based on an increase in the debtor's disposable income may not require payments to unsecured creditors in any particular month greater than the debtor's disposable income for that month, unless the debtor proposes such a modification.

''(3) A modification of the plan in the last year of the plan shall not require payments that would leave the debtor with insufficient funds to carry on the farming operation after the plan is completed, unless the debtor proposes such a modification.''.

SEC. 1007. FAMILY FISHERMEN.

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

(1) by inserting after paragraph (7) the following:

''(7A) 'commercial fishing operation' includes—

''(A) the catching or harvesting of fish, shrimp, lobsters, urchins, seaweed, shellfish, or other aquatic species or products;

''(B) for purposes of section 109 and chapter 12, aquaculture activities consisting of raising for market any species or product described in subparagraph (A); and

''(C) the transporting by vessel of a passenger for hire (as defined in section 2101 of title 46) who is engaged in recreational fishing;

''(7B) 'commercial fishing vessel' means a vessel used by a fisherman to carry out a commercial fishing operation;'';

(2) by inserting after paragraph (19) the following:

''(19A) 'family fisherman' means—

''(A) an individual or individual and spouse engaged in a commercial fishing operation (including aquaculture for purposes of chapter 12)—

''(i) whose aggregate debts do not exceed $1,500,000 and not less than 80 percent of whose aggregate noncontingent, liquidated debts (excluding a debt for the principal residence of such individual or such individual and spouse, unless such debt arises out of a commercial fishing operation), on the date the case is filed, arise out of a commercial fishing operation owned or operated by such individual or such individual and spouse; and

''(ii) who receive from such commercial fishing operation more than 50 percent of such individual's or such individual's and spouse's gross income for the taxable year preceding the taxable year in which the case concerning such individual or such individual and spouse was filed; or

''(B) a corporation or partnership—

''(i) in which more than 50 percent of the outstanding stock or equity is held by—

''(I) 1 family that conducts the commercial fishing operation; or

''(II) 1 family and the relatives of the members of such family, and such family or such relatives conduct the commercial fishing operation; and

''(ii)(I) more than 80 percent of the value of its assets consists of assets related to the commercial fishing operation;

''(II) its aggregate debts do not exceed $1,500,000 and not less than 80 percent of its aggregate noncontingent, liquidated debts (excluding a debt for 1 dwelling which is owned by such corporation or partnership and which a shareholder or partner maintains as a principal residence, unless such debt arises out of a commercial fishing operation), on the date the case is filed, arise out of a commercial fishing operation owned or operated by such corporation or such partnership; and

''(III) if such corporation issues stock, such stock is not publicly traded;''; and

(3) by inserting after paragraph (19A) the following:

''(19B) 'family fisherman with regular annual income' means a family fisherman whose annual income is sufficiently stable and regular to enable such family fisherman to make payments under a plan under chapter 12 of this title;''.

(b) WHO MAY BE A DEBTOR.—Section 109(f) of title 11, United States Code, is amended by inserting ''or family fisherman'' after ''family farmer''.

(c) CHAPTER 12.—Chapter 12 of title 11, United States Code, is amended—

(1) in the chapter heading, by inserting ''**OR FISHERMAN**'' after ''**FAMILY FARMER**'';

(2) in section 1201, by adding at the end the following:

''(e)(1) Notwithstanding any other provision of law, for purposes of this subsection, a guarantor of a claim of a creditor under this section shall be treated in the same manner as a creditor with respect to the operation of a stay under this section.

''(2) For purposes of a claim that arises from the ownership or operation of a commercial fishing operation, a co-maker of a loan made by a creditor under this section shall be treated in the same manner as a creditor with respect to the operation of a stay under this section.'';

(3) in section 1203, by inserting ''or commercial fishing operation'' after ''farm'';

(4) in section 1206, by striking ''if the property is farmland or farm equipment'' and inserting ''if the property is farmland, farm equipment, or property of a commercial fishing operation (including a commercial fishing vessel)''; and

(5) by adding at the end the following:

''§ 1232. Additional provisions relating to family fishermen

''(a)(1) Notwithstanding any other provision of law, except as provided in subsection (c), with respect to any commercial fishing vessel of a family fisherman, the debts of that family fisherman shall be treated in the manner prescribed in paragraph (2).

''(2)(A) For purposes of this chapter, a claim for a lien described in subsection (b) for a commercial fishing vessel of a family fisherman that could, but for this subsection, be subject to a lien under otherwise applicable maritime law, shall be treated as an unsecured claim.

''(B) Subparagraph (A) applies to a claim for a lien resulting from a debt of a family fisherman incurred on or after the date of enactment of this chapter.

''(b) A lien described in this subsection is—

''(1) a maritime lien under subchapter III of chapter 313 of title 46 without regard to whether that lien is recorded under section 31343 of title 46; or

''(2) a lien under applicable State law (or the law of a political subdivision thereof).

''(c) Subsection (a) shall not apply to—

''(1) a claim made by a member of a crew or a seaman including a claim made for—

''(A) wages, maintenance, or cure; or

''(B) personal injury; or

''(2) a preferred ship mortgage that has been perfected under subchapter II of chapter 313 of title 46.

''(d) For purposes of this chapter, a mortgage described in subsection (c)(2) shall be treated as a secured claim.''.

(d) CLERICAL AMENDMENTS.—

(1) TABLE OF CHAPTERS.—In the table of chapters for title 11, United States Code, the item relating to chapter 12, is amended to read as follows:

''12. Adjustments of Debts of a Family Farmer or Family Fisherman with Regular Annual Income ..... 1201''.

(2) TABLE OF SECTIONS.—The table of sections for chapter 12 of title 11, United States Code, is amended by adding at the end the following new item:

''1232. Additional provisions relating to family fishermen.''.

(e) Applicability.—

Nothing in this section shall change, affect, or amend the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801, et seq.).

TITLE XI—HEALTH CARE AND EMPLOYEE BENEFITS

SEC. 1101. DEFINITIONS.

(a) HEALTH CARE BUSINESS DEFINED.—Section 101 of title 11, United States Code, is amended—

(1) by redesignating paragraph (27A), as added by this Act, as paragraph (27B); and

(2) by 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) home health agency; and

''(V) other health care institution that is similar to an entity referred to in subclause (I), (II), (III), or (IV); 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) domiciliary 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) PATIENT AND PATIENT RECORDS DEFINED.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (40) the following:

''(40A) 'patient' means any person who obtains or receives services from a health care business;

''(40B) 'patient records' means any written document relating to a patient or a record recorded in a magnetic, optical, or other form of electronic medium;''.

(c) RULE OF CONSTRUCTION.—The amendments made by subsection (a) of this section shall not affect the interpretation of section 109(b) of title 11, United States Code.

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—

''(A) promptly publish notice, in 1 or more appropriate newspapers, that if 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 365 days after the date of that notification, the trustee will destroy the patient records; and

''(B) during the first 180 days of the 365-day period described in subparagraph (A), promptly attempt to notify directly each patient that is the subject of the patient records and appropriate insurance carrier concerning the patient records by mailing to the last known address of that patient, or a family member or contact person for that patient, and to the appropriate insurance carrier an appropriate notice regarding the claiming or disposing of patient records.

''(2) If, after providing the notification under paragraph (1), patient records are not claimed during the 365-day period described under that paragraph, the trustee shall mail, by certified mail, at the end of such 365-day period a written request to each appropriate Federal agency to request permission from that agency to deposit the patient records with that agency, except that no Federal agency is required to accept patient records under this paragraph.

''(3) If, following the 365-day period described in paragraph (2) and after providing the notification under paragraph (1), patient records are not claimed by a patient or insurance provider, or request is not granted by a Federal agency to deposit such records with that agency, 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 table of sections 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 AND OTHER ADMINISTRATIVE EXPENSES.

Section 503(b) of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

''(8) the actual, necessary costs and expenses of closing a health care business incurred by a trustee or by a Federal agency (as that term is defined in section 551(1) of title 5) or a department or agency of a State or political subdivision thereof, 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;

''(9) with respect to a nonresidential real property lease previously assumed under section 365, and subsequently rejected, a sum equal to all monetary obligations due, excluding those arising from or related to a failure to operate or penalty provisions, for the period of 2 years following the later of the rejection date or date of actual turnover of the premises, without reduction or setoff for any reason whatsoever except for sums actually received or to be received from a nondebtor, and the claim for remaining sums due for the balance of the term of the lease shall be a claim under section 502(b)(6); and''.

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) IN GENERAL.—

''(1) AUTHORITY TO APPOINT.—Not later than 30 days after a case is commenced by a health care business under chapter 7, 9, or 11, the court shall order the appointment of an ombudsman to monitor the quality of patient care to represent the interests of the patients of the health care business, unless the court finds that the appointment of the ombudsman is not necessary for the protection of patients under the specific facts of the case.

''(2) QUALIFICATIONS.—If the court orders the appointment of an ombudsman, the United States trustee shall appoint 1 disinterested person, other than the United States trustee, to serve as an ombudsman. If the health care business is a long-term care facility, the trustee may appoint a person who is serving as a State Long-Term Care Ombudsman appointed under title III or VII of the Older Americans Act of 1965 (42 U.S.C. 3021 et seq., 3058 et seq.).

In the event that the trustee does not appoint the State Long-Term Care Ombudsman to monitor the quality of patient care in a long-term care facility, the court shall notify the individual who serves as the State Long-Term Care Ombudsman of the name and address of the individual who is appointed.

''(b) DUTIES.—An ombudsman appointed under subsection (a) shall—

''(1) monitor the quality of patient care, to the extent necessary under the circumstances, including 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) CONFIDENTIALITY.—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. The ombudsman may not review confidential patient records, unless the court provides prior approval, with restrictions on the ombudsman to protect the confidentiality of patient records. If the individual appointed as ombudsman is a person who is also serving as a State Long-Term Care Ombudsman appointed under title III or title VII of the Older Americans Act of 1965 (42 U.S.C. 3021 et seq., 3058 et seq.), that person shall have access to patient records, consistent with authority spelled out in the Older Americans Act and State laws governing the State Long-Term Care Ombudsman program.''.

(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 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 preceeding 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 this Act, is amended 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 ''sections 704(2), 704(5), 704(7), 704(8), and 704(9)'' and inserting ''paragraphs (2), (5), (7), (8), (9), and (11) of section 704(a)''.

SEC. 1106. EXCLUSION FROM PROGRAM PARTICIPATION NOT SUBJECT TO AUTOMATIC STAY.

Section 362(b) of title 11, United States Code, is amended by inserting after paragraph (27), as added by this Act, the following:

''(28) under subsection (a), of the exclusion by the Secretary of Health and Human Services of the debtor from participation in the medicare program or any other Federal health care program (as defined in section 1128B(f) of the Social Security Act (42 U.S.C. 1320a–7b(f)) pursuant to title XI of such Act (42 U.S.C. 1301 et seq.) or title XVIII of such Act (42 U.S.C. 1395 et seq.).''.

TITLE XII—TECHNICAL AMENDMENTS

SEC. 1201. DEFINITIONS.

Section 101 of title 11, United States Code, as amended by this Act, is amended—

(1) by striking ''In this title—'' and inserting ''In this title, the following definitions shall apply:'';

(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.''; and

(7) in each of paragraphs (1) through (35), in each of paragraphs (36) and (37), and in each of paragraphs (40) through (55), by striking the semicolon at the end and inserting a period.

SEC. 1202. ADJUSTMENT OF DOLLAR AMOUNTS.

Section 104 of title 11, United States Code, as amended by section 308 of this Act, is amended by inserting ''522(f)(3),'' after ''522(d),'' each place it appears.

SEC. 1203. 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. TECHNICAL AMENDMENTS.

Title 11, United States Code, is amended—

(1) in section 109(b)(2), by striking ''subsection (c) or (d) of''; and

(2) in section 552(b)(1), by striking ''product'' each place it appears and inserting ''products''.

SEC. 1205. PENALTY FOR PERSONS WHO NEGLIGENTLY OR FRAUDULENTLY PREPARE BANKRUPTCY PETITIONS.

Section 110(j)(4) of title 11, United States Code, as so designated by this Act, is amended by striking ''attorney's'' and inserting ''attorneys' ''.

SEC. 1206. 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. 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. 1208. 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. 1209. EXCEPTIONS TO DISCHARGE.

Section 523 of title 11, United States Code, as amended by this Act, is amended—

(1) by transferring paragraph (15), as added by section 304(e) of Public Law 103–394 (108 Stat. 4133), so as to insert such paragraph after subsection (a)(14);

(2) in subsection (a)(9), by striking ''motor vehicle'' and inserting ''motor vehicle, vessel, or aircraft''; and

(3) in subsection (e), by striking ''a insured'' and inserting ''an insured''.

SEC. 1210. 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. 1211. 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. 1212. 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. 1213. PREFERENCES.

(a) IN GENERAL.—Section 547 of title 11, United States Code, as amended by 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 transfer made between 90 days and 1 year before the date of the filing of the petition, by the debtor to an entity that is not an insider for the benefit of a creditor that is an insider, such transfer 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 is pending or commenced on or after the date of enactment of this Act.

SEC. 1214. POSTPETITION TRANSACTIONS.

Section 549(c) of title 11, United States Code, is amended—

(1) by inserting ''an interest in'' after ''transfer of'' each place it appears;

(2) by striking ''such property'' and inserting ''such real property''; and

(3) by striking ''the interest'' and inserting ''such interest''.

SEC. 1215. DISPOSITION OF PROPERTY OF THE ESTATE.

Section 726(b) of title 11, United States Code, is amended by striking ''1009,''.

SEC. 1216. GENERAL PROVISIONS.

Section 901(a) of title 11, United States Code, as amended by this Act, is amended by inserting ''1123(d),'' after ''1123(b),''.

SEC. 1217. 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. 1218. 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. 1219. 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. 1220. 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. 1221. 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 this Act, is amended by adding at the end the following:

''(16) All transfers of property of the plan shall be made in accordance with any applicable provisions of nonbankruptcy law that govern the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust.''.

(c) TRANSFER OF PROPERTY.—Section 541 of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

''(g) 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, or filed under that title on or after that date of enactment, except that the court shall not confirm a plan under chapter 11 of title 11, United States Code, 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 of title 11, United States Code, 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. 1222. 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. 1223. BANKRUPTCY JUDGESHIPS.

(a) SHORT TITLE.—This section may be cited as the ''Bankruptcy Judgeship Act of 2001''.

(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 district of Delaware.

(D) Two additional bankruptcy judgeships for the southern district of Florida.

(E) One additional bankruptcy judgeship for the southern district of Georgia.

(F) Three additional bankruptcy judgeships for the district of Maryland.

(G) One additional bankruptcy judgeship for the eastern district of Michigan.

(H) One additional bankruptcy judgeship for the southern district of Mississippi.

(I) One additional bankruptcy judgeship for the district of New Jersey.

(J) One additional bankruptcy judgeship for the eastern district of New York.

(K) One additional bankruptcy judgeship for the northern district of New York.

(L) One additional bankruptcy judgeship for the southern district of New York.

(M) One additional bankruptcy judgeship for the eastern district of North Carolina.

(N) One additional bankruptcy judgeship for the eastern district of Pennsylvania.

(O) One additional bankruptcy judgeship for the middle district of Pennsylvania.

(P) One additional bankruptcy judgeship for the district of Puerto Rico.

(Q) One additional bankruptcy judgeship for the western district of Tennessee.

(R) One additional bankruptcy judgeship for the eastern district of Virginia.

(S) One additional bankruptcy judgeship for the district of South Carolina.

(T) One additional bankruptcy judgeship for the district of Nevada, and one for the district of Delaware.

(2) VACANCIES.—The first vacancy occurring in the office of a bankruptcy judge in each of the judicial districts set forth in paragraph (1) shall not be filled if the vacancy—

(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).

(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, and the eastern district of Tennessee under paragraphs (1), (3), (7), and (9) of section 3(a) 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) 11 years or more after November 8, 1993, with respect to the northern district of Alabama;

(B) 13 years or more after October 28, 1993, with respect to the district of Delaware;

(C) 11 years or more after August 29, 1994, with respect to the district of Puerto Rico; and

(D) 11 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 (28 U.S.C. 152 note) remain applicable to temporary judgeship positions referred to in this subsection.

(d) TECHNICAL AMENDMENTS.—Section 152(a) of title 28, United States Code, is amended—

(1) in paragraph (1), by striking the first sentence and inserting the following: ''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.''; and

(2) in paragraph (2)—

(A) in the item relating to the middle district of Georgia, by striking ''2'' and inserting ''3''; and

(B) in the collective item relating to the middle and southern districts of Georgia, by striking ''Middle and Southern . . . . . 1''.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.

SEC. 1224. COMPENSATING TRUSTEES.

Section 1326 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking ''and'';

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

(C) by adding at the end the following:

''(3) if a chapter 7 trustee has been allowed compensation due to the conversion or dismissal of the debtor's prior case pursuant to section 707(b), and some portion of that compensation remains unpaid in a case converted to this chapter or in the case dismissed under section 707(b) and refiled under this chapter, the amount of any such unpaid compensation, which shall be paid monthly—

''(A) by prorating such amount over the remaining duration of the plan; and

''(B) by monthly payments not to exceed the greater of—

''(i) $25; or

''(ii) the amount payable to unsecured nonpriority creditors, as provided by the plan, multiplied by 5 percent, and the result divided by the number of months in the plan.''; and

(2) by adding at the end the following:

''(d) Notwithstanding any other provision of this title—

''(1) compensation referred to in subsection (b)(3) is payable and may be collected by the trustee under that paragraph, even if such amount has been discharged in a prior proceeding under this title; and

''(2) such compensation is payable in a case under this chapter only to the extent permitted by subsection (b)(3).''.

SEC. 1225. AMENDMENT TO SECTION 362 OF TITLE 11, UNITED STATES CODE.

Section 362(b)(18) of title 11, United States Code, is amended to read as follows:

''(18) under subsection (a) of the creation or perfection of a statutory lien for an ad valorem property tax, or a special tax or special assessment on real property whether or not ad valorem, imposed by a governmental unit, if such tax or assessment comes due after the filing of the petition;''.

SEC. 1226. JUDICIAL EDUCATION.

The Director of the Federal Judicial Center, in consultation with the Director of the Executive Office for United States Trustees, shall develop materials and conduct such training as may be useful to courts in implementing this Act and the amendments made by this Act, including the requirements relating to the means test and reaffirmations under section 707(b) of title 11, United States Code, as amended by this Act.

SEC. 1227. RECLAMATION.

(a) RIGHTS AND POWERS OF THE TRUSTEE.—Section 546(c) of title 11, United States Code, is amended to read as follows:

''(c)(1) Except as provided in subsection (d) of this section and subsection (c) of section 507, and subject to the prior rights of holders of security interests in such goods or the proceeds thereof, the rights and powers of the trustee under sections 544(a), 545, 547, and 549 are subject to the right of a seller of goods that has sold goods to the debtor, in the ordinary course of such seller's business, to reclaim such goods if the debtor has received such goods while insolvent, not later than 45 days prior to the date of the commencement of a case under this title, but such seller may not reclaim such goods unless such seller demands in writing reclamation of such goods—

''(A) not later than 45 days after the date of receipt of such goods by the debtor; or

''(B) not later than 20 days after the date of commencement of the case, if the 45-day period expires after the commencement of the case.

''(2) If a seller of goods fails to provide notice in the manner described in paragraph (1), the seller still may assert the rights contained in section 503(b)(7).''.

(b) ADMINISTRATIVE EXPENSES.—Section 503(b) of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

''(10) the value of any goods received by the debtor not later than 20 days prior to the date of commencement of a case under this title in which the goods have been sold to the debtor in the ordinary course of such debtor's business.''.

SEC. 1228. PROVIDING REQUESTED TAX DOCUMENTS TO THE COURT.

(a) CHAPTER 7 CASES.—The court shall not grant a discharge in the case of an individual seeking bankruptcy under chapter 7 of title 11, United States Code, unless requested tax documents have been provided to the court.

(b) CHAPTER 11 AND CHAPTER 13 CASES.—The court shall not confirm a plan of reorganization in the case of an individual under chapter 11 or 13 of title 11, United States Code, unless requested tax documents have been filed with the court.

(c) DOCUMENT RETENTION.—The court shall destroy documents submitted in support of a bankruptcy claim not sooner than 3 years after the date of the conclusion of a bankruptcy case filed by an individual under chapter 7, 11, or 13 of title 11, United States Code. In the event of a pending audit or enforcement action, the court may extend the time for destruction of such requested tax documents.

SEC. 1229. ENCOURAGING CREDITWORTHINESS.

(a) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) certain lenders may sometimes offer credit to consumers indiscriminately, without taking steps to ensure that consumers are capable of repaying the resulting debt, and in a manner which may encourage certain consumers to accumulate additional debt; and

(2) resulting consumer debt may increasingly be a major contributing factor to consumer insolvency.

(b) STUDY REQUIRED.—The Board of Governors of the Federal Reserve System (hereafter in this section referred to as the ''Board'') shall conduct a study of—

(1) consumer credit industry practices of soliciting and extending credit—

(A) indiscriminately;

(B) without taking steps to ensure that consumers are capable of repaying the resulting debt; and

(C) in a manner that encourages consumers to accumulate additional debt; and

(2) the effects of such practices on consumer debt and insolvency.

(c) REPORT AND REGULATIONS.—Not later than 12 months after the date of enactment of this Act, the Board—

(1) shall make public a report on its findings with respect to the indiscriminate solicitation and extension of credit by the credit industry;

(2) may issue regulations that would require additional disclosures to consumers; and

(3) may take any other actions, consistent with its existing statutory authority, that the Board finds necessary to ensure responsible industrywide practices and to prevent resulting consumer debt and insolvency.

SEC. 1230. PROPERTY NO LONGER SUBJECT TO REDEMPTION.

Section 541(b) of title 11, United States Code, is amended by inserting after paragraph (8), as added by this Act, the following:

''(9) subject to subchapter III of chapter 5, any interest of the debtor in property where the debtor pledged or sold tangible personal property (other than securities or written or printed evidences of indebtedness or title) as collateral for a loan or advance of money given by a person licensed under law to make such loans or advances, where—

''(A) the tangible personal property is in the possession of the pledgee or transferee;

''(B) the debtor has no obligation to repay the money, redeem the collateral, or buy back the property at a stipulated price; and

''(C) neither the debtor nor the trustee have exercised any right to redeem provided under the contract or State law, in a timely manner as provided under State law and section 108(b) of this title; or''.

SEC. 1231. TRUSTEES.

(a) SUSPENSION AND TERMINATION OF PANEL TRUSTEES AND STANDING TRUSTEES.—Section 586(d) of title 28, United States Code, is amended—

(1) by inserting ''(1)'' after ''(d)''; and

(2) by adding at the end the following:

''(2) A trustee whose appointment under subsection (a)(1) or under subsection (b) is terminated or who ceases to be assigned to cases filed under title 11, United States Code, may obtain judicial review of the final agency decision by commencing an action in the United States district court for the district for which the panel to which the trustee is appointed under subsection (a)(1), or in the United States district court for the district in which the trustee is appointed under subsection (b) resides, after first exhausting all available administrative remedies, which if the trustee so elects, shall also include an administrative hearing on the record. Unless the trustee elects to have an administrative hearing on the record, the trustee shall be deemed to have exhausted all administrative remedies for purposes of this paragraph if the agency fails to make a final agency decision within 90 days after the trustee requests administrative remedies. The Attorney General shall prescribe procedures to implement this paragraph. The decision of the agency shall be affirmed by the district court unless it is unreasonable and without cause based on the administrative record before the agency.''.

(b) EXPENSES OF STANDING TRUSTEES.—Section 586(e) of title 28, United States Code, is amended by adding at the end the following:

''(3) After first exhausting all available administrative remedies, an individual appointed under subsection (b) may obtain judicial review of final agency action to deny a claim of actual, necessary expenses under this subsection by commencing an action in the United States district court in the district where the individual resides. The decision of the agency shall be affirmed by the district court unless it is unreasonable and without cause based upon the administrative record before the agency.

''(4) The Attorney General shall prescribe procedures to implement this subsection.''.

SEC. 1232. BANKRUPTCY FORMS.

Section 2075 of title 28, United States Code, is amended by adding at the end the following:

''The bankruptcy rules promulgated under this section shall prescribe a form for the statement required under section 707(b)(2)(C) of title 11 and may provide general rules on the content of such statement.''.

SEC. 1233. EXPEDITED APPEALS OF BANKRUPTCY CASES TO COURTS OF APPEALS.

(a) APPEALS.—Section 158 of title 28, United States Code, is amended—

(1) in subsection (c)(1), by striking ''Subject to subsection (b),'' and inserting ''Subject to subsections (b) and (d)(2),''; and

(2) in subsection (d)—

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

(B) by adding at the end the following:

''(2)(A) A court of appeals that would have jurisdiction of a subsequent appeal under paragraph (1) or other law may authorize an immediate appeal of an order or decree, not otherwise appealable, that is entered in a case or proceeding pending under section 157 or is entered by the district court or bankruptcy appellate panel exercising jurisdiction under subsection (a) or (b), if the bankruptcy court, district court, bankruptcy appellate panel, or the parties acting jointly certify that—

''(i) the order or decree involves—

''(I) a substantial question of law;

''(II) a question of law requiring resolution of conflicting decisions; or

''(III) a matter of public importance; and

''(ii) an immediate appeal from the order or decree may materially advance the progress of the case or proceeding.

''(B) An appeal under this paragraph does not stay proceedings in the court from which the order or decree originated, unless the originating court or the court of appeals orders such a stay.''.

(b) PROCEDURAL RULES.—

(1) TEMPORARY APPLICATION.—A provision of this subsection shall apply to appeals under section 158(d)(2) of title 28, United States Code, as added by subsection (a) of this section, until a rule of practice and procedure relating to such provision and appeal is promulgated or amended under chapter 131 of such title.

(2) CERTIFICATION.—A district court, bankruptcy court, or bankruptcy appellate panel may enter a certification as described in section 158(d)(2) of title 28, United States Code, during proceedings pending before that court or panel.

(3) PROCEDURE.—Subject to the other provisions of this subsection, an appeal by permission under section 158(d)(2) of title 28, United States Code, shall be taken in the manner prescribed in rule 5 of the Federal Rules of Appellate Procedure.

(4) FILING PETITION.—When permission to appeal is requested on the basis of a certification of the parties, a district court, bankruptcy court, or bankruptcy appellate panel, the petition shall be filed within 10 days after the certification is entered or filed.

(5) ATTACHMENT.—When permission to appeal is requested on the basis of a certification of a district court, bankruptcy court, or bankruptcy appellate panel, a copy of the certification shall be attached to the petition.

(6) PANEL AND CLERK.—In a case pending before a bankruptcy appellate panel in which permission to appeal is requested, the terms ''district court'' and ''district clerk'', as used in rule 5 of the Federal Rules of Appellate Procedure, mean ''bankruptcy appellate panel'' and ''clerk of the bankruptcy appellate panel'', respectively.

(7) APPLICATION OF RULES.—In a case pending before a district court, bankruptcy court, or bankruptcy appellate panel in which a court of appeals grants permission to appeal, the Federal Rules of Appellate Procedure apply to the proceedings in the court of appeals, to the extent relevant, as if the appeal were taken from a final judgment, order, or decree of a district court, bankruptcy court, or bankruptcy appellate panel exercising appellate jurisdiction under subsection (a) or (b) of section 158 of title 28, United States Code.

SEC. 1234. EXEMPTIONS.

Section 522(g)(2) of title 11, United States Code, is amended by striking ''subsection (f)(2)'' and inserting ''subsection (f)(1)(B)''.

SEC. 1235. INVOLUNTARY CASES.

Section 303 of title 11, United States Code, is amended—

(1) in subsection (b)(1), by—

(A) inserting ''as to liability or amount'' after ''bona fide dispute''; and

(B) striking ''if such claims'' and inserting ''if such undisputed claims''; and

(2) in subsection (h)(1), by inserting before the semicolon the following: ''as to liability or amount''.

SEC. 1236. FEDERAL ELECTION LAW FINES AND PENALTIES AS NONDISCHARGEABLE DEBT.

Section 523(a) of title 11, United States Code, is amended by inserting after paragraph (14A) (as added by this Act) the following:

''(14B) incurred to pay fines or penalties imposed under Federal election law;''.

SEC. 1237. NO BANKRUPTCY FOR INSOLVENT POLITICAL COMMITTEES.

Section 105 of title 11, United States Code, is amended by adding at the end the following:

''(e) A political committee subject to the jurisdiction of the Federal Election Commission under Federal election laws may not file for bankruptcy under this title.''.

TITLE XIII—CONSUMER CREDIT DISCLOSURE

SEC. 1301. ENHANCED DISCLOSURES UNDER AN OPEN END CREDIT PLAN.

(a) MINIMUM PAYMENT DISCLOSURES.—Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end the following:

''(11)(A) In the case of an open end credit plan that requires a minimum monthly payment of not more than 4 percent of the balance on which finance charges are accruing, the following statement, located on the front of the billing statement, disclosed clearly and conspicuously: 'Minimum Payment Warning: Making only the minimum payment will increase the interest you pay and the time it takes to repay your balance. For example, making only the typical 2% minimum monthly payment on a balance of $1,000 at an interest rate of 17% would take 88 months to repay the balance in full. For an estimate of the time it would take to repay your balance, making only minimum payments, call this toll-free number: _____.' (the blank space to be filled in by the creditor).

''(B) In the case of an open end credit plan that requires a minimum monthly payment of more than 4 percent of the balance on which finance charges are accruing, the following statement, in a prominent location on the front of the billing statement, disclosed clearly and conspicuously: 'Minimum Payment Warning: Making only the required minimum payment will increase the interest you pay and the time it takes to repay your balance. Making a typical 5% minimum monthly payment on a balance of $300 at an interest rate of 17% would take 24 months to repay the balance in full. For an estimate of the time it would take to repay your balance, making only minimum monthly payments, call this toll-free number: _____.' (the blank space to be filled in by the creditor).

''(C) Notwithstanding subparagraphs (A) and (B), in the case of a creditor with respect to which compliance with this title is enforced by the Federal Trade Commission, the following statement, in a prominent location on the front of the billing statement, disclosed clearly and conspicuously: 'Minimum Payment Warning: Making only the required minimum payment will increase the interest you pay and the time it takes to repay your balance. For example, making only the typical 5% minimum monthly payment on a balance of $300 at an interest rate of 17% would take 24 months to repay the balance in full. For an estimate of the time it would take to repay your balance, making only minimum monthly payments, call the Federal Trade Commission at this toll-free number: _____.' (the blank space to be filled in by the creditor). A creditor who is subject to this subparagraph shall not be subject to subparagraph (A) or (B).

''(D) Notwithstanding subparagraph (A), (B), or (C), in complying with any such subparagraph, a creditor may substitute an example based on an interest rate that is greater than 17 percent. Any creditor that is subject to subparagraph (B) may elect to provide the disclosure required under subparagraph (A) in lieu of the disclosure required under subparagraph (B).

''(E) The Board shall, by rule, periodically recalculate, as necessary, the interest rate and repayment period under subparagraphs (A), (B), and (C).

''(F)(i) The toll-free telephone number disclosed by a creditor or the Federal Trade Commission under subparagraph (A), (B), or (G), as appropriate, may be a toll-free telephone number established and maintained by the creditor or the Federal Trade Commission, as appropriate, or may be a toll-free telephone number

established and maintained by a third party for use by the creditor or multiple creditors or the Federal Trade Commission, as appropriate. The toll-free telephone number may connect consumers to an automated device through which consumers may obtain information described in subparagraph (A), (B), or (C), by inputting information using a touch-tone telephone or similar device, if consumers whose telephones are not equipped to use such automated device are provided the opportunity to be connected to an individual from whom the information described in subparagraph (A), (B), or (C), as applicable, may be obtained. A person that receives a request for information described in subparagraph (A), (B), or (C) from an obligor through the toll-free telephone number disclosed under subparagraph (A), (B), or (C), as applicable, shall disclose in response to such request only the information set forth in the table promulgated by the Board under subparagraph (H)(i).

''(ii)(I) The Board shall establish and maintain for a period not to exceed 24 months following the effective date of the Bankruptcy Reform Act of 2001, a toll-free telephone number, or provide a toll-free telephone number established and maintained by a third party, for use by creditors that are depository institutions (as defined in section 3 of the Federal Deposit Insurance Act), including a Federal credit union or State credit union (as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752)), with total assets not exceeding $250,000,000. The toll-free telephone number may connect consumers to an automated device through which consumers may obtain information described in subparagraph (A) or (B), as applicable, by inputting information using a touch-tone telephone or similar device, if consumers whose telephones are not equipped to use such automated device are provided the opportunity to be connected to an individual from whom the information described in subparagraph (A) or (B), as applicable, may be obtained. A person that receives a request for information described in subparagraph (A) or (B) from an obligor through the toll-free telephone number disclosed under subparagraph (A) or (B), as applicable, shall disclose in response to such request only the information set forth in the table promulgated by the Board under subparagraph (H)(i). The dollar amount contained in this subclause shall be adjusted according to an indexing mechanism established by the Board.

''(II) Not later than 6 months prior to the expiration of the 24-month period referenced in subclause (I), the Board shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the program described in subclause (I).

''(G) The Federal Trade Commission shall establish and maintain a toll-free number for the purpose of providing to consumers the information required to be disclosed under subparagraph (C).

''(H) The Board shall—

''(i) establish a detailed table illustrating the approximate number of months that it would take to repay an outstanding balance if a consumer pays only the required minimum monthly payments and if no other advances are made, which table shall clearly present standardized information to be used to disclose the information required to be disclosed under subparagraph (A), (B), or (C), as applicable;

''(ii) establish the table required under clause (i) by assuming—

''(I) a significant number of different annual percentage rates;

''(II) a significant number of different account balances;

''(III) a significant number of different minimum payment amounts; and

''(IV) that only minimum monthly payments are made and no additional extensions of credit are obtained; and

''(iii) promulgate regulations that provide instructional guidance regarding the manner in which the information contained in the table established under clause (i) should be used in responding to the request of an obligor for any information required to be disclosed under subparagraph (A), (B), or (C).

''(I) The disclosure requirements of this paragraph do not apply to any charge card account, the primary purpose of which is to require payment of charges in full each month.

''(J) A creditor that maintains a toll-free telephone number for the purpose of providing customers with the actual number of months that it will take to repay the customer's outstanding balance is not subject to the requirements of subparagraph (A) or (B).

''(K) A creditor that maintains a toll-free telephone number for the purpose of providing customers with the actual number of months that it will take to repay an outstanding balance shall include the following statement on each billing statement: 'Making only the minimum payment will increase the interest you pay and the time it takes to repay your balance. For more information, call this toll-free number: _____.' (the blank space to be filled in by the creditor).''.

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board of Governors of the Federal Reserve System (hereafter in this title referred to as the ''Board'') shall promulgate regulations implementing the requirements of section 127(b)(11) of the Truth in Lending Act, as added by subsection (a) of this section.

(2) EFFECTIVE DATE.—Section 127(b)(11) of the Truth in Lending Act, as added by subsection (a) of this section, and the regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 18 months after the date of enactment of this Act; or

(B) 12 months after the publication of such final regulations by the Board.

(c) STUDY OF FINANCIAL DISCLOSURES.—

(1) IN GENERAL.—The Board may conduct a study to determine the types of information available to potential borrowers from consumer credit lending institutions regarding factors qualifying potential borrowers for credit, repayment requirements, and the consequences of default.

(2) FACTORS FOR CONSIDERATION.—In conducting a study under paragraph (1), the Board should, in consultation with the other Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), the National Credit Union Administration, and the Federal Trade Commission, consider the extent to which—

(A) consumers, in establishing new credit arrangements, are aware of their existing payment obligations, the need to consider those obligations in deciding to take on new credit, and how taking on excessive credit can result in financial difficulty;

(B) minimum periodic payment features offered in connection with open end credit plans impact consumer default rates;

(C) consumers make only the required minimum payment under open end credit plans;

(D) consumers are aware that making only required minimum payments will increase the cost and repayment period of an open end credit obligation; and

(E) the availability of low minimum payment options is a cause of consumers experiencing financial difficulty.

(3) REPORT TO CONGRESS.—Findings of the Board in connection with any study conducted under this subsection shall be submitted to Congress. Such report shall also include recommendations for legislative initiatives, if any, of the Board, based on its findings.

SEC. 1302. ENHANCED DISCLOSURE FOR CREDIT EXTENSIONS SECURED BY A DWELLING.

(a) OPEN END CREDIT EXTENSIONS.—

(1) CREDIT APPLICATIONS.—Section 127A(a)(13) of the Truth in Lending Act (15 U.S.C. 1637a(a)(13)) is amended—

(A) by striking ''CONSULTATION OF TAX ADVISER.—A statement that the'' and inserting the following: ''TAX DEDUCTIBILITY.—A statement that—

''(A) the''; and

(B) by striking the period at the end and inserting the following: ''; and

''(B) in any case in which the extension of credit exceeds the fair market value (as defined under the Internal Revenue Code of 1986) of the dwelling, the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes.''.

(2) CREDIT ADVERTISEMENTS.—Section 147(b) of the Truth in Lending Act (15 U.S.C. 1665b(b)) is amended—

(A) by striking ''If any'' and inserting the following:

''(1) IN GENERAL.—If any''; and

(B) by adding at the end the following:

''(2) CREDIT IN EXCESS OF FAIR MARKET VALUE.—Each advertisement described in subsection (a) that relates to an extension of credit that may exceed the fair market value of the dwelling, and which advertisement is disseminated in paper form to the public or through the Internet, as opposed to by radio or television, shall include a clear and conspicuous statement that—

''(A) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

''(B) the consumer should consult a tax adviser for further information regarding the deductibility of interest and charges.''.

(b) NON-OPEN END CREDIT EXTENSIONS.—

(1) CREDIT APPLICATIONS.—Section 128 of the Truth in Lending Act (15 U.S.C. 1638) is amended—

(A) in subsection (a), by adding at the end the following:

''(15) In the case of a consumer credit transaction that is secured by the principal dwelling of the consumer, in which the extension of credit may exceed the fair market value of the dwelling, a clear and conspicuous statement that—

''(A) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

''(B) the consumer should consult a tax adviser for further information regarding the deductibility of interest and charges.''; and

(B) in subsection (b), by adding at the end the following:

''(3) In the case of a credit transaction described in paragraph (15) of subsection (a), disclosures required by that paragraph shall be made to the consumer at the time of application for such extension of credit.''.

(2) CREDIT ADVERTISEMENTS.—Section 144 of the Truth in Lending Act (15 U.S.C. 1664) is amended by adding at the end the following:

''(e) Each advertisement to which this section applies that relates to a consumer credit transaction that is secured by the principal dwelling of a consumer in which the extension of credit may exceed the fair market value of the dwelling, and which advertisement is disseminated in paper form to the public or through the Internet, as opposed to by radio or television, shall clearly and conspicuously state that—

''(1) the interest on the portion of the credit extension that is greater than the fair market

value of the dwelling is not tax deductible for Federal income tax purposes; and

''(2) the consumer should consult a tax adviser for further information regarding the deductibility of interest and charges.''.

(c) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the amendments made by this section.

(2) EFFECTIVE DATE.—Regulations issued under paragraph (1) shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1303. DISCLOSURES RELATED TO ''INTRODUCTORY RATES''.

(a) INTRODUCTORY RATE DISCLOSURES.—Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended by adding at the end the following:

''(6) ADDITIONAL NOTICE CONCERNING 'INTRODUCTORY RATES'.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), an application or solicitation to open a credit card account and all promotional materials accompanying such application or solicitation for which a disclosure is required under paragraph (1), and that offers a temporary annual percentage rate of interest, shall—

''(i) use the term 'introductory' in immediate proximity to each listing of the temporary annual percentage rate applicable to such account, which term shall appear clearly and conspicuously;

''(ii) if the annual percentage rate of interest that will apply after the end of the temporary rate period will be a fixed rate, state in a clear and conspicuous manner in a prominent location closely proximate to the first listing of the temporary annual percentage rate (other than a listing of the temporary annual percentage rate in the tabular format described in section 122(c)), the time period in which the introductory period will end and the annual percentage rate that will apply after the end of the introductory period; and

''(iii) if the annual percentage rate that will apply after the end of the temporary rate period will vary in accordance with an index, state in a clear and conspicuous manner in a prominent location closely proximate to the first listing of the temporary annual percentage rate (other than a listing in the tabular format prescribed by section 122(c)), the time period in which the introductory period will end and the rate that will apply after that, based on an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation.

''(B) EXCEPTION.—Clauses (ii) and (iii) of subparagraph (A) do not apply with respect to any listing of a temporary annual percentage rate on an envelope or other enclosure in which an application or solicitation to open a credit card account is mailed.

''(C) CONDITIONS FOR INTRODUCTORY RATES.—An application or solicitation to open a credit card account for which a disclosure is required under paragraph (1), and that offers a temporary annual percentage rate of interest shall, if that rate of interest is revocable under any circumstance or upon any event, clearly and conspicuously disclose, in a prominent manner on or with such application or solicitation—

''(i) a general description of the circumstances that may result in the revocation of the temporary annual percentage rate; and

''(ii) if the annual percentage rate that will apply upon the revocation of the temporary annual percentage rate—

''(I) will be a fixed rate, the annual percentage rate that will apply upon the revocation of the temporary annual percentage rate; or

''(II) will vary in accordance with an index, the rate that will apply after the temporary rate, based on an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation.

''(D) DEFINITIONS.—In this paragraph—

''(i) the terms 'temporary annual percentage rate of interest' and 'temporary annual percentage rate' mean any rate of interest applicable to a credit card account for an introductory period of less than 1 year, if that rate is less than an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation; and

''(ii) the term 'introductory period' means the maximum time period for which the temporary annual percentage rate may be applicable.

''(E) RELATION TO OTHER DISCLOSURE REQUIREMENTS.—Nothing in this paragraph may be construed to supersede subsection (a) of section 122, or any disclosure required by paragraph (1) or any other provision of this subsection.''.

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(c)(6) of the Truth in Lending Act, as added by this section.

(2) EFFECTIVE DATE.—Section 127(c)(6) of the Truth in Lending Act, as added by this section, and regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1304. INTERNET-BASED CREDIT CARD SOLICITATIONS.

(a) INTERNET-BASED APPLICATIONS AND SOLICITATIONS.—Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended by adding at the end the following:

''(7) INTERNET-BASED APPLICATIONS AND SOLICITATIONS.—

''(A) IN GENERAL.—In any solicitation to open a credit card account for any person under an open end consumer credit plan using the Internet or other interactive computer service, the person making the solicitation shall clearly and conspicuously disclose—

''(i) the information described in subparagraphs (A) and (B) of paragraph (1); and

''(ii) the information described in paragraph (6).

''(B) FORM OF DISCLOSURE.—The disclosures required by subparagraph (A) shall be—

''(i) readily accessible to consumers in close proximity to the solicitation to open a credit card account; and

''(ii) updated regularly to reflect the current policies, terms, and fee amounts applicable to the credit card account.

''(C) DEFINITIONS.—For purposes of this paragraph—

''(i) the term 'Internet' means the international computer network of both Federal and non-Federal interoperable packet switched data networks; and

''(ii) the term 'interactive computer service' means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions.''.

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(c)(7) of the Truth in Lending Act, as added by this section.

(2) EFFECTIVE DATE.—The amendment made by subsection (a) and the regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1305. DISCLOSURES RELATED TO LATE PAYMENT DEADLINES AND PENALTIES.

(a) DISCLOSURES RELATED TO LATE PAYMENT DEADLINES AND PENALTIES.—Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end the following:

''(12) If a late payment fee is to be imposed due to the failure of the obligor to make payment on or before a required payment due date, the following shall be stated clearly and conspicuously on the billing statement:

''(A) The date on which that payment is due or, if different, the earliest date on which a late payment fee may be charged.

''(B) The amount of the late payment fee to be imposed if payment is made after such date.''.

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(b)(12) of the Truth in Lending Act, as added by this section.

(2) EFFECTIVE DATE.—The amendment made by subsection (a) and regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1306. PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.

(a) PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.—Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end the following:

''(h) PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.—A creditor of an account under an open end consumer credit plan may not terminate an account prior to its expiration date solely because the consumer has not incurred finance charges on the account. Nothing in this subsection shall prohibit a creditor from terminating an account for inactivity in 3 or more consecutive months.''.

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(h) of the Truth in Lending Act, as added by this section.

(2) EFFECTIVE DATE.—The amendment made by subsection (a) and regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1307. DUAL USE DEBIT CARD.

(a) REPORT.—The Board may conduct a study of, and present to Congress a report containing its analysis of, consumer protections under existing law to limit the liability of consumers for unauthorized use of a debit card or similar access device. Such report, if submitted, shall include recommendations for legislative initiatives, if any, of the Board, based on its findings.

(b) CONSIDERATIONS.—In preparing a report under subsection (a), the Board may include—

(1) the extent to which section 909 of the Electronic Fund Transfer Act (15 U.S.C. 1693g), as in effect at the time of the report, and the implementing regulations promulgated by the Board to carry out that section provide adequate unauthorized use liability protection for consumers;

(2) the extent to which any voluntary industry rules have enhanced or may enhance the

level of protection afforded consumers in connection with such unauthorized use liability; and

(3) whether amendments to the Electronic Fund Transfer Act (15 U.S.C. 1693 et seq.), or revisions to regulations promulgated by the Board to carry out that Act, are necessary to further address adequate protection for consumers concerning unauthorized use liability.

SEC. 1308. STUDY OF BANKRUPTCY IMPACT OF CREDIT EXTENDED TO DEPENDENT STUDENTS.

(a) STUDY.—

(1) IN GENERAL.—The Board shall conduct a study regarding the impact that the extension of credit described in paragraph (2) has on the rate of bankruptcy cases filed under title 11, United States Code.

(2) EXTENSION OF CREDIT.—The extension of credit described in this paragraph is the extension of credit to individuals who are—

(A) claimed as dependents for purposes of the Internal Revenue Code of 1986; and

(B) enrolled within 1 year of successfully completing all required secondary education requirements and on a full-time basis, in postsecondary educational institutions.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Board shall submit to the Senate and the House of Representatives a report summarizing the results of the study conducted under subsection (a).

SEC. 1309. CLARIFICATION OF CLEAR AND CONSPICUOUS.

(a) REGULATIONS.—Not later than 6 months after the date of enactment of this Act, the Board, in consultation with the other Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), the National Credit Union Administration Board, and the Federal Trade Commission, shall promulgate regulations to provide guidance regarding the meaning of the term ''clear and conspicuous'', as used in subparagraphs (A), (B), and (C) of section 127(b)(11) and clauses (ii) and (iii) of section 127(c)(6)(A) of the Truth in Lending Act.

(b) EXAMPLES.—Regulations promulgated under subsection (a) shall include examples of clear and conspicuous model disclosures for the purposes of disclosures required by the provisions of the Truth in Lending Act referred to in subsection (a).

(c) STANDARDS.—In promulgating regulations under this section, the Board shall ensure that the clear and conspicuous standard required for disclosures made under the provisions of the Truth in Lending Act referred to in subsection (a) can be implemented in a manner which results in disclosures which are reasonably understandable and designed to call attention to the nature and significance of the information in the notice.

TITLE XIV—EMERGENCY ENERGY ASSISTANCE AND CONSERVATION MEASURES

SEC. 1401. SHORT TITLE.

This title may be cited as the ''Energy Emergency Response Act of 2001''.

SEC. 1402. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) high energy costs are causing hardship for families;

(2) restructured energy markets have increased the need for a higher and more consistent level of funding for low-income energy assistance programs;

(3) conservation programs implemented by the States and the low-income weatherization program reduce costs and need for additional energy supplies;

(4) energy conservation is a cornerstone of national energy security policy;

(5) the Federal Government is the largest consumer of energy in the economy of the United States; and

(6) many opportunities exist for significant energy cost savings within the Federal Government.

(b) PURPOSES.—The purposes of this title are to provide assistance to those individuals most affected by high energy prices and to promote and accelerate energy conservation investments in private and Federal facilities.

SEC. 1403. INCREASED FUNDING FOR LIHEAP, WEATHERIZATION AND STATE ENERGY GRANTS.

(a) LIHEAP.—(1) Section 2602(b) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621(b)) is amended by striking the first sentence and inserting the following: ''There are authorized to be appropriated to carry out the provisions of this title (other than section 2607A), $3,400,000,000 for each of fiscal years 2001 through 2005.''.

(2) Section 2605(b)(2) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8624(b)(2)) is amended by adding at the end the following: ''and except that during fiscal year 2001, a State may make payments under this title to households with incomes up to and including 200 percent of the poverty level for such State''.

(b) WEATHERIZATION ASSISTANCE.—Section 422 of the Energy Conservation and Production Act (42 U.S.C. 6872) is amended by striking ''For fiscal years 1999 through 2003 such sums as may be necessary'' and inserting: ''$310,000,000 for fiscal years 2001 and 2002, $325,000,000 for fiscal year 2003, $400,000,000 for fiscal year 2004, and $500,000,000 for fiscal year 2005.''.

(c) STATE ENERGY CONSERVATION GRANTS.—Section 365(f) of the Energy Policy and Conservation Act (42 U.S.C. 6325(f)) is amended by striking ''for fiscal years 1999 through 2003 such sums as may be necessary'' and inserting: ''$75,000,000 for each of fiscal years 2001 through 2005''.

SEC. 1404. FEDERAL ENERGY MANAGEMENT REVIEWS.

Section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) is amended by adding at the end the following:

''(e) PRIORITY RESPONSE REVIEWS.—Each agency shall—

''(1) not later than October 1, 2001, undertake a comprehensive review of all practicable measures for—

''(A) increasing energy and water conservation; and

''(B) using renewable energy sources; and

''(2) not later than 180 days after completing the review, implement measures to achieve not less than 50 percent of the potential efficiency and renewable savings identified in the review.''.

SEC. 1405. COST SAVINGS FROM REPLACEMENT FACILITIES.

Section 801(a) of the National Energy Conservation Policy Act (42 U.S.C. 8287(a)) is amended by adding at the end the following:

''(3)(A) In the case of an energy savings contract or energy savings performance contract providing for energy savings through the construction and operation of one or more buildings or facilities to replace one or more existing buildings or facilities, benefits ancillary to the purpose of such contract under paragraph (1) may include savings resulting from reduced costs of operation and maintenance at such replacement buildings or facilities when compared with costs of operation and maintenance at the buildings or facilities being replaced.

''(B) Notwithstanding paragraph (2)(B), aggregate annual payments by an agency under an energy savings contract or energy savings performance contract referred to in subparagraph (A) may take into account (through the procedures developed pursuant to this section) savings resulting from reduced costs of operation and maintenance as described in subparagraph (A).''.

SEC. 1406. REPEAL OF ENERGY SAVINGS PERFORMANCE CONTRACT SUNSET.

Section 801(c) of the National Energy Conservation Policy Act (42 U.S.C. 8287(c)) is repealed.

SEC. 1407. ENERGY SAVINGS PERFORMANCE CONTRACT DEFINITIONS.

(a) ENERGY SAVINGS.—Section 804(2) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(2)) is amended to read as follows:

''(2) The term 'energy savings' means a reduction in the cost of energy, water, or wastewater treatment from a base cost established through a methodology set forth in the contract, used by either—

''(A) an existing federally owned building or buildings or other federally owned facilities as a result of—

''(i) the lease or purchase of operating equipment, improvements, altered operation and maintenance, or technical services;

''(ii) more efficient use of existing energy sources by cogeneration or heat recovery, excluding any cogeneration process for other than a federally owned building or buildings or other federally owned facilities; or

''(iii) more efficient use of water at an existing federally owned building or buildings, in either interior or exterior applications; or

''(B) a replacement facility under section 801(a)(3).''.

(b) ENERGY SAVINGS CONTRACT.—Section 804(3) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(3)) is amended to read as follows:

''(3) The terms 'energy savings contract' and 'energy savings performance contract' mean a contract which provides for—

''(A) the performance of services for the design, acquisition, installation, testing, operation, and, where appropriate, maintenance and repair, of an identified energy, water conservation, or wastewater treatment measure or series of measures at one or more locations; or

''(B) energy savings through the construction and operation of one or more buildings or facilities to replace one or more existing buildings or facilities.''.

(c) ENERGY OR WATER CONSERVATION MEASURE.—Section 804(4) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(4)) is amended to read a follows:

''(4) The term 'energy or water conservation measure' means—

''(A) an energy conservation measure, as defined in section 551(4) (42 U.S.C. 8259(4)); or

''(B) a water conservation measure that improves the efficiency of water use, is life cycle cost effective, and involves water conservation, water recycling or reuse, improvements in operation or maintenance efficiencies, retrofit activities or other related activities, not affecting the power generating operations at a federally owned hydroelectric dam.''.

SEC. 1408. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect upon the date of enactment of this title.

TITLE XV—GENERAL EFFECTIVE DATE; APPLICATION OF AMENDMENTS

SEC. 1501. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as otherwise provided 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.—Except as otherwise provided in this Act, 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.

TITLE XVI—MISCELLANEOUS PROVISIONS

SEC. 1601. REIMBURSEMENT OF RESEARCH, DEVELOPMENT, AND MAINTENANCE COSTS.

(a) IN GENERAL.—Not later August 1, 2001, the Federal Crop Insurance Corporation shall promulgate final regulations to carry out section 522(b) of the Federal Crop Insurance Act (7 U.S.C. 522(b)), without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the ''Paperwork Reduction Act'').

(b) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Corporation shall use the authority provided under section 808 of title 5, United States Code.

(c) EFFECTIVE DATE.—The final regulations promulgated under subsection (a) shall take effect on the date of publication of the final regulations.

SEC. 1602. STUDY OF THE EFFECT OF THE BANKRUPTCY REFORM ACT OF 2001.

(a) STUDY.—The General Accounting Office (in this section referred to as the ''GAO'') shall conduct a study to determine—

(1) the impact of this Act and the amendments made by this Act on—

(A) the number of filings under chapter 7 and chapter 13 of title 11, United States Code;

(B) the number of plan confirmations under chapter 13 of title 11, United States Code, and the number of such plans that are successfully completed; and

(C) the cost of filing for bankruptcy under chapter 7 and chapter 13 of title 11, United States Code, in each State;

(2) the effect of the enactment of this Act on—

(A) the availability and marketing of credit; and

(B) the price and terms of credit for consumers; and

(3) the extent to which this Act and the amendments made by this Act impact the ability of debtors below median income to obtain bankruptcy relief.

(b) REPORT TO CONGRESS.—Not later than 2 years after the effective date of this Act, the GAO shall submit a report to the Congress on the results of the study conducted under subsection (a).

(c) DATA COLLECTION BY UNITED STATES TRUSTEES.—

(1) IN GENERAL.—The Director of the Executive Office for United States Trustees shall collect data on the number of reaffirmations by debtors under title 11, United States Code, the identity of the creditors in such reaffirmations, and the type of debt that is reaffirmed.

(2) AVAILABILITY.—Periodically, but not less than annually, the Director shall make available to the public the data described in paragraph (1) in such manner as the Director may determine.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Madam President, I ask unanimous consent that H.R. 333, the bankruptcy reform bill, as passed by the Senate, be printed.

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

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2002—Continued

Mr. REID. Madam President, it is my understanding that we are now back on the energy and water appropriations bill.

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. Madam President, I ask unanimous consent that the Senator from Vermont, Mr. JEFFORDS, be recognized to speak on the bill.

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

The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I rise today to praise the managers of the energy and water appropriations bill for their commitment to renewable energy. I particularly want to thank Senator REID for his leadership in bringing additional funding to advance the cause of clean energy in this Nation.

Growing problems associated with fossil fuel energy use, including fine particulates and global warming, make it critically important that renewable energy play a much larger part in future energy needs.

Each year, the important role renewable energy should play in meeting our future energy needs becomes more apparent. This year 61 Senators joined Senator BINGAMAN and myself in requesting an increase for renewable energy in this year's budget. I am happy to say that this is seven more Senators than we had last year.

I am also happy to say that Chairman REID and Ranking Member DOMENICI provided almost $60 million more than last year for renewable energy and $160 million more than was requested by the administration. They recognize the importance of renewable energy and once again demonstrated their strong Senate leadership on this issue.

For many years, I have come to this Chamber to offer an amendment on renewable energy. This year is the second year in a row that I come to ask Members to praise—not raise—the renewable energy budget. This is a practice to which I could easily become accustomed to.

There is perhaps no better time to push these technologies forward. Our Nation is focused on energy issues unlike it was in the last decade. We are at crossroads where we can begin to see the end of the path toward a clean, sustainable energy future. Renewable energy is the most important landmark on that path.

Today, renewables are beginning to take hold. Our faith in these clean energy sources has not been without merit. Wind power, for example, is the fastest growing form of energy in the world. In the United States, my home State of Vermont is a leader in the use of wind power. My wind energy bill with representatives Blanchard and Mineta started this program in the late 1970's. Worldwide almost 4,000 megawatts of new wind energy capacity were added in the year 2000. This year will likely see a similar, if not larger increase.

Although much of that capacity was added outside the United States, many of the high-tech jobs needed to make that possible came from inside the United States. And as the use of wind energy goes up, the costs will only come down. The best news of all is that our own wind resources remain largely untapped.

Other forms of renewable energy—such as solar, biomass and geothermal—have the same kinds of benefits:

These technologies provided high-tech jobs for U.S. workers.

They help reduce acid rain and other forms of air pollution, including greenhouse gas emissions.

They are not subject to the kinds of supply changes that lead to large fluctuations in the price of fossil fuels and they help us reduce our dependence on foreign sources of fossil fuels.

This is good for the health of citizens and for the health of our economy.

I thank Senators REID and DOMENICI, once again, for their leadership on this issue. I will continue to assist in whatever way I can to ensure that the strong statement made by the Senate today will be included in the final energy and water appropriations bill.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I say to my friend from Vermont, there are a lot of reasons that we increased the funding for renewables, but there is no reason more than the diligence the Senator from Vermont has shown over the past several years on this issue. As a result of his tenacity, every year we have had to increase the funding in this bill.

Senator DOMENICI and I thought: We are not going to do this anymore. The Senator should know his handprints are all over this part of the bill dealing with renewables. But for his efforts, it would not be here.

I am a real believer in renewables. Any long-term energy policy we are going to have in this country will not be successful unless a large segment of it deals with renewables. I express my appreciation to the Senator.

Mr. JEFFORDS. Madam President, I thank the Senator for those kind comments, and I assure him I will continue to work to improve our situation in this regard.

I yield the floor.

AMENDMENT NO. 987, AS MODIFIED

Mr. REID. Madam President, there is a matter pending. The Senator from Michigan has a modification to her amendment to have the amendment accepted.

On behalf of Senator DOMENICI and myself, I send a modification to the amendment to the desk.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

On page 2, line 18, before the period, insert the following: '', of which such sums as are necessary shall be used by the Secretary of the Army to conduct and submit to Congress a study that examines the known and potential environmental effects of oil and gas drilling activity in the Great Lakes (including effects on the shorelines and water of the Great Lakes): *Provided*, That during the fiscal years 2002 and 2003, no Federal or State permit or lease shall be issued for oil and gas slant, directional, or offshore drilling in or under 1 or more of the Great Lakes (including in or under any river flowing into or out of the lake)''.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, I inquire of the Senator from Nevada, is this the amendment we worked out when we put in a quorum call?

Mr. REID. I say to my friend from New Mexico, that is right. Our staffs have done just exactly what we asked them to do.

Mr. DOMENICI. Not only do we not have any objection, but we think it is a good compromise and ought to be accepted. We will do our best in conference to retain it.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Madam President, I thank my colleagues and leader who are working so hard. I very much appreciate both Senator REID and Senator DOMENICI working with us to fashion a 2-year ban on any drilling of oil and gas in the Great Lakes, coupled with a study that would be commenced by the Army Corps of Engineers as to the environmental impacts of any future drilling.

I am very appreciative of the leadership on both sides of the aisle from our colleagues and their willingness to work with me to make sure the Senate language is adopted by the Congress in the conference committee.

I also thank staff who have worked very hard on this amendment—Sander Lurie, Noushin Jahanian, and my chief of staff, Jean Marie Neal—for all their hard work.

Mr. DOMENICI. Madam President, it is my understanding Senator REID was on the floor with reference to the amendment regarding the Great Lakes. It was his and my understanding we had agreed to that amendment. I think we stopped short of the magic words ''agreeing'' to it.

I indicate there is no further debate on the amendment, and we yield back all time.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 987, as modified.

The amendment (No. 987), as modified, was agreed to.

Mr. DOMENICI. I move to reconsider the vote by which the amendment was agreed to and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

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

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

Mr. REID. Madam President, we have the bill before the Senate and have recently accepted an amendment, and we have had a number of statements on the bill. Senator DOMENICI and I hope to move forward with amendments. I have spoken to the Senator from Idaho who has an amendment to offer, although he will not offer it this evening. We are waiting for him to offer that amendment.

Senator DOMENICI and I will be patient for the next little bit, but tomorrow afternoon if we do not have people offering amendments, we will move to third reading. It is not fair to everyone else. I say to my friends in the minority, they have been very anxious to move forward on nominations. We have the President's choice to lead his consumer safety board and we have agreed to go forward on that. It has been reported out of the committee. We have a time set for debating that nomination. That cannot take place until we finish this bill.

In addition to that, Senator DASCHLE wants to work on the Transportation appropriations bill. We have a number of things we need to do this week. We are not accomplishing them now. Part of it is not the fault of the minority or the majority who have interests in this bill. Part of the problem is having been interrupted by the bankruptcy legislation which takes our eye off the mark. We are back on it now and there is nothing to take us off this until we complete the bill.

We have submitted an unanimous consent agreement not on a filing deadline for amendments but, rather, a finite list of amendments. That is now being circulated. We hope that can be approved.

As chairman of this subcommittee and also the Transportation Subcommittee under the Environment and Public Works Committee, I spend a lot of my time thinking about and worrying about the State of our Nation's physical infrastructure. The American Society of Civil Engineers' 2001 report card for America's infrastructure gives the Nation's infrastructure a cumulative grade of D+. That is pretty low. The two prime reasons for the rating include explosive population growth, lack of current investment, and growing obsolescence of an aging system, identified as problems in California and in the Nation's decaying water structure. We have created some of the problems in Washington by setting, for example, water quality standards that rural America simply does not have the money to meet. With these problems, our infrastructure is in a deep state of distress.

In Nevada, we are witnessing these problems on a daily basis. We have the most urban State in America. It is surprising to people when they learn Nevada is more urban than California, Illinois, Michigan, New York, and Florida. The reasons for that is 90 percent of the people live in the metropolitan areas of Las Vegas and Reno. Only 10 percent of the people live outside those metropolitan areas. However, in that 10 percent, it is very rural and it is an example of what we have in rural America.

The growth in the Las Vegas area has been phenomenal. We are having to build schools, roads, water systems, and all other basic infrastructure for modern life for the exploding population. We are having trouble keeping up. We have to build one school each month to keep up with the growth of school districts. We were the sixth largest school district a few months ago; we are now the fifth largest school district. There were 240,000 students in that school district, one new school each month. We hold the record in America for dedicating 18 new schools in one year.

The superintendent of education in Clark County where Las Vegas is located it not a superintendent of education; that person is a superintendent of construction. He spends a great deal of his time simply dealing with construction

At the same time, smaller communities throughout rural Nevada do not have clean drinking water due to natural contaminants in the ground water. The costs for moving the contaminants is several times the annual budgets of most small communities. Flooding problems throughout Nevada continue to devastate lives and property. As I said yesterday, people wonder, how can you have flooding problems in Nevada?

The Senator from Washington, the Presiding Officer, knows the whole State of Washington is not like Seattle, but as you move east in the State of Washington it becomes much the same as some parts of Nevada. I don't know if it could be called desert, but it sure doesn't rain very much so the Presiding Officer understands what I am talking about when I talk about the fact that these rural, arid areas can suffer from real flood problems. It happens. When the rains come the waters come, and they cause all kinds of degradation to property and sometimes lives are lost.

Environmental projects are sorely needed when we restore the natural areas of our environment, not only in Nevada but all over the country. Our Nation's medium and large cities have

similar problems as well. Hartford, Atlanta, Chicago, and Richmond have antiquated storm systems that allow sewage and storm water runoff to be collected by the same system and sent to a treatment plant. During heavy rains, these systems are overwhelmed and raw sewage is dumped into our Nation's waterways.

Many of our citizens still live with the threat of flooding. Environmental restorations of degraded ecosystems are needed throughout our country. The infrastructure that makes up our inland and coastal waterways is really aging. The Corps of Engineers operates 276 navigation locks at 230 sites around the country. One hundred fifty of these locks are more than 50 years old. Nearly 100 of the remaining locks are nearly 25 years old. Most of these structures continue to perform as designed, but evidence of the need for reconstruction and modernization is becoming, very evident. Some facilities have reached their capacity and have reached the end of their design lives.

The Army Corps has been serving our Nation's infrastructure needs for more than 200 years, primarily in the areas of navigation and flood control. While some may quibble with individual projects that Congress instructs the Corps to undertake, no one can question the value that the Corps has historically played and continues to play in our Nation's development. However, we are slowly but surely strangling the Corps and our Nation's infrastructure to death with our fiscal inattention.

Financial shortfalls year in and year out in the water accounts of the Army Corps have now resulted in the backlog of $40 billion in authorized projects. They are awaiting the first dollar of funding; $40 billion of authorized projects have yet to receive their first dollar of funding.

This shortfall just takes into account the Corps' historic missions of navigation and flood control and does not take into account some of the new directions Congress has pushed the Corps in recent years. It is wrong to give short shrift to important components of our Nation's infrastructure. Flood control projects protect human lives and property. Navigation projects ensure that our Nation's economic engine continues to hum.

We have received some criticism in this bill that we spent too much money on dredging, having water areas made clear so dredges can come up and down. There are examples given that a lot of these projects that we have, there is not much commerce moving. But think what it would do if we did not have this barge traffic. It would only add to the trains that are already overwhelmed. It would only add to the number of trucks, and in my opinion there are too many of them on the roads anyway. So we have to understand that these projects are important.

In the western United States, the Bureau of Reclamation is facing similar issues as the Army Corps, an aging inventory of projects and a shrinking budget. Many do not realize Reclamation has been around for almost 100 years. Next year will be the 100th anniversary of the first ever Bureau of Reclamation project. It took place in Nevada. It was the Newlands Project named after the Nevada Congressman and it was to supposedly make the desert blossom like a rose.

A few problems developed as it was blossoming. It dried up one river. Lake Winnemucca is as dry as this table. Pyramid Lake is beautiful. There are only 21 lakes like it in the world, desert terminus lakes. We have two of them in Nevada. It almost dried up, but it is now on the road to recovery because of actions taken by this Congress to reverse some of the bad parts of the Newlands Act. But the Army Corps does the best it can, as has been said, with the tools it has.

The Newlands Project has done good for Nevada but also bad. We have to keep changing these projects. I cannot imagine what this part of Nevada would look like today without what has happened with water, but I can imagine what it used to look like with water going into these two lakes, one of which is now dried up.

Still, we continue to underinvest in both of these agencies. The need for water for municipal and industrial uses is not declining. The need for flood control is not declining. The need for a modern navigation system to transport products to market is not declining. Yet the budgets of these two agencies seems to continue to dwindle.

For example, I talked about the Newlands Project. One hundred years ago, people were enticed to come there. We said: This is going to be great for you and generations to come. People did come there. They have been farming for generations. Now the Federal Government has interfered, causing a disruption in their lives. It is not the fault of the farmers, but certainly the people who put in these reclamation projects did not understand what the full brunt of these programs would be.

So I repeat, we need to go back. We need to go back and review and change some of these projects. We have not had the money in the past to do that. We still don't. As I have indicated, we continue to underinvest in both of these agencies.

The need for water for municipal and industrial uses is not declining. The need for flood control is not declining. The need for a modern navigation system to transfer products to market is not declining. Yet the budgets of these two agencies continue to dwindle.

Public investment including authorization for water infrastructure in 1960 amounted to 3.9 percent of the gross domestic product. Today that figure is down to 2.6 percent, approximately. That may not sound like much of a change, but let's look at the Corps during that period.

In the mid-1960s, the country was investing $4.5 billion annually in new water infrastructure. Today, it is less than $1.5 billion. That is a significant change. From 1960 to now, we have gone from $4.5 billion to $1.5 billion. Our water resource needs are no less today than they were 40 years ago; They are more. Yet we are investing one-third as much.

One major impact of that reduction is the increasingly drawn out construction schedules forced by underfunding these projects. These artificially lengthened schedules cause a loss of some $5 billion in annual benefits and increase the cost of these products by some $500 million.

When many of these reclamation projects came into being, the main, the only intent was for agricultural purposes. Over the years, it has been found that some areas are very interested in these reclamation projects because of the recreation aspects of them. People like to water ski. They like to fish. They like to boat. They like to have picnics on the beach. Now they are competing with these farming projects. We need to go back and take a look at them.

These artificially lengthened schedules cause the loss, as I have indicated, of some $5 billion in benefits, either agricultural or recreational, and increase the cost of these projects by some $500 million—and that is each year. Failure to invest in maintenance, major rehabilitation, research and development, and new infrastructure resulted in the gradual reduction in the value of our capital water resources stock and, in turn, the benefits we receive.

The value of the Corps' capital stock peaked in 1981 with a replacement value of $150 billion. Today its estimated value has decreased to $124 billion. We need to reverse this trend. Public infrastructure is too important to our lives.

Federal waterway projects, including ports and inland waterways, handle more than 2.2 billion tons of our Nation's cargo, valued at more than $660 billion. As I said before, we could try to put that on trains, on trucks, on airplanes—2.2 billion tons of our Nation's cargo. I do not think that would be a good idea.

These waterways generate more than 13 million jobs, and Federal taxes collected at ports generate more than $150 billion a year. Federal flood control projects prevent more than $2 billion per year in damages, and my being from Nevada, I can vouch for that. Even though Las Vegas gets 4 inches of rain a year, the flood control projects probably save hundreds of millions of dollars more than that in property damage, loss of production, and certainly in lives.

Federal flood control projects prevent more than $2 billion per year in damages. Recreation provided by Federal water projects provide more than 500,00 jobs and provide recreational opportunities to more than 10 percent of the U.S. population. Water stored at Federal projects provides more than 250 million acre-feet of water for municipal, rural, and industrial users.

How much water is that? Las Vegas with 1.6 million people uses just a little more water than that. Two-hundred and fifty million acre-feet of water is stored at Federal projects. That is important.

Finally, Federal water projects provide nearly 30 percent of our Nation's hydropower or about 4 percent of our total electric capacity. In the west, Federal hydropower project provide an even higher percentage of the total electric capacity—as we have recently learned with the California energy crisis.

Public water infrastructure is the only Federal program that is required to be analyzed on a strict benefit to cost basis. The water infrastructure provided by the Army corps alone provides an annual rate of return of approximately 26 percent. The steam of benefits are realized as flood damages prevented, reduced transportation costs, electricity, recreation, and water supply services.

Society's values are increasingly emphasizing sustainability and ecological considerations in water infrastructure management and development. Like most people, I support these considerations.

The Army corps and reclamation expend nearly a quarter of their annual budgets on environmental projects. These ranges from major restoration projects such as the Comprehensive Everglades Restoration, to smaller projects, such as oyster recovery efforts in the Chesapeake Bay. Both agencies will continue to meet the nation's challenges in this arena.

As you can see, I am one who firmly believes that investments in our nation's infrastructure more than pay for themselves through improved productivity and efficiency. To ignore these needs in the short term is going to cause us problems over the long haul.

All of this is to say that we, as a body, need to think about the state of our nation's infrastructure comprehensively and soon.

Our physical infrastructure sustains our way of life, so we must sustain it.

We are here today to discuss energy and water matters, but, in the next few weeks, I hope to come back to the floor to discuss our nation's transportation infrastructure, another area of concern.

Before I close, I want to say some words of praise for the Federal employees and contractors that populate the departments, agencies, and other organizations that are funded under this bill.

Members of Congress are frequently critical of Federal agencies and departments, particularly ones where we have an oversight role. As I mentioned earlier, I have been a frequent critic of the Department of Energy.

But I have said that I think things are greatly improving as a result of some work done by Senator DOMENICI and some of his colleagues.

None of that is to suggest that I, or any other Member, am anything other than proud of the hard work and accomplishments of our Federal workforce, including, contractors, lab employees, and others that make these important organizations run.

I invite everyone who has the opportunity—as I have had—to go to the Federal Laboratories and some of our test sites where they have done things relating to the cold war—places where Federal employees are in love with their jobs. They spend long hours with little recognition. Many of these agencies, such as the Corps of Engineers, the Bureau of Reclamation, and Department of Energy, that we fund in this bill I think do a wonderful job. I have very few criticisms of the employees. There is a tiny fraction—as in any organization—that tries to cause trouble to the whole organization, but as far as I am concerned, they haven't succeeded.

I throw a bouquet to those entities funded within this bill, and I am very proud of working with them. We expect a lot of these organizations. With very few exceptions, they live up to all of my expectations and the demands we impose on them. I think they serve our Nation with distinction. I think I speak for Senator DOMENICI when I say we appreciate all the work they do.

My friend from New Mexico has been very patient with me. We are waiting for somebody to come and offer the next amendment. The floor is open. This is a good time to do it. After 5 o'clock, we are happy to work, if the leader wants to work awhile tonight. But because I think we are not coming in until 10:30 tomorrow because we have a special order in the morning dealing with our dear friend, Paul Coverdell, we are not going to be able to start on this bill until 10:30 in the morning. I hope we can get some work done tonight.

I repeat that we are not going to be able to go to the nomination until we complete this bill. There are, I believe, 7 hours on it. All that time probably won't be used. But then we have the Transportation appropriations bill on which we need to also work this week. I hope Members will come and help work through this bill. If there are problems, tell us. We have had a number of Members come to us during the vote—some Democrat—and we have been able to recognize what the problems are, and we have been able in most instances to satisfy the problems.

The PRESIDING OFFICER (Mr. DAYTON). The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I thank the Chair.

Let me say to the Republican Senators that it is important you begin to tell us what amendments you have. Obviously, we haven't been on this bill very long. For anybody who thinks we are wasting time, when you consider all the time we took off this bill to do other things, we have been on it only a few hours. This is a serious bill with a lot of serious issues.

Once again, we are hopeful that Senators will be able to come up with amendments. If in fact we can't complete that list this evening, we will do our best, and we will inform the distinguished chairman of our best efforts. For now, I once again ask if you have amendments, let us know through the Cloakroom. We can start listening. I think we only have a few at this point. We have specifically requested amendments on our side.

I do not know about our distinguished friend, the chairman of the subcommittee. Have you begun to accumulate a list? Is it small like our list?

Mr. REID. Yes. We are getting our Senators to tell us what amendments they want to offer. That is also being done on the other side. Hopefully, within a short time we will have at least a finite list, and hopefully we will be able to work through that. Of course, our very able staff will work through them also. I hope we can have that done pretty soon.

Mr. DOMENICI. Thank you.

Mr. President, let me proceed with some discussion while we wait for the activities and desires of our Senators, both Democrat and Republican.

First, I want to make a comment about the President's energy policy. Then I would like very much to talk about the future in terms of the economies of the world, prosperity and growth, and how it is related to energy, and how I see that future compared with others.

First, let me talk about the President's energy policy. It is contained in notebook form. For anyone who wants to read it from cover to cover, it is a cover-to-cover approach. It covers almost every issue. They have assessed almost every kind of energy and conservation issue that I believe has been in or around Washington, or anywhere in this Nation. They have begun to list what our energy needs of the future are and to come up with them in a rather basic way to let people challenge what we need in the future. That is all well and good.

But essentially, I would like to make a point that has not been made very often. If you look at the whole policy on energy that the President submitted

to us—which was worked on for weeks on end by the Vice President and a distinguished staff, some of whom used to serve us here in the Senate—let's talk just a bit about how much new energy we are going to need out to 2020. They worked on it with economic experts, with projectors of growth, and with those who could estimate the electricity needs of our country for certain episodes during the next 20 years.

The conclusion was that the current ratio between energy demand and the gross domestic product might remain constant. Now gross domestic product is what we all reference to measure how much growth we have and how much we grow is measured as an addition to gross domestic product. When it is growing over a sustained period of time at a powerful rate, in America we equate that with prosperity, with jobs, with more opportunity, and higher pay for those who are not earning so. I don't think they have estimated the gross domestic product increase for the next 20 years at any exceptional rate, but rather sustained—something like blue chip experts estimate.

In doing that, we concluded we would need 77 percent more energy in 2020 than we are producing today.

If we drew a pie chart of a certain size which showed how much we are using today and then drew one around the outside, you would add 77 percent. Or you could take 2020 and draw one big pie. Then you would show a piece of it that is current needs and another piece that is future. In any event, the piece that is future needs would be 77 percent more than we are using today.

Most interesting, this national energy policy recommends conservation and efficiency measures that would reduce that increase by over half, resulting in us only needing to produce 29 percent in real energy additions.

The rest of it would be made up by enhancing and increasing our conservation and our efficiency. And there are numerous examples there on how you would increase efficiency, which equals a lot of research on products that will use less, on conservation. All kinds of things that we have already learned to do and are doing well, we would do more and do better.

Frankly, the President and some of the President's spokesmen may have started off talking about supply. We might have gotten a little bit excited about it. Some people in the country asked: What about conservation?

Well, I am just recalling, when it is all finally done, this is what it is: 77 percent new energy need; only 29 percent of it with new powerplants. They may use natural gas, which seems to be almost the singular source of every new powerplant in the country, and that can't continue forever. We will have to do some others. There's not been many new coal-burning powerplants, even though we are applying clean coal technology and, yes, not a new nuclear plant for two decades or so. But everything is moving in the direction of ''let's do it better.'' Let's do it more efficiently; let's do it cleaner. And let's permit America to grow.

That is for starters. I am not changing any of that when I speak of this bill being a very good start in implementing an energy policy that moves us in the direction of diversity of energy, not just one kind; diversity so there is competition; diversity so that, in fact, you can address some overarching issues such as ambient air pollution that produces global warming.

We ought to be able to address some of those issues in our future thinking, because they are caused by certain types of energy being used to produce our energy supply, by kinds that produce the carbon dioxide and other things that go into the atmosphere and cause pollution. What if we can produce energy that causes little or none of those gases or much less of those. You can understand that clearly we don't have to be worried about global warming to the extent that we reduce the very essence of global warming pollutants in the basic supply of energy for electricity in our country.

Obviously, we are not talking as much about automobiles and their pollution here, but clearly, it is a very powerful thing to just look at the electricity needs and see if we can do that in a way that truly helps us with reference to global warming instead of hurting us.

There are a lot of people around that say there is a Kyoto agreement and we should follow it, even though the Senate voted about 2½ to 3 years ago, 95–0, that the Senate would not ratify the Kyoto agreement if they sent it to us. It seems to me every time we get in this debate in this country and the President is talked to about Kyoto, or for those who argue with him overseas, nobody even brings up the subject: ''What about the Senate which voted 95–0 that we did not want to enforce that kind of program because it would put too much pressure on our future in terms of prosperity and, yes, indeed, may put a lot of pressure on countries that truly need to build new electric generating capacity so they can prosper.''

What I am suggesting is, this bill moves in the direction of what we might very well call ''beyond Kyoto'' or what we may call ''prosperity beyond Kyoto.''

I will go through some of the very exciting things that are done in this bill that permit us to move in the direction of having a mindset beyond the Kyoto agreement, having a mindset for great prosperity for the underdeveloped countries and the developed countries in terms of being able to use energy for growth and prosperity without concern about global warming.

This is a pretty big vision, a pretty big idea, but frankly, I believe America should do it. I believe our President should take the lead.

I will go through a few things we are doing here and then fit them into a wrap-up as to how that could be America's vision beyond Kyoto.

First, the renewable energy programs in this country have made great strides in terms of innovation, proving concepts, but today it is still a very small portion of the energy production in our country. We ought to do what we did in this bill—increase our focus on renewables, ask that more be done in that area, and that it be part of a great inventory of potential products for this ''beyond Kyoto'' idea.

In this bill we made a good start. We funded renewable programs to the tune of $435 million. This is not legislation saying we shall have solar and who will do what. It just says we have these programs going, the Department of Energy shall manage $435 million during this year for the various renewable programs we have. That is 16 percent higher than current levels. There is no question that if we keep the pressure on and have a broader vision, this would be part of what we can do better. We can impose on that kind of technology to do more.

Then there are hydrogen-based technologies. Some think the world ought to be on a hydrogen diet for energy in the not too distant future, and some think it could be the basis for future growth projections. I am not quite there yet, but clearly it belongs in the equation. We have added about 30 percent to the research in that area.

This might end up decreasing our use of petroleum products in transportation, even though our basic agenda here is not with reference to the automobile and the internal combustion engine and the like. That research is largely being moved ahead in another appropriations bill.

High temperature superconductivity is important because it causes us to waste a lot less electricity as you run the electricity down the lines. Superconductivity would make it such that you would lose very little, if any, a very dramatic step forward. We have increased that about 20 percent, hoping that our great scientists can move into superconductivity and capture some of the waste that now goes into transmitting electricity—an exciting kind of idea.

Geothermal: We know there is a lot of it out there. We have added some research money, although we have been doing this for many years; that is, spending money on this system. We think we should try harder and do more.

Wind systems: They are already in existence. Now I am not one who thinks that wind energy can be as big a component of the future as others,

just because I have observed what we currently do and I can't visualize doing 10 times as much or 50 times as much. But in any event, we said let's proceed with a little more dispatch.

And then on the side that we would call nuclear: The problem is that when you say nuclear power, people think of driving by a nuclear powerplant. Incidentally, you don't see any smoke come out of the chimneys because there is none. You don't see any pollution because there is none.

The spent fuel rods are inside that machine, and to the extent they are not careful with those, that creates some source of problem for human beings. But these are gigantic nuclear powerplants. They are almost all of one type. It is amazing how the American people, over the last 15 years, have grown more accustomed to driving by them and living with them, such that today in America there is a willingness to take another look at nuclear.

I know as soon as we take another look there will be those who would like to blindfold us right now and say: ''Stop that. It is terrible, bad for everything.''

Let me tell you, it is not bad for global warming; I will guarantee you that. If any group of environmentalists are really committed to solving the problem of global warming, let them at least listen to a proposal that would bring the world into contact with a new generation of nuclear powerplants. We might be able to set a goal for 10 or 15 years from now when we would be diminishing the pollution that would be commensurate with that growth, as far as global warming is concerned.

Why should that be dismissed when it is that profound and gigantic a potential? Why would we dismiss clean coal, moving it to the furthest level of cleanliness, even if it costs a lot of money to do the research? Why would we say that would not work? What are we supposed to live on?

Right now, people would say: Your State will continue to flourish, Senator DOMENICI. Natural gases will do it. New Mexico is the fourth largest producer, and it is going up and away. Every new powerplant we have heard of, including the three in New Mexico—that won't be for our people but for somebody else—will be built with natural gas, as far as we know. We didn't have any for many years. The price is causing people to invest in natural gas. For the long term, you need natural gas, but you also need some other things.

What does this bill do about nuclear? Well, first, there are some very significant increases and some very interesting approaches to keeping this option alive. For the 21 percent that we already get from nuclear power today, we need to make sure we don't close those plants down prematurely but continue them for their entire useful life and do what we can to make sure that transition is smooth, functional, and safe.

Now, let me go through some of the things we are doing to create this option. This bill pushes nuclear power forward with the following initiatives: $19 million for university research reactor support—that is a $7 million increase—to make sure our country has the educational resources necessary for an economy that continues to rely substantially on nuclear power—the old ones plus new ones. After all, we came up with this technology. Some of our great companies built these powerplants. They are all over the world, although we didn't build all of them in foreign countries

Seventy-eight percent of France's electricity comes from nuclear power. If you tell people that, they say they don't believe it, or so what? Well, they have a lot less problems with greenhouse gases than we do—sufficiently less that Mr. Chirac can lecture our President about it. That is pretty interesting. If we had 68 or 70 percent of our electricity from nuclear plants, we might be lecturing him. But we don't; we have 21 percent. Germany has around 35 percent, and Japan is building new ones—in fact, as we speak, they are building new ones.

The United States is sitting on this problem of not having enough energy so we can maintain our prosperity in the future. We say our universities used to be the pride of the world in terms of creating nuclear physicists and design engineers who worked in this field. All of the universities, except a few, have dramatically reduced these programs and are very excited about building some of this back into their programs through intramural-type grant programs, where they can do research and learn these particular scientific professions.

There is a $4 million increase in a program to improve the reliability of our 103 existing nuclear powerplants. Let me suggest another thing that is little known. While we had some brownouts in California and some shortages elsewhere, they were minimized because the Nuclear Regulatory Commission and the nuclear powerplant industry in America had been working so well together, and the licensing process and the regulatory processed worked so well during the last decades, that more energy was produced by the nuclear powerplants by upping their capacity in total safety, such that, on average, they increased by the equivalent of 22 new powerplants. Nobody knows that, but that happened.

So while we are looking around for new sources, these licensed facilities, getting up in years, ratcheted up a bit and produced the energy equivalent of 22 new nuclear powerplants on top of the 100-plus we have in the United States.

This bill continues with an increase of $7 million for a total of $14 million, in an area which is very exciting. I hope it will be used prudently. In fact, I hope it will be used to join with partners in the world to produce something really important. This is for the next generation of nuclear reactors. Some people call it generation IV reactors. There are a couple of them in the design stage today, and some people have read about them. They are very exciting new technology.

They are going to produce nuclear reactors that are passively safe. That means that their makeup, in terms of the physics, is such that they can't melt down. They will not have a meltdown possibility in the generation IV reactors that will be produced. In addition, they will have much less left over, much less unused, enriched uranium, so there is much less risk. This reduces greatly the proliferation concerns, with reference to the byproduct from the reactors.

This bill also addresses the Nuclear Regulatory Commission—which, incidentally, has been doing an outstanding job. The chairman now is a Democrat appointee. We urged the President to keep him on. He has been so exciting and powerful and such a force in terms of leading that Nuclear Regulatory Commission in the right direction toward the safety and well-being of our people, and maintaining the essence of our nuclear industry. We hope he is going to remain as the chairman. Now, I don't think I was saying anything out of school there. I think the chairman knows what is thought of him. I think I may have indicated that he is going to stay on and he wants to stay on.

Remember, just a few years ago we didn't have any money in these programs that I am talking about. We decided it was best to have an Energy Department for this great United States. But back then, when you walked in the door, what we wanted was no nuclear energy and nothing nuclear in the Department of Energy for the greatest nation on Earth. That is the end to which we had gone in terms of our anti-nuclear-power sentiments. I am not exaggerating; that is a truism.

I was fortunate to be chairman of the subcommittee for 6 years. My good friend was ranking member part of the time—Senator REID. We started to build a little bit of nuclear energy capacity back up, so that now they are no longer ashamed. Obviously, they have divisions and departments that are doing nuclear work, so they can't hide anymore. I think they are very forward-thinking about it.

But just remember, with generation IV we are not talking about the kind of reactors we have now, although they are pretty safe and people now are excited about how clean they are.

The only thing people who oppose nuclear power are saying is: What about

the waste that comes out of them? We are doing well when we can produce energy that will no longer cause any global warming, but we have a problem of how do we get rid of the waste. Just think of this. What is the dimension of this problem?

I want to speak of it in physical dimensions. A football field—you have a number in your great State, Mr. President. A football field 12 feet deep is the waste problem of America. That is how big it is. When people scare us to death about it, the truth is, it is just a matter of human beings deciding with technical excellence, engineering expertise, and resources what to do about that. You can either bury it, put it away for an interim period of time, or change it from its current form to another.

In Europe, they are not in a hurry to bury it permanently. They are doing other things with it—interim storage—and they are moving ahead with other technologies to make the end product far less toxic.

This bill says we are not going to fund Yucca Mountain, the permanent repository, as much as we have in the past. Although we will go to conference, where the House has a higher number to keep it going. We will have that debate in conference, and we do not always win every nickel and every penny. So we are looking forward to going to conference and seeing what can be done.

There are two other technologies that are right there ready to go. One of them is called accelerator transmutation. This is very exciting new technology, proven out beyond the experimental stage, and we have $70 million to continue the work.

It is an accelerator, therefore it is not a nuclear reactor, that will change what high-level waste is as this accelerator does its work on the waste product. Ultimately, just to make it simple, what it will produce is a residue that instead of having a half-life in the neighborhood of tens of thousands of years, the residue will have a half-life in the neighborhood of 700 years. After 300 years, it would be no more dangerous than uranium ore from the ground.

If we can get a byproduct like that, there is nobody who would stand up and say we cannot handle that. What is difficult to handle is proving modular-wise and scientific-wise what will happen 10,000 years from now when we put something underground and leave it there. That is what makes the problem and the job for nuclear power of the future a difficult one. I repeat. We are singularly the only country saying let's put it underground and forget about it forever, when it has only used up 5 percent of its energy. Ninety-five percent of the energy is still in the rod that you put in the ground.

So true and so powerful is that statement that you cannot talk to the Russian leaders at any level about energy. You cannot talk to any of them about getting rid of the waste product in any way other than using it, which is amazing. As a matter of fact, they just put out word the other day that if we are so frightened about the waste product, they would accept it. Nobody is seriously thinking about that, although maybe some are. But it just shows you the difference, the mentality between those who have worked that problem in Russia. Some of them learned from us; we learned some from them.

They had the greatest nuclear scientists; we had the greatest. We never did decide who had the best. They both had so much respect for each other in nuclear weaponry; I think that kept us from ever having war. You can bet the greatest scientists working on our nuclear weapons knew exactly who the greatest scientists were over there. And they were the greatest. They were not just getting a degree in physics and going over and taking on a program. They were fantastic people. That expertise has come down to nuclear reactor waste and they understand it. They even moved to the next generation of nuclear power, breeder reactors, which we have become so frightened about that even Senator DOMENICI does not talk about it. So we moved to an interim discussion of the kind of nuclear reactors we are talking about today.

We have transmutation, a big word which means changing the makeup and content of this product into something far less toxic.

Incidentally, it has two other uses that are very positive that come out of this accelerator process, one of which is to produce all the radioactive isotopes you need for the medical programs of the country. One of these major accelerators would provide all you need.

Plus another use that is rather significant would be to back up our tritium production; it will do that, too. We are currently going to use reactors to do that job. Under Secretary of Energy Bill Richardson we decided to do it down in Tennessee at one of their TVA nuclear reactors. So that is where the tritium in the program will be produced. This could even be a backup for that reactor in the event we moved ahead.

Some people talk about the estimated costs of transmutation. They use the numbers wrong because the total number over a long period of time, when they tell you how much that is, does not take into consideration how much electricity it produces. It is just telling you what it costs. That would be like saying the next 10 nuclear powerplants, my gosh, are going to cost $1.5 billion each, but you don't know how much electricity it produces. You just hold to the $15 billion number.

Let me emphasize I want to stop using the word ''waste'' and use ''spent fuel'' because I just gave you an example of how much of the energy is still in the spent fuel. It is 95 percent. It is still energy that can be used. As long as we have cheap uranium, it is obvious we are not going to go full speed ahead to produce byproducts that cost a lot of money. In the process we do know these are some of the approaches to making sure we have options in the future.

To wrap up the vision, the vision is to take these resources and others the administration might need to ask us for and produce a commitment by the United States of America, led by our President, to put together a 10-, 15-, or 20-year plan that says ''beyond Kyoto'' and say to the world: ''Let's bring together the electricity-producing resources we have been discussing—renewables, biomass, clean coal, nuclear—let's bring them together and decide in a scheduled approach to begin to produce them so that we can begin to use them in the world without any effect on global warming.

It is very doable. We ought to be excited about it. It means this problem in America might have brought out the best in us. We may be able to tell poor countries with these new reactors that we can put one in every country. They will be very small. They will be modular in size. Perhaps they will be 50 megawatts each instead of 1,000 megawatts. Perhaps they have the characteristics I described here. But let's set the world under our leadership to working on these kind of criteria and then develop the science and technology with our businesses and other countries to do it.

I have asked the President to think about this. I call it now ''reaching beyond Kyoto,'' but it may be ''prosperity in abundance for everyone post-Kyoto.'' It may be an equal title because if, in fact, we have to restrain the growth substantially because the energy source is polluting and thus causes some problems with reference to global warming, then it is an admission that other people cannot become as wealthy as we are; that they cannot have as many things as we have.

We constantly remind the world how much energy we use, and, yes, we do; we use more than any other country. We use maybe 25 percent. But this little country, America, also produces about 25 percent of the gross domestic product of the world, too.

We have a chance to reach beyond this bill, beyond the discussions about an energy policy in detail with reference to each of these different things on transmission lines, using the public domain for more gas and oil, and to set a goal beyond all of that which would say to the United States and the world: You can almost pick your resource because if you do not have any coal, you can use uranium; you can use these new fourth-generation reactors. If you

have coal, we are developing the cleanest of coal technology so you can use that, be a nonpolluter and grow.

I think it makes a lot of sense. I am pleased to have thought it through a little bit and to have spoken to it a couple times. The Senator can tell I might have spoken about it one time or another. Yes, I have. It is a pretty good message to be accompanying an energy and water bill if, in fact, this bill is supposed to be doing something about the energy crisis.

We have discussed the approach that there might be something in America that says it is good enough for an America of the future and an America that can help lead the world in the future. I yield the floor.

Mr. CONRAD. Mr. President, I am pleased to rise today in support of S. 1171, the Energy and Water Development Appropriations Act for fiscal year 2002.

The Senate bill provides $24.96 billion in discretionary budget authority, which will result in new outlays in 2002 of $16.2 billion. When outlays from prior-year budget authority are taken into account, discretionary outlays for the Senate bill total $24.7 billion in 2002. Of that total, $15.2 billion in budget authority and $14.9 billion in outlays is for defense spending. The Senate bill is within its Section 302(b) allocations for budget authority and outlays for both general purpose and defense spending. Further, the committee has met its target without the use of any emergency designations.

I again commend Chairman BYRD and Senator STEVENS for their bipartisan effort in moving this and other appropriations bills quickly to make up for the late start in this year's appropriations process. I also commend subcommittee Chairman REID and Senator DOMENICI for not only bringing this important measure to the floor within its allocation, but also for providing significant additional resources above the President's request for both the Department of Energy's Atomic Energy Defense Programs, which will help dramatically reduce the threat of proliferation of nuclear warheads, materials, and expertise in the former Soviet Union, and for renewable energy resources, which will help ensure an energy portfolio that balances the Nation's long-term needs for both energy and the environment. I hope all Senators will join me in thanking our able colleagues from Nevada and New Mexico for their vision and good work.

I urge the adoption of the bill.

I ask unanimous consent that a table displaying the Budget Committee scoring of this bill be inserted in the RECORD at this point.

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

S. 1171, ENERGY AND WATER DEVELOPMENT, 2002; SPENDING COMPARISONS—SENATE REPORTED BILL

[In millions of dollars]

	General purpose	Defense	Mandatory	Total
Senate-reported bill:				
Budget Authority	9,713	15,247	0	24,960
Outlays	9,782	14,908	0	24,690
Senate 302(b) allocation: [1]				
Budget Authority	9,713	15,247	0	24,960
Outlays	24,916	0	0	24,916
House-passed:				
Budget Authority	9,670	14,034	0	23,740
Outlays	9,806	14,122	0	23,928
President's request:				
Budget Authority	9,003	13,514	0	22,517
Outlays	9,336	13,758	0	23,094
SENATE-REPORTED BILL COMPARED TO:				
Senate 302(b) allocation: [1]				
Budget Authority	0	0	0	0
Outlays	(226)	0	0	(226)
House-passed:				
Budget Authority	43	1,213	0	1,256
Outlays	(24)	786	0	762
President's request:				
Budget Authority	710	1,733	0	2,443
Outlays	446	1,150	0	1,596

[1] The 2002 budget resolution includes a ''firewall'' in the Senate between defense and nondefense spending. Because the firewall is for budget authority only, the appropriations committee did not provide a separate allocation for defense outlays. This table combines defense and nondefense outlays together as ''general purpose'' for purposes of comparing the Senate-reported outlays with the subcommittee's allocation.

Notes.—Details may not add to totals due to rounding. For enforcement purposes, the Budget Committee compares the Senate-reported bill to the Senate 302(b) allocation.

LAKE BOND

Mr. HUTCHINSON. I would like to thank the Senator for his support of continued funding for a small flood control project for Bono, Arkansas, which is very important to me. I appreciate his efforts to help me secure language in the statement of managers which would fund this project under the section 205 small flood control projects program.

Mr. DOMENICI. I say to my good friend from Arkansas that I understand the situation in Arkansas and the reason for his amendment. I am happy to support report language which will take care of this project in place of the Senate voting on your amendment.

Mr. HUTCHINSON. I thank the ranking member and I also thank the honorable chairman, Senator REID, for his help with this vital flood control project.

I withdraw my amendment.

The PRESIDING OFFICER. The Senator from Nevada.

APPOINTMENT OF CONFEREES—H.R. 333

Mr. REID. I ask unanimous consent, with respect to H.R. 333, the Senate insist on its amendment, request a conference with the House, and the Chair be authorized to appoint conferees on the part of the Senate, with no intervening action.

There being no objection, the Presiding Officer appointed Mr. LEAHY, Mr. KENNEDY, Mr. BIDEN, Mr. KOHL, Mr. FEINGOLD, Mr. SCHUMER, Mr. DURBIN, Mr. HATCH, Mr. GRASSLEY, Mr. KYL, Mr. DEWINE, Mr. SESSIONS, and Mr. MCCONNELL conferees on the part of the Senate.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent the order for the quorum call be dispensed with.

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

COMMENDING ELIZABETH LETCHWORTH

Mr. DASCHLE. Mr. President, earlier today both the Democratic and Republican Conferences unanimously passed resolutions which I believe ought to be made part of the RECORD at this point during the business of the Senate.

I ask unanimous consent that both resolutions by read at this time.

The PRESIDING OFFICER. Without objection, the clerk will read the Democratic resolution.

The assistant legislative clerk read as follows:

RESOLUTION COMMENDING ELIZABETH LETCHWORTH

Whereas Elizabeth Letchworth has served the Senate for over 25 years serving as both Secretary for the Majority and Secretary for the Minority;

Whereas she has worked for, and with, 6 different Majority Leaders;

Whereas, though she has worked for our colleagues on the other side of the aisle, her assistance, over the years, to members of the Democratic conference has often been appreciated.

Whereas her institutional memory, unflappable demeanor, and good humor will be missed by Senators and staff alike on both sides of the aisle: Now therefore be it

Resolved by the Democratic Conference, That Elizabeth Letchworth is to be commended and thanked for her many years of service to the Senate and wishes her, and her husband Ron, all the best in the years to come.

The PRESIDING OFFICER. The clerk will read the Republican resolution.

The assistant legislative clerk read as follows:

RESOLUTION RELATING TO THE RETIREMENT OF ELIZABETH LETCHWORTH

Whereas Elizabeth B. Letchworth has served this conference ably and honorably for over 25 years;

Whereas in 1995 she was elected as the Secretary for the Majority becoming the first women to hold this post;

Whereas during her service she has assisted all members of this Republican Conference with diligence and professionalism;

Whereas her knowledge of the Senate rules and Institutional history has been a valuable asset to all Members: Now therefore be it

Resolved, That the Republican Conference extends its sincere thanks to Elizabeth B. Letchworth for her service for over 25 years and wishes her all the best in her future endeavors.

The PRESIDING OFFICER. The Republican leader.

Mr. LOTT. Mr. President, I thank Senator DASCHLE for allowing me to comment on these resolutions. I would like to begin by thanking the Democratic caucus for doing this. This is a

very magnanimous gesture and I know it is being done because of appreciation for the job that our floor assistants do, but specifically for the job that has been done over many, many years by Elizabeth Letchworth. She protects the institution. She loves the institution. She works not only with Republicans but, as your resolution says, with Democrats too, Senators on both sides of the aisle, collectively and individually. So we in the Republican Conference appreciate the generosity of your resolution and the fact that you did that.

We did one also. But I must confess, when I made the announcement that she would be leaving after 25 years, there was a very strong round of boos and objections to the whole idea. I said: My colleagues, this is not in the form of a motion; this is an announcement of a decision that has been made by a friend and loved one—to which they stood and applauded, unanimously thanking her for her dedication and professionalism.

I believe later on we will have a resolution on behalf of the entire Senate at a time when we will notify all of our colleagues that it would be appropriate for them to come to the floor and express their appreciation. I know she has a special relationship with Senator BYRD, for instance, because she not only knows his love of the institution but respects his knowledge of the rules and his insistence that we comply with them, sometimes when we are a little bit derelict in doing that. So we will have that opportunity to speak further. At that time, I will go into great detail about her Senate service.

We all know she has been part of the institution for 25 years. It is hard to believe, looking at her, that she has been here 25 years. It is obvious, Senator BYRD, that she was very young when she started working for the Senate—and that in fact is true. She came here, I believe, as a page, working for then-Senator Hugh Scott from Pennsylvania. I know she did a great job there.

Over the years she has worked in the Cloakroom, worked as a floor assistant, worked for Senator Baker, Senator Dole, and for me when I was majority leader and when I was minority leader. She has served so well as the Secretary for the Majority since 1995 and Secretary for the Minority for the past few weeks. She has just done an outstanding job.

I appreciate her knowledge of the rules, but I also appreciate her determination to make sure we conduct ourselves appropriately, knowing what the rules are. We have been through some tough times while she has been here, both in the majority and the minority. We did the historic impeachment trial for only the second time in history, and I think we did it in a way that was appropriate. We complied with our responsibility under the Constitution. We did it in a reasonable period of time, and we tried to make sure we did it in a respectful way and a fair way for all concerned. That took a lot of time, a lot of effort by our floor assistants, by all of our staff members.

But beyond her knowledge is just the fact that she is a very fine person. I have grown to appreciate her, love her, admire her—as a member of the family, if you will. I must say she has shown great, great wisdom because in the husband to whom she is married she chose one with a Mississippi background, so she truly became even further a member of the family by making that wise decision.

They have plans for the future that include a little more free time, not quite as many nights here in the Senate Chamber, 6 or 7 or 9 or so on a Thursday night, but also, hopefully, some business investments that will be a great success—just, most importantly, some personal time.

To Elizabeth Letchworth and to Ron I offer my most sincere appreciation personally and the appreciation of the Senate Republican Conference.

Again, my thanks to Senator DASCHLE and our Democratic colleagues for their gesture in their resolution also.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Mr. President, I think the distinguished Republican leader has spoken for all of us in expressing his affection and his gratitude for a very special person. This will not be our farewell speech. We will give that later as it accompanies an official Senate resolution that I am certain will be offered on a bipartisan basis by the two leaders and perhaps with the cosponsorship of others but certainly with the unanimous, enthusiastic support of the entire Senate. But we take the floor this afternoon to acknowledge the decision Elizabeth has made and to call attention to that decision and to express our gratitude and our deep affection for a person to whom we have turned, on both sides of the aisle, on countless occasions.

I have been leader now for about 7 years. I have had the good fortune of working with Elizabeth all 7 of those years. But that is just less than a third of the time she has worked in various capacities in this Chamber.

She has served the Senate, not just the Republican caucus but the Senate, so admirably, so professionally, so capably that it goes without saying that on occasions such as this it is a heartfelt gesture for us to pass a resolution as we did in the caucus this afternoon.

I might say, even though she wasn't there, there was rousing applause after the resolution passed, with the hope that she might have heard it even though she wasn't in the room.

Isaac Bassett was the second page to serve in the Senate. He was Daniel Webster's choice as a page. He served here for a long period of time, over a half a century. Isaac Bassett wrote prodigiously about his experiences and never rose to a level any higher than Assistant Doorkeeper. Isaac Bassett would talk about his remarkable view of history. To read his notes is to read history in the first person. I think Elizabeth could write notes in the first person about the history she has witnessed, as Senator LOTT has noted.

She could write history that I am sure would enlighten all of us. I am sure it would be every bit as valuable to future historians and future citizens a hundred years from now as Isaac Bassett's notes are to me today. Regardless of how much history she writes, she should know that she has helped make history. She has been a witness to history. As she has witnessed history, and as she has made it, she has done it in a way that will make her family and future generations very proud.

Today, rather than saying farewell, we simply say that we admire her, and we are grateful to her not only for what she has done but for what she will continue to do here in the Senate for the next few weeks and beyond as she serves in other roles and recognizes the importance of being a member of the family that goes beyond the Senate.

I yield the floor.

Mr. STEVENS. Mr. President, I received late word of this little seance and wanted to make sure that I was present to thank our friend who is retiring.

My first father-in-law said that English is the only language in which that word means other than go to bed. I am glad to know that Elizabeth is going on to another career and a beautiful place in the country. And I am here to wish her very well.

I can remember the various steps of her employment in the Senate. At each level she has excelled and deserved the promotions she has gotten. But above all, Catherine and I will remember the trips that she and her husband have taken with us as she represented the Senate so well as one of our officers.

I have no prepared remarks. I heard the leaders' very kind remarks. I join with both leaders in wishing you well and expressing our sadness that you are leaving because you have been really one of the Senate in terms of your services here. We will miss you very much.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, as one who has served with Elizabeth for these long years now, I will have something to say on another day about that service and about my feeling toward her.

KATHARINE GRAHAM

Mr. BYRD. Mr. President, Washington Post publisher Katharine Graham, who passed away today, was a towering figure in the world of journalism.

Her courageous stance during the publication of the Pentagon Papers in 1971 and during the Watergate saga, and her steadfast support for her editors and reporters during those trying times, left an unalterable mark upon American journalism and earned her a place in history. With Mrs. Graham at the helm, the Post became one of the leading newspapers in the United States and a veritable American institution.

During her three decades at the helm of the Post she became one of the most influential and admired women in the business world. She was the first woman to head a Fortune 500 company and the first woman to serve as a director of the Associated Press.

Mrs. Graham was an accomplished scribe in her own right. She began her career as a newspaper reporter in San Francisco. After her many successful years in the business end of journalism, she returned to writing and in 1997, at the age of 80, earned a Pulitzer Prize for her autobiography, ''Personal History.''

Despite the Post's success under her leadership, Mrs. Graham remained modest about her own role. In words that could serve as a guide to future publishers, or even to United States Senators, she said:

> You inherit something and you do what you can. And so the person who succeeds you inherits something different, and you add to it or you subtract from it . . . . But you never totally control it.

Katharine Graham certainly added ''something'' to the world of American journalism—a mark of professionalism and integrity that time cannot erase.

Personally, I shall recall her as gracious, elegant, and extremely dignified. She had a bearing one did not forget. She will serve as an example of journalism at its best for many, many years to come.

Erma and I extend our condolences to Mrs. Graham's family and her host of friends.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ORDER OF BUSINESS

Mr. DASCHLE. Mr. President, it is nearly 6:30 and we have not had an opportunity to make much progress on the energy and water appropriations bill. I am a little disappointed. I had hoped that we could move at least to the adoption of a few of the amendments that I know are pending. I am hopeful that we can get an agreement on a finite list tomorrow morning. The Republican leader has indicated that might be a possibility tomorrow morning.

We have colleagues on both sides of the aisle who, I know, have amendments, and I hope they can come to the floor as quickly as possible and begin offering them. I will say to those who may feel the need to drag this out that we have to get this work done. If we can't get it done between now and Thursday night, of course, we will have no recourse but to continue for a reasonably full day on Friday—Friday morning and at least a part of Friday afternoon.

I will also say that these appropriations bills I know are important to the administration, important to the Congress, and I hope nobody makes any definite date for their plans for the August recess. We are going to finish this work, and if we have to bump into the August recess some to complete it, we will do that. Each day we delay now possibly entails additional days at the end of the July work period that we will have to use in order to accommodate the work. We will not allow this work to go over until September. We will stay here. That is not meant to be anything other than an observation of the reality of our responsibilities here.

So I just caution everybody not to let these days go by thinking that somehow it is time that we can make up down the road. We are going to have to make it up before we leave for the August break.

So I hope we can make this a productive week. My hope is that we can complete our work on the energy and water bill in a reasonably prudent period of time, and then we will move on to the Graham nomination, which I know is important to the administration, as well as other nominations.

I am hopeful, as well, that we will take up the legislative branch appropriations and Transportation. It would be my expectation that we can make a lot of progress on those bills as well. Senators have to come to the floor to offer amendments. I thank my colleague, the chairman of the Subcommittee on Energy and Water, for his effort in getting us to this point. I know he shares my interest in working for whatever length of time is necessary.

I think I will announce at this point that there will be no more rollcall votes tonight. But it is with the expectation that we can get a finite list of amendments, and we could be in late tomorrow. We will take amendments, and if we have to do it, we will do other work. We will stay in to accommodate the need to get a lot of additional matters done before the end of the week. So there will be no more votes tonight. There will be a number of votes tomorrow.

I yield to the Senator from Nevada.

Mr. REID. I say to the majority leader, I know he has an important statement to give. I wanted to make this observation. These are not Senate bills alone. The President of the United States needs these bills to operate the Government. He needs these bills, as we do. I think if there were ever a time when we needed to work together, it is now. We have a Democratic majority in the Senate, a Republican majority in the House, and a Republican President. These bills are our joint responsibility. If anybody thinks they are being clever by stalling, they are only hurting George W. Bush, not us. He runs the Government of this country. Would the Senator agree with me in that regard?

Mr. DASCHLE. The Senator is absolutely right. Just today, I have had, I don't know the number but I would say countless discussions with my colleagues about other legislative items that ought to come up, and all with good reason.

There are a number of authorizations and legislative issues that deserve the consideration of the Senate. What we have said is that we want to work as the Senator suggests, in a very constructive way, in an effort to try to accommodate the priorities of the administration, as well as the Congress, in achieving what we know we have to in passing these appropriations bills. It is important to get the work done, and it is important to spend the time on the Senate floor to ensure that happens. We have not had a very productive couple of hours, but I am confident that tomorrow will be a much more productive day.

Mr. REID. If I can say one more thing, the majority leader and the minority leader and the two managers of this bill, Senator DOMENICI and I, had a conference earlier in the day. Senator DOMENICI said he thought we could finish the bill tomorrow. He is one of the real pros here, very experienced. He knows this bill as well as anyone. So I take the Senator at his word, as I do everything he tells me.

I say to the majority leader, tomorrow it would seem to me that we not only have to finish this bill but also we have the Graham nomination that we have to finish tomorrow. Because the majority leader told me this previously—and everybody should understand this—we could be working well into tomorrow night, real late, to finish the assigned time we have on the Graham amendment. Is that a fact?

Mr. DASCHLE. The Senator is correct. If I didn't say it as clearly as I needed to, let me repeat it. We will have a full day tomorrow. We will be,

hopefully, completing our work on energy and water and taking up the Graham nomination. My hope is that we can complete both of those tomorrow. We will stay late and make some decision late in the day about how much time may be required. But there is no reason to believe that we cannot finish energy and water and the Graham nomination before the end of the day tomorrow.

So Senators should be prepared to work late tomorrow in order to accommodate those two very important priorities—again, not just to us but certainly to the administration. The administration has made it very clear that this Graham nomination is important, and they have a right to assert that. We will attempt to accommodate their desire to complete the work on that confirmation before the end of the day tomorrow.

THE LIFE AND EXTRAORDINARY CONTRIBUTIONS OF KATHARINE GRAHAM

Mr. DASCHLE. Mr. President, I join my colleagues in expressing my great admiration for Katharine Graham and my profound sadness on her passing.

I also convey my regrets to Mrs. Graham's family and friends. Our thoughts and prayers are with them on this very sad day.

America lost a legend this afternoon.

Katharine Meyer Graham was a woman of great dignity, intelligence, and wit. She was a pioneer. She was a patriot who believed deeply in the strength of our democracy, and in the indispensability of a free press in preserving this democracy.

Much has been made of Mrs. Graham's gender—and rightly so. No woman has ever achieved what she achieved in journalism, and her accomplishments helped change people's perceptions about the role women could play in journalism, in business, and in the world. But Katharine Graham needs no modifiers.

She was not simply one of the best woman newspaper publishers in the country; she was one of the best newspaper publishers America has ever seen—period.

Katharine Graham was a 46-year-old widowed mother of four when she took over as president of the Washington Post in 1963.

At the time, the Post was one of three daily papers in Washington and not even the best or most widely read of the bunch.

A decade later, largely because of the courage and the extraordinary talent of Katharine Graham and editor Ben Bradlee, the Post was not only indisputably the best newspaper in Washington; it was one of the best newspapers in the world.

In June 1971, with Katharine Graham's backing, the Washington Post joined the New York Times in fighting a court order banning publication of the so-called Pentagon Papers.

Thirty years later, the Supreme Court decision overturning that injunction remains one of the most important decisions in first amendment law.

One year later, in June 1972—again with Katharine Graham's blessing—the Post began its coverage of the Watergate break-in and cover-up. She never wavered in her support of her reporters and their quest for the truth.

Mrs. Graham was modest about her professional achievements. She once said of her paper's Watergate coverage:

> The best we could do was to keep investigating . . . to look everywhere for hard evidence . . . to get the details rights . . . and to report accurately what we found.

She made it sound almost like a routine story. It was, of course, anything but routine.

It led eventually to the resignation of a President of the United States, and it earned the Post the Pulitzer Prize for Public Service.

Over the next nearly three decades, there would be many other awards and accolades for Katharine Graham, including a Pulitzer of her own—the Pulitzer Prize for Biography for her 1998 autobiography, ''Personal History.''

We are so fortunate that in what would be the last years of her life, she took the time to sit down and write an incredible story that had largely gone untold—her story.

In recalling her sudden ascendancy as president of the Post, she remarked:

> What I essentially did was to put one foot in front of the other, shut my eyes and step off the ledge. The surprise was that I landed on my feet.

For those who knew her, for those who loved her, and for those of us who were simply lucky enough to have met her and seen her work, Katharine Graham's success seems no surprise at all. She was a woman of remarkable insight and remarkable strength.

My deepest sympathies go out to her children, Donald, Lally, William, and Stephen, her many grandchildren, and her great-grandchildren.

Our Nation's Capital will not be the same without her and neither will American journalism.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

NOMINATION OF LORI A. FORMAN TO BE ASSISTANT ADMINISTRATOR OF AID FOR ASIA AND NEAR EAST

Mr. DASCHLE. Mr. President, I come to the floor, as I did earlier this spring, to commend the efforts of a South Dakotan who is having a direct impact on America's international interests. Last Thursday evening, I was proud when the Senate confirmed Lori A. Forman, born and raised in Sioux Falls, SD, to be Assistant Administrator of USAID for Asia and the Near East. She is the first South Dakotan nominated and confirmed to serve in the Bush Administration.

The Assistant Administrator for Asia and the Near East, ANE, has a tremendous responsibility. Stretching from Morocco in the West to the Philippines in the East, the ANE region is large and diverse and covers a wide range of issues of critical importance to the U.S., including the challenges posed by terrorism and the proliferation of weapons of mass destruction.

The region is also home to vital economic interests. As a market for U.S. goods and services, it is second only to Europe. Countries in the region provide 50 percent of the oil consumed in the United States and control vital shipping lanes for the world's commerce. As the world witnessed with the Asian Financial Crisis in 1997, instability in this region has direct and significant ramifications for global economic interests.

Furthermore, the region poses a development challenge for the United States. According to the World Bank, the ANE region accounts for more than two-thirds of the world's extremely poor. And those poor are succumbing more and more to the threat of infectious disease, especially HIV/AIDS. In India alone, there are 1,500 additional cases of HIV daily.

In such an important region, USAID requires a talented and experienced Assistant Administrator. Our interests there are too vital and the costs of failure too high for us to accept anyone but the finest.

I can think of no better candidate than Lori Forman. She has written extensively on the development challenges in Asia. Her writings are based on years of experience—in both the governmental and non-governmental sectors—as a development practitioner throughout Asia. She knows the region and Washington, ensuring that assistance will get to the people for whom it is intended, not become tied up in bureaucratic wrangling here.

Lori has an additional asset which has served her well in her career—and will continue to serve her well. Though she has been engaged in Asia policy for much of the last 25 years, she is from the Great State of South Dakota. In South Dakota we pride ourselves on humility, self-reliance and hard work, traits that are valuable, even crucial, to anyone in the development field.

Americans from each and every state are having a positive impact on the lives of people the world over. I am particularly proud when individuals from

South Dakota have done such a fine job. Lori Forman's efforts make me proud, America stronger and the world better.

TRIBUTE TO COY SHORT

Mr. THURMOND. Mr. President, whether as an officer in the United States Army or as a dedicated public servant at the Social Security Administration, Coy A. Short has served his Nation with honor and integrity. After two and a half decades of devoted service, Coy will retire from the Social Security Administration, and I rise today to pay tribute to a man who has made countless contributions to the welfare of America.

Coy has a rich history of public service which began when he volunteered to serve as an officer in the United States Army. Recognized as a leader with a solid work ethic and uncompromising character, Coy eventually rose to the rank of Captain. After departing the Army, he has continued to support our Armed Forces. He served as Chairman of the Georgia Committee for Employer Support of the Guard and Reserve for over ten years, and continues to work with this committee and other organizations dedicated to assisting our men and women in uniform.

Coy's selfless involvement with these associations has resulted in his receipt of numerous awards and recognitions, including the Sam Nunn Award, the Oglethorpe Distinguished Service Medal for Outstanding Support of the Georgia Guard, and the Patrick Henry Award from the National Guard Association both in 1997 and 1999. Also, in 1998, he was appointed to the prestigious position of Ambassador for the U.S. Army Reserve.

Though a successful businessman, Coy's devotion to his country eventually lured him back to the realm of public service. In 1977, he began his career at the Social Security Administration—an agency on which many livelihoods depend.

During Coy's tenure with the Social Security Administration, his workhorse attitude and proficient managerial skills enabled him to quickly ascend through the ranks. He held several management positions at both district and branch offices throughout the Atlanta region and served as Director of the Office of Congressional, Governmental and External Affairs prior to his selection as Deputy Regional Commissioner. Though a humble man, whose greatest reward is assisting others, he was recognized for his dedication to the Social Security Administration with their highest award, the ''Commissioner's Citation.''

It has been a privilege to know Coy for the last thirty years. He is a true patriot, and I commend him for his service to our Nation. Though the Administration will be losing one of their finest, they will no doubt continue to benefit from his contributions for years to come. I wish him, his wife Judy, and their two children, Greg and Karen, health, happiness, and success in all of their future endeavors.

BUDGET SCOREKEEPING REPORT

Mr. CONRAD. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of S. Con. Res. 32, the first concurrent resolution on the budget for 1986.

This report shows the effects of congressional action on the 2001 budget through July 10, 2001. The estimates of budget authority, outlays, and revenues are consistent with the assumptions of H. Con. Res. 83, the concurrent resolution on the budget for fiscal year 2002, which replaced H. Con. Res. 290, the concurrent resolution on the budget for fiscal year 2001.

The estimates show that current level spending in 2001 is below the budget resolution by $12.1 billion in budget authority and by $8 billion in outlays. The current level is $1 million above the revenue floor in 2001.

I ask unanimous consent that a letter to me from Dan L. Crippen, Director, CBO, and an accompanying report be printed in the RECORD.

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 11, 2001.

Hon. KENT CONRAD,
Chairman, Committee on the Budget,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The enclosed tables show the effects of Congressional action on the 2001 budget and are current through July 10, 2001. This report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended.

The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of H. Con. Res. 83, the Concurrent Resolution on the Budget for Fiscal Year 2002, which replaced H. Con. Res. 290, the Concurrent Resolution on the Budget for Fiscal Year 2001.

Since my last report, dated March 27, 2001, the Congress has cleared and the President has signed the following acts that changed budget authority, outlays, or revenues for 2001: an act to provide reimbursement authority to the Secretaries of Agriculture and the Interior from wildland fire management funds (P.L. 107–13), the Fallen Hero Survivor Benefit Fairness Act of 2001 (P.L. 107–15), the Economic Growth and Tax Relief Reconciliation Act of 2001 (P.L. 107–16), and an act to clarify the authority of the Department of Housing and Urban Development with respect to the use of fees during fiscal year 2001 (P.L. 107–18). The effects of these new laws are identified in Table 2.

Sincerely,

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

Enclosures.

TABLE 1.—FISCAL YEAR 2001 SENATE CURRENT LEVEL REPORT, AS OF JULY 10, 2001

[In billions of dollars]

	Budget resolution	Current level [1]	Current level over/under (−) resolution
ON–BUDGET			
Budget Authority	1,568.4	1,556.3	−12.1
Outlays	1,515.3	1,507.2	−8.0
Revenues	1,556.7	1,556.7	(2)
Debt Subject to Limit	5,660.7	5,628.3	−32.4
OFF–BUDGET			
Social Security Outlays	434.6	434.6	0.0
Social Security Revenues	504.1	504.1	0.0

[1] Current level is the estimated effect on revenue and direct spending of all legislation that the Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest information from the U.S. Treasury.

[2] Less than $50 million.

Source: Congressional Budget Office.

TABLE 2.—SUPPORTING DETAIL FOR THE FISCAL YEAR 2001 SENATE CURRENT LEVEL REPORT FOR ON-BUDGET SPENDING AND REVENUES, AS OF JULY 10, 2001

[In millions of dollars]

	Budget authority	Outlays	Revenues
Enacted in previous sessions:			
Revenues	n.a.	n.a.	1,630,462
Permanents and other spending legislation	928,957	879,358	n.a.
Appropriation legislation [1]	942,112	942,622	n.a.
Offsetting receipts	−314,754	−314,754	n.a.
Total, enacted in previous sessions	1,556,315	1,507,226	1,630,462
Enacted this session:			
An act to provide reimbursement authority to the Secretaries of Agriculture and the Interior from wildland fire management funds (P.L. 107–13)	0	3	0
Fallen Hero Survivor Benefit Fairness Act of 2001 (P.L. 107–15)	0	0	−1
Economic Growth and Tax Relief Reconciliation Act of 2001 (P.L. 107–16) [2]	0	0	−73,808
An act to clarify the authority of the Dept. of Housing and Urban Development with respect to the use of fees (P.L. 107–18)	6	4	2
Total, enacted this session	6	7	−73,807

TABLE 2.—SUPPORTING DETAIL FOR THE FISCAL YEAR 2001 SENATE CURRENT LEVEL REPORT FOR ON-BUDGET SPENDING AND REVENUES, AS OF JULY 10, 2001—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
Total Current Level	1,556,321	1,507,233	1,556,655
Total Budget Resolution	1,568,430	1,515,278	1,556,654
Current Level Over Budget Resolution	n.a.	n.a.	1
Current Level Under Budget Resolution	12,109	8,045	n.a.
Memorandum:			
Emergency designations for bills enacted this session	0	0	0

[1] Excludes administrative expenses of the Social Security Administration, which are off-budget.
[2] The estimated budgetary impact of P.L. 107–16 was provided by the Joint Committee on Taxation.

Note.—n.a. = not applicable.

Sources: Congressional Budget Office and Joint Committee on Taxation.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of this year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred October 25, 1996 in Trevose, PA. A gay man, James Rebuck, 55, was stabbed to death at his residence after he allegedly made a pass at a man at a bar. David Alan Elliott, 23, and Scott Stocklin were charged with first-degree murder, burglary, criminal conspiracy and possession of deadly instruments.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation, we can change hearts and minds as well.

VA LEADS THE NATION IN QUALITY OF CARE

Mr. ROCKEFELLER. Mr. President, the Department of Veterans Affairs has made great strides in becoming a leader within the health care profession. Too often, we dwell only on what is going wrong or what else can be done. However, as Chairman of the Committee on Veterans' Affairs, I would like to instead draw attention to what VA has done to bring a high quality of care to our nation's veterans. While there is no doubt that VA go even further in this area, we know that they have made great strides in delivering the standard of care veterans deserve.

A few years ago, the Democratic staff of the Committee on Veterans' Affairs issued a report examining the standards of quality within the VA Health Care system. VA spends considerable effort and resources aimed at providing veterans with the highest quality health care in its hospitals and clinics. Over the years, VA has developed dozens of programs devoted exclusively to quality of care issues, yet public attention continues to be focused on examples of poor care within the health care system.

With nearly 950 sites and growing, VA operates the largest health care system in the United States. Veterans should know that the care at one VA hospital or clinic is at the same high quality level as the care at another VA health care facility. The study concluded that this can only be possible if the VA has a national system of quality which has built-in safeguards sufficient to overcome the inevitable fact that human error will always occur.

The committee is currently working on a follow-up to the original study. As more technological solutions to the problem of quality standardization are implemented, they will need to be examined. Quality of care is a vital issue to which I am very committed, and will continue to monitor closely as the VA health care system reconfigures itself to accommodate the changing demographics of the population it serves.

Coronary disease care is one area in particular that VA has excelled in with regard to quality of care. With coronary atherosclerosis being the second-most frequent diagnosis among veterans enrolled in VA health care, it is imperative that VA is able to treat this condition with the best care possible. They have met that challenge, with VA medical facilities now providing the same level of care as non-VA hospitals. The New England Journal of Medicine recently published a report that made this conclusion, based on a study of heart attack patient care within VA. The report also applauded VA's efforts to improve their overall quality of care.

I ask unanimous consent that an article from The Topeka Capital-Journal, highlighting the report from The New England Journal of Medicine on the study of VA's quality of care, be printed in the RECORD.

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

VA SYSTEM QUIETLY BECOMING MODEL FOR HEALTH CARE

(By Mathew J. Kelly)

It has long been one of American medicine's most precious assets and, until recent years, its best-kept secret.

On Dec. 27, the New England Journal of Medicine (NEJM) published a report on a study that found the quality of care for heart attack patients is as high in Department of Veterans Affairs medical facilities as in non-VA hospitals.

At first review, that might seem like faint praise—but not for a health care system often singled out to prove its value and justify its existence. And it continues to do so. The accompanying NEJM commentary of a VA doctor nailed it: ''Overall, the [VA health care system's] quest to improve quality must be regarded as a laudable success and itself deserves study for lessons that may have general value.''

The study and associated observations corroborate what we in VA have long been aware of—the exceptional quality of care we provide, and the fact that VA is a model for the health care industry, often outperforming the private sector. VA is delivering cutting-edge health care, and its patients and the medical world are noticing and applauding.

For too long VA has methodically and quietly improved the way it delivers health care to a special population, while allowing the public to believe that our hospitals are like those shown in movies such as 'Born on the Fourth of July'' and ''Article 99.'' At the time these motion pictures were released, the portrayal was inaccurate, and today, they and the images they conjure are even more distorted.

The Department of Veterans Affairs health care delivery system, once maligned, has overcome the stereotypes, is quieting its critics, and has established itself as a force in health care delivery, research, and medical education, and in such special services as blind rehabilitation, severe psychological conditions, prosthetics and spinal cord injury. Of the latter, actor Christopher Reeve, now quadriplegic, said, ''The whole VA system today is a model for what research can and must be. And when I look down the list of accomplishments of various centers and how proactive it is, I just rejoice.''

The patient population VA cares for is, on average, significantly older and poorer than the non-veteran population, more likely to have mental illness or substance abuse problems, more likely to have hepatitis C, more likely to have multiple diseases, and less likely to be married and have a social support structure. Despite these challenges, VA health care has transformed itself into what Dr. Donald Berwick, President and CEO of the Institute for Healthcare Improvement, calls ''the most impressive work in the country so far on patient safety'' and ''the benchmark in many areas.''

Even though the veteran population is declining, veterans' health problems are increasing as they age. More veterans than ever are enrolling for VA health care. In the last five years, VA, which operates the nation's largest integrated health care organization, has shifted from an inpatient-focused system—we have closed more than half of our acute care beds—to one that is outpatient-based.

To apply for health care, veterans can now fill out and submit an easy-to-follow Internet-based application form, which is automatically electronically mailed to the VA health care facility selected by the veteran. VA employees register the data, print the form and mail it back to the veteran for signature. Veterans can also print out the completed form and mail it to a VA health care facility themselves.

Since 1996, when all honorably discharged veterans became eligible to enroll for VA health care, more than a half-million additional veterans have done so. Why? Every VA patient now has a primary care provider and team. VA has computerized mail-out pharmacy services that ensure the timely delivery of drugs to patients. VA has instituted aggressive performance measures that have led to implementation of the best practices of government and private sector health care. On average, VA medical facilities now receive higher accreditation scores than do private sector facilities.

While this transformation was taking place, VA became an industry leader in such areas as patient safety, surgical quality assessment, the computerization of medical records, telehealth, preventive screenings and immunizations.

There have been no big wars lately, no long lines of troops coming home, no welcoming parades necessary. And as these events and the years between fade, so too do memories. It might be only human to become complacent about those who not so long ago left their families, their schools, their jobs, and the security of their lives because their country asked. They now need our help, as will future generations of servicemen and women, but platitudes on Veterans Day and Memorial Day are woefully inadequate. Words alone will not mend broken spirits and cannot heal broken bodies. The best possible care—the type VA provides as part of a comprehensive system of benefits—is the most appropriate honor we can bestow on veterans.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, July 16, 2001, the Federal debt stood at $5,709,313,725,685.43, five trillion, seven hundred nine billion, three hundred thirteen million, seven hundred twenty-five thousand, six hundred eighty-five dollars and forty-three cents.

Five years ago, July 16, 1996, the Federal debt stood at $5,158,430,000,000, five trillion, one hundred fifty-eight billion, four hundred thirty million.

Ten years ago, July 16, 1991, the Federal debt stood at $3,541,429,000,000, three trillion, five hundred forty-one billion, four hundred twenty-nine million.

Fifteen years ago, July 16, 1986, the Federal debt stood at $2,069,283,000,000, two trillion, sixty-nine billion, two hundred eighty-three million.

Twenty-five years ago, July 16, 1976, the Federal debt stood at $618,625,000,000, six hundred eighteen billion, six hundred twenty-five million, which reflects a debt increase of more than $5 trillion, $5,090,688,725,685.43, five trillion, ninety billion, six hundred eighty-eight million, seven hundred twenty-five thousand, six hundred eighty-five dollars and forty-three cents during the past 25 years.

ADDITIONAL STATEMENTS

PRAISE FOR GEORGIA'S KWAME BROWN ON BEING NBA'S NUMBER ONE DRAFT

● Mr. MILLER. Mr. President, every one of us has a life story. Every person is a book, and I would like to tell you about one young man from the state of Georgia who is beginning a new chapter in his.

Kwame Brown has known adversity since the age of 5, when his parents split up for good and he landed in a shelter with his mother and siblings for 10 months. With the help of relatives, Kwame and his family got out of that shelter and things got better—but not by much. Kwame's mother, Joyce, raised him and his seven siblings by herself in Brunswick, GA, supporting the family by cleaning hotel rooms. That job ended in 1993 when a back injury and other health problems left Ms. Brown unable to work. Since then, the family has scraped by on a monthly disability check and a few extra dollars from babysitting. Their mode of transportation: a bicycle. Such adversity would break most families, but not Kwame Brown's family.

With the help of a church mentor, Kwame and his siblings became focused and set goals for themselves. Kwame decided he wanted to be a better student and a better basketball player. Through his faith and many hours of hard work, Kwame improved his grades so much that he landed on the honor roll at Brunswick's Glynn Academy. And now he has achieved something that no other person in this country ever has.

On June 27, 2001, 19-year-old Kwame became the first high school player ever to be picked as the No. 1 draft in the NBA. This young man who once lived in a neighborhood so poor it was nicknamed ''The Bottom'' has pulled himself up to the very top.

At 6-feet-11 inches tall and 240 pounds, Kwame averaged 20.1 points, 13.3 rebounds and 5.8 blocked shots as a senior last year at Glynn Academy; he scored 1,539 career points. His exceptional talent has given rise to a number of awards. He was named to McDonald's All-America Team and USA Today's All-USA First team. He was also Georgia's High School Player of the Year.

Kwame Brown is not only a star on the court. His off-the-court life is just as exemplary. Even though he went against his mother's wishes in postponing plans to attend the University of Florida, Kwame believes that his decision to enter the NBA will allow him to give his family a better life than they have ever known. And he has promised his mother and himself that he will still get that college education. First, he wants to give his mother something she has never had: the keys to a brand new home.

Basketball legend Michael Jordan, who is part-owner of the Wizards, called Kwame ''a confident kid who understands his surroundings . . . He comes from a family where nothing has been given to him. He has gotten this far with hard work and a little dreaming.''

I am honored to recognize Kwame Brown, a young man who is not only a talented athlete, but also humble, wise and mature beyond his years. I look forward to this new chapter in Kwame's life with great anticipation. I know his will be a fascinating story with a wonderful ending.●

TRIBUTE TO JAMES LAKE

● Mr. CRAIG. Mr. President, I rise today to pay tribute to James Lake upon the occasion of his completion in June of a tenure as the President of the American Nuclear Society for the 2000/2001 year. The American Nuclear Society is an international scientific and educational organization established in 1954. Its membership now has approximately 11,000 engineers, scientists, administrators, and educators representing over 1,600 corporations, educational institutions, and government agencies.

The work of nuclear engineers and scientists is especially relevant to meeting the increasing need of the Nation for electricity. Around the United States, there is a growing public interest in new nuclear plants which offer an economical, safe and environmentally-friendly alternative for the generation of electricity. The development of nuclear professionals is a valuable service for the Nation that advances our energy security and economic well-being.

Jim Lake's service as the President of the American Nuclear Society this year has helped to stimulate the interest in new nuclear generation which has stemmed from energy shortages in California and higher energy prices in many areas. He has crossed the Nation many times this year to meet with nuclear professionals, industry executives, public servants, educators and students to seek their views and ideas on an expanding role for nuclear energy in the Nation's future. He has represented the professionals of the United States in many forums overseas, and has brought home a broad perspective on nuclear energy's role in a balanced energy portfolio.

Jim Lake's career now spans twenty-eight years, of which he has spent the last seventeen at the Idaho National Engineering and Environmental Laboratory in my State. As he completes

his tenure as President, he returns to the Laboratory as an Associate Laboratory Director with an enthusiasm for nuclear energy that is fueled by his many experiences of the last year.

Always interested in the development of the professionals at the Laboratory, Jim has been an active and tireless supporter of the Idaho Section of the American Nuclear Society. His leadership of that section resulted in its award for Outstanding Section Management in 1992. The Idaho Section has won many awards in the last ten years and is considered to be truly one of the best in the society.

Jim Lake attended the Georgia Institute of Technology, receiving a Master's degree in 1969 and a Doctoral degree in 1972. He was elected a Distinguished Engineering Alumnus by Georgia Tech in 1996, and a Fellow of the American Nuclear Society in 1992. He is the author of over thirty technical publications in the disciplines of reactor physics, nuclear engineering and nuclear reactor design. I ask my colleagues to join me in extending our deep appreciation to Jim Lake for his outstanding service, for his leadership of the American Nuclear Society and in wishing him well in all future endeavors.●

IN RECOGNITION OF WILLIAM N. GUERTIN

● Mrs. FEINSTEIN. Mr. President, I am pleased today to commend Mr. William N. Guertin for his election as President of the American Association of Medical Society Executives and for his 30 years of service to the medical doctors of Alameda-Contra Costa counties and his many achievements.

Mr. Guertin has been a member of the Alameda-Contra Costa Medical Association, ACCMA, since 1971, and has held two executive offices, Assistant Executive Director and Executive Director. The ACCMA serves over 3,100 doctors and is the second largest medical association in California.

Mr. Guertin's leadership supported many California doctors' efforts to help, cure, and care for people in need of support and medical help. He has worked to create programs that promote public health, quality access to care, and professional standards in California. Mr. Guertin has worked to protect physicians from impositions that would interfere with their ability to interact successfully with their patients. Mr. Guertin created the first doctor-owned professional liability insurance carrier in California, at a time when doctors were not able to obtain the insurance necessary to practice quality medicine.

The practice of medicine has long been a profession of people who devote their time and effort to helping others. Mr. Guertin has worked tirelessly for the past 30 years to facilitate the work of physicians and to enhance the quality of care for the people of Alameda-Contra Costa counties.

For these reasons, I congratulate Mr. Guertin on his new position as President of the American Association of Medical Society Executives. I am confident that Mr. Guertin will succeed in his new position and work to augment the lives of patients and physicians throughout the Nation.●

JAN KARSKI—A QUIET HERO

● Mr. DEWINE. Mr. President, today I remind my colleagues of a story I read in the New York Times almost exactly one year ago today. It was the July 15, 2000, obituary of a man named Jan Karski. I was absolutely fascinated by this man's life story and with the first anniversary of his death, I am reminded of the role he played in our modern history. Like few others, he had a unique window view into an appalling and shameful era of history—the Holocaust. Let me explain.

During World War II, Jan Karski brought to the Allied leaders in the West—and at no small risk to his own life—what is believed to be the first eyewitness reports of Hitler's indescribable acts of hate and cruelty against the Jews. In 1942, Jewish resistance leaders asked Jan, then a 28-year-old courier for the Polish underground, to be their voice to the West—to convey to the Allies an actual eyewitness account of the Jewish genocide in Europe.

He readily accepted this dreadful task, as he knew that someone had to tell the world exactly what was happening in Europe. Though he succeeded in relaying the nightmarish sights to Western leaders, his reports were met initially by indifference. While many others eventually would confirm Jan's horrifying accounts of the Jewish concentration camps and the Warsaw Ghetto in Poland, he was one of the first—and one of very few—to take a stand against these atrocities.

We are discovering that Jan's voice was not the only warning of the wholesale slaughter of innocent human life by Nazi Germany. As we speak, a dedicated group of individuals, both in government and in the private sector, are declassifying and releasing to the public thousands and thousands of pages of previously classified material about Nazi war criminals, persecution, and looting. This effort is the result of the ''Nazi War Crimes Disclosure Act''—legislation I wrote into law with my friends and colleagues from New York, Senator PATRICK MOYNIHAN and Congresswoman CAROLYN MALONEY.

Just this past April, in fact, our law made history with the release of 10,000 pages of previously classified Central Intelligence Agency, (CIA), files on 20 key figures from the Nazi party, including Adolf Hitler, Klaus Barbie, Adolf Eichmann, Kurt Waldheim, Heinrich Mueller, and Josef Mengele. And, prior to that last summer, 400,000 pages of other historical documents were released.

A number of those documents contained information that Fritz Kolbe provided to U.S. intelligence authorities in 1943. Mr. Kolbe was a member of the German resistance and worked in the German Foreign Office. Codenamed ''George Wood,'' Mr. Kolbe put his life on the line by traveling to Switzerland, carrying highly sensitive information on Nazi activities for delivery to U.S. intelligence agents. A complete set of these documents in translation is now available for historical review. Also available in its entirety is the U.S. State Department's complete debrief of Mr. Kolbe from September 1945. This document shows that he did not act alone, but relied on what he called his ''Inner Circle,'' which consisted of as many as 20 other Germans. The names of these individuals are not well known members of the resistance—they are ordinary people, like Jan Karski.

While the gruesome reality of Nazi Germany eventually became clear to the world and as the Allies acted to end Hitler's evil regime, Jan's job—his mission—never really ended. For the rest of his life, he carried with him the sights, the sounds, the smells, and the sadness of the Holocaust. Karski, himself, once said: ''This sin will haunt humanity to the end of time. It does haunt me. And, I want it to be so.''

Jan Karski wanted us all to be haunted by the Holocaust. He wanted us never to forget. He devoted his life to ensuring that such inhumane horror would be present forever in our collective conscience, so that we, above all else, will never let this dark chapter in our history ever, ever repeat itself.

While we often think of heroes in terms of epic feats on the battlefield or in the face of great danger, Jan Karski is no less a hero for giving a voice to a silent slaughter. I ask my colleagues to think about that and to take some time to consider the life of Jan Karski and the life of Fritz Kolbe. Their stories, along with others newly discovered, help fill the holes of history, while revisiting a fundamental, troubling question of what the West knew about the Holocaust and when we knew it.

I encourage my colleagues to learn more about Jan and Fritz. Read last year's New York Times obituary about Jan's life. Talk about his story with your families. To understand the Holocaust is to remember the lives of Jan Karski and Fritz Kolbe—to remember—''always remember,'' as Jan would say—what their sacrifices meant—and still mean—for our world.●

TRIBUTE TO DR. MORTIMER ADLER

• Mrs. BOXER. Mr. President, today I would like to pay tribute to a great American who passed away on June 28, at the age of 98½—an American whose life spanned virtually the entire 20th century and whose work influenced the course of the century.

Dr. Mortimer Jerome Adler, author, educator and philosopher was born in New York City and subsequently moved to California where he lived a great portion of his life.

Mortimer Adler devoted his life to the pursuit of wisdom, understanding, truth and knowledge, and to sharing what he learned with others. After having read John Stuart Mill's Autobiography at age 14 and learning that Mill had read Plato by the time he was five, he hit the books and never looked back.

A prolific writer, Adler authored well over 50 books, including How to Read a Book; The American Testament; The Common Sense of Politics; Aristotle for Everyone; Ten Philosophical Mistakes; and Art, the Arts and the Great Ideas. It is readily apparent, Mr. President, that his interests were wide ranging and extensive. As editor of the Encyclopedia Britannica, Adler was responsible for revamping the encyclopedia in the form we know it today. He was also editor of the 60 volume set, The Great Books of the Western World and was also instrumental in devising the Great Books reading program, a book discussion program with chapters throughout the United States in which participants read and discuss classic texts.

A professor at several universities including Columbia University and the University of Chicago, Mortimer Adler was probably the only person in America to receive his PhD before receiving his high school diploma, bachelors or masters degrees. As part of his unending quest to reform the American education system, he wrote, on behalf of the Paideia Group, The Paideia Proposal, a book explaining how and why the education that the best receive should be the education that all receive.

Known as ''Everyone's Philosopher'' or ''the Philosopher of the Common Man,'' Mortimer Adler spent a lifetime demonstrating that philosophy was not a field only for some, but an endeavor for everyone. As the title of a journal that he published since the early 90's puts it succinctly, ''Philosophy is Everybody's Business.''

He was also the founder of the Institute for Philosophical Research and was instrumental in founding the Aspen Institute, an organization which engages leaders in business, academia and politics in discussions of perennial ideas using classic texts to facilitate discussion.

Only rarely does a person of Mortimer Adler's intellect and ability come along. We are fortunate that Professor Adler was with us for as long as he was.•

TRIBUTE TO LT. GEN. HENRY T. GLISSON

• Mr. ALLEN. Mr. President, I rise today to honor a lifetime commitment to serving the United States of America. On August 31, 2001, Lt. Gen. Henry T. Glisson of Alexandria, Virginia, will retire as a Lieutenant General after 34 years of dedicated service in the United States Army.

General Glisson was commissioned as a Second Lieutenant of the Quartermaster Corps through the Reserve Officer Training Corps program at North Georgia College, where he earned his bachelor of science degree in Psychology. Thereafter, he received his master's degree in Education from Pepperdine University of California. His military educational background includes the Quartermaster Officer Basic and Advanced Courses, the Command and General Staff College, and the Army War College.

Selected as a Regular Army Officer in 1967, and detailed to the Infantry for 18 months, his early years included assignment as a Platoon Leader for the 549th Quartermaster Company, Air Delivery, and Aide-de-Camp for the Commanding General of the U.S. Army in Japan; Advisory in the U.S. Military Assistance Command in Vietnam; and S4, Logistics, and Commander of the Headquarters Company of the 2nd Battalion of the 5th Infantry; Commander of Company C of the 425th Support Battalion; Executive Officer/S3 of the 25th Supply and Transport Battalion.

From 1978 to 1982, he served as the S3 of the Division Support Command; Executive Officer of 701st Maintenance Battalion; and Commander of the Materiel Management Center of the 1st Infantry Division in Fort Riley, Kansas. His next assignment was Commander of the 87th Maintenance Battalion of the 7th Support Group for the United States Army in Europe. He served as Chief of the Quartermaster Branch of the United States Army Military Personnel Command in Alexandria, Virginia, from 1985 to 1987.

In 1989 he became Commander of Division Support Command for the 4th Infantry Division in Fort Carson, Colorado. He returned to the Pentagon in 1991, serving as the Executive Officer and Special Assistant to the Deputy Chief of Staff for Logistics; and then as Deputy Director, Directorate for Plans and Operations in the Office of the Deputy Chief of Staff for Logistics. In 1993, he was promoted to Brigadier General and has served in four consecutive command assignments: Commander of the Defense Personnel Support Center for the Defense Logistics Agency; Commander of the U.S. Army Soldier Systems Command of the U.S. Army Materiel Command; and 44th Quartermaster General and Commandant of the U.S. Army Quartermaster Center and School. In 1997, he was promoted to Lieutenant General and began his service as Director of the Defense Logistics Agency in Fort Belvoir, Virginia.

His tireless and selfless dedication to serving his country is represented by the many decorations he has earned, including the Defense Distinguished Service Medal, the Defense Superior Service Medal, the Legion of Merit with Five Oak Leaf Clusters, the Bronze Star with ''V'' Device, the Bronze Star, the Purple Heart, the Meritorious Service Medal with Four Oak Leaf Clusters, the Army Commendation Medal, the Air Medal, the Combat Infantryman Badge, the Parachutist Badge, the Parachute Rigger Badge and the Army Staff Identification Badge.

In closing, I wish to commend General Glisson for his many years of distinguished service to our Nation, protecting our freedoms of life, liberty and the pursuit of happiness. I wish him and his wife, Sherry, Godspeed in his retirement.•

TRIBUTE TO REVEREND CHRISTIAN

• Mr. CORZINE. Mr. President, I bring to the attention of my colleagues a great man in the State of New Jersey, Rev. Ron Christian.

Reverend Christian is a man of integrity who is committed to the spiritual, mental, social, civil, and economic well-being of his congregation and of the residents of Essex County.

I want to congratulate him on his installation as the pastor of the Christian Love Baptist Church. He is a dynamic gentleman who has turned his life around and has become a leader and role model in the community.

Reverend Christian is a true American, who believes that all people should have access to America's Promise. He has the enviable gift of being able to bring people together to work for a common cause. Reverend Christian is an unselfish man whose motivation is not self-gratification. He possesses a higher calling.

On July 8, Reverend Christian became the pastor of the Christian Love Baptist Church in Irvington, New Jersey. I am certain that under his guidance, Christian Love Baptist Church will experience enormous growth and will continue its tradition of being a warm congregation filled with joy and love.

Reverend Christian's devotion to the community is very well known, and the State of New Jersey is a better place because of his leadership.

Lastly, I am proud to call Reverend Christian a friend. It is an honor for me to bring him to your attention.•

ALBUQUERQUE HISPANO CHAMBER OF COMMERCE GRAND OPENING

• Mr. DOMENICI. Mr. President, I rise today and ask my colleagues to join me in congratulating the Albuquerque Hispano Chamber of Commerce in my home state of New Mexico, as they continue their work to serve the community, with the opening of their Barelas Job Opportunity Center.

The Albuquerque Hispano Chamber of Commerce was founded in May 1975 and is dedicated to improving the quality of life for citizens, by promoting economic and education activities, with an emphasis on small business.

In those many years, the Albuquerque Hispano Chamber of Commerce has helped small business people by providing much needed services and informing them of business opportunities. It also serves as an advocate for issues affecting the small businessperson.

Through the Chamber, the entrepreneur also has access to a portal through which they can contribute to the economic and civic development of the community.

The Chamber just moved into a new building in an area of Albuquerque that is not affluent or wealthy, but one that is predominately Hispanic, and with history and pride: the South Valley. It is a fitting location for the Chamber, since it has always worked to protect, perpetuate and promote the Hispanic Culture, language and tradition.

The Albuquerque Hispano Chamber of Commerce will now be able to take their assistance a step further with the opening of their Barelas Job Opportunity Center within their new building.

The Opportunity Center, to be dedicated on August 10, 2001, will allow the Chamber to provide even more services individually designed to help members and small businesspersons with their business needs.

The Barelas Job Opportunity Center will serve the neighborhood, community, State and Nation for generations to come.

I applaud the Albuquerque Hispano Chamber of Commerce as it opens its new Barelas Job Opportunity Center. The Chamber has made a great impact on our community and with the new Job Opportunity Center, will continue and further its contribution. We wish them much continued success in the future.•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON THE NATIONAL EMERGENCY WITH RESPECT TO SIERRA LEONE—MESSAGE FROM THE PRESIDENT—PM 35

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

As required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), I transmit herewith a 6-month periodic report on the national emergency with respect to Sierra Leone that was declared in Executive Order 13194 of January 18, 2001.

GEORGE W. BUSH.

THE WHITE HOUSE, *July 17, 2001.*

MESSAGES FROM THE HOUSE

At 2:15 p.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, without amendment:

S. 360. An act to honor Paul D. Coverdell.

S. 560. An act for the relief of Rita Mirembe Revell (a.k.a. Margaret Rita Mirembe).

At 3:14 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 360. An act to honor Paul D. Coverdell.

S. 560. An act for the relief of Rita Mirembe Revell (a.k.a. Margaret Rita Mirembe).

The enrolled bills were signed subsequently by the President pro tempore (Mr. BYRD).

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, July 17, 2001, she had presented to the President of the United States the following enrolled bills:

S. 360. An act to honor Paul D. Coverdell.

S. 560. An act for the relief of Rita Mirembe Revell (a.k.a. Margaret Rita Mirembe).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HOLLINGS for the Committee on Commerce, Science, and Transportation.

*Allan Rutter, of Texas, to be Administrator of the Federal Railroad Administration.

*Ellen G. Engleman, of Indiana, to be Administrator of the Research and Special Programs Administration, Department of Transportation.

*Samuel W. Bodman, of Massachusetts, to be Deputy Secretary of Commerce.

By Mr. BAUCUS for the Committee on Finance.

*Wade. F. Horn, of Maryland, to be Assistant Secretary for Family Support, Department of Health and Human Services.

*Kevin Keane, of Wisconsin, to be an Assistant Secretary of Health and Human Services.

*William Henry Lash, III, of Virginia, to be an Assistant Secretary of Commerce.

*Brian Carlton Roseboro, of New Jersey, to be an Assistant Secretary of the Treasury.

*Allen Frederick Johnson, of Iowa, to be Chief Agricultural Negotiator, Office of the United States Trade Representative, with the rank of Ambassador.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated, on July 13, 2001, during the recess ofthe Senate:

By Mrs. MURRAY:

S. 1178. An original bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002, and for other purposes; from the Committee on Appropriations; placed on the calendar.

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated, on July 17, 2001:

By Mr. CLELAND (for himself and Mr. MILLER):

S. 1184. A bill to designate the facility of the United States Postal Service located at 2853 Candler Road in Decatur, Georgia, as the ''Earl T. Shinhoster Post Office''; to the Committee on Governmental Affairs.

By Mr. WYDEN (for himself and Ms. SNOWE):

S. 1185. A bill to amend title XVIII of the Social Security Act to assure access of medicare beneficiaries to prescription drug coverage through the SPICE drug benefit program; to the Committee on Finance.

By Mr. DOMENICI (for himself, Mr. INOUYE, Mr. CAMPBELL, Mr. BINGAMAN, Mr. BAUCUS, Mr. CRAPO, Mr. ALLARD, Mr. JOHNSON, and Mr. KYL):

S. 1186. A bill to provide a budgetary mechanism to ensure that funds will be available to satisfy the Federal Government's responsibilities with respect to negotiated settlements of disputes related to Indian water rights claims and Indian land claims; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports,

the other Committee have thirty days to report or be discharged.

By Mr. BUNNING:

S. 1187. A bill to provide for the management of environmental matters at the Paducah Gaseous Diffusion Plant, Kentucky, through the Assistant Secretary of Energy for Environmental Management; to the Committee on Energy and Natural Resources.

By Mr. ROCKEFELLER (for himself and Mr. CLELAND):

S. 1188. A bill to amend title 38, United States Code, to enhance the authority of the Secretary of Veterans Affairs to recruit and retain qualified nurses for the Veterans Health Administration, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. HOLLINGS (for himself, Mr. INOUYE, and Mr. DORGAN):

S. 1189. A bill to require the Federal Communications Commission to amend its daily newspaper cross-ownership rules, and for other purposes; to the Committee on Commerce, Science, and Transportation.

SUBMISSION ON CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BIDEN:

S. Res. 135. A resolution honoring Drs. Arvid Carlsson, Paul Greengard, and Eric R. Kandel for being awarded the Nobel Prize in Physiology or Medicine for 2000, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. HELMS (for himself, Mr. SMITH of Oregon, Mr. LOTT, and Mr. ALLEN):

S. Con. Res. 60. A concurrent resolution expressing the sense of the Congress that the continued participation of the Russian Federation in meetings of the Group of Eight countries must be conditioned on the Russian Federation's voluntary acceptance of and adherence to the norms and standards of democracy; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 29

At the request of Mr. BOND, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 29, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for 100 percent of the health insurance costs of self-employed individuals.

S. 174

At the request of Mr. KERRY, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 174, a bill to amend the Small Business Act with respect to the microloan program, and for other purposes.

S. 177

At the request of Mr. AKAKA, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 177, a bill to amend the provisions of title 39, United States Code, relating to the manner in which pay policies and schedules and fringe benefit programs for postmasters are established.

S. 358

At the request of Mr. BREAUX, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 358, a bill to amend the Social Security Act to establish a Medicare Prescription Drug and Supplemental Benefit Program and for other purposes.

S. 400

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 400, a bill to lift the trade embargo on Cuba, and for other purposes.

S. 401

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 401, a bill to normalize trade relations with Cuba, and for other purposes.

S. 402

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 402, a bill to make an exception to the United States embargo on trade with Cuba for the export of agricultural commodities, medicines, medical supplies, medical instruments, or medical equipment, and for other purposes.

S. 457

At the request of Ms. SNOWE, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 457, a bill to amend title 38, United States Code, to establish a presumption of service-connection for certain veterans with Hepatitis C, and for other purposes.

S. 486

At the request of Mr. LEAHY, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 486, a bill to reduce the risk that innocent persons may be executed, and for other purposes.

S. 540

At the request of Mr. DEWINE, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 540, a bill to amend the Internal Revenue Code of 1986 to allow as a deduction in determining adjusted gross income the deduction for expenses in connection with services as a member of a reserve component of the Armed Forces of the United States, to allow employers a credit against income tax with respect to employees who participate in the military reserve components, and to allow a comparable credit for participating reserve component self-employed individuals, and for other purposes.

S. 543

At the request of Mr. WELLSTONE, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 543, a bill to provide for equal coverage of mental health benefits with respect to health insurance coverage unless comparable limitations are imposed on medical and surgical benefits.

S. 572

At the request of Mr. CHAFEE, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 572, a bill to amend title XIX of the Social Security Act to extend modifications to DSH allotments provided under the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000.

S. 611

At the request of Ms. MIKULSKI, the names of the Senator from South Carolina (Mr. HOLLINGS), the Senator from Washington (Ms. CANTWELL), and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of S. 611, a bill to amend title II of the Social Security Act to provide that the reduction in social security benefits which are required in the case of spouses and surviving spouses who are also receiving certain Government pensions shall be equal to the amount by which two-thirds of the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds $1,200, adjusted for inflation.

S. 658

At the request of Mr. LEAHY, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 658, a bill to amend title 32, United States Code, to authorize units of the National Guard to conduct small arms competitions and athletic competitions, and for other purposes.

S. 668

At the request of Mr. AKAKA, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 668, a bill to amend the Animal Welfare Act to ensure that all dogs and cats used by research facilities are obtained legally.

S. 723

At the request of Mr. LEAHY, his name was added as a cosponsor of S. 723, a bill to amend the Public Health Service Act to provide for human embryonic stem cell generation and research.

S. 760

At the request of Mr. HATCH, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 760, a bill to amend the Internal Revenue Code of 1986 to encourage and accelerate the nationwide production, retail sale, and consumer use of new motor vehicles that are powered by fuel cell technology, hybrid technology, battery electric technology, alternative fuels, or other advanced motor vehicle technologies, and for other purposes.

S. 830

At the request of Mr. CHAFEE, the names of the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 830, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors

that may be related to the etiology of breast cancer.

S. 847

At the request of Mr. DAYTON, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 847, a bill to impose tariff-rate quotas on certain casein and milk protein concentrates.

S. 866

At the request of Mr. REID, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 866, a bill to amend the Public Health Service Act to provide for a national media campaign to reduce and prevent underage drinking in the United States.

S. 882

At the request of Ms. MIKULSKI, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 882, a bill to amend title II of the Social Security Act to provide that a monthly insurance benefit thereunder shall be paid for the month in which the recipient dies, subject to a reduction of 50 percent if the recipient dies during the first 15 days of such month, and for other purposes.

S. 885

At the request of Mr. HUTCHINSON, the names of the Senator from New York (Mrs. CLINTON) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 885, a bill to amend title XVIII of the Social Security Act to provide for national standardized payment amounts for inpatient hospital services furnished under the medicare program.

S. 887

At the request of Mr. WELLSTONE, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 887, a bill to amend the Torture Victims Relief Act of 1986 to authorize appropriations to provide assistance for domestic centers and programs for the treatment of victims of torture.

S. 890

At the request of Mr. MCCAIN, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 890, a bill to require criminal background checks on all firearms transactions occurring at events that provide a venue for the sale, offer for sale, transfer, or exchange of firearms, and to provide additional resources for gun crime enforcement.

S. 940

At the request of Mr. DODD, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 940, a bill to leave no child behind.

S. 1017

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 1017, a bill to provide the people of Cuba with access to food and medicines from the United States, to ease restrictions on travel to Cuba, to provide scholarships for certain Cuban nationals, and for other purposes.

At the request of Mr. DODD, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 1017, supra.

S. 1047

At the request of Mr. GRAMM, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 1047, a bill to amend the Internal Revenue Code of 1986 to provide for nonrecognition of gain on dispositions of dairy property which is certified by the Secretary of Agriculture as having been the subject of an agreement under the bovine tuberculosis eradication program, and for other purposes.

S. 1050

At the request of Mr. SANTORUM, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 1050, a bill to protect infants who are born alive.

S. 1052

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 1052, a bill to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage.

S. 1078

At the request of Mr. LEVIN, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 1078, a bill to promote brownfields redevelopment in urban and rural areas and spur community revitalization in low-income and moderate-income neighborhoods.

S. 1079

At the request of Mr. LEVIN, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 1079, a bill to amend the Public Works and Economic Development Act of 1965 to provide assistance to communities for the redevelopment of brownfield sites.

S. 1087

At the request of Mr. CONRAD, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 1087, a bill to amend the Internal Revenue Code of 1986 to provide a shorter recovery period of the depreciation of certain leasehold improvements.

S. 1104

At the request of Mr. GRAHAM, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 1104, a bill to establish objectives for negotiating, and procedures for, implementing certain trade agreements.

S. 1116

At the request of Mr. INOUYE, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1116, a bill to amend the Foreign Assistance Act of 1961 to provide increased foreign assistance for tuberculosis prevention, treatment, and control.

S. 1119

At the request of Mr. LEAHY, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1119, a bill to require the Secretary of Defense to carry out a study of the extent to the coverage of members of the Selected Reserve of the Ready Reserve of the Armed Forces under health benefits plans and to submit a report on the study of Congress, and for other purposes.

S. 1152

At the request of Mr. DURBIN, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 1152, a bill to ensure that the business of the Federal Government is conducted in the public interest and in a manner that provides for public accountability, efficient delivery of services, reasonable cost savings, and prevention of unwarranted Government expenses, and for other purposes.

S. CON. RES. 53

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. Con. Res. 53, concurrent resolution encouraging the development of strategies to reduce hunger and poverty, and to promote free market economies and democratic institutions, in sub-Saharan Africa.

At the request of Mr. HAGEL, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. Con. Res. 53, supra.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CLELAND (for himself and Mr. MILLER):

S. 1184. A bill to designate the facility of the United States Postal Service located at 2853 Candler Road in Decatur, Georgia, as the ''Earl T. Shinhoster Post Office''; to the Committee on Governmental Affairs.

Mr. CLELAND. Mr. President, I rise today to recognize Mr. Earl Shinhoster for his distinguished career of service to the public and the cause of civil and human rights. In tribute to Mr. Shinhoster I hereby introduce legislation to designate the facility of the United States Postal Service located at 2853 Candler Road in Decatur, Georgia, as the ''Earl T. Shinhoster Post Office.'' Before his tragic death on June 12, 2000, he had been an active member of the National Association for the Advancement of Colored People, NAACP, for more than 30 years as both a volunteer and staff member, most recently as Acting Executive Director and Chief Executive Officer of its National Board of Directors in 1996, and Southeast Regional Director from 1978–1994.

In May 1998, Mr. Shinhoster was Chairman of the Georgia Delegation to the National Summit on Africa and he

was the Field Director for the National Democratic Institute in Accra, Ghana from 1996 to 1997 where he observed and monitored the 1996 Presidential and Parliamentary elections. He also monitored and observed the electoral process in South Africa and Nigeria. He was active on both the State and local level serving in the administration of Georgia Governor George Busbee from 1975 to 1978 as Director of the Governor's Office of Human Affairs. In 1998, Mr. Shinhoster served as Coordinator of Voter Education for the State's Election Division.

Earl Shinhoster earned his Bachelor of Arts degree in political science from Morehouse College in Atlanta, GA in 1972 before pursuing legal studies at Cleveland State University College of Law in Cleveland, OH. The particular Post Office to be named after him is the same Post Office in South DeKalb where he retrieved his mail and is located in the same community where his family and friends still reside today. I, along with Senator MILLER, urge my colleagues to support this legislation and recognize Mr. Shinhoster's long and distinguished career as a public servant promoting civil and human rights in Georgia, the United States, and around the world. 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. 1184

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF EARL T. SHINHOSTER POST OFFICE.

(a) IN GENERAL.—The facility of the United States Postal Service located at 2853 Candler Road in Decatur, Georgia, shall be known and designated as the ''Earl T. Shinhoster Post Office''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Earl T. Shinhoster Post Office.

By Mr. WYDEN (for himself and Ms. SNOWE):

S. 1185. A bill to amend title XVIII of the Social Security Act to assure access of Medicare beneficiaries to prescription drug coverage through the SPICE drug benefit program; to the Committee on Finance.

Mr. WYDEN. Mr. President, today Senator SNOWE and I are introducing our bipartisan legislation to provide a Medicare prescription drug benefit. Yesterday, I spoke about our proposal, The Senior Prescription Insurance Coverage Equity Act of 2001. 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. 1185

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 ''Seniors Prescription Insurance Coverage Equity (SPICE) Act of 2001''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. SPICE drug benefit program.
''PART D—SPICE DRUG BENEFIT PROGRAM
''Sec. 1860A. Establishment of SPICE drug benefit program.
''Sec. 1860B. SPICE prescription drug coverage.
''Sec. 1860C. Enrollment under SPICE drug benefit program.
''Sec. 1860D. Enrollment in a policy or plan.
''Sec. 1860E. Medicare Drug Plan for Noncompetitive Areas.
''Sec. 1860F. Selection of private entities to provide basic coverage.
''Sec. 1860G. Providing information to beneficiaries.
''Sec. 1860H. Premiums.
''Sec. 1860I. Approval for entities offering SPICE prescription drug coverage.
''Sec. 1860J. Payments to entities.
''Sec. 1860K. Financial assistance to obtain SPICE prescription drug coverage.
''Sec. 1860L. Employer incentive program for employment-based retiree drug coverage.
''Sec. 1860M. SPICE Board.
''Sec. 1860N. SPICE Prescription Drug Account in the Federal Supplementary Medical Insurance Trust Fund.''.
Sec. 3. SPICE prescription drug coverage under Medicare+Choice plans.
Sec. 4. Medigap revisions and transition provisions.
Sec. 5. Provision of information on SPICE drug benefit program under health insurance information, counseling, and assistance grants.
Sec. 6. Personal Digital Access Technology Demonstration Project.

SEC. 2. SPICE DRUG BENEFIT PROGRAM.

(a) IN GENERAL.—Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by redesignating part D as part E and by inserting after part C the following new part:

''PART D—SPICE DRUG BENEFIT PROGRAM

''ESTABLISHMENT OF SPICE DRUG BENEFIT PROGRAM

''SEC. 1860A. (a) ACCESS TO SPICE PRESCRIPTION DRUG COVERAGE.—

''(1) IN GENERAL.—Beginning in 2003, the SPICE Board (established under section 1860M) shall provide for a SPICE drug benefit program under which all eligible medicare beneficiaries who voluntarily enroll under this part shall be entitled to obtain SPICE prescription drug coverage (meeting the terms and conditions under this part) as follows:

''(A) MEDICARE+CHOICE PLAN.—If the eligible medicare beneficiary is eligible to enroll in a Medicare+Choice plan, the beneficiary may enroll in the plan and obtain SPICE prescription drug coverage (as defined in section 1860B(a)) through such plan.

''(B) MEDICARE SUPPLEMENTAL POLICY.—If the eligible medicare beneficiary is not enrolled in a Medicare+Choice plan but is enrolled in a medicare supplemental policy, the beneficiary may—

''(i) obtain SPICE prescription drug coverage through such policy; or

''(ii) waive basic coverage (as defined in section 1860B(b)) pursuant to section 1860C(a)(3) and obtain financial assistance pursuant to section 1860K(c) for stop-loss coverage (as defined in section 1860B(c)) provided under such policy.

''(C) MEDICARE DRUG PLAN FOR NONCOMPETITIVE AREAS.—If the eligible medicare beneficiary is not enrolled in a Medicare+Choice plan, a medicare supplemental policy, or a basic coverage plan under section 1860F, and there is a Medicare Drug Plan for Noncompetitive Areas available in the area in which the beneficiary resides, the beneficiary may obtain SPICE prescription drug coverage under this part through enrollment in such plan.

''(D) BASIC COVERAGE ONLY THROUGH A PRIVATE ENTITY.—If the eligible medicare beneficiary is not enrolled in a Medicare+Choice plan, a medicare supplemental policy, or a Medicare Drug Plan for Noncompetitive Areas, the beneficiary may obtain basic coverage (including financial assistance for such coverage under section 1860K(b) and access to negotiated prices under section 1860B(d)) through enrollment in a plan offered by a private entity with a contract to offer such plan under section 1860F.

''(2) VOLUNTARY NATURE OF PROGRAM.—Nothing in this part shall be construed as requiring an eligible medicare beneficiary to enroll in the program established under this part.

''(3) ADMINISTRATION OF BENEFITS.—In providing SPICE prescription drug coverage to an eligible medicare beneficiary under this part, an entity offering a medicare supplemental policy, a Medicare+Choice plan, a Medicare Drug Plan for Noncompetitive Areas, or a basic coverage plan under section 1860F may—

''(A) directly administer the benefits under such coverage; or

''(B) contract with an entity that meets the applicable requirements under this part to administer such benefits.

''(b) ACCESS TO ALTERNATIVE PRESCRIPTION DRUG COVERAGE.—In the case of an eligible medicare beneficiary who has creditable prescription drug coverage (as defined in section 1860C(b)(4)) under a policy or plan, such beneficiary—

''(1) may continue to receive such coverage under such policy or plan and not enroll under this part; and

''(2) pursuant to section 1860C(b)(3), is permitted to subsequently enroll under this part and obtain SPICE prescription drug coverage without any penalty if such policy or plan terminated, ceased to provide, or substantially reduced the value of the prescription drug coverage under such plan or policy.

''(c) FINANCIAL ASSISTANCE.—

''(1) UNDER SPICE DRUG BENEFIT PROGRAM.—Under the SPICE drug benefit program, the SPICE Board shall provide financial assistance, with such assistance varying depending upon the income of such beneficiary, for any eligible medicare beneficiary enrolled under this part who voluntarily obtains—

''(A) basic coverage (pursuant to subsection (b) of section 1860K); or

''(B) stop-loss coverage (pursuant to subsection (c) of such section).

''(2) ASSISTANCE TO GROUP HEALTH PLANS THAT PROVIDE PRESCRIPTION DRUG COVERAGE TO ELIGIBLE MEDICARE BENEFICIARIES.—Pursuant to the Employer Incentive Program established under section 1860L, the SPICE

Board shall make payments to employers and other sponsors of employment-based health care coverage to encourage such employers and sponsors to provide adequate prescription drug coverage to retired individuals.

''(d) ELIGIBLE MEDICARE BENEFICIARY DEFINED.—For purposes of this part, the term 'eligible medicare beneficiary' means an individual who is entitled to benefits under part A and enrolled under part B.

''(e) FINANCING.—The costs of providing benefits under this part shall be payable from the SPICE Prescription Drug Account (as established under section 1860N) within the Federal Supplementary Medical Insurance Trust Fund under section 1841.

''SPICE PRESCRIPTION DRUG COVERAGE

''SEC. 1860B. (a) IN GENERAL.—For purposes of this part, the term 'SPICE prescription drug coverage' means coverage consisting of the following:

''(1) BASIC COVERAGE.—Basic coverage (as defined in subsection (b)) and access to negotiated prices under subsection (d), except as waived pursuant to section 1860C(a)(3).

''(2) STOP-LOSS COVERAGE.—Stop-loss coverage (as defined in subsection (c)).

''(b) BASIC COVERAGE.—For purposes of this part, the term 'basic coverage' means coverage of covered outpatient drugs (as defined in subsection (e)) that meets the following requirements:

''(1) DEDUCTIBLE.—The coverage has an annual deductible—

''(A) for 2003, that is equal to $350; or

''(B) for a subsequent year, that is equal to the amount specified under this paragraph for the previous year increased by the percentage specified in paragraph (4) for the year involved.

Any amount determined under subparagraph (B) that is not a multiple of $5 shall be rounded to the nearest multiple of $5.

''(2) COINSURANCE.—The coverage has coinsurance (for the cost of a covered outpatient drug above the annual deductible specified in paragraph (1) for the year and up to the initial coverage limit specified in paragraph (3) for the year) that does not exceed 25 percent of the cost of such drug.

''(3) INITIAL COVERAGE LIMIT.—

''(A) IN GENERAL.—The coverage has an initial coverage limit for covered outpatient drugs in a year that is reached when the eligible medicare beneficiary has incurred the applicable amount of out-of-pocket expenses in the year.

''(B) APPLICABLE AMOUNT DEFINED.—For purposes of subparagraph (A), the term 'applicable amount' means—

''(i) for 2003, $3,000; or

''(ii) for a subsequent year, the amount specified in this subparagraph for the previous year, increased by the annual percentage increase described in paragraph (4) for the year involved.

Any amount determined under clause (ii) that is not a multiple of $25 shall be rounded to the nearest multiple of $25.

''(C) APPLICATION.—In applying paragraph (1)—

''(i) incurred out-of-pocket expenses shall only include expenses incurred for the annual deductible (described in paragraph (1)) and coinsurance (described in paragraph (2)); and

''(ii) such expenses shall be treated as incurred without regard to whether the individual or another person, including a State program or other third-party coverage, has paid for such expenses.

''(4) ANNUAL PERCENTAGE INCREASE.—For purposes of this part, the annual percentage increase specified in this paragraph for a year is equal to the annual percentage increase in average per capita aggregate expenditures for benefits under this title, as determined by the Secretary for the 12-month period ending in July of the previous year.

''(c) STOP-LOSS COVERAGE.—For purposes of this part, the term 'stop-loss coverage' means coverage of covered outpatient drugs in a year without any coinsurance after the eligible medicare beneficiary has reached the initial coverage limit specified in subsection (b)(3) for the year.

''(d) ACCESS TO NEGOTIATED PRICES.—Under SPICE prescription drug coverage offered under a policy or plan, the entity offering the policy or plan (or the administering entity pursuant to subsection (a)(3)(B)) shall provide beneficiaries with access to negotiated prices (including applicable discounts) used for payment for covered outpatient drugs, regardless of the fact that no benefits may be payable under the coverage with respect to such drugs because of the application of the annual deductible.

''(e) COVERED OUTPATIENT DRUGS DEFINED.—

''(1) IN GENERAL.—Except as provided in this subsection, for purposes of this part, the term 'covered outpatient drug' means—

''(A) a drug that may be dispensed only upon a prescription and that is described in subparagraph (A)(i) or (A)(ii) of section 1927(k)(2); or

''(B) a biological product described in clauses (i) through (iii) of subparagraph (B) of such section or insulin described in subparagraph (C) of such section,

and such term includes any use of a covered outpatient drug for a medically accepted indication (as defined in section 1927(k)(6)).

''(2) EXCLUSIONS.—

''(A) IN GENERAL.—Such term does not include drugs or classes of drugs, or their medical uses, which may be excluded from coverage or otherwise restricted under section 1927(d)(2), other than subparagraph (E) thereof (relating to smoking cessation agents) and except to the extent otherwise specifically provided by the SPICE Board with respect to a drug in any of such classes.

''(B) AVOIDANCE OF DUPLICATE COVERAGE.—A drug prescribed for an individual that would otherwise be a covered outpatient drug under this part shall not be so considered if payment for such drug is available under part A or B or would be available under part B but for the application of a deductible under such part (but shall be so considered if such payment is not available because benefits under part A or B have been exhausted).

''(3) APPLICATION OF FORMULARY RESTRICTIONS.—A drug prescribed for an individual that would otherwise be a covered outpatient drug under this part shall not be so considered under a policy or plan if the policy or plan excludes the drug under a formulary that meets the requirements of section 1860I(c)(3) (including providing an appeal process).

''(4) APPLICATION OF GENERAL EXCLUSION PROVISIONS.—An entity may exclude from SPICE prescription drug coverage any covered outpatient drug—

''(A) for which payment would not be made if section 1862(a) applied to part D; or

''(B) which are not prescribed in accordance with the policy or plan or this part.

Such exclusions are determinations subject to reconsideration and appeal pursuant to section 1860I(c)(6).

''ENROLLMENT UNDER SPICE DRUG BENEFIT PROGRAM

''SEC. 1860C. (a) ESTABLISHMENT OF PROCESS.—

''(1) ESTABLISHMENT.—

''(A) IN GENERAL.—The SPICE Board, in consultation with the Secretary, the National Association of Insurance Commissioners, issuers of medicare supplemental policies, and Medicare+Choice organizations, shall establish a process through which an eligible medicare beneficiary (including an eligible medicare beneficiary enrolled in a Medicare+Choice plan) may enroll under this part.

''(B) SIMILAR TO PART B.—

''(i) IN GENERAL.—Except as provided in clause (ii), the process established under subparagraph (A) shall be similar to the process for enrollment in part B under section 1837.

''(ii) BENEFICIARY MUST AFFIRMATIVELY ENROLL.—Notwithstanding section 1837(f), such process shall require that an eligible medicare beneficiary affirmatively enroll under this part rather than deeming the beneficiary to be so enrolled if certain requirements are met.

''(2) REQUIREMENT OF ENROLLMENT.—An eligible medicare beneficiary must enroll under this part in order to be eligible to receive SPICE prescription drug coverage, including financial assistance for basic and stop-loss coverage under section 1860K.

''(3) WAIVER OF BASIC COVERAGE FOR MEDIGAP ENROLLEES.—

''(A) IN GENERAL.—The process established under paragraph (1) shall permit a beneficiary enrolled under this part and enrolled under a medicare supplemental policy to—

''(i) waive the basic coverage available under this part; and

''(ii) rescind such waiver in order to obtain such coverage.

''(B) RULES.—If a beneficiary waives basic coverage pursuant to subparagraph (A)(i), the following rules shall apply:

''(i) Such waiver shall not effect the stop-loss coverage that the beneficiary receives under the medicare supplemental policy, including the entitlement to financial assistance under section 1860K(c) for such coverage.

''(ii) The beneficiary shall not be liable for the basic monthly premium under section 1860H(a).

''(iii) The beneficiary shall not receive basic coverage but shall be entitled to negotiated prices for covered outpatient drugs as if the beneficiary had not waived such coverage.

''(iv) If the beneficiary subsequently rescinds such waiver pursuant to subparagraph (A)(ii), the beneficiary shall be subject to the late enrollment penalty under subsection (b).

''(b) LATE ENROLLMENT PENALTY.—

''(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, in the case of an eligible medicare beneficiary whose coverage period under this part began pursuant to an enrollment after the beneficiary's initial enrollment period under part B (determined pursuant to section 1837(d)) and not pursuant to the open enrollment period described in subsection (c), the SPICE Board shall establish procedures for increasing the amount of the basic monthly premium under section 1860H(a) applicable to such beneficiary—

''(A) by an amount that is equal to 25 percent of such premium for each full 12-month period (in the same continuous period of eligibility) in which the eligible medicare beneficiary could have been enrolled under this part but was not so enrolled; or

''(B) if determined appropriate by the SPICE Board, by an amount that the SPICE Board determines is actuarily sound for each such period.

''(2) PERIODS TAKEN INTO ACCOUNT.—For purposes of calculating any 12-month period under paragraph (1), there shall be taken into account—

''(A) the months which elapsed between the close of the eligible medicare beneficiary's initial enrollment period and the close of the enrollment period in which the beneficiary enrolled;

''(B) in the case of an eligible medicare beneficiary who reenrolls under this part, the months which elapsed between the date of termination of a previous coverage period and the close of the enrollment period in which the beneficiary reenrolled; and

''(C) in the case of an eligible medicare beneficiary who is enrolled under this part but has waived basic coverage pursuant to subsection (a)(3), the months which elapsed between the effective date of such waiver and the effective date of the rescission of such waiver.

''(3) PERIODS NOT TAKEN INTO ACCOUNT.—

''(A) IN GENERAL.—For purposes of calculating any 12-month period under paragraph (1), subject to subparagraph (B), there shall not be taken into account months for which the eligible medicare beneficiary can demonstrate that the beneficiary—

''(i) met such exceptional conditions (including conditions recognized under section 1851(e)(4)(D)) as the SPICE Board may provide; or

''(ii) had creditable prescription drug coverage (as defined in paragraph (4)).

''(B) APPLICATION.—The exception described in subparagraph (A)(ii) shall only apply with respect to a coverage period the enrollment for which occurs before the end of the 63-day period that begins on the first day of the month which includes the date on which the policy or plan involved terminates, ceases to provide, or substantially reduces the value of the prescription drug coverage under such policy or plan.

''(4) PRESCRIPTION DRUG COVERAGE.—For purposes of this part, the term 'creditable prescription drug coverage' means any of the following:

''(A) MEDICAID PRESCRIPTION DRUG COVERAGE.—Prescription drug coverage under a medicaid plan under title XIX, including through the Program of All-inclusive Care for the Elderly (PACE) under section 1934, through a social health maintenance organization (referred to in section 4104(c) of the Balanced Budget Act of 1997), or through a Medicare+Choice project that demonstrates the application of capitation payment rates for frail elderly medicare beneficiaries through the use of a interdisciplinary team and through the provision of primary care services to such beneficiaries by means of such a team at the nursing facility involved.

''(B) PRESCRIPTION DRUG COVERAGE UNDER GROUP HEALTH PLAN.—Any outpatient prescription drug coverage under a group health plan, including a health benefits plan under the Federal Employees Health Benefit Plan under chapter 89 of title 5, United States Code, and a qualified retiree prescription drug plan as defined in section 1860L(e)(3).

''(C) PRESCRIPTION DRUG COVERAGE UNDER CERTAIN MEDIGAP POLICIES.—Coverage under a medicare supplemental policy under section 1882 that provides benefits for prescription drugs but only if the policy was in effect on December 31, 2002, and only until the date such coverage is terminated.

''(D) STATE PHARMACEUTICAL ASSISTANCE PROGRAM.—Coverage of prescription drugs under a State pharmaceutical assistance program.

''(E) VETERANS' COVERAGE OF PRESCRIPTION DRUGS.—Coverage of prescription drugs for veterans under chapter 17 of title 38, United States Code.

''(5) PERIODS TREATED SEPARATELY.—Any increase in an eligible medicare beneficiary's basic monthly premium under paragraph (1) with respect to a particular continuous period of eligibility shall not be applicable with respect to any other continuous period of eligibility which the beneficiary may have.

''(6) CONTINUOUS PERIOD OF ELIGIBILITY.—

''(A) IN GENERAL.—Subject to subparagraph (B), for purposes of this subsection, an eligible medicare beneficiary's 'continuous period of eligibility' is the period that begins with the first day on which the beneficiary is eligible to enroll under section 1836 and this part and ends with the beneficiary's death.

''(B) SEPARATE PERIOD.—Any period during all of which an eligible medicare beneficiary satisfied paragraph (1) of section 1836 and which terminated during or before the month preceding the month in which the beneficiary attained age 65 shall be a separate 'continuous period of eligibility' with respect to the beneficiary (and each such period which terminates shall be deemed not to have existed for purposes of subsequently applying this subparagraph).

''(c) OPEN ENROLLMENT PERIOD FOR CURRENT BENEFICIARIES IN WHICH LATE ENROLLMENT PROCEDURES DO NOT APPLY.—The SPICE Board shall establish an applicable period, which shall begin on the date on which the SPICE Board first begins to accept enrollments under this part, during which any eligible medicare beneficiary may enroll under this part without the application of the late enrollment procedures established under subsection (b)(1).

''(d) PERIOD OF COVERAGE.—

''(1) IN GENERAL.—Except as provided in paragraph (2), an eligible medicare beneficiary's coverage under the program under this part shall be effective for the period provided in section 1838, as if that section applied to the program under this part.

''(2) OPEN ENROLLMENT.—An eligible medicare beneficiary who enrolls under the program under this part pursuant to subsection (c) shall be entitled to the benefits under this part beginning on the first day of the month following the month in which such enrollment occurs.

''(3) RESCISSION OF WAIVER.—The SPICE Board shall establish procedures regarding coverage periods for an eligible medicare beneficiary enrolled under this part who previously waived basic coverage under subsection (a)(3) and now wishes to rescind such waiver.

''(4) LIMITATION.—Coverage under this part shall not begin prior to January 1, 2003.

''(e) TERMINATION.—

''(1) IN GENERAL.—The causes of termination specified in section 1838 shall apply to this part in the same manner as they apply to part B.

''(2) COVERAGE TERMINATED BY TERMINATION OF COVERAGE UNDER PARTS A AND B.—

''(A) IN GENERAL.—In addition to the causes of termination described in paragraph (1), the SPICE Board shall terminate an individual's coverage under this part if the individual is no longer enrolled in either part A or B.

''(B) EFFECTIVE DATE.—The termination described in subparagraph (A) shall be effective on the effective date of termination of coverage under part A or (if earlier) under part B.

''(3) PROCEDURES REGARDING TERMINATION OF A BENEFICIARY UNDER A PLAN OR POLICY.—The SPICE Board shall establish procedures for determining the status of an eligible medicare beneficiary's enrollment under this part if the beneficiary's enrollment in a medicare supplemental policy, a Medicare+Choice plan, a Medicare Drug Plan for Noncompetitive Areas, or a basic coverage plan under section 1860F is terminated by the entity offering such policy or plan for cause (under the applicable requirements established under this title).

''ENROLLMENT IN A POLICY OR PLAN

''SEC. 1860D. (a) ENROLLMENT IN MEDICARE DRUG PLAN FOR NONCOMPETITIVE AREAS.—The SPICE Board shall establish a process through which an eligible medicare beneficiary who is enrolled under this part (but not enrolled in a medicare supplemental policy, a Medicare+Choice plan, or a basic coverage plan under section 1860F) and resides in an area in which a Medicare Drug Plan for Noncompetitive Areas is available may enroll in such plan. Such process shall include rules for enrollment, disenrollment, and termination of enrollment in such plan.

''(b) ENROLLMENT IN A MEDICARE SUPPLEMENTAL POLICY OR A MEDICARE+CHOICE PLAN.—Enrollment in a medicare supplemental policy or a Medicare+Choice plan is subject to the rules for enrollment in such policy or plan under sections 1882 and 1851, respectively.

''(c) ENROLLMENT IN A BASIC COVERAGE PLAN OFFERED BY A PRIVATE ENTITY WITH A CONTRACT UNDER THIS PART.—The SPICE Board shall establish a process through which an eligible medicare beneficiary who is enrolled under this part (but not enrolled in a medicare supplemental policy, a Medicare+Choice plan, or a Medicare Drug Plan for Noncompetitive Areas) may enroll in a basic coverage plan offered by a private entity with a contract under section 1860F to offer such plan. Such process shall include rules for enrollment, disenrollment, and termination of enrollment in such plan.

''(d) COORDINATION OF ENROLLMENTS, DISENROLLMENTS, AND TERMINATIONS OF ENROLLMENTS.—The SPICE Board shall establish procedures for coordinating enrollments, disenrollments and terminations of enrollments under plans described in subsections (a) and (c) with enrollments, disenrollments and terminations of enrollments under part C.

''MEDICARE DRUG PLAN FOR NONCOMPETITIVE AREAS

''SEC. 1860E. (a) IN GENERAL.—The SPICE Board shall provide for a Medicare Drug Plan for Noncompetitive Areas that—

''(1) provides enrollees with SPICE prescription drug coverage; and

''(2) is available to eligible medicare beneficiaries residing in an area that has been designated by the SPICE Board as a noncompetition area.

''(b) DESIGNATION OF NONCOMPETITION AREA.—

''(1) IN GENERAL.—The SPICE Board shall establish procedures for designating areas as noncompetition areas.

''(2) NONCOMPETITION AREA DEFINED.—

''(A) IN GENERAL.—For purposes of this section, the term 'noncompetition area' means an area in which only 1 or no medicare supplemental policy is available to eligible medicare beneficiaries residing in the area.

''(B) CONSTRUCTION REGARDING MULTIPLE POLICIES OFFERED BY SINGLE ISSUER.—If there is an entity that offers more that 1 type of medicare supplemental policy in an area,

then that area is not a noncompetition area for purposes of this section.

''(c) CONTRACTS.—In order to provide the Medicare Drug Plan for Noncompetitive Areas under this section, the SPICE Board shall do 1 of the following:

''(1) SINGLE CONTRACT THAT COVERS ALL NONCOMPETITION AREAS.—Enter into a contract with 1 entity to administer and deliver the benefits under the plan in every designated noncompetition area.

''(2) MULTIPLE CONTRACTS.—Enter into a contract with 1 entity to administer and deliver the benefits under the plan in 1 or more (but less than all) of the designated noncompetition areas.

''(d) BIDDING PROCESS.—

''(1) IN GENERAL.—The SPICE Board shall establish procedures under which the SPICE Board accepts bids submitted by entities and awards a contract (or contracts pursuant to subsection (c)(2)) to an entity in order to administer and deliver the benefits under the Medicare Drug Plan for Noncompetitive Areas to eligible medicare beneficiaries.

''(2) COMPETITIVE PROCEDURES.—Competitive procedures (as defined in section 4(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(5))) shall be used to enter into contracts under this section.

''(e) REQUIREMENTS FOR ENTITIES.—

''(1) IN GENERAL.—The SPICE Board may not award a contract to an entity under this section unless the entity meets such terms and conditions as the SPICE Board shall specify, including the following:

''(A) The terms and conditions described in section 1860I(c).

''(B) The entity meets the quality and financial standards specified by the SPICE Board.

''(C) The entity meets applicable State licensure requirements.

''(2) PREMIUMS.—The terms and conditions specified under paragraph (1) shall—

''(A) permit an entity with a contract under this section to require that beneficiaries enrolled in the plan covered by the contract pay a premium for benefits provided under the contract; and

''(B) except as provided in section 1860H(b)(3) (relating to an increased premium for delayed enrollment under this part), require that the amount of any such premium is the same for all beneficiaries enrolled in the plan.

''SELECTION OF PRIVATE ENTITIES TO PROVIDE BASIC COVERAGE PLANS

''SEC. 1860F. (a) SELECTION OF ENTITIES.—

''(1) IN GENERAL.—The SPICE Board shall establish procedures under which the SPICE Board—

''(A) accepts bids submitted by private entities for the basic coverage plans which such entities intend to offer in an area established under subsection (b); and

''(B) awards contracts to such entities to provide such plans to eligible medicare beneficiaries in the area.

''(2) COMPETITIVE PROCEDURES.—Competitive procedures (as defined in section 4(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(5))) shall be used to enter into contracts under this section.

''(b) AREAS FOR CONTRACTS.—

''(1) IN GENERAL.—The SPICE Board shall determine the areas to award contracts under this section.

''(2) NO ADMINISTRATIVE OR JUDICIAL REVIEW.—The determination of contract areas under paragraph (1) shall not be subject to administrative or judicial review.

''(3) MULTIPLE CONTRACTS.—If determined appropriate, the SPICE Board may award more than 1 contract in a contract area.

''(c) REQUIREMENTS FOR ENTITIES.—

''(1) IN GENERAL.—The SPICE Board may not award a contract to a private entity under this section unless the entity meets such terms and conditions as the SPICE Board shall specify, including the following:

''(A) The terms and conditions described in section 1860I(c).

''(B) The entity meets the quality and financial standards specified by the SPICE Board.

''(C) The entity meets applicable State licensure requirements.

''(D) Under the plan, the entity will provide basic coverage with access to negotiated prices.

''(d) PRIVATE ENTITY DEFINED.—For purposes of this part, the term 'private entity' means any private entity that the SPICE Board determines to be appropriate to provide basic coverage plans to eligible medicare beneficiaries under this part, including—

''(1) a pharmacy benefit management company;

''(2) a retail pharmacy delivery system;

''(3) a health plan or insurer;

''(4) any other private entity approved by the SPICE Board; or

''(5) any combination of the entities described in paragraphs (1) through (4) approved by the SPICE Board.

''PROVIDING INFORMATION TO BENEFICIARIES

''SEC. 1860G. (a) ACTIVITIES.—

''(1) IN GENERAL.—The SPICE Board shall provide for activities that are designed to broadly disseminate information to eligible medicare beneficiaries (and prospective eligible medicare beneficiaries) on the SPICE drug benefit program under this part.

''(2) LATE ENROLLMENT PENALTIES TO BE WELL PUBLICIZED.—The SPICE Board shall ensure that information on the sanctions for delayed enrollment under section 1860C(b) and on the possibility of increased premiums for stop-loss coverage under section 1860H(b)(3) are well publicized.

''(3) SPECIAL RULE FOR INITIAL ENROLLMENT UNDER THE PROGRAM.—

''(A) CONSULTATION.—The SPICE Board shall consult with the Secretary, issuers of medicare supplemental policies, State insurance commissioners, Medicare+Choice organizations, and interested consumer organizations in developing the activities described in paragraph (1) that will be used to provide information regarding the initial enrollment under this part during the period described in section 1860C(c).

''(B) TIMEFRAME.—The activities described in paragraph (1) shall ensure that eligible medicare beneficiaries (and prospective eligible medicare beneficiaries) are provided with such information not later that December 1, 2002, in order to ensure that coverage under this part may be effective as of January 1, 2003.

''(4) COORDINATION WITH ACTIVITIES PERFORMED BY THE SECRETARY.—The SPICE Board shall work with the Secretary to ensure that the activities provided under this subsection are coordinated with the activities performed by the Secretary that provide information with respect to benefits under this title to eligible medicare beneficiaries and prospective eligible medicare beneficiaries.

''(b) REQUIREMENTS.—

''(1) IN GENERAL.—The activities described in subsection (a) shall—

''(A) be similar to the activities performed under section 1851 (including the approval of policy marketing materials and maintaining a toll-free number and an Internet site); and

''(B) include provisions to ensure that consumer counselors are available to provide face-to-face counseling to eligible medicare beneficiaries (and prospective eligible medicare beneficiaries) on the SPICE drug benefit program under this part.

''(2) CONTRACTS TO PROVIDE CONSUMER COUNSELING.—The SPICE Board may contract with private entities to provide the consumer counseling described in paragraph (1)(B).

''(c) COORDINATION WITH OTHER INFORMATION.—The SPICE Board shall, in cooperation with the Secretary, enter into such arrangements as may be appropriate to disseminate the information referred to in subsection (a) in coordination with materials distributed by the Secretary to medicare beneficiaries, including the medicare handbook under section 1804 and materials distributed under section 1851(d).

''PREMIUMS

''SEC. 1860H. (a) PREMIUM FOR BASIC COVERAGE FOR ALL BENEFICIARIES.—

''(1) ANNUAL ESTABLISHMENT OF BASIC MONTHLY PREMIUM RATES.—The SPICE Board shall, during September of each year (beginning in 2002), determine and promulgate a basic monthly premium rate for the succeeding year in accordance with the provisions of this subsection.

''(2) ACTUARIAL DETERMINATIONS.—

''(A) DETERMINATION OF ANNUAL BENEFIT AND ADMINISTRATIVE COSTS FOR BASIC COVERAGE.—The SPICE Board shall estimate annually for the succeeding year the amount equal to the total of the benefits (including financial assistance provided under subsections (b) and (c) of section 1860K and payments made to sponsors under section 1860L) and administrative costs that will be payable from the SPICE Prescription Drug Account within the Federal Supplementary Medical Insurance Trust Fund for providing benefits under this part in such calendar year.

''(B) DETERMINATION OF BASIC MONTHLY PREMIUM RATES.—

''(i) IN GENERAL.—The SPICE Board shall determine the basic monthly premium rate for such succeeding year, which shall be 1/12 of the amount determined under subparagraph (A), divided by the average total number of enrollees under this part who have not waived basic coverage under section 1860C(a)(3) (as estimated for the year), and rounded (if such rate is not a multiple of 10 cents) to the nearest multiple of 10 cents.

''(ii) PREMIUM REDUCED BY AMOUNT OF FINANCIAL ASSISTANCE.—The amount that shall be charged a beneficiary for basic coverage under this part is the basic monthly premium determined under clause (i), reduced by the amount of the financial assistance for basic coverage determined for the beneficiary under section 1860K(b).

''(3) PUBLICATION OF ASSUMPTIONS.—The SPICE Board shall publish, together with the promulgation of the basic monthly premium rates for the succeeding year, a statement setting forth the actuarial assumptions and bases employed in arriving at the amounts and rates determined under paragraphs (1) and (2).

''(4) COLLECTION OF PREMIUMS.—Any basic monthly premium applicable to an eligible medicare beneficiary pursuant to this subsection, after application of the reduction described in paragraph (2)(B)(ii) and any increase for late enrollment under section 1860C(b), shall be collected and credited to the SPICE Prescription Drug Account in the same manner as the monthly premium determined under section 1839 is collected and

credited to the Federal Supplementary Medical Insurance Trust Fund under section 1840.

''(b) PREMIUMS FOR STOP-LOSS COVERAGE.—

''(1) BENEFICIARY RESPONSIBLE FOR MAKING PAYMENT DIRECTLY TO ENTITY.—Subject to paragraph (2), any eligible medicare beneficiary who is receiving stop-loss coverage, either through enrollment in a medicare supplemental policy, a Medicare+Choice plan, or a Medicare Drug Plan for Noncompetitive Areas, shall be responsible for making payments for any premiums required under the policy or plan for such coverage directly to the entity offering such policy or plan.

''(2) PREMIUM REDUCED BY AMOUNT OF FINANCIAL ASSISTANCE.—The entity offering such policy or plan shall reduce the premium described in paragraph (1) by the amount of the financial assistance for stop-loss coverage determined for the beneficiary under section 1860K(c).

''(3) INCREASE IN PREMIUM FOR LATE ENROLLMENT OR FOR LACK OF CONTINUOUS STOP-LOSS COVERAGE.—In the case of an eligible medicare beneficiary who is subject to a late enrollment penalty under section 1860C or who has not had continuous stop-loss coverage under this part because the beneficiary was enrolled in a basic coverage plan under section 1860F, the entity offering the medicare supplemental policy, the Medicare+Choice plan, or the Medicare Drug Plan for Noncompetitive Areas in which the beneficiary is enrolled may, notwithstanding any provision in this title, increase the portion of the premium attributable to stop-loss coverage that is otherwise applicable to such beneficiary for such enrollment in a manner that reflects the additional actuarial risk involved. Such a risk shall be established through an appropriate actuarial opinion of the type described in subparagraphs (A) through (C) of section 2103(c)(4).

''APPROVAL FOR ENTITIES OFFERING SPICE PRESCRIPTION DRUG COVERAGE

''SEC. 1860I. (a) APPROVAL.—No payments may be made to an entity offering a policy or plan that provides SPICE prescription drug coverage under section 1860J unless the entity has been approved by the SPICE Board.

''(b) PROCEDURES.—

''(1) IN GENERAL.—The SPICE Board shall establish procedures for approving entities that offer policies and plans that provide SPICE prescription drug coverage under this part, including an entity with a contract under section 1860F.

''(2) COORDINATION.—The procedures established under subparagraph (A) shall be coordinated with—

''(A) in the case of the approval of medicare supplemental policies, the procedures for approval of such policies under State law; and

''(B) in the case of the approval of Medicare+Choice plans, the procedures established by the Secretary for approval of such plans under part C.

''(c) TERMS AND CONDITIONS.—The SPICE Board may not approve an entity under subsection (b) unless the entity, with respect to such policy or plan, meets such terms and conditions as the SPICE Board shall specify, including the following:

''(1) DISSEMINATION OF INFORMATION.—

''(A) GENERAL INFORMATION.—The entity shall disclose, in a clear, accurate, and standardized form to each enrollee under the policy or plan at the time of enrollment and at least annually thereafter, the information described in section 1852(c)(1) relating to such policy or plan. Such information shall include the following:

''(i) Access to covered outpatient drugs, including access through pharmacy networks.

''(ii) How any formulary used by the entity functions.

''(iii) Coinsurance and deductible requirements.

''(iv) Grievance and appeals procedures.

''(B) DISCLOSURE UPON REQUEST OF GENERAL COVERAGE, UTILIZATION, AND GRIEVANCE INFORMATION.—Upon request of an individual eligible to enroll under the policy or plan, the entity shall provide the information described in section 1852(c)(2) (other than subparagraph (D)) to such individual.

''(C) RESPONSE TO BENEFICIARY QUESTIONS.—The entity shall have a mechanism for providing specific information regarding the policy or plan to enrollees upon request and shall make available, through the Internet website described in paragraph (7) and in writing upon request, information on specific changes in its formulary.

''(D) CLAIMS INFORMATION.—The entity shall furnish to each enrollee under the plan or policy in a form easily understandable to such enrollees an explanation of benefits (in accordance with section 1806(a) or in a comparable manner) and a notice regarding how close the enrollee is to getting stop-loss coverage for the year, whenever prescription drug benefits are provided under this part (except that such notice need not be provided more often than monthly).

''(2) ACCESS TO COVERED BENEFITS.—

''(A) ASSURING PHARMACY ACCESS.—The entity shall secure the participation of sufficient numbers of pharmacies to ensure convenient access (including adequate emergency access) for enrollees under the policy or plan. Nothing in the preceding sentence shall be construed as requiring the participation of all pharmacies in any area under a policy or plan.

''(B) ACCESS TO NEGOTIATED PRICES FOR PRESCRIPTION DRUGS.—The entity shall issue a card that may be used by an enrollee under the policy or plan to assure access to negotiated prices pursuant to section 1860B(d).

''(3) FORMULARIES.—If an eligible entity uses a formulary under the policy or plan, such entity shall—

''(A) establish the formulary based on the medical needs of eligible medicare beneficiaries;

''(B) ensure that the formulary includes drugs within all therapeutic categories and classes of covered outpatient drugs (although not necessarily for all drugs within such categories and classes);

''(C) have in place an appeals process—

''(i) under which any eligible medicare beneficiary could receive any medically necessary covered outpatient drug that is not on the formulary;

''(ii) that does not impose a significant financial burden on an eligible medicare beneficiary or delay the provision of medically necessary covered outpatient drugs to such a beneficiary; and

''(iii) that provides for at least a level of protection that is similar to or better than the level of protection provided with respect to benefits under Medicare+Choice plans under part C; and

''(D) provide notification to enrollees of any change in the formulary at least 60 days prior to such change.

''(4) COST AND UTILIZATION MANAGEMENT; QUALITY ASSURANCE; MEDICATION THERAPY MANAGEMENT PROGRAM.—

''(A) IN GENERAL.—The entity shall have in place—

''(i) an effective cost and drug utilization management program, including appropriate incentives to use generic drugs when appropriate;

''(ii) quality assurance measures and systems to reduce medical errors and adverse drug interactions, including a medication therapy management program described in subparagraph (B); and

''(iii) a program to control fraud, abuse, and waste.

''(B) MEDICATION THERAPY MANAGEMENT PROGRAM.—

''(i) IN GENERAL.—A medication therapy management program described in this subparagraph is a program of drug therapy management and medication administration that is designed to assure that covered outpatient drugs under the policy or plan are appropriately used to achieve therapeutic goals and reduce the risk of adverse events, including adverse drug interactions.

''(ii) ELEMENTS.—Such program may include—

''(I) enhanced beneficiary understanding of such appropriate use through beneficiary education, counseling, and other appropriate means; and

''(II) increased beneficiary adherence with prescription medication regimens through medication refill reminders, special packaging, and other appropriate means.

''(iii) DEVELOPMENT OF PROGRAM IN COOPERATION WITH LICENSED PHARMACISTS.—The program shall be developed in cooperation with licensed pharmacists and physicians.

''(iv) CONSIDERATIONS IN PHARMACY FEES.—The entity shall take into account, in establishing fees for pharmacists and others providing services under the medication therapy management program, the resources and time used in implementing the program.

''(C) TREATMENT OF ACCREDITATION.—Section 1852(e)(4) (relating to treatment of accreditation) shall apply to policies and plans under this part with respect to the following requirements, in the same manner as they apply to Medicare+Choice plans under part C with respect to the requirements described in a clause of section 1852(e)(4)(B):

''(i) Subparagraph (A) (including quality assurance), including medication therapy management program under subparagraph (B).

''(ii) Paragraph (2)(A) (relating to access to covered benefits).

''(iii) Paragraph (8) (relating to confidentiality and accuracy of enrollee records).

''(5) GRIEVANCE MECHANISM.—The entity shall provide meaningful procedures for hearing and resolving grievances between the entity (including any entity or individual through which the entity provides covered benefits) and enrollees of the policy or plan under this part in accordance with section 1852(f).

''(6) COVERAGE DETERMINATIONS, RECONSIDERATIONS, AND APPEALS.—The entity shall meet the requirements of section 1852(g) with respect to covered benefits under the policy or plan it offers under this part in the same manner as such requirements apply to a Medicare+Choice organization with respect to benefits it offers under a Medicare+Choice plan under part C.

''(7) PROVIDE INFORMATION ON THE INTERNET.—The entity shall maintain a web site on the Internet that provides eligible medicare beneficiaries with information regarding any policy or plan offered by the entity that provides SPICE prescription drug coverage.

''(8) CONFIDENTIALITY AND ACCURACY OF ENROLLEE RECORDS.—The entity shall meet the requirements of section 1852(h) with respect to enrollees under this part in the same manner as such requirements apply to a

Medicare+Choice organization with respect to enrollees under part C.

''(d) SPICE BOARD MODELS FOR FORMULARIES.—

''(1) MODEL.—The SPICE Board may issue models for formularies for use in providing covered outpatient drugs under this part. Such models, and any revised models (pursuant to paragraph (3)) shall meet the requirements of subparagraphs (A) and (B) of subsection (c)(3).

''(2) EFFECT OF COMPLIANCE WITH A MODEL.—If the SPICE Board determines that a formulary used by an entity offering a policy or plan that provides SPICE prescription drug coverage is in compliance with a model formulary issued under paragraph (1), or the revised model (as the case may be), then the entity shall be deemed to meet the requirements of subparagraphs (A) and (B) of subsection (c)(3).

''(3) REVISIONS OF MODELS.—

''(A) IN GENERAL.—The SPICE Board may periodically (but not more frequently than annually) revise any model established under this subsection.

''(B) PERIOD TO COMPLY WITH REVISION.—If the SPICE Board revises a model formulary pursuant to subparagraph (A), the SPICE Board shall provide for an appropriate period of time for entities who were in compliance with such model before such revision to comply with the revised model.

''(e) RULE OF CONSTRUCTION REGARDING COST-EFFECTIVE PROVISION OF BENEFITS.—Nothing in this part shall be construed as preventing an entity that provides SPICE prescription drug coverage under a policy or plan from employing mechanisms to provide such coverage economically, including the use of—

''(1) formularies (pursuant to subsection (c)(3));

''(2) alternative methods of distribution;

''(3) generic drug substitution;

''(4) pharmacy networks; and

''(4) mail order pharmacies.

''PAYMENTS TO ENTITIES

''SEC. 1860J. (a) PAYMENTS FOR ADMINISTERING BASIC COVERAGE.—

''(1) IN GENERAL.—The SPICE Board shall establish procedures for making payments to an entity offering a medicare supplemental policy, a Medicare+Choice plan, a Medicare Drug Plan for Noncompetitive Areas, or a basic coverage plan under section 1860F for—

''(A) in accordance with the provisions of this part, the costs of covered outpatient drugs provided under basic coverage to eligible medicare beneficiaries—

''(i) enrolled under such policy or plan and under this part; and

''(ii) entitled to such coverage; and

''(B) pursuant to paragraph (2), administering the basic coverage on behalf of beneficiaries described in subparagraph (A).

''(2) ADMINISTRATIVE FEE.—

''(A) PROCEDURES.—The procedures established pursuant to paragraph (1) shall provide for payment to the entity of an administrative fee for each prescription filled by the entity for an eligible medicare beneficiary enrolled in the policy or plan offered by such entity. Subject to paragraph (3), the entity shall not be at risk for providing basic coverage for a beneficiary.

''(B) AMOUNT.—The fee described in paragraph (1) shall be—

''(i) negotiated by the SPICE Board; and

''(ii) consistent with such fees paid under private sector pharmaceutical benefit contracts.

''(C) REDUCTION OF ADMINISTRATIVE COSTS.—The SPICE Board shall work with entities receiving payments under this section on ways to control the administrative costs associated with providing basic coverage under this part.

''(3) RISK CORRIDORS TIED TO PERFORMANCE MEASURES AND OTHER INCENTIVES FOR ENTITY PROVIDING MEDICARE DRUG PLAN FOR NONCOMPETITIVE AREAS.—In the case of payments to an entity with a contract to provide a Medicare Drug Plan for Noncompetitive Areas, the procedures established under paragraph (1) may include the use of—

''(A) risk corridors tied to performance measures that have been agreed to between the entity and the SPICE Board under the contract; and

''(B) any other incentives that the SPICE Board determines appropriate.

''(4) SECONDARY PAYER PROVISIONS.—The provisions of section 1862(b) shall apply to basic coverage provided under this part.

''(b) PAYMENT OF FINANCIAL ASSISTANCE TO ENTITIES FOR PROVISION OF STOP-LOSS COVERAGE.—

''(1) IN GENERAL.—The SPICE Board shall establish procedures for making financial assistance payments for stop-loss coverage to an entity offering a medicare supplemental policy, a Medicare+Choice plan, or a Medicare Drug Plan for Noncompetitive Areas on behalf of an eligible medicare beneficiary enrolled in such policy or plan and under this part.

''(2) AMOUNT OF FINANCIAL ASSISTANCE PAYMENT.—The amount of the financial assistance payments on behalf of an eligible medicare beneficiary for stop-loss coverage is equal to the amount determined for the beneficiary under section 1860K(c).

''(3) ENTITY PROVIDING STOP-LOSS COVERAGE AT RISK.—The entity providing stop-loss coverage, and not the SPICE Board, shall be at risk for the provision of such coverage.

''FINANCIAL ASSISTANCE TO OBTAIN SPICE PRESCRIPTION DRUG COVERAGE

''SEC. 1860K. (a) IN GENERAL.—The SPICE Board shall provide financial assistance, in accordance with this section, with respect to eligible medicare beneficiaries who have SPICE prescription drug coverage through enrollment in a medicare supplemental policy, a Medicare+Choice plan, a Medicare Drug Plan for Noncompetitive Areas, or a basic coverage plan under section 1860F.

''(b) ASSISTANCE FOR BASIC COVERAGE.—

''(1) IN GENERAL.—The amount of financial assistance with respect to an eligible medicare beneficiary for basic coverage is equal to the following percentage of the basic monthly premium determined under subsection (a) of section 1860H (without regard to any increase for late enrollment under subsection (b) of such section):

''(A) 100 PERCENT IF INCOME BELOW 150 PERCENT OF POVERTY.—In the case of an eligible medicare beneficiary who applies for enhanced financial assistance under subsection (d) and whose income (as determined under such subsection) does not exceed 150 percent of the poverty line, the percentage is 100 percent.

''(B) OTHER PERCENT IF INCOME BETWEEN 150 AND 175 PERCENT OF POVERTY.—In the case of an eligible medicare beneficiary who applies for enhanced financial assistance under subsection (d) and whose income (as determined under such subsection) is greater than 150 percent, but does not exceed 175 percent, of the poverty line, the SPICE Board shall specify the percentage consistent with the following rules:

''(i) RANGE.—The percentage may not exceed 100 percent nor be less than 25 percent.

''(ii) SLIDING SCALE.—The percentage may not be higher for eligible medicare beneficiaries whose income is higher.

''(C) 25 PERCENT FOR OTHER BENEFICIARIES.—In the case of any other eligible medicare beneficiary, the percentage is 25 percent.

''(2) FORM OF ASSISTANCE.—Financial assistance under this subsection shall be provided in the form of a reduction of the basic monthly premium pursuant to section 1860H(a)(2)(B)(ii).

''(c) ASSISTANCE FOR STOP-LOSS COVERAGE.—

''(1) AMOUNT.—

''(A) IN GENERAL.—The amount of financial assistance for stop-loss coverage with respect to an eligible medicare beneficiary enrolled under this part and in a medicare supplemental policy, a Medicare+Choice plan, or a Medicare Drug Plan for Noncompetitive Areas for stop-loss coverage is equal to the following percentage of the national average medigap stop-loss monthly premium for the region in which the beneficiary resides (as determined under paragraph (2)):

''(i) 100 PERCENT IF INCOME BELOW 150 PERCENT OF POVERTY.—In the case of an eligible medicare beneficiary described in subsection (b)(1)(A), the percentage is 100 percent.

''(ii) OTHER PERCENT IF INCOME BETWEEN 150 AND 175 PERCENT OF POVERTY.—In the case of an eligible medicare beneficiary described in subsection (b)(1)(B), the SPICE Board shall specify the percentage consistent with the rules described in clauses (i) and (ii) of such subsection.

''(iii) 25 PERCENT FOR OTHER BENEFICIARIES.—In the case of any other eligible medicare beneficiary, the percentage is 25 percent.

''(B) FORM OF ASSISTANCE.—Financial assistance under this subsection for beneficiaries shall be provided in the form of a payment to the entity offering the policy or plan in which the beneficiary is receiving stop-loss coverage pursuant to section 1860J(b).

''(2) ESTABLISHMENT OF NATIONAL AVERAGE MEDIGAP STOP-LOSS MONTHLY PREMIUM.—

''(A) IN GENERAL.—The SPICE Board shall, during September of each year (beginning in 2002), estimate a national average medigap stop-loss monthly premium for each region (as determined by the Board) of the total geographic area served by the programs under this part that will be applicable for the succeeding year.

''(B) DEFINITION OF NATIONAL AVERAGE MEDIGAP STOP-LOSS MONTHLY PREMIUM.—For purposes of subparagraph (A), the term 'national average medigap stop-loss monthly premium' means, with respect to a region, the average of the portion of the monthly premiums charged by medicare supplemental policies in that region for providing stop-loss coverage to beneficiaries enrolled under this part.

''(3) LIMITATIONS.—

''(A) FINANCIAL ASSISTANCE MAY NOT EXCEED PREMIUM.—In the case of financial assistance provided under this subsection with respect to stop-loss coverage provided under a policy or plan, the amount of the financial assistance may not exceed the amount of the portion of the premium charged for enrollment in the policy or plan that is related to the provision of stop-loss coverage.

''(B) ENTITY MUST REDUCE PREMIUM.—No financial assistance shall be made available with respect to stop-loss coverage provided by an entity to an eligible medicare beneficiary unless the entity provides assurances satisfactory to the SPICE Board that the entity shall reduce the amount otherwise

charged the beneficiary for such coverage by an amount equal to the amount of such assistance.

''(d) APPLICATION FOR ENHANCED FINANCIAL ASSISTANCE.—

''(1) IN GENERAL.—The SPICE Board shall establish procedures under which a beneficiary who desires enhanced financial assistance under this section may voluntarily apply for an income determination.

''(2) REQUIREMENTS REGARDING INFORMATION.—

''(A) INFORMATION FROM BENEFICIARY.—The procedures established under paragraph (1) shall require the beneficiary to submit with the application for enhanced financial assistance such information that the SPICE Board determines necessary to make the income determination with respect to such beneficiary.

''(B) INFORMATION FROM OTHER GOVERNMENT AGENCIES.—Under the procedures established under paragraph (1), if an individual voluntarily applies for enhanced financial assistance under this section, the individual is deemed to have consented to the SPICE Board seeking and using income-related information from other Government agencies in order to make the income determination with respect to such beneficiary.

''(C) RESTRICTION ON USE OF INFORMATION.—Information obtained under subparagraph (A) or (B) may be used by officers and employees of the SPICE Board only for the purposes of, and to the extent necessary in, carrying out their responsibilities under this part.

''(3) PERIODIC REDETERMINATIONS.—Such income determinations shall be valid for a period (of not less than 1 year) specified by the SPICE Board.

''(e) INCOME DETERMINATIONS.—The SPICE Board shall establish procedures for making income determinations under this section.

''(f) POVERTY LINE.—In this section, the term 'poverty line' means the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

''EMPLOYER INCENTIVE PROGRAM FOR EMPLOYMENT-BASED RETIREE DRUG COVERAGE

''SEC. 1860L. (a) PROGRAM AUTHORITY.—The SPICE Board shall develop and implement a program under this section to be known as the 'Employer Incentive Program' that encourages employers and other sponsors of employment-based health care coverage to provide adequate prescription drug benefits to retired individuals by subsidizing, in part, the sponsor's cost of providing coverage under qualifying plans.

''(b) SPONSOR REQUIREMENTS.—In order to be eligible to receive an incentive payment under this section with respect to coverage of an individual under a qualified retiree prescription drug plan (as defined in subsection (e)(3)), a sponsor shall meet the following requirements:

''(1) ASSURANCES.—The sponsor shall—

''(A) annually attest, and provide such assurances as the SPICE Board may require, that the coverage offered by the sponsor is a qualified retiree prescription drug plan, and will remain such a plan for the duration of the sponsor's participation in the program under this section; and

''(B) guarantee that it will give notice to the SPICE Board and covered retirees—

''(i) at least 120 days before terminating its plan; and

''(ii) immediately upon determining that the actuarial value of the prescription drug benefit under the plan falls below the actuarial value of the basic coverage under the SPICE prescription drug coverage under this part.

''(2) BENEFICIARY INFORMATION.—The sponsor shall report to the SPICE Board, for each calendar quarter for which it seeks an incentive payment under this section, the names and social security numbers of all retirees (and their spouses and dependents) covered under such plan during such quarter and the dates (if less than the full quarter) during which each such individual was covered.

''(3) AUDITS.—The sponsor and the employment-based retiree health coverage plan seeking incentive payments under this section shall agree to maintain, and to afford the SPICE Board access to, such records as the SPICE Board may require for purposes of audits and other oversight activities necessary to ensure the adequacy of prescription drug coverage, the accuracy of incentive payments made, and such other matters as may be appropriate.

''(4) OTHER REQUIREMENTS.—The sponsor shall provide such other information, and comply with such other requirements, as the SPICE Board may find necessary to administer the program under this section.

''(c) INCENTIVE PAYMENTS.—

''(1) IN GENERAL.—A sponsor that meets the requirements of subsection (b) with respect to a quarter in a calendar year shall be entitled to have payment made by the SPICE Board on a quarterly basis (to the sponsor or, at the sponsor's direction, to the appropriate employment-based health plan) of an incentive payment, in the amount determined in paragraph (2), for each retired individual (or spouse) who—

''(A) was covered under the sponsor's qualified retiree prescription drug plan during such quarter; and

''(B) was eligible for, but was not enrolled in, the SPICE drug benefit program under this part.

''(2) AMOUNT OF INCENTIVE.—The payment under this section with respect to each individual described in paragraph (1) for a month shall be equal to 25 percent of the basic monthly premium amount payable by an eligible medicare beneficiary enrolled under this part, as set for the calendar year pursuant to section 1860H(a) and without application of and financial assistance for such premium under section 1860K(b).

''(3) PAYMENT DATE.—The incentive under this section with respect to a calendar quarter shall be payable as of the end of the next succeeding calendar quarter.

''(d) CIVIL MONEY PENALTIES.—A sponsor, health plan, or other entity that the SPICE Board determines has, directly or through its agent, provided information in connection with a request for an incentive payment under this section that the entity knew or should have known to be false shall be subject to a civil monetary penalty in an amount up to 3 times the total incentive amounts under subsection (c) that were paid (or would have been payable) on the basis of such information.

''(e) DEFINITIONS.—In this section:

''(1) EMPLOYMENT-BASED RETIREE HEALTH COVERAGE.—The term 'employment-based retiree health coverage' means health insurance coverage or other coverage of health care costs for retired individuals (or for such individuals and their spouses and dependents) based on their status as former employees or labor union members.

''(2) EMPLOYER.—The term 'employer' has the meaning given the term in section 3(5) of the Employee Retirement Income Security Act of 1974 (except that such term shall include only employers of 2 or more employees).

''(3) QUALIFIED RETIREE PRESCRIPTION DRUG PLAN.—The term 'qualified retiree prescription drug plan' means health insurance coverage or other coverage of health care costs included in employment-based retiree health coverage that—

''(A) provides coverage of the cost of prescription drugs whose actuarial value (as defined by the SPICE Board) to each retired beneficiary equals or exceeds the actuarial value of the basic coverage provided to an individual enrolled in the SPICE drug benefit program under this part; and

''(B) does not deny, limit, or condition the coverage or provision of prescription drug benefits for retired individuals based on age or any health status-related factor described in section 2702(a)(1) of the Public Health Service Act.

''(4) SPONSOR.—The term 'sponsor' has the meaning given the term 'plan sponsor' in section 3(16)(B) of the Employer Retirement Income Security Act of 1974.

''SPICE BOARD

''SEC. 1860M. (a) ESTABLISHMENT.—There is established within the Department of Health and Human Services, a Seniors Prescription Insurance Coverage Equity Office, which shall be—

''(1) outside of the Centers for Medicare & Medicaid Services; and

''(2) run by a board to be known as the SPICE Board.

''(b) DUTIES.—

''(1) ADMINISTRATION OF SPICE DRUG BENEFIT PROGRAM.—

''(A) IN GENERAL.—The SPICE Board shall administer the SPICE drug benefit program under this part.

''(B) NONINTERFERENCE.—In carrying out its duty under subparagraph (A), the SPICE Board may not—

''(i) require a particular formulary or institute a price structure for the reimbursement of covered outpatient drugs;

''(ii) interfere in any way with negotiations between entities providing SPICE prescription drug coverage under part D and drug manufacturers, wholesalers, or other suppliers of covered outpatient drugs; and

''(iii) otherwise interfere with the competitive nature of providing such coverage through such entities.

''(2) ONGOING STUDIES.—The SPICE Board shall conduct ongoing studies of the following issues:

''(A) The administration of this part.

''(B) The provision of information about the program under the health insurance information, counseling, and assistance grants under section 4360 of the Omnibus Budget Reconciliation Act of 1990.

''(C) Ways in which drug utilization can be used to provide better overall care for eligible medicare beneficiaries.

''(D) Savings and potential savings in Federal health care programs which may occur, or can be attributed to, eligible medicare beneficiary access to, and utilization of, covered outpatient drugs.

''(E) Trends in premium increases and factors that contribute to changes in premiums.

''(F) Integration of the SPICE drug benefit program into a reformed medicare program.

''(G) The ability of eligible medicare beneficiaries to afford SPICE prescription drug coverage.

''(H) The impact of the program on the prescription drug benefits offered under group health plans.

''(I) The appropriateness of the levels of financial assistance provided under this part.

''(3) ANNUAL REPORT.—

''(A) IN GENERAL.—Not later than June 1 of each year (beginning with 2004), the SPICE Board shall submit an annual report to Congress on the program under this part.

''(B) INFORMATION ON STUDIES.—Such report shall include a detailed statement on the issues studied under paragraph (2).

''(C) RECOMMENDATIONS.—Such report shall include such recommendations for legislation and administrative actions as the SPICE Board considers appropriate.

''(4) PROVISION OF RECOMMENDATIONS AND INFORMATION TO SECRETARY.—The SPICE Board shall provide recommendations and necessary information regarding the SPICE drug benefit program to the Secretary in order for the Secretary to—

''(A) integrate such information with information regarding the other programs under this title; and

''(B) provide health insurance information, counseling, and assistance grants under section 4360 of the Omnibus Budget Reconciliation Act of 1990.

''(c) DEMONSTRATION PROJECT AUTHORITY.—

''(1) IN GENERAL.—Subject to paragraph (2), the SPICE Board shall have the authority to conduct demonstration projects for the purpose of demonstrating ways to improve the quality of services provided under the SPICE drug benefit program, including ways to reduce medical errors.

''(2) CONSULTATION WITH SECRETARY.—The SPICE Board shall consult with the Secretary before conducting any demonstration project.

''(d) MEMBERSHIP OF SPICE BOARD.—

''(1) NUMBER AND APPOINTMENT.—

''(A) IN GENERAL.—The SPICE Board shall be composed of 7 members appointed by the President, by and with the advice and consent of the Senate.

''(B) SPECIFIC REPRESENTATIVES.—In making appointments under subparagraph (A), the President shall ensure that the following groups are represented on the SPICE Board:

''(i) Consumers.

''(ii) Private health plan insurers (including insurers that offer fee-for-service and managed care plans) with expertise in the quality, scope, and marketing of health care services.

''(iii) Certified geriatric pharmacists.

''(iv) The Centers for Medicare & Medicaid Services.

''(v) State insurance commissioners.

''(C) SECRETARY OF HHS.—In addition to the 7 members appointed under subparagraph (A), the Secretary shall be a nonvoting, ex officio member of the SPICE Board.

''(2) DEADLINE FOR INITIAL APPOINTMENT.—The initial members of the SPICE Board shall be appointed by not later than 6 months after the date of enactment of this section.

''(3) TERMS.—

''(A) IN GENERAL.—The terms of the members of the SPICE Board shall be for 6 years, except that of the members first appointed—

''(i) three shall be appointed for terms of 6 years;

''(ii) two shall be appointed for terms of 4 years; and

''(iii) two shall be appointed for terms of 2 years.

''(B) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office.

''(4) CHAIRPERSON.—The President shall designate the chairperson of the SPICE Board, except that the representative from the Centers for Medicare & Medicaid Services may not be designated as chairperson.

''(e) OPERATION OF THE BOARD.—

''(1) MEETINGS.—The SPICE Board shall meet at the call of the chairperson or upon the written request of a majority of its members.

''(2) QUORUM.—A majority of the members of the SPICE Board shall constitute a quorum, but a lesser number of members may hold hearings.

''(f) POWERS OF THE SPICE BOARD.—

''(1) HEARINGS.—The SPICE Board may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the SPICE Board considers advisable to carry out the purposes of this part.

''(2) INFORMATION FROM FEDERAL AGENCIES.—Upon request of the chairperson of the SPICE Board, the head of any Federal department or agency shall furnish such information to the SPICE Board as is necessary to carry out the functions of the SPICE Board under this part.

''(3) POSTAL SERVICES.—The SPICE Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

''(4) GIFTS.—The SPICE Board may accept, use, and dispose of gifts or donations of services or property.

''(g) BOARD PERSONNEL MATTERS.—

''(1) MEMBERS.—

''(A) COMPENSATION.—Each member of the SPICE Board who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the SPICE Board. All members of the SPICE Board who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

''(B) TRAVEL EXPENSES.—The members of the SPICE Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the SPICE Board.

''(C) REMOVAL.—The President may remove a member of the SPICE Board only for neglect of duty or malfeasance in office.

''(2) STAFF.—

''(A) IN GENERAL.—The chairperson of the SPICE Board may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the SPICE Board to perform its duties. The employment of an executive director shall be subject to confirmation by the SPICE Board.

''(B) COMPENSATION.—The chairperson of the SPICE Board may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

''(C) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the SPICE Board without further reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

''(D) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The chairperson of the SPICE Board may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

''SPICE PRESCRIPTION DRUG ACCOUNT IN THE FEDERAL SUPPLEMENTARY MEDICAL INSURANCE TRUST FUND

''SEC. 1860N. (a) ESTABLISHMENT.—

''(1) IN GENERAL.—There is created within the Federal Supplementary Medical Insurance Trust Fund established by section 1841 an account to be known as the 'SPICE Prescription Drug Account' (in this section referred to as the 'Account').

''(2) FUNDS.—The Account shall consist of such gifts and bequests as may be made as provided in section 201(i)(1), and such amounts as may be deposited in, or appropriated to, such fund as provided in this part.

''(3) SEPARATE FROM REST OF TRUST FUND.—Funds provided under this part to the Account shall be kept separate from all other funds within the Federal Supplementary Medical Insurance Trust Fund.

''(b) PAYMENTS FROM ACCOUNT.—

''(1) IN GENERAL.—The Managing Trustee shall pay from time to time from the Account such amounts as the SPICE Board certifies are necessary to make payments to operate the program under this part, including payments to entities under section 1860J, payments to sponsors under section 1860L, and payments with respect to administrative expenses under this part in accordance with section 201(g).

''(2) TREATMENT IN RELATION TO PART B PREMIUM.—Amounts payable from the Account shall not be taken into account in computing actuarial rates or premium amounts under section 1839.

''(c) APPROPRIATIONS TO COVER GOVERNMENT CONTRIBUTION.—There are authorized to be appropriated from time to time, out of any moneys in the Treasury not otherwise appropriated, to the Account an amount equal to the amount by which the benefits and administrative costs of providing the benefits under this part exceed the premiums collected under section 1860H(a)(4).''.

(b) CONFORMING AMENDMENTS TO FEDERAL SUPPLEMENTARY MEDICAL INSURANCE TRUST FUND.—Section 1841 of the Social Security Act (42 U.S.C. 1395t) is amended—

(1) in the last sentence of subsection (a)—

(A) by striking ''and'' before ''such amounts''; and

(B) by inserting before the period the following: '', and such amounts as may be deposited in, or appropriated to, the SPICE Prescription Drug Account established by section 1860N''; and

(2) in subsection (g), by inserting after ''by this part,'' the following: ''the payments provided for under part D (in which case the payments shall be made from the SPICE Prescription Drug Account in the Trust Fund),''.

(c) ADDITIONAL CONFORMING CHANGES.—

(1) CONFORMING REFERENCES TO PREVIOUS PART D.—Any reference in law (in effect before the date of enactment of this Act) to part D of title XVIII of the Social Security Act is deemed a reference to part E of such title (as in effect after such date).

(2) SECRETARIAL SUBMISSION OF LEGISLATIVE PROPOSAL.—Not later than 6 months after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to the appropriate committees of Congress a legislative proposal providing for such technical and conforming amendments in the law as are required by the provisions of this Act.

SEC. 3. SPICE PRESCRIPTION DRUG COVERAGE UNDER MEDICARE+CHOICE PLANS.

(a) SPECIAL RULES.—Section 1851 of the Social Security Act (42 U.S.C. 1395w–21) is amended by adding at the end the following new subsection:

''(j) RULES FOR PROVISION OF SPICE PRESCRIPTION DRUG COVERAGE.—

''(1) PLAN REQUIRED TO PROVIDE COVERAGE IF BENEFICIARY ENROLLED IN PART D.—

''(A) IN GENERAL.—In the case of an individual that is enrolled in a Medicare+Choice plan and enrolled under part D, the basic benefits required to be provided under section 1852(a)(1)(A) shall include SPICE prescription drug coverage (as defined in section 1860B(a)) under the terms and conditions for such coverage established under part D, including the terms and conditions described in section 1860I(c).

''(B) VOLUNTARY ENROLLMENT IN PART D.—An individual enrolled in a Medicare+Choice plan shall not be required to enroll under part D.

''(2) LIMITATION ON ENROLLEE LIABILITY.—In the case of an individual described in paragraph (1)(A), with respect to SPICE prescription drug coverage, a Medicare+Choice organization may not require that such individual pay a deductible or a coinsurance percentage that exceeds the deductible or coinsurance percentage applicable for such coverage pursuant to part D.

''(3) PREMIUM FOR STOP-LOSS COVERAGE.—

''(A) IN GENERAL.—Subject to subparagraph (B), a Medicare+Choice organization offering a Medicare+Choice plan on behalf of an individual described in paragraph (1)(A) may require the individual to pay a premium for stop-loss coverage (as defined in section 1860B(c). Any such premium shall be considered to be part of the Medicare+Choice monthly basic premium (as defined in section 1854(b)(2)(A)) that the individual is responsible for.

''(B) ORGANIZATION REQUIRED TO REDUCE PREMIUM BY AMOUNT OF FINANCIAL ASSISTANCE.—A Medicare+Choice organization receiving a payment for financial assistance for stop-loss coverage on behalf of an individual described in paragraph (1)(A) pursuant to subsection (b) of section 1860J shall reduce any premium described in subparagraph (A) by the amount of such financial assistance.

''(4) PAYMENTS TO ORGANIZATION FOR SPICE PRESCRIPTION DRUG COVERAGE PURSUANT TO PART D RULES.—The SPICE Board (established under section 1860M) shall make payments to a Medicare+Choice organization offering a Medicare+Choice plan on behalf of an individual described in paragraph (1)(A) pursuant to the payment mechanisms described in subsections (a) and (b) of section 1860J. Such payments shall be coordinated with payments made to such organization under section 1853.

''(5) COORDINATED ENROLLMENT.—The Secretary shall work with the SPICE Board to coordinate enrollment under this part with enrollment under part D.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to items and services provided under a Medicare+Choice plan on or after January 1, 2003.

SEC. 4. MEDIGAP REVISIONS AND TRANSITION PROVISIONS.

(a) ESTABLISHMENT OF SPICE MEDIGAP POLICIES.—Section 1882 of the Social Security Act (42 U.S.C. 1395ss) is amended by adding at the end the following new subsection:

''(v) SPICE MEDIGAP POLICIES.—

''(1) REVISION OF BENEFIT PACKAGES.—

''(A) IN GENERAL.—Notwithstanding subsection (p), the benefit packages established under such subsection shall be revised so that—

''(i) if the policyholder is enrolled under part D, basic coverage (as defined in section 1860B(b)) is available as part of each benefit package;

''(ii) each benefit package includes stop-loss coverage (as defined in section 1860B(c)) in the core group of basic benefits described in subsection (p)(2)(B);

''(iii) no benefit package (including each benefit package classified as 'H', 'I', or 'J' under the standards established by such subsection (p)(2), and the benefit package classified as 'J' with a high deductible feature described in subsection (p)(11)) includes prescription drug coverage other than the basic coverage required under clause (i) (if applicable), or the stop-loss coverage required under clause (ii); and

''(iv) except as revised under the preceding clauses or pursuant to subsection (p)(1)(E), the benefit packages are identical to the benefit packages that were available on the date of enactment of the Seniors Prescription Insurance Coverage Equity (SPICE) Act of 2001.

''(B) ADMINISTRATION OF BENEFITS.—Pursuant to section 1860A(a)(3), an issuer of a medicare supplemental policy revised under such subparagraph may directly administer the prescription drug benefits required under the policy or may contract with an entity that meets the applicable requirements under part D to administer such benefits.

''(C) MANNER OF REVISION.—The benefit packages revised under this section shall be revised in the manner described in subparagraph (E) of subsection (p)(1), except that for purposes of subparagraph (C) of such subsection, the standards established under this subsection shall take effect not later than January 1, 2003.

''(2) GUARANTEED ISSUANCE AND RENEWAL OF NEW POLICIES.—The provisions of subsections (q) and (s) shall apply to medicare supplemental policies revised under this subsection in the same manner as such provisions apply to medicare supplemental policies issued under the standards established under subsection (p).

''(3) OPPORTUNITY OF CURRENT POLICYHOLDERS TO PURCHASE REVISED POLICIES.—

''(A) IN GENERAL.—No medicare supplemental policy of an issuer with a benefit package that is revised under paragraph (1) shall be deemed to meet the standards in subsection (c) unless the issuer—

''(i) provides written notice during the 60-day period immediately preceding the period established under section 1860C(c), to each policyholder or certificate holder of a medicare supplemental policy issued by that issuer (at the most recent available address) of the offer described in clause (ii) and of the fact that, so long as they retain coverage under such policy, they are unable to obtain SPICE prescription drug coverage (as defined in section 1860B(a)) under part D; and

''(ii) offers the policyholder or certificate holder under the terms described in subparagraph (B), during at least the period established under subsection (c) of section 1860C, institution of coverage effective for the period described in subsection (d) of such section, a medicare supplemental policy with the benefit package that has been revised under paragraph (1) of this subsection that the Secretary determines is most comparable to the policy in which the individual is enrolled.

''(B) TERMS OF OFFER DESCRIBED.—The terms described under this subparagraph are terms which do not—

''(i) deny or condition the issuance or effectiveness of a medicare supplemental policy described in subparagraph (A)(ii) that is offered and is available for issuance to new enrollees by such issuer;

''(ii) discriminate in the pricing of such policy because of health status, claims experience, receipt of health care, or medical condition; or

''(iii) impose an exclusion of benefits based on a preexisting condition under such policy.

''(4) OPPORTUNITY OF OTHER ELIGIBLE INDIVIDUALS TO PURCHASE REVISED POLICIES.—No medicare supplemental policy of an issuer with a benefit package that is revised under paragraph (1) shall be deemed to meet the standards in subsection (c) unless, during at least the period established under section 1860C(c), the issuer permits each eligible medicare beneficiary (as defined in section 1860A(d), but who is not described in paragraph (3)) to purchase any medicare supplemental policy that has been revised under paragraph (1) with institution of coverage effective for the period described in section 1860C(d) under the terms of the offer described in paragraph (3)(B).

''(5) GRANDFATHERING OF CURRENT POLICYHOLDERS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), no person may sell, issue, or renew a medicare supplemental policy with a benefit package that has not been revised under this subsection on or after January 1, 2003.

''(B) GRANDFATHERING.—Each policyholder or certificate holder of a medicare supplemental policy as of December 31, 2002, may continue to receive benefits under such policy and may renew such policy as if this subsection had not been enacted, except that such beneficiary shall not be eligible to enroll for SPICE prescription drug coverage (as defined in section 1860B(a)) under part D during the period in which such policy is in effect.

''(6) PENALTIES.—Each penalty under this section shall apply with respect to policies revised under this subsection as if such policies were issued under the standards established under subsection (p), including the penalties under subsections (a), (d), (p)(8), (p)(9), (q)(5), (r)(6)(A), (s)(4), and (t)(2)(D).''.

(b) NAIC STUDY AND REPORT.—

(1) STUDY.—The Secretary of Health and Human Services (in this subsection referred to as the ''Secretary'') shall contract with the National Association of Insurance Commissioners (in this subsection referred to as the ''NAIC'') to conduct a study—

(A) to determine whether the portion of the benefit packages revised under section 1882(v) of the Social Security Act (as added by subsection (a)) relating to parts A and B of the medicare program should be revised as a result of the establishment of SPICE prescription drug coverage (as defined in section 1860B(a) of such Act, as added by section 2) and whether the total number of such benefit packages should be reduced;

(B) to identify methods to ensure that any financial assistance paid to issuers of medicare supplemental policies on behalf of enrollees for providing stop-loss coverage (as defined in section 1860B(c) of the Social Security Act, as added by section 2) made available under the benefit packages revised under section 1882(v) of such Act (as so added) is not used to subsidize any other benefits, including the benefits relating to parts A and B of the medicare program; and

(C) to assess the practicality and viability of establishing a medicare supplemental policy that only provides SPICE prescription drug coverage (as so defined).

(2) REPORT.—Not later than 6 months after the date of enactment of this Act, the NAIC shall submit to Congress and the Secretary a report on the study conducted under paragraph (1) together with such recommendations as the NAIC determines appropriate.

SEC. 5. PROVISION OF INFORMATION ON SPICE DRUG BENEFIT PROGRAM UNDER HEALTH INSURANCE INFORMATION, COUNSELING, AND ASSISTANCE GRANTS.

Section 4360(b)(2)(A)(ii) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 1395b–4(b)(2)(A)(ii)) is amended by striking ''and information'' and inserting '', information regarding the SPICE drug benefit program under part D of title XVIII of the Social Security Act, and information''.

SEC. 6. PERSONAL DIGITAL ACCESS TECHNOLOGY DEMONSTRATION PROJECT.

(a) DEMONSTRATION PROJECT.—

(1) IN GENERAL.—The SPICE Board (established under section 1860M of the Social Security Act (as added by section 2)) shall conduct a demonstration project for the purpose of increasing the use of Personal Digital Access Technology in prescribing covered outpatient drugs (as defined in section 1860B(e) (as so added)) for eligible medicare beneficiaries receiving SPICE prescription drug coverage under part D of title XVIII of such Act (as so added).

(2) ASPECTS OF PROJECT.—The demonstration project shall address ways in which the use of Personal Digital Access Technology can be used to—

(A) avoid adverse drug reactions among such beneficiaries, including problems due to therapeutic duplication, drug-disease contraindications, drug-drug interactions (including serious interactions with nonprescription or over-the-counter drugs), incorrect drug dosage or duration of drug treatment, drug-allergy interactions, and clinical abuse and misuse;

(B) transmit information about the coverage of covered outpatient drugs under the policy or plan in which such a beneficiary is receiving SPICE prescription drug coverage to prescribing physicians;

(C) increase the use of generic drugs by such beneficiaries; and

(D) increase the compliance of entities offering policies or plans that provide SPICE prescription drug coverage with the requirements under part D of title XVIII of the Social Security Act (as added by section 2).

(3) INCLUSION OF PROVIDERS.—In conducting the demonstration project, the SPICE Board shall include—

(A) physicians;

(B) pharmacists;

(C) entities that offer policies or plans that provide SPICE prescription drug coverage; and

(D) any entity (including a pharmacy benefits management company) that contracts with an entity described in subparagraph (C) to provide benefits under such policies or plans.

(4) DURATION OF PROJECTS.—The demonstration project shall be conducted over a 3-year period.

(b) REPORTS TO CONGRESS.—

(1) IN GENERAL.—

(A) INITIAL REPORT.—Not later than 18 months after the SPICE Board implements the demonstration project, the SPICE Board shall submit to Congress an initial report on the demonstration project.

(B) FINAL REPORT.—Not later that 6 months after the conclusion of the project, the SPICE Board shall submit to Congress a final report on the demonstration project.

(2) CONTENTS OF REPORTS.—The reports described in paragraph (1) shall include the following:

(A) A detailed description of the demonstration project.

(B) An evaluation of the demonstration project.

(C) Recommendations for legislation that the SPICE Board determines to be appropriate as a result of the demonstration project.

(D) Any other information regarding the demonstration project that the SPICE Board determines to be appropriate.

(c) FUNDING.—Expenditures made for carrying out the demonstration project shall be made from funds otherwise appropriated to the Secretary of Health and Human Services.

Ms. SNOWE. Mr. President, I am pleased to join with my friend and colleague, Senator RON WYDEN, in the introduction of the Seniors Prescription Insurance Coverage Equity Act of 2001, or ''SPICE.'' I want to thank him for his enthusiasm about and his commitment to this joint venture.

It was just about two years ago now that Senator WYDEN and I introduced this bill for the first time. SPICE 2001 is the product of almost three years of work and development. Since 1999, when we first tackled this issue, there has been much discussion about how to design a prescription drug coverage plan that is both comprehensive and affordable, that provides choice but guarantees availability of basic coverage. And, perhaps most importantly, one that is workable for seniors, the Medicare program and one that private providers will offer. We believe we have struck this balance in SPICE 2001.

I believe that this bill is a benchmark for the Senate's consideration of a comprehensive out-patient prescription drug program under Medicare. I offer this bill today, with my friend Senator WYDEN because it is the product of a three year collaborative effort to provide our Nation's seniors with prescription drug coverage, and I offer it with the hopes that it will be considered as part of a broader reform when the Senate takes one up.

Americans age 65 and older are only 12 percent of the population but account for over 40 percent of all drug spending. Which isn't surprising considering that over the past five years, per capita drug spending for the Medicare population has approximately doubled, reaching an estimated $1,756 this year.

This comes at a time where fewer retirees have health coverage from their former employers than ever before. In 1998, an estimated 66 percent of large employers offered retiree health coverage, fewer than 40 percent did so in 2000. At a time when fewer and fewer of our seniors have retiree health care coverage from their former employers, and when the cost of prescription drugs are skyrocketing, no one can argue that it isn't essential we ensure that Medicare beneficiaries have comprehensive coverage for outpatient prescription drugs. And, this is a problem, I might add, which will only grow when the 77 million Baby Boomers begin to enter Medicare in 2011.

For the past several years, Senator WYDEN and I have been united in our belief that we owe it to our seniors to develop the best and most practical solution. SPICE 2001 represents a straightforward, comprehensive, and responsible approach that should appeal to anyone who believes that seniors need prescription drug coverage.

To accomplish these goals we have built upon the model of the first SPICE bill and added components that have continued to be part of the larger debate on this issue—that of public programs versus private competition. As a result, SPICE 2001 now creates a partnership between the Federal Government and private insurers to share the cost, and the risk, of offering outpatient prescription drug coverage for our senior population.

Specifically, SPICE 2001 creates a prescription drug coverage program for all Medicare beneficiaries enrolled in both Part A and Part B, and who choose to enroll. SPICE offers a premium subsidy of at least 25 percent to all enrollees. To provide extra assistance to those who need it most, there is a 100 percent premium subsidy for those whose income is at or under 150 percent of poverty, $12,885 for a single person and $17,415 for a couple. Those whose income is between 150 percent and 175 percent of poverty, $15,033 for an individual and $20,318 for a couple, will receive a subsidy based on a sliding scale down to 25 percent of the cost of the premium.

SPICE 2001 offers two choices in the coverage so they can pick a plan to best serve their needs. One option is basic coverage, with a $350 deductible and a 25 percent coinsurance requirement. This can be purchased with a Stop-loss plan of $3,000 or separately.

The second option is stop-loss coverage. While only 17 percent of beneficiaries have costs above $3,000, they account for almost 54 percent of all spending on prescription drugs. This coverage is provided completely through the private insurer. According to CBO's January 2001 baseline projections, 83 percent of those enrolled in Medicare fee for service plans pay less than $3,000 for their drugs. For these

seniors, they might only want to purchase the basic coverage. Those who need more than just the basic coverage can buy them both. For those who can manage their spending and only want to protect themselves from catastrophic expenses, they can purchase stop-loss coverage.

And, importantly, all SPICE enrollees receive the benefit of the negotiated discount on the cost of their prescription drugs, starting with their first prescription.

Choice is one of the cornerstones of this program. Seniors will not only have the choice of their level of coverage but will be able to choose from a variety to have their care delivered. SPICE can be run through Medigap, Medicare+Choice plans, or private entities. In areas where there are no insurers, the SPICE Board will have the authority to negotiate with entities to bring them into the market.

One of the perennial arguments against government sponsored or assisted prescription drug coverage for our retirees has been that if we did it, employers wouldn't. We already know that fewer employers are offering retiree health benefits than just 12 years ago, this is a trend we hope to discourage. This is why the SPICE Board is authorized to provide the 25 percent premium subsidy as an incentive to employers who provide prescription drug coverage for their retirees. It is critical we encourage employers to continue to offer this type of coverage and we acknowledge that in this bill.

According to a 1998 Wall Street Journal poll, 80 percent of retirees use a prescription drug every day. The average Medicare beneficiary fills a prescription 18 times a year. It is long past time that we ensure that these prescriptions are covered.

SPICE 2001 offers something for everyone interested in providing our seniors with prescription drug coverage. It is a program that can be incorporated in existing health plans, will be run through a government Board whose sole purpose is ensuring that this program runs well, and will foster competition and allow for choice in both coverage and providers.

By Mr. DOMENICI (for himself, Mr. INOUYE, Mr. CAMPBELL, Mr. BINGAMAN, Mr. BAUCUS, Mr. CRAPO, Mr. ALLARD, Mr. JOHNSON, and Mr. KYL):

S. 1186. A bill to provide a budgetary mechanism to ensure that funds will be available to satisfy the Federal Government's responsibilities with respect to negotiated settlements of disputes related to Indian water rights claims and Indian land claims; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

Mr. DOMENICI. Mr. President, both as chairman and now as the ranking member on the Budget Committee, I have been working over the last year with the Western Governors' Association, the Western Regional Council, the Native American Rights Fund, the Western States Water Council, as well as several Indian tribes to correct what I believe to be a flaw in the Budget Enforcement Act as it relates to the Federal funding of Indian land and water settlements.

I, along with a group of bipartisan Senators, including the chairman and ranking member of the Indian Affairs Committee are introducing today legislation that will help Congress fulfill its commitment to authorized Indian land and water settlements.

In FY 2002, the President's request for Indian land and water settlements funding was $61 million. This represents an increase from fiscal year 2001 of $23 million. The increase is due to the authorization of several large settlements in California, Colorado, Michigan, New Mexico, and Utah.

I am pleased to report that the full request was included in both the Senate and House passed budget resolutions. In turn, the request was fully appropriated in both the House and Senate versions of the fiscal year 2002 Interior appropriations bill. This is a tremendous first step in making sure the Congress fulfills its obligation regarding these settlements. But it is only the first step.

In the near future, there are, at least, three additional large settlements likely to come before Congress. The States involved in these settlements are Arizona, Idaho, and Montana. Under current budgetary treatment these settlements will be difficult to fund without taking critical resources from other Bureau of Indian Affairs programs.

Currently, once the settlements have been agreed to by the parties involved, the settlements come to Congress for authorization and appropriation. When all appropriations have been distributed the Indians give up any future claims to the land or the water.

Appropriations for these settlements are usually spread over 3–10 years depending on the size of the settlement. The payout in one year for an individual settlement does not usually exceed $30 million.

I feel, however, that the current budget mechanisms have unfairly treated the handling of Indian land and water settlements in relation to other federally funded Indian programs.

The problem with the current status is that, due to the statutory discretionary caps, the perception exists that there is not enough money in BIA's budget to spend on settlements without taking money from other programs in their budget, such as Indian school construction, education, community development.

The legislation I am introducing today, the Fiscal Integrity of Indian Settlements Protection Act of 2001, provides for a cap adjustment similar to the one that deals with U.N. arrearages. It would be for authorized Indian land and water settlements and would set a ceiling on what could be spent in one year. Under this proposal, the settlements would still have to be authorized and appropriated, but it would hold the BIA budget harmless for the cost of the settlements.

Let me be clear, if these claims are not settled, the US government still can be held liable in court. Claims that go through the court process are authoritatively paid out of the Claims and Judgement Fund. In most cases, negotiated settlements provide more water to the tribes and a less expensive bill to the Federal Government.

Frankly, this simple cap adjustment for authorized and appropriated monies for settlements provides a win-win situation for all parties involved.

We have made good progress toward funding our Indian responsibilities these past few years. This legislation is a very important step.

I, along with Senators INOUYE, CAMPBELL, ALLARD, BAUCUS, BINGAMAN, CRAPO, JOHNSON, and KYL, urge my colleagues to support this bill and future funding of Indian land and water settlements.

I ask unanimous consent that a letter from the Ad Hoc Group on Indian Water Rights be printed in the RECORD.

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

AD HOC GROUP ON
INDIAN WATER RIGHTS,
June 27, 2001.

Members of the United States Senate,
Washington, DC.

DEAR SENATOR: We write to urge your support and co-sponsorship of proposed legislation to be introduced shortly entitled the ''Fiscal Integrity of Indian Settlements Protection Act of 2001''. A ''Dear Colleague'' letter by Senators Domenici, Bingaman, Crapo, Inouye, Kyl, and Campbell was sent to your office on May 23, 2001, describing the bill.

Across the country, numerous negotiations are on-going to settle complex Indian land and water claims. Funding for these settlements is one of the biggest hurdles to overcome. This legislation is important so that Indian land and water right settlements can be completed in a timely manner, consistent with the federal government's responsibility and liability associated with them, and without taking scarce resources from other critical programs within the Department of the Interior.

Three settlements were approved by the last Congress and others are expected to be submitted to this Congress. Under current budgetary policy, funding of land and water right settlements must be offset by a corresponding reduction in some other discretionary component of the Interior Department's budget. It is difficult for the Administration, the states and the tribes to negotiate settlements knowing that they may

not be funded because funding can occur only at the expense of some other tribe or essential Interior Department program.

We believe that the funding of land and water right settlements is an important obligation of the United States government. The obligation is analogous to, and no less serious than, the obligation of the United States to pay judgments which are rendered against it. We urge that steps be taken to change current budgetary policy to ensure that any land or water settlement, once authorized by the Congress and approved by the President, will be funded. If such a change is not made, these claims will likely be relegated to litigation, an outcome that should not be acceptable to the Administration, the Congress, the tribes or the states.

The members of the Ad Hoc Group on Indian Water Rights have consistently supported the negotiated settlement of Indian land and water right disputes, and have been actively engaged in drawing more awareness to the important issues associated with settlement of land and water right claims. We believe that unless the current budgetary processes for land and water settlements are changed, funding will continue to be a barrier to finalizing these settlements.

Again, we urge you to cosponsor the ''Fiscal Integrity of Indian Settlements Protection Act of 2001'' and support its passage to ensure congressional funding for Native American land and water rights settlements once they have been formally executed by the parties and authorized by Congress.

Sincerely,

JANE DEE HULL,
Co-Lead Governor on Indian Water Right Settlements, Western Governors' Association.

JOHN KUTZHABER,
Co-Lead Governor on Indian Water Right Settlements, Western Governors' Association.

KIT KIMBALL,
Director, Western Regional Council.

JOHN ECHOHAWK,
Executive Director, Native American Rights Fund.

MICHAEL BROPHY,
Chairman, Western States Water Council.

By Mr. ROCKEFELLER (for himself and Mr. CLELAND):

S. 1188. A bill to amend title 38, United States Code, to enhance the authority of the Secretary of Veterans Affairs to recruit and retain qualified nurses for the Veterans Health Administration, and for other purposes, to the Committee on Veterans' Affairs.

Mr. ROCKEFELLER. Mr. President, I am proud to introduce today with Senators CLELAND and SPECTER the Department of Veterans Affairs Nurse Recruitment and Retention Enhancement Act of 2001.

On June 14, 2001, the Committee on Veterans' Affairs held a hearing to explore reasons for the imminent shortage of professional nurses in the United States, and how this shortage will affect health care for veterans served by Department of Veterans Affairs' health care facilities.

Working conditions for nurses, never easy, have become even more challenging in recent years. Managed care principles lead hospitals to admit only the very sickest of patients with the most complex health care needs. As the pool of highly trained nurses shrinks, many health care providers rely heavily upon mandatory staff overtime to meet staffing needs. Several registered nurses, including Sandra McMeans from my state of West Virginia, testified before the committee that unpredictable and dangerously long working hours lead to nurses' fatigue and frustration, and patient care suffers.

The legislation we introduce today includes a requirement that VA produce a policy on staffing standards. Such a policy shall be developed in consultation with the VA Under Secretary for Health, the Director of VA's National Center for Patient Safety, and VA's Chief Nurse. While we leave it up to VA to develop the standards, the policy must consider the numbers and skill mix required of staff in specific medical settings, such as critical care and long-term care.

Because mandatory overtime was frequently cited at the committee's June hearing as being of serious concern, the legislation includes a requirement that the Secretary report to the Committee on Veterans' Affairs on the use of overtime by licensed nursing staff and nursing assistants in each facility. This is a critical first step to determining what can be done to reduce the amount of mandatory overtime. We will continue to monitor this issue with rigor and pledge to work to reduce the burdens borne by our nurses.

In terms of providing sufficient pay, our legislation mandates that VA provide Saturday premium pay to certain health professionals. These group of professionals include licensed practical nurses, LPN's, certified or registered respiratory therapists, licensed physical therapists, licensed vocational nurses, pharmacists, and occupational therapists. This group of workers are known as ''hybrids'' as they straddle two different personnel authorities, titles 38 and 5 of the United States Code. Hybrid status allows for the direct hiring and a more flexible compensation system.

This is an issue of equity, especially for LPN's who work alongside other nurses on Saturday. While registered nurses, RN's are mandated to receive Saturday premium pay, they may be working alongside an LPN who is not. Factoring in the looming nurse shortage, we should be doing all we can to improve VA's ability to recruit and retain these caregivers.

Currently, hospital directors have the discretion to provide Saturday premium pay. Of the 17,000 hybrid employees, 8,000 are not receiving the pay premium.

In my own State of West Virginia, many LPN's are not receiving Saturday premium pay. Deborah Dixon is an LPN at the VA Medical Center in Huntington, WV. She works nights 6 days in a row, has 2 days off, works nights 5 days, then has 1 day off, then works 4 nights and has 3 days off. As a result, she has off every third weekend. She says that ''LPN's deserve Saturday premium pay. It feels like discrimination. It makes me wonder why LPN's are not being respected.

I believe this change in law will make pay more consistent and fair for our health care workers.

Programs initiated within VA to improve conditions for nurses and patients have focused on issues other than staffing ratios, pay, and hours. A highly praised scholarship program that I spearheaded allows VA nurses to pursue degrees and training in return for their service, thus encouraging professional development and improving the quality of health care. Included within the legislation we introduced today are modifications to the existing scholarship and debt reduction programs. These changes are intended to improve the programs by providing additional flexibility to recipients.

In the Upper Midwest, the special skills of nurses and nurse practitioners are being recognized in clinics that provide supportive care close to the veterans who need it. The legislation before us seeks to encourage more nurse-managed clinics and also includes a requirement that VA evaluate these clinics.

There are various other provisions included in the bill. One provision requires that VA nurses enrolled in the Federal Employee Retirement System have the same ability to include unused sick leave as part of the retirement year calculation that VA nurses enrolled in the Civilian Retirement System have. The legislation also would amend the treatment of part-time service performed by certain title 38 employees prior to April 7, 1986, for purposes of retirement credit. Currently, part-time service performed by title 5 employees prior to April 7, 1986, is treated as full-time service; however, title 38 employees' part-time services prior to April 7, 1986, is counted as part-time service and therefore results in lower annuities for these employees. Retired nurses, such as Tonya Rich from Morgantown, WV, who has contacted me, stress the inequity of the situation. In order to rectify this, our legislation exempts registered nurses, physician assistants, and expanded-function dental auxiliaries from the requirement that part-time service performed prior to April 7, 1986, be prorated when calculating retirement annuities.

This bill is a good start, but clearly, we must remain vigilant. Although the nursing crisis has not yet reached its

projected peak, the shortage is already endangering patient safety in the areas of critical and long-term care, where demands on nurses are greatest. We must encourage higher enrollment in nursing schools, improve the work environment, and offer nurses opportunities to develop as respected professionals, while taking steps to ensure safe staffing levels in the short-term.

We do not have the luxury of reflecting upon this problem at length; we must act now. Fortunately, we have as allies hardworking nurses who are dedicated to helping us find ways to improve working conditions and to recruit more young people to the field.

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. 1188

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 ''Department of Veterans Affairs Nurse Recruitment and Retention Enhancement Act of 2001''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to title 38, United States Code.

TITLE I—ENHANCEMENT OF RECRUITMENT AUTHORITIES

Sec. 101. Enhancement of employee incentive scholarship program.
Sec. 102. Enhancement of education debt reduction program.
Sec. 103. Report on requests for waivers of pay reductions for reemployed annuitants to fill nurse positions.

TITLE II—ENHANCEMENT OF RETENTION AUTHORITIES

Sec. 201. Additional pay for Saturday tours of duty for additional health care professional in the Veterans Health Administration.
Sec. 202. Unused sick leave included in annuity computation of registered nurses with the Veterans Health Administration.
Sec. 203. Evaluation of Department of Veterans Affairs nurse managed clinics.
Sec. 204. Staffing levels for operations of medical facilities.
Sec. 205. Annual report on use of authorities to enhance retention of experienced nurses.
Sec. 206. Report on mandatory overtime for nurses and nurse assistants in Department of Veterans Affairs facilities.

TITLE III—OTHER MATTERS

Sec. 301. Organizational responsibility of the Director of the Nursing Service.
Sec. 302. Computation of annuity for part-time service performed by certain health-care professionals before April 7, 1986.
Sec. 303. Modification of nurse locality pay authorities.
Sec. 304. Technical amendments.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—ENHANCEMENT OF RECRUITMENT AUTHORITIES

SEC. 101. ENHANCEMENT OF EMPLOYEE INCENTIVE SCHOLARSHIP PROGRAM.

(a) PERMANENT AUTHORITY.—(1) Section 7676 is repealed.

(2) The table of sections at the beginning of chapter 76 is amended by striking the item relating to section 7676.

(b) MINIMUM PERIOD OF DEPARTMENT EMPLOYMENT FOR ELIGIBILITY.—Section 7672(b) is amended by striking ''2 years'' and inserting ''one year''.

(c) SCHOLARSHIP AMOUNT.—Subsection (b) of section 7673 is amended—

(1) in paragraph (1), by striking ''for any one year'' and inserting ''for the equivalent of one year of full-time coursework''; and

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

''(2) in the case of a participant in the Program who is a part-time student, shall bear the same ratio to the amount that would be paid under paragraph (1) if the participant were a full-time student in the course of education or training being pursued by the participant as the coursework carried by the student bears to full-time coursework in that course of education or training.''.

(d) LIMITATION ON PAYMENT.—Subsection (c) of section 7673 is amended to read as follows:

''(c) LIMITATIONS ON PERIOD OF PAYMENT.—(1) The maximum number of school years for which a scholarship may be paid under subsection (a) to a participant in the Program shall be six school years.

''(2) A participant in the Program may not receive a scholarship under subsection (a) for more than the equivalent of three years of full-time coursework.''.

(e) FULL-TIME COURSEWORK.—Section 7673 is further amended by adding at the end the following new subsection:

''(e) FULL-TIME COURSEWORK.—For purposes of this section, full-time coursework shall consist of the following:

''(1) In the case of undergraduate coursework, 30 semester hours per undergraduate school year.

''(2) In the case of graduate coursework, 18 semester hours per graduate school year.''.

(f) ANNUAL ADJUSTMENT OF MAXIMUM SCHOLARSHIP AMOUNT.—Section 7631 is amended—

(1) in subsection (a)(1), by striking ''and the maximum Selected Reserve member stipend amount'' and inserting ''the maximum Selected Reserve member stipend amount, the maximum employee incentive scholarship amount,''; and

(2) in subsection (b)—

(A) by redesignating paragraph (4) as paragraph (6); and

(B) by inserting after paragraph (3) the following new paragraph (4):

''(4) The term 'maximum employee incentive scholarship amount' means the maximum amount of the scholarship payable to a participant in the Department of Veterans Affairs Employee Incentive Scholarship Program under subchapter VI of this chapter, as specified in section 7673(b)(1) of this title and as previously adjusted (if at all) in accordance with this section.''.

SEC. 102. ENHANCEMENT OF EDUCATION DEBT REDUCTION PROGRAM.

(a) PERMANENT AUTHORITY.—(1) Section 7684 is repealed.

(2) The table of sections at the beginning of chapter 76 is amended by striking the item relating to section 7684.

(b) ELIGIBLE INDIVIDUALS.—Subsection (a)(1) of section 7682 is amended—

(1) by striking ''under an appointment under section 7402(b) of this title in a position'' and inserting ''in a position (as determined by the Secretary) providing direct-patient care services or services incident to direct-patient care services''; and

(2) by striking ''(as determined by the Secretary)'' and inserting ''(as so determined)''.

(c) MAXIMUM DEBT REDUCTION AMOUNT.—Section 7683(d)(1) is amended—

(1) by striking ''for a year''; and

(2) by striking ''exceed—'' and all that follows through the end of the paragraph and inserting ''exceed $44,000 over a total of five years of participation in the Program, of which not more than $10,000 of such payments may be made in each of the fourth and fifth years of participation in the Program.''.

(d) ANNUAL ADJUSTMENT OF MAXIMUM DEBT REDUCTION PAYMENTS AMOUNT.—(1) Section 7631, as amended by section 101(f) of this Act, is further amended—

(A) in subsection (a)(1), by inserting before the period at the end of the first sentence the following: ''and the maximum education debt reduction payments amount''; and

(B) in subsection (b), by inserting after paragraph (4) the following new paragraph (5):

''(5) The term 'maximum education debt reduction payments amount' means the maximum amount of education debt reduction payments payable to a participant in the Department of Veterans Affairs Education Debt Reduction Program under subchapter VII of this chapter, as specified in section 7683(d)(1) of this title and as previously adjusted (if at all) in accordance with this section.''.

(2) Notwithstanding section 7631(a)(1) of title 38, United States Code, as amended by paragraph (1), the Secretary of Veterans Affairs shall not increase the maximum education debt reduction payments amount under that section in calendar year 2002.

(e) TEMPORARY EXPANSION OF INDIVIDUALS ELIGIBLE FOR PARTICIPATION IN PROGRAM.—(1) Notwithstanding section 7682(c) of title 38, United States Code, the Secretary of Veterans Affairs may treat a covered individual as being a recently appointed employee in the Veterans Health Administration under section 7682(a) of that title for purposes of eligibility in the Education Debt Reduction Program if the Secretary determines that the participation of the individual in the Program under this subsection would further the purposes of the Program.

(2) For purposes of this subsection, a covered individual is any individual otherwise described by section 7682(a) of title 38, United States Code, as in effect on the day before the date of the enactment of this Act, who—

(A) was appointed as an employee in a position described in paragraph (1) of that section, as so in effect, between January 1, 1999, and September 30, 2000; and

(B) is an employee in such position, or in another position described in paragraph (1) of that section, as so in effect, at the time of application for treatment as a covered individual under this subsection.

(3) The Secretary shall make determinations regarding the exercise of the authority in this subsection on a case-by-case basis.

(4) The Secretary may not exercise the authority in this subsection after December 31,

2001. The expiration of the authority in this subsection shall not affect the treatment of an individual under this subsection before that date as a covered individual for purposes of eligibility in the Education Debt Reduction Program.

(5) In this subsection, the term ''Education Debt Reduction Program'' means the Department of Veterans Affairs Education Debt Reduction Program under subchapter VII of chapter 76 of title 38, United States Code.

SEC. 103. REPORT ON REQUESTS FOR WAIVERS OF PAY REDUCTIONS FOR REEMPLOYED ANNUITANTS TO FILL NURSE POSITIONS.

(a) REPORT.—Not later than November 30 of each of 2001 and 2002, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report describing each request of the Secretary, during the fiscal year preceding such report, to the Director of the Office of Personnel Management for the following:

(1) A waiver under subsection (i)(1)(A) of section 8344 of title 5, United States Code, of the provisions of such section in order to meet requirements of the Department of Veterans Affairs for appointments to nurse positions in the Veterans Health Administration.

(2) A waiver under subsection (f)(1)(A) of section 8468 of title 5, United States Code, of the provisions of such section in order to meet requirements of the Department for appointments to such positions.

(3) A grant of authority under subsection (i)(1)(B) of section 8344 of title 5, United States Code, for the waiver of the provisions of such section in order to meet requirements of the Department for appointments to such positions.

(4) A grant of authority under subsection (f)(1)(B) of section 8468 of title 5, United States Code, for the waiver of the provisions of such section in order to meet requirements of the Department for appointments to such positions.

(b) INFORMATION ON RESPONSES TO REQUESTS.—The report under subsection (a) shall specify for each request covered by the report—

(1) the response of the Director to such request; and

(2) if such request was granted, whether or not the waiver or authority, as the case may be, assisted the Secretary in meeting requirements of the Department for appointments to nurse positions in the Veterans Health Administration.

TITLE II—ENHANCEMENT OF RETENTION AUTHORITIES

SEC. 201. ADDITIONAL PAY FOR SATURDAY TOURS OF DUTY FOR ADDITIONAL HEALTH CARE PROFESSIONAL IN THE VETERANS HEALTH ADMINISTRATION.

(a) IN GENERAL.—Section 7454(b) is amended—

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

(2) by adding at the end the following new paragraph:

''(2) Health care professionals employed in positions referred to in paragraph (1) shall be entitled to additional pay on the same basis as provided for nurses in section 7453(c) of this title.''.

(b) APPLICABILITY.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to pay periods beginning on or after that date.

SEC. 202. UNUSED SICK LEAVE INCLUDED IN ANNUITY COMPUTATION OF REGISTERED NURSES WITH THE VETERANS HEALTH ADMINISTRATION.

(a) ANNUITY COMPUTATION.—Section 8415 of title 5, United States Code, is amended by adding at the end the following:

''(i) In computing an annuity under this subchapter, the total service of an employee who retires from the position of a registered nurse with the Veterans Health Administration on an immediate annuity, or dies while employed in that position leaving any survivor entitled to an annuity, includes the days of unused sick leave to the credit of that employee under a formal leave system, except that such days shall not be counted in determining average pay or annuity eligibility under this subchapter.''.

(b) DEPOSIT NOT REQUIRED.—Section 8422(d) of title 5, United States Code, is amended—

(1) by inserting ''(1)'' before ''Under such regulations''; and

(2) by adding at the end the following:

''(2) Deposit may not be required for days of unused sick leave credited under section 8415(i).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 60 days after the date of the enactment of this Act, and shall apply to individuals who separate from service on or after that effective date.

SEC. 203. EVALUATION OF DEPARTMENT OF VETERANS AFFAIRS NURSE MANAGED CLINICS.

(a) EVALUATION.—The Secretary of Veterans Affairs shall carry out an evaluation of the efficacy of the nurse managed health care clinics of the Department of Veterans Affairs. The Secretary shall complete the evaluation not later than 18 months after the date of the enactment of this Act.

(b) CLINICS TO BE EVALUATED.—(1) In carrying out the evaluation under subsection (a), the Secretary considers nurse managed health care clinics, including primary care clinics and geriatric care clinics, located in three different Veterans Integrated Service Networks (VISNs) of the Department.

(2) If there are not nurse managed health care clinics located in three different Veterans Integrated Service Networks as of the commencement of the evaluation, the Secretary shall—

(A) establish nurse managed health care clinics in additional Veterans Integrated Services Networks such that there are nurse managed health care clinics in three different Veterans Integrated Service Networks for purposes of the evaluation; and

(B) include such clinics, as so established, in the evaluation.

(c) MATTERS TO BE EVALUATED.—In carrying out the evaluation under subsection (a), the Secretary shall address the following:

(1) Patient satisfaction.

(2) Provider experiences.

(3) Cost of care.

(4) Access to care, including waiting time for care.

(5) The functional status of patients receiving care.

(6) Any other matters the Secretary considers appropriate.

(d) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the evaluation carried out under subsection (a). The report shall address the matters specified in subsection (c) and include any other information, and any recommendations, that the Secretary considers appropriate.

SEC. 204. STAFFING LEVELS FOR OPERATIONS OF MEDICAL FACILITIES.

(a) IN GENERAL.—Section 8110(a) is amended—

(1) in paragraph (1), by inserting after ''complete care of patients,'' in the fifth sentence the following: ''and in a manner consistent with the policies of the Secretary on overtime,''; and

(2) in paragraph (2)—

(A) by inserting '', including the staffing required to maintain such capacities,'' after ''all Department medical facilities'';

(B) by striking ''and to minimize'' and inserting '', to minimize''; and

(C) by inserting before the period the following: '', and to ensure that eligible veterans are provided such care and services in an appropriate manner''.

(b) NATIONWIDE POLICY ON STAFFING.—Paragraph (3) of that section is amended—

(1) in subparagraph (A), by inserting ''the adequacy of staff levels for compliance with the policy established under subparagraph (C),'' after ''regarding''; and

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

''(C) The Secretary shall, in consultation with the Under Secretary for Health, establish a nationwide policy on the staffing of Department medical facilities in order to ensure that such facilities have adequate staff for the provision to veterans of appropriate, high-quality care and services. The policy shall take into account the staffing levels and mixture of staff skills required for the range of care and services provided veterans in Department facilities.''.

SEC. 205. ANNUAL REPORT ON USE OF AUTHORITIES TO ENHANCE RETENTION OF EXPERIENCED NURSES.

(a) ANNUAL REPORT.—(1) Subchapter II of chapter 73 is amended by adding at the end the following new section:

''§ 7324. Annual report on use of authorities to enhance retention of experienced nurses

''(a) ANNUAL REPORT.—Not later than January 31 each year, the Secretary, acting through the Under Secretary for Health, shall submit to Congress a report on the use during the preceding year of authorities for purposes of retaining experienced nurses in the Veterans Health Administration, as follows:

''(1) The authorities under chapter 76 of this title.

''(2) The authority under VA Directive 5102.1, relating to the Department of Veterans Affairs nurse qualification standard, dated November 10, 1999, or any successor directive.

''(3) Any other authorities available to the Secretary for those purposes.

''(b) REPORT ELEMENTS.—Each report under subsection (a) shall specify for the period covered by such report, for each Department medical facility and for each Veterans Integrated Service Network, the following:

''(1) The number of waivers requested under the authority referred to in subsection (a)(2), and the number of waivers granted under that authority, to promote to the Nurse II grade or Nurse III grade under the Nurse Schedule under section 7404(b)(1) of this title any nurse who has not completed a bachelors of science in nursing in a recognized school of nursing, set forth by age, race, and years of experience of the individuals subject to such waiver requests and waivers, as the case may be.

''(2) The programs carried out to facilitate the use of nursing education programs by experienced nurses, including programs for flexible scheduling, scholarships, salary replacement pay, and on-site classes.''.

(2) The table of sections at the beginning of chapter 73 is amended by inserting after the item relating to section 7323 the following new item:

''7324. Annual report on use of authorities to enhance retention of experienced nurses.''.

(b) INITIAL REPORT.—The initial report required under section 7324 of title 38, United States Code, as added by subsection (a), shall be submitted in 2002.

SEC. 206. REPORT ON MANDATORY OVERTIME FOR NURSES AND NURSE ASSISTANTS IN DEPARTMENT OF VETERANS AFFAIRS FACILITIES.

(a) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the mandatory overtime required of licensed nurses and nurse assistants providing direct patient care at Department of Veterans Affairs medical facilities during 2001.

(b) MANDATORY OVERTIME.—For purposes of the report under subsection (a), mandatory overtime shall consist of any period in which a nurse or nurse assistant is mandated or otherwise required, whether directly or indirectly, to work or be in on-duty status in excess of—

(1) a scheduled workshift or duty period;

(2) 12 hours in any 24-hour period; or

(3) 80 hours in any period of 14 consecutive days.

(c) ELEMENTS.—The report under subsection (a) shall include the following:

(1) A description of the amount of mandatory overtime described in that subsection at each Department medical facility during the period covered by the report.

(2) A description of the mechanisms employed by the Secretary to monitor overtime of the nurses and nurse assistants referred to in that subsection.

(3) An assessment of the effects of the mandatory overtime of such nurses and nurse assistants on patient care, including its contribution to medical errors.

(4) Recommendations regarding mechanisms for preventing requirements for amounts of mandatory overtime in other than emergency situations by such nurses and nurse assistants.

(5) Any other matters that the Secretary considers appropriate.

TITLE III—OTHER MATTERS

SEC. 301. ORGANIZATIONAL RESPONSIBILITY OF THE DIRECTOR OF THE NURSING SERVICE.

Section 7306(a)(5) is amended by inserting '', and report directly to,'' after ''responsible to''.

SEC. 302. COMPUTATION OF ANNUITY FOR PART-TIME SERVICE PERFORMED BY CERTAIN HEALTH-CARE PROFESSIONALS BEFORE APRIL 7, 1986.

Section 7426 is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection (c):

''(c) The provisions of subsection (b) shall not apply to the part-time service before April 7, 1986, of a registered nurse, physician assistant, or expanded-function dental auxiliary. In computing the annuity under the applicable provision of law specified in that subsection of an individual covered by the preceding sentence, the service described in that sentence shall be credited as full-time service.''.

SEC. 303. MODIFICATION OF NURSE LOCALITY PAY AUTHORITIES.

Section 7451 is amended—

(1) in subsection (d)(3)—

(A) in subparagraph (A), by striking ''beginning rates of'' each time it appears;

(B) in subparagraph (B), by striking ''beginning rates of''; and

(C) in subparagraph (C)(i), by striking ''beginning rates of'' each time it appears;

(2) in subsection (d)(4)—

(A) by striking ''or at any other time that an adjustment in rates of pay is scheduled to take place under this subsection'' in the first sentence; and

(B) by striking the second sentence; and

(3) in subsection (e)(4)—

(A) in subparagraph (A), by striking ''grade in a'';

(B) in subparagraph (B)—

(i) by striking ''grade of a''; and

(ii) by striking ''that grade'' and inserting ''that position''; and

(C) in subparagraph (D), by striking ''grade of a''.

SEC. 304. TECHNICAL AMENDMENTS.

Section 7631(b) is amended by striking ''this subsection'' each place it appears and inserting ''this section''.

By Mr. HOLLINGS (for himself, Mr. INOUYE, and Mr. DORGAN):

S. 1189. A bill to require the Federal Communications Commission to amend its daily newspaper cross-ownership rules, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. HOLLINGS. Mr. President, I rise to introduce legislation, the Media Ownership Act of 2001, designed to rectify the increasing trend toward consolidation and away from a vibrant exchange of news and information in today's media marketplace. I am joined in this effort by my colleagues, Senators INOUYE and DORGAN, who for years have demonstrated their tireless pursuit of the public interest in the sensible regulation of media ownership.

This legislation is necessary to stem the tide toward concentration in the broadcast and newspaper industries and force a thorough and reasoned examination of the claims that further consolidation will serve the public interest. While the phrase ''public interest'' may have a vague ring to it, its meaning should be quite clear to the five members of the Federal Communications Commission, which itself observed just a few months ago that it has both ''the duty and authority under the Communications Act to promote diversity and competition among media voices.''

Notwithstanding that duty, it has come to my attention that the FCC is planning a Notice of Proposed Rulemaking to relax or eliminate the newspaper-broadcast cross ownership rule. In addition, I understand that the FCC may consider revising, among other media ownership restrictions, the 35 percent national broadcast ownership cap later this year. I do not believe that those rules should be changed at this time. Others disagree. This legislation will enhance our debate on these issues.

Locally relevant, independent programmers and distributors of media content are critically important energizers of civic discourse in this country. Indeed, that independence, localism and diversity are what separate our nation from countries where information is not allowed to flow freely. Accordingly, any proceeding to revisit existing ownership rules involving broadcast, print, or cable television must examine the potential impact that undue influence over local and national media outlets may have on our democracy.

Because Congress understood the difficulty the Commission faces in quantifying democratic values such as localism and diversity, it gave the Commission the explicit and implicit statutory authority and responsibility to establish and maintain ownership caps in the media industry. Pursuant to that authority, the FCC has imposed limits on the ownership of broadcast and cable television properties, and on the cross-ownership within a market between broadcast and cable television stations, broadcast television and radio stations, and broadcast television and radio stations and newspapers.

These ownership restrictions are based on factors outside the bounds of a traditional competitive analysis, and carry with them the authority to prevent consolidation before it rises to the level necessary to trigger antitrust intervention. for example, in light of the importance of promoting localism and diversity, a higher importance must be ascribed to preserving the balance of power between the networks and local stations than would otherwise be expected under traditional competition analysis.

The reasons for this are simple, diversity in ownership promotes competition. Diversity in ownership creates opportunities for smaller companies, and local businessmen and women. Diversity in ownership allows creative programming and controversial points of views to find an outlet. Diversity in ownership promotes choices for advertisers. And diversity in ownership and the related restriction on national ownership groups preserves localism. And what in turn does this mean? Millions of Americans regularly receive their local news by watching their local broadcast stations or reading their daily newspaper. For these citizens, localism still matters.

The proponents of increased consolidation, however, claim that the transformed media landscape demands a deregulatory response. In my view, the burden should rest on those who wish to change the rules of the game to justify those changes. If localism and diversity can be preserved in a consolidated marketplace, prove it. Arguments alone are not persuasive.

Prior to the 1996 Telecommunications Act, the top radio station group owned 39 stations and generated annual revenues of $495 million. Today, the top group owns over 1100 stations and generates revenues of almost $3.2 billion annually. This consolidation directly undercut diversity and localism in the radio marketplace. A year before Congress passed the Telecommunications Act, the FCC lifted the rules that prohibited broadcast networks from owning and creating their own television programming. This sanctioned consolidation freed the networks to seek economic stakes in, and ownership of, television programs. As the Washington Post reported last fall in an article entitled, ''Even Hits can Miss in TV's New Economy'', ''Just as supermarket might reserve its best shelf space for its house brands, the networks have begun to favor their in house programs over shows created by others, which are often less profitable in the long term.'' So we see what deregulation has brought us with radio and the market for television programming. Similar consolidation among other major media outlets should only be allowed after a thorough analysis that justifies permitting such concentration.

The legislation that we introduce today addresses the FCC's lack of enforcement of the newspaper-broadcast cross ownership rule. The FCC's jurisdiction over newspaper broadcast ownership combinations arises from its authority to oversee broadcast communications licenses. In practice, the FCC has applied the rule only when there is a transfer or renewal of a broadcast license. So, if a broadcast station owner acquires a newspaper in the same market, there is no FCC review of the cross ownership until the station's license is up for renewal. If a newspaper owner acquires a broadcast station, however, the rule is immediately triggered because the FCC has to approve the transfer of the station's broadcast license for the transaction to go forward. When the rule was adopted, television broadcast licenses were renewed every three years. Accordingly, even when the FCC did not immediately enforce the rule, the combined entity was aware it would have to come into compliance, either by requesting a waiver, or divesting either the station or newspaper, within a short period of time.

Today, however, broadcast station licenses are only renewed every eight years, thereby creating a significant loophole in the cross ownership rule, if it is only enforced by the Commission at the time of license renewals. Our bill would require the FCC to review immediately existing cross ownership combinations. The legislation requires a broadcast licensee to inform the FCC when it acquires a newspaper that would place the license in violation of the newspaper-broadcast cross ownership rule. Upon receipt of this information, the FCC could take a range of action under the legislation, including forcing divestiture, or granting a waiver to allow the combination to go forward.

In addition, our legislation steps up a process whereby we in Congress can scrutinize any alternative that the Commission devises to replace the current media ownership rules, and compare the efficacy of a new cap or ownership measurement system against the current rules, to determine whether a new measurement provides a better mechanism to promote diversity and localism. Accordingly, our bill requires the FCC to provide to the House and Senate Commerce Committees, any proposed media ownership rule changes eighteen months before they become effective. These proposals must be transmitted to the Commerce committees along with clear and ample explanation of how the new formulations will better meet the Commission's public interest obligation to promote competition, diversity, and localism.

The legislation we are introducing takes two important steps. First, it forces the FCC to enforce the current version of the FCC's newspaper-broadcast cross ownership rule. Second, it provides a check on those who might otherwise move quickly to repeal other media ownership limits without regard to the impact of the consequent consolidation on diversity, localism, and competition in the media marketplace.

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. 1189

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FCC DAILY NEWSPAPER CROSS-OWNERSHIP RULE.

(a) IMMEDIATE REVIEW.—

(1) IN GENERAL.—The Federal Communications Commission shall modify section 73.3555(d) of its regulations (47 C.F.R. 73.3555(d)) to provide for the immediate review of a license for any AM, FM, or TV broadcast station held by any party (including all parties under common control) that acquires direct or indirect ownership, operation, or control of a daily newspaper.

(2) NOTICE TO COMMISSION.—The modification under paragraph (1) shall require that any licensee covered by that paragraph notify the Committee of the acquisition of the ownership, operation, or control of a daily newspaper upon the acquisition of such ownership, operation, or control.

(b) REMEDIAL ACTION.—The Commission shall further modify section 73.3555(d) of its regulations (47 C.F.R. 73.3555(d)) to require modification or revocation of the license, or divestiture of such ownership, operation, or control of the daily newspaper, unless the Commission determines that direct or indirect ownership, operation, or control of the daily newspaper by that party will not cause a result described in paragraph (1), (2), or (3) of that section.

(c) 6-MONTH DEADLINE FOR COMPLIANCE.—Under the regulations as modified under subsection (b), if the Commission does not make a determination described in subsection (b), the Commission shall require the modification, revocation, or divestiture to be completed not later than the earlier of—

(1) the date that is 180 days after the date on which the Commission issues the order requiring the modification, revocation, or divestiture; or

(2) the date by which the Commission's regulations require the license to be renewed.

(d) APPLICATION TO EXISTING ARRANGEMENTS.—

(1) IN GENERAL.—In applying its regulations, as modified pursuant to this section, to any license for an AM, FM, or TV broadcast station that is held on the date of the enactment of this Act by a party that also, as of that date, has direct or indirect ownership, operation, or control of a daily newspaper, the Commission—

(A) may grant a permanent or temporary waiver from the modification, revocation, or divestiture requirements of the modified regulation if the Commission determines that the waiver is consistent with the principles of competition, diversity, and localism in the public interest; and

(B) shall not apply the modified regulation so as to require modification, revocation, or divestiture in circumstances in which section 73.3555(d) of the Commission's regulations (47 C.F.R. 73.3555(d)) does not apply because of Note 4 to that section.

(2) NOTICE TO COMMISSION.—A licensee of a license described by paragraph (1) shall notify the Commission not later than 30 days after the date of the enactment of this Act that the license is covered by paragraph (1).

SEC. 2. REVIEW BASED ON TRANSACTIONS.

The Federal Communications Commission shall further modify section 73.3555 of its regulations (47 C.F.R. 73.3555) so that the Commission will determine compliance with section 73.3555(d) of its regulations, as modified by the Commission pursuant to section 1 of this Act, whenever a party (including all parties under common control)—

(1) that holds a license for an AM, FM, or TV broadcast station acquires direct or indirect ownership, operation, or control of a daily newspaper; or

(2) that directly or indirectly owns, operates, or controls a daily newspaper acquires a license for an AM, FM, or TV broadcast station.

SEC. 3. FCC TO JUSTIFY REPEAL OR MODIFICATION OF REGULATIONS UNDER REGULATORY REFORM.

Section 11 of the Communications Act of 1934 (47 U.S.C. 161) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection (b):

''(b) RELAXATION OR ELIMINATION OF MEDIA OWNERSHIP RULES.—If, as a result of a review under subsection (a)(1), the Commission makes a determination under subsection (a)(2) with respect to its regulations governing multiple ownership (47 C.F.R. 73.3555), then not less than 18 months before the proposed repeal or modification under subsection (c) is to take effect, the Commission shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Commerce of the House of Representatives—

''(1) a statement of the proposed repeal or modification; and

''(2) an explanation of the basis for its determination, including an explanation of

how the proposed repeal or modification is expected to promote competition, diversity, and localism in the public interest.''.

SEC. 4. DEADLINE FOR MODIFICATION OF REGULATIONS.

The Federal Communications Commission shall complete the modifications of its regulations required by sections 1 and 2 of this Act not later than 1 year after the date of the enactment of this Act.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 135—HONORING DRS. ARVID CARLSSON, PAUL GREENGARD, AND ERIC R. KANDEL FOR BEING AWARDED THE NOBEL PRIZE IN PHYSIOLOGY OR MEDICINE FOR 2000, AND FOR OTHER PURPOSES

Mr. BIDEN submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 135

Whereas on October 9, 2000, the Nobel Assembly at the Karolinska Institute awarded the Nobel Prize in Physiology or Medicine for 2000 to Drs. Arvid Carlsson, Paul Greengard, and Eric R. Kandel for their pioneering discoveries in the field of neuroscience;

Whereas these discoveries have been crucial in achieving a fuller understanding of the normal function of the brain and the mechanisms by which brain cells communicate with each other at the molecular level to create moods and memories in individuals;

Whereas the World Health Organization has found that 4 of the 10 leading causes of disability for persons age 5 and older are mental disorders;

Whereas schizophrenia, depression, bipolar disorder, Alzheimer's disease, and other mental disorders affect nearly 1 in 5 people in the United States each year;

Whereas the work of Drs. Carlsson, Greengard, and Kandel has laid a foundation for the development of drugs and other treatments for mental illnesses and neurological disorders that promise to be more effective and to have fewer or less acute side effects; and

Whereas the National Institutes of Health contributed to advances in the field of neuroscience by providing grants and research support to Drs. Carlsson, Greengard, and Kandel for a period exceeding 30 years: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes and honors Drs. Arvid Carlsson, Paul Greengard, and Eric R. Kandel for their cumulative achievements in advancing scientific understanding in the field of neuroscience;

(2) expresses support for the ongoing efforts of the National Institutes of Health to fund and assist researchers in developing treatments for mental illnesses and neurological disorders;

(3) expresses support for the ongoing efforts of the American College of Neuropsychopharmacology, a scientific society whose principal functions are to further research and education in neuropsychopharmacology and related fields, and to encourage scientists to enter research careers in fields related to the treatment of diseases of the nervous system including psychiatric, neurological, behavioral, and addictive disorders; and

(4) expresses support for efforts to promote mental health for all people in the United States through advances in science and overcoming societal attitudes, fears, and misunderstandings concerning mental illness.

SENATE CONCURRENT RESOLUTION 60—EXPRESSING THE SENSE OF THE CONGRESS THAT THE CONTINUED PARTICIPATION OF THE RUSSIAN FEDERATION IN MEETINGS OF THE GROUP OF EIGHT COUNTRIES MUST BE CONDITIONED ON THE RUSSIAN FEDERATION'S VOLUNTARY ACCEPTANCE AND ADHERENCE TO THE NORMS AND STANDARDS OF DEMOCRACY

Mr. HELMS (for himself, Mr. SMITH of Oregon, Mr. LOTT, and Mr. ALLEN) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 60

Whereas the Group of Seven (G–7) was established as a forum of the heads of state or heads of government of the world's largest, industrialized democracies to meet annually in a summit meeting;

Whereas those countries which are members of the Group of Seven are pluralistic societies, with democratic political institutions and practices committed to the promotion of universally recognized standards of human rights, individual liberties, and rule of law;

Whereas, in 1991 and subsequent years, the G-7 invited the Russian Federation to a postsummit dialogue, and in 1998 the G-7 formally invited the Russian Federation to participate in an annual gathering that thereafter became known as the Group of Eight (G–8);

Whereas the invitation to then President Yeltsin of the Russian Federation to participate in these annual summits was to reinforce his commitment to democratization and economic liberalization, recognizing the fact that the Russian Federation's economy was not of the size and character of those of the G–7 economies and that its government's commitment to democratic principles was uncertain;

Whereas free news media are fundamental to the functioning of a democratic society and essential for the protection of individual liberties and such freedoms can exist only in an environment that is free of state control of the news media, that is free of any form of state censorship or official coercion of any kind, and that is protected and guaranteed by the rule of law;

Whereas the Government of the Russian Federation has undertaken a series of actions hostile and destructive toward independently operated media enterprises and journalists, particularly those news outlets and journalists that have been critical of government policies and government actions;

Whereas the Government of the Russian Federation continues its indiscriminate war against the people of Chechnya, a war in which Russian forces have caused the deaths of countless thousands of innocent civilians, caused the displacement of well over 400,000 innocent individuals, forcibly relocated refugee populations, and have committed widespread atrocities, including summary executions, torture, and rape;

Whereas the Department of State's Annual Report on International Religious Freedom 2000 concluded that the Government of the Russian Federation ''does not always respect [its Constitution's] provision for equality of religions, and some local authorities imposed restrictions on some religious minority groups'';

Whereas the continued participation of the Government of the Russian Federation in the Group of Eight must be conditioned on the former's acceptance of and adherence to the norms and standards of democracy; and

Whereas the next summit meeting of the G–8 countries will take place from July 20 to July 23, 2002 in Genoa, Italy: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) the President should use the Genoa summit meeting of the G–8 to condition future G–8 meetings upon a clear and unambiguous demonstration of commitment by the Government of the Russian Federation to adhere to the norms and standards of democracy and fundamental human rights, and that this must include—

(A) an immediate end to Russian military operations in Chechnya and the initiation of genuine negotiations for a just and peaceful resolution of the conflict in that region with the democratically elected Government of Chechnya led by Aslan Maskhadov;

(B) granting international missions immediate and full and unimpeded access into Chechnya and surrounding regions so that they can provide humanitarian assistance and investigate alleged atrocities and war crimes;

(C) respect for the existence of a free, unfettered, and independent media and the free exchange of ideas and views, including the freedom of journalists to publish opinions and news reports without fear of censorship or punishment, the right of people to receive news without government interference and harassment, and opportunities for private ownership of media enterprises;

(D) freedom of all religious groups to practice their faith in the Russian Federation, without government interference on the rights and the peaceful activities of such religious organizations; and

(E) equal treatment and respect for the human rights of all citizens of the Russian Federation;

(2) the President and the Secretary of State should take all necessary steps to suspend the participation of the Russian Federation in meetings of the G–8 countries after the Genoa summit meeting should the Government of the Russian Federation fail to adhere to the norms and standards described in paragraph (1); and

(3) the President and Secretary of State are requested to convey to appropriate officials of the Government of the Russian Federation, including the President, the Prime Minister, and the Minister of Foreign Affairs, and appropriate officials of the G–7 countries this expression of the views of Congress.

AMENDMENTS SUBMITTED AND PROPOSED

SA 981. Mr. JOHNSON submitted an amendment intended to be proposed by him to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table.

SA 982. Mr. JOHNSON submitted an amendment intended to be proposed by him to the bill H.R. 2311, supra; which was ordered to lie on the table.

SA 983. Mr. SARBANES submitted an amendment intended to be proposed by him to the bill H.R. 2311, supra; which was ordered to lie on the table.

SA 984. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill H.R. 2311, supra; which was ordered to lie on the table.

SA 985. Mr. HUTCHINSON submitted an amendment intended to be proposed by him to the bill H.R. 2311, supra; which was ordered to lie on the table.

SA 986. Mr. STEVENS submitted an amendment intended to be proposed by him to the bill H.R. 2311, supra; which was ordered to lie on the table.

SA 987. Ms. STABENOW (for herself, Mr. FITZGERALD, Mr. LEVIN, Mr. DURBIN, Mr. DAYTON, Mr. FEINGOLD, Mr. SCHUMER, Mr. KOHL, Mr. WELLSTONE, Mrs. CLINTON, Mr. BAYH, and Mr. VOINOVICH) proposed an amendment to the bill H.R. 2311, supra.

SA 988. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill H.R. 2311, supra; which was ordered to lie on the table.

SA 989. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill H.R. 2311, supra; which was ordered to lie on the table.

SA 990. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill H.R. 2311, supra; which was ordered to lie on the table.

SA 991. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill H.R. 2311, supra; which was ordered to lie on the table.

SA 992. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill H.R. 2311, supra; which was ordered to lie on the table.

SA 993. Mr. REED submitted an amendment intended to be proposed by him to the bill H.R. 2311, supra; which was ordered to lie on the table.

SA 994. Mr. SMITH, of New Hampshire submitted an amendment intended to be proposed by him to the bill H.R. 2311, supra; which was ordered to lie on the table.

SA 995. Mr. SMITH, of New Hampshire submitted an amendment intended to be proposed by him to the bill H.R. 2311, supra; which was ordered to lie on the table.

SA 996. Mr. SMITH, of New Hampshire submitted an amendment intended to be proposed by him to the bill H.R. 2311, supra; which was ordered to lie on the table.

SA 997. Mr. CONRAD (for himself, Mr. DORGAN, and Mr. BAUCUS) submitted an amendment intended to be proposed by him to the bill H.R. 2311, supra; which was ordered to lie on the table.

SA 998. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill H.R. 2311, supra; which was ordered to lie on the table.

SA 999. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill H.R. 2311, supra; which was ordered to lie on the table.

SA 1000. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill H.R. 2311, supra; which was ordered to lie on the table.

SA 1001. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill H.R. 2311, supra; which was ordered to lie on the table.

SA 1002. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill H.R. 2311, supra; which was ordered to lie on the table.

SA 1003. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill H.R. 2311, supra; which was ordered to lie on the table.

SA 1004. Mr. DASCHLE submitted an amendment intended to be proposed by him to the bill H.R. 2311, supra; which was ordered to lie on the table.

SA 1005. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill H.R. 2311, supra; which was ordered to lie on the table.

SA 1006. Mr. SMITH, of New Hampshire submitted an amendment intended to be proposed by him to the bill H.R. 2311, supra; which was ordered to lie on the table.

SA 1007. Mr. CHAFEE submitted an amendment intended to be proposed by him to the bill H.R. 2311, supra; which was ordered to lie on the table.

SA 1008. Mr. WYDEN submitted an amendment intended to be proposed by him to the bill H.R. 2311, supra; which was ordered to lie on the table.

SA 1009. Mr. WYDEN submitted an amendment intended to be proposed by him to the bill H.R. 2311, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 981. Mr. JOHNSON submitted an amendment intended to be proposed by him to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 2, line 18, after ''expended'' insert '', of which $2,000,000 shall be made available to the James River Water Development District, South Dakota, for completion of an environmental impact statement for the channel restoration and improvement project authorized by section 401(b) of the Water Resources Development Act of 1986 (100 Stat. 4128)''.

SA 982. Mr. JOHNSON submitted an amendment intended to be proposed by him to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 13, line 7, after ''expended,'', insert the following: ''of which $16,500,000 shall be available for the Mid-Dakota Rural Water Project;''.

SA 983. Mr. SARBANES submitted an amendment intended to be proposed by him to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 2, line 18, before the period, insert the following: '', *Provided*, that using $100,000 of the funds provided herein for the States of Maryland, Virginia, Pennsylvania and the District of Columbia, the Secretary of the Army, acting through the Chief of Engineers, is directed to conduct a Chesapeake Bay shoreline erosion study, including an examination of management measures that could be undertaken to address the sediments behind the dams on the lower Susquehanna River.''

SA 984. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 28, before the period on line 10, insert the following: ''*Provided further*, within the amount herein appropriated, Western Area Power Administration is directed to conduct a technical analysis of the costs and feasibility of transmission expansion methods and technologies. WAPA shall publish a study by July 31, 2002 that contains recommendations of the most cost-effective methods and technologies to enhance electricity transmission from lignite and wind energy: *Provided further*, That these funds shall be non-reimbursable: *Provided further*, That these funds shall be available until expended.''

SA 985. Mr. HUTCHINSON submitted an amendment intended to be proposed by him to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 3, line 3, after ''expended,'', insert the following: ''of which not less than $50,000 shall be used to carry out small flood control projects under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s) for Bono, Arkansas;''.

SA 986. Mr. STEVENS submitted an amendment intended to be proposed by him to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. . NOME HARBOR TECHNICAL CORRECTIONS.

Section 101(a)(1) of Public Law 106–53 (the Water Resources Development Act of 1999) is amended by—

(A) striking ''$25,651,000'' and inserting in its place ''$39,000,000''; and

(B) striking ''$20,192,000'' and inserting in its place ''$33,541,000''.

SA 987. Ms. STABENOW (for herself, Mr. FITZGERALD, Mr. LEVIN, Mr. DURBIN, Mr. DAYTON, Mr. FEINGOLD, Mr. SCHUMER, Mr. KOHL, Mr. WELLSTONE, Mrs. CLINTON, Mr. BAYH, and Mr. VOINOVICH) proposed an amendment to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes, as follows:

On page 2, line 18, before the period, insert the following: '', of which such sums as are necessary shall be used by the Secretary of the Army to conduct and submit to Congress

a study that examines the known and potential environmental effects of oil and gas drilling activity in the Great Lakes (including effects on the shorelines and water of the Great Lakes): *Provided,* That during the fiscal year for which this Act makes funds available and during each subsequent fiscal year, no Federal or State permit or lease shall be issued for oil and gas slant, directional, or offshore drilling in or under 1 or more of the Great Lakes (including in or under any river flowing into or out of the lake)''.

SA 988. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 8, line 7, before the colon, insert the following: '', and of which not more than $6,173,000 shall be made available for the Apalachicola, Chattahoochee, and Flint Rivers, Georgia, Florida, and Alabama (of which none of the funds shall be used for dredging in the State of Florida)''.

SA 989. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 8, line 24, before the period, insert the following: '': *Provided further*, That the amounts made available under this heading for the Apalachicola, Chattahoochee, and Flint Rivers, Georgia, Florida, and Alabama (other than amounts made available for specific hydrologic reconnections and slough restorations), shall be expended only for activities at or north of the Jim Woodruff Lock and Dam''.

SA 990. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 11, between lines 16 and 17, insert the following:

SEC. . HABITAT OF ENDANGERED AND THREATENED SPECIES OR SPORTFISH.

None of the funds made available by this Act may be used to disrupt the critical habitat of endangered species or threatened species (as those terms are defined in section 3 of the Endangered Species Act of 1973 (16 U.S.C. 1532)) or the habitat of sportfish.

SA 991. Mr. GRAHAM submitted an amendment intended to the proposed by him to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 11, between lines 16 and 17, insert the following:

SEC. . DEPOSIT OF DREDGED MATERIAL ON WETLAND.

None of the funds made available by this Act may be used to deposit dredged material on wetland subject to a permit issued under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344).

SA 992. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 7, line 25, strike ''$1,833,263,000'' and insert ''$1,633,263,000''.

On page 8, line 7, before the colon, insert the following: '', and of which not more than $6,173,000 shall be made available for the Apalachicola, Chattahoochee, and Flint Rivers, Georgia, Florida, and Alabama (of which none of the funds shall be used for dredging in the State of Florida)''.

SA 993. Mr. REED submitted an amendment intended to be proposed by him to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 3, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 8, at the end of line 24, before the period, insert: '': *Provided further*, That $500,000 of the funds appropriated herein shall be available for the conduct of activities related to the selection, by the Secretary of the Army in cooperation with the Environmental Protection Agency, of a permanent disposal site for environmentally sound dredged material from navigational dredging projects in the State of Rhode Island.''

SA 994. Mr. SMITH of New Hampshire submitted an amendment intended to be proposed by him to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 3, after line 24, add the following: ''Project at the University of New Hampshire authorized under section 8(b) of the Water Resources Development Act of 1988 (33 U.S.C. 2314(b)), $1,000,000:''.

SA 995. Mr. SMITH of New Hampshire submitted an amendment intended to be proposed by him to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table: as follows:

On page 2, line 18, before the period, insert the following: '', of which not less than $300,000 shall be used for study and design of the project at Seabrook Harbor, New Hampshire, under the Act of August 13, 1946 (33 U.S.C. 426e et seq.)''.

SA 996. Mr. SMITH of New Hampshire submitted an amendment intended to be proposed by him to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table: as follows:

On page 8, line 7, before the colon, insert the following: '', and of which not less than $400,000 shall be used to carry our maintenance dredging of the Sagamore Creek Channel, New Hampshire''.

SA 997. Mr. CONRAD (for himself, Mr. DORGAN, and Mr. BAUCUS) submitted an amendment intended to be proposed by him to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 28, before the period on line 10, insert the following: '': *Provided further,* That of the amount herein appropriated, not less than $200,000 shall be provided for corridor review and environmental review required for construction of a 230 kv transmission line between Belfield and Hettinger, North Dakota''.

SA 998 Mr. ALLARD submitted an amendment intended to be proposed by him to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other proposed; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ (a) RESCISSIONS.—There is rescinded an amount equal to 1 percent of the discretionary budget authority provided (or obligation limit imposed) for fiscal year 2002 in this Act for each department, agency, instrumentality, or entity of the Federal Government funded in this Act: *Provided*, That this reduction percentage shall be applied on a pro rata basis to each program, project, and activity subject to the rescission.

(b) DEBT REDUCTION.—The amount rescinded pursuant to this section shall be deposited into the account established under section 3113(d) of title 31, United States Code, to reduce the public debt.

(c) REPORT.—The Director of the Office of Management and Budget shall include in the President's budget submitted for fiscal year 2003 a report specifying the reductions made to each account pursuant to this section.

SA 999. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 11, between lines 16 and 17, insert the following:

SEC. 1___. APALACHICOLA, CHATTAHOOCHEE, AND FLINT RIVERS, GEORGIA, FLORIDA, AND ALABAMA.

(a) FINDING.—Congress finds that the disposal of dredged material from the Federal navigation channel in the Apalachicola River by placement inside the riverine ecosystem using within-bank or floodplain disposal sites is not consistent with the protection of the environment as required under the Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies issued on March 10, 1983, by the Water Resources Council established under title I of the Water Resources Planning Act (42 U.S.C. 1962a et seq.).

(b) PROJECT MODIFICATION.—The project for navigation, Apalachicola, Chattahoochee, and Flint Rivers, Georgia, Florida, and Alabama, authorized by section 2 of the Act of March 2, 1945 (59 Stat. 17), and modified by the first section of the Act of July 24, 1946 (60 Stat. 635, chapter 595), is modified to direct the Secretary to transport dredged material to environmentally acceptable disposal sites approved by the States of Georgia, Florida, and Alabama and within the boundaries of the States, in lieu of using within-bank or floodplain disposal sites.

SA 1000. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 8, line 7, before the colon, insert the following: '', and of which not less than $8,173,000 shall be made available for the Apalachicola, Chattahoochee, and Flint Rivers, Georgia, Florida, and Alabama (of which not less than $500,000 shall be used to restore the historic hydrologic connection between the Apalachicola River and Virginia Cut that has been affected by the project for navigation, Apalachicola, Chattahoochee, and Flint Rivers, Georgia, Florida, and Alabama, authorized by section 2 of the Act of March 2, 1945 (59 Stat. 17), and modified by the first section of the Act of July 24, 1946 (60 Stat. 635, chapter 595))''.

SA 1001. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 11, between lines 16 and 17, insert the following:

SEC. 1___. APALACHICOLA, CHATTAHOOCHEE, AND FLINT RIVERS, GEORGIA, FLORIDA, AND ALABAMA.

(a) FINDING.—Congress finds that the disposal of dredged material from the Federal navigation channel in the Apalachicola River by placement inside the riverine ecosystem using within-bank or floodplain disposal sites is not consistent with the protection of the environment as required under the Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies issued on March 10, 1983, by the Water Resources Council established under title I of the Water Resources Planning Act (42 U.S.C. 1962a et seq.).

(b) PROJECT MODIFICATION.—The project for navigation, Apalachicola, Chattahoochee, and Flint Rivers, Georgia, Florida, and Alabama, authorized by section 2 of the Act of March 2, 1945 (59 Stat. 17), and modified by the first section of the Act of July 24, 1946 (60 Stat. 635, chapter 595), is modified to direct the Secretary to transport dredged material from the Apalachicola River to environmentally acceptable disposal sites approved by the States of Georgia, Florida, and Alabama and within the boundaries of the States, in lieu of using within-bank or floodplain disposal sites.

SA 1002. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 11, between lines 16 and 17, insert the following:

SEC. ____. IMPACT OF NAVIGATIONAL DREDGING ON LOCAL ECONOMIES OF FLORIDA.

None of the funds made available by this Act may be used to conduct navigational dredging until the Secretary of the Army—

(1) completes a cost-benefit analysis of the impact of navigational dredging on the economies of local areas in the State of Florida, including oyster harvesting, tupelo honey production, shrimp production, blue crab production, commercial sportfishing, and recreational activities; and

(2) submits to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the analysis.

SA 1003. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 11, between lines 16 and 17, insert the following:

SEC. . CUMULATIVE IMPACT OF NAVIGATIONAL DREDGING ON WILDLIFE AND HABITAT.

None of the funds made available by this Act may be used to conduct navigational dredging until the Secretary of the Army—

(1) completes an assessment of the cumulative impact of navigational dredging on wildlife and habitat; and

(2) submits to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the assessment.

SA 1004. Mr. DASCHLE submitted an amendment intended to be proposed by him to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 12, line 20, after ''expended,'' insert ''of which $4,000,000 shall be available for the West River/Lyman-Jones Rural Water System to provide rural, municipal, and industrial drinking water for Philip, South Dakota, in accordance with the Mni Wiconi Project Act of 1988 (102 Stat. 2566; 108 Stat. 4539),''.

SA 1005. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 33, after line 25, add the following:

SEC. 312. (a) IN GENERAL.—The Secretary of Energy shall provide for the management of environmental matters (including planning and budgetary activities) with respect to the Paducah Gaseous Diffusion Plant, Kentucky, through the Assistant Secretary of Energy for Environmental Management.

(b) PARTICULAR REQUIREMENTS.—(1) In meeting the requirement in subsection (a), the Secretary shall provide for direct communication between the Assistant Secretary of Energy for Environmental Management and the head of the Paducah Gaseous Diffusion Plant on the matters covered by that subsection.

(2) The Assistant Secretary shall carry out activities under this section in direct consultation with the head of the Paducah Gaseous Diffusion Plant.

SA 1006. Mr. SMITH of New Hampshire submitted an amendment intended to be proposed by him to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 7, line 6, before the period, insert the following: '': *Provided further*, That, with respect to the environmental infrastructure project in Lebanon, New Hampshire, for which funds are made available under this heading, the non-Federal interest shall receive credit toward the non-Federal share of the cost of the project for work performed before the date of execution of the project cooperation agreement, if the Secretary determines the work is integral to the project.''

SA 1007. Mr. CHAFEE submitted an amendment intended to be proposed by him to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table; as follows:

On page 3, line 3, strike ''$1,570,798,000, to remain available until expended'' and insert ''$1,572,798,000, to remain available until expended, of which $2,000,000 shall be derived from a transfer from amounts made available under the heading ''GENERAL EXPENSES''; and of which $2,000,000 shall be available to carry out the Estuary Restoration Act of 2000 (33 U.S.C. 2901 et seq.) after the first meeting of the Estuary Habitat Restoration Council''.

SA 1008. Mr. WYDEN submitted an amendment intended to be proposed by him to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table, as follows:

At the appropriate place, insert the following: ''of which $500,000 shall be made available to assist the State of Oregon with design activities related to installation of electric irrigation water pumps at the Savage Rapids Dam on the Rogue River, Oregon, using authority provided by Public Law 92–199.''

SA 1009. Mr. WYDEN submitted an amendment intended to be proposed by him to the bill H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes; which was ordered to lie on the table, as follows:

At the appropriate place, insert the following: ''of which $500,000 shall be made available to conduct planning, technical, design, feasibility and other analyses under authority provided by Public Law 92–199 to evaluate the feasibility of installation of electric irrigation water pumping facilities at the Savage Rapids Dam on the Rogue River, Oregon.''

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. HARKIN. Mr. President, I would like to announce that the Committee on Agriculture, Nutrition, and Forestry will meet on July 17, 2001, in SR–328A at 9 a.m. The purpose of this hearing will be to discuss the next Federal farm bill.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. HARKIN. Mr. President, I would like to announce that the Committee on Agriculture, Nutrition, and Forestry will meet on July 19, 2001, in SR–328A at 9 a.m. The purpose of this hearing will be to discuss the nutrition title of the next Federal farm bill.

COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, would like to announce that the Committee on Indian Affairs will meet on July 18, 2001, at 9:30 a.m., in room 485 Russell Senate Building to conduct a hearing on ''Indian Tribal Good Governance Practices As They Relate to Tribal Economic Development.''

Those wishing additional information may contact committee staff at 202/224–2251.

COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on July 19, 2001, at 10 a.m., in room 485 Russell Senate Building to conduct a business meeting on pending committee business.

Those wishing additional information may contact committee staff at 202/224–2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Tuesday, July 17, 2001. The purpose of this hearing will be to discuss the next Federal farm bill.

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

COMMITTEE ON ARMED SERVICES

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, July 17, 2001, at 9:30 a.m., in open session to continue to receive testimony on ballistic missile defense programs and policies, in review of the Defense authorization request for fiscal year 2002.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, July 17, 2001, at 9:30 a.m., on media concentration.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, July 17, 2001, at 12 p.m., on pending committee business in S–216 of the Capitol.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, July 17, at 9:30 a.m., to conduct a hearing. The committee will receive testimony on legislative proposals related to reducing the demand for petroleum products in the light duty vehicle sector including titles III and XII of S. 597, the Comprehensive and Balanced Energy Policy Act of 2001; title VII of S. 388, the National Energy Security Act of 2001; S. 883, the Energy Independence Act of 2001; S. 1053, Hydrogen Future Act of 2001; and S. 1006, Renewable Fuels for Energy Security Act of 2001.

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

COMMITTEE ON FINANCE

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet in open Executive Session during the session of the Senate on Tuesday, July 17, 2001.

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

COMMITTEE ON THE JUDICIARY

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a nominations hearing on Tuesday, July 17, 2001, at 10 a.m., in Dirksen 226.

Panel I: Senator TIM HUTCHINSON of Arkansas, Senator BLANCHE LINCOLN of Arkansas, Representative JAMES SENSENBRENNER, Jr. of Wisconsin, Representative JOHN CONYERS of Michigan.

Panel II: ASA HUTCHINSON, of Arkansas, to be Administrator of Drug Enforcement.

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

SUBCOMMITTEE ON NATIONAL PARKS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Subcommittee on national Parks of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, July 17, at 2:30 p.m., to conduct a hearing. The subcommittee will receive testimony on S. 281, to authorize the design and construction of a temporary education center at the Vietnam Veterans Memorial; S. 386 and H.R. 146, to authorize the Secretary of the Interior to study the suitability and feasibility of designating the Great Falls Historic District in Paterson, NJ, as a unit of the National Park System, and for other purposes; S. 513 and H.R. 182, to amend the Wild and Scenic Rivers Act to designate a segment of the Eightmile River in the State of Connecticut for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes; S. 921 and H.R. 1000, to adjust the boundary of the William Howard Taft National Historic Site in the State of Ohio, to authorize an exchange of land in connection with the historic site, and for other purposes; S. 1097, to authorize the Secretary of the Interior to issue right-of-way permits for natural gas pipelines within the boundary of the Great Smoky Mountains National Park; and H.R. 1668, to authorize the Adams Memorial Foundation to establish a commemorative work on Federal land in the District of Columbia and its environs to honor former President John Adams and his legacy.

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

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, RESTRUCTURING AND THE DISTRICT OF COLUMBIA

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs' Subcommittee on Oversight of Government Management, Restructuring and the District of Columbia be authorized to meet on Tuesday, July 17, 2001, at 2:30 p.m., for a hearing to examine ''Expanding Flexible Personnel Systems Governmentwide.''

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

PRIVILEGE OF THE FLOOR

Mr. WELLSTONE. Madam President, I ask unanimous consent that Lauren Banks, who is a member of Senator HARKIN's staff, be granted the privilege of the floor during the Senate's consideration of the bankruptcy bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDERS FOR WEDNESDAY, JULY 18, 2001

Mr. DASCHLE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9:30 a.m., Wednesday, July 18. I further ask unanimous consent that on Wednesday, immediately following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, there be a period for morning business until 10:30 a.m., with Senators permitted to speak for up to 10 minutes each, with the following exceptions: Senator LOTT, or his designee, 9:30 a.m. to 10:30 a.m.

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

PROGRAM

Mr. DASCHLE. Mr. President, on Wednesday, the Senate will convene at 9:30 a.m. with 1 hour of morning business under the control of Senator LOTT, or his designee, for memorials on the 1-year anniversary of the death of Senator Paul Coverdell. At 10:30 a.m., the Senate will resume consideration of the Energy and Water Development Appropriations Act. Rollcall votes on amendments to the Energy and Water Development Appropriations Act are expected throughout the day on Wednesday.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. DASCHLE. Mr. President, if there is no other business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:36 p.m., adjourned until Wednesday, July 18, 2001, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate July 17, 2001:

SOCIAL SECURITY ADMINISTRATION

JO ANNE BARNHART, OF DELAWARE, TO BE COMMISSIONER OF SOCIAL SECURITY FOR THE TERM EXPIRING JANUARY 19, 2007, VICE KENNETH S. APFEL, TERM EXPIRED.

DEPARTMENT OF STATE

DANIEL R. COATS, OF INDIANA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE FEDERAL REPUBLIC OF GERMANY.

MARIE T. HUHTALA, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO MALAYSIA.

DEPARTMENT OF VETERANS AFFAIRS

JOHN A. GAUSS, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF VETERANS AFFAIRS (INFORMATION AND TECHNOLOGY), VICE DAVID E. LEWIS, RESIGNED.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601 AND TO BE APPOINTED AS CHIEF OF STAFF, UNITED STATES AIR FORCE UNDER THE PROVISIONS OF TITLE 10, U.S.C., SECTION 8033:

To be general

GEN. JOHN P. JUMPER, 0000

IN THE ARMY

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. MARYLIN J. MUZNY, 0000

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. THOMAS W. ERES, 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 B. SYLVESTER, 0000

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 5046:

To be brigadier general

COL. KEVIN M. SANDKUHLER, 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. JAMES C. DAWSON JR., 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

VICE ADM. WALTER F. DORAN, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

VICE ADM. TIMOTHY J. KEATING, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

VICE ADM. MICHAEL G. MULLEN, 0000

HOUSE OF REPRESENTATIVES—*Tuesday, July 17, 2001*

The House met at 9 a.m. and was called to order by the Speaker pro tempore (Mr. CULBERSON).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
July 17, 2001.

I hereby appoint the Honorable JOHN ABNEY CULBERSON to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 3, 2001, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 25 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to not to exceed 5 minutes, but in no event shall debate extend beyond 9:50 a.m.

The Chair recognizes the gentleman from North Carolina (Mr. COBLE) for 5 minutes.

CANCELLATION OF BLUEGRASS MUSIC BY WAMU

Mr. COBLE. Mr. Speaker, several years ago when I arrived in Washington as a newly elected Congressman and an unabashed bluegrass and country music enthusiast, one of my first non-congressional, self-appointed assignments was to identify the right radio station. WAMU 88.5 was that station.

Ray Davis and Jerry Gray, genial down-home hosts, escorted us through bluegrass country Monday through Friday. At that time the bluegrass program, as I recall, was aired from noon until 6 p.m. That time slot subsequently was reduced by half running them from 3 until 6 p.m. I did not take umbrage with this change and concluded it was not unreasonable. Six hours is, after all, a formidable block of time and reducing it to 3 hours appeared to be a fair compromise.

The recent heavy-handed action taken by WAMU is neither fair nor a compromise; and as I told a Washington Post reporter recently, as we say in the rural South, I am hopping mad about it.

The powers that be at WAMU have eliminated the Monday through Friday bluegrass that we so much enjoyed with Ray Davis and Jerry Gray. What were 3 hours of bliss have become 3 hours of painful silence; and it appears this silencing exercise was executed abruptly, with precision and with no advanced warning.

Were Ray Davis and Jerry Gray afforded the courtesy of saying good-bye to their host of loyal listeners? Obviously not.

I am told that now in the D.C. listening area we have two giants of public radio both supported by taxpayers, presumably tax exempt, broadcasting identical programs an hour apart and both broadcasting these programs twice to captive drive-time audiences. What became of diversity, the commodity so frequently promoted by public radio?

Many listeners of WAMU have contacted me about this matter and most of these listeners are versatile in their musical tastes. They enjoy bluegrass and country, as do I, but they enjoy the classics as well, as do I. But the WAMU decision-makers have made the former more difficult to receive than the latter. We no longer hear Jim and Jesse and the Virginia Boys play and sing Paradise or Better Times A Comin'. We no longer hear Earl Scruggs, ably backed by Lester Flatt and the Foggy Mountain Boys as he plays the Flint Hill Special. During December's yuletide season, the Monday through Friday bluegrass fans will be deprived of Christmas Time A Comin' by Bill Monroe and the Bluegrass Boys or the Country Gentlemen's version of Back Home at Christmas Time.

We, the Monday through Friday group, will have to make adjustments. As a member of Congress, I have consistently contributed to WAMU's various campaigns. I may have to direct my future contributions elsewhere because I do not appreciate the manner in which it appears WAMU terminated the Monday through Friday bluegrass programs.

Ray Davis and Jerry Gray deserve better. WAMU's listeners deserve better. These listeners, by the way, are intensely loyal. So WAMU may be pursuing a volatile course.

Again, Mr. Speaker, drawing from my days in the rural South, when youngsters misbehaved they were taken to the woodshed. You know, perhaps the WAMU management team members need to be introduced to the woodshed. For it is my belief they have misbehaved to the detriment of many innocent observers.

A BAD OMEN

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentleman from Texas (Mr. PAUL) is recognized during morning hour debates for 5 minutes.

Mr. PAUL. Mr. Speaker, the trial of Slobadon Milosevic threatens U.S. sovereignty. The fact that this trial can be carried out, in the name of international justice, should cause all the Americans to cast a wary eye on the whole principal of the U.N. War Crimes Tribunal. The prosecution of Milosevic, a democratically elected and properly disposed leader of a sovereign country, could not be carried out without full U.S. military and financial support. Since we are the only world superpower, the U.N. court becomes our court under our control. But it is naive to believe our world superpower status will last forever. The precedence now being set will 1 day surely come back to haunt us.

The U.S. today may enjoy dictating policy to Yugoslavia and elsewhere around the world, but danger lurks ahead. The administration adamantly and correctly opposes our membership in the permanent International Criminal Court because it would have authority to exercise jurisdiction over U.S. citizens without the consent of the U.S. government. But how can we, with a straight face, support doing the very same thing to a small country, in opposition to its sovereignty, courts, and constitution. This blatant inconsistency and illicit use of force does not go unnoticed and will sow the seeds of future terrorist attacks against Americans or even war.

Money, as usual, is behind the Milosevic's extradition. Bribing Serbian Prime Minister Zoran Djindjic, a U.S.-sponsored leader, prompted strong opposition from Yugoslavian Prime Minister Zoran Zizic and Yugoslavian President Vojislaw Kostunica.

A Belgrade historian, Aleksa Djilas, was quoted in The New York Times as saying: ''We sold him for money, and we won't really get very much money for it. The U.S. is the natural leader of the world, but how does it lead? This justifies the worst American instincts, reinforcing this bullying mentality.''

Milosevic obviously is no saint but neither are the leader of the Croates,

the Albanians or the KLA. The NATO leaders who vastly expanded the death and destruction in Yugoslavia with 78 days of bombing in 1999 are certainly not blameless. The $1.28 billion promised the puppet Yugoslavian government is to be used to rebuild the cities devastated by U.S. bombs. First, the American people are forced to pay to bomb, to kill innocent people and destroy cities, and then they are forced to pay to repair the destruction, while orchestrating a U.N. kangaroo court to bring the guilty to justice at the Hague.

For all this to be accepted, the press and internationalists have had to demonize Milosevic to distance themselves from the horrors of others including NATO.

NATO's air strikes assisted the KLA in cleansing Kosovo of Serbs in the name of assisting Albanian freedom fighters. No one should be surprised when that is interpreted to mean tacit approval for Albanian expansionism in Macedonia. While terrorist attacks by former members of the KLA against Serbs are ignored, the trial of the new millennium, the trial of Milosevic, enjoys daily support from the NATO–U.S. propaganda machine.

In our effort to stop an independent-minded and uncooperative with the international community president of a sovereign country, U.S. policy was designed to support an equally if not worse organization, the KLA.

One of the conditions for ending the civil war in Kosovo was the disbanding of the KLA. But the very same ruthless leaders of the KLA, now the Liberation Army of Presovo, are now leading the insurrection in Macedonia without NATO lifting a finger to stop it. NATO's failed policy that precipitated the conflict now raging in Macedonia is ignored.

The U.N. War Tribunal in the Hague should insult the intelligence of all Americans. This court currently can only achieve arrest and prosecution of leaders of poor, small, or defeated nations. There will be no war criminals brought to the Hague from China, Russia, Britain, or the United States no matter what the charges. But some day this approach to world governing will backfire. The U.S. already has suffered the humiliation of being kicked off the U.N. Human Rights Commission and the Narcotics Control Commission. Our arrogant policy and attitude of superiority will continue to elicit a smoldering hatred toward us and out of sheer frustration will motivate even more terrorist attacks against us.

Realizing the weakness of the charges against Milosevic the court has quietly dropped the charges for committing genocide. In a real trial, evidence that the British and the United States actually did business with Milosevic would be permitted. But almost always, whoever is our current most hated enemy, has received help and assistance from us in the past. This was certainly the case with Noriega and Saddam Hussein and others, and now it's Milosevic.

Milosevic will be tried not before a jury of his peers but before a panel of politically appointed judges, all of whom were approved by the NATO countries, the same countries which illegally bombed Yugoslavia for 2½ months. Under both U.N. and international law the bombing of Serbia and Kosovo was illegal. This was why NATO pursued it and it was not done under a U.N. resolution.

Ironically, the mess in which we've been engaged in Yugoslavia has the international establishment supporting the side of Kosovo independence rather than Serbian sovereignty. The principle of independence and secession of smaller government entities has been enhanced by the breakdown of the Soviet system. If there's any hope that any good could come of the quagmire into which we've rapidly sunk in the Balkans, it is that small independent nations are a viable and reasonable option to conflicts around the world. But the tragedy today is that no government is allowed to exist without the blessing of the One World Government leaders. The disobedience to the one worlders and true independence is not to be tolerated. That's what this trial is all about. "Tow the line or else," is the message that is being sent to the world.

NATO and U.S. leaders insist on playing with fire, not fully understanding the significance of the events now transpiring in the Balkans. If policy is not quickly reversed, events could get out of control and a major war in the region will erupt.

We should fear and condemn any effort to escalate the conflict with troops or money from any outside sources. Our troops are already involved and our money calls the shots. Extricating ourselves will get more difficult every day we stay. But the sooner we get out the better. We should be listening more to candidate George Bush's suggestion during the last campaign for bringing our troops home from this region.

The Serbs, despite NATO's propaganda, will not lightly accept the imprisonment of their democratically elected (and properly disposed) president no matter how bad he was. It is their problem to deal with and resentment against us will surely grow as conditions deteriorate. Mobs have already attacked the American ambassador to Macedonia for our inept interference in the region. Death of American citizens are sure to come if we persist in this failed policy.

Money and power has permitted the United States the luxury of dictating terms for Milosevic's prosecution, but our policy of arbitrary interventions in the Balkans is sowing the seeds of tomorrow's war.

We cannot have it both ways. We cannot expect to use the International Criminal Tribunal for Yugoslavia when it pleases us and oppose the permanent International Criminal Court where the rules would apply to our own acts of aggression. This cynical and arrogant approach, whether it's dealing with Milosevic, Hussein, or Kadafi, undermines peace and presents a threat to our national security. Meanwhile, American citizens must suffer the tax burden from financing the dangerous meddling in European affairs, while exposing our troops to danger.

A policy of nonintervention, friendship and neutrality with all nations, engagement in true free trade (unsubsidized trade with low tariffs) is the best policy if we truly seek peace around the world. That used to be the American way.

INTRODUCTION OF LOWER LOS ANGELES RIVER AND SAN GABRIEL RIVER WATERSHEDS STUDY ACT OF 2001

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentlewoman from California (Ms. SOLIS) is recognized during morning hour debates for 5 minutes.

Ms. SOLIS. Mr. Speaker, today I rise to bring forward legislation that I want to introduce regarding the Lower Los Angeles River and the San Gabriel River Watershed Study Act of 2001.

Mr. Speaker, I grew up in the shadow of one of the largest landfills in the country, communities exposed to high levels of smog, and one of the largest Superfund sites in the region. All this has inspired my passion to preserve our remnants of open space.

Today, children in my district are still living next to this landfill, and their playgrounds are often small concrete slabs with little green space. With this knowledge, today I introduce the Lower Los Angeles River and San Gabriel River Watershed Study Act of 2001. The bill will study the Lower Los Angeles River and the San Gabriel River and portions of the San Gabriel Mountains for potential inclusion in the National Parks Service system.

The bill will direct the National Park Service to study the area and its natural, historic, scenic, recreational, and national significance.

If deemed appropriate, I plan to introduce a bill that will officially designate the area. Thus, laying the groundwork for open space preservation, environmental revitalization, curbing urban sprawl, and giving communities of color the option of experiencing more than car horns and skyscrapers.

Currently, there are only five national recreation areas near urban centers. Such urban parks combine scarce spaces with the preservation of significant historic resources and important natural areas in locations that can provide outdoor recreation for large numbers of people. The population growth in California, as you know, is projected to double in over the next 40 years. It is of critical importance to plan for the future of open space.

Study after study find that open space creates high property values, more community-oriented events, and safer environments for our families. It is estimated that there are less than one-half acre square space per 1,000 residents in low-income areas, and up to 1.7 acres in West Los Angeles. Yet,

three to four acres of open space per 1,000 residents is what is recommended by our Park Service.

After the 1992 riots in Los Angeles, nearly 77 percent of neighborhood residents when asked what they felt was most important felt that improved parks and recreation facilities was absolutely critical and important to the restoration of their communities.

There is a growing concern that poor planning has resulted in the loss of too much open space in the San Gabriel Valley and in the foothills of the San Gabriel Mountains. The threat of the total buildout of the last remnants of open space has increased concern about the cumulative impacts of that buildout on what little remains of our natural resources.

This concern has reached a critical mass, sparking community action to form local conservancies. In fact, I was a partner in helping to establish one of the largest urban conservancies in the State of California effecting well over 6 million people.

There is a need out there to provide open space. People in my community and across the country want to see that there is some preservation and some area for families to recreate. As a California State Senator, I was proud to have introduced that piece of legislation last year.

There are over 30 local community governments and organizing groups that are now waiting for us to move ahead at the Federal level to create this park service area.

Mr. Speaker, I would like to insert the following editorial published on May 30, 2001 of the San Gabriel Valley Tribune.

It is time for the Federal Government to offer the next step for protection and revitalization in the San Gabriel Valley. This study is the first step in accomplishing that venture.

[From the San Gabriel Valley Tribune, May 30, 2001]

OUR VIEW: BUSH SHOULD JOIN SOLIS PARK PLAN

The president was in town this week visiting Camp Pendleton and meeting with Gov. Gray Davis in Los Angeles on energy issues. Some say President George W. Bush should use this visit to improve his standing on the environment, an issue dear to Golden Staters. Specifically, he should support Rep. Hilda Solis' idea to declare the San Gabriel River—and 2,000 acres around it—a national recreation area.

Solis, who has not formalized her idea, but rather is sending it up as a trial balloon, wants to siphon federal dollars into making the river a national park. Last year, $1.38 billion was available through the National Park Service. While we support the preservation and maintenance of more traditional national parks, we believe the feds should change direction and provide for creation of closer-in, urban green spaces.

Efforts are under way to restore the 29-mile San Gabriel River, which runs from the Angeles National Forest to the beach. Our river, and our forest for that matter, are visited by just as many people as many national parks—eight million a year visit the Angeles, which includes the river's West Fork and the East Fork regions. Creating more urban recreation areas can be more important than preserving chunks of wild lands in remote parts of the country because these are closer to millions of people who need a green space to de-stress, relax and get away from the burdens of everyday life.

In addition, it seems as if the new San Gabriel and Lower Los Angeles Rivers and Mountain Conservancy started by Solis and Sally Havice is stalled, but it's nothing that a little federal momentum could not kick start.

We would like to see an education center, more bike trails and more river access for hikers, horseback riders, birders, mountain bikers, picnickers and all.

Likewise, to the west, the Arroyo Seco should be restored. The Arroyo Seco Foundation and North East Trees are working on a plan to make the river that runs through Pasadena, South Pasadena to Los Angeles a place of beauty instead of a concrete channel off-limits to visitors.

These are projects that are not about saving a species of frog or fish but rather, about saving a quality of life for almost 2 million San Gabriel Valley residents who increasingly spend more time in their cars in traffic than in nature. Many have come here from Mexico, as the new census figures show, living in poorer and middle-class neighborhoods of South El Monte, El Monte, Pico Rivera, Northwest Pasadena, El Sereno, Azusa and Duarte and rarely go beyond the streets where they live.

Most do not have the means to travel to Yosemite, Mammoth Lakes and other spots that are favorites of the Valley's more well-to-do population. Hence, more than 75 percent of those who visit the East Fork, Whittier Narrows, Marrano Beach and Santa Fe Dam are Latino.

The Bush Administration can't miss this chance to start working on an urban, national park that will benefit Latinos in California.

It's an opportunity for Bush to improve his image in the state and at the same time work with Democrat Solis in a bipartisan effort. Sounds like win-win-win to us.

INTRODUCTION OF ABUSIVE TAX SHELTER SHUTDOWN ACT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentleman from Texas (Mr. DOGGETT) is recognized during morning hour debates for 5 minutes.

Mr. DOGGETT. Mr. Speaker, most of us can appreciate the feeling of the fellow who declared, ''I am proud to be paying taxes, but I could be just as proud for half the money!''

Some taxpayers have, in fact, discovered a way to get out for half the money by exploiting abusive tax avoidance schemes, gimmicks, and tax shelters. For the millions of Americans who are paying their fair share of taxes, it is long past time to plug some of the loopholes and eliminate the tax inequities that threaten public confidence in our tax system.

Today, together with the gentleman from New York (Mr. RANGEL), the ranking member of the Committee on Ways and Means and a number of my Democratic colleagues on the committee, I am introducing the Abusive Tax Shelter Shutdown Act to address these concerns.

With the Bush administration already dipping into the Medicare trust fund to pay for its many undertakings, we face a challenge. To implement a patients' bill of rights, to ensure that the dipping into the Medicare trust fund does not extend to an invasion of the Social Security trust fund, and to provide reasonable tax relief, we must ensure that lower tax revenues are offset. We must secure what are known around this House as ''pay-for's'' to pay for the enactment of any new initiatives.

With the bill that we are introducing today, we say: what better place to start than with the high rollers who are cheating and gaming our tax system.

This new bill represents a refinement of legislation that I originally introduced in 1999. The Washington Post, the Los Angeles Times, and several other newspapers have already endorsed that initiative. The abuses that it addresses were first brought to my attention by a constituent in Austin who directed my attention to this Forbes magazine. Forbes, which proudly proclaims itself ''the capitalist tool,'' did a cover story called ''Tax Shelter Hustlers'' with a fellow in a fedora on the cover, and stated, ''Respectable accountants are peddling dicey corporate loopholes.'' Inside, that cover story begins, ''Respectable tax professionals and respectable corporate clients are exploiting the exotica of modern corporate finance to indulge in extravagant tax dodging schemes.''

Forbes reported that Big 5 accounting firms require staffers, in one case, to come up with at least one new corporate tax dodge per week. The literal hustling of these improper tax avoidance schemes is so commonplace that the representative of one major Texas-based multinational indicated that he gets a cold call every day from someone hawking such shelters.

As Stefan Tucker, former Chair of the American Bar Association Tax Section, a group comprised of 20,000 tax lawyers across the country, told the Senate Finance Committee: ''[T]he concerns being voiced about corporate tax shelters are very real; these concerns are not hollow or misplaced, as some would assert. We deal with corporate and other major taxpayer clients every day who are bombarded, on a regular and continuous basis, with ideas or ''products'' of questionable merit.''

Two years later, we have this sequel from Forbes which raises the question, ''How to cheat on your taxes?'' It concludes that the marketing of push-the-edge and over-the-edge tax shelters ''represent the most striking evidence of the decline in [tax] compliance'' in

our country today. The ''outrageous shelters'' that it reports about in its cover story are literally ''tearing this country's tax system apart.'' It raises the question that more and more taxpayers are asking: ''Am I a chump for paying what I owe?''

Here is basically what this bill seeks to do: First, it seeks to stop these schemes that have no ''economic substance.'' That is, deals that are done not to achieve economic gain in a competitive marketplace or for other legitimate business reasons but to generate losses that offer a way to avoid the tax collector.

Second, it prevents tax cheats from buying the equivalent of a ''get-out-of-jail-free'' card to protect themselves in the unlikely event that they get caught. Some fancy legal opinion cannot be used as insurance against penalties for tax underpayments on transactions that have no economic substance.

Third, the bill increases and tightens penalties for tax dodging so that there is at least some downside risk to cheating.

Fourth, it requires the promoters and hustlers who market tax shelters to share a little of the penalty themselves with the offending taxpayer.

Fifth, it punishes the lawyers who write ''penalty insurance'' opinions that any reasonable person would know are unjustified.

Sixth, it penalizes those who fail to follow the disclosure rules. It recognizes that too often secrecy is the growth hormone for these complex tax-cheating shelter gimmicks.

Seventh, it expands the types of tax shelters that must be registered with the IRS, thereby facilitating tax enforcement.

Finally, it targets a few of what some might view as ''attractive nuisances.'' That is, tax code provisions that are particularly subject to manipulation and misuse.

Battling these shelters one at a time, through years of costly litigation, has not prevented the steady growth in abusive practices. Indeed, the creativity and speed with which new and more complicated tax shelters are devised is remarkable. Following judicial and administrative rulings, tax shelters are repackaged and remarketed with creative titles like sequels to bad movies.

One type of gimmickery, called LILO, has been used by an American company, which rents a Swiss town hall, not for any gathering, but only to rent it immediately back to the Swiss. The corporation takes a deduction from current taxable income for the total rental expense, while deferring income from its ''re-rental'' until far into the future. Within months of Treasury shutting down such abusive LILO transactions, products were soon being sold as the ''Son of LILO,'' with only a modicum of difference from the previous version.

I have modified this legislation to take into account the comments that were raised at a November 1999 Committee on Ways and Means hearing. I have incorporated recommendations from the American Bar Association tax section, and bipartisan suggestions from leaders of the Senate Finance Committee last year. This bill has been carefully designed to curtail egregious behavior without impacting legitimate business deals.

Most of these refinements have had a very plain purpose: eliminate the excuse for inaction. This bill should now be acceptable to everyone but most blatant shelter hustlers. But that may not be the case.

Treasury Secretary Paul O'Neill recently gave an interview to a London newspaper in which he favored eliminating corporate taxation. If that is the ultimate objective, if he just waits a little while maintaining the same attitude of indifference in the face of rapidly proliferating shelter schemes it may eventually be accomplished. This will leave just a few ''corporate chumps'' paying anything close to their fair share.

Most taxpayers realize that if someone in the corporate towers or just down the street is not paying their fair share, you and I, and the others who play by the rules, must pay more to pick up the slack. And that slack, that loss of revenue to abusive tax shelters, is not estimated to exceed $10 billion per year.

And that lost revenue could be put to better use. The bipartisan leaders of the managed care reform bill in the last Congress relied upon this proposal to offset any reduced federal revenues associated with adopting the Patients Bill of Rights. Although blocked procedurally, Representative CHARLIE NORWOOD (R–GA) got it right in telling the House Rules Committee, ''There is a large difference in what you call a tax increase and stopping bogus tax shelters. That is really two different things. They aren't just asking them to pay more taxes, we are trying to keep them from cheating the system.''

Today, we sponsors of this legislation offer a constructive way of correcting abusive tax shelters, described by former Treasury Secretary Larry Summers as ''the most serious compliance issue threatening the American tax system.'' Battling corporate tax cheats is not a partisan issue, it is a question of fundamental fairness. This Congress should promptly respond.

TECHNICAL EXPLANATION OF H.R., THE ''ABUSIVE TAX SHELTER SHUTDOWN ACT OF 2001''

TITLE I—CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE (SEC. 101)

PRESENT LAW

In general

The Internal Revenue Code (''Code'') provides specific rules regarding the computation of taxable income, including the amount, timing, and character of items of income, gain, loss and deductions. These rules are designed to provide for the computation of taxable income in a manner that provides for a degree of specificity to both taxpayers and the government. Taxpayers generally may plan their transactions in reliance on these rules to determine the federal income tax consequences arising from the transactions.

Notwithstanding the presence of these rules for determining tax liability, the claimed tax results of a particular transaction may be challenged by the Secretary of the Treasury. For example, the Code grants the Secretary various authority to challenge tax results that would result in an abuse of these rules or the avoidance or evasion of tax (Secs. 269, 446, 482, 7701(l)). Further, the Secretary can challenge a tax result by applying the so-called ''economic substance doctrine.'' This doctrine has been applied by the courts to deny unwarranted and unintended tax benefits in transactions whose undertaking does not result in a meaningful change to the taxpayer's economic position other than a purported reduction in federal income tax. Closely related doctrines also applied by the courts (sometimes interchangeable with the economic substance doctrine) include the so-called ''sham transaction doctrine'' and the ''business purpose doctrine''. (See, for example, *Knetsch* v. *United States*, 364 U.S. 361 (1960) denying interest deductions on a ''sham transaction'' whose only purpose was to create the deductions.) Also, the Secretary can argue that the substance of a transaction is different from the form in which the taxpayer has structured and reported the transaction and therefore, the taxpayer applied the improper rules to determine the tax consequences. Similarly, the Secretary may invoke the ''step-transaction doctrine'' to treat a series of formally separate ''steps'' as a single transaction if the steps are integrated, interdependent, and focused on a particular result.

Economic substance doctrine

The economic substance doctrine is a common law doctrine denying tax benefits in transactions which, apart from their claimed tax benefits, have little economic significance.

The seminal authority for the economic substance doctrine is the Supreme Court and Second Circuit decisions in *Gregory* v. *Helvering* (293 U.S. 465 (1935), *aff'g* 69 F.2d 809 (2d Cir. 1934). In that case, a transitory subsidiary was used to effectuate a tax-advantaged distribution form a corporation. Notwithstanding that the transaction satisfied the literal definition of a tax-free reorganization, the courts denied the intended benefits of the transactions, stating: ''The purpose of the [reorganization] section is plain enough, men [and women] engaged in enterprises—industrial, commercial, financial, or an other—might wish to consolidate, or divide, to add to, or subtract from, their holdings. Such transactions were not to be considered 'realizing' and profit, because the collective interests still remained in solution. But the underlying presupposition is plain that the readjustment shall be undertaken for reasons germane to the conduct of the venture in hand, not as an ephemeral incident, egregious to its prosecution. To dodge the shareholder's taxes is not one of the transactions contemplated as corporate 'reorganizations'.'' (69 F.2d at 811).

The economic substance doctrine was applied in the case of *Goldstein* v. *Commissioner* (364 F.2d 734 (2d Cir. 1966)) involving a taxpayer who borrowed to acquire Treasury securities. Under the law then in effect, she

was able to deduct a substantial amount of prepaid interest. Notwithstanding that the Code allowed a deduction for the prepaid interest, the Court disallowed the deduction stating: ''this provision [sec. 163(a)] should not be construed to permit an interest deduction when it objectively appears that a taxpayer has borrowed funds in order to engage in a transaction that has no substance or purpose other than to obtain the tax benefit of an interest deduction.''

Likewise in *Shelton* v. *Commissioner* (94 T.C. 738 (1990)), a taxpayer borrowed money to purchase Treasury bills. Under the law at that time, the interest on the borrowing was deductible, but interest on the Treasury bills did not have to be accrued currently. The taxpayer deducted the interest on the borrowing currently and deferred the interest income. The court, as in the *Goldstein* case, disallowed the interest deduction because the transaction lacked economic substance. Similarly, the economic substance doctrine has been applied to disallow losses in cases where taxpayers invested in commodity straddles (*Yosha* v. *Commissioner*, 861 F.2d 494 (7th Cir. 1988)).

Recently, the courts have applied the economic substance doctrine to deny the benefits of an intricate plan principally designed to create losses by investing in a partnership holding debt instruments that were sold for contingent installment notes. Both the Tax Court and the Court of Appeals for the Third Circuit held that the transaction lacked economic substance and thus disallowed the ''artificial loss'' (*ACM Partnership* v. *Commissioner*, 157 F.3d 231 (3d Cir. 1998), *aff'g* 73 T.C.M. 2189 (1997)). The Tax Court opinion stated: ''the transaction must be rationally related to a useful nontax purpose that is plausible in light of the taxpayer's conduct and useful in the light of the taxpayer's economic situation and intentions. Both the utility of the stated purpose and the rationality of the means chosen to effectuate it must be evaluated in accordance with the commercial practices in the relevant industry . . . A rational relationship between purpose and means ordinarily will not be found unless there was a reasonable expectation that the nontax benefits would at least be commensurate with the transaction costs.''

Courts have likewise denied the tax benefits in cases involving the misuse of seller-financed corporate-owned life insurance (*Winn-Dixie Stores, Inc.* v. *Commissioner*, 113 T.C. No. 21 (1999); *American Electric Power Inc.* v. *United States* (S.D. Ohio, No. C2–99–724, Feb. 20, 2001)) and foreign tax credits (*Compaq Computer Corp.* v. *Commissioner*, 113 T.C. No. 17 (1999). However, see *IES Industries* v. *United States*, 2001 U.S. App. LEXIS 12881 (8th Cir. June 14, 2001) for a contrary decision) in transactions the court determined were lacking economic substance.

Business purpose doctrine

The courts use the business purpose doctrine (in combination with economic substance) as part of a two-prong test for determining whether a transaction should be disregarded for tax purposes: (1) the taxpayer was motivated by no business purpose other than obtaining tax benefits in entering the transaction, and (2) the transaction lacks economic substance (*Rice's Toyota World*, 752 F.2d 89, 91 (1985)). In essence a transaction will be respected for tax purposes if it has ''economic substance or encouraged by business or regulatory realities, is imbued with tax-independent consideration, and is not shaped solely by tax-avoidance features that have meaningless label attached.'' (*Frank Lyon Co.* v. *Commissioner*, 435 U.S. 561 (1978)).

EXPLANATION OF PROVISION

In general

Under the bill, the economic substance doctrine is made uniform and is enhanced. The bill provides that in applying the economic substance doctrine, a transaction will be treated as having economic substance only if the transaction changes in a meaningful way (apart from Federal income tax consequences) the taxpayer's economic position, and the transaction has a substantial nontax purpose which would be reasonably accomplished by the transaction. This aspect of the bill clarifies the judicial application of the economic substance doctrine and would overturn the results in certain court cases, such as the result in *IES Industries* (see above). The bill provides that if a profit potential is relied on to demonstrate that a transaction results in a meaningful change in economic position (and therefore has economic substance), the present value of the reasonably expected pre-tax profit must be substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected. The potential for a profit not in excess of a risk-free rate of return will not satisfy the test. In determining pre-tax profit, fees and other transaction expenses and foreign taxes are treated as expenses.

Under the bill, a taxpayer may rely on factors other than profit potential for a transaction to have a meaningful change in the taxpayer's economic position; the bill merely sets forth a minimum profit potential if that test is relied on to demonstrate a meaningful change in economic position.

In applying the profit test to the lessor of tangible property, depreciation and tax credits (such as the rehabilitation tax credit and the low income housing tax credit) are not to be taken into account in measuring tax benefits. Thus, a traditional leveraged lease is not affected by the bill to the extent it meets the present law standards.

Except as the bill otherwise specifically provides, judicial doctrines disallowing tax benefits for lack of economic substance, business purpose, or similar reasons will continue to apply as under present law.

Transactions with tax-indifferent parties

The bill also provides special rules for transactions with tax-indifferent parties. For this purpose, a tax-indifferent party means any person or entity not subject to Federal income tax, or any person to whom an item would have no substantial impact on its income tax liability, for example, by reasons of its method of accounting (such as mark-to-market). Under these rules, the form of a financing transaction will not be respected if the present value of the tax deductions to be claimed is substantially in excess of the present value of the anticipated economic returns to the lender. Also, the form of a transaction with a tax-indifferent party in excess of the tax-indifferent party's economic gain or income or if it results in the shifting of basis on account of overstating the income or gain of the tax-indifferent party.

EFFECTIVE DATE

The provision applies to transactions after the date of enactment.

TITLE II—PENALTIES

1. Modifications to accuracy-related penalty (sec. 201)

PRESENT LAW

A 20-percent penalty applies to any portion of an underpayment of income tax required to be shown on a return to the extent that it is attributable to negligence or to a substantial understatement of income tax. For purposes of the penalty, an understatement is considered ''substantial'' if it exceeds the greater of (1) 10 percent of the tax required to be shown on the return, or (2) $5,000 ($10,000 in the case of a C corporation that is not a personal holding company).

The penalty does not apply if there was reasonable cause for the understatement and the taxpayer acted in good faith with respect to the understatement. In addition, except in the case of a tax shelter, the substantial understatement penalty does not apply if there was substantial authority for the tax treatment of an item or if there was adequate disclosure of the item and reasonable basis for the treatment of the item. In the case of a tax shelter of a noncorporate taxpayer, the substantial authority exception applies if the taxpayer reasonably believed that the claimed treatment was more likely than not the proper treatment. For this purpose, a tax shelter means a partnership or other entity, plan or arrangement, if a significant purpose of the entity, plan or arrangement was the avoidance or evasion of Federal income tax.

EXPLANATION OF PROVISION

Enhanced penalty for disallowed noneconomic tax attributes

The bill increases the accuracy-related penalty for underpayments attributable to disallowed noneconomic tax attributes. The rate of the penalty is increased to 40 percent unless the taxpayer discloses to the Secretary of the Treasury or his delegate such information as the Secretary shall prescribe with respect to such transaction. No exceptions (including the reasonable cause exception) to the imposition of the penalty will apply in the case of disallowed noneconomic tax attributes.

The enhanced penalty applies to the extent that the underpayment is attributable to the disallowance of any tax benefit because of a lack of economic substance (as provided by the bill), because the transaction was not respected under the rules added by the bill relating to transactions with tax-indifferent parties, because of a lack of business purpose or because the form of the transaction does not reflect its substance, or because of any similar rule of law disregarding meaningless transactions whose undertaking were not in the furtherance of a legitimate business or economic purpose.

Modifications to substantial understatement penalty

The bill makes several modifications to the substantial understatement penalty. First, the bill treats an understatement as substantial if it exceeds $500,000, regardless of whether it exceeds 10 percent of the taxpayer's total tax liability. Second, the bill treats tax shelters of noncorporate taxpayers the same as the present law treatment of corporate tax shelter; thus the exception from the penalty for substantial authority (under section 6662(b)(2)(B)(i)) will not apply. Third, the bill provides that the determination of the amount of underpayment shall not be less than the amount that would be determined if the items not attributable to a tax shelter or to a transaction having disallowed noneconomic tax attributes (discussed below) were treated as being correct. Finally, an underpayment may not be reduced by reason of filing an amended return after the taxpayer is first contacted by the IRS regarding the examination of its return.

EFFECTIVE DATE

The enhanced penalty applies to transactions after the date of enactment. The

modifications to the substantial understatement penalty apply to taxable years ending after the date of enactment.

2. Promoter penalties (sec. 202)

PRESENT LAW

Any person who (1) organizes any partnership, entity, plan, or arrangement, or (2) participates in the sale of any interest in such a structure, and makes or furnishes a statement (or causes another to make or furnish a statement) with respect to any material tax benefit attributable to the arrangement or structure that the person knows (or has reason to know) is false or fraudulent is subject to a penalty. The amount of the penalty is equal to the lesser of (1) $1,000 or (2) 100 percent of the gross income derived by the promoter from each activity (sec. 6700(a)). There is no statute of limitations on the assessment of a penalty under section 6700 (*Capozzi* v. *Commissioner*, 980 F.2d 872 (2nd Cir. 1992); *Lamb* v. *Commissioner*, 977 F.2d 1296 (8th Cir. 1992)).

EXPLANATION OF PROVISION

The bill imposes a penalty on any substantial promoter of a tax avoidance strategy if the strategy fails to satisfy any of the judicial doctrines that may be applied in the disallowance of noneconomic tax attributes (as described in section 201 of the bill).

A tax avoidance strategy means any entity, plan, arrangement, or transaction a significant purpose of which is the avoidance or evasion of Federal income tax. A substantial promoter means any person (and any related person) who participates in the promotion, offering, or sale of a tax avoidance strategy to more than one potential participant and for which the person expects to receive aggregate fees in excess of $500,000.

The IRS can assess a penalty on a promoter independent of the taxpayer's audit, and the promoter can challenge the penalty prior to a final determination with respect to the taxpayer's disallowed tax benefit. The promoter can challenge the imposition of the penalty in court independent of any litigation with the taxpayer.

The amount of the penalty equals 100 percent of the gross income derived (or to be derived) by the promoter from the strategy. This would include contingent fees, rebated fees, and fees that are structured as an interest in the transaction. Coordination rules are provided to avoid the imposition of multiple penalties on promoters (i.e., the penalty does not apply if a penalty is imposed on the substantial promoter for promoting an abusive tax shelter under present-law section 6700(a)). As under present-law section 6700, there is not statute of limitations on the assessment of the penalty.

The bill also increases the present-law promoter penalty to the greater of $1,000 or 100 percent of the gross income derived (or to be derived) by the promoter from each activity.

EFFECTIVE DATE

The penalty for promoting tax avoidance strategies applies with respect to any interest in a tax avoidance strategy that is offered after the date of enactment. The increase in the present-law penalty for promoting abusive tax shelters applies to transactions after the date of enactment.

3. Modifications to the aiding and abetting penalty (sec. 203)

PRESENT LAW

A penalty is imposed on any person who aids, assists in, procures, or advises with respect to the preparation or presentation of any return or other document if (1) the person knows (or has reason to believe) that the return or other document will be used in connection with any material matter arising under the tax laws, and (2) the person knows that if the portion of the return or other document were so used, an understatement of the tax liability would result (sec. 6701). An exception is provided for individuals who furnish mechanical assistance with respect to a document.

The amount of the penalty is $1,000 for each return or other document ($10,000 in the case of returns and documents relating to the tax of a corporation).

EXPLANATION OF PROVISION

The bill modifies the aiding and abetting penalty as it relates to any person who offers an opinion regarding the tax treatment of an item attributable to a tax shelter or any other transaction involving a noneconomic tax attribute.

Under the bill, a penalty is imposed on any person who is involved in the creation, sale, implementation, management, or reporting of a tax shelter, or of any partnership, entity, plan or arrangement that involves the disallowance of a noneconomic tax attribute (as described in section 201 of the bill), but only if (1) the person opines, advises, or indicates that the taxpayer's treatment of an item attributable to such a transaction would more likely than not prevail or not give rise to a penalty, and (2) the opinion, advice, or indication is unreasonable. If the opinion involved a higher standard (for example, a 'should opinion), and the opinion was unreasonable, then the person who offered the opinion would be subject to the proposed penalty. An opinion would be considered unreasonable if a reasonably prudent and careful person under similar circumstances would not have offered such an opinion.

The amount of the penalty is 100 percent of the gross proceeds derived by the person from the transaction. In addition, upon the imposition of this penalty, the Secretary is required to notify the IRS Director of Practice and any appropriate State licensing authority of the penalty and the circumstances under which it was imposed. Also, the Secretary must publish the identity of the person and the fact that the penalty was imposed on the person.

EFFECTIVE DATE

The provision applies to transactions entered into after date of enactment.

4. Penalty for failure to maintain list of investors (sec. 204)

PRESENT LAW

Any person who organizes a potentially abusive tax shelter or who sells an interest in such a shelter must maintain a list that identifies each person who purchased an interest in the shelter (sec. 6112). A potentially abusive tax shelter means (i) any tax shelter with respect to which registration is required under section 6111, and (ii) any entity, investment plan or arrangement, or any other plan or arrangement that is of a type that has a potential for tax avoidance or evasion and that is designated in regulations issued by the Secretary. The investor list must include the name, address and taxpayer identification number of each purchaser, as well as any other information that the Secretary may require. The lists must generally be maintained for seven years.

The penalty for any failure to meet any of the requirements of this provision if $50 for each person with respect to whom there is a failure, up to a maximum of $50,000 in any calendar year. The penalty is not imposed where the failure is due to reasonable cause and not due to willful neglect. This penalty is in addition to any other penalty provided by law.

EXPLANATION OF PROVISION

The bill increases the penalty for the failure to maintain investor lists in connection with the sale of interests in a tax shelter (as defined in section 6662(d)(2)(C)(iii) or in any partnership, entity, plan or arrangement that involves the disallowance of a noneconomic tax attribute (as described in section 201 of the bill). In these cases, the penalty is equal to the greater of 50 percent of the gross proceeds derived (or to be derived) from each person with respect to which there was a failure (with no maximum limitation).

EFFECTIVE DATE

The increased penalty applies to transactions entered into after date of enactment.

5. Penalty for failure to disclose reportable transactions (sec. 205)

PRESENT LAW

A taxpayer must file a return or statement in accordance with the forms and regulations prescribed by the Secretary (including any required information). (See Section 6011). In February 2000, the Treasury Department issued temporary and proposed regulations under section 6011 that require corporate taxpayers to include in their tax return information with respect to certain large transactions with characteristics that may be indicative of tax shelter activity.

Specifically, the regulations require the disclosure of information with respect to ''reportable transactions.'' There are two categories of reportable transactions. The first category covers transactions that are the same as (or substantially similar to) tax avoidance transactions the IRS has identified in published guidance (a ''listed'' transaction) and that are expected to reduce a corporation's income tax liability by more than $1 million in any year or by more than $2 million for any combination of years. (Treas. Reg. sec. 1.6011–4T(b)(2) and –(b)(4)). The second category covers transactions that are expected to reduce a corporation's income tax liability by more than $5 million in any single year or $10 million for any combination of years and that exhibit at least two of six enumerated characteristics. (Treas. Reg. sec. 1.6011–4T(b)(3) and –(b)(4)).

There is no penalty for failing to adequately disclose a reportable transaction. However, the nondisclosure could indicate that the taxpayer has not acted in ''good faith'' with respect to the underpayment. (T.D.8877).

EXPLANATION OF PROVISION

The bill imposes a penalty for failing to disclose the required information with respect to a reportable transaction (unless the failure was due to reasonable cause and not due to willful neglect). The amount of the penalty is equal to the greater of (1) five percent of any increase in Federal income tax which results from a difference between the taxpayer's treatment of the items attributable to the reportable transaction and the proper tax treatment of such items, or (2) $100,000. If the failure to disclose relates to a listed transaction (or a substantially similar transaction), the percentage rate is increased to 10 percent of any increase in tax from the transaction (or, if greater, $100,000).

The penalty for failure to disclose information with respect to a reportable transaction is in addition to any accuracy-related penalty that may be imposed on the taxpayer.

EFFECTIVE DATE

The provision applies to transactions entered into after date of enactment.

6. Registration of certain tax shelters offered to non-corporate participants (sec. 206)

PRESENT LAW

A promoter of a confidential corporate tax shelter is required to register the tax shelter with the IRS (sec. 6111(d)). Registration is required not later than the next business day after the day when the tax shelter is first offered to potential users. For this purpose, a confidential corporate tax shelter includes any entity, plan, arrangement or transaction (1) a significant purpose of which is the avoidance or evasion of Federal income tax for a direct or indirect participant that is a corporation, (2) that is offered to any potential participant under conditions of confidentiality, and (3) for which the tax shelter promoters may receive aggregate fees in excess of $100,000.

The penalty for failing to timely register a confidential corporate tax shelter is the greater of $10,000 or 50 percent of the fees payable to any promoter with respect to offerings prior to the date of late registration unless due to reasonable cause (sec. 6707(a)(3)). Intentional disregard of the requirement to register increases the 50-percent penalty to 75 percent of the applicable fees.

EXPLANATION OF PROVISION

The bill deletes the requirement that a direct or indirect participant must be a corporation. Thus, the provision extends the present-law registration requirements to include a promoter of any confidential tax shelter (regardless of the participant). The penalty for failing to timely register a confidential tax shelter remains unchanged (i.e., the greater of $10,000 or 50 percent of the fees payable to any promoter with respect to offerings prior to the date of late registration).

EFFECTIVE DATE

The provision applies to any tax shelter interest that is offered to potential participants after the date of enactment.

TITLE III—LIMITATIONS ON IMPORTATION AND TRANSFER OF BUILT-IN LOSSES

1. Limitation on importation of built-in losses (sec. 301)

PRESENT LAW

Under present law, the basis of property received by a corporation in a tax-free incorporation, reorganization, or liquidation of a subsidiary corporation is the same as the adjusted basis in the hands of the transferor, adjusted for gain or loss recognized by the transferor (Secs. 334(b) and 362(a) and (b)). If a person or entity that is not subject to U.S. income tax transfers property with an adjusted basis higher than its fair market value to a corporation that is subject to U.S. income tax, the ''built-in'' loss would be imported into the U.S. tax system, and the transferee corporation would be able to recognize the loss in computing its U.S. income tax.

EXPLANATION OF PROVISION

The bill provides that if a net built-in loss is imported into the U.S. in a tax-free organization or reorganization from persons not subject to U.S. tax, the basis of all properties so transferred will be their fair market value. A similar rule will apply in the case of the tax-free liquidation by a domestic corporation of its foreign subsidiary.

Under the bill, a net built-in loss is considered imported into the U.S. if the aggregate adjusted bases of property received by a transferee corporation subject to U.S. tax from persons not subject to U.S. tax with respect to the property exceeds the fair market value of the properties transferred. Thus, for example, if in a tax-free incorporation, some properties are received by a corporation from U.S. persons, and some properties are relieved from foreign persons not subject to U.S. tax, this provision applies to the aggregate properties relieved from the foreign persons. In the case of a transfer by a partnership (either domestic or foreign), this provision applies as if the properties had been transferred by each of the partners in proportion to their interests in the partnership.

EFFECTIVE DATE

The provision applies to transactions after the date of enactment.

2. Disallowance of partnership loss transfers (sec. 302)

PRESENT LAW

Contributions of property

Under present law, if a partner contributes property to a partnership, generally no gain or loss is recognized to the contributing partner at the time of contribution (Sec. 721). The partnership takes the property at an adjusted basis equal to the contributing partner's adjusted basis in the property (Sec. 723). The contributing partner increases its basis in its partnership interest by the adjusted basis of the contributed property (Sec. 722). Any items of partnership income, gain, loss and deduction with respect to the contributed property is allocated among the partners to take into account any built-in gain or loss at the time of the contribution (Sec. 704(c)(1)(A)). This rule is intended to prevent the transfer of built-in gain or loss from the contributing partner to the other partners by generally allocating items to the noncontributing partners based on the value of their contributions and by allocating to the contributing partner the remainder of each item. (Note: where there is an insufficient amount of an item to allocate to the noncontributing partners, Treasury regulations allow for reasonable allocations to remedy this insufficiency. Treas. Reg. sec. 1–704(c) and (d)).

If the contributing partner transfer its partnership interest, the built-in gain or loss will be allocated to the transferee partner as it would have been allocated to the contributing partner (Treas. Reg. sec. 1.704–3(a)(7). If the contributing partner's interest is liquidated, there is no specific guidance preventing the allocation of the built-in loss to the remaining partners. Thus, it appears that losses can be ''transferred'' to other partners where the contributing partner no longer remains a partner.

Transfers of partnership interests

Under present law, a partnership does not adjust the basis of partnership property following the transfer of a partnership interest unless the partnership has made a one-time election under section 754 to make basis adjustments (Sec. 743(a)). If an election is in effect, adjustments are made with respect to the transferee partner in order to account for the difference between the transferee partner's proportionate share of the adjusted basis of the partnership property and the transferee's basis in its partnership interest (Sec. 743(b)). These adjustments are intended to adjust the basis of partnership property to approximate the result of a direct purchase of the property by the transferee partner. Under these rules, if a partner purchases an interest in a partnership with an existing built-in loss and no election under section 754 in effect, the transferee partner may be allocated a share of the loss when the partnership disposes of the property (or depreciates the property).

Distributions of partnership property

With certain exceptions, partners may receive distributions of partnership property without recognition of gain or loss by either the partner or the partnership (Sec. 731 (a) and (b)). In the case of a distribution in liquidation of a partner's interest, the basis of the property distributed in the liquidation is equal to the partner's adjusted basis in its partnership interest (reduced by any money distributed in the transaction) (Sec. 732(b)). In a distribution other than in liquidation of a partner's interest, the distributee partner's basis in the distributed property is equal to the partnership's adjusted basis in the property immediately before the distribution, but not to exceed the partner's adjusted basis in the partnership interest (reduced by any money distributed in the same transaction)(Sec. 734(a)).

Adjustments to the basis of the partnership's undistributed properties are not required unless the partnership has made the election under section 754 to make basis adjustments (sec. 734(a)). If an election is in effect under section 754, adjustments are made by a partnership to increase or decrease the remaining partnership assets to reflect any increase or decrease in the adjusted basis of the distributed properties in the hands of the distributee partner (Sec. 734(b)). To the extent the adjusted basis of the distributed properties increases (or loss is recognized) the partnership's adjusted basis in its properties is decreased by a like amount; likewise, to the extent the adjusted basis of the distributed properties decrease (or gain is recognized), the partnership's adjusted basis in its properties is increased by a like amount. Under these rules, a partnership with no election in effect under section 754 may distribute property with an adjusted basis lower than the distributee partner's proportionate share of the adjusted basis of all partnership property and leave the remaining partners with a smaller net built-in gain or a larger net built-in loss than before the distribution.

DESCRIPTION OF PROVISION

Contributions of property

Under the bill, a built-in loss may be taken into account only by the contributing partner and not by other partners. Except as provided in regulations, in determining the amount of items allocated to partners other than the contributing partner, the basis of the contributed property shall be treated as the fair market value on the date of contribution. Thus, if the contributing partner's partnership interest is transferred or liquidated, the partnership's adjusted basis in the property will be based on its fair market value at the date of contribution, and the built-in loss will be eliminated. (Note: it is intended that a corporation succeeding to attributes of the contributing corporate partner under section 381 shall be treated in the same manner as the contributing partner).

Transfers of partnership interests

The bill provides that the basis adjustment rules under section 743 will be required in the case of the transfer of a partnership interest with respect to which there is a substantial built-in loss. For this purpose, a substantial built-in loss exists where the transferee partner's proportionate share of the adjusted basis of the partnership property exceeds 110 percent of the transferee partner's basis in the partnership interest in the partnership. Thus, for example, assume that partner A sells his partnership interest to B for its fair

market value of $100. Also assume that B's proportionate share of the adjusted basis of the partnership assets is $120. Under the bill, section 743(b) will apply and require a $20 decrease in the adjusted basis of the partnership assets with respect to B, so that B would recognize no gain or loss if the partnership immediately sold all of its assets for their fair market value.

Distribution of partnership property

The bill provides that the basis adjustments under section 734 are required in the case of a distribution with respect to which there is a substantial basis reduction. A substantial basis reduction means a downward adjustment to the partnership assets (had a section 754 election been in effect) greater than 10 percent of the adjusted basis of the assets.

Thus, for example, assume that A and B each contributed $25 to a newly formed partnership and C contributed $50 and that the partnership purchased LMN stock for $30 and XYZ stock for $70. Assume that the value of each stock declined to $10. Assume LMN stock is distributed to C in liquidation of its partnership interest. As under present law, the basis of LMN stock in C's hands if $50. C would recognize a loss of $40 if the LMN stock were sold for $10.

Under the bill, there is a substantial basis adjustment because the $20 increase in the adjusted basis of asset 1 (sec. 734(b)(2)(B)) is greater than 10 percent of the adjusted basis of partnership assets of $70. Thus, the partnership would be required to decrease the basis of XYZ stock (under section 734(b)(2)) by $20 (the amount by which the basis LMN stock was increased), leaving a basis of $50. If the XYZ stock were then sold by the partnership for $10, A and B would each recognize a loss of $20.

EFFECTIVE DATE

The provision applies to contributions, transfers, and distributions (as the case may be) after date of enactment.

RECESS

The SPEAKER pro tempore. There being no further requests for morning hour debates, pursuant to clause 12, rule I, the House will stand in recess until 10 a.m.

Accordingly (at 9 o'clock and 22 minutes a.m.) the House stood in recess until 10 a.m.

□ 1000

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. ISAKSON) at 10 a.m.

PRAYER

Rabbi Mitchell Wohlberg, Beth Tfiloh Congregation, Baltimore, Maryland, offered the following prayer:

I come from a tradition where Tuesdays are considered most propitious: weddings, moving to a new home, good things are to take place on Tuesday.

It goes all the way back to the first week of creation, where we note that, unlike other days of that first week, on the second day, on Monday, the Bible does not tell us ''and God saw that it was good,'' while on the next day, the first Tuesday, two times it says, ''and God saw that it was good.''

According to the Talmud, this is because on the second day of the week the waters were parted. That symbolizes the division. That is no good. On the first Tuesday, the third day of the week, the waters were brought together again, and that symbolizes unity, and that is doubly good.

In this spirit, we pray: Almighty God, may a unity of purpose bring together all the esteemed Members of the United States House of Representatives. Let all its Members realize that we can disagree without being disagreeable, that we can walk shoulder to shoulder without seeing eye to eye on every subject.

Together let us pray for the day which will witness the prophetic dream of a world in which none shall hurt, none shall destroy, for the Earth will be filled with the knowledge of Thee as the waters cover the sea.

And let us say Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Nevada (Mr. GIBBONS) come forward and lead the House in the Pledge of Allegiance.

Mr. GIBBONS 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.

WELCOME TO RABBI MITCHELL WOHLBERG

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

Mr. CARDIN. Mr. Speaker, I feel privileged to know Rabbi Mitchell Wohlberg. Since 1978, he has been the spiritual leader of Beth Tfiloh congregation, the largest Orthodox Jewish congregation in Baltimore, the congregation of which I am a member.

Let me tell the Members a little bit about Rabbi Wohlberg. I have known Rabbi Wohlberg for many years and have often sought his guidance and counsel. He is a spellbinding speaker, and is famous for his thoughtful sermons that are able to clarify complicated issues.

Rabbi Wohlberg is also known for his involvement in the Jewish communal life. He has been a board member at The Associated Jewish Community Federation of Baltimore; a member of the executive committee of the Rabinnical Council of America, and is a recipient of the humanitarian award for the Louis Z. Brandeis District of the ZOA.

He comes from a committed and unique family where his father (of blessed memory) was and his two brothers were and also are Rabbis, all ordained by the Yeshiva University. Rabbi Wohlberg is a driving force behind the Beth Tfiloh School, an outstanding Jewish day school in Baltimore.

I know all my colleagues will join me in thanking Rabbi Wohlberg for offering this morning's opening prayer.

PRIVATE CALENDAR

The SPEAKER pro tempore. This is the day for the call of the Private Calendar. The Clerk will call the first bill on the Private Calendar.

NANCY B. WILSON

The Clerk called the bill (H.R. 392) for the relief of Nancy B. Wilson.

Mr. COBLE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

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

There was no objection.

RITA MIREMBE REVELL

The Clerk called the Senate bill (S. 560) for the relief of Rita Mirembe Revell (a.k.a. Margaret Rita Mirembe).

There being no objection, the Clerk read the Senate bill, as follows:

S. 560

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERMANENT RESIDENT STATUS FOR RITA MIREMBE REVELL (A.K.A. MARGARET RITA MIREMBE).

(a) IN GENERAL.—Notwithstanding any other provision of law, for the purposes of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), Rita Mirembe Revell (a.k.a. Margaret Rita Mirembe) shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of enactment of this Act, upon payment of the required visa fees not later than 2 years after the date of enactment of this Act.

(b) REDUCTION OF IMMIGRANT VISA NUMBERS.—Upon the granting of permanent residence to Rita Mirembe Revell (a.k.a. Margaret Rita Mirembe), the Secretary of State shall instruct the proper officer to reduce by the appropriate number, during the current or next following fiscal year, the total number of immigrant visas that are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)) or, if applicable, the total number of immigrant

visas that are made available to natives of the country of the alien's birth under section 202(e) of such Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

RABON LOWRY

The Clerk called the bill (H.R. 807) for the relief of Rabon Lowry of Pembroke, North Carolina.

There being no objection, the Clerk read the bill as follows:

H.R. 807

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SATISFACTION OF CLAIM.

(a) IN GENERAL.—The Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, to Rabon Lowry of Pembroke, North Carolina, individually and as president of Pembroke Machine Company, Inc., the sum of $1,000,000 for damages he incurred as a result of a breach of Government Contract number DAAA09–85–C–0630 by the Department of the Army.

(b) CONDITIONS OF PAYMENT.—The payment shall be in full satisfaction of any claims Rabon Lowry or Pembroke Machine Company may have against the United States arising from Government Contract number DAAA09–85–C–0630.

SEC. 2. LIMITATION ON AGENTS AND ATTORNEYS FEES.

It shall be unlawful for an amount that exceeds 10 percent of the sum described in section 1 to be paid to or received by any agent or attorney for any service rendered in connection with the benefits provided by this Act. Any person who violates this section shall be guilty of an infraction and shall be subject to a fine in the amount provided in title 18, United States Code.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER pro tempore. This concludes the call of the Private Calendar.

APPLAUDING SNOWFLAKES ADOPTION PROGRAM FOR GIVING EMBRYOS A CHANCE AT LIFE

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

Mr. RYUN of Kansas. Mr. Speaker, many of my colleagues have recently called for Federal funding to destroy human embryos for research. They cite the fact that stem cells obtained from these embryos could give life.

They are forgetting two vital facts: One, stem cells can be acquired from adults; and two, these human embryos are life and deserve our care and protection.

There are thousands of embryos in existence, each one waiting in what some called frozen orphanages for a chance at life. For them, I support alternatives that do not destroy them, alternatives like Snowflake Adoption Program.

Embryo adoption affirms life while providing a family the opportunity to welcome a child into their family. Some say these human embryos can give life, if only we could use Federal funds to destroy them.

We must remember that these embryos are already life, and I applaud the Snowflakes Adoption Program for giving many of them a chance.

PRESIDENT SHOULD ADDRESS ENERGY CRISIS IN CALIFORNIA

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

Mr. FILNER. Mr. Speaker, I have to say to the President, hello. We in California and the rest of the Nation are still facing an energy crisis.

Fifty-five percent of the small businesses in my community of San Diego face bankruptcy this year because of the high prices, and yet, not one of the 105 recommendations in the President's energy plan deal with this situation in California and the West.

None of the President's speakers sent out over the weekend came out West. Why not, Mr. President? We are facing a crisis of price. Please address this crisis. Please institute cost-based rates for electricity in California and refund the criminal overcharges that we have been paying since last June.

Mr. President, hello. We in California are still suffering.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would advise the Members that when addressing the House, remarks should be addressed to the Speaker, not to a member of the Executive Branch or a Member of the Senate.

ENERGY SECURITY ACT WILL DIVERSIFY OUR SUPPLY

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

Mr. GIBBONS. Mr. Speaker, no one can argue and no one can deny that the skyrocketing oil and gas prices and the rolling blackouts throughout the West do demonstrate the critical need to increase and diversify our energy production.

Alternative fuels, such as wind and solar and geothermal, can produce the energy of that future. Abundant on our public lands, these resources are clean alternatives that can be produced with minimal environmental impact and no emissions.

In fact, every time we use these fuels, we actually reduce emissions by minimizing the need to burn oil and coal to produce the same amount of energy otherwise.

Alternative energies are highly abundant on our public lands, especially in my home State, Nevada, which boasts the highest amount of geothermal resources in the Nation. The development of geothermal and other alternative energies will provide Americans with an additional clean energy supply that will help in lowering the prices and reducing our dependence on foreign sources.

The Energy Security Act recognizes the potential of alternative fuels, and provides the opportunity to finally develop these clean energy resources on our public lands.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Any record votes on postponed questions will be taken later today.

HONORING PAUL D. COVERDELL

Mr. HYDE. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 360) to honor Paul D. Coverdell.

The Clerk read as follows:

S. 360

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PEACE CORPS HEADQUARTERS.

(a) IN GENERAL.—Effective on the date of enactment of this Act, the headquarters offices of the Peace Corps, wherever situated, shall be referred to as the ''Paul D. Coverdell Peace Corps Headquarters''.

(b) REFERENCES.—Any reference before the date of enactment of this Act in any law, regulation, order, document, record, or other paper of the United States to the headquarters or headquarters offices of the Peace Corps shall, on and after such date, be considered to refer to the Paul D. Coverdell Peace Corps Headquarters.

SEC. 2. WORLD WISE SCHOOLS PROGRAM.

Section 603 of the Paul D. Coverdell World Wise Schools Act of 2000 (title VI of Public Law 106–570) is amended by adding at the end the following new subsection:

''(c) NEW REFERENCES IN PEACE CORPS DOCUMENTS.—The Director of the Peace Corps shall ensure that any reference in any public document, record, or other paper of the Peace Corps, including any promotional material, produced on or after the date of enactment of this subsection, to the program described in subsection (a) be a reference to the 'Paul D. Coverdell World Wise Schools Program'.''.

SEC. 3. PAUL D. COVERDELL BUILDING.

(a) AWARD.—From the amount appropriated under subsection (b) the Secretary of

Education shall make an award to the University of Georgia to support the construction of the Paul D. Coverdell Building at the Institute of the Biomedical and Health Sciences at the University of Georgia.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $10,000,000 for fiscal year 2002.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois (Mr. HYDE) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. HYDE).

GENERAL LEAVE.

Mr. HYDE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on S. 360.

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

There was no objection.

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

Mr. Speaker, I am proud to rise today to call up S. 360, a bill to honor the late Senator from Georgia, Paul Coverdell. I believe the enactment of this legislation is a fitting and appropriate way to memorialize Senator Coverdell and his work.

We were all shocked and saddened last July when he died so unexpectedly. The State of Georgia lost one of its greatest public servants, a soft-spoken and tireless public servant who served the people first and politics second.

In a public career spanning three decades, from the Georgia Senate to the Peace Corps to the U.S. Senate, he served with dignity and earned everybody's respect.

Mr. Speaker, this resolution has three components. The bill names the Washington headquarters of the Peace Corps after Paul Coverdell. The legislation reaffirms language approved at the end of last year to ensure that the Peace Corps World Wise Schools Program will carry his name, as well.

Senator Coverdell created the program during his tenure as Peace Corps director. The World Wise Schools initiative links Peace Corps volunteers serving around the globe with the classrooms here in the United States. Senator Coverdell correctly saw that such an effort would promote cultural awareness and foster an appreciation for global connections.

Finally, the legislation authorizes an appropriation of $10 million, to be augmented by $30 million of State and private funds to construct the Paul D. Coverdell building for biomedical and health sciences at the University of Georgia.

Senator Coverdell was a tireless supporter of education in Georgia, and this building will be a living memorial to him, and an unparalleled resource for the students, researchers, and educators of his State and our Nation.

I can believe there can be no more fitting tribute to Senator Coverdell and to all he achieved for the people of Georgia and the country that he loved and served until the day he died.

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

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

Mr. Speaker, I rise in strong support of this bill. Mr. Speaker, S. 360 honors our former colleague, Senator Paul Coverdell, for his service to the country. Senator Coverdell served the citizens of the State of Georgia and the United States for over three decades as a State legislator, as Peace Corps director, and as United States Senator. I believe that this bill is a fitting and appropriate way to memorialize Paul Coverdell's work and service to our Nation.

This legislation, introduced by the distinguished minority leader of the Senate, TRENT LOTT, has three components. The bill names the Washington headquarters of the Peace Corps after Paul Coverdell, and ensures that the Peace Corps' World Wise Schools program will carry his name, as well.

Senator Coverdell served as Peace Corps director from 1989 to 1991, critical years during which we witnessed the implosion of the Soviet Union and the opening up of Eastern Europe.

When the Berlin Wall came down, Senator Coverdell seized the opportunity to move the Peace Corps into Eastern Europe to promote freedom and democracy. This move not only broadened the agency's mission, but also increased et cetera prestige across the globe.

During his tenure as Peace Corps director, Senator Coverdell established the widely-acclaimed World Wise Schools program.

□ 1015

Under this program, Mr. Speaker, Peace Corps volunteers who have returned to the United States visit schools to give their students impressions and lessons from their overseas service. Senator Coverdell correctly saw that such an effort would promote cultural awareness and foster appreciation of global connections.

Finally, Mr. Speaker, our legislation authorizes funds to construct the Paul Coverdell Building for Biomedical and Health Sciences at the University of Georgia. Paul was a tireless supporter of education in Georgia, and this building will be a living memorial to him and an unparalleled resource for the students, researchers, and educators of his State and of our Nation.

Mr. Speaker, this is a fitting tribute to a great man and a good friend. I urge all of my colleagues to support this legislation.

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

Mr. HYDE. Mr. Speaker, I yield 5 minutes to the gentleman from Georgia (Mr. LINDER).

Mr. LINDER. Mr. Speaker, I first met Paul Coverdell in 1972. He was one of few Republicans in the Georgia State Senate, soon to become its Republican leader, a position he served in for 15 years.

He had come to Georgia as a teenager from Iowa. He then attended the University of Missouri, graduated with a degree in journalism, and he went from there to the Army and was stationed at Okinawa and Taiwan. When he returned to Atlanta, he involved himself in a very, ultimately very, successful insurance business, the Coverdell Insurance Company, and continued his activities in politics.

In 1989, as has been said, he received an appointment as the head of the Peace Corps from President George Bush. I was curious as to why that was the position he wanted, since he could have had many others. He and President Bush were very close friends for very many years. But he told me that things were changing all over the world; that socialism and communism were going to ultimately be extinct. He had watched the uprisings in Poland in 1980. And, of course, it was not long after he became the head of the Peace Corps that the walls came down. He sent, through the Peace Corps, its first volunteers to Bulgaria, the Czech and Slovak Republics, Hungary, Poland and Romania. And he also paved the way for the establishment of Peace Corps programs in China and Mongolia.

When he stepped down from the Peace Corps, he ran for the United States Senate and won. So he won four elections that year. He came very close in a primary, a primary runoff, a general election, and a general election runoff. And one of the first assignments he sought when he came to the Senate was the Committee on Agriculture, an industry that is so important to our State.

He got himself involved behind the scenes in the Senate as a hard worker. And those of us who have known him for all these years knew, he had always been a hard worker and he liked to work behind the scenes. It became part of the lore of the Senate that whenever a sticky issue came up, the Senate leader TRENT LOTT would say, ''Send it to Mikey.'' There was a commercial at the time saying ''Mikey will do anything; Mikey will eat anything.'' But the funny part of the story was that Paul had never heard of Mikey. He just thought it was a neat idea he was given all these challenges.

He focused on education, and it was his savings accounts targeted at children and children through high school that passed, along with Senator TORRICELLI. They were the authors of the A-Plus Accounts, or Education Savings Accounts. They now allow for a $2,000 education savings account so parents can set aside for public or private K through 12 expenses tax free.

He was also a leader in Latin American drug enforcement, authoring a Federal law requiring the annual listing of the world's top suspected drug dealers in 1999, the Foreign Narcotics Kingpin Designation Act.

This bill is a tribute to a lifetime of hard work for the people of this country, the people of Georgia, and for his party, in that order. The $10 million authorization for the University of Georgia to construct the Paul D. Coverdell building at the Institute of Biomedical and Health Sciences at the University of Georgia is one-fourth of the cost of that project. Our Governor has committed $10 million in State matching funds, and the University of Georgia has already arrived at the other $20 million privately to build this living memorial, as the gentleman from California (Mr. LANTOS) said, to a lifetime of service.

I recall waking up the morning that I heard that Paul had died and felt that there was a huge hole in my life because he had been a large part of it for 25 years. I am most sad that most of America will never know how much he is missed because his work was so quiet and so behind the scenes. I thought sometime ago that I cannot, over 25 years of working with this man, think of a single former friend of Paul's, not a single one, who ever left his side in anger, because Paul was such a decent and gentle man. This is a fitting tribute to that decent and gentle man.

Mr. LANTOS. Mr. Speaker, I am delighted to yield 5 minutes to my distinguished colleague and good friend, the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Speaker, I hesitate to do this, and I will probably be the only member in this body to do so, but I oppose this resolution.

I am sure that Paul Coverdell was a far more accomplished politician than I will ever be and that many in this body will ever be; but I do not consider him to be a great man, I do not consider many people in our generation to be great, and certainly not this generation of political leaders. And that is what I would like to speak to today.

I think we are a self-indulgent generation that operates on the assumption that the heroes in our experience are the only ones that matter. We build buildings on every piece of prime open space and name buildings after people in our experience rather than leave their legacy to the test of time. We put our own spin on history.

We have been blessed with the longest period of sustained peace and prosperity that any generation has ever experienced that they did not have to struggle for, and yet we reward ourselves by spending our surplus and giving ourselves deep tax cuts all at the expense of our children and grandchildren. We operate under the assumption that subsequent generations will never have heroes as great as those in our experience, and that is self-indulgence and self-deception.

Specifically to the Peace Corps Building, why not name it after Mrs. Ruppe, who headed the Peace Corps for 8 years under the Reagan administration, who for 2 years did not take a salary because she did not feel she understood the Peace Corps well enough. There are many people who deserve it, for example Sargent Shriver, who started it. But most importantly, all those Peace Corps volunteers who struggled and sacrificed and who made a real difference in the lives of the poor and oppressed around the world, what they want is for the building to continue to be named the Peace Corps Building after the organization, the mission and the volunteers, and that is as it should be.

And thus, I will oppose this resolution.

Mr. HYDE. Mr. Speaker, I am pleased to yield 3 minutes to the distinguished gentleman from Ohio (Mr. BOEHNER).

Mr. BOEHNER. Mr. Speaker, I want to thank my colleague from Illinois, the chairman of the Committee on International Relations, for bringing this bill to the floor today, and I do think that it is certainly fitting.

I also want to thank my colleagues from the Georgia delegation for their hard work. Our committee shared some of this jurisdiction early on, and in an effort to move this bill today, I yielded to the gentleman from Illinois to bring this bill up. Why? Because Paul Coverdell was our friend. Not only was he a director of the Peace Corps under President George Bush's reign in the late 1980s and early 1990s, he was a respected member of the Georgia legislature.

Paul was an insurance agency owner. He understood the private sector. I know Paul because he and I worked closely during my years in the Republican leadership here in the House, with Paul representing the Republican leadership in the Senate. We worked closely in a meeting that occurred every single week for about 4 years. I can tell my colleagues that Paul Coverdell was a man of great integrity, someone who worked very hard on behalf of his constituents and on behalf of his Members of the Senate. Not only did he work with his Republican Members but with his Democrat Members as well.

And when I look back through the 10 years I spent in this Congress, I can tell my colleagues that there are but few people who rise to the stature of former Senator Paul Coverdell. Why? Not just because he worked there, not just because he worked with all his colleagues on both sides of the aisle, but because Paul Coverdell was a man of great integrity who believed strongly in the words of freedom. He understood the private sector, understood the need to allow the genius of the private sector and individuals to be all that they can be and stood up proudly for that each and every day.

We miss Paul Coverdell here in the halls of Congress. I rise today to support this resolution to honor him as a man that we all can look up to, not only today but for generations to come.

Mr. LANTOS. Mr. Speaker, I am delighted to yield 5 minutes to my good friend and distinguished colleague, the gentlewoman from Minnesota (Ms. MCCOLLUM).

Ms. MCCOLLUM. Mr. Speaker, today I rise to oppose S. 360, the bill sent to us from the other body, to place the name of the late Senator Paul Coverdell on the Peace Corps headquarters. While I did not know Senator Coverdell, my opposition to this bill is not intended to show any disrespect upon a man that served our Nation with honor and dignity and proud public service.

Senator Coverdell, as the Peace Corps' 11th director, and as a United States Senator from Georgia, was an advocate for the agency, for volunteers, for the value returned volunteers contribute to our communities here at home. Mr. Speaker, the National Peace Corps Association, which advocates on behalf of the agency and returned volunteers, opposes placing the name of Senator Coverdell on the Peace Corps headquarters.

Mr. Speaker, I submit for the RECORD the following letter from the National Peace Corps Association.

NATIONAL PEACE CORPS ASSOCIATION,
Washington, DC, July 17, 2001.

Hon. BETTY MCCOLLUM,
Longworth House Office Building, Washington, DC.

DEAR REP. MCCOLLUM: We have just learned that you plan to address the House regarding House bill S–360, which includes a provision to rename the Peace Corps Headquarters, wherever sited, after the late Senator Paul Coverdell. The National Peace Corps Association, the alumni organization of former Volunteers and staff of the Peace Corps with more than 13,000 members, opposes that section of the bill. We believe, based on the reactions of former Volunteers around the country, that this position reflects the view of a clear majority of former Peace Corps Volunteers.

We have great respect for the late Senator Coverdell and the leadership that he provided as Peace Corps Director. We note especially his establishment of the World Wise Schools Program (now named after him), which brings the Peace Corps experience directly into classrooms here in the United States.

However, it is the view of the National Peace Corps Association that, as the heart of the Peace Corps is the Volunteers themselves, the headquarters should not be named after any single director, no matter how distinguished.

We have no objection to the other parts of the bill.

Thank you.

DANE F. SMITH,
President.

Mr. Speaker, returned volunteers from my Minnesota district have contacted me, and they do not want the Peace Corps headquarters named for any individual. They oppose this legislation.

Mr. Speaker, I am also submitting for the RECORD at this point the following constituent letters from the returned Peace Corps volunteers.

ST. PAUL, MN,
March 2, 2001.

I am a returned Peace Corps Volunteer (Zaire 1973–75) and wish to express my very strong opposition to the bill which was passed by the Senate and referred to the House, S. 360. RFH. This bill would name the new Peace Corps building in Washington after Senator Paul Coverdell. Senator Coverdell was a brief and undistinguished director of the Peace Corps. If the building is to be named, it should be for people who made a major contribution: President Kennedy set it up, Hubert Humphrey supplied the suggestion, Sargent Shriver was the first and very dynamic director, and Loret Ruppe (if they want a Republican) was also a very dynamic and much appreciated director. I have received many communications from other former Volunteers and the opposition to naming the building after Coverdell is very strong among all I have heard from. There are over 5,000 former volunteers in Minnesota, and about 160,000 nationwide. It would be an insult to all of us to let the Peace Corps headquarters be used in this political way. Thanks,

———

ST. PAUL, MN,
March 1, 2001.

Re: S. 360.RFH.

Happy Peace Corps Day!

Today is the 40th anniversary of the founding of the United States Peace Corps! Since then about 161,000 Americans, young and old and in-between, have represented the best of our country around the world, sharing their expertise in helping the poorest of nations develop, and, just as important, sharing the friendship of the American people. The recruiting slogan of the Peace Corps ''The toughest job you'll ever love,'' is true—although full of rewards, this is not easy work! Over 300 Peace Corps volunteers have even died while in service (mostly in auto crashes).

But I am writing you now about a proposal by Senators Trent Lott and Phil Graham to name the Peace Corps building in Washington after the late Senator Paul Coverdell, who served as Peace Corps director for barely two years in the early '90s. This is a slap in the face of Peace Corps' 161,000 alumni. It is not that Coverdell was that bad Peace Corps director; it's just that he wasn't a distinguished one. And it appears that he wasn't even that interested in the job, using the office to campaign for his Senatorial seat.

There are far more appropriate people to name the building after, like JFK, who founded the Peace Corps, or Sargent Shriver, it's first director, or the late Loret Ruppe, a director who was at once both warm and supportive to the volunteers in the field, and shrewdly effective on Capitol Hill. Or it could be named after all 161,000 of us who served, with special attention to the 300 who died while serving.

Naming it after Coverdell would be an extreme insult to us.

Sincerely,

———,
RPCV Lesotho, 1987–90.

P.S. I just heard that this bill has already passed the Senate. Thus it even more critical that you try to stop it. The bill number is S. 360.RFH.

Mr. Speaker, I stand here today opposed to S. 360 because it places the name of one man on the Peace Corps headquarters, and it is very clear that the Peace Corps was never intended to be about one person.

The Peace Corps is about the 7,300 Americans that are currently serving our Nation with pride and distinction in more than 77 countries. The Peace Corps is about the more than 163,000 Americans, including 5,000 Minnesotans, that have served as volunteers in the most remote corners of the planet.

The Peace Corps is about all 15 directors and the thousands of dedicated staff, past and present, that have supported volunteers abroad and returned volunteers at home. And sadly, the Peace Corps is also about the 300 men and women that have died serving their country as volunteers.

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Mr. Speaker, today we are asked to place the name of a former Peace Corps director on the agency's headquarters. Yet this administration has still not seen fit to nominate a director to go inside and work in the Peace Corps headquarters to lead the agency forward.

As we celebrate the 40th anniversary of the Peace Corps this year, President John F. Kennedy stated that the Peace Corps, ''is not designed as an instrument of diplomacy or propaganda or ideology conflict. It is designed to permit our people to exercise more fully their responsibilities in the great common cause of world development.''

Mr. Speaker, I ask my colleagues in the House to respect the thousands of former volunteers and their service to America by not naming the Peace Corps headquarters. Please oppose S. 360, and let us find another way to honor and respect the memory of the late Senator Coverdell.

Mr. HYDE. Mr. Speaker, I yield 6 minutes to the gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Speaker, I thank the gentleman from Illinois and the gentleman from California (Mr. LANTOS) and the gentleman from Ohio (Mr. BOEHNER) for their support of this legislation and for moving it forward.

Mr. Speaker, I am a friend of Paul Coverdell's family, his wife Nancy, and certainly was a good friend of Mr. Coverdell; and I am proud to stand in support of this. I am saddened and disturbed by those who are in opposition of this legislation. I would ask, Mr. Speaker, is there a road, is there a bridge, is there a building in the United States of America that was built by one person, one personality, one act of one man? I would say certainly there is not. Yet routinely we in this body name roads, bridges and buildings after one person. It is symbolic. It does not say there was no one else involved in it. It only says here was somebody who was typical of the spirit of that group or that organization.

Mr. Speaker, we cannot name every building after everybody. It is too bad because we know all great acts and great institutions have myriads players. That is what we are doing today, not to slight others, but to commemorate many through naming it for one person.

Mr. Speaker, I would ask my colleagues who are opposed to this to abandon their pettiness and ask them to abandon a little veiled partisanship that seems to be taking place. If this is their standard, it must disturb them greatly when we name the post offices and buildings and roads and bridges which we routinely do under the suspension calendar.

I want to talk a little bit about Paul Coverdell. I first learned about him in 1974. At that time, he was a candidate for the Georgia Senate; and my mother, who was urging me to look into a political career or be interested in politics, she cut out an article from the Atlanta Constitution about a guy running for the Senate. And this guy was doing something unconventional. Rather than just working the good old boys barbecue circuit and going to the back room power brokers, he was a reformer. He was standing by the side of the road and knocking on doors and going direct to the voters, the unknown and the unnamed and untitled voters, to say, ''I am Paul Coverdell. I would like to be Georgia's next senator. Here is what I stand for. Do you have any questions?'' In 1974, that was an unconventional campaign.

Mr. Speaker, when Paul got to the Georgia Senate, at that time there were only three Republicans in the Georgia Senate. When I joined it in 1984, and I was a member of the General Assembly with the gentleman from Georgia (Mr. ISAKSON), the gentleman from Georgia (Mr. LINDER) and the gentleman from Georgia (Mr. COLLINS), there were nine Republican Senators. Paul Coverdell was the minority leader; and yet, despite the numerical odds against him, he never was without ideas. He played in the arena. He was a force in the arena because of his ideas.

Mr. Speaker, I remember one idea he had on DUI legislation. His approach, rather than just keep increasing the DUI penalties, he said a lot of these repeat offenders are alcoholics. Why not require an assessment and then rehabilitation. That was a new idea, but that was typical of Paul Coverdell.

Mr. Speaker, when he came to the United States Senate and when he served in the Peace Corps, he was also

a man of ideas. As a Peace Corps director, he had a world vision. So many directors prior to him used this as a political plum for backing the right candidate for President, but not Paul Coverdell.

Mr. Speaker, he went into the most difficult and remote places and countries and said, ''How can we help with health care? Are there better farming techniques out there? Is there a way to get cleaner water? What can we do for the children?''

I remember during that period of time when he was director of the Peace Corps, we had a meeting at our house. We had all kinds of Peace Corps volunteers there. It is interesting to hear some of the comments today. I do not remember any of those volunteers being resentful of Paul Coverdell's leadership. They loved the fact that he would ask former volunteers what they thought.

Mr. Speaker, we were in the middle of our meeting and Mr. Coverdell was giving a world view wrap-up, and my little girl who was 4 years old came running into the room. She had been playing out in the backyard with the other kids, and she said, ''Mom and Dad, I fell off the slide, and I hurt my heinie, and all the other children are laughing at me.'' The room full of grown-ups fell silent; and all eyes went to the little girl who was at the foot of this soon-to-be U.S. Senator, a very dignified and somewhat sophisticated man and a tad old-fashioned in his mannerisms, to a very positive extent, I might add, and he looked down at her and smiled. It said it all. Everything was fine, and the little girl got herself back together and ran back out on the playground with the rest of the kids.

Mr. Speaker, that was the grace and charm of Paul Coverdell. Here is a man with a world view but could look at a 4-year-old girl and say, everything is okay. That is what made Paul Coverdell special.

Mr. Speaker, when he came to Washington both with the Peace Corps and as a U.S. Senator he worked for farmers and veterans. He worked for education. He was a member of the back rooms with the high and connected, yet he never forgot the common person.

Mr. Speaker, I am proud to support this legislation, and I think those who will study the life of Paul Coverdell will also be proud to support it as well.

Mr. LANTOS. Mr. Speaker, I reserve the balance of my time.

Mr. HYDE. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. ISAKSON).

Mr. ISAKSON. Mr. Speaker, I thank the gentleman from Illinois (Mr. HYDE) and I thank the gentleman from Ohio (Mr. BOEHNER), the chairman of the Committee on Education and the Workforce, for their hard work and the gentleman from Georgia (Mr. LINDER) for his hard work on this bill.

Mr. Speaker, this is the people's House, and I would like to answer the question asked in the limited objection to this bill: Did Paul Coverdell possess the greatness to receive this honor?

Mr. Speaker, if I ask any woman in America what is great about a man, they would say one that is a man of fidelity and lives true to his values and his marriage throughout his career, and Paul did that to Nancy.

Mr. Speaker, if I ask a bureaucrat what is great about an American, they would say give me a director who not only talks the talk but walks the walk; and Paul Coverdell walked Eastern Europe, he walked battlefields, he walked back jungles.

If I ask a legislator what is greatness, they would say someone who is willing to reform and stand against great odds.

Mr. Speaker, Paul Coverdell was the minority leader of the Georgia House when the odds politically were 11–1. He passed drunk driving laws and tolerance laws that brought about reform in our State, saving of lives and addressing the appropriate way one should behave.

Mr. Speaker, if I ask a man or woman in the U.S. military what is greatness, they would say give me a politician who served his country and risked his life; and Paul Coverdell served with distinction as an officer in the United States military.

Mr. Speaker, in this day and time when the failures of a few elected politicians become fodder for nightly television and coffee-table discussions, it is appropriate that S. 360 recognizes one of us whose life was an example of greatness, a man who dispelled all of those images some like to portray of us.

Mr. Speaker, Paul Coverdell did it with an articulate voice, with hard work and dedication and with commitment. Personally, I am sorry we are here today for this because I wish Paul Coverdell was alive. I wish he was right here. God took him far too soon. But I am pleased we honor him with this recognition of the Peace Corps building, and I am pleased we honor him with this great building at the University of Georgia.

Mr. Speaker, I appreciate the opportunity to commend my friend, a great person, Paul Coverdell.

Mr. HYDE. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. COLLINS).

Mr. COLLINS. Mr. Speaker, I rise in support of the authorization for funds for the Paul D. Coverdell Building at the Institute of Biomedical and Health Sciences at the University of Georgia.

It is appropriate because this man we seek to honor, Paul Coverdell, was a teacher's teacher. He led by the strength of his character and the strength of his ideas. He never missed an opportunity to educate his colleagues, the press and the public. He was a hard-working, thoughtful legislator who was a leader, a good man and a very good public servant.

To me, Paul Coverdell was more than a colleague. He was a true friend, a mentor.

Mr. Speaker, when I was first elected to the Georgia State Senate, we walked together through his neighborhood so he could educate me on the difficulty of serving in the Georgia State Senate as one of the 11 that were mentioned earlier. But that was his style. He was quiet, purposeful. He was a teacher, someone who was more concerned about getting the job done than who received credit.

Mr. Speaker, the job of a scientist or doctor researching medicine and health is long, hard and painstaking. It is also often a labor in obscurity. The fruits of research, however, can have a major impact on lives today and in the future. This building's dedication to education, to improve people's lives and the future of this country is why those of us who knew Paul Coverdell believe this building is an appropriate monument to a real patriot, Paul Coverdell.

Mr. HYDE. Mr. Speaker, I have only one further request for time.

Mr. LANTOS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HYDE. Mr. Speaker, I yield 1 minute to the gentleman from Georgia (Mr. DEAL).

Mr. DEAL of Georgia. Mr. Speaker, I thank the gentleman for yielding me this time, and it is an honor to speak on this measure before the House today.

Mr. Speaker, exactly 20 years ago this month we had completed the first legislative session in which I participated as a freshman member of the Georgia Senate. When I arrived there, Paul Coverdell was already entrenched in that body. He and I were on different sides of the political spectrum, but I soon learned that he was a man that everyone respected first for his integrity and, secondly, for his willingness to work without regard for personal gratification or recognition.

Mr. Speaker, it is appropriate that we dedicate this building and this entire enterprise to his memory today. For those that suggest that we are self-indulgent by recognizing one of our own generation, I would simply say a generation that is without heroes or models of public service is indeed a bankrupt generation. Thankfully, we have the Paul Coverdells of our day. It is appropriate that we take action to recognize him.

Mr. NORWOOD. Mr. Speaker, today we approve important legislation in honor of Paul Coverdell, a sterling example of what a U.S. Senator should be about. And this measure we pass is more than a gesture, it is legislation of substsance. I believe Senator Coverdell would be quite pleased with that fact.

We honor his memory by designating that Peace Corps Headquarters be named in his honor.

We honor his legacy of achievement by appropriating funds for the completion of a state of the art health research center at the University of Georgia, one that will provide benefits for all the people of America for generations to come.

Why do we so honor this man? Paul Coverdell provided the kind of leadership for Georgia, America, and the world, that will be sorely missed.

Paul Coverdell was unshakable in his resolve to support the right policies for Georgia and America. Yet in 6 years of serving with him in Congress, I never heard him utter an unkind word toward an opponent.

He was a man of reason and principle, and provided a shining example of civility in action in the arena of public debate.

He never backed down on principle, yet he held his ground with dignity and respect for the positions of those who disagreed. And he never gave up.

Since coming to Washington in 1993, Senator Coverdell fought to improve the education of America's children. That fight continues today. Because of his efforts, I believe that fight will eventually be won. When it is, the final product will have the fingerprints of Paul Coverdell on every page.

Senator Coverdell was likewise a champion of those who have served this country in our armed forces.

When Congress forgot the promises made to our veterans, Paul Coverdell reminded us all of those commitments. His legislation to restore those promises is still pending in both chambers.

In this House, 305 members have cosponsored this legislation, The Keep Our Promises To America's Military Retirees Act. The finest tribute we could all pay to this true statesman would be to pass that measure into law before this session ends. Today, I recommit myself to helping make that happen.

There are far too many issues to mention in which Senator Coverdell played a decisive role. But we do need to reflect on Paul Coverdell's public service before he became a Senator, for it reflects a lifetime of public service.

He began adult life by serving America in the U.S. Army in Okinawa, Korea, and the Republic of China.

He served his State in the Georgia Senate for nearly two decades.

He served America and the world as Director of the Peace Corps, where his leadership in building democracy was vital in reclaiming much of Eastern Europe from the dictatorship of communism.

Paul Coverdell can no longer be with us in body. But the wisdom, generosity, civilty, patriotism, and dedication that he brought to this Congress will never die.

We honor his memory today through enactment of this important legislation.

But I say we should continue to honor his life's work by seeing his missions through—from giving our children a choice in education, to restoring the health care of the defenders of America.

Mr. Speaker, let us pay tribute to a great leader, by not only passing this bill today, but also redoubling our efforts to see all the reforms of Senator Paul Coverdell enacted into law.

Mr. SHOWS. Mr. Speaker, I rise today in support of S. 360, which honors the memory of our esteemed colleague, Paul Coverdell.

As a respected Member of the U.S. Senate and leader of the Peace Corps, Paul Coverdell's devotion to public service knew no partisan bounds. It is fitting that we consider a measure honoring him.

But rather than having buildings named after him, I believe a more fitting tribute would be to finish the work he helped start, to restore health care to America's military retirees.

Paul Coverdell was one of the four original sponsors of The Keep Our Promise to America's Military Retirees Act. Along with Senator TIM JOHNSON, Congressman CHARLIE NORWOOD and myself, Senator Coverdell introduced the bill that is largely credited with giving rise to Tricare for Life.

TFL will go a long way to restoring earned health care to many elderly military retirees, but we need to keep our promise to all military retirees.

TFL does not help military retirees who don't qualify for Medicare and don't have access to quality care at military bases. We need to keep our promise to them.

And retirees who entered the service prior to 1956 actually had heath care benefits taken away from them. We need to keep our promise to them, too. That is what Paul Coverdell wanted and that is what we should do.

Paul Coverdell would prefer a legacy of helping restore health care to people who need it, who earned it and were promised it.

We should honor the memory of our late colleague by passing the Keep Our Promise to America's Military Retirees Act.

Mr. LEVIN. Mr. Speaker, I rise in respectful opposition to S. 360. Let me make it clear that my opposition to this measure is in no way, shape or form a reflection on Senator Paul Coverdell or his memory. Paul Coverdell was an able Senator and dedicated public servant. He deserves to be honored by the Congress of the United States; indeed, we did so last year when we passed the Paul Coverdell National Forensic Sciences Improvement Act. This was a fitting tribute as Senator Coverdell made the improvement of forensic science services one of his highest priorities.

The Congress frequently names buildings, post offices and bridges after individuals. The Peace Corps is different. This organization is the work of thousands of dedicated men and women who volunteer to serve in the most remote corners of our planet. The Peace Corps is the sum of their efforts, not the work of any individual.

I received a letter on this subject from one of my constituents who was himself a Peace Corps volunteer. He writes, "As a former Peace Corps Volunteer, I am requesting that S. 360 not be brought to the House floor as a non-controversial bill. I, along with what I suspect is a majority of former volunteers, am against the idea of naming the Peace Corps Headquarters after the late Senator Coverdell. I have nothing against the late Senator. It's my understanding that he was a good man who did his best as a Senator and a Peace Corps Director. However, the Peace Corps building should not be named after any one single person . . . ."

In the memory of the thousands of men and women, including Paul Coverdell, who have served the Peace Corps, I urge my colleagues to join me in opposing this legislation.

Mr. BARR of Georgia. Mr. Speaker, today we honor Senator Paul D. Coverdell for a lifetime of service to the people of Georgia and this country. S. 360 dedicates the U.S. Peace Corps Volunteers Headquarters, the World Wise Schools Programs, and a yet to be constructed building at the University of Georgia, to this outstanding public servant. Paul Coverdell was an honorable man and this is the least we can do for someone who gave so much of his life to serving the community and the nation.

Known for his unfailing work ethic, the Senator was not one to let grass grow under his feet. A veteran of the U.S. Army and the Peace Corps, Senator Coverdell was elected to Georgia State Senate in 1970 where he served as minority leader for 15 years. He was then appointed director of the U.S. Peace Corps Volunteers in 1989, a position from which he initiated the World Wise Schools Programs, pairing students with Corps volunteers, to give them a personal experience serving the world's less fortunate. It is only fitting we rename the Peace Corps Volunteers Headquarters Building and the World Wise Schools Programs, in his honor.

Deeply concerned with education policy, Senator Coverdell chaired the Senate Republican Task Force on Education, in addition to drafting legislation to create Education Savings Accounts. He was also a strong proponent of drug policy reform—he defended the decision to continue U.S. support for the fight of the Colombian drug trade; and he authored the 1999 Foreign Kingpin Designation Act.

I am proud to have served with my fellow Georgian, Senator Paul D. Coverdell. Though we can never replace him, he will not be forgotten. On this day, I ask my colleagues to remember him as a man of principle and conviction, and offer S. 360 as a small token of our appreciation for his life and legacy.

Mr. HYDE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. ISAKSON). The question is on the motion offered by the gentleman from Illinois (Mr. HYDE) that the House suspend the rules and pass the Senate bill, S. 360.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Ms. MCCOLLUM. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

□ 1045

REPORT ON H.R. 2506, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS BILL, 2002

Mr. KOLBE, from the Committee on Appropriations, submitted a privileged report (Rept. No. 107–142) on the bill (H.R. 2506) making appropriations for Foreign Operations, Export Financing, and Related Programs, and for sundry independent agencies and corporations for the fiscal year ending September 30, 2002, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

The SPEAKER pro tempore (Mr. ISAKSON). Under clause 1 of rule XXI, all points of order are reserved.

MAKING IN ORDER ON JULY 18, 2001, OR ANY DAY THEREAFTER, CONSIDERATION OF H.J. RES. 50, AUTHORIZING EXTENSION OF NONDISCRIMINATORY TREATMENT (NORMAL TRADE RELATIONS TREATMENT) TO PEOPLE'S REPUBLIC OF CHINA

Mr. LINDER. Mr. Speaker, I ask unanimous consent that it be in order at any time on July 18, 2001, or any day thereafter, to consider in the House the joint resolution (H.J. Res. 50) disapproving the extension of the waiver authority contained in section 402(c) of the Trade Act of 1974 with respect to the People's Republic of China;

That the joint resolution be considered as read for amendment;

That all points of order against the joint resolution and against its consideration be waived;

That the joint resolution be debatable for 2 hours equally divided and controlled by the chairman of the Committee on Ways and Means (in opposition to the joint resolution) and a Member in support of the joint resolution;

That pursuant to sections 152 and 153 of the Trade Act of 1974, the previous question be considered as ordered on the joint resolution to final passage without intervening motion; and

That the provisions of section 152 and 153 of the Trade Act of 1974 shall not otherwise apply to any joint resolution disapproving the extension of the waiver authority contained in section 402(c) of the Trade Act of 1974 with respect to the People's Republic of China for the remainder of the first session of the 107th Congress.

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

There was no objection.

PROVIDING FOR CONSIDERATION OF H.J. RES. 36, CONSTITUTIONAL AMENDMENT AUTHORIZING CONGRESS TO PROHIBIT PHYSICAL DESECRATION OF THE FLAG OF THE UNITED STATES

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 189 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 189

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the joint resolution (H.J. Res. 36) proposing an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States. The joint resolution shall be considered as read for amendment. The previous question shall be considered as ordered on the joint resolution and any amendment thereto to final passage without intervening motion except: (1) two hours of debate equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary; (2) an amendment in the nature of a substitute, if offered by Representative Conyers of Michigan or his designee, which shall be considered as read and shall be separately debatable for one hour equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Georgia (Mr. LINDER) is recognized for 1 hour.

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

Mr. Speaker, House Resolution 189 is a modified closed rule providing for the consideration of a constitutional amendment which would authorize Congress to ban the physical desecration of the American flag.

H. Res. 189 provides for 2 hours of debate in the House of Representatives, equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary.

Upon the adoption of this rule, H.J. Res. 36 is made in order and considered as read. The rule also makes in order a substitute amendment if offered by the gentleman from Michigan (Mr. CONYERS) or his designee, which shall be separately debatable for 1 hour, equally divided between a proponent and an opponent. All points of order are waived against this amendment.

Finally, the rule provides for one motion to recommit, with or without instructions, as is the right of the minority.

Mr. Speaker, this rule would allow Congress to debate legislation that protects our American heritage by protecting one of our most important symbols, our flag. Most Americans look to the flag as a symbol of our unity, our sovereignty and our democracy. Throughout the years, millions of Americans have fought and died for this country, and they look to the flag as the embodiment of our country's values.

Two reasons for supporting this measure come to mind as we consider this legislation: first, from a logical standpoint, if we prohibit the destruction of U.S. currency by law, then surely protecting our symbol of freedom and democracy is just as important.

The second reason is a more powerful one. Many Members believe it is the duty of Congress to protect the integrity of our heritage from individuals who disrespect this country.

It is in the best interests of the American people to pass this legislation, and I wholeheartedly support it. In fact, I am an original cosponsor of H.J. Res. 36.

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

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

First, Mr. Speaker, let me thank the gentleman for yielding me this time. It is a pleasure to serve on the Committee on Rules with the gentleman from Georgia (Mr. LINDER).

Mr. Speaker, I rise in strong opposition to House Joint Resolution 36. I firmly believe that passing this constitutional amendment would abandon the very values and principles upon which this country was founded.

Make no mistake, I deplore the desecration of the flag. The flag is a symbol of our country and a reminder of our great heritage. I find it unfortunate and repugnant that a few individuals choose to desecrate that which we hold so dear. However, it is because of my love for the flag and the country for which it stands that, unfortunately, I have no choice but to oppose this well-intentioned yet misguided, in my view, legislation.

Our country was founded on certain principles. Chief among these principles is freedom of speech and expression. These freedoms were included in the Bill of Rights because the Founding Fathers took deliberate steps to avoid creating a country in which individuals' civil liberties could be abridged by the Government. Yet that is exactly what this amendment would do. It begins a dangerous trend in which the Government can decide which ideas are legal and which must be suppressed.

Ultimately, we must remember that it is not simply the flag we honor but, rather, the principles it embodies. To restrict people's means of expression would do nothing but abandon those principles, and to destroy these principles would be a far greater travesty than to destroy its symbol. Indeed, it would render the symbol meaningless.

Earlier this month, Mr. Speaker, I was with a group of 15 Members of Congress who were visiting the American cemetery in Normandy, France. There we saw the graves of more than 9,000 men and women who gave their lives not just for the liberation of Europe but in defense of an idea: democracy, and all that it stands for. What democracy stands for is forever enshrined in our Constitution. These men and women who died for an idea, and the patriots who came before and after them, understand that idea.

I brought back these two flags, this one especially, the American flag. The other is the flag of France. I hold it here to remind myself of what others gave so that I may be here today in this country which protects individual rights and liberties more than any other country in the world. Understand, though, this flag itself has little inherent value. It is cloth attached to a piece of wood. The value of this cloth is in the messages that it conveys and the country that it stands for and the people who have fought and died to keep this flag and others like it flying high and free. Those men who died storming Omaha and Utah Beaches did not fight for a flag; they fought for the idea that our flag represents. This amendment, in my view, would diminish what those brave men and women fought and died for.

The last time Congress debated a similar bill, retired four-star general and current Secretary of State Colin Powell said that he would not support amending the Constitution to protect the flag. In fact, General Powell said, ''I would not amend that great shield of democracy to hammer a few miscreants. The flag will be flying proudly long after they have slunk away.''

We are too secure as a Nation to risk our commitment to freedom by endeavoring to legislate patriotism. If we tamper with our Constitution because of the antics of a handful of thoughtless and obnoxious people, we will have reduced the flag as a symbol of freedom, not enhanced it.

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

Mr. LINDER. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Ohio (Mr. CHABOT).

Mr. CHABOT. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in support of the rule. The American flag serves a unique role as the symbol of the ideals upon which America was founded. It is a national asset that helps to preserve our unity, our freedom, and our liberty as Americans. This symbol represents our country's many hard-won freedoms paid for with the lives of thousands and thousands of young men and women over this Nation's history. For years, 48 States and the District of Columbia enforced laws prohibiting the physical desecration of the American flag. In the 1989 Texas v. Johnson ruling, the United States Supreme Court in a 5–4 vote overthrew what until then had been settled law and ruled that flag desecration as a means of public protest is an act of free expression protected by the first amendment to the U.S. Constitution. A year later, essentially reiterating its Johnson ruling, the court in U.S. v. Eichman, another 5–4 ruling, by the way, struck down a Federal statute prohibiting the physical desecration of the flag despite the court's own conclusion that the statute was content-neutral.

In the years since these two rulings were handed down, 49 States have passed resolutions calling upon this Congress to pass a flag protection amendment and send it back to the States for ratification. Although a constitutional amendment should be approached only after much reflection, the U.S. Supreme Court's conclusions in the Johnson and the Eichman cases have left the American people with no other alternative but to amend the Constitution to provide Congress the authority to prohibit the physical desecration of the American flag. The amendment enjoys strong support throughout the Nation, indicating that it will likely be adopted by the States should this Congress approve the language.

I urge my colleagues to approve this rule and move to full debate and pass H.J. Res. 36.

Ms. JACKSON-LEE of Texas. Mr. Speaker. I rise in opposition to the rule.

Mr. Speaker, this rule allows the well-settled law of this nation to be called into question at the whim of special interest groups who disagree with the value we Americans place on freedom of speech. By allowing this debate to occur, the leadership has signaled its intention to favor its ideological companions without regard for legal precedent or constitutional muster.

In 1989 the Supreme Court was faced with a difficult balancing test. *Texas v. Johnson,* 491 U.S. 397, forced the court to examine whether the interests of this nation in protecting the symbol of its freedom are outweighed by the individual freedoms of its citizens. The Court did not shy away from this dilemma, holding that the government cannot prohibit the expression of an idea society finds offensive, and that not even the flag is recognized as an exception to this principle.

Following this rights-affirming decision, Congress passed the ''Flag Protection Act of 1989,'' which attempted to criminalize the conduct of those who might use the flag for free speech purposes. The next session the Supreme Court invalidated this law on the same grounds it ruled on during its previous session. The Court held that attempting to preserve the physical integrity of the flag is only related to the flag as an article of speech or conduct in *United States v. Eichman,* 496 U.S. 310 (1990).

Now, Mr. Speaker, over ten years later, Congress is again attempting to impermissibly affect the ability of citizens to speak freely by taking the normously grave step of amending the Constitution of the United States. Supporters of this amendment argue that the step is warranted considering the Supreme Court's opinion on the flag; I contend the Supreme Court's opinion requires my opposition to this rule.

Mr. Speaker, it has almost become cliche to point out that we are a nation of laws, not persons. However, in this circumstance, that is exactly my point. The Supreme Court has spoken in an unambiguous way about the balancing of interests between the flag and the rights of individuals. On two separate occasions the right of individuals to speak has won.

Instead of honoring the decisions of the Court, and thereby respecting the separation of powers within the federal government, the House leadership instead chose to play politics with the law. On this day we begin subjecting legal opinions to the whims of the legislative branch in a new and chilling way. Any coalition with close enough ties to the majority might hope to see their pet project ratified as an amendment to our Constitution.

Mr. Speaker, not only this resolution, but also this very debate cast a long shadow over our long history of separation of powers. I contend it is our rights as citizens and our legal system that suffer. I oppose this rule.

Mr. HASTINGS of Florida. Mr. Speaker, I yield back the balance of my time.

Mr. LINDER. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

COMMENDING MILITARY AND DEFENSE CONTRACTOR PERSONNEL RESPONSIBLE FOR SUCCESSFUL BALLISTIC MISSILE TEST

Mr. HUNTER. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 195) commending the United States military and defense contractor personnel responsible for a successful in-flight ballistic missile defense interceptor test on July 14, 2001, and for other purposes.

The Clerk read as follows:

H. RES. 195

Whereas at 11:09 p.m., eastern daylight time on July 14, 2001, the United States successfully tested an interceptor missile against a target Minuteman intercontinental ballistic missile in flight;

Whereas the target missile was launched from Vandenburg Air Force Base, California, and was traveling at approximately 140 miles above the Earth at a speed of greater than 11,000 feet per second, which is more than three times faster than a high-powered rifle bullet, when struck by the interceptor missile;

Whereas the interceptor missile was also traveling at a speed greater than 11,000 feet per second at the time of impact;

Whereas more than 35,000 Americans contributed to the successful test, including the Air Force team which launched the target

missile from Vandenburg Air Force Base and the Army team which developed the radar and kill vehicle, the Navy and Coast Guard team which provided security for the test, the Ballistic Missile Defense Organization team which supervised the testing program, and the contractor team consisting of thousands of American scientists, engineers, and blue collar workers employed by the prime contractors and hundreds of small businesses; and

Whereas the House of Representatives understands that testing of ballistic missile defenses will involve many failures as well as successes in the future, the House of Representatives nonetheless commends the effort and ingenuity of those who worked so hard to make the test a success: Now, therefore, be it

Resolved, That the House of Representatives thanks and commends the thousands of United States military and Government personnel, contractors, engineers, scientists, and workers who worked diligently to make the July 14, 2001, missile defense intercept test a success.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. HUNTER) and the gentleman from South Carolina (Mr. SPRATT) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. HUNTER).

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

Mr. Speaker, Americans sometimes do great things. At 11:09 p.m. Eastern Standard Time last Saturday, the work of some 35,000 Americans, including service personnel from the Air Force, the Navy, the Coast Guard, and the Army combined to produce a wondrous success in our missile defense testing program.

□ 1100

It was extraordinary, Mr. Speaker. We had an interceptor that was launched from Vanderbilt Air Force Base in California, heading west, achieving a speed of some 11,000 feet per second, or more than three times faster than a high powered rifle bullet; and an interceptor was launched from Kwajalein Island, also achieving a speed of close to 11,000 feet per second, also going much faster than a rifle bullet; and at 11:09 eastern time that interceptor successfully hit the target vehicle and destroyed it 148 miles above the Earth over the Western Pacific.

Mr. Speaker, I think Americans need to draw a number of conclusions from this very successful test. First, it is absolutely appropriate that we in the House of Representatives commend all the great people who worked on this program, and we intend to do that fully. Of course, the Army developed the radar and the kill vehicle working from their missile defense headquarters in Huntsville, Alabama. The Air Force in this case launched the Minuteman missile, which was the target missile, from Vanderbilt Air Force Base. We had Navy and Coast Guard monitoring and providing security in the Pacific. So we had thousands and thousands of men and women in uniform supporting these tests, all the way from folks who were doing basic security work to folks who were doing some very high-level physics work.

Along with that, we had lots of Americans, scientists, engineers, blue-collar workers, some working for major contractors and others working for small business. One thing we have learned in this missile defense business is that the innovators, sometimes the smartest guys, are in the companies with 20, 30, 40, 50 people, and all of these people combined to produce a success that was stupendous. It was remarkable.

The idea that people, you could raise two high-powered rifles, so to speak, farther apart than Los Angeles and New York, and shoot at a point toward the center of the country, and those two high-powered rifle bullets would hit precisely together at a point over the Midwest, is an extraordinary thing. It is something that many people thought was impossible.

So I think it is entirely appropriate for the full House, on both sides of the aisle, regardless of what your position is on the ABM treaty or missile defense, to commend the wondrous efforts of the men and women of our uniformed services, and also all the folks working in business to make this thing work, all the contractor personnel who made it go.

Secondly, I think we have to acknowledge we have got a long road ahead in this program. As our resolution states, we are going to have lots of successes; we are going to have lots of failures. I am reminded that with Polaris, the Polaris tests numbered over 120, and it failed more than 50 percent of the time. The first time we put up surveillance satellite capability, our first 11 launches failed before we succeeded. Yet that was a very important capability to achieve.

So you have to have lots of failures. In fact, if you test rigorously, if you make these tests as difficult as you possibly can, while still learning a lot, you are going to have failures. I think we will have failures in the future, just as we are going to have failures with our other theater missile defense systems. But, nonetheless, Mr. Speaker, we have proven that not only can you hit a bullet with a bullet, but you can hit something going three times as fast as a bullet with an interceptor going three times as fast as a bullet, and that is truly extraordinary.

Mr. Speaker, this is a good day for America. It is a great milestone in this missile defense program that we have. We have a lot of hard work ahead. We have got lots of challenges, these tests will get tougher and tougher; and in the future, of course, we will have failures as well as successes.

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

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

Mr. Speaker, I am glad to join the gentleman from California (Mr. HUNTER) in support of this bill, as a cosponsor of the bill, as well as the floor manager for the bill on our side of the aisle.

The road to Saturday's successful intercept has been long and arduous; and we have miles to go before we can say we have gotten there, even gotten to the point where we have what we call a limited defense system capable of defending us against rogue missile attacks, simple rogue missile attacks, or perhaps unauthorized or accidental strike. We have a long way to go, and we should not let the euphoria of this moment obscure that fundamental fact.

Indeed, if we have learned anything since March 23, 1983, when Mr. Reagan made his speech and proposed what became the Strategic Defense Initiative, it is that missile defense is not likely, unfortunately, to make nuclear weapons impotent and obsolete. It may enhance deterrence, but it is unlikely to replace deterrence. That is a fundamental point.

Nevertheless, I think enhancing deterrence is a worthy goal. I think that if we can prove through testing, like the tests that we held Saturday night, rigorous testing, that gets more and more demanding and challenging with each test, that eventually takes on countermeasures as well, if we can prove after this kind of rigorous testing that we have a system worthy of deploying, that will give us limited protection against the kind of threat I just described, it is worth deploying; and I think it is worth observing what was accomplished Saturday night, because it moves us in that direction.

Let me emphasize that testing is critical. I have been a long-time supporter of that. We do not want to fool ourselves into thinking that we have got a system that can take on this daunting challenge when, in fact, it can easily be overcome or is not capable of what it is touted to be. We do not want to fool ourselves by deploying some kind of scarecrow system.

We associate ballistic missile defense with Mr. Reagan's speech on March 23, 1983; but in truth both administrations, the Clinton administration, the Reagan administration, the Bush administration, going all the way back to Lyndon Baines Johnson in 1967, have supported missile defense in one form or another.

Indeed, the safeguard system originated in 1967 with President Johnson's administration. It was taken to the point that it was deployed. The Spartan system failed a number of times. No one felt that it was a complete and good defense system; and after spending what would amount in today's money of about $20 billion, we abandoned the system in North Dakota.

We kept spending money on ballistic missile defense in Democratic and Republican administrations. There were systems that have long been forgotten, like the BAMBI, which was a boost-phase interceptor, which was abandoned because it could not be proven to be invulnerable to counterattacks in fixed orbits in space.

Indeed, the path to Saturday night is littered with systems that simply could not meet the mettle. We have spent a lot of money, $60 billion since 1983, to get where we have gotten; but we have had some successes, and I think it is right to take some time aside to savor those success.

I think the gentleman from California (Mr. HUNTER) would agree we should not forget that this was not the first intercept with this system. Indeed, the first intercept occurred 2 years ago under the Clinton administration. This was a Clinton administration system. They in effect brought the technology to the point where it could be tested Saturday night and proven to work at least in those circumstances.

Mr. Speaker, when the test was concluded, General Kadish, who is doing a commendable job as the manager of this program, a very practical, pragmatic man, told everybody there, all the press there, when they asked him what should we deduce from the success we just had, he said if you just lower the level a little bit and let us proceed in a rigorous disinterested way, let us not get too excited about this thing, let us do our work, we think we can prove to you that we have got something worthy of deploying.

I think it is very, very fitting and very, very appropriate for us to rise today to commend the thousands of people who have made this a success.

While we are at it, I think we might commend a lot of other people in the so-called military-industrial complex, which is what we call them when we are usually disappointed, when we are usually confounded by the bills they present us, when we are usually suspicious of what they are up to.

When they succeed like Saturday night, we call them the arsenal of America. There are a lot of people out there are working in the arsenal of America making the F–22 meet its test every day. There are a lot of them working in other programs, like the THAAD, which was almost discarded. We gave it some extra money and another chance. They went out and made it work. They have just brought to fruition the PAC–3.

So there are successes, and we should commend them for their enormous technological capability, their perseverance and ability that brought us this far. I hope that this sort of bipartisan occasion today is an example of how we can treat ballistic missile defense in the future. It has been a political totem, frankly. I would like to see it treated like any other weapons system, the F–22, the C–17, you name it. If it meets the mettle, we go forward with it; but it if it does not, it should be held to the same standards, truly with the same sort of rational examination and expectation we would any military system.

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

Mr. HUNTER. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. TRAFICANT).

Mr. TRAFICANT. Mr. Speaker, leaders of China and Russia have just kissed, signed an agreement, and referred to Uncle Sam as an imperialist. China got our secrets from spies and from buying, with the help of Janet Reno. Russia got them from the FBI and Robert Hanssen. All of our enemies know our technology.

I was not an original supporter of the Star Wars initiative, but I am now. America cannot be defended by the neighborhood crime watch. When they took our spy plane, I do not know what the big crisis was; China made everything that was in it.

We have got a tremendous problem on our hands, and the only way to protect the American people is to continue with our technology buildup to provide a reasonable shield.

This test, and I commend all of those involved, gives us hope for the beginning of an initiative started by former President Reagan, and I commend him here today. He had the vision and the foresight to see that America would be challenged by maybe even rogue nations with nuclear capability that was illegally gained from America.

Beam me up here.

I want to join the gentleman from California (Mr. HUNTER) in saluting all of those involved, and recommend to the Congress of the United States that we go forward and continue to fund this initiative. Our number one priority is national security, and we should get that job done.

Mr. SPRATT. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. MCDERMOTT).

Mr. MCDERMOTT. Mr. Speaker, I thank the gentleman from South Carolina for yielding me time.

Mr. Speaker, apparently I am the only person who is going to come out here and raise a question. Everybody who has watched the military industrial complex develop weapons systems must be amazed that the day after something happens in the Pacific, we run out on the floor in this virtual reality Congress to make a PR event, which will be in the newspapers, as though we have succeeded. Now we must put out $60 billion or $100 billion.

If you listen carefully to the words of the gentleman from South Carolina (Mr. SPRATT), this thing has failed over and over again. This is only the second time out of four, in a system where you put the problem out there and you have the answer, and you shoot at it, and two out of four times you have missed.

Now, how can anybody be excited about a system like that? If I know what the pitcher is going to throw and I stand here, I am going to hit it. Everybody knows that. That is why they hide the pitcher's signals between the catcher's legs. They do not want people to know at bat what the pitcher is going to throw. But here we have this system, right here and right here, and twice we missed it; and we are out here congratulating.

I do not say anything about the employees. Boeing has worked on all kinds of these programs, but we never came out and congratulated them the first time they succeeded. This is simply to build up a momentum in this society for a system which, as the gentleman from Ohio (Mr. TRAFICANT) says, is driving the Chinese and the Russians together.

To put this system up, we have to tear up the ABM treaty. The Russians have said do not do it; it has kept peace for 50 years. The Chinese have said do not do it.

□ 1115

Why are we out here whipping up the public to believe this is a good idea?

I am going to vote against the resolution; not against the people, but against the purpose of it.

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

I think one aspect of this resolution that the gentleman from South Carolina (Mr. SPRATT) and I have coauthored is that it does not speak to the politics of missile defense or the ABM Treaty or the relationship of the Soviet Union and the United States. What it does speak to is a technological challenge that we gave lots of people, many of whom make great sacrifices to work in the uniform of the United States or who go to work everyday in various places around this country, working either for the government or for private business, whether they are physicists or engineers or blue collar workers, working on a program that I would state again is monumental in its success.

Once again, both of these systems were going three times faster than a high-powered rifle bullet, and they collided 148 miles above the earth, some 4,800 miles off into the Pacific, an extraordinary thing. It is like having somebody stand in San Diego with a high-powered rifle shooting to the center of the country and somebody standing in New York doing the same thing, except the high-powered rifles really went three times as fast as an ordinary high-powered rifle, and having those little bullets collide in midair.

Now, I think that is an extraordinary thing. Indeed, it is something that a

lot of critics of this system said was impossible: hitting a bullet with a bullet. But I think if we look at the resolution that the gentleman from South Carolina (Mr. SPRATT) and I have cosponsored, it does not say that this is the end of the line and that somehow we have now achieved absolute defense against incoming ballistic missiles.

What it does say, and I quote: ''The House of Representatives understands that testing of ballistic missile defenses will involve many failures as well as successes in the future. The House of Representatives, nonetheless, commends the effort and ingenuity of those who worked so hard to make the test a success.''

Mr. Speaker, when Billy Mitchell came back to the Coolidge administration in the 1920s, one of his messages was that we had entered the age of air power, whether Americans liked it or not. He recommended to a then Republican administration that they spend a lot of money developing air power. Well, we had a number of budget hawks who did not want to do that, and we did not do as much as we should have. As a result of that, we were not as ready as we should have been for World War II.

Well, today, Mr. Speaker, and particularly since the Gulf War when Americans were killed for the first time with ballistic missiles fired by Saddam Hussein, we realize that we live now not in the age of air power but in the age of missiles. When we look at the array of military systems across the board that we have, and the gentleman from South Carolina and I work on a daily basis with lots of other great Democrat and Republican members of the Committee on Armed Services, we know that we build systems to stop ships. We build systems to detect submarines. We build systems to handle tactical aircraft, fighter aircraft. We build systems to take down bombers. We build systems to handle and that can handle capably just about every type of offensive weapon that an enemy could throw at us, except one.

So the one question I have always asked the Secretary of Defense when he appears before myself and the other members of the Committee on Armed Services is: Could you today, could you today stop a single incoming ICBM, Intercontinental Ballistic Missile, coming into an American city? And the answer always is, whether it is a Democrat or Republican administration: No; today we cannot do that.

Well, that is what we are working toward, Democrats and Republicans, people in uniform and people out of uniform, is to achieve that capability.

I think that it is very important for us to understand, and the reason the gentleman from South Carolina (Mr. SPRATT) and I put this language in, acknowledging that there are going to be failures in this testing program as well as successes and the difficulty of this program. We are going to have decoys. That is, when the offensive missile puts its warhead, projects its warhead off of the booster system, it is going to have perhaps decoys that would attract the interceptor missile; and the interceptor missile would end up hitting decoys, not being able to discriminate between a decoy and a real warhead. We have to work that problem. We have to be able to handle that problem.

We are going to have, in some cases, perhaps evasive maneuvers. We are going to have lots of problems. We are going to have in some cases multiple shots; that is, a number of warheads coming in that we have to handle at one time. We may have to handle the effects of a nuclear burst at some point.

On the other hand, Mr. Speaker, the alternative is for us to do nothing. The old saying is, ''You don't do anything until you can do everything, so you do nothing;'' and I think that is an inappropriate position for the United States to take. If we do not try to build a defense and do not try to develop this interception capability, this will be the first time in this century that the United States has looked at a weapon, at an offensive weapon, and decided that they are not going to try to learn how to defend against it. I think that would be a mistake.

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

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

Let me just take a minute to comment on the legislative history of this resolution.

I first learned of this resolution when I got a call yesterday afternoon from the gentleman from California (Mr. HUNTER) on the golf course. He had his staff busy at work on this, and he wanted to send me a copy of it. Over the evening, we proposed a number of changes to the preamble and to the resolving clause. The gentleman from California (Mr. HUNTER), to his credit, acknowledged our purpose, which was to confine this resolution to the purpose at hand; that is, commending those who have accomplished what is a daunting feat. It is done every day, but this is a particularly daunting feat. It was a big challenge. So we want to send them a message of commendation. We took out references as to how much we should infer or read from this particular success as to whether or not we would one day have a big missile field over the country so that those who disagree could at least send a word of commendation to the people who have so ably pulled off this test.

Mr. Speaker, I commend the gentleman from California (Mr. HUNTER) for working with me, but I want to say to my side that this is a much paredback resolution which we resolved through genuine compromise and I agreed to cosponsor about 1 minute before this debate began.

Mr. HUNTER. Mr. Speaker, if the gentleman will yield, that was a good decision, I might say to the gentleman.

Mr. SPRATT. Mr. Speaker, I yield 3 minutes to the gentleman from Maine (Mr. ALLEN).

Mr. ALLEN. Mr. Speaker, I thank the gentleman for yielding me this time.

Although I am proud of the men and women in our military service and those working for defense contractors who were part of this success, I have to rise in opposition to the resolution for several reasons, first, in terms of process. As the gentleman from South Carolina said, this resolution was never considered by the Committee on Armed Services. It was just brought to the attention of the minority yesterday at 5 o'clock. There was no consultation with the minority until then. I think many Members really do not have a grip on the implications of what it is we are voting on.

Second, precedent. This resolution commends the U.S. military personnel and contractors for the apparently successful national missile defense tests of last Saturday. BMDO says it will conduct 10 more tests in the next year. So do we pass a resolution each time it hits? Should we pass a resolution each time it misses? Because there are some Members who would want to do that, although I am not one of them. Would the majority support their right to offer such a resolution? What kind of precedent are we setting? Will we feel compelled to vote every time a major weapons system passes a milestone? The F–22, for example. Why not pass a resolution every time a community gets a COPS grant or a housing grant?

My third objection is substance. General Kadish, in the post-test briefing, cautioned that scientists could need months to finish analyzing the test results: ''We do not know for certain that every objective was met,'' he said. ''In all probability, some of them were not.'' I believe it is irresponsible to put the House on record before there has been a full analysis.

Now, the gentleman from Pennsylvania (Mr. WELDON) on the Republican side, who has worked on this issue for years, and I do not see eye to eye on missile defense very much, but together we sent a ''Dear Colleague'' last week urging Members not to rush to judgment on the test results, positive or negative. We quoted General Kadish: ''I do not believe it is helpful to overplay our successes or failures.'' This resolution runs counter to the spirit of his plea. It is not productive. When the gentleman from Pennsylvania (Mr. WELDON) and I can actually agree on something related to missile defense, we hope a few other Members will listen.

Finally, politics. This resolution will not help solve NMD's technological

problems. It will not resolve the ABM Treaty issues. It will not get us to deployment any faster. In my opinion, it serves no purpose other than a political one. The best thing we could do for national missile defense is to reduce the political and idealogical motivation and focus on the technology, on the strategic and security issues.

For those reasons, I believe this resolution is ill-advised and should be withdrawn or defeated.

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

Let me just remind my colleague who just spoke that there are a couple of things that General Kadish did agree on with respect to the test. First, the intercept was made. The interceptor missile, traveling three times the speed of a high-powered rifle bullet, fired from Kwajalein Island did intercept a target missile coming from Vandenburg that also was going three times the speed of a high-powered rifle bullet. Literally, a bullet hit a bullet 138 miles above the earth in the mid-Pacific. That is a fact.

It is true that we monitored this test with a lot of technology, that it is an in-depth test. There is a lot of analysis going on right now, and we are going to see how much information we harvest from this. But I would just tell my friend that I went on record before this test happened saying that I was going to support the continued funding of this program, whether it succeeded or failed, because I believe that this is an important national priority. That is my position.

But, nonetheless, if the gentleman looks at the enormity of American effort that went into this test, over 35,000 people in the uniformed services and out participating; and if this was a space shot, if this was an exploratory shot into space involving the Challenger or some other aspect of what I would call domestic space exploration, this test would have been given great publicity and great kudos by the media and the United States. I would remind my colleagues, these folks in the uniformed services who work on missile defense work just as hard, put in just as many hours and are just as ingenious as the folks that work on domestic space exploration.

I thought it was absolutely fitting, and I still do, to give them recognition. We have made it very clear. We say that there are going to be lots of failures as well as successes, and we understand that. This is not an attempt to change the ABM Treaty. It is an attempt to acknowledge the American genius that played itself out on Saturday night.

Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina (Mr. HAYES).

Mr. HAYES. Mr. Speaker, I thank the gentleman for yielding me this time, and I thank my colleagues for bringing this very important resolution to the floor.

I think about what I have heard this morning, and it occurs to me that some things that we debate here are not very clear, but others are quite clear. National security is spoken of in the Constitution as one of our primary responsibilities.

I do not really see this as a political or as a public relations issue. It is a philosophical issue. The gentleman from California (Mr. HUNTER) and others and myself believe that strong national security, the protection of our families and our country against foreign aggression with missiles is very important to our future. This was a milestone. A technically very difficult assignment was met. It was successful, and we are moving in the right direction.

In this day and age, when philosophies clash here, I think it is important to set the record straight: This is about sound science; this is not science fiction. We have the ability to produce this protective system. It can be done only by continued effort to protect this country and future generations. And I applaud the gentleman from California (Mr. HUNTER), I applaud our men and women in uniform, and I think it behooves us to continue to support this resolution and to make sure that this country, both space and space inside and outside, are protected. I think this resolution is very timely.

□ 1130

Mr. SPRATT. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I sent a letter to Secretary Rumsfeld today which cites reports that certain modifications were made to the test vehicle and warhead to greatly increase the likelihood of success.

In the letter, I state that Congress must know which modifications were made, how they contributed to the success, and the likelihood that such modifications could be used in a real engagement of the missile defense system.

I asked if the kill vehicle or dummy warhead employed a GPS, global positioning system, and if so, at what stages was the GPS system used.

I asked, did the kill vehicle or dummy warhead employ a C-band radar system, and if so, at what stages was the C-band radar system used.

I asked, did either the GPS system or C-band radar system communicate with or reveal any information to the Target Object Map.

I asked if the software modifications to the tracking computer or infrared tracking system provided information to the kill vehicle not normally available in a real-life scenario.

I think before Congress acts on such a resolution, it would be nice to get an answer to some of these questions. Otherwise, what we have is a situation here where we are into a dark fantasyland, where the threat of a nuclear strike against the United States is being exaggerated or it is nonexistent.

Our task as Nation and as a world should be to get rid of existing nuclear arms, to stop nuclear proliferation to new countries, to deal with arms control and arms elimination.

We have people who are actually predicting nuclear war in the future. We are back to the days of the Cold War. We have a responsibility to work for peace, not through nuclear proliferation, not through nuclear rearmament, not through building bigger and better missile systems or systems which defeat the ABM treaty or the nonproliferation treaty, but through the painstaking work, the daily work of diplomacy, of human relations, of seeking cooperation between nations.

It is fascinating that we have technology to restart the arms race, that we have technology which violates the nonproliferation treaty, that we have technology which violates the ABM treaty. But it would be even more fascinating if we used this opportunity to start a new dawn of peace where we get rid of nuclear weapons once and for all.

Mr. SPRATT. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Speaker, today we are debating a resolution commending defense contractors and the military for the ballistic missile defense test of July 14, 2001. This test, not the personnel, mind you, but this test, is really something to condemn, not to commend.

The defense industry and the Pentagon have now passed their half-scaled-down, simplified test. This is really nothing to celebrate. When our schools have that failure rate, the President wants to close them down. The military-industrial complex is apparently held to a much lower standard.

More fundamentally, this test moves us ever closer to violating the anti-ballistic missile treaty. We signed and ratified the ABM because we recognize that missile defense systems could destabilize more than they could protect.

We cannot go back on our word and abandon this treaty. Peace is really our national security. We cannot be a nation that approaches nonproliferation while really practicing escalation, and that is what this test has taken us down the road to. Instead of leading the way towards responsible disarmament, we are unraveling arms control agreements.

We must be a nation that decides where we really want to go. Do we want to go down a path to a new arms

race, or forward to a real post-Cold War peace?

Attempts to build a national missile defense system are really not enhancing our national security, they are destabilizing the world, which I heard over and over again just 2 weeks ago from our European allies. Violating treaties does not make the world a safer place.

Congress should not be celebrating spending billions and billions of dollars on national missile defense. We should be standing by our treaty agreements, we should be working to end nuclear proliferation, and we should be spending that money on vital national needs, such as health care, education, and housing.

Yes, there are dangers in the world, but missile defense systems will spark new arms races, nuclear proliferation, violated treaties, and destabilizations, and also billions in spending. These are the fruits of missile defense. That is nothing to celebrate.

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

Mr. Speaker, I would say that all Americans remember the fact that some 28 Americans were killed in Desert Storm by ballistic missiles. Those Americans who were killed by those incoming Scuds were not killed by tanks, they were not killed by machine gun fire, they were not killed by fighter attack aircraft, they were killed by ballistic missiles.

Those Scud missiles were going faster than a bullet, and we threw up some Patriot missiles, defending against those incoming Scuds. We got some, we missed some. There is a discrepancy as to how many we got and how many we missed. But at the end, when the smoke cleared, 28 Americans were dead and some 100 were wounded.

We have troops around the world, and at some point, and I think we have reached that point, we have to acknowledge that we are squarely in the age of missiles. Missiles will kill Americans in the future, I think we can predict that, unless we build defenses.

The idea that unless we build a perfect defense, we do not have any defense, does not make any sense. Certainly some of those young people who were in Saudi Arabia who were the targets of those Scud missile attacks did come home alive because some of those Patriot missiles that we had defending against the attacks did hit their targets, and some of those Scuds were knocked out of the sky before they could kill Americans.

We have slow missiles, the Scuds; we have medium-speed missiles, the missiles like the SS–20s; and we have very high-speed missiles, like the Minuteman missiles like the target we shot at over the Pacific.

It is very clear these tests are going to get tougher. They have to get tougher to replicate what we think will be operational conditions. We are going to have lots of misses in the future. But for us to not pursue this capability to defend our troops and our people in American cities would be disregarding our obligation as a Congress of the United States to preserve national security.

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

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

Mr. Speaker, on Saturday night, in the euphoria after the test, General Kadish warned against reading too much into this single test. He warned specifically that we have a long way to go before we have a system we can deploy.

I think, at this moment and in days ahead, we should bear his caution in mind and take his prudence to heart. This test shows that the technology for an operational system is within our reach, and that is good news. This was a daunting feat. That is why I support this commendation. But it is not yet within our grasp.

We should continue with this ground-based system, we should commend the people who were developing it, testing it. They are working hard, and they deserve our gratitude. But we should not fool ourselves. Challenges remain. This system should be held to the same standards as any other weapons system before we make the decision to deploy.

Mr. Speaker, I think it would probably be appropriate to quote Churchill after North Africa at this point, who was asked, ''What does this signify?'' He said ''It is not the end. It is not even the beginning of the end. It is, perhaps, the beginning of the beginning.''

Maybe we are a bit farther ahead than that, but that is where we stand. We should not get too carried away or euphoric about one single test. There are many more to come.

This resolution itself says we had better be prepared for failures, because they are likely to happen, particularly if the program does what we have asked it to do, and that is begin with the simple and move to the complex; add with each test more rigor, more difficulty, countermeasures, and other things. We are going to see failures before we have a system that we can judge.

One further point, and it is a critical point. This system, the ballistic missile system and all its components, is different from other weapons systems in the sense that it is affected and controlled by a treaty called the ABM treaty of 1972.

This treaty, some support it, some do not, but in any event, it is an integral part of our arms control relationship with the Soviet Union and today with Russia. It underlies START II, it makes possible START III, and we must be careful not to create a rupture with Russia over the provisions of the treaty. In anything we do, we should try to make it treaty compliant, or at least make it possible by a mutual amendment to the treaty.

If we deploy this system and create a rupture in our relationship with Russia, if we abrogate the ABM treaty and simply walk away from it defiantly, we can see the Russians, as they have threatened, pull out of START II, forego START III, and call an end to cooperative threat reduction, which has removed hundreds of warheads that were a menacing threat to us.

If we did that, if that was the end result, then the net result for our national security would be a greater threat and not a lesser threat as a result of deploying ballistic missile defense. Those sober words need to be borne in mind as we pass this celebratory resolution.

Mr. Speaker, I yield 30 seconds to the gentleman from Ohio (Mr. Kucinich).

Mr. KUCINICH. I think we can all appreciate the work of all Federal employees who work in defense-related matters, but that is not really what this resolution's subtext is about. This is an attempt to approve a process which violates the ABM treaty and which, in its essence, will restart the arms race.

There is no reason for the United States and Russia and China to be engaged in a showdown over nuclear arms. We need to get rid of nuclear weapons, we need to enforce our arms treaties, and we need not to move forward with this Star Wars program which wastes taxpayer dollars and which diverts us from the necessary work of building a new peace in our world.

Mr. HUNTER. Mr. Speaker, I yield 30 seconds to the gentleman from Georgia (Mr. LINDER).

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

I think it is interesting, the debate over this system, as to whether the science is there or not, because I recall a time 30 years ago when President Kennedy, with great courage, said, ''We will put a man on the moon by the end of this decade,'' and we did not have any of that science, but we achieved it.

When this Nation can put itself behind a project, it will succeed.

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

Mr. Speaker, to conclude this debate, we are saying to the men and women of the Armed Services, to the men and women of the Ballistic Missile Defense Organization, and all those folks in big and small businesses, the 35,000 people that made this test a success, good work. It was a job well done. Now let us roll up our sleeves and go on to the next challenge.

GENERAL LEAVE

Mr. HUNTER. Mr. Speaker, I ask unanimous consent that all Members

may have 5 legislative days in which to to revise and extend their remarks on this legislation.

The SPEAKER pro tempore (Mr. ISAKSON). Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HUNTER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, the gentleman from South Carolina (Mr. SPRATT) mentioned a golf course. The Republicans did beat the Democrats in the annual golf tournament yesterday, with the leadership of the gentleman from Ohio (Mr. OXLEY). I know he will be interested in that.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. HUNTER) that the House suspend the rules and agree to the resolution, House Resolution 195.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. HUNTER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

CONTINUING NATIONAL EMERGENCY WITH RESPECT TO SIERRA LEONE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 107–102)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

As required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), I transmit herewith a 6-month periodic report on the national emergency with respect to Sierra Leone that was declared in Executive Order 13194 of January 18, 2001.

GEORGE W. BUSH.

THE WHITE HOUSE, *July 17, 2001.*

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until approximately noon.

Accordingly (at 11 o'clock and 44 minutes a.m.), the House stood in recess until approximately noon.

□ 1200

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. SIMPSON) at noon.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will now put the question on motions to suspend the rules on which further proceedings were postponed earlier today.

Votes will be taken in following order:

S. 360, by the yeas and nays;

H. Res. 195, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

HONORING PAUL D. COVERDELL

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the Senate bill, S. 360.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. HYDE) that the House suspend the rules and pass the Senate bill, S. 360, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 330, nays 61, answered ''present'' 11, not voting 31, as follows:

[Roll No. 229]

YEAS—330

Ackerman
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Ballenger
Barcia
Barr
Bartlett
Barton
Bass
Bentsen
Bereuter
Berry
Biggert
Bilirakis
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (SC)
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clement
Clyburn
Coble
Collins
Combest
Condit
Cooksey
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Etheridge
Evans
Everett
Ferguson
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hill
Hilleary
Hilliard
Hobson
Hoeffel
Holden
Holt
Hooley
Horn
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson-Lee (TX)
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E.B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kildee
Kilpatrick
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Larson (CT)
Latham
Leach
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lowey
Lucas (KY)
Lucas (OK)
Maloney (CT)
Maloney (NY)
Manzullo
Mascara
Matheson
Matsui
McCarthy (NY)
McCrery
McHugh
McIntyre
McKeon
McKinney
McNulty
Meek (FL)
Meeks (NY)
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Mollohan
Moore
Moran (KS)
Morella
Murtha
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Ortiz
Osborne
Ose
Otter
Oxley
Pallone
Pascrell
Pastor
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Phelps
Pickering
Pitts
Pombo
Pomeroy
Portman
Pryce (OH)
Quinn
Radanovich
Rangel
Regula
Rehberg
Reynolds
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Rush
Ryan (WI)
Ryun (KS)
Sanchez
Sandlin
Saxton
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Toomey
Traficant
Turner
Udall (NM)
Upton
Velázquez
Walden
Walsh
Wamp
Watson (CA)
Watts (OK)
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NAYS—61

Abercrombie
Baldwin
Berkley
Brown (OH)
Capuano
Conyers
DeFazio
DeLauro
Doggett
Dooley
Eshoo
Farr
Fattah
Flake
Frank
Frost
Hastings (FL)
Hinchey
Honda
Jackson (IL)
Kennedy (MN)
Kennedy (RI)
Kerns
LaFalce
Lee
Levin
Lofgren
Luther
Markey
McCarthy (MO)
McCollum
McDermott
McGovern

Meehan
Miller, George
Mink
Moran (VA)
Nadler
Napolitano
Oberstar
Obey
Olver
Paul
Payne
Price (NC)
Rahall
Ramstad
Rivers
Royce
Sabo
Schaffer
Schakowsky
Sherman
Slaughter
Stark
Tancredo
Thompson (CA)
Tierney
Visclosky
Waxman
Wu

ANSWERED ''PRESENT''—11

Barrett
Becerra
Bonior
Clayton
Hinojosa
Hoekstra
Jones (OH)
Menendez
Petri
Shays
Watt (NC)

NOT VOTING—31

Berman
Bishop
Bryant
Coyne
DeGette
Delahunt
Gephardt
Herger
Hostettler
Hutchinson
Jefferson
Kind (WI)
Kleczka
LaTourette
McInnis
Neal
Owens
Platts
Putnam
Reyes
Riley
Sanders
Sawyer
Scarborough
Schiff
Spence
Towns
Udall (CO)
Vitter
Waters
Watkins (OK)

□ 1230

Mr. STARK, Mr. GEORGE MILLER of California, Ms. LEE, Ms. LOFGREN, Mr. WU, Mr. CAPUANO, Ms. BERKLEY, Mr. LUTHER, Ms. DELAURO, Mr. MEEHAN, Mr. MARKEY, Ms. ESHOO, Ms. MCCARTHY of Missouri, Messrs. KERNS, MORAN of Virginia, MCDERMOTT, THOMPSON of California, SHERMAN, DOOLEY of California, HASTINGS of Florida, KENNEDY of Minnesota, Mrs. MINK of Hawaii, Ms. SLAUGHTER, and Messrs. RAMSTAD, FROST, JACKSON of Illinois, and FATTAH changed their vote from ''yea'' to ''nay.''

Mr. STUPAK and Ms. ROYBAL-ALLARD changed their vote from ''nay'' to ''yea.''

Mr. PETRI, Mrs. CLAYTON, Mr. BONIOR, and Mr. WATT of North Carolina changed their vote from ''yea'' to ''present.''

Mr. GUTIERREZ changed his vote from ''present'' to ''yea.''

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON). Pursuant to clause 8 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting on the additional motion to suspend the rules on which the Chair has postponed further proceedings.

COMMENDING MILITARY AND DEFENSE CONTRACTOR PERSONNEL RESPONSIBLE FOR SUCCESSFUL BALLISTIC MISSILE TEST

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 195.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. HUNTER) that the House suspend the rules and agree to the resolution, H. Res. 195, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 321, nays 77, answered ''present'' 6, not voting 29, as follows:

[Roll No. 230]

YEAS—321

Abercrombie
Aderholt
Akin
Andrews
Armey
Baca
Bachus
Baker
Ballenger
Barcia
Barr
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berry
Biggert
Bilirakis
Blagojevich
Blunt
Boehlert
Boehner
Bonilla
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (SC)
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clement
Coble
Collins
Combest
Condit
Cooksey
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis, Jo Ann
Davis, Tom
Deal
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Etheridge
Evans
Everett
Fattah
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hill
Hilleary
Hinojosa
Hobson
Hoeffel
Holden
Hooley
Horn
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Issa
Istook
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kind (WI)
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Largent
Larson (CT)
Latham
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Maloney (CT)
Maloney (NY)
Manzullo
Mascara
Matheson
Matsui
McCarthy (NY)
McCrery
McHugh
McIntyre
McKeon
McNulty
Menendez
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Napolitano
Nethercutt
Ney
Northup
Norwood
Nussle
Ortiz
Osborne
Ose
Otter
Oxley
Pallone
Pascrell
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reynolds
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Royce
Ryan (WI)
Ryun (KS)
Sanchez
Sandlin
Saxton
Schaffer
Schrock
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spratt
Stearns
Stenholm
Strickland
Stump
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Toomey
Traficant
Turner
Upton
Walden
Walsh
Wamp
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Wu
Young (AK)
Young (FL)

NAYS—77

Ackerman
Allen
Baird
Baldacci
Baldwin
Barrett
Blumenauer
Bonior
Brown (FL)
Brown (OH)
Capuano
Cardin
Clay
Clayton
Clyburn
Conyers
Davis (IL)
Doggett
Eshoo
Farr
Filner
Frank
Gutierrez
Hastings (FL)
Hilliard
Hinchey
Hoekstra
Holt
Honda
Jackson (IL)
Jones (OH)
Kaptur
Kilpatrick
Kucinich
LaFalce
Larsen (WA)
Lee
Levin
Lewis (GA)
Luther
Markey
McCarthy (MO)
McCollum
McDermott
McGovern
McKinney
Meehan
Meek (FL)
Meeks (NY)
Miller, George
Nadler
Neal
Oberstar
Olver
Pastor
Paul
Payne
Rangel
Rivers
Rush
Sabo
Sawyer
Schakowsky
Slaughter
Solis
Stark
Stupak
Thompson (CA)
Tierney
Udall (NM)
Velázquez
Visclosky
Watson (CA)
Watt (NC)
Weiner
Woolsey
Wynn

ANSWERED ''PRESENT''—6

Crowley
DeFazio
Dingell
Jackson-Lee (TX)
Obey
Pelosi

NOT VOTING—29

Berman
Bishop
Bryant
Burr
Coyne
DeGette
Delahunt
Gephardt
Harman
Herger
Hostettler
Israel
Jefferson
Kleczka
LaTourette
McInnis
Owens
Putnam
Reyes
Riley
Sanders
Scarborough
Schiff
Spence
Towns
Udall (CO)
Vitter
Waters
Watkins (OK)

□ 1240

So, (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONSTITUTIONAL AMENDMENT AUTHORIZING CONGRESS TO PROHIBIT PHYSICAL DESECRATION OF THE FLAG OF THE UNITED STATES

Mr. SENSENBRENNER. Mr. Speaker, pursuant to House Resolution 189, I call up the joint resolution (H.J. Res. 36) proposing an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore (Mr. SIMPSON). Pursuant to House Resolution 189, the joint resolution is considered read for amendment.

The text of House Joint Resolution 36 is as follows:

H.J. RES. 36

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of each House concurring therein),

SECTION 1. CONSTITUTIONAL AMENDMENT.

The following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

''ARTICLE —

''The Congress shall have power to prohibit the physical desecration of the flag of the United States.''.

The SPEAKER pro tempore. After two hours of debate on the joint resolution, it shall be in order to consider an amendment in the nature of a substitute, if offered by the gentleman from Michigan (Mr. CONYERS), or his designee, which shall be considered read and debatable for 1 hour, equally divided and controlled by the proponent and an opponent.

The gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Michigan (Mr. CONYERS) each will control 1 hour of debate on the joint resolution.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.J. Res. 36.

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

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, House Joint Resolution 36 proposes to amend the United States Constitution to allow Congress to prohibit the physical desecration of the flag of the United States. The proposed amendment reads, ''The Congress shall have power to prohibit the physical desecration of the flag of the United States.''

The amendment itself does not prohibit flag desecration; it merely empowers Congress to enact legislation to prohibit the physical desecration of the flag and establishes boundaries within which it may legislate.

The American flag serves as a unique symbol of the ideas upon which America was founded. It is a national asset that helps preserve our unity, our freedom, and our liberty as Americans. This symbol represents our country's many hard-won freedoms, paid for with the lives of thousands of young men and women. The American people want their elected representatives to protect this cherished symbol.

Prior to the Supreme Court's ruling in 1989 in Texas v. Johnson, 48 States and the Federal Government had laws prohibiting desecration of the flag. Since that ruling, however, neither the States nor the Federal Government have been able to prohibit its desecration. In Johnson, the court, by a 5 to 4 vote, held that burning an American flag as part of a political demonstration was expressive conduct protected by the first amendment.

In response to Johnson, Congress overwhelmingly passed the Flag Protection Act of 1989, which amended the Federal flag statute to focus exclusively on the conduct of the actor, irrespective of any expressive message he or she might be intending to convey.

In 1990, the Supreme Court, in another 5 to 4 ruling, in U.S. v. Eichman, struck down that act as an infringement of expressive conduct protected by the first amendment, despite having also concluded that the statute was content-neutral. According to the Court, the Government's desire to protect the flag ''is implicated only when the person's treatment of the flag communicates a message to others.'' Therefore, any flag desecration statute, by definition, will be related to the suppression of free speech, and, thus, run afoul of the first amendment.

Prohibiting physical desecration of the American flag is not inconsistent with first amendment principles. Until the Johnson and Eichman cases, punishing flag desecration had been viewed as compatible with both the letter and spirit of the first amendment, and both Thomas Jefferson and James Madison strongly supported government actions to prohibit flag desecration.

The first amendment does not grant individuals an unlimited right to engage in any form of desired conduct. Urinating in public or parading through the streets naked may both be done by a person hoping to communicate a message; yet both are examples of illegal conduct during which political debate or a robust exchange occurs.

□ 1245

As a result of the Court's misguided conclusions in Johnson and Eichman, however, flag desecration, or what Justice Rehnquist described as a ''grunt,'' now receives first amendment protection similar to that of the pure political speech that the first amendment speech clause was created to enhance.

In the years since the Johnson and Eichman rulings were handed down, 49 States have passed resolutions calling upon Congress to pass a constitutional amendment to protect the flag and send it back to the States for ratification. Although a constitutional amendment should only be approached after much reflection, the Supreme Court's conclusions in Johnson and Eichman have left the American people with no other alternative but to amend the Constitution to provide Congress the authority to prohibit the physical desecration of the American flag.

In a compelling dissent from the Johnson majority's conclusion, Chief Justice Rehnquist, joined by Justices O'Connor and White stated: ''The American flag, then, throughout more than 200 years of our history, has come to be the visible symbol embodying our Nation. It does not represent the views of any particular political party, and it does not represent any particular political philosophy. The flag is not simply another 'idea' or 'point of view' competing for recognition in the marketplace of ideas. Millions and millions of Americans regard it with almost mystical reverence, regardless of what sort of social, political, or philosophical beliefs they may have.''

Mr. Speaker, this proposed amendment is bipartisan legislation supported by Americans from all walks of life because they know the importance of this cherished national symbol. I urge my colleagues to support this important constitutional amendment.

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

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

Mr. Speaker, if one does not have much to do today, this is a great way to spend the afternoon, discussing for the fifth time whether the Congress should amend the Constitution with reference to flag desecration. Now, the answer has been ''no'' all of these other times. So I ask the House rhetorically, why does not the other body take this measure up first, for once, instead of us? Is there some protocol not known to the ranking member of the committee? There are many other things that could be done in the interest of furthering the democratic spirit of the United States.

Now, on behalf of everybody in the House, I would like to be the first to assert the boilerplate language so that my colleagues will not all have to repeat it again. I deplore desecration of the flag in any form, but I am strongly

opposed to this resolution because it goes against the ideals and elevates a symbol of freedom over freedom itself.

I would like unanimous consent to say that for everybody that is going to want to say that, to make sure that everybody understands that those who oppose this measure are patriotic and are not by implication, direct or otherwise, supporting any kind of desecration of the flag. We do not do that. That is not what we are here for.

So that leaves two other points to be made, the same ones made before. The first is Justice Oliver Wendell Holmes. This is 1929: ''The Constitution protects not only freedom for the thought and expression we agree with, but freedom for the thought we hate.'' Okay, got that? All right. That is five times in my career that we go through this.

Then the final point that should be made is that, in 1989, the Supreme Court said that all the State laws in the country banning flag-burning and making it illegal are themselves illegal. Then the Congress tried to do it. And the Supreme Court, not the most progressive part of the Federal system, said, no, you cannot do it, Congress.

And now, for the fifth time, we do not even agree on it ourselves. We do not want to do it. Basically, the legislative body of the United States of America does not want to make an amendment to our Constitution appropriate to accomplish what State laws tried and what Justice Oliver Wendell Holmes talked about, and many others.

In effect, what we are trying to do is not to punish those who feel differently about these matters. The better course is to persuade them that they are wrong. We can imagine no more appropriate response to burning a flag than waving our own flag; no way to counter a flag-burner's message than by saluting the flag. We do not consecrate the flag by punishing its desecration because, in doing so, we dilute the freedom that this cherished emblem represents.

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

Mr. SENSENBRENNER. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. CUNNINGHAM), the principal author of this very important resolution.

Mr. CUNNINGHAM. Mr. Speaker, I do not believe that the primary threat to our country comes from a bomb, or hostile nation. I do believe that the threat to this Nation comes from within, from those that would taint the values of this country of religion and our beliefs and our flag. Mr. Speaker, 23 nations, 23 civilizations have been destroyed from within for this very type and form of demagoguery; degradation of values.

Mr. Speaker, this is not political to us that support the flag. I have lists here of every single ethnic group in the United States, gender groups, children, senior citizens that support the amendment.

The other side just stated, there is not much to do today, if one wants to listen to this, to trivialize the event. To us, to every single veterans' group, to 80 percent of the American people, 49 States that had laws on the books was overruled of 200 years of history, 200 years of tradition, by a one-vote margin in our courts. Is it wrong because nine people in a 5 to 4 decision decided otherwise? Yes. That is why we are here today. We believe that it is wrong.

It is not hard to make this decision when one knows what their values are, and one cannot rule by ''but.'' People say, well, I deplore the burning of the American flag, but. It is not hard to make the decision when one knows their values and what they are by deed heart; mind.

I have in this folder literally hundreds of letters from third graders, from fourth graders, from fifth graders about what the flag means to them. This is more than just a piece of cloth. It is something that our children, our grandchildren, our grandparents have thought and talk about what it means to them. To watch somebody burn the American flag represents a destruction of those values, of those ideas and of those thoughts. That is why we are opposed to it.

I was witness to a young Hispanic that was protesting proposition 187. He was opposed to the proposition. But in his midst, there was a group of Hispanics that turned to burn the American flag. This young Hispanic grabbed the flag and protected it and was beaten by the group that was burning the American flag.

If we take a look at our Nation, every ethnic group stood behind this flag, every veterans' group. Mr. Speaker, 372 Members of this body, 372, voted for this amendment, and it will pass today. But yet, there is a group out there that would fight against it.

Mr. Speaker, if one has nothing more to do, watch us today? I hear that in disgust.

Mr. Speaker, as an example of what the flag means, I was overseas and there was a friend of mine that was a prisoner of war for 7 years. It took him 5 years to knit an American flag on the inside of his shirt, and he would share that flag with his comrades until the Vietnamese guards broke in, and they saw the POW without his shirt. They ripped the flag to pieces, and they threw it on the ground. They took him out, and they beat this POW for hours, and they brought him back, unconscious to the point where his comrades thought that he was not going to survive. His comrades comforted him as much as they could, and they went about their work. A few moments later, they saw this broken, bodied POW crawl to the center of the floor and watched him as he started gathering those bits of thread to knit another flag.

Mr. Speaker, we are not here just to waste time. This is what this country stands for, its flag, whether it is the right to be able to say a prayer, to honor our flag, or to honor our traditions.

Mr. CONYERS. Mr. Speaker, I hope that my distinguished friend from California, I hope that his moving plea is taken over to the other body, which every year turns back this work.

Mr. Speaker, I yield 4 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE), the distinguished ranking member of the subcommittee.

□ 1300

Ms. JACKSON-LEE of Texas. Mr. Speaker, I would say to my esteemed and honorable friend, the gentleman from California (Mr. CUNNINGHAM), his cause is extremely noble. I honor him as I honor those who have served in the United States military and those who sit as Americans with the privilege and freedom of pledging allegiance to the flag of the United States, a nation representing the freest persons in the world.

Humbly I say in debate that I love America and I love the flag. I come from a generation that required the pledge of allegiance every single morning, and through the process of the Committee on the Judiciary, I have come to understand the value of the Constitution of the United States and the privileges that are given.

Might I say that I also stand here as an American who did not come to this Nation free. I realize the importance of changing laws, for this Constitution declared me as three-fifths of a person, and the early history of this flag had slavery.

In spite of all of that, in a tumultuous civil rights movement, I can frankly say, I love America. But I am warned and cautious about what America stands for. I believe that America stands for freedom of expression, freedom of choices, freedom of the ability to express one's religion, and, as well, to express one's opposition.

In the last 20 years, I do not think any one of us could count a time that we have seen a flag-burning. I would simply say that the very moving story of my colleague suggested that, in fact, there might be question as to whether or not desecrating a flag includes sewing it into one's pocket.

This Constitution and the symbol of the flag represents who we are as a nation. The flag is a symbol. This legislation which would require, an amendment to the Constitution of the United States counter what our Constitution stands for. If we just think about it, it counters what the flag stands for freedom and justice.

Let me read very briefly the words of a veteran, a constituent of mine who

writes to urge us to oppose House Joint Resolution 36, the proposed constitutional amendment to outlaw desecration of the United States flag.

He agrees with other veterans, such as General Colin Powell and Senator John Glenn, that ''. . . such legislation is an unnecessary intrusion and a threat to the rights and liberties I chose to defend during my military service. Those who favor the proposed amendment say they do so in honor of the flag, but in proposing to unravel the first amendment, they desecrate what the flag represents and what I swore to defend and risked dying for when I took my military oath of office, the Constitution and the principles of liberty and freedom.''

Mr. Speaker, that is why I am here on the floor of the House, not to desecrate the flag or disrespect it, but to defend the principles of liberty and freedom. Do we need language to tell us how cherished and precious our flag is? Do we need to deny someone else their right to the opposition?

I am reminded of the tenets of Christianity. It is not by the word we speak, but by our deeds. And if, in fact, our deeds are honoring the flag of the United States, then it will counter those deeds of someone else who we believe dishonors that flag, because we have the right to express our freedom and our beliefs, and they likewise have the right to express theirs.

I call upon this Congress, though I know this House has repeatedly voted three or four times on this particular resolution and it has not prevailed, but the Supreme Court, with which I have agreed and disagreed, twice has said the rules to eliminate the desecration of the symbol of the flag take away the rights under this Constitution and the principles we hold so dear.

I would much rather defend, if I was given the privilege, the gentleman's right to speak in opposition to me, as opposed to upholding a cloth which I believe stands brightly and boldly on its own without intrusion by legislation which denies the privilege of the rights of freedom and dignity.

I submit for the RECORD the letter to which I referred earlier, as follows:

HOUSTON, TX,
June 6, 2001.

Hon. SHEILA JACKSON LEE,
Cannon House Office Building, House of Representatives, Washington, DC.

REPRESENTATIVE JACKSON LEE: As your constituent, I strongly urge you to oppose HJ Res. 36/SJ Res. 7, the proposed constitutional amendment to outlaw desecration of the United States flag. I agree with other veterans such as General Colin Powell and Senator John Glenn that such legislation is an unnecessary intrusion and a threat to the rights and liberties I chose to defend during my military service. Those who favor the proposed amendment say they do so in honor of the flag. But in proposing to unravel the First Amendment, they desecrate what the flag represents, and what I swore to defend—and risked dying for—when I took my military oath of office: the Constitution and its principles of liberty and freedom.

While flag burning is rare, it can be a powerful and important form of speech. As a patriotic American, I may be deeply troubled by the content of this political speech.

However, it is a far worse crime against this country and dishonors veterans that Congress annually attempts to take away our right to freedom of expression.

Again, I urge you to oppose HJ Res. 36/SJ Res. 7. Of the gallant Americans who fought and died in the service of our country within the last 200 years, I tell you this: They did not die defending the flag. They died defending our freedom and the ideals upon which our country was founded. Don't cheapen their sacrifice by supporting this misguided amendment.

I look forward to hearing your thoughts on this proposed constitutional amendment.

Respectfully,

CHARLES A. SPAIN, Jr.

Mr. Speaker, I rise, once again, in opposition to this amendment to the Constitution to prohibit physical desecration of the flag of the United States because it is unnecessary and is a flagrant chilling of free speech protected by the First Amendment.

Supporters of this constitutional amendment are responding to the 1989 and 1990 Supreme Court decisions that struck down state and federal statutes that barred flag desecration on constitutional grounds that they chilled our First Amendment right to free speech and expression. The Court was right then, and we should follow its example today.

Mr. Speaker, make no mistake about it: this amendment compromises the Bill of Rights, which is fundamental to our freedom of speech and expression. These are, perhaps, our most basic tenets and pillars of our American democratic system.

In *West Virginia Board of Education* v. *Barnette,* 319 U.S. 624 (1943), esteemed Justice Jackson wrote the following warning for those in government who would seek to force their thoughts upon the citizenry: ''If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion or other matters of opinion or force citizens to confess by word or act their faith therein.'' Id., at 642. The resolution on the floor today amends the Bill of Rights for the first time in 210 years, and would set a dangerous precedent by opening the floodgates for the restructuring of our democracy by eroding the basic tenets of freedom and liberty that define our Nation.

Furthermore, this amendment would open the door to excessive litigation because the wording is vague on its face. For example, the amendment fails to define ''flag'' and ''desecration'' which are at the very heart of the amendment. These alone are reason enough to strike down the amendment on vagueness grounds.

Supporters of this amendment to constrain speech and dissent based on its content have read *United States* v. *Eichman,* 496 U.S. 310 (1990), as meaning that sweepingly general language is somehow less of an affront to free speech than specific prohibitions like those in the repealed ''Flag Protection Act of 1989.'' The opposite is true: the amendment is overbroad, giving Congress the power to criminalize political and expressive acts of speech and expression that fall short of flag burning. Thus, the amendment we discuss today will result in a sweeping abridgment of the whole Bill of Rights. This body cannot be responsible for such a reckless act.

Mr. Speaker, I believe that our flag is a symbol of our freedom, our liberty, and our system of justice. I personally find flag burning and desecration to be offensive and disgraceful. But I stand with the Supreme Court in my belief such conduct falls within the scope of the First Amendment, the lynchpin of our democracy. So while it hurts to watch a few individuals who publicly desecrate our flag, the fact that we allow such speech is what makes us free and what makes us great as a nation.

If we are truly concerned about honoring the flag and the millions of Americans who have fought under it for the freedom that it represents, we must, above all else, protect the Constitution and the Bill of Rights, and oppose such efforts to diminish the historical precedent that they represent. As one of our nation's greatest patriots, Colin Powell, recently stated about this amendment, ''I would not amend that great shield of democracy to hammer a few miscreants. The flag will be flying proudly long after they have slunk away.''

Mr. Speaker, our flag is a symbol of our freedom, not freedom itself. I encourage my colleagues to avoid the unwise path of unnecessarily amending the Constitution, and I urge them to vote ''no'' on H.J. Res. 36.

Mr. SENSENBRENNER. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. CHABOT), the chairman of the Subcommittee on the Constitution.

Mr. CHABOT. Mr. Speaker, I thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for his leadership in pushing for this amendment to be argued and debated today on the floor of the House.

I also want to thank the principal sponsor of this constitutional amendment, the gentleman from California (Mr. CUNNINGHAM), who spoke with such emotion and so eloquently just a few moments ago. No one is more qualified in actually putting his life on the line for his country than the gentleman from California (Mr. CUNNINGHAM). I want to thank him for that.

The flag is the most powerful symbol of the ideals upon which America was founded. It is a national asset that helps to protect and preserve our unity, our freedom, and our liberty as Americans.

As our country has grown and welcomed those from diverse religious and cultural backgrounds, the flag's power to unify our Nation has become even more evident, bringing together all Americans, young and old, to champion those principles upon which this country was built, principles for which our servicemen and women have fought and died, and principles that have moved so many individuals throughout history to leave their homes and families and travel to America to build a new life. A

symbol that binds a nation together, as our flag does, already fulfills a unique role in our democratic process.

Since 1994, however, there have been at least 86 reported incidences of flag desecration. These incidences have occurred in 29 States. They have occurred here in the District of Columbia. They have occurred in Puerto Rico. Since the U.S. Supreme Court ruled in Texas v. Johnson that burning an American flag as part of a political demonstration was expressive conduct protected by the first amendment to the United States Constitution, the States have been powerless to prevent the physical desecration of this most valued symbol.

In response to Johnson in September, 1989, Congress overwhelmingly passed the Flag Protection Act of 1989, which amended the Federal Flag Statute to focus exclusively on the conduct of the act, irrespective of any expressive message he or she might be intending to convey.

Later that year, however, in another five to four ruling in the U.S. Supreme Court, United States v. Eichman, they struck down that act as an infringement of expressive conduct protected by the first amendment.

Because of the Johnson and Eichman decisions, the only remedy left to Congress to protect the flag from acts of desecration is a constitutional amendment. Many would argue that we should not amend the Constitution for this purpose. This is the only way that we can protect the flag.

The amendment before the House would restore to Congress the authority to prohibit the physical desecration of the flag. The amendment, as the chairman stated, itself does not prohibit flag desecration. It merely empowers Congress to enact legislation to prohibit the physical desecration of the flag, and establishes boundaries within which it may legislate. Work on a statute will come at a later date, after the amendment is ratified by three-fourths of the States.

Vigilant protection of freedom of speech and, in particular, political speech is central to our political system. Until the Johnson and Eichman cases, however, punishing flag desecration had been viewed as compatible with both the letter and the spirit of the first amendment.

The first amendment freedoms do not extend and should not be extended to grant an individual an unlimited right to engage in any form of desired conduct under the cloak of free expression. Both State and Federal criminal codes are full of examples of conduct that is prohibited in our country, regardless of whether it is cloaked in the first amendment.

Furthermore, obscenity laws, libel and slander laws, copyright laws, and even perjury laws, they all reflect the fact that some forms of expression and sometimes even the content of that expression may be regulated and even prohibited without violating the first amendment.

We cannot burn our draft cards. We cannot burn money. There are many acts we cannot perform. The flag protection amendment simply reflects society's interest in maintaining the flag as a national symbol by protecting it from acts of physical desecration. It will not interfere with an individual's ability to express his or her ideas, whatever they may be, by any other means.

This amendment has been approved by this Chamber twice and enjoys the support of a supermajority of the House of Representatives. It is supported by a majority of the United States Senators and 49 out of 50 State legislatures, which have passed resolutions calling on Congress to pass the amendment and send it back to the States for ratification.

Perhaps, most importantly, the amendment is supported by an overwhelming majority of the American people. It is time for Congress to answer their calls to preserve and protect the one symbol that embodies all that our Nation represents.

For the veterans who risked their lives for our country and our freedoms, for our children who view our flag with admiration and devotion, and for every American who believes that our flag deserves protection, I urge my colleagues to support this important amendment.

Mr. CONYERS. Mr. Speaker, I am pleased to yield such time as she may consume to the gentlewoman from California (Ms. LOFGREN), an able member of the Committee on the Judiciary.

Ms. LOFGREN. Mr. Speaker, I think all of us have had this experience walking into the Capitol, especially at night when we are in session, and we see our beautiful American flag flying over the Capitol of the freest country in the world, and it is so moving it is almost hard to keep walking by.

I think no matter where one comes down on this amendment, there is not a single Member of Congress who thinks it is good or right to deface or in any way dishonor the flag of the United States. If we felt that, we would not be elected to Congress. We would not be here serving the Nation in the freest legislative body in the world.

Every day, we start our legislative session with these words: ''I pledge allegiance to the flag of the United States of America and to the Republic, for which it stands, one Nation, under God, with liberty and justice for all.''

The flag stands for something. It stands for the freest country in the world. Our country is free for a lot of reasons. It is free because brave men and women went out and heard the call to protect us, to take up arms, and to protect us over the decades and centuries when our country was attacked by those who would not allow us to have our freedom.

But we are also free because we live under the rule of law. One of the most important aspects of that is the first amendment. Let me just refresh our memory on what the first amendment says.

It says: ''Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press or of the right of the people peaceably to assemble and to petition the government for a redress of grievances.''

The Supreme Court, which has been the interpreter of our Constitution since the beginning of our Republic, has said that destruction or wrongdoing towards our flag is protected by the first amendment. These are not liberal, wild-eyed justices, but Justice Scalia, probably the most conservative member of the Supreme Court, signed the opinion saying that flag-burning is protected by the first amendment.

All of us, when we became Members of this body, took an oath of office. We said: ''I do solemnly swear that I will support and defend the Constitution of the United States against all enemies, foreign and in this case domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office in which I am about to enter,'' and then we say, ''so help me God.''

I am not going to turn my back on the Constitution today.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. TRAFICANT).

Mr. TRAFICANT. Mr. Speaker, the Old Glory Condom Corporation lost the decision. They were not allowed to sell red, white, and blue condoms, so they appealed. They said their red, white, and blue condoms were a patriotic symbol, and, yes, Members guessed it, the U.S. Trademark Office of Appeals agreed. The panel said the Old Glory condom is not unconstitutional. One can wear it.

If that is not enough to constipate our veterans, two men from Columbus, Ohio, were recently charged with burning a gay pride flag during a parade. Think about it. It is illegal to burn leaves and trash in America. It is illegal to damage a mailbox. Now it is illegal to burn a gay pride flag. And it is completely legal and patriotic to wear a red, white, and blue condom.

Beam me up, Mr. Speaker. I think if American citizens want to make a political statement, they should burn their brassieres, burn their boxer shorts, but leave Old Glory alone, period.

I support this resolution. It is about time. A people that do not honor and respect their flag do not honor and respect their neighbors nor their country. This is more than about a flag. The gentlewoman from California is right, we pledge allegiance to the flag and to the Nation for which the flag stands; the flag, which our veterans carried in the war, those who were shot down, only to have it picked up by somebody else, surely to be shot down again. It should not be treated like an Old Glory condom.

□ 1315

I also urge this House to take up H.R. 2242 that would make June 14, Flag Day, a national holiday. I think the flag should be set apart, and it is certainly not going to violate anybody's first amendment rights to do so.

Mr. CONYERS. Mr. Speaker, I am pleased to yield such time as he may consume to the gentleman from Massachusetts (Mr. FRANK), a senior member of the Committee on the Judiciary.

Mr. FRANK. Mr. Speaker, the remarks of the gentleman from Ohio give us a chance to deal with the common misapprehension and misunderstanding that somehow we have more rights to burn a flag than we have to burn other things. That simply is not true; and indeed, presumably the person who burned a gay pride flag had burned someone else's gay pride flag. It is entirely legal, I am sure, for someone to burn their own gay pride flag. It is not legal to burn someone else's flag. If, in fact, we burn someone else's American flag, we are guilty of theft, destruction of property, vandalism; and that, of course, can be punished.

We had an incident described where someone disrupted the funeral of a man who had been shot by a police officer and burned a flag. That was a violation of law on many counts. So we are not here advocating a policy whereby we can burn a flag when we cannot burn anything else. Yes, there are many cities and States and communities that have laws against burning in certain seasons. No, the flag is not an exemption to that. So let us put that to rest. It is not a case where we have more protection to burn other things. Any law against vandalism, disturbing the peace, theft, destruction of someone else's property, that applies whether it is a flag or anything else.

What we are opposed to, those who oppose this amendment, is the notion that because some people seek to express views that almost all of us find terribly obnoxious, in the most offensive possible way, namely, by burning a flag, that we should make it illegal. And here is why: first, this takes what I would have thought was a very unconservative position. It takes a very expansive view of government. What it says is, that which the Government does not prohibit it condones.

We are told that if we do not make it illegal for people to burn the flag, we are somehow allowing that and maybe even showing it is okay. No, I hope we live in a society in which we make laws to protect people from being interfered with by others; but we do not take the view that whatever the Government does not outlaw, it is somehow condoning. That is an extraordinarily expansive view of government that would erode liberty. So we ought to be clear that the absence of a law that says something is illegal is in no sense an approval of it.

People who say, yes, but still this is so offensive, burning a flag, desecrating a flag to express oneself, that we have to make it illegal. Okay, this is then the theory. The theory is that if we do not make it illegal to destroy or desecrate a particular symbol, we are devaluing that symbol. The problem with that is that it does not go far enough. The flag is a very dear symbol to many Americans; perhaps to most it is the most important symbol. But are there not people in this society who we admire because they think some other symbol is more important? What about religious symbols? Must people be told in their hierarchy of symbolic value that State comes above church; that the embodiment of the Government somehow is entitled to more protection than the embodiment of their religious faith?

The Supreme Court did not just say we could burn a flag; it said also that we could burn a cross. There was a Supreme Court decision in which a conviction was overturned of someone who burned a cross. Now, once again, it had better have been his cross on his property. We cannot go burning someone else's cross. But the Supreme Court said the symbolic act of burning a cross is constitutionally protected.

What we will do today if we ratify this amendment, or send it for ratification, is to say we will protect the American flag but not the cross. Because once we have put forward the principle that, if the Government thinks something is terrible it should outlaw it, then what do we say to people who think it is terrible to burn a cross? The cross is a symbol of a powerful religion, a religion that has, undoubtedly, had more impact on humanity than any other; and people who burn it are turning this profound religious symbol of all of man's best instincts, of man's tribute to the best in the universe, people are turning it into a symbol of racism, because the burning of the cross has become associated with racism.

Now, the Supreme Court said that is okay. Do those of us who support that decision think it is okay? No, we think it is despicable. But we think it is a mark of a free society that despicable people are allowed to express themselves in despicable ways, as long as they have not taken anybody else's property or otherwise injured anybody. We do not simply punish expression. But for those who want to ratify this amendment, do we now get an amendment that overturns the decision that says it is okay to burn a cross? Or do we say that we, the Government of the United States, protect the flag because that is a symbol of our Nationhood, but the cross, that symbol of some of the most profound values human beings are capable of conceiving, it is okay to burn that? It is not only okay to burn that, it is okay to take that wonderful symbol and turn it into a reminder of the worst aspect of American history: racism.

So that is what we are dealing with today. We have a choice of saying that we will continue the situation in which we believe in limited government, in which government intervenes when one individual's rights are threatened by another, in which we protect private property and we prevent disruption of the peace, but in which we say if some individual, choosing to be as vile as can be and give offense by his or her means of expression, chooses to burn his or her own flag on his or her own property, that we are going to penalize that criminally. But if that individual decides to burn a cross to symbolize racism, if that individual decides to destroy or deface any other symbol, no matter how profound, that is okay.

It seems to me that leaves us in an untenable position. Because either we believe that what an individual does to express himself or herself is not a matter for the law, or we say we value this one symbol but we devalue all the others. I think we are better off as a society letting people express themselves as freely as possible and having the rest of us argue against it. The alternative is to set the principle that if the Government does not outlaw something, it is somehow condoning it. And if it does not outlaw the desecration of a particular symbol, it somehow devalues that symbol.

I think that will do more damage because it will leave more valuable symbols in fact devalued by being excluded from this new form of protection. So I hope the amendment is defeated.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. BACA).

Mr. BACA. Mr. Speaker, I stand in support of H.R. 36, to give Congress the power to outlaw flag burning.

As a veteran, this issue is very important and close to my heart. As we look at it not only as a veteran but as we look at what has been said right now, people have talked about the constitutional amendment dealing with expression, freedom of expression, the right to liberty. We also have the right to interpret, when we look at the Constitution, to examine what our forefathers, who wrote the legislation

sometime ago, actually meant. And sometimes there is time for a change, and this is a time for a change that we have to realize.

As a symbol, many of our veterans have fought for our country. Because of the sacrifices they have made, we enjoy peace and freedom today. Because of that symbol many individuals have died. When we look at someone who has been buried and the flag is turned over to the family, it is that symbol that is turned over. When I turn around and look at the flag behind me, it is that symbol I salute. When I attend a service, it is that symbol I salute. When I see the changing of the colors, it is that symbol, it is what America is. It is what this country was founded on.

To everyone who has fought for us, from the beginning to now, in each and every one of our wars, it is a form of expression. It is one we should have. We should never ever desecrate the flag.

When we look at many of the veterans that are willing to sacrifice and stand up and fight for us, what have they done? Are we going to say that they have gone out and fought in every war and that we do not realize there is a symbol? When someone fell with that flag and someone else picked it up and they charged, why did they do that? Because it is a symbol of freedom, freedom of expression for our area.

We must stand up and protect the flag. And let me tell my colleagues, anyone who desecrates the flag, shame on us, shame on them. It is time for a change. We have to make the change to protect what America was built on; those freedoms that are very important to us. That flag is part of that freedom and that symbol and represents every American, every individual in this country.

Mr. CONYERS. Mr. Speaker, I am pleased to yield such time as he may consume to the gentleman from New York (Mr. NADLER), the ranking member on the Subcommittee on the Constitution of the Committee on the Judiciary.

Mr. NADLER. Mr. Speaker, I rise in opposition to this misguided constitutional amendment and urge my colleagues to vote against it.

We are faced today with a choice that will be, for many Members of this body, a difficult one. The choice, put simply, is between a symbol, a revered symbol, and the fundamental values it represents. The flag of the United States is a symbol. It is a symbol that has the power to move people deeply. When we see the picture of the flag being raised by the Marines over Mt. Suribachi or when we see it draped over a casket or when we see it being carried in the streets as a symbol of the fight for social justice, as it was by Dr. King and so many other courageous individuals over the years who fought to ensure that America would one day live up to its promise, it is hard not to be moved.

Indeed, Mr. Speaker, as we stand here today debating what would be the very first amendment to the Bill of Rights, I feel humbled to look at the flag hanging behind you in this Chamber and know that a very heavy responsibility weighs on every Member of this House.

We have heard and will hear many moving arguments about the sacrifices made for the flag, of the people who died for the flag, the soldiers, of the importance of the flag to so many Americans. But the real significance of the flag is those important values, the fundamental freedoms, and the way of life it represents. That is why so many have sacrificed so much. Not for the peace of colored cloth, but for those values. And we dishonor their sacrifice, we ensure that those sacrifices were made in vain if we now start down the road to undermine the freedoms the flag represents, allegedly to protect the flag.

Let us not revere the symbol over what it represents. Let us not render our flag a hollow symbol. It has been said that the sin of idolatry is the sin of elevating the symbol over the substance. The substance we are talking about is liberty and freedom of expression. It is that that we must protect, and it is that which this amendment jeopardizes.

Mr. Speaker, veterans, General Colin Powell, religious leaders, and many other Americans understand how important our freedom of expression really is, even if that expression is sometimes politically unpopular, even if it may offend people, even if it makes people angry, even if it costs votes. If those who came before us were willing to place their lives, their fortunes, and their sacred honor for those freedoms, I think we can risk some votes to secure their continuance.

We have debated this amendment many times. We all know the arguments. It might be easy to trivialize the question we have debated so many times, but this is serious business because we are talking about amending the first amendment, the queen of the amendments that have protected our freedoms since the beginning of our Nation.

If any Member has any doubts about whether this amendment is about protecting the flag or is really about constraining freedom of expression, they should ask themselves, what is the difference between burning an old tattered flag, which U.S. law and the American Legion tell us is the appropriate, respectful way to dispose of a flag, and burning it at a protest rally? There is only one difference, and that is the opinion, the political opinion, the message being conveyed, and we are criminalizing the message.

We have all seen, I would assume everyone in this Chamber has watched movies over the years, and we have seen movies in which actors play enemy soldiers, Nazi soldiers, Chinese Communist soldiers in Korea; and during that movie they desecrate the American flag, they tear it to bits or trample upon it or spit upon it or burn it. No one suggests we ought to arrest the actors. No one suggests the actors have committed a crime because they are playing a role. The only crime this amendment seeks to create is not for those actors to destroy the flag in some future movie, it is for someone to burn the flag or otherwise disrespect it in the course of a political protest.

That is why the Supreme Court, quite rightly, said we cannot make that illegal because it is the core political speech that we would be making illegal. It is not the flag at issue; it is the opinion being expressed.

Do my colleagues know current Federal law makes it a crime to use the flag in advertising, including political advertising? That is current law because Congress thought it was disrespectful to use the flag in advertisements. If this amendment passes, that law will be enforceable. Now it is not because it is unconstitutional. Yet I would venture to say that most Members of this Congress have violated that law by using the flag in political ads. Is it the intent of the sponsors to crack down on that form of flag desecration?

Mr. Speaker, our freedoms are more important than any one individual who wants to make a point by burning a flag. Our country has survived those few individuals who want to burn the flag.

□ 1330

Our country will rise above it in the future.

The real damage to the flag is that too many people may be willing to desecrate our Bill of Rights to make a political point. That is something that will be very hard for this Nation to rise above, and that is why this amendment must be defeated.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Speaker, I rise today to pledge my enthusiastic support for the flag protection amendment. I will be darned if I am going to accept the technicalities that we talk about and we have heard this afternoon.

I know the law is technical, but we are bogged down in technicalities. There is a breeze, a gentle breeze going through these Chambers today. Seven hundred thousand brave men and women gave their lives since the beginning of this Republic. We ought to seize back the responsibilities given to us by the voters. We should never kowtow to any other branch of government, regardless of their decision.

The Supreme Court is not absolute. Only God is absolute on any decision. The fact that we quote Justice Scalia

makes me stronger in my conviction that we must pass this.

This is not just any other symbol to my colleagues and brothers. I am sorry. This is not just any other symbol. This is the symbol of democracy, Mr. Speaker. We are here to uphold that symbol. I am proud to stand with those who support this resolution.

Mr. CONYERS. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Arkansas (Mr. SNYDER).

Mr. SNYDER. Mr. Speaker, at the end of this month I have a law review article coming out in a University of Arkansas at Little Rock Law Review on the congressional oath of office. It is a rambling discussion probably guaranteed to put the reader to sleep, but it pulls together some of the history of the Congressional oath of office. I intend to distribute it to all Members next month and seek out their thoughts and criticisms.

In the course of that research, I ran across some vignettes from history that I think are relevant to this debate today. Let me share with you some news stories taken from the New York Times in years of great strife worldwide.

The first one I would like to read is from April 7, 1917. Headline: Diners Resent Slight to the Anthem. Attack a Man and Two Women Who Refuse to Stand When It Is Played.

There was much excitement in the main dining room at Rector's last night following the playing of the ''Star Spangled Banner.'' Frederick S. Boyd, a former reporter on the New York Call, a Socialist newspaper, was dining with Miss Jessie Ashley and Miss May R. Towle, both lawyers and suffragists.

The three alone of those in the room remained seated. There were quiet, then loud and vehement protests, but they kept their chairs. The angry diners surrounded Boyd and the two women and blows were struck back and forth, the women fighting valiantly to defend Boyd. He cried out he was an Englishman and did not have to get up, but the crowd would not listen to explanation.

Boyd was beaten severely when Albert Dasburg, a head waiter, succeeded in reaching his side. Other waiters closed in and the fray was stopped. The guests insisted upon the ejection of Boyd and his companions, and they were asked to leave. They refused to do so and they were escorted to the street and turned over to a policeman who took Boyd to the West 47th Street Station, charged with disorderly conduct.

Before Magistrate Corrigan in Night Court Boyd repeated that he did not have to rise at the playing of the national anthem, but the court told him that while there was no legal obligation, it was neither prudent nor courteous not to do so in these tense times. Boyd was found guilty of disorderly conduct and was released on suspended sentence.

Another one, July 2, 1917. Headline: Boston ''Peace'' Parade Mobbed. Soldiers and Sailors Break Up Socialist Demonstration and Rescue Flag. Socialist Headquarters Ransacked and Contents Burned, Many Arrests for Fighting.

Riotous scenes attended a Socialist parade today which was announced as a peace demonstration. The ranks of the marchers were broke up by self-organized squads of uniformed soldiers and sailors, red flags and banners bearing socialistic mottos were trampled on, and literature and furnishings in the Socialist headquarters in Park Square were thrown into the street and burned.

At Scollay Square there was a similar scene. The American flag at the head of the line was seized by the attacking party, and the band, which had been playing ''The Marseillaise,'' with some interruptions, was forced to play ''The Star Spangled Banner,'' while cheers were given for the flag.

From April 5, 1912. Headline: Forced to Kiss the Flag. 100 Anarchists Are Then Driven from San Diego.

Nearly 100 industrial workers of the world, all of whom admitted they were anarchists, knelt on the ground and kissed the folds of an American flag at dawn today near San Onofre, a small settlement a short distance this side of the Orange County boundary line.

The ceremony, which was most unwillingly performed, was witnessed by 45 deputy constables and a large body of armed citizens of San Diego.

And the last one from March 26, 1918: Pro-Germans Mobbed in Middle West. Disturbances Start in Ohio and are Renewed in Illinois, Woman Among Victims.

Five businessmen of Delphos, a German settlement in western Allen County near here, accused of pro-Germanism, were hunted out by a volunteer vigilance committee of 400 men and 50 women of the town, taken into a brilliantly lighted downtown street and forced to kiss the American flag tonight under pain of being hanged from nearby telephone poles.

What do these stories have to do with this very important and heartfelt debate today so ably conducted by the chairman and ranking member?

The decision we make today, it seems to me, is a balancing, a weighing, of what best preserves freedom for Americans. There may well be a decrease in public deliberate incidents of flag desecration, acts that we all deplore, if this amendment becomes part of our Constitution, although they are already quite rare.

On the other side of the ledger, if this amendment becomes part of our Constitution, in my opinion it will become a constitutionally sanctioned tool for the majority to tyrannize the minority. As evidenced by these anecdotes from a time of great divisiveness in our Nation's history, a time much different from today, government, which ultimately is human beings with all of our strengths and weaknesses, will use this amendment to question the patriotism of vocal minorities, will use it to find excuses to legally attack demonstrations which utilize the flag in an otherwise appropriate manner, except for the fact that the flag is carried by those speaking for an unpopular minority.

Mr. Speaker, I do not think our Constitution will be improved nor our freedoms protected by placing within it enhanced opportunity for minority views to be legally attacked ostensibly because of their misuse of the flag, but in reality because of views that many consider out of the mainstream.

Mr. Speaker, I urge a ''no'' vote on this proposed amendment and for the same reasons a ''no'' vote on the substitute.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Mississippi (Mr. SHOWS).

Mr. SHOWS. Mr. Speaker, I rise today in support of House Joint Resolution 36, which would outlaw the physical desecration of the American flag.

Our flag represents the cherished freedoms Americans enjoy to the envy of other Nations. To our Nation's veterans and military retirees, it is a constant reminder of the ultimate sacrifice they have made. Destroying our flag is an affront to all Americans, but to veterans and military retirees it is much more than that. Our veterans and military retirees have put their lives on the line for our country, and the American flag is one thing they can hold and say, ''This is what I have defended with my life.''

My father was a prisoner of war in World War II, captured at the Battle of the Bulge. He fought to protect our democratic freedoms. If I did not vote for this resolution today, he would whip me, and I am 54 years old.

Mr. Speaker, he did not fight to let Americans destroy the very symbol of their very freedoms that he was willing to die for. Destroying the flag is tantamount to physically assaulting those heroes who would lay down their lives for their country. It is against the law for one American to assault another, and so should it be against the law for one American to assault an entire class of American heroes.

Mr. Speaker, we need to honor America's heroes and pass the resolution.

Mr. CONYERS. Mr. Speaker, I yield 8 minutes to the gentleman from New York (Mr. ACKERMAN).

Mr. ACKERMAN. Mr. Speaker, the Founding Fathers must be very puzzled looking down on us today. Instead of seeing us dealing with the very real challenges that face our Nation, they see us laboring again under this compulsion to amend the document that

underpins our democracy. They see a house of dwarfs trying to give this government a great new power at the expense of the people and, for the first time, to stifle dissenters and the way in which they dissent.

The threat must be great, they must be saying, to justify changing the Bill of Rights for the first time and decreasing rather than increasing the rights of the people. They see our beloved Bill of Rights being eroded into the Bill of Rights and Restrictions.

What is the threat? What is the threat, Mr. Speaker? I ask again, what is the threat? Is our democracy at risk? What is the crisis to the Republic? What is the challenge to our way of life? Where is our belief system being threatened? Are people jumping from behind parked cars, waving burning flags at us, trying to prevent us from getting to work and causing America to grind to a halt?

Mr. Speaker, do we really believe that we are under such a siege because of a few lose cannons? Do we need to change our Constitution to save our democracy, or are we simply offended?

The real threat to our society is not the occasional burning of a flag, but the permanent banning of the burners. The real threat is that some of us have now mistaken the flag for a religious icon to be worshipped as pagans would, rather than to be kept as the beloved symbol of our freedom that is to be cherished.

These rare but vile acts of desecration that have been cited by those who would propose changing our founding document do not threaten anybody. If a jerk burns a flag, America is not threatened. If a jerk burns a flag, democracy is not under siege. If a jerk burns a flag, freedom is not at risk and we are not threatened. My colleagues, we are offended; and to change our Constitution because someone offends us is in itself unconscionable.

Mr. Speaker, the courts have said that the flag stands for the right to burn the flag. The Nazis and the Fascists and the Imperial Japanese Army combined could not diminish the constitutional right of even one single American. Yet, in an act of cowardice, we are about to do what they could not.

Mr. Speaker, where are the patriots? Where are the patriots? Whatever happened to fighting to the death for the rights of someone with whom we disagree? We now choose, instead, to react by taking away the right to protest. Even a despicable low-life malcontent has a right to disagree, and he has the right to disagree in an obnoxious fashion if he wishes. That is the true test of free expression, and we are about to fail that test.

Real patriots choose freedom over symbolism. That is the ultimate contest between substance and form. Why does the flag need protecting? Is it an endangered species? Burning one flag or burning 1,000 flags does not endanger it. It is but a symbol. But change just one word of the Constitution of this great Nation, and it and we will never be the same.

We cannot destroy a symbol. Yes, people have burnt the flag, but, Mr. Speaker, it still exists. There it is, hanging right in back of us. It represents our beliefs.

Poets and patriots will tell us men have died for the flag, but that language itself is symbolic language. People do not die for symbols. They fight and they die for freedom. They fight and they die for democracy. They fight and they die for values. To fight and die for the flag is to fight and die for the cause in which we believe. Today some would have us change all of that.

We love and we honor and respect our flag for that which it represents. It is different from all other flags. I notice in the amendment that we do not make it illegal to burn someone else's flag in someone else's country, and that is because our flag is different.

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No, not because of the colors or the shape or the design. They mostly have stars and some have stripes and scores and dozens are red, white, and blue.

Our flag is unique because it represents our unique values. It represents tolerance for dissent. This country was founded by dissenters that others found obnoxious.

What is a dissenter? In this case it is a social protester who feels so strongly about an issue that he would stoop so low as to try to get under our skin, to try to rile us up to prove his point, and to have us react by making this great Nation less than it was.

How do we react? Dictators and dictatorships make political prisoners of those who burn their Nation's flags, not democracies. We tolerate dissent and dissenters, even the despicable dissenters.

What is the flag, Mr. Speaker? The American flag? Yes, it is a piece of cloth. It is red, it is white and blue. It has 50 stars and 13 stripes. But if we pass this amendment and desecrators decide to start a cottage industry and make flags with 55 stars and burn them, will we rush to the floor to amend the Constitution again?

If they add a stripe or two and set it ablaze, surely it would look like our flag, but is it? Do we rush in and count the stripes before we determine whether or not we are constitutionally offended? What if the stripes are orange instead of red? How do we interpret that? What mischief do we do here? If it is a full color, full-sized picture of a flag that they burn, is it a crime to desecrate a symbol of a symbol? What are we doing?

Our beloved flag represents this great Nation, Mr. Speaker. We love our flag because there is a republic for which it stands, made great by a Constitution that we have sworn to protect, a Constitution given to our care by giants and about to be nibbled to death by dwarfs.

Mr. Speaker, I call upon the patriots of the House to rise and to defend the Constitution, to resist the temptation to drape ourselves in the flag and to hold sacred the Bill of Rights. Defend our Constitution. I urge the defeat of this ill-conceived amendment.

Mr. SENSENBRENNER. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. HYDE), the distinguished former chairman of the Committee on the Judiciary.

Mr. HYDE. Mr. Speaker, I do not intend to ascribe cowardice or lack of patriotism to people who disagree with me, although I listened to the last speaker ask, where are the patriots? I could direct him to some. Try BOB STUMP who lied about his age so he could enlist in the Navy in World War II. There are plenty of patriots around. I have earned the right to stand here and debate this issue because I fought in combat in the South Pacific in World War II. I like to think I am almost as patriotic as the gentleman named ACKERMAN.

I heard rights, rights, rights. Not one word about responsibility. Responsibility. But that is part of this debate. This is a good debate. We ought to once in a while look at our core principles and see if there is anything that distinguishes us from the rest of the world.

We look around this Chamber and we see the splendid diversity of America. We see men and women whose great grandparents came from virtually every corner of the globe. What holds this democratic community together? A common commitment to certain moral norms. That is the foundation of our democratic experiment.

Human beings do not live by abstract ideas alone. Those ideas are embodied in symbols. And what is a symbol? A symbol is more than a sign. A sign conveys information. A symbol is much more richly textured. A symbol is material reality that makes a spiritual reality present among us. An octagonal piece of red metal on a street corner is a sign. The flag is a symbol. Vandalizing a No Parking sign is a misdemeanor, but burning the flag is a hate crime, because burning the flag is an expression of contempt for the moral unity of the American people that the flag symbolically makes present to us every day.

Why do we need this amendment now? Is there a rash of flag burning going on? Certainly not. But we live in a time of growing disunity. Our society is pulled apart by the powerful centrifugal force of racism, ethnicity, language, culture, gender, and religion. Diversity can be a source of strength, but disunity can be a source of peril. If

you stop and think, the world is torn by religious and ethnic divisions that make war and killing and death and terror the norm in so many countries: Ireland, the Middle East, the Balkans, Rwanda. Look around the globe and see what hate can do to drive fellow human beings apart.

This legislation makes a statement that needs to be made, that our flag is the transcendent symbol of all that America stands for and aspires to be and hence deserves special protection of the law.

We Americans share a moral unity expressed so profoundly in our country's birth certificate, the Declaration of Independence. ''We hold these truths to be self-evident,'' Jefferson wrote. The truth that all are equal before the law. We share that, across race, gender, religion. The truth that the right to life and liberty is inalienable and inviolable. The truth that government is intended to facilitate and not impede the people's pursuit of happiness.

Adherence to these truths is the foundation of civil society, of democratic culture in America.

And what is the symbol of our moral unity amidst our racial, ethnic, and religious diversity? Old Glory, the stars and stripes.

In seeking to provide constitutional protection for the flag, we are seeking to protect the moral unity that makes American democracy possible. We have spent the better part of the last 30 years telling each other, shouting to each other, all the things that divide us. It is time to start talking about the things that unite us, that make us all, together, Americans. The flag is the embodiment of the unity of the American people, a unity built on those ''self-evident'' truths on which the American experiment rests, the truths which are our Nation's claim to be a just society.

Let us take a step toward national reconciliation, and toward constitutional sanity, by adopting this amendment. The flag is our connection to the past and proclaims our hopes and aspirations for the future.

Too many Americans have marched behind it, too many have come home in a box covered by the flag, too many parents and widows have clutched the flag to their hearts as the last remembrance of their beloved to treat that flag with anything less than reverence and respect.

One hundred eighty-seven years ago during the British bombardment of Baltimore, Francis Scott Key looked toward Fort McHenry in the early dawn and asked his famous question. To his joy he saw our flag was still there. And how surprised he would be to learn our flag is even planted on the Moon.

But, most especially, it is planted in the hearts of every loyal American. Four Supreme Court justices agreed with us. A ton of professors agree with us. This is not a settled issue. Five to four Supreme Court justices come down on the side of the flag.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 4 minutes to the gentleman from Texas (Mr. PAUL).

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

Mr. Speaker, I do not think what we are doing here today is a contest between who is the most patriotic. I do not think that is it at all. Nobody here in the debate is unpatriotic. But I think the debate is possibly defining patriotism.

But I am concerned that we are going to do something here today that Castro did in Cuba for 40 years. There is a prohibition against flag burning in Cuba. And one of the very first things that Red China did when it took over Hong Kong was to pass an amendment similar to this, to make sure there is no desecration of the Red Chinese flag. That is some of the company that we are keeping if we pass this amendment.

A gentleman earlier on said that he fears more of what is happening from within our country than from without. I agree with that. But I also come down on the side that is saying that the threat of this amendment is a threat to me and, therefore, we should not be so anxious to do this. I do not think you can force patriotism.

I also agree with the former speaker who talked about responsibility. I agree it is about responsibility. But it also has something to do with rights. You cannot reject rights and say it is all responsibility and therefore we have to write another law. Responsibility implies a voluntary approach. You cannot achieve patriotism by authoritarianism, and that is what we are talking about here.

I think we all agree with respect to the flag and respect for our country. It is all in how we intend to do this. And also this idea about veterans, because you are a veteran that you have more wisdom. I do not think so. I am a veteran, but I disagree with other veterans. Keith Kruel, who was a past national commander of the American Legion had this to say:

''Our Nation was not founded on devotion to symbolic idols, but on principles, beliefs, and ideals expressed in the Constitution and its Bill of Rights. American veterans who have protected our banner in battle have not done so to protect a 'golden calf.' A patriot cannot be created by legislation.''

He was the national commander of the American Legion. So I am not less patriotic because I take this different position.

Another Member earlier mentioned that this could possibly be a property rights issue. I think it has something to do with the first amendment and freedom of expression. That certainly is important, but I think property rights are very important here. If you have your own flag and what you do with it, there should be some recognition of that. But the retort to that is, oh, no, the flag belongs to the country. The flag belongs to everybody. Not really. If you say that, you are a collectivist. That means you believe everybody owns everything. Who would manufacture the flags? Who would buy the flags? Who would take care of them? So there is an ownership. If the Federal Government owns a flag and you are on Federal property, even, without this amendment, you do not have the right to go and burn that flag. If you are causing civil disturbances, that is handled another way. But this whole idea that there could be a collective ownership of the flag, I think, is erroneous.

The first amendment, we must remember, is not there to protect noncontroversial speech. It is to do exactly the opposite. So, therefore, if you are looking for controversy protection it is found in the first amendment. But let me just look at the words of the amendment. Congress, more power to the Congress. Congress will get power, not the States. That is the opposite of everything we believe in or at least profess to believe in on this side of the aisle.

To prohibit. How do you prohibit something? You would need an army on every street corner in the country. You cannot possibly prevent flag burning. You can punish it but you cannot prohibit it. That word needs to be changed eventually if you ever think you are going to get this amendment passed.

Physical desecration. Physical, what does it mean? If one sits on it? Do you arrest them and put them in jail? Desecration is a word that was used for religious symbols. In other words, you are either going to lower the religious symbols to the state or you are going to uphold the state symbol to that of religion. So, therefore, the whole word of desecration is a word that was taken from religious symbols, not state symbols. Maybe it harks back to the time when the state and the church was one and the same.

I urge a ''no'' vote on this amendment.

Mr. Speaker, loyalty and conviction are admirable traits, but when misplaced both can lead to serious problems.

More than a decade ago, an obnoxious man in Dallas decided to perform an ugly act: the desecration of an American flag in public. His action violated a little-known state law prohibiting desecration of the flag. He was tried in state court and found guilty.

As always seems to be the case, though, the federal government intervened. After winding through the federal system, the Supreme Court—in direct contradiction to the Constitution's 10th Amendment—finally ruled against the state law.

Since then Congress has twice tried to overturn more than 213 years of history and legal

tradition by making flag desecration a federal crime. Just as surely as the Court was wrong in its disregard for the Tenth Amendment by improperly assigning the restrictions of the First Amendment to the states, so are attempts to federally restrict the odious (and very rare) practice of Americans desecrating the flag.

After all, the First Amendment clearly states that it is Congress that may ''make no laws'' and is prohibited from ''abridging'' the freedom of speech and expression. While some may not like it, under our Constitution state governments are free to restrict speech, expression, the press and even religious activities. The states are restrained, in our federal system, by their own constitutions and electorate.

This system has served us well for more than two centuries. After all, our founding fathers correctly recognized that the federal government should be severely limited, and especially in matters of expression. They revolted against a government that prevented them from voicing their politically unpopular views regarding taxation, liberty and property rights. As a result, the founders wanted to ensure that a future monolithic federal government would not exist, and that no federal government of the United States would ever be able to restrict what government officials might find obnoxious, unpopular or unpatriotic. After all, the great patriots of our nation—George Washington, Thomas Jefferson, Patrick Henry, and Benjamin Franklin—were all considered disloyal pests by the British government.

Too often in this debate, the issue of patriotism is misplaced. This is well addressed by Keith Kruel, an Army veteran and a past national commander of the American Legion. He has said that, ''Our nation was not founded on devotion to symbolic idols, but on principles, beliefs and ideals expressed in the constitution and its Bill of Rights. American veterans who have protected our banner in battle have not done so to protect a 'golden calf.' . . . A patriot cannot be created by legislation.''

Our nation would be far better served that if instead of loyalty to an object—what Mr. Kruel calls the ''golden calf''—we had more Members of Congress who were loyal to the Constitution and principles of liberty. If more people demonstrated a strong conviction to the Tenth Amendment, rather than creating even more federal powers, this issue would be far better handled.

For more than two centuries, it was the states that correctly handled the issue of flag desecration in a manner consistent with the principle of federalism. When the federal courts improperly intervened, many people understandably sought a solution to a very emotional issue. But the proposed solution to enlarge the federal government and tread down the path of restricting unpopular political expression, is incorrect, and even frightening.

The correct solution is to reassert the 10th Amendment. The states should be unshackled from unconstitutional federal restrictions.

As a proud Air Force veteran, my stomach turns when I think of those who defile our flag. But I grow even more nauseous, though, at the thought of those who would defile our precious constitutional traditions and liberties.

Loyalty to individual liberty, combined with a conviction to uphold the Constitution, is the best of what our flag can represent.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. PENCE).

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

Mr. Speaker, after surviving the bloodiest battlefield since Gettysburg, a brave platoon of Marines trudged up Mount Suribachi on Sulfur Island with a simple task, to raise the flag above the devastation below. When the flag was raised by Sergeant Mike Strank and his platoon, history records that a thunderous cheer rose from our troops on land and on sea, in foxholes and on stretchers. Hope returned to that field of battle when the American flag began flapping in the wind.

It is written that without a vision, the people perish. The flag, Mr. Speaker, was the vision that inspired and rallied our troops at Iwo Jima. The flag is still the vision for all Americans who still cherish those who stood ready to make the necessary sacrifices.

Mr. Speaker, by adopting this flag protection amendment, we will raise Old Glory yet again. We will raise her above the decisions of a judiciary wrong on both the law and the history. And in some small way, we will raise the flag above the cynicism of our times, saying to my generation of Americans those most unwelcome of words, ''There are limits.'' To say to my generation of Americans, out of respect for all those who serve beneath it and some who died within the sight of it, that there are boundaries necessary to the survival of freedom.

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C.S. Lewis said, ''We laugh at honor, and we are shocked to find traitors in our midst.'' Leave us this day to cease to laugh at honor, to elevate to dishonor of our unique national symbol to some sacred right, and let us pass this amendment to restore Old Glory the modest protections of the law that those who venerate her so richly deserve.

Vote yes to the resolution and raise the American flag to her Old Glory again.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 3 minutes to the gentlewoman from Indiana (Ms. CARSON) who, previous to her congressional experience, worked in the field of labor with my late father.

Ms. CARSON of Indiana. Mr. Speaker, I certainly thank the honorable gentleman from Michigan (Mr. CONYERS) for yielding me time. I did have the benefit of working for his father as an international representative when John was still running around trying to find out whether or not he was going to Congress. So it is a pleasure to come, Mr. Speaker, to the floor and benefit from all of this historic and intellectual dialogue that preceded me.

I come here today to exercise a constitutional right granted to me as a citizen of the United States, and that is freedom of speech. I have a great deal of reverence for the United States flag. I wave it at my residence every opportunity, and am very saddened by those flags that are often lowered over capitols and buildings in commemoration of some fallen hero, if you will.

My adoration and respect, however, does not exceed my commitment to the integrity of the first amendment of the United States Constitution. Many of us learned in our educational experience of Patrick Henry, who said, ''I may not agree with the words that you say, but certainly would defend your right to say it.'' As I recall, Patrick Henry was in fact one of the signers of the Constitution.

One of my first and foremost commitments as a Member here is on behalf of our country's veterans. My name, Julia Carson, is derived from a Korean War Marine, 100 percent service-connected veteran, who struggles now to even gain any type of mobility. I am very supportive of veterans and recognize their interests in preserving this flag. My son, Sam Carson, is a former member of the United States Marine Corps.

So, as a ranking member of the Committee on Veterans' Affairs Subcommittee on Oversight and Investigation, I am working hard to address the needs of our veterans, to assure that the fight for freedom does not go unappreciated or uncompensated.

Great Americans such as Vietnam veteran and former Senator Kerry, former head of the Joint Chiefs of Staff and our current Secretary of State, the Honorable Colin Powell, have expressed their opposition to this amendment. These are great men who served this country with distinction.

General Powell has stated, ''If they are destroying a flag that belongs to someone else, that is a prosecutable crime. But if it is a flag they own, I really don't want to amend the Constitution to prosecute someone for foolishly desecrating their own property. We should condemn them and pity them instead.''

These men feel that in spite of their own commitment to the integrity of the American flag, they do not want their personal views to infringe on the rights of free speech of other Americans.

Francis Scott Key wrote, and we all recall that tune, ''O'er the ramparts we watch'd, were so gallantly streaming. And the rockets' red glare, the bombs bursting in air, gave proof through the night that our flag was still there. O say, does that star spangled banner yet wave, o'er the land of the free and the home of the brave?''

It does still wave, Mr. Speaker, despite House Resolution 36. Our flag will still be there. The constitutional amendment proposed here today is totally unnecessary. That is why I am going to vote against it.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas (Mr. SAM JOHNSON).

Mr. SAM JOHNSON of Texas. Mr. Speaker, it is a tremendous honor for me to be here today to support the protection of our American heritage, a symbol and a reminder of our cherished freedom, the American flag. The flag is a symbol of the birth of this great Nation and the many wars fought to win our freedom.

I spent 7 long years as a POW in Vietnam, half of that in solitary confinement. I think you heard the gentleman from California (Mr. CUNNINGHAM) relate earlier the story of Mike Christian, who was beaten for making a flag. He sewed that flag to remind himself of home and the freedom that it stands for. It was a symbol and great comfort to all of us. As POWs, we would pledge allegiance and salute it each day. That tiny, tiny flag sewn together meant so much to us, far, far away from home, more than words can describe.

I stand here today to honor all our military men and women who have fought throughout the years for this great Nation.

How about the Marine memorial, the Iwo Jima Memorial? Does that not mean something to you? I think that flag meant something to those boys that put it up there.

The Middlekauff Ford dealership in Plano, Texas built a huge flagpole and put an oversized flag on it. Do you know what? Some of the people said, It makes too much noise when the wind blows. It keeps us awake at night.

Do you know what Rick Middlekauff said? He said, ladies and gentlemen, that is the sound of freedom. And he left it up there, and they quit griping about it.

It is something that I think that we must respect. We must treat it with respect and protect it from desecration.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 2 minutes to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Mr. Speaker, I rise today as a proud and patriotic American to oppose this resolution. Here is what some of the veterans have said about this amendment.

Jack Heyman, Fort Myers Beach, Florida, a Korean War veteran, said, ''I know of no American veteran who put his or her life on the line to protect the sanctity of the flag. That is not why we fulfilled our patriotic duty. We did so and still do to protect our country and our way of life and to ensure that our children enjoy the same freedoms for which we fought.''

Mr. Heyman's great grandfather was a Pennsylvania Regular during the Civil War; his father served in the Navy during World War I; his brother fought in World War II; and one of his children served in the Army following the Vietnam War.

Bill McCloskey, a Vietnam War veteran from Bethesda, Maryland, said, ''Ultimately, Americans and our representatives on Capitol Hill must realize that when a flag goes up in flames, only a multi-colored cloth is destroyed. If our freedoms are lost, the true fabric of our Nation is frayed and weakened.''

Brad Bustany, West Hollywood, California, a Gulf War veteran, said, ''My military service was not about protecting the flag; it was about protecting the freedoms behind it. The flag amendment curtails free speech and expression in a way that should frighten us all.''

And how will Congress begin defining what the flag and desecration even mean? Our flag is ubiquitous. It is found in such places as commerce, art and memorials. Will Congress bar display of the flag on brand-name apparel, defining it as desecration? Will flag bathing suits be desecration, and thus prohibited? How will Congress enforce such an amendment? Where will this begin and where will it end?

Freedom of speech, even when it hurts, and it does hurt many of us, is the truest test of our dedication to the principles that our flag represents. Punishing desecration of the flag deludes the very freedom that makes this emblem so precious, so revered, and worth revering.

I urge my colleagues to vote no on this amendment and yes to upholding our Constitution and our democracy.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Mr. Speaker, I would like to thank the chairman of the Committee on the Judiciary for yielding me this time and for his leadership on this issue as we once again try to set the record straight.

This has been a great debate, but I have been appalled by some on the other side who have suggested that the flag amendment is going to change the Bill of Rights to our Constitution. It does nothing of the sort.

Our Founding Fathers wrote the Bill of Rights, including the first amendment, exactly right; and this amendment does not change that in any way. What did change the first amendment was a misinterpretation of that amendment by a 5 to 4 decision of the Supreme Court. One vote changed 200 years of American history. One vote changed 48 States' and the Federal Government's flag protection anti-desecration laws, and all we are trying to do is set the record straight. We have been asked to do that by 49 State legislatures; 80 percent of the American people in poll after poll show their support for this amendment, and this is a bipartisan effort.

The U.S. Supreme Court has historically shared our view. Such great champions of civil liberty and free expression as Hugo Black and Earl Warren when they served on the Supreme Court made clear their beliefs that flag desecration was not protected by the first amendment. As Justice Black stated, ''It passes my belief that anything in the Federal Constitution bars making the deliberate burning of the American flag an offense.''

So we are simply setting the record straight. As Chief Justice William Rehnquist said in his dissenting opinion, ''Surely one of the high purposes of a democratic society is to legislate against conduct that is regarded as evil and profoundly offensive to the majority of people, whether it be murder, embezzlement, pollution or flag burning.''

Burning the flag is not speech deserving protection. It is a despicable act. I urge my colleagues to support this constitutional amendment.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Tennessee (Mr. CLEMENT).

Mr. CLEMENT. Mr. Speaker, I might say, the people of New York would be proud of you up there today.

Mr. Speaker, I thank the gentleman from Michigan (Mr. CONYERS) very much. The gentleman has served the State of Michigan in such an exemplary way for so many years. And I might say about him too, I used to live in the State of Michigan, even though it did not change my accent.

This bill is not about one's freedom of speech; it is about one's respect for our country and the rights provided by it.

As a veteran of the U.S. Army and serving 29 years in the Army National Guard, I do not have to be told about the need to respect our flag. But there are many out there who take this symbol for granted. It seems as though they fail to recognize what has been sacrificed over the past 225 years of our existence.

The flag not only serves as a sacred symbol of the principles upon which our Nation was founded, it also represents the many sacrifices our veterans have made throughout the history of our Nation to protect our precious freedoms and preserve our democracy.

I fully support one's right to express himself or herself freely, but when it comes to Old Glory and displaying such a gross disrespect for something as precious as our national symbol of freedom, I feel it is necessary for Congress to draw the line.

In this country, whatever idea a flag burner wants to communicate, can be expressed just as effectively in many other ways. Burning our flag communicates nothing but a lack of respect. We should not protect such horrendous behavior, when our forefathers, our veterans and many patriotic citizens of our great land sacrificed and fought to protect the freedom it symbolizes.

This amendment to protect our flag is an appropriate and powerful ''thank

you'' to every veteran who fought and died to defend this flag and the country for which it stands. This flag is a national asset.

The SPEAKER pro tempore (Mr. QUINN). The time of the gentleman from Tennessee has expired.

Mr. CONYERS. Mr. Speaker, I yield 1 additional minute to the gentleman from Tennessee (Mr. CLEMENT).

Mr. CLEMENT. Mr. Speaker, that is very gracious of the gentleman from Michigan (Mr. CONYERS), knowing the gentleman does not necessarily agree with my position totally, but he has always been fair as one of the great leaders in the House of Representatives.

□ 1415

This flag is a national asset, and I strongly believe it deserves our unquestioned respect and protection.

I pledge my full support for this amendment, and I hope that my colleagues will vote to support its passage.

I have heard from a lot of veterans at home, but not just veterans. I have heard from people from all walks of life. Mr. Speaker, we have a lot to be proud of in this country. We celebrated our 200th birthday in 1976. I would ask my colleagues, do they know what the average longevity of the great democracies of the past is? It is 200 years. We celebrated our 200th birthday in 1976. But if we want to celebrate our 300th birthday, we have to rededicate and recommit ourselves.

Mr. Speaker, what I said a while ago is the way I feel. Yes, one can protest. Yes, one can disagree. Yes, one can feel strongly on a particular issue. But one does not have to burn ''Old Glory.'' One can show one's protest, one can show one's frustration in other ways. Support this amendment.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. PLATTS).

Mr. PLATTS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, on behalf of my constituents and my late father, Judge Platts, an Army veteran who felt very strongly about protecting the American flag from desecration, I rise in full support of this proposal.

House Joint Resolution 36 is important for many reasons. The American flag is of great importance not only to the men and women of the United States of America but also to the citizens of the world.

Every time we raise or lower the many flags flown all over the world, we have given thanks and shown appreciation not only to our veterans who fought and gave their lives to ensure the freedoms we know today but to the many citizens who work daily to preserve those freedoms. Desecration of this commanding symbol, whether it is by burning, tearing, or other mutilation, undermines the powerful sense of patriotism that Americans feel whenever they see the red, white and blue. To many, desecrating the American flag not only destroys the cloth, it also destroys the memories and destroys the memories and devotion thousands of veterans and others carry with them throughout their daily lives.

In this day of world conflict, we must remember that the Stars and Stripes has been a force that holds communities together. Mr. Speaker, I agree with the gentleman from California (Mr. CUNNINGHAM) that ''The American flag is a national treasure. It is the ultimate symbol of freedom, equal opportunity, and religious tolerance. Amending our Constitution to protect the flag is a necessity.''

Mr. Speaker, I look to our Founding Fathers and how they treated the flag as to whether they thought the first amendment should protect burning the flag, desecrating the flag. When they went into battle, a soldier would carry the flag; and if that soldier fell, another soldier would put down their weapon and pick up the flag. That is a pretty clear indication that they did not intend the first amendment to protect desecration of the flag.

Mr. Speaker, I urge a ''yes'' vote and hope that we will have a very strong bipartisan vote in favor of this proposal.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. HOSTETTLER).

Mr. HOSTETTLER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in strong support of this proposed constitutional amendment. The need for such an amendment arises from a Supreme Court that has persistently stated that we must tolerate flag desecration as protected speech. Clearly, I believe the Supreme Court has it wrong.

The flag is a unique symbol that merits our special recognition. I find it ironic that the Federal Government can compel men and women into the Armed Forces where they may die under the flag but, evidently, may not prohibit the desecration of the very symbol for which they fight.

This proposed amendment places the debate exactly where our framers intended for it to take place: in the town halls across America. It is the American people, not the Supreme Court, that have the ultimate responsibility to answer constitutional questions.

Mr. Speaker, I believe the flag is a unique symbol. When those who have given the last full measure of devotion are given the respect they deserve, we honor them by draping their coffin with the flag. They honor our country with their sacrifice, and we honor them with the flag.

Moreover, Mr. Speaker, I find the words of the Pledge of Allegiance telling. Just last week, President Bush had the opportunity to visit Ellis Island and to lead the crowd in the Pledge of Allegiance, just as so many immigrants have done before: ''I pledge allegiance to the flag of the United States of America, and to the Republic, for which it stands.'' I would underscore that this simple phrase recited every morning in this very Chamber pledges our allegiance to the flag itself, not only to the Republic. The ''and'' separates the two phrases so that we pledge our devotion both to the flag and to our Republic.

Mr. Speaker, some argue that the ideals of the flag are the only things that matter. I find the words of the pledge enlightening, and I respectfully disagree.

The flag itself occupies a unique place in our Republic. It is the one symbol that merits our allegiance. Why do we continue to pledge our devotion and support to a flag if we are not willing to protect it from desecration?

Mr. Speaker, I urge my colleagues to support the proposed amendment.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentlewoman from Virginia (Mrs. JO ANN DAVIS).

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I rise today in support of House Joint Resolution 36 proposing a constitutional amendment that would grant Congress the power to prohibit the physical desecration of the United States flag.

The American flag is a revered symbol of our country and of the principles of freedom and liberty we hold dear. I know for America's war veterans the flag is valued as a symbol of the sacrifices they and their fellow servicemen made to defend our land. Indeed, hundreds of thousands of servicemen gave their lives defending our country, and we must never forget the price they paid for the freedoms we enjoy.

As a member of the House Committee on Armed Services, it is our priority to restore our military's readiness and strength and also ensure that our veterans are treated with the respect and gratitude that is due them. That includes standing with them to defend the honor due to our national colors.

Mr. Speaker, I urge my colleagues to join me in support of this resolution.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from South Carolina (Mr. BROWN).

Mr. BROWN of South Carolina. Mr. Speaker, I rise in support of this important piece of legislation and I applaud the gentleman from California (Mr. CUNNINGHAM) for his tireless advocacy on this issue.

Justice John Paul Stevens, speaking for the Supreme Court minority opinion in the United States v. Eichman in 1990 stated, ''Thus, the government may, indeed, it should, protect the symbolic value of the flag without regard to the specific content of the flag

burner's speech. It is, moreover, equally clear that prohibition does not entail any interference with the speaker's freedom to express his or her ideals by other means. It may well be true that other means of expression may be less effective in drawing attention to those ideas, but that is not itself a sufficient reason for immunizing rising flag burning. Presumably, a gigantic fireworks display or a parade of nude models in a public park might draw even more attention to a controversial message, but such methods of expression are nonetheless subject to regulation.''

There is a lot of talk about free speech, but passage of this will not prevent anyone from saying anything more than our law already does. If one does not like what the country is doing, or if one is upset about anything at all, one can stand on the street corner and say whatever comes to one's mind, and that right is protected. It is part of what makes this country great that we have this freedom; that, despite differences of opinion, we still manage to move on and respect what other people have to say.

But while we enjoy this freedom of speech today, there are still certain things we cannot do or say by law. We have laws against libel, slander, perjury, obscenity and indecent exposure in public. Just as it is within the realms of the Federal Government to limit this kind of conduct, it is also right for it to regulate a clear attack on its sovereignty and dignity by protecting our flag.

To me, our flag represents not only the sacrifices of those who came before us, but also the hope for our future generations. It is both the past and the present which makes us a great people and what so many Americans have fought so hard to preserve.

I am privileged to serve on the Veterans' Affairs Committee and to have such constructive interaction with so many current and retired members of our Armed Forces. We have more than 350,000 veterans in the State of South Carolina, many of whom are in my district. If I can go back home and tell them anything, I would say that I voted to make sure that their sacrifices were not forgotten. That the flag that serves as our national symbol of unity—and a symbol of what so many of their brethren gave their lives for—shall be revered, not desecrated.

Again, I urge you all to vote for this legislation.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. GRUCCI).

Mr. GRUCCI. Mr. Speaker, I rise today as an original cosponsor of the flag protection amendment, and I ask all of my colleagues to join 250 cosponsors and support the passage of H.J. Res. 36, this important measure.

The American flag embodies the hopes, sacrifices, and freedoms of this great Nation and its people. The American flag is more than just a symbol, it is the fabric that binds our Nation, its citizens, and those brave individuals who have sacrificed to preserve our unity and our independence.

I remember June 29 of last year when I was joined by more than 75 Long Island veterans and high school students and we called upon our Federal officials to pass a similar measure. The meaning of the American flag could easily be seen in the eyes of these veterans. It is in the eyes of our children, who every day look upon our flag as they recite the Pledge of Allegiance as they start each and every school day.

There is not a place, a setting, or an event where the American flag is flown where its true meaning is not understood. To those in need, when they see the Stars and Stripes, they know America has arrived to help. To our neighbors around the world, the flag means an ally is not far away. Our flag is the symbol of America's compassion, perseverance, and values. The American flag is America. It is a part of the tapestry that makes America so great.

Mr. Speaker, I call upon my colleagues to, once again, in overwhelming numbers, support and pass H.J. Res. 36, the flag protection amendment.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Connecticut (Mr. SHAYS).

Mr. SHAYS. Mr. Speaker, I thank the gentleman from Michigan (Mr. CONYERS) for yielding me this time.

I rise today in opposition to H.J. Res. 36, which would amend the Constitution to allow Congress to pass laws banning the desecration of the flag. I find it absolutely abhorrent that anyone would burn our flag, and that is why I voted for the Flag Protection Act of 1989, which the Supreme Court overturned in a 5-to-4 decision in 1990.

If I saw someone desecrating the flag, I would do what I could to stop them at risk of personal injury or even incarceration. For me, that would be a badge of honor.

But I think this constitutional amendment is an overreaction to a nonexistent problem. Keep in mind, the Constitution has been amended 17 times since the Bill of Rights was passed in 1791. This is the same Constitution that eventually outlawed slavery, gave blacks and women the right to vote, and guarantees freedom of speech and freedom of religion.

Mr. Speaker, amending the Constitution is a very serious matter. I do not think we should allow a few obnoxious attention-seekers to push us into a corner, especially since no one is burning the flag now, without an amendment.

I agree with Colin Powell, who at the time was Chairman of the Joint Chiefs of Staff and is now the Secretary of State. General Powell wrote that it was a mistake to amend the Constitution, ''that great shield of democracy, to hammer a few miscreants.''

When I think about the flag, I think about the men and women who died defending it and the families they left behind.

□ 1430

What they were defending was the Constitution of the United States and the rights it guarantees, as embodied by the flag.

I love the flag for all it represents, but I love the Constitution even more. The Constitution is not just a symbol, it is the very principles on which our Nation was founded. I urge my colleagues to vote against this resolution.

Mr. CONYERS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I think we have had a very vigorous debate that talks about the pros and cons of the flag protection constitutional amendment. I believe that all of the arguments that have been sincerely placed against this amendment really do not have merit and should be ignored, and this amendment should be passed.

First, we have had the argument that this amendment amends the Bill of Rights. It does no such thing. There is no statement in the text of the amendment that the first amendment is modified in any way, amended in any way, or repealed in any way.

Secondly, we have heard the argument that this should be protected free speech under the Constitution of the United States. But what we are talking about here is not speech, we are talking about actions and burning or otherwise desecrating the flag of the United States of America.

Nobody is right to express themselves on any issue facing our country, on any candidate for office, on the performance or voting record of any incumbent officeholder this way. No one is in any way diminished by this constitutional amendment. What this constitutional amendment does is to give Congress the power to prohibit actions, not speech, that desecrates the flag of the United States of America.

Some also believe that the right to free speech is unlimited as a result of the first amendment. That is not the case at all. No one can shout ''fire'' in a crowded theater. No one can issue defamatory statements, whether verbally or in writing, without being called to account. There are limits on free speech, and 80 percent of the American people believe that a flag desecration constitutional amendment is a limit that we ought to have, not on speech but on actions.

Then we have heard that the Supreme Court of the United States, on a five-to-four decision, has said that this is protected political expression. We have heard that we should not amend

the Constitution because we disagree with a Supreme Court decision.

Our Constitution has been amended 17 times since the Bill of Rights was ratified in 1791. Three of those 17 amendments overturned Supreme Court decisions that two-thirds of the Congress and three-quarters of the State legislatures decided were not good law.

The 11th amendment construing the judicial power of the United States overturned such a Supreme Court decision. The 14th amendment granting equal protection under the law in the eyes of both the Federal and State government overturned the Dred Scott decision. The sixteenth amendment, which allowed the Congress to impose an income tax, overturned a decision that said that the Federal income tax violated the constitutional prohibition on not having proportional allocation of taxes among the States.

So when the Supreme Court is wrong, one of the remedies that the Congress and the States have is to amend the Constitution of the United States to correct the errors of the Supreme Court.

Those nine people across the street, in a co-equal branch of government, are entitled deference to their decisions, but they are not infallible, and they do make mistakes. In the case of both the Johnson and the Eichman case, they have made a mistake.

One of the checks and balances that the Framers of the Constitution placed on the judicial branch of government is to authorize the Congress and the States to amend the Constitution of the United States. This should not be done lightly, and it has not been done lightly.

But given the fact that the Supreme Court twice has said that any statute, Federal or State, proposing criminal penalties for the physical desecration of the flag of the United States of America is unconstitutional, the only alternative we have as a nation is for us today, by a two-thirds vote, to approve this amendment for the other body to follow suit and three-quarters of the States to ratify this amendment.

Today we have an opportunity to correct a wrong of the Supreme Court. The House should do the right thing, Mr. Speaker, and pass this constitutional amendment.

Mr. GEPHARDT. Mr. Speaker, I would like to express my support in protecting the sanctity of our Nation's greatest symbol of freedom and liberty: the American flag. Regretfully, prior obligations to my constituents in St. Louis keep me from being present to debate this bill on the floor. I therefore submit this statement for the record.

In 1989, the U.S. Supreme Court struck down a Texas statute that provided criminal sanctions for the burning of an American flag. In a 5–4 decision, the Court provided that the desecration of the flag was an act of free expression, a freedom protected under the first amendment of our Constitution.

On behalf of all the men and women who fought and died for this nation, for their families, and for all Americans, I join my colleagues in supporting H.J. Res. 36, the Flag Protection Constitutional Amendment. My support of this amendment is consistent with my votes cast in favor of past successful attempts in the House of Representatives to protect this American treasure.

I often meet with the many veterans from my district, those who served our Nation courageously in World War II, Korea, and Vietnam. To them, the flag symbolizes their struggle and triumph, flying as a constant reminder of their bravery and our gratitude. I believe the desecration of our flag jeopardizes that symbolic value, and undermines the courage that we must forever salute.

I support this amendment not as a Republican or Democrat, but as an American. I call on all members, from both sides of the aisle, to join together in a bipartisan fashion to support this amendment and keep the symbol of our American dream alive.

Mr. BLUMENAUER. Mr. Speaker, the purpose of our constitution should be to establish the structure of government and to protect the fundamental rights of citizens. We have amended the constitution only 17 times since the establishment of the Bill of Rights in 1791. The proposed amendment is not a fundamental right or an alteration of the structure of government. Abandoning that principle leads us to a slippery slope, which potentially cheapens the process of amendments and could weaken the constitutional framework.

I also oppose this amendment because of the same reasons some of my friends support it: because I respect the flag of the United States of America. I find it abhorrent, distasteful, and sad when it is desecrated. Since I've been in Congress, to my knowledge, there has not been a single flag burning in my community, and probably in my whole state. Certainly no one has brought it to my attention. I will guarantee you the second we raise the act of expression of political protest by burning the flag to status of a crime, we will have explosion of instances where in fact the flag is burned. Perversely, the reaction to this amendment would lead to what supporters want to avoid, the desecration of the American flag.

Because its not needed, because it's contrary to the principles of the Constitutional action, and because, sadly, it would encourage desecration of our flag, I oppose the amendment and urge my colleagues to do likewise.

Mr. BARCIA. Mr. Speaker, once again, I rise today in support of the Constitutional Amendment prohibiting the physical desecration of the flag. I believe our Nation's flag is the centerpiece of our Nation's sovereignty and a symbol that separates the United States from other nations. It is important to remember the ideals our flag represents—freedom, democracy, and national pride. And one must also remember the men and women, who loved the freedom and liberty the flag represents so much, they were willing to risk their lives defending it and the values it embodies.

I am proud to once again to be an original cosponsor of this legislation to amend the Constitution to prohibit the desecration of the flag—which the brave men and women of our armed forces have repeatedly fought to defend. All too often desecration of the flag is used as a vehicle to voice differing opinions between American citizens and our government. Our brothers, fathers, sisters and mothers fought and died for our flag in the name of free speech. I believe the right to deface that symbol of freedom is not what they were fighting to protect. Let our nation be unified in the fact that there are some things too important to defile, too important to sully, and chief among them is our flag.

From the hands of Betsy Ross, through the eyes of Francis Scott Key during the bombardment of Fort McHenry, to the raising at Iwo Jima, our flag has represented the hopes and beliefs of generations of Americans. It symbolizes resolve. It symbolizes freedom. It symbolizes democracy. It symbolizes America, and it deserves to be protected.

Mr. Speaker, I urge my colleagues to support this Constitutional Amendment.

Mr. YOUNG of Florida. Mr. Speaker, I rise today in support of House Joint Resolution 36, legislation I have cosponsored to amend the Constitution of the United States to authorize Congress to prohibit the physical desecration of the flag of the United States.

Ol' Glory has served to remind American citizens of our soldiers who fought for freedom, liberty, and democracy here on our own shores and throughout the world since the Continental Congress adopted the Flag Resolution of 1777. The very sight of the American flag flying high has the ability to rouse unparalleled pride and patriotism not only in the people of the United States of America but in freedom loving people throughout the world. Countless men and women have put the good of our country ahead of their own lives to protect the sanctity of liberty and democracy, which our flag represents. We must never allow ourselves to forget that the flag that flies here in this chamber, above this great building, and throughout our nation is a reminder of the enduring values for which these American service men and women fought and may have died.

Not only does our great flag symbolize the tireless struggle of our armed services for democracy both here and abroad, but it also serves as a bright beacon of hope to oppressed people throughout the world who dream of living under a democratic government as great and as resilient as out own. The American flag flies for all Americans, regardless of race, creed, or religion. It is a symbol of the American dream, of honor, justice, and equality. The flag is a commitment to our children and grandchildren that they will have the same freedoms, liberties, and opportunities that we have. The Stars and Stripes inspires pride in the accomplishments of our noble country, and it should be regarded with respect and admiration for the important role it plays in the lives of Americans. When the desecration of Ol' Glory is used as a protest, far more than a single flag is being violated. The devotion of American citizens to our great nation is being battered. Many Americans have died defending our flag and what it represents.

Mr. Speaker, may the American flag forever soar proudly above our glorious nation. May it always be a source of courage and inspiration

for those who carry it into battle, a symbol of hope for the downtrodden of foreign lands, and a reminder that we are the land of the free only because we are the home of the brave.

Mr. SWEENEY. Mr. Speaker, I rise today in support of House Joint Resolution 36—The Flag Protection Constitutional Amendment.

In doing so, I rise to defend and protect the very symbol of our nation's unyielding promise of hope and opportunity.

I rise to defend the memory of countless Americans, both men and women, who sacrificed their lives fighting for their country in time of war so that the values and ideals represented by our nation's symbol could be protected.

I rise to defend the integrity and the mission of our men and women in the armed forces today, who stand in defense of our Nation's Flag on American * * * as well as foreign soil around the world, so that the very symbol of their commitment to those American values will not be compromised.

The desecration, destruction and disrespect of our nation's Flag are contemptible acts against our nation's principles.

The protection of our National Symbol from desecration is an essential part of preserving our Nation's sense of duty, citizenship and allegiance to a community fabric unlike that of any other nation.

We must protect our Constitution from those seeking to distort it while cloaking themselves in a disguise of free speech. The American people cry out for us to do so. Forty-nine state legislatures have appealed to this Congress to pass a Flag protection constitutional amendment.

In conclusion, Mr. Speaker, I remind my colleagues that this a nation that promises more than just life, liberty and the pursuit of happiness. It is a nation that offers as its foundation of principles the dignity, respect and self-sacrifice for the ideals upon which it was built.

I urge passage of this resolution because it is the right thing for the Flag, and because it is the right thing for the United States of America.

Mr. KLECZKA. Mr. Speaker, the American flag is a visible symbol of all the elements that make our nation great. A strong military, a system of checks and balances, a government by and for the people. Underlying these ideals is the Constuition and the Bill of Rights, perhaps the most perfect document yet created by man in pursuit of a fair and just government.

Central to the Constitution are the rights and freedoms delineated in the Bill of Rights, which has yet to be amended, although over 200 years have passed since these tenets were drafted. Every American is familiar with the first of these amendments, which states unequivocally that Congress shall make no law respecting an establishment of religion or abridge the freedom of speech.

As former Commander of the American Legion Keith A. Kreul states, ''Our nation was not founded on devotion to symbolic idols, but on principles, beliefs and ideals expressed in the Constitution and the Bill of Rights. American veterans who have protected our banner in battle have not done so to protect a ''golden calf.'' Instead, they carried the banner forward with reverence for what it represents—our beliefs and freedom for all. Therein lies the beauty of our flag.''

The freedom to publicly voice one's dissent of their government is a quality that separates our great nation from others. The United States of America has a long and proud history of providing this right to its citizens, and I do not believe that the voice of freedom should be muzzled. The amendment to the Constitution before us today, which would allow Congress to prohibit the desecration of our flag, effectively says that we are afraid of a very small number of people who choose—under the rights granted them in the Constitution—to defile this cherished symbol.

While the desecration of our flag generates an almost universal reaction of disgust by Americans, we are strong enough as a nation to allow individuals to express themselves in this manner, and stronger still to resist the urge to stamp out free speech that challenges us.

There have been only a very small number of incidents of flag burning over the course of our history. In fact, between 1777 and 1989, there were only 45 reported incidents, and in the years since, fewer than 10 incidents have been reported annually. This hardly merits the first ever change to the Bill of Rights, much less any action that could restrict our most coveted freedom.

This resolution is essentially a solution in search of a problem. I oppose this proposed amendment, which diminishes the flag's value by taking away from the freedoms that it represents.

Mr. FILNER. Mr. Speaker, we all love, cherish and respect our flag. Our flag is a symbol of our great nation, a symbol of our fundamental values of freedom, liberty, justice and opportunity.

And it is those values we must protect.

I stand today with Jim Warner, a Vietnam veteran and former prisoner of war, who said: ''Rejecting this amendment would not mean that we agree with those who burned our flag, or even that they have been forgiven. It would, instead, tell the world that freedom of expression means freedom, even for those expressions we find repugnant.''

I stand today with the San Diego Union-Tribune, my hometown paper, which has editorialized against ''the drastic step of amending the Constitution because of the abhorrent conduct of that lone demonstrator and the handful of others who seek attention from time to time by burning the flag.''

Compromising the Bill of Rights, which has stood the test of time, is not the action needed to ensure the strength of our nation. We must do that through proper education of our children—nurturing their love and patriotism of our country—and respect for our flag and national symbols.

We can choose the easy path and simply make a law and outlaw an action. Or we can take the difficult and correct path of guiding our citizens back to the ideals of our founding fathers. The more difficult path puts true meaning back into our respect for the flag.

I choose the more meaningful path, the one that will guarantee that our flag will fly proudly—and our Bill of Rights will continue unchanged—for generations to come.

Mr. SMITH of New Jersey. Mr. Speaker, as Chairman of the Veterans' Affairs Committee, I rise today to join with the vast majority of American citizens who support an amendment to the Constitution to protect the Flag of the United States from physical desecration. It was just over 12 years ago that the Supreme Court, in a narrow 5-to-4 decision, ruled that all Federal and State statutes prohibiting the physical desecration of the flag were unconstitutional.

The flag of the United States of America needs to be protected as a sign of our freedom. I believe that flag desecration is a slap in the face to the millions of American veterans who fought and died to protect the flag, and the democracy and liberty for which it symbolizes.

Over the years of our Republic's existence, countless men have marched into battle under the banner of Old Glory. Many have died or risked their lives to prevent the flag of their unit from falling into enemy hands. The number of accounts of heroism to protect the flag in the heat of battle are so numerous that they cannot be counted. But let me recount just one true tale of such bravery.

Many of my colleagues have seen the movie, Glory, which tells the story of the 54th Massachusetts Colored Infantry—an African American unit which fought at Fort Wager, South Carolina, in July 1863. One soldier who saw action in this battle was Sergeant William Carney, a 23-year-old ex-slave. During the action, the color bearer of the 54th Massachusetts was wounded. Dropping his weapon, Sergeant Carney picked up the flag before it hit the ground. He marched forward with his unit. However, in the subsequent engagement, the 54th Massachusetts suffered staggering casualties in a frontal assault on a fortified position, and his unit was forced to pull back.

Sergeant Carney, at great risk to his safety, retrieved the flag so it would not fall into Confederate hands. Crossing a marsh in waist-high water, he was shot in the chest, and in his right arm. Yet still he held onto the flag. He was then shot in the leg. Still, he clenched the flag tightly to his chest, protecting it from harm and capture. Another bullet grazed his head. A passing soldier from a different unit offered to relieve him, but he refused, saying ''No one but a member of the 54th will ever carry these colors.'' Sergeant Carney, bleeding from multiple gunshot wounds, returned the flag to his camp, telling his comrades, ''Boys, I only did my duty. Our flag never touched the ground.''

William Carney was later awarded the Medal of Honor for his extraordinary heroism under enemy fire. He was the first African American in American history to earn the nation's highest honor for bravery in combat.

To this very day, military units still field a color guard to honor the flag.

The flag has served, and continues to serve, as a source of inspiration, courage, and purpose. I ask my colleagues: how can we justify allowing the flag to be blatantly desecrated or burned, when so many of our brave soldiers have died, been wounded, or took enormous risks to protect the flag from harm? What could we possibly say to these persons, now that the Supreme Court has allowed the flag to be desecrated? That their sacrifice was in vain? That they were stupid and silly to

have ever taken such risks? That they sweated, ducked bullets, and bled to protect the flag from harm so some social miscreant could just trash it a few years later?

How can a symbol continue to be so enduring, and function to inspire such deeds of heroism, when we allow it to be desecrated? My colleagues, I submit that if we do not take action to protect our flag, it will simply become one more element in the ongoing coarsening of our society. If we do not respect the flag, it will send a subtle, yet powerful, message that nothing is worth respecting. Flag burning is not free speech. It is an act of hatred and nihilism. It is not a call for reform. It is a disgrace. The right to dissent does not include the right to desecrate. To desecrate the flag crosses a line of ugliness.

I know people the world over who cherish the American flag and the hope it has held for people in different crises around the globe. Freedom is not free. The cherished freedoms, rights, and liberties we all enjoy today were purchased only through the enormous sacrifices of the men and women in our military today—veterans, past and present. If we allow our flag to be desecrated, and fail to protect it, we dishonor their sacrifice and their service.

Mr. Speaker, the Court was wrong in deciding the Texas v. Johnson case. It was wrong one year later when it reaffirmed this position in another 5-to-4 decision in United States v. Eichman. The amendment to the constitution we are now considering, H. J. Res. 36, will overturn both decisions of the Court and grant the Congress the authority to enact constitutionally-permitted language to protect the flag.

The Supreme Court's 5-to-4 rulings on flag burning were most unfortunate and an erroneous interpretation of what our forefathers, and we as a people, define as free speech. The opponents of this amendment have tried to depict this as an infringement on the first amendment rights of all Americans. This is simply false.

Mr. Speaker, I yield to no one in my support of the first amendment. As Vice Chairman of the International Relations Committee and Co-Chairman of the Helsinki Commission, I have continually fought for the expansion of these freedoms throughout the world. I have worked for the release of countless prisoners of conscience whose only crime has been that they wanted to express political or religious ideas that their governments opposed.

I have worked just as hard to insure that these same freedoms—freedom of conscience, freedom of speech, and freedom of religion—continue to be strongly protected here in the United States.

However, Mr. Speaker, no right is unlimited.

There are those who claim that any limitation of the right to free speech is an intolerable infringement upon our rights guaranteed to us in the Bill of Rights. Upon single examination this proves to be totally false.

In a unanimous 1942 Supreme Court decision, Chaplinsky v. New Hampshire, the Court said:

> . . . it is well understood that the right of free speech is not absolute at all times and under all circumstances. There are certain well-defined and narrowly limited classes of speech, the prevention and punishment of which have never been thought to raise any Constitutional problem. These include the lewd and obscene, the profane, the libelous, and the insulting or ''fighting'' words—those which by their very utterance inflict injury or tend to incite an immediate breach of the peace. It has been well observed that such utterances are no essential part of any exposition of ideas, and are of such slight social value as a step to truth that any benefit that may be derived from them is clearly outweighed by the social interest in order and morality.

Mr. Speaker, there is also an important distinction to be drawn between the freedom to express an idea and the freedom to use any method to express that idea. While one has a right to express virtually any idea in a public forum, the means of expression can be regulated. As Justice Stevens pointed out in his dissent:

> Presumably a gigantic fireworks display or a parade of nude models in a public park might draw even more attention to a controversial message, but such methods of expression are nevertheless subject to a regulation.

In his dissent in Texas v. Johnson, Justice Stevens said that the Court was wrong in asserting that the flag burner was prosecuted for expressing a political idea. Rather, Stevens went on to say, he ''was prosecuted because of the method he chose to express his [idea].''

And again, Justice Stevens stated:

> It is moreover, equally clear that the prohibition [against flag desecration] does not entail any interference with the speaker's freedom to express hie or her ideas by other means.

As Oliver Wendell Holmes asserted years ago, no one has the right to shout fire in a crowded movie theater.

Mr. Speaker, despite some of the claims made here today, it is constitutionally permissible to regulate both the content and the means of expression of free speech, provided that it is done only in certain very narrow and well-defined circumstances and only if an overriding public interest is threatened. Let me emphasize that the circumstances must be narrow, well defined and justified in the public interest.

Mr. Speaker, prohibiting the physical desecration of the flag is both a narrow and well-defined restriction. Despite arguments to the contrary, it is not the first step toward curtailing political dissent, nor is it impossible to define. This argument represents at best a gross distortion of the effect of this amendment.

This leaves only the question of whether the protection of the flag serves a purpose worthy of special consideration. On this point, as Chairman of the House Veterans' Affairs Committee, I join with the overwhelming majority of the American public who say, emphatically, yes.

Since the creation of the American flag, it has stood as a symbol of our sacred values and aspirations. Far too many Americans have died in combat to see the symbol of what they were fighting for reduced to just another object of public derision. Simply put, it is a gross insult to every patriotic American to see the symbol of their country publicly desecrated. They will not tolerate it, and neither will I.

Mr. Speaker, the amendment to the Constitution we are considering today will restore the flag to its proper position as a symbol of our Nation, without restricting the freedom of expression for any of our citizens. I would hope that all of my colleagues would join with me in support of this amendment.

Mr. MURTHA. Mr. Speaker, I'm proud to have joined with Congressman DUKE CUNNINGHAM in introducing this Constitutional Amendment to prohibit the desecration of the American Flag.

The American Flag is recognized around the world as a symbol of freedom, equal opportunity, and religious tolerance.

Many thousands of Americans fought and suffered and died in ways too numerous to list in order to establish and preserve the rights we sometimes take for granted, rights which are symbolized by our Flag. It is a solemn and sacred symbol of the many sacrifices made by our Founding Fathers and our Veterans throughout several wars as they fought to establish and protect the founding principles of our great Nation.

Most Americans, Veterans in particular, feel deeply insulted when they see our Flag being desecrated. It is in their behalf, in their honor and in their memory that we have championed this effort to protect and honor this symbol.

We are a free Nation. No one would disagree that free speech is indeed a cherished right and integral part of our Constitution that has kept this Nation strong and its Citizens free from tyranny. Burning and destruction of the flag is not speech. It is an act. An act that inflicts insult—insult that strikes at the very core of who we are as Americans and why so many of us fought—and many died—for this country.

There are, in fact, words and acts that we as a free Nation have deemed to be outside the scope of the First Amendment—they include words and acts that incite violence; slander; libel; and copyright infringement. Surely among these, which we have rightly determined diminish rather than reinforce our freedom, we can add the burning of our Flag—an act that strikes at the very core of our national being.

No, this is not a debate about free speech. Our flag stands for free speech and always will.

Over 100 years ago some words were written that most of us remember reciting in school. They sum up what we vote on today:

> 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.

Let us join today in overwhelmingly passing this amendment to revere, preserve and protect our Flag, the symbol of our country, the embodiment of our principles, and the emblem of our people.

Mr. SIMMONS. Mr. Speaker, I rise today in strong support of House Joint Resolution 36, the Constitutional Amendment to prohibit flag desecration.

Our flag is the strongest symbol of the American character and its values. It tells the story of victories won—and battles lost—in defending the principles of freedom and democracy.

These are stories of real men and women who have selflessly served this nation in defending that freedom. Any many of them traded their lives for it. Gettysburg, San Juan Hill,

Iwo Jima, Korea, Da Nang, Persian Gulf—our men and women had one common bond: the American flag.

The American flag belongs to them, as it belongs to all of us.

Supreme Court Justice Paul Stevens reminded us of the significance of our flag when he wrote:

> A country's flag is a symbol of more than nationhood and national unity. It also signifies the ideas that characterize the society that has chosen that emblem as well as the special history that has animated the growth and power of those ideas . . . . So it is with the American flag. It is more than a proud symbol of courage, the determination, and the gifts of a nation that transformed 13 fledgling colonies into a world power. It is a symbol of freedom, of equal opportunity, of religious tolerance, and of goodwill for other peoples who share our aspirations.

Critics of the amendment believe it interferes with freedom of speech. I disagree. Americans enjoy more freedoms than any other people in the world. They have access to public television. They can write letters to the editors to express their beliefs, or call in to radio stations. Americans can stand on the steps of the nation's capitol building to demonstrate their cause.

They do not need to desecrate our noble flag to make their statement, and I do not believe protecting the flag from desecration deprives Americans of the opportunity to speak freely.

And let us be clear: speech, not desecration, is protected by the Constitution. Our Founding Fathers protected free speech and freedom of the press because in a democracy, words are used to debate and persuade, and to educate. A democracy must protect free and open debate, regardless of how disagreeable some might find the views of others. Prohibiting flag desecration does not undermine that tradition.

The proposed amendment would protect the flag from desecration, not from burning. As a member of the American Legion, I have supervised the disposal of over 7,000 unserviceable flags. But this burning is done with ceremony and respect. This is not flag desecration.

Over 70 percent of the American people want the opportunity to vote to protect their flag. Numerous organizations, including the Medal of Honor Recipients for the Flag, the American Legion, the American War Mothers, the American G.I. Forum, and the African-American Women's Clergy Association all support this amendment.

Forty-nine states have passed resolutions calling for constitutional protection for the flag. In the last Congress, the House of Representatives overwhelmingly passed this amendment by a vote of 310–114, and will rightfully pass it again this year.

Mr. Speaker, I am proud to be an original cosponsor of H.J. Res. 36 and ask that my colleagues join me in supporting this important resolution that means so much to so many.

Mr. COLLINS. Mr. Speaker, I rise today to offer my strong support for House Joint Resolution 36, which I have cosponsored, and thank my colleague, Mr. Cunningham, for his continued effort to protect this important symbol of our freedom, the United States flag.

The vast majority of my constituents in Georgia's Third District have contacted me and stated that they share this belief that among the countless ways to show dissent, the desecration of the flag should not be one of them.

Opponents of this amendment state that it would reduce our First Amendment freedoms. This is simply not so. Rather this amendment would serve to restore the protection our flag had been accorded over most of our nation's history.

The American flag represents not only our freedom but serves as a constant reminder of the ideals embodied in our Declaration of Independence that countless Americans have served to defend, preserve and protect over our nation's 225 year history.

In the Declaration of Independence, the founders acknowledged that we are created equal and that we have been endowed by our Creator with certain rights to life, liberty and the pursuit of happiness.

These are the ideals for which countless Americans have fought, bled and died and it is these ideals upon which our Constitution is founded. It is these ideals which we are elected to preserve. Today, we can renew our affirmation of these principles, so clearly stated in the Declaration of Independence, by preserving the most visible symbol of our Republic.

Upon three separate occasions, this House has rightfully voted to protect our nation's flag. Today, the United States House of Representatives will again affirm its commitment to protect this symbol of our great nation.

For the thousands of Americans who have fought and died for their country, the flag is more than a piece of cloth.

Mr. STARK. Mr. Speaker, I rise today in strong opposition to H.J. Res. 36 "The Flag Protection Constitutional Amendment." This constitutional amendment would undermine the very principles for which the flag stands—freedom and democracy.

The First Amendment to the Constitution reads as follows: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof: or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the government for a redress of grievances."

By writing the First Amendment, our nation's founders made sure that the Constitution protected the right of all citizens to object to the workings of their government. Freedom of expression is what makes the United States of America so strong and great—it is the bedrock of our nation and has made our democracy a model for the rest of the world.

The Supreme Court has twice upheld a citizen's right to burn the flag as symbolic speech protected by the Constitution. If this Flag Protection Amendment were enacted, it would be the first time in our history that the Bill of Rights was amended to limit American's freedom of expression.

Whlie the idea of someone burning or destroying an American flag is upsetting, the consequences of taking away that right are far more grave. Once we start limiting our citizens' freedom of expression, we walk down a dark road inconsistent with our history and our founding principles. Our government's toleration of criticism is one of our nation's greatest strengths.

This amendment isn't a matter of patriotism, it is a matter of protecting the rights of all of our citizens, particularly the right to dissent. Let us uphold our commitment to freedom and democracy. Let us uphold our commitment to the principles upon which our nation has flourished for over 200 years. Vote no on this amendment.

Mr. GRAVES. Mr. Speaker, it is an honor to rise today to support House Joint Resolution 36. The flag protection Constitutional amendment. I also want to extend my appreciation to our veterans and the men and women in our armed forces for their service to our nation and their vigilance and sacrifice in both times of peace and war.

The American flag embodies many different things to different people. To me, the flag represents the many men and women in our Nation's history who have selflessly served and died defending our country and its freedoms. Mr. Speaker, it is our obligation as Americans to defend this nation, its heritage, and its honor. Our flag embodies the struggles, the victories, and the bonds that unite our Nation and its people. Today, I will continue to support a Constitutional amendment that will honor those men and women who have died in service to our country by prohibiting the physical desecration of our national colors.

Today, we have an opportunity to renew our allegiance to the American flag. Together, we stand collectively to honor its glory and its vibrant colors that continue to wave through the skies that blanket the dreams and hopes of our beloved America. America truly is the land of the free and the home of the brave, and I am honored that we can share and enjoy the peace and the prosperity of this great nation. Mr. Speaker, I ask my colleagues to join me in supporting House Joint Resolution 36.

Mrs. ROUKEMA. Mr. Speaker, I rise in strong support of the Flag Protection Amendment.

Why are we here today. The Congress of the United States has already acted to pass flag protection legislation. However, a majority of the Supreme Court—by the narrowest of margins—has ruled that Congress does not possess the authority to legislate in this important area. It has twice overturned laws that prohibit flag burning. In both cases, the decision has been handed down by a narrow margins of 5 to 4.

I happen to disagree with the Court. So do such distinguished constitutionalists as Justices Stevens and White. They hold that burning of the U.S. flag is not an expression protected by the First Amendment. Instead, they believe that flag burning is an action, and a repugnant one. Therein lies the distinction. Burning a flag is conduct, not speech.

Still, we need to pass this Constitutional amendment today and begin the process of ratification. Only then, can Congress honor its responsibility to protect this sacred national symbol.

I believe strongly in this amendment, although I believe it to be an issue on which patriotic Americans of good faith can, and do, have legitimate differences. Many assert that burning a flag endangers no one. Using that standard, one would then assume that we would not see the inherent violation of decency of throwing blood on the U.S. Capitol,

painting a swastika on a synagogue, or defacing a national monument. These actions also endanger no one. And, yet, laws have been wisely enacted to prohibit these actions. How can we not protect our country's most treasured symbol from such actions?

The American flag was created to honor our country. Let us pass this Constitutional amendment created to protect the honor of our flag.

Support this joint resolution. Support the amendment. Protect the flag.

Mr. KIND. Mr. Speaker, again we are brought together to debate the rights of a free people against the honor and meaning of our national flag—to debate the necessity of providing legal protection to the most honored and recognized symbol of freedom in the world. This is not a matter to be approached carelessly, and I appreciate this opportunity to reaffirm my faith in the Constitution and the Wisdom of our Nation's founders.

If there is one bright shining star in our Constitutional constellation, it is the First Amendment of the Bill of Rights. That is the amendment that embodies the very essence upon which our democracy was founded because it stands for the proposition that anyone in this country can stand up and criticize this government and its policies without fear of prosecution. But here we are yet again in the 107th Congress debating an amendment that would seriously weaken the First Amendment and Freedom of expression in this country.

There are few things that evoke more emotion, passion, pride or patriotism than the American flag; I recognize that. But I am forced to question the need for a Constitutional amendment to remedy a problem that doesn't seem to exist, or provide legal protection to something that doesn't seem endangered. As a matter of occurrence, the recorded incidence of public flag desecration is extremely rare. While this explanation, on its face, is not sufficient to oppose to this amendment, it illustrates an inherent respect for the flag and a recognition of what it means to American history and the individuals who gave their life in protection of the freedoms and way of life we cherish everyday. To attempt to enforce this understanding through legal means serves to undermine this self-realization and only encourage the proliferation of such acts because of the attention some people crave.

Now I want to be clear. I am going to oppose this amendment, not because I condone or I do not feel repulsed by the senseless act of disrespect that is shown from time to time against one of the most cherished symbols of our country, the American flag. But because I recognize that our constitution can be a pesky document sometimes. It challenges us, and it reminds us that this democracy of ours requires a lot of hard work. It was never meant to be easy. Our democracy, rather, is all about advanced citizenship. It is about the rights and liberties embodied in the Constitution that will put up a fight against what we believe and value most in our lives. We have to recognize that free speech means exactly that, free speech. It is the right of anyone in this nation to peaceably express his or her beliefs about the government directly to the government without fear of tyrannical retaliation. As stated by Vietnam veteran and former prisoner of war James H. Warner on this matter, ''rejecting this amendment would . . . tell the world that freedom of expression means freedom, even for those expressions we find repugnant.''

This protection of freedom is what advanced citizenship is about. This is the challenge of the Constitution, and yes, the Supreme Court has ruled on numerous occasions that the repulsive disrespect and the idiotic act of desecrating the American flag is freedom of expression protected under the First Amendment. As former Supreme Court Justice Jackson said in the Barnette decision, and I quote: ''Freedom to differ cannot just be limited to those things that do not matter much. That would be a mere shadow of freedom. The test of its substance is the right to differ as to things that touch the very heart of the existing order.''

On this matter, I also agree with the statements of former General and current Secretary of State Colin Powell. When asked for his views on the amendment before us, Secretary Powell stated, ''. . . the First Amendment exists to insure that freedom of speech and expression applies not just to that with which we agree or disagree, but also that which we find outrageous. I would not amend that great shield of democracy to hammer a few miscreants. This flag will be flying proudly long after they have slunk away. . . .''

In another opinion I urge my colleagues to hear, former Senator, and American hero, John Glenn stated in his opposition to this amendment before the Senate Judiciary Committee in the 106th Congress, ''That commitment to freedom is encapsulated and encoded in our Bill of Rights, perhaps the most envied and imitated document anywhere in this world. The Bill of Rights is what makes our country unique. It is what has made us a shining beacon of hope, liberty, of inspiration to oppressed peoples around the world for over 200 years . . .''

We must cherish the history and meaning of bill of rights and realize the impact of our actions here today. Are a few acts of senseless desecration the motivation for passing this amendment to the Constitution? There are other ways of dealing with content neutral acts. If someone steals my flag, they can be prosecuted for theft and trespassing. If they steal my flag and burn it, they can be prosecuted for theft, trespass, and criminal damage to property. If they burn it on a crowded subway station, they can also be prosecuted for inciting a riot, reckless endangerment, criminal damage to property and theft. There are other ways that this type of conduct can be prosecuted, but if someone buys a flag, goes down in their basement and, because they do not like the government, decides to desecrate it or burn it, are we going to obtain search warrants and arrest warrants to go in and arrest that person and prosecute them? We do not need to do that.

Make no doubt about it, this amendment will do nothing less than amend the First Amendment of the Bill of rights for the first time in our Nation's history. And it sets a precedent that the fundamental protections afforded to the American people, the freedoms that portray what America is, do not really protect all that is claimed. It is for these reasons that I encourage my colleagues to oppose this amendment and not change 212 years of history in this country.

Mr. HAYES. Mr. Speaker, America is the land of the free, home of the brave. But the liberty we enjoy did not come without a price. Many Americans have made the ultimate sacrifice so that we may live in peace and freedom. They died nobly for us. Now it is our responsibility as Americans to live nobly in their memory.

One of the first and foremost ways we can honor our fallen heroes is to protect the American flag. The brave men and women who died for the fight of freedom deserve to be honored by the flying of the stars and stripes. Our flag represents the freedoms we enjoy, the spirit of democracy, and the sacrifices of all those who have worked to make this nation what it is today. I am honored to support this measure that protects the great symbol of the United States of America.

Our nation's veterans, active duty and reserve forces draw their strength not from America's great material wealth. Rather, these individuals draw their strength from the belief that there are some causes that are worth dying for, a conviction rooted in principle and represented by our flag. The patriots that have fought for our freedoms knew in their hearts that their cause was righteous, that making the ultimate sacrifice for freedom, liberty, and justice was worth the risk.

Thus, we as a Congress have the opportunity to do what is right. We have a responsibility to honor the memory of those who have died for our freedom and to say to those who live, ''we will not let your sacrifice be in vain.'' The American flag and the principles for which it flies are deserving of honor and protection. Today we need to pass this legislation and send a clear message that we will not tolerate desecration of the American flag.

Mr. OXLEY. Mr. Speaker, I stand in strong support of H. J. Res. 36, which calls for a constitutional amendment to allow Congress to heed the overwhelming majority of our constituents and protect our nation's flag.

Old Glory is not just another piece of cloth—nor is it a political tool for one side or another to use in debate. Our flag is the most visible symbol of the nation, a unifying force in times of peace and war. Americans from both sides of the political spectrum back the action we are taking today in sending this issue to the states. Since the Supreme Court invalidated state flag protection laws in 1989, 49 state legislatures have passed resolutions petitioning Congress to propose this amendment.

Mr. Speaker, my hometown of Findlay, Ohio, is known as Flag City USA. Main Street and other major downtown thoroughfares are lined with flags in a patriotic salute to our great nation. Arlington, Ohio, which I am also privileged to represent, enjoys the designation Flag Village USA. The messages I receive from Findlay, Arlington, and throughout the Fourth Ohio District are clear: the American people favor the protection of Old Glory by staggering margins.

I am proud to be an original cosponsor of DUKE CUNNINGHAM's joint resolution, and recognize him for his longstanding, unwavering leadership on this issue. I urge my colleagues to support their constituents and vote in favor of sending this amendment to the states.

Mr. UDALL of Colorado. Mr. Speaker, I cannot support this resolution.

I am not in support of burning the flag. But I am even more opposed to weakening the first amendment, one of the most important things for which the flag itself stands.

As the Denver Post put it just last month,

The American flag represents freedom. Many men and women fought and died for this country and its constitutional freedoms under the flag. They didn't give their lives for the flag; they died for this country and the freedom it guarantees under the Bill of Rights. Those who choose to desecrate the flag can't take away its meaning. In fact, it is our constitutional freedoms that allow them their reprehensible activity.

I completely agree. So, like Secretary of State Colin Powell, former Senator John Glenn, and others who have testified against it, I will oppose this resolution.

For the benefit of our colleagues, I am attaching the Denver Post's editorial on this subject:

FLAG AMENDMENT SHOULD DIE

Monday, June 25, 2001.—Although a proposed constitutional amendment to ban desecration of the American flag continues to lose steam, it nonetheless is once again being considered in the U.S. House.

The amendment, one of the most contentious free speech issues before Congress, would allow penalties to be imposed on individuals or groups who burn or otherwise desecrate the flag.

In past years, the amendment has succeeded in passing the House only to be killed, righteously, on the Senate floor.

The American flag represents freedom. Many men and women fought and died for this country and its constitutional freedoms under the flag. They didn't give their lives for the flag; they died for this country and the freedom it guarantees under the Bill of Rights. Those who choose to desecrate the flag can't take away its meaning. In fact, it is our constitutional freedoms that allow them their reprehensible activity.

American war heroes like Secretary of State Colin Powell and former Sen. John Glenn strongly oppose this amendment. Glenn has warned that ''it would be a hollow victory indeed if we preserved the symbol of freedoms by chopping away at those fundamental freedoms themselves.''

In addition, the Supreme Court has ruled that desecration of the flag should be protected as free speech.

Actual desecration of the flag is, in fact, a rare occurrence and hardly a threat. There have been only a handful of flag-burnings in the last decade. It's not a national problem. What separates our country from authoritarian regimes is the guarantee of freed speech and expression. It would lessen the meaning of those protections to amend our Constitution in this way.

The amendment is scheduled to go before the House this week, although if it passes it would still have to face a much tougher audience in the Senate. The good news is that House support of the amendment has been shrinking in recent years. It is possible that if that trend continues, the amendment could not only die this year but fail to return in subsequent years. We urge House lawmakers to let this issue go.

Mr. BUYER. Mr. Speaker, I rise in support of this amendment to empower Congress to enact legislation to protect Old Glory from desecration.

This is not an issue about what people can say about the flag, the United States, or its leaders. Those rights are fully protected. The issue here is that the flag, as a symbol of our Nation, is so revered that Congress has a right and an obligation, to prohibit its willful and purposeful desecration. It is the conduct that is the focus.

I have seen our flag on a distant battlefield. I understand what it represents . . . the physical embodiment of everything that is great and good about our Nation. It represents the freedom of our people, the courage of those who have defended it, and the resolve of our people to protect our freedoms from all enemies, foreign and domestic.

It is no coincidence that when foreigners wish to criticize America, they burn the American flag. I am sure we all remember the searing images of the flag of our Embassy in Iran which was torn from its pole and burned on the street. They burned the flag because it is not just some piece of cotton or nylon with pretty colors. Old Glory is the embodiment of all that is America . . . the freedoms of the Constitution, the pride of her citizens, and the honor of her soldiers, not all of whom made it home.

Across the river from here is a memorial to the valiant efforts of our soldiers to raise the flag at Iwo Jima. It was not just a piece of cloth that rose on that day over 50 years ago. It was the physical embodiment of all we, as Americans, treasure . . . the triumph of liberty over totalitarianism; the duty to pass the torch of liberty to our children undimmed.

The flag is a symbol worth defending. I urge the adoption of the flag protection amendment.

Mr. CRENSHAW. Mr. speaker, I rise today in support of H.J. Res. 36, which would give the Congress the power to prevent the desecration of our Nation's flag.

The American flag is a national treasure and our Nation's ultimate symbol of freedom. The American flag represents all that unites us as one nation under God. It is a constant reminder of the ideals we share—patriotism, loyalty, love of country. Because of its significance, we should seek to provide the flag some measure of protection.

The measure we are considering today includes a simple phrase: ''Congress shall have the power to prohibit the physical desecration of the flag of the United States.'' This clear and concise statement will return to the American people a right and responsibility which the Supreme Court took away a little more than a decade ago. It will empower Congress to restore legal protection for the flag that existed under Federal law and the laws of 48 States prior to the Court's ruling.

Millions of Americans have fought and died in defense of the United States and the flag which represents our Nation. Allowing persons the legal protection to desecrate the flag dishonors our Nation's veterans who served defending our way of life. Many of the nearly 150,000 veterans which live in the five counties which make up my district have expressed their strong support for this measure.

I support this resolution for many reasons, including the fact that I want to make sure that we honor the sacrifice of veterans. I want our young people to know that with liberty comes civic responsibility. I want to restore a sense of pride in our Nation and its rich history. I urge my colleagues to join me in supporting this resolution.

Mr. DINGELL. Mr. Speaker, I rise today to express my outrage at a deplorable and despicable act which disgraces the honor of our country—the burning of the U.S. flag. Behind the Speaker hangs our flag. It is the most beautiful of all flags, with colors of red, white, and blue, carrying on its face the great heraldic story of 50 States descended from the original 13 colonies. I love it. I revere it. And I have proudly served it in war and peace.

However, today I rise in opposition to H.J. Res. 36, the flag amendment, which for the first time in over 200 years would amend our Bill of Rights.

Mr. Speaker, throughout our history, millions of Americans have served under this flag during wartime; some have sacrificed their lives for what this flag stands for: our unity, our freedom, our tradition, and the glory of our country. I have proudly served under our glorious flag in the Army of the United States during wartime, as a private citizen, and as an elected public official. And like many of my colleagues, I treasure this flag and fully share the deep emotions it invokes.

But while our flag may symbolize all that is great about our country, I swore an oath to uphold the great document which defines our country, the Constitution of the United States. The Constitution is not as visible as is our wonderful flag, and oftentimes we forget the glory and majesty of this magnificent document—our most fundamental law and rule of order. This document defines our rights, liberties and the structure of our government. Written in a few short weeks and months in 1787, it created a more perfect framework for government and unity, and defined the rights of the people in this great republic.

The principles spelled out in this document define how an American is different from a citizen of any other nation in the world. And it is because of my firm belief in these principles—the same principles I swore an oat to uphold—that I must oppose this amendment. If this amendment is adopted, it will be the first time in the entire history of the United States that we have cut back on our liberties as Americans as defined in the Bill of Rights.

Prior to the time the Supreme Court spoke on this matter, and defined acts of physical desecration to the flag under certain conditions as acts of free speech protected by the Constitution, I would have happily supported legislation which would protect the flag. While I have reservations about the propriety of these decisions, the Supreme Court is, under our great Constitution, empowered to define Constitutional rights and assure the protection of all the rights of free citizens in the United States.

Today, we are forced to make a difficult decision. There is regrettably enormous political pressure for us to constrain rights set forth in the Constitution to protect the symbol of this nation. This vote is not a litmus test of one's patriotism. What we are choosing today is between the symbol of our country and the soul of our country.

When I vote today, I will vote to support and defend the Constitution in all its majesty and glory, recognizing that to defile or dishonor the

flag is a great wrong; but recognizing that the defense of the Constitution, and the rights guaranteed under it, is the ultimate responsibility of every American.

I urge my colleagues to honor our flag by honoring a greater treasure to Americans, our Constitution. Vote down this bill.

Mr. GEKAS. Mr. Speaker, it unifies our soldiers in the midst of battle and provides the direction and morale they need to protect our freedom. It unifies our citizens in times of trouble and gives us reason to reflect on and celebrate our freedom. It is our American flag and for these reasons and more it is a symbol—perhaps the ultimate symbol—of our freedom.

That freedom has not come easily and has not always grown peacefully, but throughout 200 years of history, our flag has always held the value and meaning of the United States and continues to command respect and admiration around the world.

Freedom is America's greatest and most recognized attribute. It is symbolized by our flag and evident in the way our flag is treated and handled. If we afford our flag our deepest respect, we are cherishing our freedom and praising our nation. When we fail to recognize the significance of our flag, we will fail to recognize the significance not only of our freedom, but also of the potential for freedom around the world.

Let us recognize the thoughtful objections of our opponents and their concern for such an amendment offending the first amendment freedoms. We note that protecting the flag—the symbol of our country—truly protects and respects all our freedoms.

We can not take our freedom for granted. We must teach our children and our future leaders the importance of our freedom and the American flag. Millions of soldiers have fought for our flag and for all that it symbolizes. Many of them have died and many more have been injured. We can not forget that their courage and sacrifice was not only to guarantee their freedom, but also to guarantee our freedom. Furthermore, they did not fight so that we could allow the flag to lose its symbolic importance and deserving respect—the opposite, in fact. They fought to strengthen the value that America holds and that the flag represents.

Some nations have a unifying symbol that originates from their royalty such as a crown or scepter. Other nations have a unifying symbol such as a crest, cross, or other religious symbol. The United States' unifying symbol is her flag, and that originates from nowhere but our unending desire to uphold our freedom and to spread freedom to all peoples in all nations. From Fort McHenry to Iwo Jima, from Hawaii to Maine, from the Earth to the Moon and beyond the bounds of our solar system, this flag has always stood and continues to stand as our strongest unifying symbol—a symbol of history's greatest and freest nation.

It is time for the value we hold in the American flag to be reflected in our laws. By doing so, we are formally addressing the significance of the flag and the significance of denigrating our flag. Even more importantly, we are formally addressing the significance of freedom.

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today in support of our American flag, and as a proud original cosponsor of House Joint Resolution 36 to prohibit the physical desecration of our most cherished national symbol.

The American flag is probably the most recognizable symbol in the world. Wherever it flies, it represents freedom. Millions of Americans who served our nation in war have carried our flag into battle. They have been killed or injured just for wearing it on their uniform, because our flag represents freedom and liberty, the most feared powers known to tyranny. Where there is liberty, there is hope. And hope extinguishes the darkness of hatred, fear and oppression.

America is not a perfect nation. But to the world, our flag represents that which is right in our nation. To Americans, it represents what Chief Justice Charles Evans Hughes referred to as our "National unity, our national endeavor, our national aspiration." It is a remembrance of past struggles in which we have persevered to remain as one nation under God, indivisible, with liberty and justice for all. Those who would desecrate our flag and all it represents show no respect for the brave men and women for whom the ideals and honor of this nation were dearer than life.

Mr. Speaker, this bill will not make individuals who desecrate our flag love our nation or those who sacrificed to secure the freedoms we have today. But, by protecting our flag, we will give Americans a unified voice for decrying these reprehensive acts.

I urge my colleagues to support this amendment.

Mr. FORBES. Mr. Speaker, I rise in strong support of Housing Joint Resolution 36, which would allow Congress to take action to protect the American flag from desecration.

In fact, one of my very first acts upon being sworn in just last month was to cosponsor this important resolution. Some very respected people have called the flag a mere piece of cloth. But, I have spoken to many of the men and women who fought and had comrades die for that piece of cloth and all that it symbolizes. To those patriots, it is much more than just another piece of cloth.

A quick review of America's history of jurisprudence indicates that our nation has a long tradition of protecting the flag. It was not until recently, in 1989, that a closely divided Supreme Court reinterpreted our Constitution to allow for the physical desecration of the flag. Congress has tried to restore the interpretation that gave some protection to the flag. But it is only through a Constitutional amendment that we will be able to do so without fear that the courts will again erase our good work.

It is important to note, Mr. Chairman, that this is simply a first step on a long road that we take today to protect the flag. Even once the Congress passes this resolution and it is ratified by the states, this language only gives Congress the authority to pass a law to protect the flag. That will be the appropriate time to debate the specifics of how we will protect the flag. Items such as what constitutes desecration and how do we prosecute the offenders will be better discussed then. Today, we merely seek to give Congress the authority to have that debate.

So, I urge my colleagues to stand with the men and women who have patriotically served their country under the American flag and to support this resolution. If for no other reason, we should protect the flag out of respect for those individuals who sacrificed so much so that we might even have this debate today. But, we should also do so out of our own sense of patriotism and pride.

Mr. GILMAN. Mr. Speaker, as a proud American, World War II Veteran, and as a Member of Congress; I rise in strong support of H.J. Res. 36, the Flag Protection Amendment of which I am a cosponsor.

Mr. Speaker, Texas v. Johnson, and its progeny decided by the United States Supreme Court in 5–4 decisions holds that it is permissible under the 1st Amendment to burn or desecrate our Flag, the symbol of our great nation. That is outrageous. Those cases present clear examples and beg for a Constitutional Amendment to preserve the honor and integrity of "Old Glory." Let it be known by Constitutional Amendment that those who seek to desecrate or burn the American Flag will be required to suffer the consequences.

Mr. Speaker, in the 106th Congress, a resolution to propose an anti-desecration amendment to the United States Constitution passed in the House by a vote of 305 to 124. Regrettably our colleagues in the Senate failed to achieve the required ⅔ votes necessary to sustain the amendment.

Mr. Speaker, "Old Glory," is more than a symbol of our great nation. It is the foundation of our great nation! Our flag, atop masts throughout our Nation and throughout the world is a beacon of liberty, freedom and democracy. It adorns the uniforms of our dedicated men and women of the Armed Services, we honor our flag by saluting it at sports events, we "pledge allegiance to the flag of the United States of America . . .," we fly it at half-mast to show our respect for our fallen great Americans, and it adorns their caskets as well. We vividly recall a young John Fitzgerald Kennedy, Jr., saluting his slain father, President John Fitzgerald Kennedy, as the flag draped caisson made its way to Arlington National Cemetery, or our flag being placed on the moon, or atop the highest peaks in the world, that were conquered by proud Americans.

Mr. Speaker, to say that the desecration of our flag is protected by the First Amendment is to forget that freedom of expression is not absolute. As Chief Justice Rehnquist stated in his eloquent and patriotic dissent in Texas v. Johnson, which I urge my colleagues and all Americans to read, and which I will enter into the Congressional Record, there are the categories of the lewd and obscene, the profane, the libelous, and the "fighting words"—those words which their very utterance inflict injury or tend to incite an immediate breach of the peace, that do not enjoy 1st Amendment protection. Just as one cannot yell 'fire' in a crowded theater, and claim immunity under the First Amendment's freedom of speech; one must never be able to desecrate our flag and claim immunity under the First Amendment!

Mr. Speaker, during World War II, when those courageous Marines placed our flag atop a makeshift flag pole atop Mt. Suribachi, Iwo Jima, at the cost of more than 6,000 lives of our brave Marines, President Roosevelt, in saluting their courage, stated, "when uncommon valor was a common virtue." I urge that

all those who believe that the American Flag can be desecrated in the name of the First Amendment go and walk through the hallowed grounds in Arlington, Virginia, where the Iwo Jima Memorial is situated honoring those brave Marines on that day. To see our flag flying in the breeze makes us all proud to be Americans!

Mr. Speaker, I urge my colleagues to fully support H.J. Res. 36, protecting the honor and integrity of our flag.

Mr. NETHERCUTT. Mr. Speaker, I rise to express my support for this proposed Constitutional Amendment.

Our founding fathers' war-time soliloquies championed freedom in opposition to tyranny and oppression. However, in deciding to revolt and in establishing a government based on liberal beliefs, the founding fathers were aware of the dangerous tendencies of excessive liberty—including freedom of expression. On numerous occasions the Supreme Court has maintained that certain forms of speech are not protected—that freedom and liberty are not license.

Those who desecrate the flag often claim they do so for at least one of two reasons. First, they are advocating the destruction of government. This argument makes it very easy to support the proposed amendment, and the Supreme Court has held that this is not protected speech.

Second, perpetrators of this act claim to be supporting ideals of America's past that have disappeared. This claim is also an invalid justification. The flag not only represents the current state of America, but it also represents the past. It is America in its totality. It is a symbol of the collective expression of all our policies, the wars we have fought and the justification for so many honorable deaths. These deaths were in defense of many ideals, one of which is not unrestricted freedom of speech. What the flag stands for cannot be divided in parts at one's convenience and used to protest something pertaining to one or even several areas of our society. It is an expression of the whole. When a flag is destroyed, the perpetrator destroys all the ideals the flag represents.

This Congress has the power to set a new precedent. There is substantial public support for this initiative. The Greek philosopher Plato wrote in his famous work Republic, ''Extreme freedom can't be expected to lead to anything but a change to extreme slavery, whether for a private individual or for a city.'' I believe that respect for our national symbol is a minimal restriction on excessive political and artistic expression in our nation. I urge my colleagues to support this Constitutional Amendment.

Mr. PUTNAM. Mr. Speaker, I rise today to request the support of this body for the passage of H.J. Res. 36—the Flag Protection Amendment. This legislation will clarify once and for all that the language of Title 4 United States Code, section 8, ''No disrespect should be shown to the flag of the United States of America; the flag should not be dipped to any person or thing'' is the law of the land, as well as the sentiment of most Americans.

Some opponents of this legislation say that we cannot infringe on the First Amendment and the right to free speech. Others argue that the wording of the First Amendment is sacred, and we must not adjust the Bill of Rights to include this protection. But, I ask you to take a moment and think about the Founding Fathers. How could they have known that one day this would be in question? How could they have imagined that the flag of the country they pledged their lives, fortunes and sacred honor to bring into being would be burned as an act of ''speech'' by people who enjoy the protections of the Nation they sacrificed so much to build? There is no evidence they thought desecrating the flag would be speech, protected by the First Amendment. They would have known, and we must recognize, that destroying the flag is an action, not speech.

Mr. Justice White in the 1974 Supreme Court case of Smith v. Goguen said, ''There would seem to be little question about the power of Congress to forbid the mutilation of the Lincoln Memorial or to prevent overlaying it with words or other objects. The flag is itself a monument, subject to similar protection.''

Mr. Speaker, I am fortunate to have many veterans residing in my district. While thinking of what I was to say to you today, my thoughts turned to them. We are a nation standing strong today because those heroes kept our flag flying in spite of the hardship and sacrifice of war. The flag gave them strength when they were far from home. Our history is full of testimony that the image that kept our troops moving forward and prisoners enduring their captivity was the red, the white, and the blue. Surely the flag is as much a monument to their sacrifice as any tablet of stone or plaque of bronze; and should it not, then, as Justice White suggested receive the same protection as other monuments?

By adding this amendment to the Constitution, we are not taking away the freedoms that our flag symbolizes, rather we are protecting our most compelling monument to those who died—and lived—to make those freedoms possible. I urge you to vote ''yes'' to H.J. Res. 36.

Mr. KERNS. Mr. Speaker, I rise today as we consider an important piece of legislation to protect the symbol of freedom known around the world—the United States flag. Our American flag is more than just fabric and stitching. It represents the sacrifices made by generations of Americans to ensure the liberties that we enjoy each day. The fundamental principles of freedom, opportunity, and faith are woven into old glory. On porches and main streets throughout Indiana and our great nation, Americans display the stars and stripes as a symbol of their patriotic pride for our country. From the revolutionary war to modern times, the United States flag has been and continues to serve as the primary symbol of freedom and justice in the world. As a national treasure, I believe that our flag deserves our highest respect. For this reason, I ask my colleagues to support this legislation to protect the great symbol of freedom—the United States flag.

Mr. HOLT. Mr. Speaker, I rise today in opposition to this amendment.

Just as everyone here today, I view the American flag with a special reverence, and I am deeply offended when people burn or otherwise abuse this precious national symbol.

When I was in school, not only did we pledge allegiance to the flag every morning, but we were also honored to be selected to raise or lower the flag in front of my school.

Each one of us took on this task with the utmost seriousness and respect.

I believe that we should still be teaching young people to respect the flag and what it represents.

Our Constitution is the document that provides the basis for our great country. For two centuries and a decade, the Constitution—the greatest invention of humans—has allowed our diverse people to live together, to balance our various interests, and to thrive.

It has provided each citizen with broad, basic rights.

It doesn't fly majestically in front of government buildings. We do not pledge allegiance to it each day. Yet, it is the source of our freedom.

It tells us that we are free to assemble peacefully. We are free to petition our government; we are free to worship without interference; free from unlawful search and seizure; and free to choose our leaders. It secures the right and means of voting.

It is these freedoms that define what it is to be an American.

In its more than 200 years, the Constitution has been amended only 27 times. With the exception of the Eighteenth Amendment, which was later repealed, these amendments have reaffirmed and expanded individual freedoms and the specific mechanisms that allow our self-government to function.

This Resolution before us today would not perfect the operation of our self-government. It would not expand our citizen's rights.

Proponents of this constitutional amendment argue that we need to respect our flag.

I believe that the vast majority of Americans already respect our flag.

The issue before us is whether our Constitution should be amended so that the Federal Government can prosecute the handful of Americans who show contempt for the flag.

To quote James Madison, is this a ''great and extraordinary occasion'' justifying the use of a constitutional amendment?

The answer is no; this is not such an occasion.

I oppose this amendment because I believe that while attempting to preserve the symbol of the freedoms we enjoy in this country, it actually would harm the substance of these freedoms.

Mr. LEVIN. Mr. Speaker, I do not approve of people burning the U.S. flag. The flag serves as a proud symbol of our country, denoting truth, freedom and democracy. But as offensive as flag desecration is, I do not believe we can protect the flag by weakening the constitution.

One of this country's most cherished principles is that of free speech as found in the First Amendment. As Justice Oliver Wendell Holmes once wrote, ''The Constitution protects not only freedom for the thought and expression we agree with, but freedom for the thought we hate, the conduct and action we seriously dislike.''

Should this amendment be approved, it could open a Pandora's box prohibiting other activities. Who is to say restrictions won't be placed on desecrating religious symbols or texts, or even the Constitution and Declaration

of Independence? The possibilities are limitless and all would stand in opposition to what the founding fathers intended by giving citizens the right of freedom of speech.

Mr. Speaker, I would never condone burning the American flag. But carving out exceptions to the First Amendment is a slippery slope we should not venture down.

The SPEAKER pro tempore (Mr. QUINN). All time for general debate has expired.

AMENDMENT IN THE NATURE OF A SUBSTUTUTE OFFERED BY MR. WATT OF NORTH CAROLINA

Mr. WATT of North Carolina. Mr. Speaker, I offer an amendment in the nature of a substitute.

The SPEAKER pro tempore. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. WATT of North Carolina:

Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

''ARTICLE —

''Not inconsistent with the first article of amendment to this Constitution, the Congress shall have power to prohibit the physical desecration of the flag of the United States.''.

The SPEAKER pro tempore. Pursuant to House Resolution 189, the gentleman from North Carolina (Mr. WATT) and a Member opposed each will control 30 minutes.

Is the gentleman from Wisconsin (Mr. SENSENBRENNER) opposed to the amendment in the nature of a substitute?

Mr. SENSENBRENNER. Mr. Speaker, I rise in opposition to the amendment in the nature of a substitute.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. SENSENBRENNER) will be recognized in opposition.

The Chair recognizes the gentleman from North Carolina (Mr. WATT).

Mr. WATT of North Carolina. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. GREEN), outside of the debate on this amendment, to speak on general debate.

Mr. GREEN of Texas. Mr. Speaker, I thank my colleague and classmate, the gentleman from North Carolina, for yielding time to me.

Like our system goes here in Congress, I have a markup going on in the Committee on Energy and Commerce on the energy bill, and have been running back and forth. I appreciate the courtesy of the gentleman, my colleague, in yielding time to me.

Mr. Speaker, I rise today in support of the resolution and as a proud cosponsor of the original resolution to protect one of our Nation's most sacred and beloved symbols, our flag, from desecration.

This is the fourth consecutive Congress that we have taken up this resolution. I hope this time our colleagues in the Senate will join us in passing this amendment and sending it on to the States for ratification.

Our flag is a symbol of the men and women who have fought and died for our country. Their sacrifice is represented by that flag. To millions of Americans, the flag is more than just colored dye and cotton, it is the physical manifestation of our pride, our honor, and our dignity both here and around the world.

To see it stomped, burned, or otherwise desecrated is an affront to ordinary hardworking Americans. We cannot do anything about someone doing it in other parts of the world, but we can do something about it in our own country.

To those who argue that this sacred symbol is just a piece of cloth, I challenge them to remember some of the ways our flag is used: leading our athletes during opening ceremonies for the Olympics, flying at half staff to mark national tragedies, and covering the remains of our brave soldiers and service personnel who have given their lives for our country.

When the flag is desecrated, so, too, are the moments in these memories. I hope my colleagues will join me in voting for this resolution.

Mr. WATT of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the underlying proposed constitutional amendment that is the subject of this debate, and which has been the subject of general debate for now almost 2 hours, reads: ''The Congress shall have power to prohibit the physical desecration of the flag of the United States.''

The proposed amendment in the nature of a substitute, which I am offering to the underlying proposed constitutional amendment, reads: ''Not inconsistent with the first article of amendment to this Constitution, the Congress shall have power to prohibit the physical desecration of the flag of the United States.''

We should be clear that many people think that the desecration, the burning of a flag, is a part of an expression against the United States, against some action of the United States, and is a protected means of speech. The Supreme Court has so held, and if the Supreme Court did not hold such, I think that we would be in a position where we could selectively decide who could burn a flag and who could not burn a flag based on whether we agreed with the expression that they were intending to make or whether we disagreed with the expression they intended to make.

As we will hear, I am sure, from the gentleman from Virginia (Mr. SCOTT), who has studied this issue at some length, there are many, many occasions, and many of us in this House have been invited to occasions where the United States flag is burned. It is part of the ritual for doing away with a flag in a graceful way. That is an expression of our respect for the flag, because we have a designated way to dispose of the flag.

On the other hand, when people rise and make a statement against the United States government, many of them, some of them, have chosen to make that expression against the United States by burning the flag.

So when we talk about desecration of a flag or burning of a flag, one means of burning the flag would be protected when we agreed or the majority agreed with the expression that was being made.

The other means, when we disagreed with the expression that the protester or person who was making a statement against the United States was making, then we would, in effect, be stopping that person from exercising their freedom of speech.

The problem comes that if we put the proposed constitutional amendment in our Constitution as it is written, the Supreme Court is going to come to a very serious fork in the road. One amendment would say that we prohibit the physical desecration of the flag, and the Supreme Court has already held that in some cases that is constitutionally protected free speech. The first amendment will still be on the books, so the Supreme Court will have to decide which one of these constitutional amendments, the first amendment or this proposed constitutional amendment which we are debating, will it give precedence to.

The amendment in the nature of a substitute resolves that dispute. It basically says that if one can do away with or if Congress can pass a law that prohibits the physical desecration of the flag of the United States in such a way that it does not impinge, does not discriminate against people who are expressing their views, then it can do so. But if the Congress passes a law which does impinge on the freedom of expression, then it should be clear that the first amendment to the Constitution, which has served this Nation well for low so many years, should be the controlling amendment to the Constitution.

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And so it is in that context that we offer this substitute.

I wanted to give this opening statement so that everybody would understand that we are trying to resolve a potential dispute between two potentially conflicting provisions in the Constitution.

Mr. Speaker, having kind of framed the issue in that way, I reserve the balance of my time.

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

Mr. Speaker, I rise in opposition to the amendment in the nature of a substitute by the gentleman from North Carolina (Mr. WATT). And so that the membership is clear what the gentleman from North Carolina (Mr. WATT) is trying to do, I would like to read his proposed constitutional amendment: ''Not inconsistent with the first article of amendment to this constitution, the Congress shall have the power to prohibit the physical desecration of the flag of the United States.''

Now, the only difference between the substitute of the gentleman from North Carolina and House Joint Resolution 36 is the phrase ''not inconsistent with the first article of amendment to this constitution.'' What the substitute does is to punt this issue right back to the Supreme Court of the United States, because the Court twice, in a 5 to 4 decision in the Johnson and Eichman cases, allowed flag desecration based on first amendment grounds.

This is kind of a not-so-subtle way of saying that the Supreme Court was right, because if we send this whole issue back to the Supreme Court, they will use the precedent that they established in 1989 and 1990 as controlling and allow flag desecration to go on. But I think there is a greater issue involved than just the issue of whether or not the Constitution should be amended to prohibit flag desecration, and that is whether or not this House of Representatives should go along with unraveling the elaborate system of checks and balances put into our Constitution by the framers in order to prevent one branch of government from becoming too powerful.

As I said during the general debate, Mr. Speaker, the amendment procedure for the Constitution of the United States was, in part, designed to prevent the courts from becoming too powerful. Three of the 17 amendments that were proposed following the Bill of Rights, and ratified by the States, overturned court decisions that were determined not to be good law by the Congress and by three-quarters of the State legislatures.

Now, if the gentleman from North Carolina and the supporters of his amendment want to toss this matter back to the courts, then just defeat the amendment that we are debating today. Because that will mean that the court decisions in Johnson and Eichman will be the controlling law until the Supreme Court changes its mind and either overrules or modifies its decisions.

I believe that the House of Representatives today should hit this issue head on. If my colleagues do not want a constitutional amendment to protect the flag from physical desecration, then vote it down on the merits on the floor, but do not put this House on record saying that if we agree with the Supreme Court decision then we should amend the Constitution in order to ratify that Supreme Court decision, because that is what the substitute offered by the gentleman from North Carolina does.

Vote down the Watt substitute, pass the original amendment that has been reported by the Committee on the Judiciary.

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

Mr. WATT of North Carolina. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT. Mr. Speaker, I rise in support of the Watt amendment, and I thank the gentleman for yielding me this time.

Once again it is around the 4th of July, and we are discussing the current version of what is often referred to as the ''flag burning amendment.'' The gentleman from North Carolina has offered a meaningful alternative, one that will continue to protect the rights of free speech under the first amendment and is consistent with the opinions of former Senator John Glenn and Secretary of State Colin Powell, both of whom have spoken out in support of protecting the right of free speech and against the underlying amendment in its present form.

The Supreme Court has considered the restrictions which are permissible by the Government under the first amendment. For example, with respect to speech, time, place and matter may generally be regulated, while content cannot. So if a group or individual wishes want to have a protest march, the Government can restrict the particulars of the march: what time it is held, where it is held, how loud it can be. But it cannot restrict what people are marching about. We cannot allow some marchers and ban others just because we disagree with the message.

The only exception to the prohibition on regulation of content are situations, for example, where speech creates an imminent threat of violence. Burning a flag will not necessarily create an imminent threat of violence, particularly if someone is burning his own flag in his own back yard. Yet this is precisely the behavior prohibited by the underlying amendment.

We should all understand that flags are burned every day in this country. Indeed, flag burning is considered the proper way to retire a flag. And every year around Flag Day or the 4th of July, flags are burned en masse in order to retire them. When these flags are burned, those attending the ceremony or doing the burning say something respectful about the flag. Flag burning under those circumstances is considered appropriate and would remain legal under this amendment. However, when protestors burn a flag in exactly the same manner, but when accompanied by words of protest, well, the underlying amendment would make that instance of flag burning illegal.

So, if we say something nice while burning a flag, that is okay; but if something is said which offends the local sheriff as the flag is burned, then it would be illegal. This is nothing less than an attempt to suppress speech, and government officials should not be in the position of deciding which speech is good and which speech is bad. I believe the Watt amendment will help remedy this problem by requiring the criminalization of flag burning related to crimes must be consistent with the first amendment.

Now, there would still be other problems, like what is a flag? Is a picture of a flag, a flag? What is desecration and what does that mean? Who gets to decide when an expression constitutes desecration? And what other symbols, like Bibles or copies of the Constitution, should also be protected? Those problems still remain, but I ask my colleagues to join me in supporting this amendment.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. CHABOT).

Mr. CHABOT. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in opposition to the substitute amendment of the gentleman from North Carolina (Mr. WATT).

The gentleman from Virginia (Mr. SCOTT) has, in essence, indicated that it is going to be difficult or perhaps impossible to differentiate between appropriate burning of the flag or proper burning of the flag and an inappropriate or desecrating of the flag. This argument has been made other times. How do we differentiate between the two? This is done by tradition and by practice. For 100 years, our courts and the American people were able to tell the difference between desecration and the proper disposal of worn flags.

In the absence of a provision of some way to dispose of American flags, we would have to maintain them into perpetuity. It did not present a problem before, it has not throughout our Nation's history, and there is no reason to think it would be a problem now. In 1989, Congress passed the Flag Protection Act and was able to define desecration and flag. Additionally, the U.S. Code defines the terms and it always has.

In any event, we trust the good common sense of the American people and the fairness of the courts to resolve any unforeseen problems. And, ultimately, that is what would happen if there was a disagreement on whether

something was an appropriate disposal of a flag in one person's mind or desecration in the other. The courts could step in, as has happened in the past. We should be able to easily differentiate between a ceremony that many of us have gone to on Memorial Day, for example. Many of us go back into our districts and participate in those ceremonies. That is clearly different than a person who goes out and desecrates a flag or sets it on fire, as has happened.

Again, some have argued this does not happen any more. It has happened 86 times in the recent past, in 29 States and in the District of Columbia and in Puerto Rico, for example. We are able to differentiate, just as we are able to differentiate, for example, a surgeon who has a scalpel and operates on a person to assist them, to do something, to cure a disease or to cure some problem that person has from another person coming up with a knife and stabbing a person with it. It is easy to differentiate between the two, just as it is easy to differentiate between appropriate disposal of the flag and not appropriate disposal.

The gentleman's substitute amendment, again, says ''not inconsistent with the first article of amendment of this constitution.'' We already know what this Supreme Court, at least five of the justices of the Supreme Court, think about desecration of the flag. We know that they think that it amounts to expression and that that is protected by the first amendment in that 5 to 4 decision. And since this language would come first in the amendment, it would be controlling. So, in essence, if we would pass the substitute amendment of the gentleman from North Carolina as he proposes, it would appear that we are passing an amendment to protect the flag, to stop desecration of the flag in this country; but in essence, we would be passing absolutely nothing. It would be a sham. For that reason, I oppose the amendment.

Mr. WATT of North Carolina. Mr. Speaker, I yield 5 minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Speaker, I rise in opposition to this well-intentioned amendment. When I was first elected to the House, I cosponsored the flag burning amendment. I did so for many of the same reasons that proponents of the amendment have expressed today. It is disturbing to think of someone burning the flag of the United States. It is an action that holds in contempt the greatness of this Nation and all those who gave up their lives defending this symbol of freedom that our flag represents. It is an act for cowards.

And yet looking back, I was moved by my heart more than my head. History informs us that the strength of America is derived from its basic ideals, one of the most important of which is tolerance for the full expression of ideas, even the most obnoxious ones.

For more than 2 centuries, the first amendment to the Constitution has safeguarded the right of our people to write or publish almost anything without interference, to practice their religion freely and to protest against the Government in almost every way imaginable. It is a sign of our strength that, unlike so many repressive nations on earth, ours is a country with a constitution and a body of laws that accommodates a wide-ranging public debate. We must not become the first Congress in U.S. history to chill public debate by tampering with the first amendment.

Mr. Speaker, H. L. Mencken once said, ''The trouble with fighting for human freedom is that one spends most of one's time defending scoundrels, for it is against scoundrels that oppressive laws are first aimed. And oppression must be stopped at the beginning if it is to be stopped at all.'' Flag burners are generally scoundrels. On that much we would agree. But we ought not give them any more attention than they deserve.

Mr. Speaker, former Senator Chuck Robb sacrificed his political career by doing such things as voting against this amendment in order to defend the very freedoms that the American flag represents.

□ 1500

In his Senate floor statement last year, he described how he had been prepared to give up his life in the Vietnam War in order to protect the very freedoms that this constitutional amendment would suppress. He did wind up giving up his political career by showing the courage to vote against this amendment.

Not having fought in a war, I should do no less than Senator Robb did in defense of the freedom he and so many of my peers were willing to defend with their lives.

This amendment should be defeated. I think the substitute amendment is appropriate. It should be supported. But this amendment should be defeated in our national interest, regardless of the consequences to our personal and political interests.

Mr. SENSENBRENNER: Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. STEARNS).

Mr. STEARNS. Mr. Speaker, I rise against the substitute offered by the gentleman from North Carolina (Mr. WATT).

We have seen this debate before where our side has proposed the flag constitutional amendment and we have seen your side always provide a substitute. Generally, your substitute has been a method to give you the ability to vote for it and still go back to your constituents and say that you believe that the physical desecration of the flag of the United States is bad. That is what your amendment is, quite simply. Because if you were really sincere about this debate, you would not have this sentence in your substitute amendment: ''Not inconsistent with the first article of amendment to this Constitution.''

I am sure that my colleagues would be willing to explain why they would have that in if, in fact, they felt that the Congress should have the power to prohibit the physical desecration of the flag of the United States. But the fact that you put that in with a contingency would show that you do not really have your heart in this debate. This is really, in my opinion, just the opportunity for those who are in swing districts to have the opportunity to vote for something and vote against ours.

When we look at what we have offered in the original flag constitutional amendment, H.J.Res. 36, we are simply saying that our flag is not just a piece of cloth, we are saying it is something much more. To desecrate it is to desecrate the memory of thousands of Americans who have sacrificed their lives to keep that banner flying intact. So it is to desecrate everything this country stands for.

I would remind the Members who do not support our original amendment and support the substitute that we also note in our laws we protect our money from desecration, destruction. So if that is true for our money, why is that not true for the flag?

Obviously there is a debate on this all the time and we cannot get complete support on this, but I think in this case that we can talk and talk and talk about first amendment rights and everything but clearly that your amendment is just really subterfuge to try to protect Members who want to have it both ways.

Supreme Court Justice John Paul Stevens claims that the act of flag burning has nothing to do with disagreeable ideas, but rather involves conduct that diminishes the value of an important national asset. The act of flag burning is meant to provoke and arouse and not to reason. Flag burning is simply an act of cultural and patriotic destruction.

The American people revere the flag of the United States as a unique symbol of our Nation, representing our commonly held belief in liberty and justice. Regardless of our ethnic, racial or religious diversity, the flag represent oneness as a people. The American flag has inspired men and women to accomplish courageous deeds that won our independence, made our Nation great and, of course, advanced our values throughout the world which the rest of the country is adopting. Mr. Speaker, I say we should defeat this substitute.

Mr. WATT of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

First of all, let me address the comments made by my colleague, the gentleman from Florida (Mr. STEARNS), and make it absolutely clear to him that for those of us who have different opinions about what the first amendment covers than yours, it does not mean that we do not have political heart. It just means we have a difference of opinion.

Those of us who have stood for the first amendment to the Constitution are people like myself who, in the practice of law, actively defended the right of the Ku Klux Klan to march.

Mr. Speaker, maybe my colleagues can say I do not have any heart. Maybe my colleagues can say I am looking for political cover. But when I go back into my community and stand up for the right of the KKK to march and express themselves, I think that gives some indication of what I feel about the first amendment and the right that all of us, I think, are fighting to protect, which is the right of people to express themselves, whether we agree with what they are saying or disagree with what they are saying.

This is not about seeking political cover. This is about protecting the very Constitution that we are operating under and have been operating under for years and years.

Mr. Speaker, I want to make that clear to the gentleman. This is not, as the gentleman characterized it, a political exercise. And the gentleman should also be clear that this is not the Republican side versus our side, that is the Democratic side. The last time I checked, there were people of goodwill, both Republicans and Democrats, on both sides of the aisle on this issue.

The one thing that I think we all agree on is that we believe in this country and the principles on which it was founded, and we will all fight and defend those principles. I finally got to that point with the gentleman from California (Mr. CUNNINGHAM), my good friend, who is in the Chamber. We got past that. Let us not call names.

Mr. STEARNS. Mr. Speaker, will the gentleman yield?

Mr. WATT of North Carolina. I yield to the gentleman from Florida.

Mr. STEARNS. Mr. Speaker, could the gentleman give me an example where in his mind the authors of this substitute give a specific example where the first amendment would be in conflict with physical desecration of the flag?

Mr. WATT of North Carolina. Reclaiming my time, I have a very limited amount of time. Had the gentleman been on the floor at the outset of this debate, he would have heard what this amendment is all about. The only way I can do that now is to go back and restate it. It is in the record, though. I will just stand on the record.

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

Mr. SENSENBRENNER. Mr. Speaker, I have no further requests for time, and I reserve the balance of my time to close.

Mr. WATT of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. SCOTT. Mr. Speaker, will the gentleman yield?

Mr. WATT of North Carolina. I yield to the gentleman from Virginia.

Mr. SCOTT. Mr. Speaker, I ask the gentleman to yield so I can respond briefly to the gentleman from Florida (Mr. STEARNS) because I think it is important to know about the importance of the first amendment.

When we talk about some burning would be legal and some would not, if someone is being arrested because of the message, if someone is burning the flag and says something nice about the Vietnam War, would that be desecration? If someone says something in protest of the Vietnam War, would that be desecration? It is the same act. If the local sheriff happens to be of a particular view on that, he would want to arrest the burner because he is offended.

Mr. Speaker, that is why it is important that we have the first clause in the Watt amendment. It would have to be consistent with the first amendment. The first amendment would say that one cannot restrict by virtue of the content. We can restrict the way the flag is burned, the time the flag is burned, but not the message delivered when the burning is going on.

Mr. WATT of North Carolina. Mr. Speaker, I thank the gentleman for his intervention.

Mr. Speaker, in closing, first of all, I want to respond to the comments of the gentleman from Wisconsin (Mr. SENSENBRENNER) that he made in his opening statement, that the effect of this proposed substitute would be to punt this proposed issue back to the United States Supreme Court.

It is interesting that the chairman of the Committee on the Judiciary would say that, because, by passing the underlying proposal, we do not do away with the first amendment to the Constitution. The Supreme Court is going to have to reconcile this proposed constitutional amendment with the first amendment as it stands now; and so the notion that we are somehow, by not putting the language that we have proposed in the constitutional amendment, are going to save ourselves from the United States Supreme Court interpreting the first amendment is just not the case.

At some point this issue is going back to the Supreme Court, whether it goes back under my substitute or whether it goes back under the proposed constitutional amendment.

We can say to ourselves we have resolved this issue, but if in fact it is speech to burn a flag in the course of a demonstration or protest expressing one's self, if it was protected by the first amendment before this proposed constitutional amendment, then that act is still going to be protected by the first amendment unless the effect of this is to repeal the first amendment.

So it is not as if we are doing away with the first amendment. In any event, this all must be resolved. I do not think there is any credibility in that analysis. This issue is going back to the Supreme Court, and the Supreme Court will reconcile whatever amendment we make.

I am just trying to make it clear that in my order of priorities I want the first amendment to the Constitution, which has been on the books for all these years that our country has been around, to still be the preeminent amendment to the Constitution. I do not want something that this Congress has done in the heat of some political moment to supersede that.

Second, I want to close by just saying how much I have come to welcome this debate. When we first started doing this 5 or 6 years ago, I actually resented having to do this every year. Now I actually think that it is a good debate for our country.

Mr. Speaker, 5 or 6 years ago when I first started debating this, I used to think, as the gentleman from Florida (Mr. STEARNS) now thinks, that everybody on the opposite side of this issue was unAmerican because they did not believe in the first amendment.

Mr. Speaker, folks used to come in the Chamber and they would shout at me that I was unAmerican because I did not support what they wanted; and I would shout at them that they were unAmerican because they did not believe in what I believed in.

□ 1515

I think about 2 or 3 years into the debate, it became apparent to me that everybody on all sides of this issue is a patriot. And I think we finally got to that resolution last year or the year before last when we had a very, very dignified debate that allowed everybody to express their opinions on this proposed constitutional amendment, on the proposed substitute, and everybody went away understanding more fully what free speech and expression is all about and why we value our country as we do regardless of where we stand on this issue.

There is dignity in this debate. It is not a partisan debate. It is not a racial debate. It is not a philosophical debate. This is all about what you think this country stands for and what you think the first amendment stands for. I applaud my colleagues for engaging in this dignified debate.

Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I am willing to stipulate that everybody who has debated this question today, on either side of the issue, is just as patriotic as everybody else. There is a legitimate difference of opinion on whether or not we should propose a constitutional amendment for the States to consider and ratify to protect the United States flag from physical desecration. I think that the case is overwhelming on why we ought to do that.

I would just like to cite one legal decision from my home State, in the case of the State of Wisconsin v. Matthew C. Janssen, Supreme Court of Wisconsin, decided on June 25, 1998, where the State Supreme Court, citing the Johnson and Eichman cases as precedent, declared unconstitutional the Wisconsin flag desecration statute in the case where the defendant defecated on the American flag. And there the court determined that because the defendant claimed that this disgusting act was a political expression, he could not be criminally prosecuted because the statute was unconstitutional.

Now, if there ever was a reason why we should overturn the Johnson and Eichman cases, this decision of the Wisconsin Supreme Court, I believe, is a case in point. I think that whether one supports or opposes House Joint Resolution 36 goes down to a question of values. We have heard those values spoken today very eloquently on both sides. But I think that protecting the flag should be one of our paramount goals, because the flag does stand for all Americans. The flag does stand for the principles that are contained in the Declaration of Independence and the Constitution. The flag does stand for the values that 700,000 young men and young women died for in the wars that this country has fought over the last 225 years. If we can say that it is a Federal crime to burn a dollar bill, we ought to be able to say it is a Federal crime to burn the American flag.

I urge the defeat of the substitute and the passage of the constitutional amendment.

Mr. CONYERS. Mr. Speaker, I strongly support the substitute offered by Mr. WATT.

This substitute goes to the heart of what we're debating. If the sponsors of H.J. Res. 36 really believe that the proposed amendments does not supersede the First Amendment, they ought to have no problem supporting this substitute.

And if H.J. Res. 36 does supersede the First Amendment, then the sponsors should have the courage to admit it—so the American people can make an informed decision about this issue.

In my view it is clear that H.J. Res. 36 directly alters the free speech protections of the First Amendment. There can be no doubt that "symbolic speech" relating to the flag falls squarely within the ambit of traditionally protected speech.

Our nation was born in the dramatic symbolic speech of the Boston Tea Party, and our courts have long recognized that expressive speech associated with the flag is protected under the First Amendment.

Also, as H.J. Res. 36 is currently drafted, it will allow Congress to outlay activities that go well beyond free speech. The amendment gives us no guidance whatsoever as to what if any provisions of the First Amendment, the Bill of Rights, or the Constitution in general that it is designed to overrule.

Some have suggested that the amendment goes so far as to allow the criminalization of wearing clothing with the flag on it. This goes well beyond overturning the Johnson case and indicates that the flag desecration amendment could permit prosecution under statutes that were otherwise unconstitutionally void of vagueness.

For example, the Supreme Court in 1974 declared unconstitutionally vague a statute that criminalized treating the flag contemptuously and did not uphold the conviction of an individual wearing a flag patch on his pants. So unless we clarify H.J. Res. 36, the legislation would allow such a prosecution despite that statute's vagueness.

Finally, it is insufficient to respond to these concerns by asserting that the courts can easily work out the meaning of the terms in the same way that they have given meaning to other terms in the Bill of Rights such as "due process."

Unlike the other provisions of the Bill of Rights, H.J. Res. 36 represents an open-ended and unchartered invasion of our rights and liberties, rather than a back-up mechanism to prevent the government from usurping our rights.

I urge the Members to support the substitute and oppose altering the Bill of Rights.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LINDER). Pursuant to House Resolution 189, the previous question is ordered on the joint resolution and on the amendment in the nature of a substitute offered by the gentleman from North Carolina (Mr. WATT).

The question is on the amendment in the nature of a substitute offered by the gentleman from North Carolina (Mr. WATT).

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

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

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

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 100, nays 324, not voting 9, as follows:

[Roll No. 231]

YEAS—100

Abercrombie
Allen
Baldwin
Barrett
Becerra
Berman
Blagojevich
Blumenauer
Bonior
Borski
Boucher
Brady (PA)
Capuano
Cardin
Clay
Clayton
Clyburn
Coyne
Cummings
Davis (IL)
DeFazio
Dicks
Engel
Etheridge
Evans
Fattah
Frank
Gonzalez
Greenwood
Gutierrez
Hastings (FL)
Hilliard
Hinchey
Hoeffel
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson, E. B.
Jones (OH)
Kennedy (RI)
Kilpatrick
Kind (WI)
Kleczka
Kolbe
LaFalce
Lampson
Lantos
Larsen (WA)
Larson (CT)
Leach
Lewis (GA)
Lowey
Maloney (NY)
Markey
Matheson
Matsui
McCarthy (MO)
McCollum
McGovern
McKinney
Meehan
Meek (FL)
Meeks (NY)
Millender-McDonald
Moran (VA)
Nadler
Neal
Obey
Olver
Pastor
Paul
Payne
Pelosi
Price (NC)
Rangel
Roybal-Allard
Rush
Sabo
Sanders
Sandlin
Sawyer
Scott
Shadegg
Slaughter
Tanner
Tauscher
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Visclosky
Waters
Watt (NC)
Waxman
Weiner
Wexler

NAYS—324

Ackerman
Aderholt
Akin
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Ballenger
Barcia
Barr
Bartlett
Barton
Bass
Bentsen
Bereuter
Berkley
Berry
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boyd
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clement
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (CA)
Davis (FL)
Davis, Jo Ann
Davis, Tom
Deal
DeGette
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Eshoo
Everett
Farr
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Grucci
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kerns
Kildee
King (NY)
Kingston
Kirk
Knollenberg
Kucinich
LaHood
Langevin
Largent
Latham
LaTourette
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Manzullo
Mascara
McCarthy (NY)
McCrery
McDermott
McHugh
McInnis
McIntyre
McKeon

McNulty
Menendez
Mica
Miller (FL)
Miller, Gary
Miller, George
Mink
Mollohan
Moore
Moran (KS)
Morella
Murtha
Myrick
Napolitano
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Ortiz
Osborne
Ose
Otter
Oxley
Pallone
Pascrell
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reynolds
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Royce
Ryan (WI)
Ryun (KS)
Sanchez
Saxton
Scarborough
Schaffer
Schakowsky
Schrock
Sensenbrenner
Serrano
Sessions
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tancredo
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Toomey
Traficant
Turner
Upton
Velázquez
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watson (CA)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—9

Bishop
Delahunt
Gephardt
Jefferson
Owens
Reyes
Riley
Schiff
Spence

□ 1557

Messrs. MCINTYRE, DEMINT, THOMPSON of California, PICKERING, STARK, MCDERMOTT, SERRANO, and Ms. LOFGREN, Ms. LEE, Mrs. NAPOLITANO, Ms. VELAZQUEZ, and Mrs. DAVIS of California changed their vote from ''yea'' to ''nay.''

Messrs. RANGEL, ALLEN, DICKS, MCGOVERN, and HILLIARD changed their vote from ''nay'' to ''yea.''

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. LINDER). The question is on engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the joint resolution.

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

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 298, nays 125, not voting 10, as follows:

[Roll No. 232]

YEAS—298

Aderholt
Akin
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Ballenger
Barcia
Barr
Bartlett
Barton
Bass
Bentsen
Bereuter
Berkley
Berry
Biggert
Bilirakis
Blagojevich
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boyd
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Carson (OK)
Castle
Chabot
Chambliss
Clement
Clyburn
Coble
Collins
Combest
Condit
Cooksey
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (FL)
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Deutsch
Diaz-Balart
Dooley
Doolittle
Doyle
Duncan
Dunn
Edwards
Ehrlich
Emerson
English
Etheridge
Everett
Ferguson
Fletcher
Foley
Forbes
Ford
Fossella
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gillmor
Gilman
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Grucci
Gutierrez
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hilliard
Hinojosa
Hobson
Holden
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kerns
Kildee
King (NY)
Kingston
Kirk
Knollenberg
Kucinich
LaHood
Lampson
Langevin
Lantos
Largent
Larson (CT)
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Manzullo
Mascara
McCarthy (NY)
McCrery
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Menendez
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Mollohan
Moran (KS)
Morella
Murtha
Myrick
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Ortiz
Osborne
Ose
Otter
Oxley
Pallone
Pascrell
Pence
Peterson (PA)
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reynolds
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roukema
Royce
Rush
Ryan (WI)
Ryun (KS)
Sanchez
Sandlin
Saxton
Scarborough
Schaffer
Schrock
Sensenbrenner
Sessions
Shaw
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Souder
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Tancredo
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Toomey
Towns
Traficant
Turner
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Wynn
Young (AK)
Young (FL)

NAYS—125

Abercrombie
Ackerman
Allen
Baldwin
Barrett
Becerra
Berman
Blumenauer
Bonior
Borski
Boucher
Brady (PA)
Capuano
Cardin
Carson (IN)
Clay
Clayton
Conyers
Coyne
Davis (CA)
Davis (IL)
DeFazio
DeGette
DeLauro
Dicks
Dingell
Doggett
Dreier
Ehlers
Engel
Eshoo
Evans
Farr
Fattah
Filner
Flake
Frank
Gilchrest
Gonzalez
Greenwood
Hall (OH)
Hastings (FL)
Hill
Hinchey
Hoeffel
Hoekstra
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson, E. B.
Jones (OH)
Kennedy (RI)
Kilpatrick
Kind (WI)
Kleczka
LaFalce
Larsen (WA)
Leach
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Maloney (NY)
Markey
Matheson
Matsui
McCarthy (MO)
McCollum
McDermott
McKinney
Meehan
Meek (FL)
Meeks (NY)
Miller, George
Mink
Moore
Moran (VA)
Nadler
Oberstar
Obey
Olver
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Petri
Price (NC)
Rangel
Rivers
Roybal-Allard
Sabo
Sanders
Sawyer
Schakowsky
Scott
Serrano
Shadegg
Shays
Slaughter
Snyder
Solis
Stark
Tanner
Tauscher
Thompson (CA)
Tierney
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu

NOT VOTING—10

Bishop
Delahunt
Gephardt
Jefferson
Kolbe
Owens
Reyes
Riley
Schiff
Spence

□ 1614

So (two-thirds having voted in favor thereof) the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. PETERSON of Minnesota. Mr. Speaker, during rollcall vote No. 232 on H.J. Res. 36, I mistakenly recorded my vote as ''nay'' when I should have voted ''aye''.

Stated against:

Mr. KOLBE. Earlier today, I was absent during the vote on final passage of H.J. Res. 36, proposing an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States.

Had I been present, I would have voted ''nay'' on this vote, No. 232.

ANNOUNCEMENT REGARDING PREPRINTING OF AMENDMENTS TO H.R. 2506, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 2002

Mr. LINDER. Mr. Speaker, a Dear Colleague letter will be sent to all Members informing them that the Committee on Rules plans to meet tomorrow on Wednesday, July 18, 2001, to grant a rule for the consideration of H.R. 2506, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002.

□ 1615

The Committee on Rules may grant a rule which would require that amendments be printed in the CONGRESSIONAL RECORD prior to their consideration on the floor.

The Committee on Appropriations filed its report on the bill today. Members should draft their amendments to the bill as reported by the Committee on Appropriations.

Members should use the Office of Legislative Counsel to ensure that their amendments are properly drafted and should check with the Office of the Parliamentarian to be certain that their amendments comply with the rules of the House.

PROVIDING FOR CONSIDERATION OF H.R. 2500, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 192 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 192

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2500) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2002, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule. Points of order against provisions in the bill for failure to comply with clause 2 of rule XXI are waived except as follows: beginning with ''Provided'' on page 19, line 13, through ''workyears:'' on line 19. Where points of order are waived against part of a paragraph, points of order against a provision in another part of such paragraph may be made only against such provision and not against the entire paragraph. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII. Amendments so printed shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. COOKSEY). The gentleman from Georgia (Mr. LINDER) is recognized for 1 hour.

Mr. LINDER. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to my friend, the gentleman from Florida (Mr. HASTINGS); pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purposes of debate only.

Mr. Speaker, H. Res. 192 is an open rule providing for the consideration of H.R. 2500, the FY 2002 Commerce, Justice, State, the Judiciary, and related agencies appropriations bill. Overall, this bill provides roughly $38 billion in funding for a variety of Federal departments and agencies, about $600 million over the President's budget request.

H. Res. 192 provides for 1 hour of debate equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations, and all points of order are waived against consideration of the bill.

The rule also provides that the bill be considered for amendment by paragraph. H. Res. 192 waives clause 2 of rule XXI, prohibiting unauthorized or legislative provisions in an appropriations bill, against provisions in H.R. 2500, except as otherwise specified in the rule. The rule also authorizes the Chair to accord priority in recognition to Members who have preprinted their amendments in the CONGRESSIONAL RECORD.

Finally, the rule provides for one motion to recommit with or without instructions, as is the right of the minority.

Once H. Res. 192 is approved, the House can begin its consideration of the fiscal year 2002 Commerce, Justice, State, the Judiciary appropriations bill. A number of critically important Federal agencies receive their funding from this measure, including the Federal Bureau of Investigation, the Immigration and Naturalization Service, the Drug Enforcement Administration, the Federal Communications Commission, the Securities and Exchange Commission, and the Small Business Administration, among others.

I want to commend my friend and colleague, the gentleman from Virginia (Mr. WOLF), for the manner in which he and his ranking minority member, the gentleman from New York (Mr. SERRANO) have crafted this bill. It is funded within the guidelines of FY 2002 Budget Resolution we passed earlier this year, and they have done so while still providing for some significant funding increases for certain departments and agencies within H.R. 2500.

The Committee on Rules approved this rule by voice vote yesterday, and I urge my colleagues to support it so that we may proceed with the general debate and consideration of this bipartisan bill.

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

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

First, Mr. Speaker, let me thank the gentleman from Georgia (Mr. LINDER) for yielding me this time. This seems to be my and his day for rulemaking here in the House.

Mr. Speaker, I rise in support of the Commerce, Justice, State, Judiciary, and related agencies appropriations bill for fiscal year 2002 and in support of the rule. I want to congratulate the gentleman from Virginia (Mr. WOLF), the chairman of this subcommittee, and the ranking member, the gentleman from New York (Mr. SERRANO), for their work on this bill and for their recognition of the importance to the entire country of the necessary departments and agencies it funds. In years past, this has been a very controversial bill. I am satisfied that this year we have a bill that is fair, balanced, and enjoys wide bipartisan support.

For a moment, let me just say how important to the American people this bill is. It funds programs like the Legal Services Corporation and the Immigration and Naturalization Service. It increases funding for the Equal Employment Opportunity Commission and the United States Commission on Civil Rights. Additionally, this bill funds the very critical programs that our embassies around the world carry out every day. These hardworking unheralded women and men work hard for the American people every day and everywhere. From Baku to Buenos Aires, and from Quito to Cairo, our foreign service personnel have some of the most difficult jobs in the world. The increases in funding in this bill for embassy and consular security are most needed and should, in my opinion, be increased.

Mr. Speaker, in addition to the programs of national interest that I alluded to above, this bill contains a number of significant projects important to my south Florida district that I would like to highlight briefly. I am pleased this bill contains more than $1.4 million for the continued restoration of the south Florida ecosystem.

Funding for these projects includes important work being done at the National Coral Reef Institute in Dania Beach, Florida; and I am thrilled that Congress continues its commitment to this facility through this bill.

Protection of Florida's unique environment and the animals that inhabit it are aided by this bill. Specifically, this bill allocates $1.7 million for the Marine Mammal Commission for continuation of studies to further protect the endangered Florida manatee.

Additionally, this bill continues funding for the Caribbean Initiative, which provides added resources to the FBI, DEA, and the INS for the region that includes Puerto Rico, the Caribbean, and south Florida.

I am pleased to see that the bill before us includes significant funding for the Community Oriented Policing Services, the COPS program, administered by the Department of Justice. Specifically, the committee report recommends that funds be directed to the largest school district in my State, Miami-Dade County Public Schools, for technology equipment for school policing activities.

Finally, Mr. Speaker, let me mention that later in this debate I will offer an amendment for funding to an important project in a very small city in my district that is in desperate need, Pahokee, Florida. Looking ahead, I thank the ranking member for working with me on my amendment and for the thoughtful consideration of it.

Mr. Speaker, this is a good bill; and the rule is fine, as far as it goes. Again, Mr. Speaker, I thank the gentleman from Virginia (Mr. WOLF) and the gentleman from New York (Mr. SERRANO) for bringing an excellent bill to the House. This is a bipartisan bill that helps millions of Americans from coast to coast, and I urge passage of the bill and adoption of the rule.

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

Mr. LINDER. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. KELLER).

Mr. KELLER. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in support of the rule and wish to talk specifically about one of the most impressive components of this piece of legislation we are going to be voting on in terms of the Justice appropriations.

As a proud original cosponsor of the COPS program and the only member of the Subcommittee on Crime from Congress, I want to take this time to applaud the efforts of the chairman, the gentleman from Virginia (Mr. WOLF), in reinstating the funding for the COPS program at $1 billion, which is $158 million more than the President requested. This is a critically important program to our law enforcement community and to the safety of our citizens.

In my community of central Florida, for example, we have added more than 500 police officers since 1994. We have added 110,000 police officers across the country. Over two-thirds of our police departments have benefited from this program. What happened? We saw a dramatic downturn in crime. Every year since 1994, the crime rate has gone down.

Recently, I held a roundtable in my community and invited all of the sheriffs and all the chiefs of police. Some were elected; some were appointed. Some were Republican; some were Democrat. Some headed up large police departments; some headed up small. They all had one common goal. Their number one criminal justice priority was to fully fund the COPS program because they saw it made a meaningful difference in the lives of citizens in Orlando.

I want to applaud the leaders in funding this program and let them know this will continue to make a meaningful difference in people's lives because of their leadership.

Mr. HASTINGS of Florida. Mr. Speaker, I yield back the balance of my time.

Mr. LINDER. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 4 o'clock and 27 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1831

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. WHITFIELD) at 6 o'clock and 31 minutes p.m.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 7, COMMUNITY SOLUTIONS ACT OF 2001

Mr. DREIER, from the Committee on Rules, submitted a privileged report (Rept. No. 107–144) on the resolution (H. Res. 196) providing for consideration of the bill (H.R. 7) to provide incentives for charitable contributions by individuals and businesses, to improve the effectiveness and efficiency of government program delivery to individuals and families in need, and to enhance the ability of low-income Americans to gain financial security by building assets, which was referred to the House Calendar and ordered to be printed.

GENERAL LEAVE

Mr. WOLF. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2500, and that I may include tabular and extraneous material.

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

There was no objection.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

The SPEAKER pro tempore. Pursuant to House Resolution 192 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2500.

□ 1833

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2500) making appropriations for the Departments of Commerce, Justice and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2002, and for other purposes, with Mr. HASTINGS of Washington in the chair.

The Clerk read the title of the bill.

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

Under the rule, the gentleman from Virginia (Mr. WOLF) and the gentleman from New York (Mr. SERRANO) each will control 30 minutes.

The Chair recognizes the gentleman from Virginia (Mr. WOLF).

Mr. WOLF. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida (Mr. YOUNG), the chairman of the full Committee on Appropriations.

Mr. YOUNG of Florida. Mr. Chairman, I want to announce to Members that as we begin consideration of this very important appropriations bill that because of the heavy schedule for the floor this week, we would like to accomplish an agreement on limiting time on amendments, as we have done on other bills. In order to be fair to the membership, in order to do this, I would like to urge Members who have an amendment that they would like to have considered to this bill, that they present that as soon as they possibly can so that as we begin to create the universe of amendments that we will be considering, so that we will not leave anybody out.

The schedule for the balance of the evening will be announced at a later

time by the majority leader, but at this point we are prepared to go into the general debate on the bill.

I want to say a word of congratulations to the gentleman from Virginia (Chairman WOLF) for the tremendous leadership that he has shown in this, his first year as chairman of this particular subcommittee, and also to the gentleman from New York (Mr. SERRANO), who is the ranking member. There has been a very cooperative effort between the gentleman and the chairman. They both have done a good job. Their staffs have worked diligently to present a good, fair bill.

Will it satisfy everybody? I know there are a lot of folks that would like to see more money appropriated by this bill; others think it appropriates too much. So it is probably just at about the right place.

So, again, I want to compliment the gentleman from Virginia (Chairman WOLF), who has done an outstanding job in providing the leadership for the subcommittee, and his partner in this effort, the gentleman from New York (Mr. SERRANO), who also has been a very constructive member of the subcommittee in getting us to this point.

I am hopeful that we can expedite this bill. We have four other appropriations bills, plus the conference report on the supplemental, awaiting consideration by the House, so the sooner we can expedite this business, the sooner we can get on to the rest of the appropriations business.

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

Mr. Chairman, I am pleased to begin consideration of H.R. 2500, the Departments of Commerce, Justice, State, the Judiciary, and related agencies. The bill provides funding for programs whose impact ranges from the safety of people in their homes and communities, to the conduct of diplomacy around the world, to predicting the weather from satellites in outer space.

The bill before the Committee and in the House today reflects the delicate balance of needs and requirements. We have drafted what I consider to be a responsible bill for fiscal year 2002 spending levels for the departments and agencies under the subcommittee's jurisdiction. We have had to carefully prioritize the funding in this bill and make hard judgments with regard to scarce resources.

Overall, the bill before the committee recommends a total of $38.5 billion in discretionary funding, of which $38.1 bill is general-purpose discretionary, and $440 million is for the discretionary conservation function. The bill is $972 million above the enacted level for fiscal year 2001, and $600 million above the President's request.

For the Department of Justice, the bill provides $21.5 billion in discretionary funding, $672 million above last year's level and $623 million above the President's request. This includes a $455 million increase to address critical detention requirements to house criminals and illegal aliens.

It also includes $5 million in support of the President's faith-based initiative at the Federal Bureau of Prisons, including a pilot program at Petersburg, Virginia, and Leavenworth, Kansas, Federal penitentiaries. I firmly believe that faith can have a positive impact on the lives of those incarcerated, and I know that we must provide prisoners with something more positive than just putting them in prison; and a faith-based initiative which will be open to all faiths I believe can make a big impact in reducing recidivism.

There is a $469 million increase for the Drug Enforcement Administration, the Federal Bureau of Investigation, and the U.S. Attorneys to enhance Federal law enforcement's ability to fight the war on violent crime and drugs and to combat cybercrime and national security threats.

We have also included report language that will ensure that the Inspector General at the Department of Justice will have the full authority, for the first time, to investigate allegations of employee misconduct within both the FBI and the DEA. Again, this will be the first time that the IG will have permission to look at the whole Department, including the FBI and DEA.

This move is significant, given the problems that have plagued the FBI, and the DEA to a lesser extent. Having this added measure of oversight will be a good thing for the FBI and the DEA, and it will hopefully begin to restore the American people's faith in these two valiant and extremely important organizations. There are good men and women who are in both agencies who serve the country very well; and by giving the IG having the ability to look, I think will be a good thing.

There is a $252 million increase for the Immigration and Naturalization Service to enforce our immigration laws, hire additional Border Patrol agents, and continue the interior enforcement effort. This funding level also includes the President's request for an additional $45 million to achieve a 6-month application processing standard. There is a $150 million increase to enforce Federal and State gun laws and distribute gun safety locks.

This also empowers local communities to fight crime by providing $4.3 billion for State and local law enforcement assistance. This includes funding for Violence against Women Act programs, victims of trafficking grants, the State Criminal Alien Assistance program, and local law enforcement block grant programs, COPS and juvenile justice programs.

For the Department of Commerce, the bill provides $5.2 billion, $21 million above the request. It provides full funding for the U.S. trade agencies, Census, and the National Institute of Standards and Technology, an increase of $29 million over the President's request for the National Oceanic and Atmospheric Administration, including the National Weather Service.

The bill also includes $440 million on the conservation category as negotiated in the fiscal year 2001 Interior appropriations bill.

The National Weather Service has been diligent in its pursuit of a new National Severe Storm Laboratory building in Norman, Oklahoma. The gentleman from Oklahoma, Mr. WATTS has been vigilant in his pursuit to provide the required capabilities of this laboratory. Beginning in 1998, he has obtained funding to establish the National Severe Storms Laboratory.

This year, through the efforts of the chairman of the Subcommittee on Treasury, Postal Service and General Government, the gentleman from Oklahoma (Mr. ISTOOK), there is an agreement with the General Services Administration to actually construct this building. This committee has agreed to provide the above-standard GSA costs specific to the requirements for NOAA. This facility will allow NOAA to improve the detection of tornadoes nationwide. The bill also includes the full $440 million, as I said, under the conservation category program as negotiated in the fiscal year 2001 Interior appropriations bill. So this I think will help the gentleman from Oklahoma Mr. (WATTS) and the gentleman from Oklahoma (Mr. ISTOOK) and the University of Oklahoma to deal with that issue dealing with NOAA.

For Judiciary, $63 million will begin the renovations at the U.S. Supreme Court, about half the amount needed to protect the life, safety and security of the millions of people who use that building. Also a cost-of-living increase to the attorneys who ensure the fairness of our criminal justice system by representing indigents in criminal cases.

For the State Department and the Broadcasting Board of Governors, the bill provides $7.7 billion, $837 million above last year's appropriations, per the request of the Bush administration and per the request of Secretary Powell.

It includes a programming increase of $419 million for diplomatic readiness and reform, including 360 new positions and major technology modernization, $1.3 billion, the full request, the full request, because of embassy security problems, for urgent embassy security needs, including the construction of new secure replacement embassies and consulates.

Just last week, on July 12, the State Department released its first annual report on sexual trafficking in persons. The Congress ought to know that at

least 700,000 individuals a year, many women and children, are trafficked each year across international borders for sexual purposes. These victims are often subject to threats and violence and horrific living conditions. We must not tolerate this equivalent of modern-day slavery.

The bill includes $3.8 million for important new initiatives to combat trafficking, including the cost of an office within the State Department to coordinate interagency anti-trafficking activities, and an international conference to develop systematic international solutions to the problem. Fifty thousand people are brought to this country alone every year for that purpose, and the subcommittee plans on holding a hearing, in-depth hearings on this, when we come back after the Labor Day break.

The bill also includes $479 million for the Broadcasting Board of Governors, $9 million above the request, which includes funding for broadcasting initiatives in East Asia and the Middle East, and also making sure that the broadcasts get to the country of Sudan, where we know that they have slavery.

For the miscellaneous and related agencies, the bill includes $2.1 billion, $300 million above the current year level; $728 million for the Small Business Administration, an increase of $186 million above the President's request for important lending and assistance programs for the Nation's entrepreneurs; $232 million for the Maritime Administration, an increase of $128 million above the President's request, including funding for the Maritime Security Program, the title 11 loan program and the important efforts to dispose of the backlog of obsolete merchant vessels, which we hope we can finally put to rest once and for all.

$438 million, the requested amount for the Securities and Exchange Commission. I strongly support the SEC's recent effort to strengthen their enforcement of disclosure rules. Foreign corporations doing business in Sudan and other places playing a direct role in human rights abuses in Sudan have been able to offer securities to American investors; and as a result, these investors are unwittingly helping to subsidize these atrocities. American investors are helping to subsidize terrorism. American investors are helping to subsidize slavery.

We appreciate what the SEC did, and we will continue to insist on the full exercise of existing authorities to inform and protect American investors in this area, and this message goes out to the new chairman of the SEC when he takes over. But I appreciate the acting chairman's efforts in this regard.

□ 1845

Mr. Chairman, this bill provides funding of $3 million for the Commission on International Religious Freedom to monitor violations of religious freedom abroad and make policy recommendations to the State Department. I am particularly concerned about the denial of equal treatment to Coptic Christians by the government of Egypt. Funding for this Commission will help to ensure that such violations are given the attention they deserve by our foreign policymakers, whether being Egypt, whether being China, or wherever it may be.

This is a very quick summary of the recommendations before the House today. The bill gives no ground on the ongoing war against crime and drugs and provides the resources to State and local law enforcement that has helped bring the violent crime rate down to its lowest level since the Justice Department began tracking it. It includes major increases for the State Department to allow the Secretary, Secretary Powell, to rejuvenate and reform the Department and to continue the important, ongoing efforts to improve embassy security. It represents our best take on matching the needs with scarce resources.

I want to thank the gentleman from New York (Mr. SERRANO), the ranking member, who has been very effective and, I might say, these get to be sort of pro forma things, but, really, the gentleman is a good friend and someone we have worked very, very closely with. I want him to know that I appreciate his principal commitment, his thorough understanding of the programs in this bill, and I like sitting next to him with his great sense of humor, so I just wanted to thank him.

I also would like to thank all of the members of the subcommittee for their help. The gentleman from Kentucky (Mr. ROGERS), who had been the chairman of this committee for 6 years, has helped me with regard to a number of issues. I would also like to thank the gentleman from Arizona (Mr. KOLBE), the gentleman from North Carolina (Mr. TAYLOR), and the gentleman from Ohio (Mr. REGULA), the gentleman from Iowa (Mr. LATHAM), the gentleman from Florida (Mr. MILLER), the gentleman from Louisiana (Mr. VITTER), the gentleman from West Virginia (Mr. MOLLOHAN), the gentlewoman from California (Ms. ROYBAL-ALLARD), the gentleman from Alabama (Mr. CRAMER), and the gentleman from Rhode Island (Mr. KENNEDY).

Finally, I want to thank the gentleman from Florida (Mr. YOUNG), the full committee chairman, and the gentleman from Wisconsin (Mr. OBEY), the ranking member, for their help in moving this bill forward.

I would also be remiss if I failed to mention how much I appreciate the professionalism and the cooperation of both the minority staff and the majority staff.

I would like to thank the majority staff, Mike Ringler, who handles the budgets of the State Department and the United Nations; Leslie Albright, who ably works the Justice Department law enforcement programs, including the DEA, the U.S. Marshal Service and the FBI; Christine Ryan, a former FBI professional who oversees the Commerce Department budget and who is marrying a Marine Corps officer in a few short weeks when we finally finish this bill.

I also want to thank Julie Miller, an extremely professional OMB official, who may even stay with the committee if we can get the approval, who has been detailed to the committee; and Carrie Hines, another top-notch professional who has been detailed to the committee.

I appreciate the top-notch efforts of Gail Del Balzo, whose experience on the Senate Budget Committee, as assistant parliamentarian of the Senate and as general counsel of CBO, has prepared her well for the position of clerk of this subcommittee.

These young professionals put in countless hours working weekends and late into the night. It is time spent away from their families and their friends, and yet they are dedicated to doing what is best for the American people, and we really appreciate them very much.

On the minority side, I want to say exactly the same thing. In particular, I would like to thank Sally Chadbourne, Lucy Hand, Nadine Berg, Rob Nabors and Christine Maloy from the democratic staff who were willing to pitch in during all the long hours spent putting this bill together. It has been a unique experience. It has been more bipartisan than I have seen, quite frankly, for a long, long while.

With that, I will just end by saying we tried hard to produce the best bill possible. It probably is not like the Ten Commandments. It is not perfect. I am sure there could be some changes here. While there cannot be any changes to the Ten Commandments, there can be in this bill, but we did not have that vision that the good Lord has, so we will be taking some amendments and doing some things, but I do hope Members will support the bill.

APPROPRIATIONS BILL, 2002 (H.R. 2500)
(Amounts in thousands)

	FY 2001 Enacted	FY 2002 Request	Bill	Bill vs. Enacted	Bill vs. Request
TITLE I - DEPARTMENT OF JUSTICE					
General Administration					
Salaries and expenses	88,518	93,433	91,668	+3,150	-1,765
Joint automated booking system	15,880	15,957	15,957	+77	.....
Narrowband communications	204,549	104,606	104,615	-99,934	+9
Counterterrorism fund	4,989	4,989	4,989	.....	.....
Telecommunications carrier compliance fund	100,488	.....	.....	-100,488	.....
Defense function	100,488	.....	.....	-100,488	.....
Administrative review and appeals:					
Direct appropriation	160,708	178,499	178,751	+18,043	+252
Detention trustee	998	1,718	1,721	+723	+3
Office of Inspector General	41,484	45,495	50,735	+9,251	+5,240
Total, General administration	718,102	444,697	448,436	-269,666	+3,739
United States Parole Commission					
Salaries and expenses	8,836	10,862	10,915	+2,079	+53
Legal Activities					
General legal activities:					
Direct appropriation	534,592	566,822	568,011	+33,419	+1,189
Vaccine injury compensation trust fund (permanent)	4,019	4,028	4,028	+9	.....
Antitrust Division	120,838	140,973	141,366	+20,528	+393
Offsetting fee collections - carryover	-25,000	-51,550	-36,000	-11,000	+15,550
Offsetting fee collections - current year	-95,838	-89,423	-105,366	-9,528	-15,943
Direct appropriation	.....	.....	.....	.....	.....
United States Attorneys:					
Direct appropriation	1,247,631	1,346,289	1,353,968	+106,337	+7,679
United States Trustee System Fund	125,997	154,044	145,937	+19,940	-8,107
Offsetting fee collections	-119,997	-147,044	-138,937	-18,940	+8,107
Interest on U.S. securities	-6,000	-7,000	-7,000	-1,000	.....
Direct appropriation	.....	.....	.....	.....	.....
Foreign Claims Settlement Commission	1,105	1,130	1,136	+31	+6
United States Marshals Service:					
Direct appropriation	571,435	619,818	622,646	+51,211	+2,828
Construction	18,088	6,621	6,628	-11,460	+7
Justice prisoner and alien transportation system fund	13,470	.....	.....	-13,470	.....
Total, United States Marshals Service	602,993	626,439	629,274	+26,281	+2,835
Federal prisoner detention	596,088	724,682	724,682	+128,594	.....
Fees and expenses of witnesses	125,573	156,145	148,494	+22,921	-7,651
Community Relations Service	8,456	9,269	9,269	+813	.....
Assets forfeiture fund	22,949	22,949	21,949	-1,000	-1,000
Total, Legal activities	3,143,406	3,457,753	3,460,811	+317,405	+3,058
Radiation Exposure Compensation					
Administrative expenses	1,996	1,996	1,996	.....	.....
Payment to radiation exposure compensation trust fund	10,776	10,776	10,776	.....	.....
Total, Radiation Exposure Compensation	12,772	12,772	12,772	.....	.....
Interagency Law Enforcement					
Interagency crime and drug enforcement	325,181	338,106	340,189	+15,008	+2,083
Federal Bureau of Investigation					
Salaries and expenses	2,791,795	3,050,472	3,042,606	+250,811	-7,866
Counterintelligence and national security	436,687	455,387	448,467	+11,780	-6,920
Direct appropriation	3,228,482	3,505,859	3,491,073	+262,591	-14,786
Construction	16,650	1,250	1,250	-15,400	.....
Total, Federal Bureau of Investigation	3,245,132	3,507,109	3,492,323	+247,191	-14,786
Drug Enforcement Administration					
Salaries and expenses	1,443,669	1,547,929	1,543,083	+99,414	-4,846
Diversion control fund	-83,543	-67,000	-67,000	+16,543	.....
Total, Drug Enforcement Administration	1,360,126	1,480,929	1,476,083	+115,957	-4,846
Immigration and Naturalization Service					
Salaries and expenses	3,118,999	3,388,001	3,371,440	+252,441	-16,561
Enforcement and border affairs	(2,541,453)	(2,737,341)	(2,738,517)	(+197,064)	(+1,176)
Citizenship and benefits, immigration support and program direction	(577,546)	(650,660)	(632,923)	(+55,377)	(-17,737)

APPROPRIATIONS BILL, 2002 (H.R. 2500)—Continued
(Amounts in thousands)

	FY 2001 Enacted	FY 2002 Request	Bill	Bill vs. Enacted	Bill vs. Request
Fee accounts:					
Immigration user fee	(494,384)	(591,866)	(591,866)	(+97,482)	.....
Land border inspection fund	(1,670)	(1,714)	(2,944)	(+1,274)	(+1,230)
Immigration examinations fund	(969,851)	(1,258,088)	(1,376,871)	(+407,020)	(+118,783)
Breached bond fund	(80,600)	(120,763)	(139,935)	(+59,335)	(+19,172)
Immigration enforcement fines	(1,850)	(5,510)	(12,994)	(+11,144)	(+7,484)
H-1b Visa fees	(1,125)	(16,000)	(16,000)	(+14,875)	.....
Subtotal, Fee accounts	(1,549,480)	(1,993,941)	(2,140,610)	(+591,130)	(+146,669)
Construction	133,009	128,410	128,454	-4,555	+44
Total, Immigration and Naturalization Service	(4,801,488)	(5,510,352)	(5,640,504)	(+839,016)	(+130,152)
Appropriations	(3,252,008)	(3,516,411)	(3,499,894)	(+247,886)	(-16,517)
(Fee accounts)	(1,549,480)	(1,993,941)	(2,140,610)	(+591,130)	(+146,669)
Federal Prison System					
Salaries and expenses	3,500,172	3,829,437	3,845,971	+345,799	+16,534
Prior year carryover	-31,000	.....	-15,000	+16,000	-15,000
Direct appropriation	3,469,172	3,829,437	3,830,971	+361,799	+1,534
Buildings and facilities	833,822	833,273	813,552	-20,270	-19,721
Federal Prison Industries, Incorporated (limitation on administrative expenses)	3,421	3,429	3,429	+8	.....
Total, Federal Prison System	4,306,415	4,666,139	4,647,952	+341,537	-18,187
Office of Justice Programs					
Justice assistance	417,299	407,677	408,371	-8,928	+694
(By transfer)	(6,632)	(6,632)	(6,632)	.....	.....
State and local law enforcement assistance:					
Direct appropriations:					
Local law enforcement block grant	521,849	400,000	521,849	.....	+121,849
Boys and Girls clubs (earmark)	(60,000)	.....	(60,000)	.....	(+60,000)
Police athletic league (earmark)	.....	.....	(6,000)	(+6,000)	(+6,000)
Grants, contracts, and other assistance (earmark)	(19,956)	(19,956)	(19,956)	.....	.....
State prison grants	684,990	.....	.....	-684,990	.....
Tribal prison construction	.....	35,191	35,191	+35,191	.....
State criminal alien assistance program	399,120	265,000	565,000	+165,880	+300,000
Cooperative agreement program	.....	35,000	35,000	+35,000	.....
Indian tribal courts program	7,982	7,982	7,982	.....	.....
Indian grants	4,989	4,989	4,989	.....	.....
Byrne grants (formula)	498,900	500,000	500,000	+1,100	.....
Byrne grants (discretionary)	68,898	.....	70,000	+1,102	+70,000
Juvenile crime block grant	249,450	249,450	249,450	.....	.....
Drug courts	49,890	50,000	50,000	+110	.....
Violence Against Women grants	288,044	309,665	309,665	+21,621	.....
State prison drug treatment	62,861	73,861	73,861	+11,000	.....
Stalking and domestic violence grants program	.....	3,000	3,000	+3,000	.....
Violent Crimes Against Women on Campus	.....	10,000	10,000	+10,000	.....
Legal assistance for victims	.....	40,000	40,000	+40,000	.....
Protection for older and disabled women	.....	5,000	5,000	+5,000	.....
Safe Havens for Children pilot program	.....	15,000	15,000	+15,000	.....
Parental kidnapping laws report	.....	200	200	+200	.....
Forensic exams of domestic violence study	.....	200	200	+200	.....
Education and training to end violence against and abuse of women with disabilities	.....	7,500	7,500	+7,500	.....
Other crime control programs	5,687	5,688	5,688	+1	.....
Assistance for victims of trafficking	.....	.....	10,000	+10,000	+10,000
Total, State and local law enforcement	2,842,660	2,017,726	2,519,575	-323,085	+501,849
Weed and seed program fund	33,925	58,925	58,925	+25,000	.....
Community oriented policing services:					
Direct appropriations:					
Public safety and community policing grants	533,823	271,856	421,856	-111,967	+150,000
Management administration	31,755	32,812	32,994	+1,239	+182
Crime identification technology	129,714	255,404	213,611	+83,897	-41,793
Safe schools initiative	(17,462)	(17,000)	(17,000)	(-462)	.....
Upgrade criminal history records	(34,923)	(35,000)	(35,000)	(+77)	.....
DNA identification/crime lab	(29,934)	(70,000)	(75,000)	(+45,066)	(+5,000)
Methamphetamine	48,393	48,393	48,393	.....	.....
Community prosecutors	99,780	99,780	99,780	.....	.....
Crime prevention	46,897	46,864	46,864	-33	.....
COPS technology	139,692	100,000	150,000	+10,308	+50,000
Total, Community oriented policing services	1,030,054	855,109	1,013,498	-16,556	+158,389
Juvenile justice programs	297,940	297,940	297,940	.....	.....

APPROPRIATIONS BILL, 2002 (H.R. 2500)—Continued
(Amounts in thousands)

	FY 2001 Enacted	FY 2002 Request	Bill	Bill vs. Enacted	Bill vs. Request
Public safety officers benefits program:					
Death benefits	33,224	33,224	33,224	.....	.....
Disability benefits	2,395	2,395	2,395	.....	.....
Total, Public safety officers benefits program	35,619	35,619	35,619	.....	.....
Total, Office of Justice Programs	4,657,497	3,672,996	4,333,928	-323,569	+660,932
Total, title I, Department of Justice	21,029,475	21,107,774	21,723,303	+693,828	+615,529
(By transfer)	(6,632)	(6,632)	(6,632)	.....	.....
TITLE II - DEPARTMENT OF COMMERCE AND RELATED AGENCIES					
TRADE AND INFRASTRUCTURE DEVELOPMENT					
Office of the United States Trade Representative					
Salaries and expenses	29,452	30,097	30,097	+645	.....
International Trade Commission					
Salaries and expenses	47,994	51,440	51,440	+3,446	.....
Total, Related agencies	77,446	81,537	81,537	+4,091	.....
DEPARTMENT OF COMMERCE					
International Trade Administration					
Operations and administration	336,702	332,590	347,654	+10,952	+15,064
Offsetting fee collections	-3,000	-3,000	-3,000	.....	.....
Direct appropriation	333,702	329,590	344,654	+10,952	+15,064
Export Administration					
Operations and administration	57,477	61,643	61,643	+4,166	.....
CWC enforcement	7,234	7,250	7,250	+16	.....
Total, Export Administration	64,711	68,893	68,893	+4,182	.....
Economic Development Administration					
Economic development assistance programs	410,973	335,000	335,000	-75,973	.....
Salaries and expenses	27,938	30,557	30,557	+2,619	.....
Total, Economic Development Administration	438,911	365,557	365,557	-73,354	.....
Minority Business Development Agency					
Minority business development	27,254	28,381	28,381	+1,127	.....
Total, Trade and Infrastructure Development	942,024	873,958	889,022	-53,002	+15,064
ECONOMIC AND INFORMATION INFRASTRUCTURE					
Economic and Statistical Analysis					
Salaries and expenses	53,627	62,515	62,515	+8,888	.....
Bureau of the Census					
Salaries and expenses	156,881	168,561	169,424	+12,543	+863
Periodic censuses and programs	275,798	374,835	350,376	+74,578	-24,459
Total, Bureau of the Census	432,679	543,396	519,800	+87,121	-23,596
National Telecommunications and Information Administration					
Salaries and expenses	11,412	14,054	13,048	+1,636	-1,006
Public telecommunications facilities, planning and construction	43,404	43,466	43,466	+62	.....
Information infrastructure grants	45,400	15,503	15,503	-29,897	.....
Total, National Telecommunications and Information Administration	100,216	73,023	72,017	-28,199	-1,006
United States Patent and Trademark Office					
Current year fee funding	782,119	856,701	846,701	+64,582	-10,000
(Prior year carryover)	(254,889)	(282,300)	(282,300)	(+27,411)	.....
Total, Patent and Trademark Office	(1,037,008)	(1,139,001)	(1,129,001)	(+91,993)	(-10,000)
Offsetting fee collections	-782,119	-856,701	-846,701	-64,582	+10,000
Total, Economic and Information Infrastructure	586,522	678,934	654,332	+67,810	-24,602
SCIENCE AND TECHNOLOGY					
Technology Administration					
Under Secretary for Technology/ Office of Technology Policy					
Salaries and expenses	8,062	8,238	8,094	+32	-144

APPROPRIATIONS BILL, 2002 (H.R. 2500)—Continued
(Amounts in thousands)

	FY 2001 Enacted	FY 2002 Request	Bill	Bill vs. Enacted	Bill vs. Request
National Institute of Standards and Technology					
Scientific and technical research and services	311,929	347,288	348,589	+36,660	+1,301
Industrial technology services	250,285	119,266	119,514	-130,771	+248
Construction of research facilities	34,802	20,893	20,893	-13,909	.....
Total, National Institute of Standards and Technology	597,016	487,447	488,996	-108,020	+1,549
National Oceanic and Atmospheric Administration					
Operations, research, and facilities	1,865,058	2,009,309	1,893,298	+28,240	-116,011
Conservation	.....	168,000	304,000	+304,000	+136,000
(By transfer from Promote and Develop Fund)	(67,850)	(68,000)	(68,000)	(+150)	.....
(By transfer from Coastal zone management)	3,193	3,000	3,000	-193	.....
Total, Operations, research and facilities	1,868,251	2,180,309	2,200,298	+332,047	+19,989
Procurement, acquisition and construction	681,397	738,861	723,000	+41,603	-15,861
Conservation	.....	26,000	26,000	+26,000	.....
Total, Procurement, acquisition and construction	681,397	764,861	749,000	+67,603	-15,861
Coastal and ocean activities	419,076	.....	.....	-419,076	.....
Pacific coastal salmon recovery	73,837	20,000	25,000	-48,837	+5,000
Conservation	.....	90,000	110,000	+110,000	+20,000
Coastal zone management fund	-3,200	-3,000	-3,000	+200	.....
Fishermen's contingency fund	950	952	952	+2	.....
Foreign fishing observer fund	191	191	191	.....	.....
Fisheries finance program account	287	287	287	.....	.....
Environmental improvement and restoration fund	.....	10,000	10,000	+10,000	.....
Total, National Oceanic and Atmospheric Administration	3,040,789	3,063,600	3,092,728	+51,939	+29,128
Total, Science and Technology	3,645,867	3,559,285	3,589,818	-56,049	+30,533
Appropriations	(3,645,867)	(3,275,285)	(3,149,818)	(-496,049)	(-125,467)
Conservation	.....	(284,000)	(440,000)	(+440,000)	(+156,000)
Departmental Management					
Salaries and expenses	35,841	37,652	37,843	+2,002	+191
Office of Inspector General	19,956	21,176	21,176	+1,220	.....
Total, Departmental management	55,797	58,828	59,019	+3,222	+191
Total, Department of Commerce	5,152,764	5,089,468	5,110,654	-42,110	+21,186
Total, title II, Department of Commerce and related agencies	5,230,210	5,171,005	5,192,191	-38,019	+21,186
Appropriations	(5,230,210)	(4,887,005)	(4,752,191)	(-478,019)	(-134,814)
Conservation	.....	(284,000)	(440,000)	(+440,000)	(+156,000)
(By transfer)	(67,850)	(68,000)	(68,000)	(+150)	.....
TITLE III - THE JUDICIARY					
Supreme Court of the United States					
Salaries and expenses:					
Salaries of justices	1,698	1,698	1,808	+110	+110
Other salaries and expenses	35,814	40,416	40,258	+4,444	-158
Total, Salaries and expenses	37,512	42,114	42,066	+4,554	-48
Care of the building and grounds	7,513	117,742	70,000	+62,487	-47,742
Total, Supreme Court of the United States	45,025	159,856	112,066	+67,041	-47,790
United States Court of Appeals for the Federal Circuit					
Salaries and expenses:					
Salaries of judges	2,021	2,021	2,079	+58	+58
Other salaries and expenses	15,874	18,425	17,208	+1,334	-1,217
Total, Salaries and expenses	17,895	20,446	19,287	+1,392	-1,159
United States Court of International Trade					
Salaries and expenses:					
Salaries of judges	1,525	1,525	1,633	+108	+108
Other salaries and expenses	10,907	11,587	11,440	+533	-147
Total, Salaries and expenses	12,432	13,112	13,073	+641	-39
Courts of Appeals, District Courts, and Other Judicial Services					
Salaries and expenses:					
Salaries of judges and bankruptcy judges	248,000	250,000	250,434	+2,434	+434
Other salaries and expenses	3,104,879	3,485,774	3,381,506	+276,627	-104,268
Direct appropriation	3,352,879	3,735,774	3,631,940	+279,061	-103,834
Vaccine Injury Compensation Trust Fund	2,596	2,692	2,692	+96	.....
Defender services	434,043	521,517	500,671	+66,628	-20,846
Fees of jurors and commissioners	59,436	50,131	48,131	-11,305	-2,000

APPROPRIATIONS BILL, 2002 (H.R. 2500)—Continued
(Amounts in thousands)

	FY 2001 Enacted	FY 2002 Request	Bill	Bill vs. Enacted	Bill vs. Request
Court security	199,136	228,433	224,433	+25,297	-4,000
Total, Courts of Appeals, District Courts, and Other Judicial Services	4,048,090	4,538,547	4,407,867	+359,777	-130,680
Administrative Office of the United States Courts					
Salaries and expenses	58,212	63,029	60,029	+1,817	-3,000
Federal Judicial Center					
Salaries and expenses	18,736	20,323	20,235	+1,499	-88
Judicial Retirement Funds					
Payment to Judiciary Trust Funds	35,700	37,000	37,000	+1,300	.....
United States Sentencing Commission					
Salaries and expenses	9,909	12,400	11,575	+1,666	-825
General Provisions					
Judges pay raise (sec. 304)	8,782	8,000	.....	-8,782	-8,000
Total, title III, the Judiciary	4,254,781	4,872,713	4,681,132	+426,351	-191,581
TITLE IV - DEPARTMENT OF STATE					
Administration of Foreign Affairs					
Diplomatic and consular programs	2,758,076	3,217,405	3,166,000	+407,924	-51,405
Worldwide security upgrade	409,098	487,735	487,735	+78,637	.....
Total, Diplomatic and consular programs	3,167,174	3,705,140	3,653,735	+486,561	-51,405
Capital investment fund	96,787	210,000	210,000	+113,213	.....
Office of Inspector General	28,427	29,264	29,264	+837	.....
Educational and cultural exchange programs	231,078	242,000	237,000	+5,922	-5,000
Representation allowances	6,485	9,000	6,485	.....	-2,515
Protection of foreign missions and officials	15,433	10,000	9,400	-6,033	-600
Embassy security, construction and maintenance	416,059	475,046	470,000	+53,941	-5,046
Worldwide security upgrade	661,541	815,960	815,960	+154,419	.....
Emergencies in the diplomatic and consular service	5,465	15,500	10,000	+4,535	-5,500
(By transfer)	(3,991)	(4,000)	(4,000)	(+9)	.....
Commission on Holocaust Assets in U.S. (by transfer)	(1,397)	.....	.....	(-1,397)	.....
Repatriation Loans Program Account:					
Direct loans subsidy	590	612	612	+22	.....
Administrative expenses	603	607	607	+4	.....
(By transfer)	(998)	(1,000)	(1,000)	(+2)	.....
Total, Repatriation loans program account	1,193	1,219	1,219	+26	.....
Payment to the American Institute in Taiwan	16,309	17,044	17,044	+735	.....
Payment to the Foreign Service Retirement and Disability Fund	131,224	135,629	135,629	+4,405	.....
Total, Administration of Foreign Affairs	4,777,175	5,665,802	5,595,736	+818,561	-70,066
International Organizations and Conferences					
Contributions to international organizations, current year assessment	868,917	878,767	850,000	-18,917	-28,767
Contributions for international peacekeeping activities, current year	844,139	844,139	844,139	.....	.....
Total, International Organizations and Conferences	1,713,056	1,722,906	1,694,139	-18,917	-28,767
International Commissions					
International Boundary and Water Commission, United States and Mexico:					
Salaries and expenses	7,126	7,452	24,705	+17,579	+17,253
Construction	22,900	25,654	5,520	-17,380	-20,134
American sections, international commissions	6,726	10,311	10,311	+3,585	.....
International fisheries commissions	19,349	19,780	19,780	+431	.....
Total, International commissions	56,101	63,197	60,316	+4,215	-2,881
Other					
Payment to the Asia Foundation	9,230	9,250	9,250	+20	.....
Eisenhower Exchange Fellowship program trust fund	499	500	500	+1	.....
Israeli Arab scholarship program	374	375	375	+1	.....
East-West Center	13,470	13,500	9,400	-4,070	-4,100
National Endowment for Democracy	30,931	31,000	33,500	+2,569	+2,500
Total, Department of State	6,600,836	7,506,530	7,403,216	+802,380	-103,314
RELATED AGENCY					
Broadcasting Board of Governors					
International Broadcasting Operations	398,093	428,234	453,106	+55,013	+24,872
Broadcasting to Cuba	22,046	24,872	.....	-22,046	-24,872
Broadcasting capital improvements	20,313	16,900	25,900	+5,587	+9,000
Total, Broadcasting Board of Governors	440,452	470,006	479,006	+38,554	+9,000
Total, title IV, Department of State	7,041,288	7,976,536	7,882,222	+840,934	-94,314
(By transfer)	(6,386)	(5,000)	(5,000)	(-1,386)	.....

APPROPRIATIONS BILL, 2002 (H.R. 2500)—Continued
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	FY 2001 Enacted	FY 2002 Request	Bill	Bill vs. Enacted	Bill vs. Request
TITLE V - RELATED AGENCIES					
DEPARTMENT OF TRANSPORTATION					
Maritime Administration					
Maritime security program	98,483	.....	98,700	+217	+98,700
Operations and training	86,719	89,054	89,054	+2,335	.....
Ship disposal	.....	10,000	10,000	+10,000	.....
Maritime Guaranteed Loan (Title XI) Program Account:					
Guaranteed loans subsidy	29,934	.....	30,000	+66	+30,000
Administrative expenses	3,978	3,978	3,978	.....	.....
Total, Maritime guaranteed loan program account	33,912	3,978	33,978	+66	+30,000
Total, Maritime Administration	219,114	103,032	231,732	+12,618	+128,700
Commission for the Preservation of America's Heritage Abroad					
Salaries and expenses	489	489	489	.....	.....
Commission on Civil Rights					
Salaries and expenses	8,880	9,096	9,096	+216	.....
Commission on International Religious Freedom					
Salaries and expenses	.....	3,000	3,000	+3,000	.....
Commission on Ocean Policy					
Salaries and expenses	998	.....	.....	-998	.....
Commission on Security and Cooperation in Europe					
Salaries and expenses	1,367	1,499	1,499	+132	.....
Congressional-Executive Commission on the People's Republic of China					
Salaries and expenses	499	500	500	+1	.....
Equal Employment Opportunity Commission					
Salaries and expenses	303,195	310,406	310,406	+7,211	.....
Federal Communications Commission					
Salaries and expenses	229,494	248,545	238,597	+9,103	-9,948
Offsetting fee collections - current year	-200,146	-218,757	-218,757	-18,611	.....
Direct appropriation	29,348	29,788	19,840	-9,508	-9,948
Federal Maritime Commission					
Salaries and expenses	15,466	16,450	15,466	.....	-984
Federal Trade Commission					
Salaries and expenses	147,154	156,270	155,982	+8,828	-288
Offsetting fee collections - carryover	-1,900	.....	.....	+1,900	.....
Offsetting fee collections - current year	-145,254	-156,270	-155,982	-10,728	+288
Direct appropriation	.....	.....	.....	.....	.....
Legal Services Corporation					
Payment to the Legal Services Corporation	329,274	329,300	329,300	+26	.....
Marine Mammal Commission					
Salaries and expenses	1,696	1,732	1,732	+36	.....
National Veterans Business Development Corporation					
Salaries and expenses	.....	4,000	4,000	+4,000	.....
Pacific Charter Commission					
Salaries and expenses	.....	.....	2,500	+2,500	+2,500
Securities and Exchange Commission					
Current year fees	127,519	109,500	109,500	-18,019	.....
2000 fees	294,351	328,400	328,400	+34,049	.....
Direct appropriation	421,870	437,900	437,900	+16,030	.....
Small Business Administration					
Salaries and expenses	367,824	321,219	303,581	-64,243	-17,638
Office of Inspector General	11,927	11,927	11,927	.....	.....
Business Loans Program Account:					
Direct loans subsidy	2,245	1,500	1,500	-745	.....
Guaranteed loans subsidy	162,801	.....	77,000	-85,801	+77,000
Administrative expenses	128,716	129,000	129,000	+284	.....
Total, Business loans program account	293,762	130,500	207,500	-86,262	+77,000

APPROPRIATIONS BILL, 2002 (H.R. 2500)—Continued
(Amounts in thousands)

	FY 2001 Enacted	FY 2002 Request	Bill	Bill vs. Enacted	Bill vs. Request
Disaster Loans Program Account:					
Direct loans subsidy	75,972	.....	84,510	+8,538	+84,510
Administrative expenses	108,116	75,354	120,354	+12,238	+45,000
Gainsharing	.....	3,000	.....	.....	-3,000
Total, Disaster loans program account	184,088	78,354	204,864	+20,776	+126,510
Total, Small Business Administration	857,601	542,000	727,872	-129,729	+185,872
State Justice Institute					
Salaries and expenses 1/	6,835	15,000	6,835	.....	-8,165
Total, title V, Related agencies	2,196,632	1,804,192	2,102,167	-94,465	+297,975
TITLE VII - RESCISSIONS					
DEPARTMENT OF JUSTICE					
Drug Enforcement Administration					
Drug diversion fund (rescission)	-8,000	.....	.....	+8,000	.....
DEPARTMENT OF COMMERCE					
Departmental Management					
Emergency oil and gas guaranteed loan program account (rescission)	.....	-115,000	-115,000	-115,000	.....
Emergency steel guaranteed loan program account (rescission)	.....	-10,000	-10,000	-10,000	.....
RELATED AGENCIES					
DEPARTMENT OF TRANSPORTATION					
Maritime Administration					
Maritime Guaranteed Loan (Title XI) Program Account:					
Guaranteed loans subsidy (rescission)	-7,644	.....	.....	+7,644	.....
Total, title VII, Rescissions	-15,644	-125,000	-125,000	-109,356	.....
TITLE IX					
Wildlife conservation and restoration planning	49,890	.....	.....	-49,890	.....
Grand total:					
New budget (obligational) authority	39,786,632	40,807,220	41,456,015	+1,669,383	+648,795
Appropriations	(39,802,276)	(40,648,220)	(41,141,015)	(+1,338,739)	(+492,795)
Conservation	.....	(284,000)	(440,000)	(+440,000)	(+156,000)
Rescissions	(-15,644)	(-125,000)	(-125,000)	(-109,356)	.....
(By transfer)	(80,868)	(79,632)	(79,632)	(-1,236)	.....

1/ The President's budget proposed $6.85 million for State Justice Institute.

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

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

Mr. Chairman, I rise in strong support of H.R. 2500.

I must begin by expressing my appreciation to the gentleman from Virginia (Mr. WOLF), the chairman of the subcommittee, and his great staff for the fair and bipartisan way they have handled this bill, with full consultation with our side. While we do not agree with every recommendation in the bill, we believe that, on balance, it is worthy of wide support on both sides of the aisle.

I have sat in hearings and markups with the gentleman from Virginia (Mr. WOLF) for the last 3 years, but this is my first with him at the helm of the Subcommittee on Commerce, Justice, State, and Judiciary. Having similarly landed at the top of the subcommittee with no prior service on it, I know how hard he has had to work to master the many and varied agencies and issues now under his jurisdiction, and I admire how well he has done.

Staff on both sides of the aisle have made tremendous contributions to this process. They are Gail and Mike, Christine, Leslie, Julie and Carrie for the majority, as well as Jeff from the personal staff of the gentleman from Virginia (Mr. WOLF); on our side, Sally, Rob, Christine; and from my own staff, Lucy and Nadine. These are folks who are professionals, who do their job well and who make us look good all the time and, therefore, serve our country and its citizens very well.

Mr. Speaker, the budget request was troubling, with deep cuts to important programs and questionable assumptions about congressional actions on fees and program changes. This bill is a great improvement on that budget request. Perhaps most important, the bill restores many of the unreasonable cuts proposed in the President's budget for State and local law enforcement and COPS. The budget request was almost $1 billion below fiscal year 2001 levels for these programs, but the bill restores $661 million, including $150 million for COPS hiring. We are not all the way back, but we are moving in the right direction.

The bill supports the Secretary of State's initiatives to invest in diplomatic readiness as well as the security, technology and infrastructure requirements of the State Department. The bill includes $7.4 billion for the State Department, an increase of $802 million, or 12 percent above the current year. For core diplomatic activities under the Administration of Foreign Affairs account, the bill is 17 percent above fiscal year 2001. A significant investment is needed to ensure that the Secretary has adequate resources, both people and technology, to carry out our foreign policy and national security objectives and to ensure that our employees overseas work in the most secure environment.

In contrast to bills in past years from this subcommittee, the bill fully funds the request for international peacekeeping. Peacekeeping, as we all know, can advance U.S. policy goals at a fraction of the cost of sending U.S. forces into trouble spots.

While the funding provided for assessed contributions to the U.N. and other international organizations is close to the amount requested, there are no funds for rejoining UNESCO as proposed in the House-passed State Department authorization bill, which could create a problem down the line. The fence around $100 million of U.N. dues, pending certification that the U.N. is not exceeding its budget, has raised administration concern. But, unlike similar provisions in past House bills, it draws attention to the need for budget discipline but should not lead to any new arrears.

Our side, Mr. Chairman, is quite pleased with the overall level of funding for NOAA whose activities in coastal and ocean conservation, the management and preservation of our Nation's fisheries, the weather forecasting activities, as well as the satellites and data systems that support them, plus critical research into global climate change and other oceanic and atmospheric phenomena are so important to our economy and environment as well as to the health and safety of our people. Within NOAA, Conservation Trust Fund activities are fully funded.

We are also delighted to see the Legal Services Corporation funded at the requested level, avoiding the exercise on the House floor we have had to go through for the last 6 years to restore cuts made in committee that are not supported by a majority in Congress.

I want to take special occasion to thank the gentleman from Virginia (Mr. WOLF), the chairman of the subcommittee, for the ability to get this program funded this way. We always put an amendment on the floor, and it passes with bipartisan support and a lot of votes, and I have always wondered why we had to do it this way. Well, this bills speaks to that issue right away, without having to go through that exercise.

The full requests for the EEOC and the Civil Rights Commission are included, and the Justice Department's Civil Rights Division is funded above current services, supporting not only the administration's initiatives on voting rights and the rights of the disabled but also an initiative to investigate and prosecute civil rights abuses against inmates in prisons or other institutions.

The largest concern we have, however, with this bill is with the Small Business Administration, SBA. The administration sent up a budget based on unrealistic assumptions about Congress's willingness to increase fees for important loan programs and to shift disaster funding to a new government-wide emergency fund, neither of which is going to happen. The chairman of the subcommittee has done a good job in partially restoring these funds, but more needs to be done, and we will work with him to be sure the smallest and neediest small businesses are not left behind.

Again, Mr. Chairman, this is a good bill. If our colleagues read the minority views in the report, which every subcommittee Democrat signed, they will see that we all believe that as long as no harmful floor amendments are adopted this bill deserves to pass with a strong bipartisan vote.

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

Mr. WOLF. Mr. Chairman, I yield 4 minutes to the gentleman from Ohio (Mr. REGULA).

Mr. REGULA. Mr. Chairman, I rise today in support of the fiscal year 2002 Commerce, State, Justice bill. I do especially want to commend the chairman and the ranking member for crafting a fair and balanced bill that takes into account the priorities of the President and the Congress.

I have a special interest in trade issues, and the bill provides full funding for the trade agencies which carry out several important functions. The trade laws, in view of our economic situation, become even more important so that we get not only free trade but fair trade in our economy.

We provide the full funding request for embassy security. I can remember as a member of this committee when we were very concerned about embassy security, and we traveled to a number of places. It was a serious problem. I think the chairman is trying to address that, and it is important that he do so.

We do have full funding for the Legal Services Corporation. I refer to that as the equivalent of the Medicaid program in the area of legal matters. I know that the new president of the system, one of our former colleagues, former Congressman John Erlenborn, will do a great job of giving leadership to the Legal Services Corp.

I especially want to thank the chairman for providing $2.5 million for the continuation of the partnership between the JASON project and the National Oceanic and Atmospheric Administration. The JASON project is a state-of-the-art education program that brings scientists into classrooms through advanced interactive telecommunications technology. The program is really designed to excite students about the sciences and to encourage them to pursue higher education in the sciences.

We have had many speeches on this floor about the importance of science

and science education. The JASON project benefits from the scientific information and expertise available from NOAA that can be incorporated into the JASON curriculum and the annual expedition. It extends benefits by encouraging students to become future scientists.

Finally, I would like to mention the Ohio WEBCHECK program. This innovative and award-winning program allows for quick and convenient background checks to be completed over the Internet.

□ 1900

The Ohio system allows fingerprint images of two fingers and two thumbs to be electronically transmitted for a criminal background check through the Ohio Bureau of Criminal Identification. This is especially important for people who are hiring counselors, who are hiring adults that deal with children. It avoids a lot of problems.

Last year, we provided $5 million of Federal funding to hook WebCheck into the FBI fingerprint system for a more comprehensive national check. I want to thank the chairman for recommending additional funding for this project so that it can be completed in a manner that will make it possible for all States to set up similar programs and hook them into the FBI system.

Having a quick, convenient, and comprehensive national background check system will provide a safer environment for our children and the elderly. I strongly urge my colleagues to support this appropriations bill.

Mr. SERRANO. Mr. Chairman, I yield 3 minutes to the gentleman from West Virginia (Mr. MOLLOHAN).

Mr. MOLLOHAN. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise today in support of H.R. 2500, the appropriations measure funding the Departments of Commerce, Justice, State, the Judiciary, and related agencies.

I want to compliment the chairman, who has done a terrific job, the gentleman from Virginia (Chairman WOLF), and the ranking member, the gentleman from New York (Mr. SERRANO), who has done an equally terrific job in putting this bill together. By and large, it restores many of the cuts proposed in the President's budget request.

In his budget request, President Bush asked the Congress to rescind $10 million from the remaining unobligated balances in the Emergency Steel Guarantee Loan Program Account. In response to the President's request to rescind the steel loan guarantee money, the committee has indeed rescinded it.

As my colleagues will recall, the Emergency Loan Guarantee Act was established in 1999 to assist American steel producers who have been battling an onslaught of illegally-dumped foreign steel which has crippled the U.S. steel industry.

Our domestic steel industry is in crisis. There simply is no other way to describe it. Approximately 23,000 steelworkers have lost their jobs as a result of this crisis, and 18 steel producers have filed for bankruptcy. Current import levels still remain well above precrisis levels.

President Bush recently requested that the International Trade Commission initiate a 2001 investigation on the impact of steel imports on our U.S. steel industry.

Given all of these facts, now is not the time to rescind monies from the very fund established to help our domestic steel industry weather the storm. I recognize that unobligated balances exist in the account created for this program. Changes were needed to make the program more accessible to American steel companies without imposing significant additional costs on the Federal Government.

Under the leadership of Senator BYRD, changes to the Emergency Steel Loan Guarantee Act were recently approved by the other body. Hopefully, these changes will make the program more accessible to more of our steel producers.

That being the case, it seems unwise at this time to rescind funds from this important program. I am hopeful that during conference, this rescission can be eliminated.

Mr. SERRANO. Mr. Chairman, I yield 3 minutes to the gentleman from Rhode Island (Mr. KENNEDY).

Mr. KENNEDY of Rhode Island. Mr. Chairman, I would like to begin by thanking our chairman, the gentleman from Virginia (Mr. WOLF), for the excellent leadership he provided in this subcommittee, and also my ranking member, the gentleman from New York (Mr. SERRANO), for his work in this important piece of legislation and all that this legislation is going to do to fund important projects.

As a member of the subcommittee, and a new Member, I know very difficult decisions had to be made. While I was pleased with many of the decisions that were made, I would like to take this opportunity to raise a few of the issues that I believe deserve even greater attention.

First and foremost is the Office of Juvenile Justice and Delinquency Prevention, which was funded at the same level as last year's request. In particular, I want to bring this House's attention to title V of OJJTP, which was also held at last year's level.

There are few areas in government where programs work more effectively and we get more of a return on our dollar than in the area of title V, which funds critically successful initiatives such as the Safe Schools and Healthy Students Program. This helps keep kids out of trouble, and it also helps provide flexible resources to our districts. Mr. Chairman, I requested a greater allocation in this area.

In other areas, let me briefly touch upon the area of economic development. I think we should not have reduced funding for the EDA, the Economic Development Administration, or eliminated funding for the New Markets Initiative.

In addition, I think we should also have pushed more for trade agreements and globalization adjustment assistance through the EDA that I think will be even more important as we move into a global economy. I pointed that out to Secretary Evans and Ambassador Zoellick.

For our efforts in Native American country, let me say that with even modest increases, I believe we could have accomplished much more, particularly on Native American reservations where the alcoholism rate occurs at 950 percent times the non-native communities .

With violent crime on the rise on native reservations, and with 90 percent of it attributed to alcohol-related crime, I think we should be putting more resources in this effort.

Finally, as a Representative of the ''Ocean State,'' Rhode Island, I would like to support all those initiatives that go into the National Oceanographic and Atmospheric Administration. The administration's request in the committee's bill offers funding for programs like Sea Grant and Coastal Zone Management, but does not offer enough funding for those critical areas like nonpoint source pollution. This is the runoff from our highways every time it rains a great deal, and all the runoff pollutes our bays. It also affects our fishing stock.

Let me conclude by once again congratulating the chairman for his important leadership, thank the ranking member for his great leadership, and say that I look forward to working with both of them on continued funding for these priorities that I have just outlined, as well as many others that I have not had time to delineate.

Mr. SERRANO. Mr. Chairman, I yield 3 minutes to the gentleman from Indiana (Mr. VISCLOSKY).

Mr. VISCLOSKY. Mr. Chairman, I thank the gentleman very much for yielding time to me. I also want to thank the gentleman from Virginia (Mr. WOLF) and the gentleman from New York (Mr. SERRANO) for the fine work they have done on this bill. I do plan to support it.

I rise now to indicate my concern over a provision mentioned by my colleague, the gentleman from West Virginia, a few minutes ago about the rescission of $10 million from the $145 million Steel Loan Guarantee Program.

The problems that the steel industry faces are manyfold, but one is the complete collapse of the ability to get financing, as well as the number of companies now that find themselves in bankruptcy in the United States of America.

Since December 31, 1997, we have now had 18 companies declare bankruptcy, and one of the concerns that the industry faces is securing financing. We have a loan guarantee program in place. It took a period of time to get up and running with it. There were initially some problems as far as the bureaucracy contained therein, and the problem continues to persist as far as securing the guarantees for private investment firms to loan the industry money. Today those guarantees are at 85 percent.

Given the fact that 21 percent of all steel capacity in the United States of America today is in bankruptcy, I think the provision in this bill sends a very negative and very bad signal to those financial institutions as far as reduction in the monies that will be available for those guarantees for the fiscal year. We are not only talking about tonnage in bankruptcy, we are not only talking about companies in bankruptcy, we are talking about people.

The fact is, we have 42,556 Americans working for those 18 companies, some of which may not make it without this loan guarantee program. We have to couple that with the 23,000 people who, over the last 2½ years, have also lost their jobs in this industry.

I am concerned that this program has a rescission attached to it. I would hope that it can be rectified in conference with the Senate at some future date.

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

Mr. Chairman, I would like to clarify something. There were a number of questions by Members with regard to the gun safety lock issue. I would like to make a clarification for the RECORD in the interest of this.

Regarding the distribution of gun safety locks, the report accompanying this bill expresses the committee's support for the use of gun safety locks, and would encourage the distribution of these locks to handgun owners.

The report also expresses the committee's concern regarding reports that some of these safety locks have failed or do not work on certain handguns. We understand that the Department of Justice is reviewing the availability of standards for gun safety locks, and private industry groups have also sought the promulgation of such standards.

The report directs the Department of Justice to develop national standards for gun safety locks. The committee intends for the Department to consult with private industry groups and other interested parties in the development of these standards.

Further, we understand the interim standard for gun safety locks could be in place in 6 months.

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

Mr. SERRANO. Mr. Chairman, I yield 2 minutes to the gentleman from Washington (Mr. Dicks).

Mr. DICKS. Mr. Chairman, I rise in very strong support of this important legislation. I want to first of all thank the chairman, the gentleman from Virginia (Mr. WOLF), in his first year as Chairman of this important appropriations subcommittee, and the gentleman from New York (Mr. SERRANO), the ranking Democratic member and his staff. I particularly want to tell them how much I appreciate their cooperation in funding the so-called ''conservation amendment.''

Last year, the Congress adopted a provision that started at $1.6 billion last year and will increase up to $2.4 billion by 2006 based on the Violent Crime Trust Fund model, which keeps the authority for spending for these important conservation programs, of which there are $443 million in this bill, within the jurisdiction of the Committee on Appropriations, and allows us to have annual oversight.

But what it has done is double and now even more than double the amount of money that is available for conservation spending.

There were some last year who were advocating an entitlement that would have taken this off the budget. I just want to compliment the chairman and the ranking member for helping us keep our commitment and telling the people of the country that we, the appropriators, are just as interested in conservation. We have programs like coastal zone management, the Pacific salmon recovery initiative, and they go on and on and on, that will be benefited by this important provision. I am pleased that, when we add this up, it is $1.76 billion for conservation this year between the Interior appropriations bill and State, Justice, and Commerce.

Out in my part of the world, we are fighting to try and restore the salmon runs in Washington, Oregon, Idaho, California, and in Alaska that have been severely hurt.

This money, 110 million for the Pacific Salmon Recovery program, goes back to our Governors and then through programs for habitat recovery which is absolutely essential. The bill also provides an additional 25 million to the U.S. Canada Pacific Salmon Treaty program. I want to say how much I support this bill. I urge the House to give overwhelming support for this important legislation.

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

Mr. SERRANO. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York (Ms. VELÁZQUEZ), the ranking member of the Committee on Small Business.

Ms. VELÁZQUEZ. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, today's bill provides funding for many critical priorities. I believe that the gentleman from Virginia (Chairman WOLF) and the ranking member, the gentleman from New York (Mr. SERRANO), have produced a bill that is an improvement over the past years. I thank them for their hard work on this legislation, which benefits many.

Unfortunately, I am afraid their hard work has fallen short for one of the most productive forces for America today, our small businesses. This bill will severely cut the Small Business Administration's funding level.

□ 1915

The recent ''long boom,'' our greatest in history, came as a direct result of the productivity of American small companies and entrepreneurs. Small businesses employ half our workers, account for half our GDP, and grow almost 60 percent faster than large corporations.

Mr. Speaker, much of this success has been made possible through the programs of the Small Business Administration. But this bill will cut SBA's tap that currently provides capital liquidity to small business across the country. It will, I fear, dry up assistance just when we most need to give our economy a boost.

This bill proposes to cut funding for the SBA from $860 million this year to $728 million next year. Ten programs will be zeroed out and another half dozen or more will be so severely underfunded as to render them ineffective.

Later today, my colleague, the gentlewoman from New York (Mrs. KELLY), and I will offer an amendment to restore $17 million in funding for SBA. While still short of last year's level, our amendment will maintain the very successful 7(a) general long guarantee program and two small business assistance programs, PRIME and BusinessLinc.

Our amendment is important because small business is big business in America. We aim to support the SBA's mission of providing technical assistance and guarantees to today's entrepreneurs, who are often tomorrow's Intel, Apple, or FedEx. Most importantly, we want to provide the tools that help so many better themselves, their families and their communities. That is the point, after all, of a strong economy.

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

Mr. SERRANO. Mr. Chairman, I yield 2 minutes to my long-time colleague, the gentleman from New York (Mr. CROWLEY).

Mr. CROWLEY. Mr. Chairman, I rise in strong support of the Commerce,

Justice, State bill, and would like to express my gratitude to the chairman, the gentleman from Virginia (Mr. WOLF), for his hard work in crafting this bipartisan bill. I would also like to recognize my good friend, the gentleman from the Bronx, New York, (Mr. SERRANO), who has worked tirelessly for his constituents, for all of New York City, and for all of America from his position on the Committee on Appropriations and throughout his many, many years in Congress.

With regard to international issues, as both the representative of one of the most diverse congressional districts in the Nation and a member of the Committee on International Relations, I would like to applaud this committee for recognizing the value inherent in the United States playing a key role in the international community and in particular supporting international peacekeeping operations.

Here at home, this legislation also provides important funding for a number of community service and anticrime programs, effective programs that have helped our Nation, especially my hometown of New York City, experience the lowest crime rate in decades. We need to continue to invest in our people, both here in the U.S. and abroad. This bill does that, and I congratulate the chairman and the ranking member for their work and for their dedication.

The CHAIRMAN. The Chair would advise the Members that the gentleman from Virginia (Mr. WOLF) has 10½ minutes remaining, and the gentleman from New York (Mr. SERRANO) has 10 minutes remaining.

Mr. SERRANO. Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin (Mr. OBEY), our ranking member.

Mr. OBEY. Mr. Chairman, I simply would like to do two things: first of all, congratulate the gentleman for the bill he has brought to us. I obviously do not agree with all of it, but I certainly intend to support it unless some surprises occur on the House floor. I think he has done a good job.

Having said that, I would like to try to determine whether or not we can reach a reasonable understanding about what our plans are for this evening. The problem we face is that at this point we have some 31 amendments filed, we have other amendments that are being faxed to the leadership on both sides of the aisle, and the longer that this process goes on, the more amendments we are going to have to deal with for the remainder of consideration of this bill.

I would simply rise at this point to say that I would like to see us reach an agreement under which we could ask all Members to have their amendments in tonight so that we would be able tomorrow to try to work out time agreements on all these subsequent amendments. And if we can do that, we can have some chance of finishing the bill either tomorrow or early the next day.

The problem we face, as I understand it, is that this committee is not going to be allowed back on the floor tomorrow morning. We are going to be superceded by another bill, and I am told by majority staff that that means we are not likely to get to the floor until 2:30 or 3 p.m. tomorrow afternoon. If that is the case, and if we have 60 amendments pending, there is no way on God's green earth we will even finish this bill tomorrow.

So it seems to me if we want to accelerate our opportunity to finish this bill, we would first of all try to get an agreement that Members, if they want amendments considered, would have to get them in tonight; and then we can try tomorrow, while the other bill is being worked on, the gentleman from Virginia and the gentleman from New York can try to work out a time agreement on whatever amendments we have remaining.

I just want the House to understand that I am perfectly willing to try to work out these arrangements, but we have been in committee since 10 a.m. this morning. We did not start this bill until 7 p.m. That was not our call; it was the majority that did the scheduling, and it seems to me that we ought to know that we will get out of here at a reasonable time tonight. I do not enjoy the prospect of having amendments being debated here and Members coming in in the middle of the night having no idea what we have been debating and voting on the fly. I do not think that serves the interest of this institution.

So I want to notice the House that if we cannot get an agreement on a reasonable time to get out of here tonight, I will begin a series of motions; and we are not going to get very far on this bill.

With that, I thank the gentleman for yielding me this time.

Mr. WOLF. Mr. Chairman, I yield 5 minutes to the gentleman from Pennsylvania (Mr. MURTHA).

Mr. MURTHA. Mr. Chairman, in 1998 this House passed landmark legislation. We passed legislation trying to get the Justice Department under control. Some of my colleagues may remember Joe McDade, who was a personal friend to many of us and who went through 8 years of the Justice Department investigating him and indicting him; and then, in about 4 hours of deliberation by a jury, he was found not guilty.

We passed legislation then saying that the Justice Department would have to reimburse out of their money anybody that was indicted and not convicted. That still stands today. We also passed legislation that said any prosecutor, meaning any U.S. Attorney, must practice under the State laws, the ethics of the State laws. Well, the Justice Department, some U.S. Attorneys, have fought us all during this period of time. Matter of fact, in this legislation, prosecutors from all over the country came to this body, lobbied against us, the White House lobbied against us, and we beat them 350 to 50. Why? Because there was no confidence in the Justice Department. No confidence in the FBI.

During that trial, Joe McDade, where they charged him as a subcommittee chairman with racketeering, they charged him with illegal gratuities, meaning campaign contributions; they charged him with bribes, meaning honorariums. They leaked information during this entire 6 years. I sat by Joe McDade when I was chairman of the committee and he was the ranking member on the Subcommittee on Defense, and every day he deteriorated in health and emotional stability, and it ruined his life for 8 years. He was acquitted, but he still has not gotten over this.

Now, the point I am making today is that I was prepared to introduce legislation, because two of the things that were introduced that were thrown out in conference, and it was an omnibus bill, is that there would be an independent counsel investigate the Justice Department and then it would publicize what happened to the people that did wrongdoing. Those two things were thrown out. Now, I have hesitated since that time because the Justice Department kept saying we are going to get it under control. Well, I find the new Deputy Attorney General has said some things that give me confidence that he is going to try to get the FBI and the Justice Department under control. I have confidence the new FBI director realizes that the public has lost confidence in the FBI.

As a matter of fact, this House would not have voted 350 to 50 to condemn or to put controls on the Justice Department and the U.S. Attorneys if it had not been for the lack of confidence of the public throughout this great country. But I am not going to offer that amendment, those two amendments, because I believe the new Attorney General and the Deputy Attorney General and the FBI director are moving in the right direction. But I hope by this time next year that this subject will be a subject of the past and people will regain confidence in the FBI and the Justice Department.

Mr. SERRANO. Mr. Chairman, I yield myself 2 minutes. I just wanted to tell the chairman, the gentleman from Virginia (Mr. WOLF), that the comments of the gentleman from Wisconsin (Mr. OBEY) are well taken by this ranking member.

We want to work out the best possible situation to work in the proper manner and in the way that we will do justice to the bill and to the amendments and to the Members. I will agree

also to a time limit on amendments. However, I must say once again, as I did last year, and in a loud voice, that I cannot understand why it is that we put a rule on the floor that is open-ended and then we immediately move to curtail.

So next year, if I am still around in this situation, I assure my colleague that I will oppose any rule that is open-ended, because it is really not an open-ended rule. But I will support time limitations to make the process move forward.

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

Mr. WOLF. Mr. Chairman, I yield 2 minutes to the gentleman from Nebraska (Mr. BEREUTER) for a colloquy.

Mr. BEREUTER. Mr. Chairman, I thank the gentleman for yielding me this time, and I want to engage in this colloquy regarding the Congressional Executive Commission on the People's Republic of China.

As the chairman knows, the Congressional-Executive Commission on the People's Republic of China is being created pursuant to P.L. No. 106–286. This Member is pleased to note the distinguished gentleman from Virginia (Mr. WOLF) is also a member of this important commission designed to report on human rights development and the rule of law in the People's Republic of China.

Because it was expected to take considerable time to bring the commission's operations into being, including the actual naming of the congressional and executive branch members, the fiscal year 2001 appropriation was set at only $.5 million. We expect the commission will begin functioning in the coming weeks. Therefore, in anticipation of a full active commission, this Member had earlier suggested an amount of $1.5 million to cover the commission's operations for the full fiscal year of 2002.

This Member would ask the chairman about his willingness to seek adequate funding for the commission, as we would certainly trust the chairman's judgment in seeking such adequate funding in conference.

Mr. LEVIN. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from Michigan.

Mr. LEVIN. I thank the gentleman for yielding. Mr. Chairman, I would strongly support what the gentleman from Nebraska has proposed.

□ 1930

As relating to the appropriations for the Congressional Executive Commission on China, currently half a million is appropriated for that Commission. We understand that the gentleman's staff is in agreement that the Commission needs $1.5 million for fiscal year 2002 and that the gentleman, the distinguished chairman, will pursue $1.5 million for fiscal year 2002 in conference.

Mr. WOLF. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from Virginia.

Mr. WOLF. Mr. Chairman, the gentleman from Michigan is absolutely correct, quite frankly, if they needed $2 million to do a good job, particularly with regard to China, but we will agree and make sure that that $1.5 million is in there as per the request of the gentleman from Nebraska (Mr. BEREUTER) and the gentleman from Michigan (Mr. LEVIN).

Mr. Chairman, I yield 2 minutes and 30 seconds to the gentleman from Maryland (Mr. GILCHREST).

Mr. GILCHREST. Mr. Chairman, I thank the chairman for yielding me time.

Mr. Chairman, I would like to thank the chairman for the inclusion of funding for marine protected areas in this bill.

In the Chesapeake Bay we are already using marine protected areas to ensure the recovery of species such as oysters and blue crabs. We are finding that with the involvement of recreational and commercial fishermen as well as Federal, State and local governments, marine protected areas will play a critical role in restoring overexploited fish species.

As chairman of the subcommittee on this issue, I am a strong proponent of using a variety of types of marine protected areas to ensure conservation and sustainable use of our marine resources in the Chesapeake and throughout our Nation's waters.

The President's funding request for marine protected areas is based upon this principle as described in Executive Order 13158, which reads, in part, ''An expanded and strengthened comprehensive system of marine protected areas throughout the marine environment would enhance the conservation of our Nation's natural and cultural marine heritage and the ecologically and economically sustainable use of the marine environment for the future generations.''

We feel that including the President's executive order in this colloquy is fundamental to sound marine resources.

I would like to conclude, is it the intent of the chairman that the National Oceanic and Atmospheric Administration may use funds appropriated for implementation of the Marine Protected Areas Executive Order 13158, as supported by the Secretary of Commerce on June 4, 2001, and in accordance with the President's budget request?

Specifically, in addition to direction given in the committee report for NOAA to develop a marine protected atlas, is it the intent of the chairman that funds may be used to implement the full scope of the Executive Order 13158, including the implementation of the Marine Protected Area Federal Advisory Committee, the development of a framework for communication amongst agencies and programs that utilize marine protected areas, and the consultation with State and local partners in preparation for expanding the scope of the Nation's marine protected areas?

Mr. WOLF. Mr. Chairman, will the gentleman yield?

Mr. GILCHREST. I yield to the chairman.

Mr. WOLF. Mr. Chairman, I thank the gentleman for his interest in the Chesapeake Bay. Quite frankly, no one has done more for the bay than the gentleman from Maryland (Mr. GILCHREST).

The committee does not intend to limit the ability of NOAA to implement the Executive Order 13158 on marine protected areas. Furthermore, the committee fully supports the President's budget request for marine protected areas.

Mr. GILCHREST. Mr. Chairman, I would like to thank the chairman for his help in this issue.

Mr. SERRANO. Mr. Chairman, I will yield myself whatever time I may consume in closing.

Notwithstanding the fact that there are some things, mechanics, that we have to work out as to the debate and how we handle amendments and everything else, I just wanted to close on this side by saying, as I said before, that this is a good bill, that Chairman WOLF has done a great job with both staffs in putting together a bill that we can support, as we heard from our ranking member, the gentleman from Wisconsin, Mr. OBEY.

As I said, notwithstanding whatever other problems we have, he intends to support the bill. I am hoping after all is said and done no harmful amendments have hurt the bill in any way. In that case, at this moment I would ask for all Members in bipartisan fashion to support the bill.

Mr. Chairman, I yield back the balance of my time.

Mr. WOLF. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I will thank the gentleman. This will be the last time I thank him for his comments. I think there will be no negative amendments like that, and I ask Members on final passage to support the bill.

Mr. Chairman, I yield the balance of my time to the gentleman from Michigan (Mr. EHLERS).

Mr. EHLERS. Mr. Chairman, I rise in support of the legislation. As the chairman of the Subcommittee on Environment, Technology and Standards, which has jurisdiction over NOAA and NIST programs within the Department of Commerce, I wish to commend the new chairman of the Subcommittee on

Commerce, Justice and State on crafting this appropriations bill.

Most Americans do not realize that NOAA makes up over 65 percent of the Department of Commerce's budget, covering a wide range of programs from studying our climate to mapping the ocean floor.

I am pleased to see that the subcommittee has recognized the importance of NOAA and has funded the agency at a level slightly above the President's request for fiscal year 2002.

I am also pleased that the appropriations bill increases funding for labs inside of the National Institute of Standards and Technology. Over the past 100 years, NIST and its employees have not let us down. It is all but impossible to name a major innovation which has improved our quality of life with which NIST has not had some involvement. NIST Federal laboratories have partnered with industry to initiate innovations for safer and more fuel-efficient automobiles, biomedical breakthroughs like breast cancer diagnostics, refrigerant and air conditioning standards, analysis of DNA, and calibrations for wireless telecommunication systems, among numerous others.

Mr. Chairman, I strongly support the increase for NIST labs, and I hope that the chairman will be able to preserve this funding during conference negotiations with the Senate.

Mr. Chairman, let me highlight a few key programs that are funded by this bill: the Sea Grant program, which provides grants supporting vital marine research and education programs at universities all across the country; the Great Lakes Environmental Lab, which has a solid history of important scientific contributions and ensures continued high-quality coastal science. It also fully funds the ARGO Float Program, which is crucial to global climate studies which have taken on increased importance to us.

In addition, it provides National Weather Service forecasts and warnings which more than pays for itself, monitors the water levels of the Great Lakes, and plays a major change in climate change research. This bill will help ensure that NOAA is able to fulfill its many missions, and that NIST will continue to serve our country well.

Mr. Chairman, I urge my colleagues to support this bill.

Mr. WATTS of Oklahoma, Mr. Chairman, today I rise to support H.R. 2500, the Commerce Justice State Appropriations Act. Mr. Chairman, by passing this bill the House will take an important stand against methamphetamine production across this country.

The drug, Methamphetamine, has become one of the most dangerous items on our streets. This drug is composed of products like rat poison, Comet, bleach, and lighter fluid. This drug can be injected, inhaled, or smoked. People around this country are spending their hard earned money to inject into their veins rat poison and bleach that was mixed in somebody's toilet. The negative effects of this on the human body are horrendous: insomnia, depression, malnutrition, liver failure, brain damage, and death.

This terrible drug not only affects those who use it but can also be deadly to innocent Americans whose homes are near these labs. In my home state of Oklahoma in 2000, we had over 1,000 methamphetamine labs explode and need to be cleaned up by the Oklahoma State Bureau of Investigation. In 1994, there were eleven meth labs, let me repeat that six years ago there were 11 meth labs in my home state of Oklahoma, now there are over 1,000. And, every time one of these labs explodes families are exposed to toxic and lethal fumes that are disbursed to the surrounding neighborhood. Innocent young children and seniors are rushed to the emergency room to be treated for inhalation of these toxic and deadly fumes.

By passing H.R. 2500, the House will fund $48.3 million dollars to state and local law enforcement agencies to help combat methamphetamine production and meth lab cleanup. This money will start to turn back the tide against these labs, and protect our families and neighborhoods. This money will be used to train officers to find these labs and most importantly clean the toxic remains of these labs.

Mr. Chairman, I commend you and your committee for including the people of Oklahoma in this Methamphetamine HotSpots program. This money is desperately needed to keep Oklahoma neighborhoods safe.

Mr. Chairman, I urge my colleagues to stand with me today against this dangerous, deadly drug and support H.R. 2500 the Commerce Justice State Appropriations Act.

Mr. KILDEE. Mr. Chairman, I want to thank CJS Subcommittee Chairman FRANK WOLF and Senior Democratic Member JOSE SERRANO for working hard to provide adequate funding for the Department of Justice's portion of the Indian Country Law Enforcement initiative. I am pleased that the subcommittee funded the Indian Programs that are included in the Indian Country Law enforcement initiative at the levels contained in the President's fiscal year 2002 budget request.

I, however, hope that as this bill makes its way through the legislative process, that you will support funding increases for the following items:

1. Cops grant set aside for Indians.
2. Tribal Courts.
3. Indian alcohol and substance abuse programs.
4. Title V Grants that support tribal juvenile justice systems.
5. Grants to fund the construction of detention facilities in Indian Country.
6. Tribal criminal justice statistics collection.

Mr. Chairman, each of those programs are critical to the tribal justice systems. While national crime rates continue to drop, crime rates on Indian lands continue to rise. What is particularly disturbing is the violent nature of Indian country crime: violence against women, juvenile and gang crime, and child abuse remain serious problems.

In its 1999 report, American Indians and Crime, the Bureau of Justice Statistics found that American Indians and Alaska Natives have the highest crime victimization rates in the nation, almost twice the rate of the nation as a whole.

The report revealed that violence against American Indian women is higher than other groups. That American Indians suffer the nation's highest rate of child abuse. Since 1994, Indian juveniles in federal custody increased by 50%. Even more troubling is that 55% of violent crime against American Indians, the victims report that the offender was under the influence of alcohol, drugs or both. That figure represents the highest rate of any group in the nation.

Mr. Chairman, the Department of Justice and the Department of Interior developed the Indian country law enforcement initiative to improve the public safety and criminal justice in Indian communities.

Let us work together to increase the funding levels in conference and provide the tribal justice systems with the funding necessary to combat criminal activity in Indian country.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule.

During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

The Clerk will read.

The Clerk read as follows:

H.R. 2500

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2002, and for other purposes, namely:

TITLE I—DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the administration of the Department of Justice, $91,668,000, of which not to exceed $3,317,000 is for the Facilities Program 2000, to remain available until expended: *Provided*, That not to exceed 43 permanent positions and 44 full-time equivalent workyears and $8,451,000 shall be expended for the Department Leadership Program exclusive of augmentation that occurred in these offices in fiscal year 2001: *Provided further*, That not to exceed 41 permanent positions and 48 full-time equivalent workyears and $4,997,000 shall be expended for the Offices of Legislative Affairs and Public Affairs: *Provided further*, That the latter two aforementioned offices may utilize non-reimbursable details of career employees within the caps described in the preceding proviso: *Provided further*, That the Attorney General is authorized to transfer, under such terms and conditions as the Attorney General shall specify, forfeited real or personal property of limited or marginal value, as such value is determined by guidelines established by the Attorney General, to a State or local government agency, or its designated contractor or transferee, for use to support drug abuse treatment, drug and crime prevention and education, housing, job skills, and other community-based public health

and safety programs: *Provided further*, That any transfer under the preceding proviso shall not create or confer any private right of action in any person against the United States, and shall be treated as a reprogramming under section 605 of this Act.

Ms. CARSON of Indiana. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise today in support of the Boys and Girls Clubs of America. I support its continued funding, which equals last year's level.

The Commerce-Justice-State appropriations bill gives the National Institute of Justice authority to use Local Law Enforcement Block Grants to support the Boys and Girls Clubs.

The Boys and Girls Clubs offer young people the ability to know that someone cares about them. Club programs and services promote and enhance the development of boys and girls by instilling a sense of competence, usefulness, belonging, and influence.

These clubs give young people a chance to go during their free time where they can interact with others in a positive social environment.

The clubs serve over 3.3 million boys and girls. This is in over 2,800 locations around the world. About one half of those are from single parent families and almost two-thirds are from minority families.

The challenges these children must cope with outstrip problems faced by previous generations. Drug, gang, and gun-related violence has risen to previously unimaginable heights. But their place of refuge has not changed, because Boys and Girls Clubs continue to do what they do best—using proven programs and caring staff to save lives.

The Boys and Girls Clubs teaches young people in many areas of life. These include: character and leadership, education and career, health and life skills, the arts, sports, fitness and recreation, and specialized programs.

Most important is the Boys and Girls Clubs is neighborhood based—an actual place for the children to go—designed solely for youth programs and activities.

Support the Boys and Girls Clubs of America.

AMENDMENT OFFERED BY MR. BRADY OF TEXAS

Mr. BRADY of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BRADY of Texas:

Page 2, line 7, after the dollar amount insert the following: ''(increased by $2,500,000)''.

Page 57, line 14, after the dollar amount insert the following: ''(decreased by $5,000,000)''.

Page 71, line 4, after the dollar amount insert the following: ''(increased by $2,500,000)''.

Mr. BRADY of Texas. Mr. Chairman, my amendment is simple. I want to ensure that the Department of State and the Department of Justice have the resources they need to start the process to close safe havens around the world for fugitives who commit crimes in America and flee our justice.

We can do this by updating and modernizing extradition treaties, as well as negotiating new ones. This problem is growing. The world is getting smaller; and whereas in the past criminals would flee to the county or State line to flee justice, today they flee the country and even the continent. We have more than 3,000 indicted criminals who have fled America and are out of our reach. The crimes they have committed or are charged with are serious. They include murder, terrorism, drug trafficking, child abduction, money laundering, financial fraud, and the new growing area of cybercrime.

Currently, America has international extradition agreements with only 60 percent of the world's countries. Unfortunately, it is important to note that nearly half of these were enacted before World War II, so they are hopelessly outdated. Even the others, State Department officials tell us those enacted prior to 1970 are basically ineffective because only specific crimes are listed in the treaties as extraditable, and crimes have changed a lot in the last three decades.

Mr. Chairman, we have crimes that are growing and criminals who are fleeing more and more, with criminal justice tools that are more outdated and less effective. This is not justice. It is not fair to the victims of these crimes, and it is not acceptable any longer.

Mr. Chairman, I am always cautious about how and where the hard-earned dollars of the American taxpayer are spent. More funding is necessary to help close these safe havens. Furthermore, this is something that can only be done by our Federal Government. It will not happen overnight. It will take many years, but we are capable of doing it.

Mr. Chairman, I had a provision inserted in the State Department fiscal year 2000 authorization bill requiring them to report back to us on our extradition agreements. I must say I was disappointed in the report. They seemed to gloss over the problems, perhaps to put politics over justice.

I am hopeful that the new administration will take a stronger position on closing these safe havens. This amendment is strictly designed to urge the new leadership of the Justice Department and State Department to let Congress know that we are serious about closing these safe havens, that we want both agencies to work together and with Congress to update our treaties and to work toward the day where there is nowhere on this world to hide for those who commit crimes against America.

Mr. WOLF. Mr. Chairman, will the gentleman yield?

Mr. BRADY of Texas. I yield to the gentleman from Virginia.

Mr. WOLF. Mr. Chairman, the gentleman from Texas has played a leading role in trying to close safe havens abroad, and I share his desire to do that.

In response to the gentleman's concerns, the committee has included report language for the Department of State to work with the Department of Justice to bolster our efforts to negotiate extradition treaties.

We expect that the Department of Justice and Department of State will use increased funding in fiscal year 2002 for this purpose. Let me add, if the gentleman from Texas would like, after we move beyond debate and pass the bill, we can have a meeting with Department of Justice and Department of State to make sure that they know the intensity that both of us feel with regard to this.

Mr. BRADY of Texas. Mr. Chairman, I thank the gentleman from Virginia for his efforts. With his commitment to ensure that the Department of Justice and Department of State are being provided with the necessary resources and that these agencies understand that Congress expects them to put a greater emphasis on negotiating and enforcing extradition treaties, Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

The Clerk will read.

The Clerk read as follows:

JOINT AUTOMATED BOOKING SYSTEM

For expenses necessary for the nationwide deployment of a Joint Automated Booking System including automated capability to transmit fingerprint and image data, $15,957,000, to remain available until expended.

NARROWBAND COMMUNICATIONS

For the costs of conversion to narrowband communications, including the cost for operation and maintenance of Land Mobile Radio legacy systems, $104,615,000, to remain available until expended.

COUNTERTERRORISM FUND

For necessary expenses, as determined by the Attorney General, $4,989,000, to remain available until expended, to reimburse any Department of Justice organization for: (1) the costs incurred in reestablishing the operational capability of an office or facility which has been damaged or destroyed as a result of any domestic or international terrorist incident; and (2) the costs of providing support to counter, investigate or prosecute domestic or international terrorism, including payment of rewards in connection with these activities: *Provided*, That any Federal agency may be reimbursed for the costs of detaining in foreign countries individuals accused of acts of terrorism that violate the laws of the United States: *Provided further*, That funds provided under this paragraph shall be available only after the Attorney General notifies the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 605 of this Act.

ADMINISTRATIVE REVIEW AND APPEALS

For expenses necessary for the administration of pardon and clemency petitions and immigration-related activities, $178,751,000.

DETENTION TRUSTEE

For necessary expenses of the Federal Detention Trustee who shall exercise all power and functions authorized by law relating to the detention of Federal prisoners in non-Federal institutions or otherwise in the custody of the United States Marshals Service; and the detention of aliens in the custody of the Immigration and Naturalization Service, $1,721,000: *Provided*, That the Trustee shall be responsible for overseeing construction of detention facilities or for housing related to such detention; the management of funds appropriated to the Department for the exercise of any detention functions; and the direction of the United States Marshals Service and Immigration and Naturalization Service with respect to the exercise of detention policy setting and operations for the Department.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $50,735,000; including not to exceed $10,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; and for the acquisition, lease, maintenance, and operation of motor vehicles, without regard to the general purchase price limitation for the current fiscal year.

UNITED STATES PAROLE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the United States Parole Commission as authorized by law, $10,915,000.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including not to exceed $20,000 for expenses of collecting evidence, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; and rent of private or Government-owned space in the District of Columbia, $568,011,000; of which not to exceed $10,000,000 for litigation support contracts shall remain available until expended: *Provided*, That of the funds available in this appropriation, $18,835,000 shall remain available until expended only for office automation systems for the legal divisions covered by this appropriation, and for the United States Attorneys, the Antitrust Division, the United States Trustee Program, the Executive Office for Immigration Review, the Community Relations Service, and offices funded through ''Salaries and Expenses'', General Administration: *Provided further*, That of the total amount appropriated, not to exceed $1,000 shall be available to the United States National Central Bureau, INTERPOL, for official reception and representation expenses: *Provided further*, That notwithstanding any other provision of law, upon a determination by the Attorney General that emergent circumstances require additional funding for litigation activities of the Civil Division, the Attorney General may transfer such amounts to ''Salaries and Expenses, General Legal Activities'' from available appropriations for the current fiscal year for the Department of Justice, as may be necessary to respond to such circumstances: *Provided further*, That any transfer pursuant to the previous proviso shall be treated as a reprogramming under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

In addition, for reimbursement of expenses of the Department of Justice associated with processing cases under the National Childhood Vaccine Injury Act of 1986, as amended, not to exceed $4,028,000, to be appropriated from the Vaccine Injury Compensation Trust Fund.

SALARIES AND EXPENSES, ANTITRUST DIVISION

For expenses necessary for the enforcement of antitrust and kindred laws, $105,366,000: *Provided*, That, notwithstanding section 3302(b) of title 31, United States Code, not to exceed $105,366,000 of offsetting collections derived from fees collected in fiscal year 2002 for premerger notification filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18a) shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: *Provided further*, That the sum herein appropriated from the general fund shall be reduced as such offsetting collections are received during fiscal year 2002, so as to result in a final fiscal year 2002 appropriation from the general fund estimated at not more than $0.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For necessary expenses of the Offices of the United States Attorneys, including intergovernmental and cooperative agreements, $1,353,968,000; of which not to exceed $2,500,000 shall be available until September 30, 2003, for: (1) training personnel in debt collection; (2) locating debtors and their property; (3) paying the net costs of selling property; and (4) tracking debts owed to the United States Government: *Provided*, That of the total amount appropriated, not to exceed $8,000 shall be available for official reception and representation expenses: *Provided further*, That not to exceed $10,000,000 of those funds available for automated litigation support contracts shall remain available until expended: *Provided further*, That not to exceed $2,500,000 for the operation of the National Advocacy Center shall remain available until expended: *Provided further*, That, in addition to reimbursable full-time equivalent workyears available to the Offices of the United States Attorneys, not to exceed 9,571 positions and 9,776 full-time equivalent workyears shall be supported from the funds appropriated in this Act for the United States Attorneys.

UNITED STATES TRUSTEE SYSTEM FUND

For necessary expenses of the United States Trustee Program, as authorized by 28 U.S.C. 589a(a), $145,937,000, to remain available until expended and to be derived from the United States Trustee System Fund: *Provided*, That, notwithstanding any other provision of law, deposits to the Fund shall be available in such amounts as may be necessary to pay refunds due depositors: *Provided further*, That, notwithstanding any other provision of law, $145,937,000 of offsetting collections pursuant to 28 U.S.C. 589a(b) shall be retained and used for necessary expenses in this appropriation and remain available until expended: *Provided further*, That the sum herein appropriated from the Fund shall be reduced as such offsetting collections are received during fiscal year 2002, so as to result in a final fiscal year 2002 appropriation from the Fund estimated at $0.

SALARIES AND EXPENSES, FOREIGN CLAIMS SETTLEMENT COMMISSION

For expenses necessary to carry out the activities of the Foreign Claims Settlement Commission, including services as authorized by 5 U.S.C. 3109, $1,136,000.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For necessary expenses of the United States Marshals Service, including the acquisition, lease, maintenance, and operation of vehicles, and the purchase of passenger motor vehicles for police-type use, without regard to the general purchase price limitation for the current fiscal year, $622,646,000; of which not to exceed $6,000 shall be available for official reception and representation expenses; and of which not to exceed $4,000,000 for development, implementation, maintenance and support, and training for an automated prisoner information system shall remain available until expended: *Provided*, That, in addition to reimbursable full-time equivalent workyears available to the United States Marshals Service, not to exceed 4,128 positions and 3,993 full-time equivalent workyears shall be supported from the funds appropriated in this Act for the United States Marshals Service.

CONSTRUCTION

For planning, constructing, renovating, equipping, and maintaining United States Marshals Service prisoner-holding space in United States courthouses and Federal buildings, including the renovation and expansion of prisoner movement areas, elevators, and sallyports, $6,628,000 to remain available until expended.

FEDERAL PRISONER DETENTION

For expenses, related to United States prisoners in the custody of the United States Marshals Service, but not including expenses otherwise provided for in appropriations available to the Attorney General, $724,682,000, to remain available until expended.

FEES AND EXPENSES OF WITNESSES

For expenses, mileage, compensation, and per diems of witnesses, for expenses of contracts for the procurement and supervision of expert witnesses, for private counsel expenses, and for per diems in lieu of subsistence, as authorized by law, including advances, $148,494,000, to remain available until expended; of which not to exceed $6,000,000 may be made available for planning, construction, renovations, maintenance, remodeling, and repair of buildings, and the purchase of equipment incident thereto, for protected witness safesites; of which not to exceed $1,000,000 may be made available for the purchase and maintenance of armored vehicles for transportation of protected witnesses; and of which not to exceed $5,000,000 may be made available for the purchase, installation, and maintenance of secure telecommunications equipment and a secure automated information network to store and retrieve the identities and locations of protected witnesses.

SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

For necessary expenses of the Community Relations Service, $9,269,000 and, in addition, up to $1,000,000 of funds made available to the Department of Justice in this Act may be transferred by the Attorney General to this account: *Provided*, That notwithstanding any other provision of law, upon a determination by the Attorney General that emergent circumstances require additional funding for conflict prevention and resolution activities of the Community Relations Service, the Attorney General may transfer such amounts to the Community Relations Service, from available appropriations for

the current fiscal year for the Department of Justice, as may be necessary to respond to such circumstances: *Provided further*, That any transfer pursuant to the previous proviso shall be treated as a reprogramming under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

ASSETS FORFEITURE FUND

For expenses authorized by 28 U.S.C. 524(c)(1)(A)(ii), (B), (F), and (G), as amended, $21,949,000, to be derived from the Department of Justice Assets Forfeiture Fund.

RADIATION EXPOSURE COMPENSATION

ADMINISTRATIVE EXPENSES

For necessary administrative expenses in accordance with the Radiation Exposure Compensation Act, $1,996,000.

PAYMENT TO RADIATION EXPOSURE COMPENSATION TRUST FUND

For payments to the Radiation Exposure Compensation Trust Fund of claims covered by the Radiation Exposure Compensation Act as in effect on June 1, 2000, $10,776,000.

INTERAGENCY LAW ENFORCEMENT

INTERAGENCY CRIME AND DRUG ENFORCEMENT

For necessary expenses for the detection, investigation, and prosecution of individuals involved in organized crime drug trafficking not otherwise provided for, to include intergovernmental agreements with State and local law enforcement agencies engaged in the investigation and prosecution of individuals involved in organized crime drug trafficking, $340,189,000, of which $50,000,000 shall remain available until expended: *Provided*, That any amounts obligated from appropriations under this heading may be used under authorities available to the organizations reimbursed from this appropriation: *Provided further*, That any unobligated balances remaining available at the end of the fiscal year shall revert to the Attorney General for reallocation among participating organizations in succeeding fiscal years, subject to the reprogramming procedures set forth in section 605 of this Act.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For necessary expenses of the Federal Bureau of Investigation for detection, investigation, and prosecution of crimes against the United States; including purchase for police-type use of not to exceed 1,236 passenger motor vehicles, of which 1,142 will be for replacement only, without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance, and operation of aircraft; and not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General, $3,491,073,000; of which not to exceed $50,000,000 for automated data processing and telecommunications and technical investigative equipment and not to exceed $1,000,000 for undercover operations shall remain available until September 30, 2003; of which not less than $448,467,000 shall be for counterterrorism investigations, foreign counterintelligence, and other activities related to our national security; of which not to exceed $10,000,000 is authorized to be made available for making advances for expenses arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to violent crime, terrorism, organized crime, and drug investigations: *Provided*, That not to exceed $45,000 shall be available for official reception and representation expenses: *Provided further*, That, in addition to reimbursable full-time equivalent workyears available to the Federal Bureau of Investigation, not to exceed 24,935 positions and 24,488 full-time equivalent workyears shall be supported from the funds appropriated in this Act for the Federal Bureau of Investigation.

CONSTRUCTION

For necessary expenses to construct or acquire buildings and sites by purchase, or as otherwise authorized by law (including equipment for such buildings); conversion and extension of Federally-owned buildings; and preliminary planning and design of projects; $1,250,000, to remain available until expended.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Drug Enforcement Administration, including not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; expenses for conducting drug education and training programs, including travel and related expenses for participants in such programs and the distribution of items of token value that promote the goals of such programs; purchase of not to exceed 1,358 passenger motor vehicles, of which 1,079 will be for replacement only, for police-type use without regard to the general purchase price limitation for the current fiscal year; and acquisition, lease, maintenance, and operation of aircraft, $1,476,083,000; of which not to exceed $1,800,000 for research shall remain available until expended, and of which not to exceed $4,000,000 for purchase of evidence and payments for information, not to exceed $10,000,000 for contracting for automated data processing and telecommunications equipment, and not to exceed $2,000,000 for laboratory equipment, $4,000,000 for technical equipment, and $2,000,000 for aircraft replacement retrofit and parts, shall remain available until September 30, 2003; of which not to exceed $50,000 shall be available for official reception and representation expenses: *Provided*, That, in addition to reimbursable full-time equivalent workyears available to the Drug Enforcement Administration, not to exceed 7,654 positions and 7,515 full-time equivalent workyears shall be supported from the funds appropriated in this Act for the Drug Enforcement Administration.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For expenses necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, as follows:

ENFORCEMENT AND BORDER AFFAIRS

For salaries and expenses for the Border Patrol program, the detention and deportation program, the intelligence program, the investigations program, and the inspections program, including not to exceed $50,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; purchase for police-type use (not to exceed 3,165 passenger motor vehicles, of which 2,211 are for replacement only), without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; research related to immigration enforcement; for protecting and maintaining the integrity of the borders of the United States including, without limitation, equipping, maintaining, and making improvements to the infrastructure; and for the care and housing of Federal detainees held in the joint Immigration and Naturalization Service and United States Marshals Service Buffalo Detention Facility, $2,738,517,000; of which not to exceed $5,000,000 is for payments or advances arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to immigration; of which not to exceed $5,000,000 is to fund or reimburse other Federal agencies for the costs associated with the care, maintenance, and repatriation of smuggled illegal aliens: *Provided*, That none of the funds available to the Immigration and Naturalization Service shall be available to pay any employee overtime pay in an amount in excess of $30,000 during the calendar year beginning January 1, 2002: *Provided further*, That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further*, That, in addition to reimbursable full-time equivalent workyears available to the Immigration and Naturalization Service, not to exceed 20,465 positions and 20,066 full-time equivalent workyears shall be supported from the funds appropriated under this heading in this Act for the Immigration and Naturalization Service: *Provided further*, That none of the funds provided in this or any other Act shall be used for the continued operation of the San Clemente and Temecula checkpoints unless the checkpoints are open and traffic is being checked on a continuous 24-hour basis.

CITIZENSHIP AND BENEFITS, IMMIGRATION SUPPORT AND PROGRAM DIRECTION

For all programs of the Immigration and Naturalization Service not included under the heading ''Enforcement and Border Affairs'', $632,923,000, of which not to exceed $400,000 for research shall remain available until expended: *Provided*, That not to exceed $5,000 shall be available for official reception and representation expenses: *Provided further*, That the Attorney General may transfer any funds appropriated under this heading and the heading ''Enforcement and Border Affairs'' between said appropriations notwithstanding any percentage transfer limitations imposed under this appropriations Act and may direct such fees as are collected by the Immigration and Naturalization Service to the activities funded under this heading and the heading ''Enforcement and Border Affairs'' for performance of the functions for which the fees legally may be expended: *Provided further*, That not to exceed 40 permanent positions and 40 full-time equivalent workyears and $4,300,000 shall be expended for the Offices of Legislative Affairs and Public Affairs: *Provided further*, That the latter two aforementioned offices shall not be augmented by personnel details, temporary transfers of personnel on either a reimbursable or non-reimbursable basis, or any other type of formal or informal transfer or reimbursement of personnel or funds on either a temporary or long-term basis: *Provided further*, That the number of positions filled through non-career appointment at the Immigration and Naturalization Service, for which funding is provided in this Act or is otherwise made available to the Immigration and Naturalization Service, shall not exceed four permanent positions and four

full-time equivalent workyears: *Provided further*, That none of the funds available to the Immigration and Naturalization Service shall be used to pay any employee overtime pay in an amount in excess of $30,000 during the calendar year beginning January 1, 2002: *Provided further*, That funds may be used, without limitation, for equipping, maintaining, and making improvements to the infrastructure and the purchase of vehicles for police-type use within the limits of the Enforcement and Border Affairs appropriation: *Provided further*, That, in addition to reimbursable full-time equivalent workyears available to the Immigration and Naturalization Service, not to exceed 3,146 positions and 3,523 full-time equivalent workyears shall be supported from the funds appropriated under this heading in this Act for the Immigration and Naturalization Service: *Provided further*, That, notwithstanding any other provision of law, during fiscal year 2002, the Attorney General is authorized and directed to impose disciplinary action, including termination of employment, pursuant to policies and procedures applicable to employees of the Federal Bureau of Investigation, for any employee of the Immigration and Naturalization Service who violates policies and procedures set forth by the Department of Justice relative to the granting of citizenship or who willfully deceives the Congress or department leadership on any matter.

CONSTRUCTION

For planning, construction, renovation, equipping, and maintenance of buildings and facilities necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, not otherwise provided for, $128,454,000, to remain available until expended: *Provided*, That no funds shall be available for the site acquisition, design, or construction of any Border Patrol checkpoint in the Tucson sector.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For expenses necessary for the administration, operation, and maintenance of Federal penal and correctional institutions, including purchase (not to exceed 685, of which 610 are for replacement only) and hire of law enforcement and passenger motor vehicles, and for the provision of technical assistance and advice on corrections related issues to foreign governments, $3,830,971,000: *Provided*, That the Attorney General may transfer to the Health Resources and Services Administration such amounts as may be necessary for direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions: *Provided further*, That the Director of the Federal Prison System (FPS), where necessary, may enter into contracts with a fiscal agent/fiscal intermediary claims processor to determine the amounts payable to persons who, on behalf of FPS, furnish health services to individuals committed to the custody of FPS: *Provided further*, That not to exceed $6,000 shall be available for official reception and representation expenses: *Provided further*, That not to exceed $50,000,000 shall remain available for necessary operations until September 30, 2003: *Provided further*, That, of the amounts provided for Contract Confinement, not to exceed $20,000,000 shall remain available until expended to make payments in advance for grants, contracts and reimbursable agreements, and other expenses authorized by section 501(c) of the Refugee Education Assistance Act of 1980, as amended, for the care and security in the United States of Cuban and Haitian entrants: *Provided further*, That the Director of the Federal Prison System may accept donated property and services relating to the operation of the prison card program from a not-for-profit entity which has operated such program in the past notwithstanding the fact that such not-for-profit entity furnishes services under contracts to the Federal Prison System relating to the operation of pre-release services, halfway houses or other custodial facilities.

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Mr. SERRANO. Mr. Chairman, I move to strike the last word.

I understand we have come to the amendment of the gentleman from Virginia (Mr. SCOTT), and I know he is on the House floor somewhere. I take that back. He is on the House floor, but his amendment is not.

Mr. SCOTT. Mr. Chairman, if the gentleman will yield, we have had a discussion with the gentleman from Virginia (Mr. WOLF); and I think we are going to be able to work the amendment out without going through the process of considering it on the floor. I think we have worked things out. It involves a prison study. I appreciate the cooperation of the gentleman from Virginia.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

BUILDINGS AND FACILITIES

For planning, acquisition of sites and construction of new facilities; purchase and acquisition of facilities and remodeling, and equipping of such facilities for penal and correctional use, including all necessary expenses incident thereto, by contract or force account; and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account, $813,552,000, to remain available until expended, of which not to exceed $14,000,000 shall be available to construct areas for inmate work programs: *Provided*, That labor of United States prisoners may be used for work performed under this appropriation: *Provided further*, That not to exceed 10 percent of the funds appropriated to ''Buildings and Facilities'' in this or any other Act may be transferred to ''Salaries and Expenses'', Federal Prison System, upon notification by the Attorney General to the Committees on Appropriations of the House of Representatives and the Senate in compliance with provisions set forth in section 605 of this Act.

FEDERAL PRISON INDUSTRIES, INCORPORATED

The Federal Prison Industries, Incorporated, is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available, and in accord with the law, and to make such contracts and commitments, without regard to fiscal year limitations as provided by section 9104 of title 31, United States Code, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, including purchase (not to exceed five for replacement only) and hire of passenger motor vehicles.

LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL PRISON INDUSTRIES, INCORPORATED

Not to exceed $3,429,000 of the funds of the corporation shall be available for its administrative expenses, and for services as authorized by 5 U.S.C. 3109, to be computed on an accrual basis to be determined in accordance with the corporation's current prescribed accounting system, and such amounts shall be exclusive of depreciation, payment of claims, and expenditures which the said accounting system requires to be capitalized or charged to cost of commodities acquired or produced, including selling and shipping expenses, and expenses in connection with acquisition, construction, operation, maintenance, improvement, protection, or disposition of facilities and other property belonging to the corporation or in which it has an interest.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (''the 1968 Act''), and the Missing Children's Assistance Act, as amended, including salaries and expenses in connection therewith, and with the Victims of Crime Act of 1984, as amended, $187,877,000, to remain available until expended, as authorized by section 1001 of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by Public Law 102–534 (106 Stat. 3524).

In addition, for grants, cooperative agreements, and other assistance authorized by sections 819 and 821 of the Antiterrorism and Effective Death Penalty Act of 1996 and for other counterterrorism programs, $220,494,000, to remain available until expended.

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For assistance authorized by the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), as amended (''the 1994 Act''); the Omnibus Crime Control and Safe Streets Act of 1968, as amended (''the 1968 Act''); the Victims of Child Abuse Act of 1990, as amended (''the 1990 Act''); and the Victims of Trafficking and Violence Protection Act of 2000 (Public Law 106–386); $2,519,575,000 (including amounts for administrative costs, which shall be transferred to and merged with the ''Justice Assistance'' account), to remain available until expended as follows:

(1) $521,849,000 for Local Law Enforcement Block Grants, pursuant to H.R. 728 as passed by the House of Representatives on February 14, 1995, except that for purposes of this Act, Guam shall be considered a ''State'', the Commonwealth of Puerto Rico shall be considered a ''unit of local government'' as well as a ''State'', for the purposes set forth in subparagraphs (A), (B), (D), (F), and (I) of section 101(a)(2) of H.R. 728, and for establishing crime prevention programs involving cooperation between community residents and law enforcement personnel in order to control, detect, or investigate crime or the prosecution of criminals: *Provided*, That no funds provided under this heading may be used as matching funds for any other Federal grant program, of which:

(A) $60,000,000 shall be for Boys and Girls Clubs in public housing facilities and other areas in cooperation with State and local law enforcement: *Provided*, That funds may also be used to defray the costs of indemnification insurance for law enforcement officers,

(B) $6,000,000 shall be for the National Police Athletic League pursuant to Public Law 106–367, and

(C) $19,956,000 shall be available for grants, contracts, and other assistance to carry out section 102(c) of H.R. 728;

(2) $565,000,000 for the State Criminal Alien Assistance Program, as authorized by section 242(j) of the Immigration and Nationality Act, as amended;

(3) $35,000,000 for the Cooperative Agreement Program;

(4) $48,162,000 for assistance to Indian tribes, of which:

(A) $35,191,000 shall be available for grants under section 20109(a)(2) of subtitle A of title II of the 1994 Act,

(B) $7,982,000 shall be available for the Tribal Courts Initiative, and

(C) $4,989,000 shall be available for demonstration grants on alcohol and crime in Indian Country;

(5) $570,000,000 for programs authorized by part E of title I of the 1968 Act, notwithstanding the provisions of section 511 of said Act, of which $70,000,000 shall be for discretionary grants under the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs;

(6) $11,975,000 for the Court Appointed Special Advocate Program, as authorized by section 218 of the 1990 Act;

(7) $2,296,000 for Child Abuse Training Programs for Judicial Personnel and Practitioners, as authorized by section 224 of the 1990 Act;

(8) $998,000 for grants for televised testimony, as authorized by section 1001(a)(7) of the 1968 Act;

(9) $184,537,000 for Grants to Combat Violence Against Women, to States, units of local government, and Indian tribal governments, as authorized by section 1001(a)(18) of the 1968 Act, of which:

(A) $1,000,000 shall be for the Bureau of Justice Statistics for grants, contracts, and other assistance for a domestic violence Federal case processing study,

(B) $5,200,000 shall be for the National Institute of Justice for grants, contracts, and other assistance for research and evaluation of violence against women,

(C) $10,000,000 shall be for the Office of Juvenile Justice and Delinquency Prevention for the Safe Start Program, to be administered as authorized by part C of the Juvenile Justice and Delinquency Act of 1974, as amended, and

(D) $5,000,000 shall be for the National Institute of Justice for grants, contracts, and other assistance for research on family violence;

(10) $64,925,000 for Grants to Encourage Arrest Policies to States, units of local government, and Indian tribal governments, as authorized by section 1001(a)(19) of the 1968 Act;

(11) $39,945,000 for Rural Domestic Violence and Child Abuse Enforcement Assistance Grants, as authorized by section 40295 of the 1994 Act;

(12) $4,989,000 for training programs to assist probation and parole officers who work with released sex offenders, as authorized by section 40152(c) of the 1994 Act, and for local demonstration projects;

(13) $3,000,000 for grants to States and units of local government to improve the process for entering data regarding stalking and domestic violence into local, State, and national crime information databases, as authorized by section 40602 of the 1994 Act;

(14) $10,000,000 for grants to reduce Violent Crimes Against Women on Campus, as authorized by section 1108(a) of Public Law 106–386;

(15) $40,000,000 for Legal Assistance for Victims, as authorized by section 1201 of Public Law 106–386;

(16) $5,000,000 for enhancing protection for older and disabled women from domestic violence and sexual assault as authorized by section 40801 of the 1994 Act;

(17) $15,000,000 for the Safe Havens for Children Pilot Program as authorized by section 1301 of Public Law 106–386;

(18) $200,000 for a report of effects of parental kidnapping laws in domestic violence cases, as authorized by section 1303 of Public Law 106–386;

(19) $200,000 for the study of standards and processes for forensic exams of domestic violence, as authorized by section 1405 of Public Law 106–386;

(20) $7,500,000 for Education and Training to end violence against and abuse of women with disabilities, as authorized by section 1402 of P.L. 106–386;

(21) $10,000,000 for victim services programs for victims of trafficking, as authorized by section 107(b)(2) of Public Law 106–386;

(22) $73,861,000 for grants for residential substance abuse treatment for State prisoners, as authorized by section 1001(a)(17) of the 1968 Act: *Provided*, That States that have in-prison drug treatment programs, in compliance with Federal requirements, may use their residential substance abuse grant funds for treatment, both during incarceration and after release;

(23) $898,000 for the Missing Alzheimer's Disease Patient Alert Program, as authorized by section 240001(c) of the 1994 Act;

(24) $50,000,000 for Drug Courts, as authorized by title V of the 1994 Act;

(25) $1,497,000 for Law Enforcement Family Support Programs, as authorized by section 1001(a)(21) of the 1968 Act;

(26) $1,995,000 for public awareness programs addressing marketing scams aimed at senior citizens, as authorized by section 250005(3) of the 1994 Act;

(27) $249,450,000 for Juvenile Accountability Incentive Block Grants, of which $38,000,000 shall be available for grants, contracts, and other assistance under the Project ChildSafe Initiative, except that such funds shall be subject to the same terms and conditions as set forth in the provisions under this heading for this program in Public Law 105–119, but all references in such provisions to 1998 shall be deemed to refer instead to 2002, and Guam shall be considered a ''State'' for the purposes of title III of H.R. 3, as passed by the House of Representatives on May 8, 1997; and

(28) $1,298,000 for Motor Vehicle Theft Prevention Programs, as authorized by section 220002(h) of the 1994 Act:

Provided, That funds made available in fiscal year 2002 under subpart 1 of part E of title I of the 1968 Act may be obligated for programs to assist States in the litigation processing of death penalty Federal habeas corpus petitions and for drug testing initiatives: *Provided further*, That, if a unit of local government uses any of the funds made available under this title to increase the number of law enforcement officers, the unit of local government will achieve a net gain in the number of law enforcement officers who perform nonadministrative public safety service.

WEED AND SEED PROGRAM FUND

For necessary expenses, including salaries and related expenses of the Executive Office for Weed and Seed, to implement ''Weed and Seed'' program activities, $58,925,000, to remain available until expended, for inter-governmental agreements, including grants, cooperative agreements, and contracts, with State and local law enforcement agencies, non-profit organizations, and agencies of local government engaged in the investigation and prosecution of violent crimes and drug offenses in ''Weed and Seed'' designated communities, and for either reimbursements or transfers to appropriation accounts of the Department of Justice and other Federal agencies which shall be specified by the Attorney General to execute the ''Weed and Seed'' program strategy: *Provided*, That funds designated by Congress through language for other Department of Justice appropriation accounts for ''Weed and Seed'' program activities shall be managed and executed by the Attorney General through the Executive Office for Weed and Seed: *Provided further*, That the Attorney General may direct the use of other Department of Justice funds and personnel in support of ''Weed and Seed'' program activities only after the Attorney General notifies the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 605 of this Act.

COMMUNITY ORIENTED POLICING SERVICES

For activities authorized by the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103–322 (''the 1994 Act'') (including administrative costs), $1,013,498,000, to remain available until expended: *Provided*, That no funds that become available as a result of deobligations from prior year balances, excluding those for program management and administration, may be obligated except in accordance with section 605 of this Act*: Provided further*, That section 1703 (b) and (c) of the 1968 Act shall not apply to nonhiring grants made pursuant to part Q of title I thereof (42 U.S.C. 3796dd et seq.): *Provided further*, That all prior year balances derived from the Violent Crime Trust Fund for Community Oriented Policing Services may be transferred into this appropriation.

AMENDMENT OFFERED BY MR. LUCAS OF OKLAHOMA

Mr. LUCAS of Oklahoma. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LUCAS of Oklahoma:

Page 33, line 18, insert after the dollar amount the following: ''(increased by $11,700,000)''.

Page 34, line 7, insert after the first dollar amount the following: ''(increased by $11,700,000)''.

Page 34, line 16, insert after the dollar amount the following: ''(increased by $11,700,000)''.

Page 81, line 24, insert after the dollar amount the following: ''(reduced by $11,700,000)''.

Mr. LUCAS of Oklahoma. Mr. Chairman, I rise to offer the following amendment to increase the funding for the methamphetamine enforcement and cleanup under the COPS program by $11.7 million. This increase is equal to the amount requested earlier this year by the Congressional Caucus to Fight and Control Methamphetamines, of which I am a member.

Mr. Chairman, meth is arguably the fastest growing drug threat in America today, with my home State of Oklahoma ranking number one, unbelievable as it may be, per capita in the Nation in the number of meth lab seizures. Over the past 7 years, the number of Oklahoma meth lab seizures has increased by an unbelievable 8,000 percent. With an average cleanup cost per

lab of $3,500, that equals a substantial financial strain on Oklahoma as well as the Nation.

Since 1994, DEA seizures of meth labs have increased more than sixfold nationwide. We are halfway through the year, and already there have been more DEA and State and local meth lab cleanups than in the entirety of the last year.

Mr. Chairman, an increase in funding is vital for State and local enforcement programs in their struggle to combat meth production and distribution and to remove and dispose of hazardous materials at meth labs.

I urge Members' support for our amendment and their help in our fight against this extremely destructive and addictive synthetic drug.

Mr. WOLF. Mr. Chairman, I rise in strong opposition to the gentleman's amendment.

This amendment would take $11 million from the Broadcasting Board of Governors, International Broadcasting Operations account. A reduction of this magnitude would trigger a significant reduction-in-force affecting up to 100 employees; it would silence the Voice of America in at least a dozen foreign language services around the globe; and it would force reductions of worldwide broadcast hours.

In fact, it goes just the opposite. We are trying to broadcast in the Sudan where there is slavery, terrorism, and this would take us back the other way.

The amendment would also eliminate funding for a new program initiative already under way to improve and expand broadcasting to the Middle East and Sudan in Arabic. This new program is designed to give the U.S. a voice in a very, very critical area.

U.S. broadcasting to the region is now ineffective, and the U.S. is not playing a role to counterbalance hate radio that is prevalent in the Middle East. This amendment would prevent this revamping of current programming and transmission strategies from moving forward.

The amendment would cause a rollback of efforts to fight jamming of U.S. broadcasts by governments such as China. When I was in Tibet, everyone I spoke to in Tibet listened to Radio Free China. Also, Vietnam that denies their citizens access to information. This jamming cuts off what for many is the only available source of objective news and information.

These offsets that the gentleman has chosen are simply unacceptable and would pretty much wipe out what the committee did. I strongly urge the rejection of the amendment.

Mr. SERRANO. Mr. Chairman, I move to strike the last word.

There is a way that the gentleman could get a lot of support on this side for his amendment; and that is, if he directs the cut to broadcasting to Cuba. So my question to him is, would he be willing to take the full amount out of broadcasting to Cuba?

Mr. LUCAS of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. SERRANO. I yield to the gentleman from Oklahoma.

Mr. LUCAS of Oklahoma. Mr. Chairman, I am not sure at this particular time that I am in a position necessarily to agree to that. I would say this, though, in regards to both the outstanding chairman and the ranking member, that looking at this budget, clearly there is a $32 million increase for International Broadcasting Operations. I acknowledge that there is 7.8 percent increase in this particular fund and that my reduction would lower that increase to 5 percent. But the bottom line remains to me, we have a huge methamphetamine problem that is consuming our society here at home. I think we have an obligation to try and respond to that. I wish I could respond favorably to the gentleman, but I cannot.

Mr. SERRANO. Reclaiming my time, I guess that by that statement that is a ''no,'' but I just want to make sure before I sit down that I made it clear to him that he had a great opportunity to pick up a lot of support on this side if he directs that fine amendment to a cut in Cuba broadcasting. If he did that, I would support him and he would be surprised how many Members on this side would support him. But I guess the answer is no, so in general terms, we would oppose cutting broadcasting because it would hurt areas of the world that need the support.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma (Mr. LUCAS).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. LUCAS of Oklahoma. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Oklahoma (Mr. LUCAS) will be postponed.

Mr. WOLF. Mr. Chairman, earlier I had promised the gentleman from Utah (Mr. CANNON) that his amendment could be in order and be offered and he was not here. I know there is at least one Member on the other side.

Mr. Chairman, I ask unanimous consent that the gentleman from Utah (Mr. CANNON) be permitted to go back and offer his amendment and that the gentleman from New York (Mr. HINCHEY) be permitted to do the same.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

Mr. YOUNG of Florida. Mr. Chairman, reserving the right to object, and I am not going to object, but I make this reservation in order to have just a minute to say that we will agree to this, but Members have an obligation to be here as the bill is being presented if they have an amendment. We will agree to it on this particular unanimous consent request. We will not agree to it for any further UCs to go back to anyplace in the bill.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

Mr. OBEY. Mr. Chairman, reserving the right to object, I do so only to emphasize my total agreement with the comment of the gentleman from Florida. We will in this instance agree to go back because there is one Member from each party who would otherwise not be able to offer their amendments. But I think Members need to understand it is hard enough for the committee to manage a bill. We try our level best to accommodate Members. And we try to help them shape their amendments if they need help, but Members need to be here when those amendments come up in the regular bill. If they are not here, the committee cannot be expected to jump through hoops in the future.

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So I think Members need to understand from here on out on this bill, if you want to offer an amendment, you have to be here at that point in the bill when the amendment is eligible; or else they will not be eligible for offering. We are trying to help Members get out at a reasonable time tonight and make certain that Members' amendments are going to be dealt with tomorrow, but we need the cooperation of Members.

So, again, I want to repeat what was said earlier. I also would urge any Member who is talking about filing an amendment to get that amendment filed in the RECORD tonight so that we know what universe of amendments we are going to be dealing with tomorrow, because the gentleman from Virginia (Mr. WOLF) and the gentleman from New York (Mr. SERRANO) are going to have a lot of things to do tomorrow, and they will have an opportunity to put together some kind of an agreement in the morning. But we need to know which amendments Members are going to offer. So if they are going to offer amendments, they need to get them filed in the RECORD tonight to facilitate the committee business.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia (Mr. WOLF) that the gentleman from Utah (Mr. CANNON) and the gentleman from New York (Mr. HINCHEY) be permitted to have their amendments considered out of order?

There was no objection.

AMENDMENT OFFERED BY MR. CANNON

Mr. CANNON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CANNON:

On page 12, line 21, strike ''as in effect on June 1, 2000''.

Mr. CANNON. Mr. Chairman, I would like to first thank the gentleman from Florida (Chairman YOUNG), the gentleman from Virginia (Chairman WOLF), and the gentleman from Wisconsin (Mr. OBEY), the ranking member, for their condescension in this matter.

Mr. Chairman, this amendment would simply eliminate a distinction in classes of people that Congress has already decided should be considered as one class. We recognize that there is not enough money available for the whole trust fund or to fund all of the claims under the Radiation Exposure and Compensation Act, and I would just like to maintain a group, instead of making a distinction between groups.

Mr. WOLF. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, we accept the amendment. We sympathize with the gentleman's concerns regarding individuals not receiving their compensation payments. The bill includes $10,766,000 to make payments to individuals who qualify for compensation under the original Radiation Exposure Act.

The gentleman has a very, very good point. This program has now become in effect an entitlement program, with little or no discretionary funds available to pay for it. Both the administration and the budget resolution propose to convert this to a mandatory activity.

I strongly support this proposal. I think the gentleman has a very good point. I read the article in the newspaper the other day about the elderly lady in Maryland whose husband died of radiation. Most of these people are getting very old, so I think it is important to provide it so everyone can be involved.

Mr. CANNON. Mr. Chairman, will the gentleman yield?

Mr. WOLF. I yield to the gentleman from Utah.

Mr. CANNON. Mr. Chairman, I have in fact introduced a bill in the House that would make this a mandatory expenditure instead of discretionary. My colleague from Utah in the other body has also introduced a bill. I suspect that the likelihood that this will pass this Congress is very high, and that I think it would eliminate the concern and the problem we have here.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Utah (Mr. CANNON).

The amendment was agreed to.

AMENDMENT NO. 2 OFFERED BY MR. HINCHEY

Mr. HINCHEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. HINCHEY:

In title I, in the item relating to ''FEDERAL PRISON SYSTEM—BUILDINGS AND FACILITIES'', after the aggregate dollar amount, insert the following: ''(reduced by $73,000,000)''.

In title II, in the item relating to ''ECONOMIC DEVELOPMENT ADMINISTRATION—ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS'', after the aggregate dollar amount, insert the following: ''(increased by $73,000,000)''.

Mr. HINCHEY. Mr. Chairman, this amendment would increase funding for the Economic Development Administration by $73 million. This would simply level-fund EDA at what it had last year.

Since 1965, the EDA has been helping communities build their infrastructure, develop their business base, rebuild their economies in the wake of natural disasters, plant closings and military base realignments, and also address persistent unemployment and underemployment problems.

Over the years, EDA has invested more than $16 billion all across the country. It has been a good investment, generating almost three times as much supporting private investment. EDA public works programs help fund locally developed infrastructure projects that are critical to attracting private sector businesses to local communities. Every dollar of EDA public works money generates an additional $10 in private investment results. It is clear, I think, that in each and every one of our districts, we have seen the effects of EDA.

We offset this $73 million by decreasing the prison construction account by a like amount, $73 million. The bill provides $813.5 million for prison construction. With this reduction, there is still more than $740 million left in this account to build new Federal prisons.

Mr. Chairman, I yield to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Chairman, I want to thank the gentleman from New York for introducing this amendment to increase funding for EDA.

A program close to my heart within EDA, and I know the gentleman from Virginia would appreciate this, is the Trade Adjustment Assistance for Firms program administered by the Department of Commerce. This program has been incredibly successful in the State of New Jersey.

We need this help in the Garden State. It has not seen many benefits from the unfair trade agreements, such as NAFTA. John Walsh has done a tremendous job in New Jersey with the little resources that he has. This bill merely provides TAA level funding which is wholly unacceptable at this point.

The response for TAA is overwhelming, Mr. Chairman. The implementation of NAFTA and the globalization we see under WTO has only highlighted the demands for firms for this assistance. In New Jersey last year, 4,000 jobs were retained or created with the help of the TAA. This is critical.

It is interesting that in this country, many times the only way we can get health care is if you go to prison. What we are saying to the displaced workers in this globalization of trade, and the gentleman from Virginia knows this is quite true, these people have no place to go. We need this money best spent for our own workers.

That is not to say that Federal prisons do not need to be built; but we need to take care of our own workers first that are being displaced by the trade agreements, the plethora of trade agreements that we see before us.

We know that this is an unfair trade agreement that is to be before us in a few weeks. It destroys firms. It sends jobs overseas. I have witnessed that in my own district. By saving companies in peril, the TAA has created and saved jobs in communities around this country.

There is nothing worse, Mr. Chairman, than the displaced worker who has been displaced by a job overseas that he should have had retained. TAA has averted the need for millions of dollars in unemployment compensation, Dislocated Workers' Compensation, welfare cash assistance, food stamps and other programs. This is money within the economy itself.

The entire New Jersey delegation contacted this subcommittee in a bipartisan manner to support increased funding for the TAA to a level of no less than $24 million. This amendment will help us come close to adequately addressing the needs of American manufacturers and our changing global economy.

I thank the gentleman from New York (Mr. HINCHEY); I thank the gentleman from Virginia (Mr. WOLF); and I thank the chairman, for our workers need no less.

Mr. WOLF. Mr. Chairman, I rise in very strong opposition to this amendment. A reduction in funding for the buildings and facilities program will delay construction of seven partially funded projects.

One should go to a prison and see the conditions in the prison. One of the biggest problems in prison is prison rape, where the men are double and tripled bunked and have no place to go.

The Bureau of Prisons is currently operating at 33 percent above the rate of capacity, system-wide. Crowding at medium-security facilities is 58 percent above the rate of capacity, and 48 percent at high-security penitentiaries.

While the gentleman has some merit to the concept of what he wants to do, he should not take money from the prisons. You cannot put a man or woman in prison for 15 years with terrible conditions and no rehabilitation and expect them to come out and be decent citizens. Higher levels of crowding

potentially endanger staff, inmates, and the community. In fact, as you can almost say, to do this could bring about riots in the prisons.

Further, the Bureau of Prisons is experiencing its third consecutive year of record population growth in fiscal year 2000, of over 11,400 inmates; and all indications are that it will continue to grow. The projections are inmate population will increase by 36 percent by the fiscal year 2008.

Infrastructure at existing Bureau of Prisons facilities is severely taxed by over-utilization, which causes maintenance problems, premature deterioration of physical plants. Of the Bureau of Prisons' 98 facilities, a third are over 50 years old and over half are over 20 years old. These facilities were not designed to operate at this level.

Finally, reducing the new construction funds means there will be no additional capacity for female inmates. The Bureau of Prisons female population is expected to increase 50 percent by the end of fiscal year 2008, resulting in a critical shortage of bed space for female inmates. Since 1994, only one facility has been added to provide female capacity, and that was accomplished with the conversion of a male facility for female use.

Delaying the secure facilities for female offenders would also increase the system-wide crowding levels, since male institutions cannot be returned to housing male offenders as planned.

Before I got elected to Congress, I worked in a program called Man-to-Man down at Lorton Reformatory. This amendment would be a terrible thing to do. Had the gentleman been able to find some other money some other place, we could look at it, but to take it out of the construction of prisons, where the conditions in the prisons are so miserable. In fact, I am going to be introducing a bill with a Member from your side with regard to asking for an investigation and study of prison rape. If you could see the number of men who are raped in prisons around this country, it would be a worldwide disgrace. We want people to see it so we can do something about it.

Mr. Chairman, I strongly urge my colleagues to vote against this amendment. This would be bad, and I think it would create conditions that I think, frankly, would be unfortunate for the prisons.

Mr. PASCRELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, do we want to build bigger jails, or do we want to build a better economy? No one is saying on this floor that we do not need to build more Federal prisons. No one is saying that. But this administration is asking us to listen to them on the issue of trade.

The gentleman from Virginia has spoken on this floor many times about displaced workers, about human rights; and I have followed the gentleman's point and been in support. If one listens to those who want to trade and open up the floodgates, because nothing is free, this trade is a cure that will increase employment, which will increase productivity and end human rights abuses. It will promote democracy, we hear, democracy, and do just about everything one wants. These are all unproved theories.

It seems to me we could take some money from that large pool of building prisons. There is no debate about the need, Mr. Chairman, but the question is, what about our own workers? The TAA has been a responsible agency. The gentleman has supported it, and we have all supported it, to help those people who have been displaced as we have exported our jobs all over the world, to countries that do not respect us and do not respect human rights. Yet we stand here on the brink of another debate on trade, a few of those dollars, a few of those dollars, to TAA.

Mr. WOLF. Mr. Chairman, will the gentleman yield?

Mr. PASCRELL. I yield to the gentleman from Virginia.

Mr. WOLF. Mr. Chairman, we cannot take it out of the prisons. The conditions there, I agree, I will be with the gentleman tomorrow or the next day on not granting MFN or PNTR to China, but I just do not think you can take it out of the prisons. The conditions in the prisons are so difficult and so bad.

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So that is the problem that I have with the amendment. We just cannot take it out of the prisons.

Mr. PASCRELL. Mr. Chairman, reclaiming my time, this is 10 percent. We are not talking about the prisoners, we are talking basically about construction. This bill only talks about construction.

Retaining and creating jobs, the TAA, has generated Federal and State revenues, tax revenues, at a ratio of $12 for every dollar appropriated by this Congress. It has been a bipartisan program. We know the errors of NAFTA as well as the other trade agreements. To me, the American worker and the American working family is more important, if I have to make a priority. Now, when we have all priorities, we have no priority.

All we are asking for is a few dollars in the TAA program, which the gentleman knows has worked and has been successful, to help the workers in America that have been displaced by our trade agreements.

Mr. Chairman, our manufacturers and fabricators and dye shops all over America ask for our support. Will we turn our backs on them? We have an opportunity in this legislation with this amendment for a few dollars to help those dislocated workers. Otherwise, we will be into the empty words of the trade debate in a few weeks, and what will we have accomplished?

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. HINCHEY).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. HINCHEY. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New York (Mr. HINCHEY) will be postponed.

The Clerk will read.

The Clerk read as follows:

Of the amounts provided:

(1) for Public Safety and Community Policing Grants pursuant to title I of the 1994 Act, $470,249,000 as follows: $330,000,000 for the hiring of law enforcement officers, including school resource officers; $20,662,000 for training and technical assistance; $25,444,000 for the matching grant program for Law Enforcement Armor Vests pursuant to section 2501 of part Y of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (''the 1968 Act''); $31,315,000 to improve tribal law enforcement including equipment and training; $48,393,000 for policing initiatives to combat methamphetamine production and trafficking and to enhance policing initiatives in ''drug hot spots''; and $14,435,000 for Police Corps education, training, and service under sections 200101–200113 of the 1994 Act;

(2) for crime technology, $363,611,000 as follows: $150,000,000 for a law enforcement technology program; $35,000,000 for grants to upgrade criminal records, as authorized under the Crime Identification Technology Act of 1998 (42 U.S.C. 14601); $40,000,000 for DNA testing as authorized by the DNA Analysis Backlog Elimination Act of 2000 (Public Law 106–546); $35,000,000 for State and local DNA laboratories as authorized by section 1001(a)(22) of the 1968 Act, and for improvements to State and local forensic laboratories' general science capacity and capability; and $103,611,000 for grants, contracts and other assistance to States under section 102(b) of the Crime Identification Technology Act of 1998 (42 U.S.C. 14601), of which $17,000,000 is for the National Institute of Justice for grants, contracts, and other agreements to develop school safety technologies and training;

(3) for prosecution assistance, $99,780,000 as follows: $49,780,000 for a national program to reduce gun violence, and $50,000,000 for the Southwest Border Prosecutor Initiative;

(4) for grants, training, technical assistance, and other expenses to support community crime prevention efforts, $46,864,000 as follows: $14,967,000 for Project Sentry; $14,934,000 for an offender re-entry program; and $16,963,000 for a police integrity program; and

(5) not to exceed $32,994,000 for program management and administration.

JUVENILE JUSTICE PROGRAMS

For grants, contracts, cooperative agreements, and other assistance authorized by the Juvenile Justice and Delinquency Prevention Act of 1974, as amended (''the Act''), including salaries and expenses in connection therewith to be transferred to and merged with the appropriations for Justice Assistance, $278,483,000, to remain available until expended, as authorized by section 299

of part I of title II and section 506 of title V of the Act, as amended by Public Law 102–586, of which: (1) notwithstanding any other provision of law, $6,832,000 shall be available for expenses authorized by part A of title II of the Act, $88,804,000 shall be available for expenses authorized by part B of title II of the Act, and $50,139,000 shall be available for expenses authorized by part C of title II of the Act: *Provided*, That $26,442,000 of the amounts provided for part B of title II of the Act, as amended, is for the purpose of providing additional formula grants under part B to States that provide assurances to the Administrator that the State has in effect (or will have in effect no later than 1 year after date of application) policies and programs that ensure that juveniles are subject to accountability-based sanctions for every act for which they are adjudicated delinquent; (2) $11,974,000 shall be available for expenses authorized by sections 281 and 282 of part D of title II of the Act for prevention and treatment programs relating to juvenile gangs; (3) $9,978,000 shall be available for expenses authorized by section 285 of part E of title II of the Act; (4) $15,965,000 shall be available for expenses authorized by part G of title II of the Act for juvenile mentoring programs; and (5) $94,791,000 shall be available for expenses authorized by title V of the Act for incentive grants for local delinquency prevention programs; of which $12,472,000 shall be for delinquency prevention, control, and system improvement programs for tribal youth; of which $14,967,000 shall be available for the Safe Schools Initiative including $5,033,000 for grants, contracts, and other assistance under the Project Sentry Initiative; and of which $37,000,000 shall be available for grants, contracts and other assistance under the Project ChildSafe Initiative: *Provided further*, That of amounts made available under the Juvenile Justice Programs of the Office of Justice Programs to carry out part B (relating to Federal Assistance for State and Local Programs), subpart II of part C (relating to Special Emphasis Prevention and Treatment Programs), part D (relating to Gang-Free Schools and Communities and Community-Based Gang Intervention), part E (relating to State Challenge Activities), and part G (relating to Mentoring) of title II of the Juvenile Justice and Delinquency Prevention Act of 1974, and to carry out the At-Risk Children's Program under title V of that Act, not more than 10 percent of each such amount may be used for research, evaluation, and statistics activities designed to benefit the programs or activities authorized under the appropriate part or title, and not more than 2 percent of each such amount may be used for training and technical assistance activities designed to benefit the programs or activities authorized under that part or title.

In addition, for grants, contracts, cooperative agreements, and other assistance, $10,976,000 to remain available until expended, for developing, testing, and demonstrating programs designed to reduce drug use among juveniles.

In addition, for grants, contracts, cooperative agreements, and other assistance authorized by the Victims of Child Abuse Act of 1990, as amended, $8,481,000, to remain available until expended, as authorized by section 214B of the Act.

PUBLIC SAFETY OFFICERS BENEFITS

To remain available until expended, for payments authorized by part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796), as amended, such sums as are necessary, as authorized by section 6093 of Public Law 100–690 (102 Stat. 4339–4340); and $2,395,000, to remain available until expended for payments as authorized by section 1201(b) of said Act.

GENERAL PROVISIONS—DEPARTMENT OF JUSTICE

SEC. 101. In addition to amounts otherwise made available in this title for official reception and representation expenses, a total of not to exceed $45,000 from funds appropriated to the Department of Justice in this title shall be available to the Attorney General for official reception and representation expenses in accordance with distributions, procedures, and regulations established by the Attorney General.

SEC. 102. Authorities contained in the Department of Justice Appropriation Authorization Act, Fiscal Year 1980 (Public Law 96–132; 93 Stat. 1040 (1979)), as amended, shall remain in effect until the effective date of a subsequent Department of Justice Appropriation Authorization Act.

SEC. 103. None of the funds appropriated by this title shall be available to pay for an abortion, except where the life of the mother would be endangered if the fetus were carried to term, or in the case of rape: *Provided*, That should this prohibition be declared unconstitutional by a court of competent jurisdiction, this section shall be null and void.

AMENDMENT OFFERED BY MS. DEGETTE

Ms. DEGETTE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. DEGETTE:

Page 39, strike lines 18 through 24 (and make such technical and conforming changes as may be appropriate).

Ms. DEGETTE. Mr. Chairman, the amendment I am offering here tonight is very straightforward. It removes the language of the bill that prohibits the use of Federal funds for abortion services for women in Federal prison.

Unlike other American women who are denied Federal coverage of abortion services, most women in prison are indigent. They have little access to outside financial help, and they earn extremely low wages in prison jobs.

They are also often incarcerated in prisons that are far away from their support system of family and friends and, as a result, inmates in the Federal Prison System are completely dependent on the Bureau of Prisons for all their needs, including food, shelter, clothing, and all on their aspects of their medical care. These women are not able to work at jobs that would enable them to pay for medical services, including abortion services, and most of them do not have the support of families to pay for those services.

The overwhelming majority of women in Federal prisons work on the general pay scale and earn from 12 cents to 40 cents an hour, which equals roughly $5 to $16 a week. Let me repeat that. The average woman inmate in prison earns $5 to $16 per week. The average cost of an early outpatient abortion ranges from $200 to $400, and it goes up from there.

Even if a woman in the Federal Prison System earned the maximum wage on the general pay scale and worked 40 hours a week, which many prisoners are not able to do, she would not earn enough in 12 weeks to pay for an abortion in the first trimester if she so chose, and, of course, after that, the cost and risks of an abortion go up dramatically.

So, the woman in prison is caught in a vicious cycle. Even if she saved her entire income, every single penny, she could never afford an abortion on her own. Therefore, women in prison do not have any choice at all.

Congress's continued denial of coverage of abortion services for Federal inmates has effectively shut down the only avenue these women have to pursue their constitutional right to choose.

Let me remind my colleagues, for the last 28 years, women in America have had a constitutional right to choose abortion as a reproductive choice. This right does not disappear when a woman walks through the prison doors. The consequence of the Federal funding ban is that inmates who have no independent financial means, which is most of them, are foreclosed from their constitutional choice of an abortion in violation of their rights under the Constitution.

With the absence of funding by the very institution prisoners depend on for the rest of their health services, many pregnant women prisoners are, in fact, forced to carry unwanted pregnancies to term. Motherhood is mandated for them.

I think it is important to point out that the anti-choice movement in Congress has denied coverage for abortion services to women in the military, denied coverage for women who work for the government, for poor people, and for all women insured by the Federal Employees Health Benefits Plan.

I vehemently disagree with all of these restrictions. I think they are wrong, and I think they are mean-spirited. But frankly, this restriction is the worst of all, and here is why: it targets the people who have the fewest resources and the least number of options. It effectively denies these women their fundamental right to choose. It is not just coercive, it is downright inhumane.

Now, let me talk for a moment about the types of women in the Federal Prison System. Many are victims of physical and sexual abuse. That is how they got pregnant, oftentimes. Two-thirds of the women who are incarcerated are incarcerated for nonviolent drug offenses. Many of them are HIV-infected, and many of them have full-blown AIDS. Congress thinks that it is in our country's best interest to force motherhood on these women? It is simply not our place to make this decision.

Mr. Chairman, what will happen to these children? What will happen to the children of mothers who have unwanted babies in prison? Frankly, I

think this is the worst kind of government intrusion into the most personal of decisions. I wholeheartedly support the right of women in prison to bring their pregnancy to term if they so choose. They, not me, not anyone here, should make that decision for them.

I want to make it perfectly clear what this amendment is really about. It is about forcing some women, against their will, to bear a child in prison, when that child will be shortly taken away from them at birth, and then, to have that child raised heaven knows where. It is cruel and it is unfair to force them to go through this pregnancy and, therefore, I urge my colleagues to vote for the DeGette amendment.

Mr. WOLF. Mr. Chairman, I rise in opposition to the gentlewoman's amendment.

The provision in the bill the amendment seeks to strike does only one thing: it prohibits Federal tax dollars from paying for abortions for Federal prison inmates, except in the case of rape or the life of the mother.

This is a very longstanding provision, one that has been carried in 12 of the last 13 Commerce, State, Justice, and Judiciary appropriation bills. The House has consistently, year after year, rejected this amendment. Last year, this very amendment was rejected by a vote of 254 to 156. Time and again the Congress has debated this issue of whether Federal tax dollars should be used for abortion, and the answer has been no.

Mr. Chairman, I urge the rejection of the gentlewoman's amendment.

Mrs. MALONEY of New York. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong support of the DeGette amendment. In recent years, a woman's access to abortion has been restricted bill by bill, vote by vote. The DeGette amendment seeks to correct one of these unjust restrictions.

Women in Federal prisons should not be made to check all of their rights at the door. Women have a constitutional right to choose, which should not be denied even if they are incarcerated.

Facing an unintended pregnancy is a tough situation for any woman, but a woman in prison is faced with very few choices. These women will have very limited prenatal care. Some women in prison will choose to carry the pregnancy to term, and I support this choice. But without the right to choose, their only option is to go through childbirth while incarcerated, and then to give their child up.

Mr. Chairman, I urge my colleagues to support this amendment which removes the ban on the use of Federal funds for abortion services for women in Federal prisons. These women have little or no access to outside financial or even family assistance and earn extremely low wages from prison jobs. Women in prison deserve the same choices they would receive for any other medical condition. We need equity in reproduction services.

The ban on abortion assistance denies them of their constitutional rights. Women in prison must not be denied their right to choose when these prisons cannot guarantee a safe delivery or treatment while pregnant. The right to choose is meaningless without the access to choose.

Mr. Chairman, I urge a ''yes'' vote on the DeGette amendment.

Ms. WOOLSEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the DeGette amendment.

For women in prison, this amendment projects their constitutional right to reproductive services, including abortion. Without this amendment, women in prison are denied the right to health care benefits that every other woman has available to them. We are not saying women in prison cannot choose to have a child, we are simply saying they have a right to choose not to have a child.

Once again, the anti-choice movement is targeting their efforts on women who have limited options. Most women in prison have few resources and little outside support. Denying abortion coverage to women in Federal prisons is just another direct assault on the right of all women to have reproductive choice.

Mr. Chairman, it is time to honor the Supreme Court decision in Roe v. Wade and acknowledge that every woman has a right to have access to safe, reliable abortion services. We must stop these piecemeal attempts to roll back women's reproductive freedom and we must provide the education and the resources needed to prevent unwanted pregnancies.

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Mr. Chairman, I ask my colleagues, vote for the DeGette amendment and protect a woman's right to reproductive choice.

Mr. MORAN of Virginia. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this is not a common occurrence, but it does happen. When it happens, it is under tragic circumstances. For this Congress to prevent a woman from being able to make reasonable choices that influence the rest of her life is just unconscionable.

Women do get arrested and are incarcerated while pregnant. Some women are impregnated by guards. For whatever reason, some women find themselves in untenable positions in prison. To deny them the constitutional rights that women fortunately have in the United States because they are imprisoned is wrong. For us to be the vehicle that denies those rights is unconscionable.

Think of the child that is born into a situation where its mother is incarcerated in prison. Children need to be born into a loving, nurturing, wanted situation. What could be worse than to be forced to give birth to a child that might be the result of a rape in prison that would be a child that one could not care for, that one could not raise in the way all of us were raised?

The woman deserves the right to choose. She should not be denied that. This amendment should be supported.

Ms. LEE. Mr. Chairman, I rise in strong support of the DeGette amendment, which would strike language banning the use of Federal funds for abortion services for women in Federal prisons.

Since women in prison are completely dependent on the Federal Bureau of Prisons for all of their health care services, the ban on the use of Federal funds is a cruel policy that traps women by denying them access to reproductive care.

Abortion is a legal option for women in America. The ban for women in Federal prisons is unconstitutional because freedom of choice is a right that has been protected under our Constitution for more than 25 years.

Furthermore, the great majority of women who enter our Federal prison system are impoverished and often isolated from family, friends, and resources.

We are dealing with very complex histories that often tragically include drug abuse, homelessness, HIV/AIDS and physical and sexual abuse.

To deny basic reproductive choice would only make worse the crisis faced by the women and the Federal prison system.

The ban on the use of Federal funds is a deliberate attack by the antichoice movement to ultimately derail all reproductive options.

Limiting choice for incarcerated women puts other populations at great risk. This dangerous slippery slope erodes the right to choose little by little.

We are denying these women the right to health care benefits that every other woman has readily available to them.

Women in prison receive limited prenatal care, have limited resources, and must endure the fear of losing custody of their infant upon birth. These circumstances make it an extremely difficult situation for pregnant prisoners.

It is my belief that freedom of access must be unconditionally kept intact.

Therefore, I strongly urge my colleagues to protect this constitutional right for women in America and vote 'yes' on the DeGette amendment.

Mr. NADLER. Mr. Chairman, I rise to support the DeGette Amendment to strike the ban on abortion funding for women in federal prison. This ban is cruel, unnecessary, and unwarranted.

Mr. Chairman, a woman's sentence should not include forcing her to carry a pregnancy to term. Most women in prison are poor, have little or no access to outside financial help, and earn extremely low wages from prison jobs. Inmates in general work 40 hours a week and

earn between 12 to 40 cents per hour. They totally depend on the health services they receive from their institutions. Most female prisoners are unable to finance their own abortions, and, therefore, are in effect denied their constitutional right to an abortion.

Earning the maximum rate of wages, a female prisoner would need to work 40 hours a week for 12 and ½ weeks just to be able to afford the lowest cost of a first trimester abortion ($200), but by that time she is no longer in the first trimester and, therefore, the cost of the abortion would be higher. So she would need to work even more to pay for the higher cost and more dangerous abortion. However, she will never make enough money in prison to pay for a timely, safe abortion even if she saves every penny she earns from the moment of conception. Why? Because the cost of later and later term abortions (from $200 to $700 to $1200) increases faster than her ability to earn money. So the legislation essentially bans abortion services for women in prison.

Remember, many women prisoners are victims of physical or sexual abuse and are pregnant before entering prison. In addition, they will almost certainly be forced to give up their children at birth. Why should we add to their anguish by denying them access to reproductive services?

Even worse, prison health services are inadequate for pregnant women. A 1999 report by Amnesty International USA revealed that gynecological services for women in prisons are inadequate and of poor quality. So, not only are we forcing women to carry pregnancies to term, but we are forcing them to do so in an environment where medical conditions are notoriously bad. We, therefore, increase the risk of late-term miscarriages and other potentially life threatening complications. That is dangerous and unnecessary.

Furthermore, we ought to keep this debate in perspective. This ban on abortions does not stop thousands of abortions from taking place, rather it places an unconstitutional burden on a few women facing a difficult situation. Statistics show that there are approximately 10,448 women in federal prison, that only 4 had abortions in FY 1998 and only 2 had abortions in FY 1999. There were only 56 births in FY 1998, and 24 births in FY 1999. So this is a very small group of people.

I know full well that the authors of this ban would take away the right to choose from all American women if they could, but since they are prevented from doing so by the Supreme Court (and the popular will of the American people who overwhelmingly support choice) they have instead targeted their restrictions on women in prison. Women in prison, who are perhaps the least likely to be able to object.

Well watch out America. After they have denied reproductive health services to all women in prison, all federal employees, all women in the armed forces, and all women on public assistance, then they will once again try to ban all abortions in the United States. And they won't stop there, we know that many anti-choice forces want to eliminate contraceptives as well. It is a slippery slope that denies the realities of today, punishes women, and threatens their health and safety. This radical agenda must be stopped now.

I urge my colleagues to support the DeGette amendment.

Ms. JACKSON-LEE of Texas. Mr. Chairman, as an advocate for Women's Choice I strongly support Representative DEGETTE's amendment. Representative DEGETTE's amendment will strike the language in the Commerce Justice State Appropriations bill which would prohibit federal funds from being used for abortions in prison.

Abortion is a legal health care option for American women, and has been for over 20 years. Because Federal prisoners are totally dependent on health care services provided by the Bureau of Prisons, the ban, in effect will prevent these women from seeking the needed reproductive health care that should be every women's right—the right to choose an abortion.

We know that most women who enter prison are poor. Many of them are victims of physical and sexual abuse, and some of them are pregnant before entering prison. An unwanted pregnancy is a difficult issue in even the most supportive environs. However, limited prenatal care, isolation from family and friends and the certain custody loss of the infant upon birth present circumstances which only serve to worsen an already very dire situation.

In 1993, Congress lifted the funding restrictions that since 1987 had prohibited the use of federal funds to provide abortion services to women in federal prisons except during instances of rape and life endangerment. Women who seek abortions in prison must receive medical religious and/or social counseling sessions for women seeking abortion. There must be written documentation of these counseling sessions, and any staff member who morally or religiously objects to abortion need not participate in the prisoner's decision making process.

There was a 75 percent growth in the number of women in Federal prisons over the last decade. Currently, the growth rate for women is twice that of men in prison. Yet, the rate of infection for HIV and AIDs in women exceeds the rate of infection for men in prison, and pregnant women are of course at risk of passing on this disease to their unborn children.

This ban on federal funds for women in prison is another direct assault on the right to choose. This ban is just one more step in the long line of rollbacks on women's reproductive freedoms. We must stop this assault on reproductive rights.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Colorado (Ms. DEGETTE).

The question was taken; and the Chairman announced that the noes appeared to have it.

Ms. DEGETTE. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from Colorado (Ms. DEGETTE) will be postponed.

Mr. OBEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I do so to engage in a friendly filibuster on behalf of the House, because what we are trying to do is to bring to the House floor a unanimous consent agreement so that Members will understand what the intention is in terms of proceeding for the rest of the evening.

The staff is in the process of writing the changes to that agreement right now, so to prevent this from getting into another protracted debate on another amendment this evening, I am simply taking this time in the hopes that by the time I sit down, we will have the required paperwork so the Committee can proceed.

I am looking around with great expectation, hoping that the staff in fact has the paperwork ready, but I think they have all fled to the cloakrooms.

Mr. SERRANO. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from New York.

Mr. SERRANO. Mr. Chairman, I just wanted to tell the gentleman that as he was pondering where everything was, the paper was reaching the gentleman. I think he is a much happier man now.

Mr. OBEY. Mr. Chairman, I am happy we do not have to ask the Sergeant to bring in the absent staff.

If the gentleman is ready to proceed, I am happy to yield back my time so that he can propound the unanimous consent request.

Mr. WOLF. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. REYNOLDS) having assumed the chair, Mr. HASTINGS of Washington, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2500), making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2002, and for other purposes, had come to no resolution thereon.

LIMITING AMENDMENTS DURING FURTHER CONSIDERATION OF H.R. 2500, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

Mr. WOLF. Mr. Speaker, I ask unanimous consent that during further consideration of H.R. 2500 in the Committee of the Whole, pursuant to House Resolution 192, no further amendment to the bill may be offered except

1. Pro forma amendments offered by the chairman or ranking minority member of the Committee on Appropriations or their designees for the purpose of debate; and amendments printed in the portion of the CONGRESSIONAL RECORD of the legislative day, July 17, 2001 or any RECORD before that date, designated for the purpose specified in

clause 8 of rule XVIII, which may be offered only by the Member who caused it to be printed or his designee; shall be considered as read; shall not be subject to amendment, except pro forma amendments for the purpose of debate; and shall not be subject to a demand for a division of the question in the House or the Committee of the Whole;

And

2. The Clerk shall be authorized to print in the portion of the CONGRESSIONAL RECORD of the legislative day July 17, 2001 designated for that purpose in clause 8 of rule XVIII all amendments to H.R. 2500 that are at the desk and not already printed by the close of this legislative day.

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

Mr. SERRANO. Mr. Speaker, reserving the right to object, I will not object, but I just want to clarify something from the chairman.

It is clear to the gentleman from Wisconsin (Mr. OBEY), the ranking member and I the content of the unanimous consent. However, I want to make clear that there is an understanding that whatever discussions will take place on limitation on times are in no way referred to in this unanimous consent.

Mr. WOLF. Mr. Speaker, will the gentleman yield?

Mr. SERRANO. I yield to the gentleman from Virginia.

Mr. WOLF. Mr. Speaker, I would tell the gentleman, that is correct.

Mr. SERRANO. That may or may not be a discussion later on in this process.

Mr. WOLF. That is correct.

Mr. SERRANO. Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

The SPEAKER pro tempore. Pursuant to House Resolution 192 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2500.

□ 2037

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2500) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2002, and for other purposes, with Mr. HASTINGS of Washington in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, the bill was open for amendment from page 39, line 18, through page 39, line 24.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: The amendment offered by the gentleman from Oklahoma (Mr. LUCAS); amendment No. 2 offered by the gentleman from New York (Mr. HINCHEY); the amendment offered by the gentlewoman from Colorado (Ms. DEGETTE).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT OFFERED BY MR. LUCAS OF OKLAHOMA

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Oklahoma (Mr. LUCAS) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 187, noes 227, not voting 19, as follows:

[Roll No. 233]

AYES—187

Aderholt
Andrews
Baca
Baird
Baldacci
Barcia
Barrett
Barton
Becerra
Bentsen
Berkley
Berry
Blagojevich
Blumenauer
Bonior
Bono
Boswell
Boyd
Brady (PA)
Brown (SC)
Bryant
Burr
Camp
Capito
Carson (OK)
Chabot
Clay
Clayton
Clement
Coble
Condit
Costello
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis, Jo Ann
Deal
DeFazio
DeGette
Dicks
Doggett
Dooley
Doolittle
Duncan
Dunn
Edwards
Emerson
Etheridge
Evans
Fattah
Filner
Foley
Ford
Gallegly
Goodlatte
Gordon
Graves
Green (WI)
Gutierrez
Gutknecht
Hansen
Harman
Hart
Hastings (WA)
Hayworth
Hefley
Hill
Hilleary
Hilliard
Hinchey
Holden
Hooley
Hostettler
Hulshof
Hutchinson
Inslee
Israel
Istook
Jefferson
John
Johnson (CT)
Johnson (IL)
Kelly
Kennedy (MN)
Kerns
Kind (WI)
LaFalce
Lampson
Langevin
Largent
Larsen (WA)
Lee
Lewis (GA)
Lewis (KY)
LoBiondo
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McInnis
McIntyre
McKinney
McNulty
Meehan
Meeks (NY)
Mica
Miller, Gary
Miller, George
Mink
Moore
Moran (KS)
Nethercutt
Ney
Norwood
Osborne
Ose
Pascrell
Peterson (PA)
Pickering
Platts
Pombo
Pomeroy
Price (NC)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rehberg
Reynolds
Rivers
Rodriguez
Roemer
Rogers (MI)
Ross
Rush
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Sensenbrenner
Sessions
Shows
Slaughter
Smith (WA)
Solis
Souder
Stark
Stearns
Strickland
Stupak
Sununu
Tanner
Tauscher
Taylor (MS)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Toomey
Turner
Udall (NM)
Upton
Velázquez
Walden
Wamp
Watkins (OK)
Watson (CA)
Watts (OK)
Weller
Wicker
Wilson
Woolsey

NOES—227

Abercrombie
Ackerman
Akin
Allen
Armey
Bachus
Baker
Baldwin
Barr
Bartlett
Bass
Bereuter
Berman
Biggert
Bilirakis
Boehlert
Bonilla
Borski
Boucher
Brady (TX)
Brown (FL)
Brown (OH)
Burton
Buyer
Calvert
Cantor
Capps
Capuano
Cardin
Carson (IN)
Castle
Clyburn
Collins
Combest
Conyers
Cooksey
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Davis (IL)
Davis, Tom
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dingell
Doyle
Dreier
Ehlers
Engel
English
Eshoo
Everett
Farr
Ferguson
Flake
Fletcher
Forbes
Fossella
Frank
Frelinghuysen
Frost
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goss
Graham
Granger
Green (TX)
Greenwood
Grucci
Hall (OH)
Hall (TX)
Hastings (FL)
Hayes
Herger
Hinojosa
Hobson
Hoeffel
Hoekstra
Holt
Honda
Horn
Houghton
Hoyer
Hunter
Hyde
Isakson
Issa
Jackson (IL)
Jackson-Lee (TX)
Jenkins
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kennedy (RI)
Kildee
Kilpatrick
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaHood
Lantos
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Linder
Lipinski
Lofgren
Lowey
Lucas (KY)
Markey
Mascara
McCollum
McCrery
McGovern
McKeon
Meek (FL)
Menendez
Millender-McDonald
Miller (FL)
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Napolitano
Northup
Nussle
Oberstar
Obey
Olver
Ortiz
Otter
Owens
Oxley
Pallone
Pastor
Paul
Payne
Pelosi
Pence
Peterson (MN)
Petri
Phelps
Pitts
Portman
Pryce (OH)
Rangel
Regula
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Ryan (WI)
Scarborough
Schakowsky
Schiff
Schrock
Scott
Serrano
Shadegg
Shays
Sherman
Shimkus
Shuster
Simmons
Simpson
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Spratt
Stenholm
Stump
Sweeney

Tancredo
Tauzin
Taylor (NC)
Tiahrt
Tiberi
Tierney
Towns
Traficant
Udall (CO)
Visclosky
Vitter
Walsh
Waters
Watt (NC)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Wexler
Whitfield
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—19

Ballenger
Bishop
Blunt
Boehner
Callahan
Cannon
Chambliss
Delahunt
Ehrlich
Gephardt
McHugh
Myrick
Neal
Reyes
Riley
Rogers (KY)
Shaw
Sherwood
Spence

□ 2102

Messrs. HUNTER, DEUTSCH, McKEON, DAVIS of Illinois, JACKSON of Illinois, NADLER, KINGSTON, WAXMAN, KLECZKA, Ms. McCOLLUM and Mrs. NAPOLITANO changed their vote from ''aye'' to ''no.''

Messrs. RADANOVICH, PRICE of North Carolina, KERNS, SAXTON, WICKER, Mrs. MALONEY of New York, Ms. McKINNEY and Ms. HARMAN changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on each amendment on which the Chair has postponed further proceedings.

AMENDMENT NO. 2 OFFERED BY MR. HINCHEY

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from New York (Mr. HINCHEY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 172, noes 244, not voting 17, as follows:

[Roll No. 234]

AYES—172

Abercrombie
Ackerman
Allen
Andrews
Baca
Baldacci
Baldwin
Barrett
Becerra
Bentsen
Berkley
Berman
Blagojevich
Blumenauer
Boehlert
Bonior
Brady (PA)
Brown (FL)
Brown (OH)
Capito
Capps
Capuano
Carson (IN)
Carson (OK)
Clay
Clayton
Clyburn
Conyers
Costello
Coyne
Crowley
Cummings
Davis (CA)
Davis (IL)
DeFazio
DeGette
DeLauro
Dingell
Doyle
Emerson
Engel
English
Eshoo
Evans
Farr
Fattah
Ferguson
Filner
Ford
Frank
Frost
Gilman
Gonzalez
Goode
Gordon
Graves
Grucci
Gutierrez
Hart
Hastings (FL)
Hill
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hoyer
Hulshof
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larson (CT)
LaTourette
Lee
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Menendez
Millender-McDonald
Miller, George
Mink
Moore
Moran (KS)
Murtha
Nadler
Napolitano
Neal
Ney
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Peterson (PA)
Pomeroy
Rahall
Rangel
Rivers
Rodriguez
Rothman
Rush
Sabo
Sanders
Sawyer
Schakowsky
Scott
Shaw
Sherman
Slaughter
Smith (NJ)
Solis
Stark
Strickland
Stupak
Tanner
Thompson (MS)
Thune
Tierney
Towns
Udall (CO)
Udall (NM)
Velázquez
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Weldon (PA)
Wexler
Whitfield
Wilson
Woolsey
Wynn

NOES—244

Aderholt
Akin
Armey
Bachus
Baird
Baker
Barcia
Barr
Bartlett
Barton
Bass
Bereuter
Berry
Biggert
Bilirakis
Bonilla
Bono
Borski
Boswell
Boyd
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Cardin
Castle
Chabot
Clement
Coble
Collins
Combest
Condit
Cooksey
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (FL)
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Doggett
Dooley
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Etheridge
Everett
Flake
Fletcher
Foley
Forbes
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Goodlatte
Goss
Graham
Granger
Green (TX)
Green (WI)
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Hooley
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
King (NY)
Kingston
Kirk
Knollenberg
Kolbe
LaHood
Largent
Larsen (WA)
Latham
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lucas (KY)
Lucas (OK)
Manzullo
Matheson
McCrery
McInnis
McKeon
Mica
Miller (FL)
Miller, Gary
Mollohan
Moran (VA)
Morella
Nethercutt
Northup
Norwood
Nussle
Osborne
Ose
Otter
Oxley
Pence
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Roukema
Roybal-Allard
Royce
Ryan (WI)
Ryun (KS)
Sanchez
Saxton
Scarborough
Schaffer
Schiff
Schrock
Sensenbrenner
Serrano
Sessions
Shadegg
Shays
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Smith (MI)
Smith (TX)
Smith (WA)
Snyder
Souder
Spratt
Stearns
Stenholm
Stump
Sununu
Sweeney
Tancredo
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Thurman
Tiahrt
Tiberi
Toomey
Traficant
Turner
Upton
Visclosky
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weller
Wicker
Wolf
Wu
Young (AK)
Young (FL)

NOT VOTING—17

Ballenger
Bishop
Blunt
Boehner
Boucher
Chambliss
Delahunt
Ehrlich
Gephardt
McDermott
McHugh
Meeks (NY)
Myrick
Reyes
Riley
Sandlin
Spence

□ 2113

Mr. KIRK changed his vote from ''aye'' to ''no.''

Messrs. ENGLISH, BECERRA, HULSHOF and BACA changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

(Mr. ARMEY asked and was given permission to speak out of order.)

LEGISLATIVE PROGRAM

Mr. ARMEY. Mr. Chairman, in just a minute I will yield time to the distinguished chairman of the Committee on Appropriations to complete this announcement, but for the moment let me say, Mr. Chairman, that after this next vote there will be no further business in the House tonight.

□ 2115

I should say, Mr. Chairman, if I may, we will begin in the morning with the rule for the faith-based initiative. We will complete the work on the faith-based initiative, after which we will return to work on the existing Commerce-Justice-State appropriations with the goal of finishing the bill tomorrow night.

While that may sound foreboding to some people, I believe the distinguished chairman of the Committee on Appropriations can share with us insight that will help us to understand that even tomorrow night I think the committee will have been able to work this out to where we will be able to retire from our work tomorrow evening at a decent hour.

I yield to the gentleman from Florida (Mr. YOUNG).

Mr. YOUNG of Florida. Mr. Chairman, I thank the gentleman for yielding.

I would remind Members that the gentleman from Wisconsin (Mr. OBEY) and I have both made an announcement that was followed up by a unanimous-consent agreement that the only amendments to be considered further in this bill tomorrow are ones that will have been printed up to and including today. By the time we get to the consideration of this bill again tomorrow, hopefully soon rather than late, we expect to have a unanimous-consent proposal to offer that would place realistic time limits on those amendments and hopefully expedite our business so that we can leave at a reasonable hour tomorrow evening.

That pretty much sums up where we are on the schedule. A lot of it will depend on that unanimous-consent agreement that we will propound tomorrow.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. ARMEY. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I thank the gentleman for yielding. I would just like to emphasize two things: as the gentleman from Florida indicated, if Members want to have their amendments considered, those amendments need to be filed tonight. If Members have already submitted those amendments to the Clerk, then the Clerk will see to it that they are printed. But Members need to know that if they want consideration of amendments, they need to be filed tonight.

I would also ask another favor of Members. We, on several occasions now, have had the bill read past the point where Members were eligible to offer their amendments. If Members have amendments that they intend to have offered, they need to be on the floor when we reach that point in the bill for consideration of their amendments, because there is no intention on either side of the aisle to go back into the bill to make an opportunity for amendments to be offered if Members have not been here at the proper time to offer their amendments.

We will, as the gentleman indicates, try to take all the amendments that we know of and put them in reasonable order with a reasonable time limit. We need the cooperation of every Member to do that.

Mr. ARMEY. Mr. Chairman, if I could just make one final comment. The program is clearly announced. All Members who will have amendments can expedite the proceedings on the remainder of this bill if they will work with the chairman and the ranking member to work out those time arrangements. I am confident that we will have a productive and happy conclusion of this bill tomorrow evening. I thank the Members for their time.

AMENDMENT OFFERED BY MS. DEGETTE

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentlewoman from Colorado (Ms. DEGETTE) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 15-minute vote.

The vote was taken by electronic device, and there were—ayes 169, noes 253, not voting 11, as follows:

[Roll No. 235]

AYES—169

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldacci
Baldwin
Barrett
Bass
Becerra
Bentsen
Berkley
Berman
Biggert
Blagojevich
Blumenauer
Boehlert
Boswell
Boucher
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Clay
Clayton
Clyburn
Condit
Conyers
Coyne
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Engel
Eshoo
Evans
Farr
Fattah
Filner
Ford
Frank
Frelinghuysen
Frost
Gilchrest
Gilman
Gonzalez
Gordon
Green (TX)
Greenwood
Gutierrez
Harman
Hastings (FL)
Hilliard
Hinchey
Hinojosa
Hoeffel
Holt
Honda
Hooley
Horn
Houghton
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kelly
Kennedy (RI)
Kilpatrick
Kind (WI)
Kirk
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Moran (VA)
Morella
Nadler
Napolitano
Olver
Owens
Pallone
Pastor
Payne
Pelosi
Price (NC)
Rangel
Rivers
Rodriguez
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Schiff
Scott
Serrano
Shays
Sherman
Simmons
Slaughter
Smith (WA)
Solis
Spratt
Stark
Strickland
Tanner
Tauscher
Thomas
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Udall (CO)
Velázquez
Visclosky
Waters
Watson (CA)
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—253

Aderholt
Akin
Armey
Bachus
Baker
Barcia
Barr
Bartlett
Barton
Bereuter
Berry
Bilirakis
Boehner
Bonilla
Bonior
Bono
Borski
Boyd
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Carson (OK)
Castle
Chabot
Chambliss
Clement
Coble
Collins
Combest
Cooksey
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal
DeLay
DeMint
Diaz-Balart
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Etheridge
Everett
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Gallegly
Ganske
Gekas
Gibbons
Gillmor
Goode
Goodlatte
Goss
Graham
Granger
Graves
Green (WI)
Grucci
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kennedy (MN)
Kerns
Kildee
King (NY)
Kingston
Kleczka
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Largent
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
Mascara
McCrery
McInnis
McIntyre
McKeon
McNulty
Mica
Miller (FL)
Miller, Gary
Mollohan
Moore
Moran (KS)
Murtha
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Ortiz
Osborne
Ose
Otter
Oxley
Pascrell
Paul
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reynolds
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Ryun (KS)
Saxton
Scarborough
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shows
Shuster
Simpson
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Souder
Stearns
Stenholm
Stump
Stupak
Sununu
Sweeney
Tancredo
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thornberry
Thune
Tiahrt
Tiberi
Toomey
Traficant
Turner
Udall (NM)
Upton
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NOT VOTING—11

Ballenger
Bishop
Blunt
Delahunt
Gephardt
Hoyer
McHugh
Myrick
Reyes
Riley
Spence

□ 2135

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. WOLF. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SHIMKUS) having assumed the chair, Mr. HASTINGS of Washington, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2500) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2002, and for other purposes, had come to no resolution thereon.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

IN HONOR OF MAISIE DEVORE AND THE PEOPLE OF ESKRIDGE, KANSAS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. MORAN) is recognized for 5 minutes.

Mr. MORAN of Kansas. Mr. Speaker, I rise this evening in honor of one of my constituents, Maisie DeVore, of Eskridge, Kansas. Her story, that I want to describe here in a few moments, demonstrates what one determined person can do to make a difference in the lives of others and in the life of her community.

Maisie DeVore is 82 years old. Thirty years ago, Maisie decided that her community of Eskridge, population 530, needed a swimming pool; and she set about raising the funds to build one.

Over the course of 3 decades, Maisie earned a few dollars at a time by collecting aluminum cans, selling homemade jelly, and auctioning off her homemade afghans. Over the years, Maisie's hard work earned her more than $100,000, which, coupled with a $73,000 granted from the State of Kansas, provided the funds necessary to make her vision a reality.

The Eskridge Community Pool officially opened this past Saturday, July 14, 2001. Maisie was telling me this past Saturday that when she started this project, her kids were 7 and 12. They are now adults living in another community; but, still, the pool was opened.

Fittingly, Maisie was the first person in the pool. She was soon followed by about 50 of the younger residents of Eskridge. I was fortunate to be in Eskridge to share this city-wide celebration that was declared Maisie DeVore Day.

At the completion of her many years of work, Maisie's accomplishment has drawn the attention of State and national media and will be featured this Sunday on the CBS Sunday Morning Show.

Maisie's commitment to the welfare of her community and neighbors is a great example of service and leadership. More than the accomplishment of a personal goal, Maisie's success is a uniting theme for an entire community. Her story demonstrates that one individual, one individual, can bring a community together and truly make a difference in the lives of others.

The completion of this project marks a major achievement for Maisie DeVore and for the community of Eskridge. This facility promises to be a tremendous asset and a source of pride for this small community.

This story is about small-town America and what the life of one individual can do to benefit his or her neighbors.

So I rise tonight on the floor of the House of Representatives to commend Maisie DeVore for her unending work, her vision, and her completion of this community project. I salute Maisie DeVore and the community of Eskridge.

EXPLAINING THE DANGERS OF FAST TRACK TRADE PROPOSALS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. BONIOR) is recognized for 5 minutes.

Mr. BONIOR. Mr. Speaker, I rise this evening first of all to thank my colleague, the gentleman from Ohio (Mr. BROWN), for arranging a discussion this evening on the important issue of trade, especially the fast track procedure that is making its way through this community. It is essential for the American people to truly understand what this fast track trade proposal is all about and how damaging it can be to each and every one of our individual lives.

Now, the procedure that is known as fast track puts our trade laws and everything that is associated with them on a rush course through Congress. It limits the time we can spend on important issues that deal with food safety, with agriculture, with the environment, and worker laws and worker protections. It allows only an up-or-down vote, and no amendments, on huge trade bills, like the GATT bill in 1995 or the NAFTA bill in 1993. It leaves Congress with little power to stop the bad parts of trade legislation from becoming law.

I would remind my colleagues, Mr. Speaker, that this whole idea of fast track is something that is relatively new. It was only in 1974 when Richard Nixon first proposed it. It has only been used five times. In fact, during the last administration, the Clinton administration, we did 200 trade deals around the world successfully without fast track.

This is a huge usurpation of the authority given to the United States House of Representatives and the Congress by the Constitution of the United States. By doing so, it not only threatens the work that we do here on behalf of the American people on food safety, on labor law, on the environment and all kinds of other important issues; but it also affects what happens to the activity at the local level, in the village, in the city, in the township or at the State level. Those laws are in jeopardy as well.

Now, let me say this, Mr. Speaker: we have worked very hard over the last 100 years in this country to put into law these protections. There was a time that we did not have food safety laws. Upton Sinclair wrote the wonderful novel called ''The Jungle,'' and it alerted the American people to what was happening in food safety and food spoilage. There was a movement called the Progressive Movement, and a lot of things flowed from that.

The labor movement flowed at the beginning of the century, so people could have workmen's comp, unemployment comp, good pay, pensions and overtime protection and all of those things we have in law today.

All of that is at risk with these trade laws. If we continue on the path that we are on, or we have been on, we are spiraling down to the least common denominator in our law. We are going into the valley where countries who have no protections for their workers simply live today.

When we fail to meet these standards, workers in Bangladesh remain in sweatshops. When we fail to meet these standards of worker safety and the environment, children in the Ivory Coast are forced into slave labor. At home, workers lose their jobs because companies relocate to areas with fewer safety and environmental standards.

We have seen the great exodus out of many of our communities. Manufacturing concerns get up and go. They do not want to pay the $12 an hour, the $14 an hour. They go down to Mexico where they pay less than $1 an hour.

□ 2145

They manufacture and assemble what they have to, ship it right back across the border, often on trucks that are not safe, moving through our country, with no protection for the Mexican workers down there. So the Mexican worker loses, our worker loses. The only people that profit are basically the wealthy multinational corporations and the CEOs, particularly at the top of those corporations.

Mr. Speaker, we simply cannot afford the negative consequences that come along with bad trade deals. Too much is at stake. I would just urge my colleagues tonight, as we proceed on this debate on fast track, to be very careful and very thoughtful in how we approach it.

This is a very important issue for the future of this country and for the future of our children. We need to have

environmental safety laws into all of our trade deals, and we need to also make sure we have worker rights embodied in the core agreements of our trade deals so that our workers are not punished here at home and the workers abroad and in developing countries as well have a chance to earn a decent wage so that they can buy the products that they are making.

SUPPORT EMBRYONIC STEM CELL RESEARCH

The SPEAKER pro tempore (Mr. KERNS). Under a previous order of the House, the gentleman from Minnesota (Mr. RAMSTAD) is recognized for 5 minutes.

Mr. RAMSTAD. Mr. Speaker, Della Mae is a wonderful, loving, 79-year-old woman totally debilitated by Alzheimer's disease. Joey was a promising young man in his early 20s who died a horrible death; a cruel, tragic death from diabetes.

Mr. Speaker, Della Mae is my mother. Joey was my first cousin. On behalf of my beloved mother and my first cousin, I plead with the President and the Congress to accept the NIH report on the medical value of embryonic stem cell research and to not block Federal funding for this promising, life-saving research; on behalf of not only my mother and my first cousin, but 100 million other Americans suffering from Parkinson's Disease, Alzheimer's disease, diabetes, juvenile diabetes, multiple sclerosis, as well as spinal cord injuries resulting in paralysis.

Mr. Speaker, I have watched several close friends devastated by Parkinson's Disease and spinal cord injuries, conditions that could also be aided by embryonic stem cell research. Who amongst us, who amongst us has not been profoundly moved by the sight of former President Ronald Reagan, that giant of a man, now reduced to a mere shadow of his former self by Alzheimer's disease.

Mr. Speaker, the scientific evidence is overwhelming that stem cells collected from surplus embryos have great potential to regenerate specific types of human tissues and offer hope for millions of Americans devastated by these and other cruel, fatal diseases. According to research doctors I have talked to at the Mayo Clinic as well as NIH, a vaccine to prevent the onset of Alzheimer's is less than 5 years away, thanks in large part to stem cell research.

Yes, Mr. Speaker, using surplus embryos from in-vitro fertilization that would otherwise be discarded has the potential to save lives and prevent terrible human suffering. Members and the President need to listen to respected colleagues like Senators Orrin Hatch and Connie Mack, as well as Secretary Tommy Thompson, when they tell us this is not an abortion issue. The President and Members need to be clear, Mr. Speaker, that abortion politics should not enter into this decision and certainly should not influence this critical decision.

Embryonic stem cell research, in fact, will prolong life, will improve life, and give hope of life for millions of American people suffering the ravages of Alzheimer's, Parkinson's, diabetes, and multiple sclerosis, not to mention spinal cord paralysis.

So, Mr. Speaker, on behalf of millions of Americans with debilitating, incurable disorders, I respectfully urge the President and the Congress to approve crucial Federal funding for this life-saving medical research. In approving such funding, Mr. Speaker, we can also adopt the same model of accountability and oversight that is used in fetal tissue transplantation research which allows the best possible science to progress.

Mr. Speaker, it is too late for my dear mother and my decreased cousin, but it is not too late for 100 million other American people counting on the President and the Congress to give them hope. Let us give them hope. Let us give them life. Let us support funding for life-saving and life-extending embryonic stem cell research. It is clearly, clearly the right thing to do.

THOUGHTS ON THE U.S. FLAG AND A CONSTITUTIONAL AMENDMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. DUNCAN) is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, I was unable to come over today for the discussion of the flag amendment because of meeting with some of my constituents and because of an important markup in the Committee on Resources. However, I would like to tell my colleagues and others about an article or a column that was written in the July 9 issue of Newsweek Magazine by a woman named Joan Jacobsen.

She told that she was an antiwar protestor in the late 1960s and early 1970s and had many very bitter arguments with her father who was a brigadier general in the Army. Then she wrote a few days ago about her father's passing. She said this: ''Two days after my father died, as the visiting hours at the funeral home ended and we were putting on our coats, there was one last visitor. He was a stooped, solitary man who walked slowly to the open coffin and gazed down at my father, lying in his military dress uniform. Suddenly, the visitor stood up straight, and still looking at his Army comrade, gave the brisk salute of the spirited young GI that he must have been 55 years ago. Then he slowly lowered his arm and became an old man once more, turning and shuffling out the door. His gallant gesture has come to symbolize a profound shift in my feelings toward the United States military.''

Ms. Jacobsen continued: ''The following day at the funeral service, the soldiers draped the American flag over the coffin and accompanied it from the church to the cemetery. As we gathered at my father's grave site under a light December rain, four members of the honor guard stood at attention. One soldier raised his rifle and fired three shots while the bugler played Taps. The flag was removed from the coffin and slowly and meticulously folded into a triangular shape. After one soldier inserted the empty casings into the flag's angled pocket, the rest of the guard lined up in formation behind the highest-ranking officer, who approached my teenage son. The officer, holding the folded flag on his outstretched palms and looking straight at my boy, said, 'Please accept this flag on behalf of a grateful Nation.'

''And so it was, at the end, the United States Army that provided my family and me with a noble conclusion to my father's life. I began to realize that the military traditions I had once considered unquestionably rigid endure because they serve a purpose. Every morning, as long as he was able,'' and I want everyone to hear this, especially. ''Every morning, as long as he was able, my father raised the American flag on the pole outside his house, observed a moment of silence, then stood at attention and saluted. I had always thought this exercise sweetly eccentric,'' Ms. Jacobsen said, ''but also meaningless. Now, I envy the ritual.''

Mr. Speaker, I think in at least a small way, this lady has explained what this flag means to so many people in this country, and that this flag is a whole lot more than just a simple piece of cloth.

In the great song of the ''Battle Hymn of the Republic,'' Mr. Speaker, it says, ''In the beauty of the lilies, Christ was born across the sea, with a glory in his bosom that transfigures you and me. As he died to make men holy, let us live to make men free.''

That is what so much of what we do today is all about. The battle or the struggle for freedom is ongoing. It is never ending. There are always tyrants and dictators from abroad who would take our freedom away if they had the slightest chance to do so, and there are always liberal elitists and bureaucrats from within who want to live our lives for us and spend our money for us and take away our freedom, slowly but surely.

I think of this in relation to a hearing before the Subcommittee on National Parks this morning. We talked about the Antiquities Act. Mr. Speaker, one can never satisfy government's appetite for money or land. We talked in the hearing this morning about how 70 million acres have been locked up,

almost all of it just in the last few years, and that 70 million acres does not even count what we have in the national parks, in the national forests and all of that.

Mr. Speaker, if we do not wake up and realize that we are slowly, very slowly doing away with private property in this country, we are about to lose a very important element of our freedom and our prosperity, and we are about to lose the freedom that this man fought for and supported all of those years and why so many people have given their lives for this country and in defense of that flag. I am very pleased that this Miss Jacobsen realized that and wrote such a moving column in Newsweek. I just wanted to call that to the attention of my colleagues tonight.

SAY NO TO H.R. 7, PRESIDENT'S FAITH-BASED INITIATIVE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. EDWARDS) is recognized for 5 minutes.

Mr. EDWARDS. Mr. Speaker, tomorrow this House will vote on H.R. 7, the President's faith-based initiative.

The question before the House is not whether faith is a powerful force; it is. The question is not whether faith-based groups do good works; they do. The question is not even whether government can assist faith-based groups in their social work. The government does and has so for years.

Rather, the vote on this bill boils down to two fundamental questions. First, do we want American citizens' tax dollars directly funding churches and houses of worship, as this bill does; and, second, is it right to discriminate in job hiring when using Federal dollars.

I would suggest the answer to both of those questions is no, emphatically so.

The question of using tax dollars to fund churches is not a new one. It was debated at length by our Founding Fathers over two centuries ago. They not only said no to that idea; they felt so strongly about it that they embedded the principle of church-State separation into the first 16 words of the Bill of Rights by keeping government funding and regulations out of our churches for over 200 years.

Mr. Speaker, America has become the envy of the world when it comes to religious freedom, tolerance, and vitality. I challenge the proponents of this bill to show me tomorrow one nation in the world, one nation where government funding of churches has resulted in more religious liberty or tolerance or vitality than right here in the United States. All of human history proves that government involvement in religion harms religion, not helps it.

□ 2200

Our Founding Fathers understood that fact, and today's world proves that fact. Just look around. In China, citizens are in prison for their religious beliefs. In the Middle East, religious differences have perpetrated conflict and death. In Afghanistan, religious minorities are being branded with Nazi-like tactics. In Europe, government-funding of churches has led to low church attendance.

As a person of faith, I thank God that our Founding Fathers understood that religious liberty is best preserved by keeping government funding and regulations out of our churches.

To my conservative colleagues, and to those across this country, I would suggest that they should be the first to fear the government regulation of religion that would inevitably result from billions of taxpayer dollars going directly to our churches and houses of worship.

Surely it was one significant reason why over 1,000 religious leaders, from Baptists to Jews to Methodists, have signed petitions opposing H.R. 7. These people of faith understand that direct Federal funding of our churches would not only be unconstitutional, it would result in government regulation, audits, and yes, even prosecutions against our churches and religious leaders.

Mr. Speaker, I have great personal respect for President Bush, but on the question of Federal funding using tax dollars to fund our churches, I must stand with Madison, Jefferson, and the Bill of Rights. The principle of church-State separation has protected Americans' religious freedom magnificently for over 200 years. We tamper with that sacred principle at our own peril.

Mr. Speaker, now let me address a second question I raised regarding this legislation: Is it right to discriminate in job hiring when using Federal tax dollars for those jobs? I believe the vast majority of Americans would say no.

Under H.R. 7, citizens could be denied or fired from federally-funded jobs because of no other reason than their personal religious faith. I would suggest that having the government subsidize religious job discrimination would be a huge step backwards in our march for civil rights.

No American citizen, not one, should have to pass anyone else's religious test in order to qualify for a federally-funded tax-supported job.

Under H.R. 7, a church associated with Bob Jones University could put out a sign ''Paid for by taxpayers. No Catholics need apply here for a federally-funded job.'' That is wrong.

Under H.R. 7, federally-funded jobs could be denied to otherwise qualified workers simply because of their personal faith being different from that of their employers. That is wrong.

Under H.R. 7, churches that believe women should not work which use Federal dollars could put out a sign saying, ''No women need apply here for a federally-funded job.'' That is wrong.

Mr. Speaker, we all understand why churches, synagogues, and mosques could hire people for their own religious faith with their own private dollars. But it is altogether different, altogether different as night to day to allow tax dollars to be used to subsidize job discrimination for secular jobs.

There is also something ironic about a bill that is supposedly designed to stop religious discrimination but actually ends up not only allowing but subsidizing religious discrimination.

Mr. Speaker, this is also a bill built on a false foundation, the premise that not sending tax dollars to our churches and houses of worship is somehow discrimination against religion.

Nothing could be further from the truth. In the Bill of Rights, our Founding Fathers wisely built this sacred wall of separation to protect religion from government and politicians. This bill would obliterate that wall and ultimately put at risk our religious liberty, the crown jewel of America's experiment in democracy.

To Members who genuinely want to help religious charities do good work, I would say that present law already allows Federal funding of faith-based groups if they agree not to proselytize with those Federal dollars or to discriminate with Federal funds. This bill is thus a solution in search of a problem.

Should we have Federal funding of our churches? The answer is no. Should we discriminate in job hiring based on religion when using Federal dollars? The answer is no.

And if Members' answers to these two questions is no as well, they should vote no on H.R. 7. Protecting our churches from government regulation and our citizens from religious discrimination are fundamental principles. They deserve our support today, tomorrow, and every day.

By voting no on H.R. 7, we in this House can defend the principles embedded in the Bill of Rights that have protected our religious freedom so magnificently well for over two centuries.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE FOR H.R. 2356, THE BIPARTISAN CAMPAIGN REFORM ACT OF 2001

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. NEY) is recognized for 5 minutes.

Mr. NEY. Mr. Speaker, House Rule XIII 3(c)(2) requires that a cost estimate prepared by the Congressional Budget Office be filed with a committee report. When the committee report for H.R. 2356 was filed, this cost estimate was not yet available.

Attached for inclusion in the RECORD is the completed cost estimate.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 11, 2001.

Hon. ROBERT W. NEY,
Chairman, Committee on House Administration, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2356, the Bipartisan Campaign Reform Act of 2001.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Mark Grabowicz (for federal costs) and Paige Piper/Bach (for the private-sector impact).

Sincerely,

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

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H.R. 2356—Bipartisan Campaign Reform Act of 2001

Summary: H.R. 2356 would make numerous amendments to the Federal Election Campaign Act of 1971. In particular, the bill would:

Raise the amounts that individuals can contribute to federal campaign each year;

Prohibit national committees of political parties from soliciting, receiving, directing, transferring, or spending so-called ''soft money'';

Require numerous additional filings and disclosures by political committees with the Federal Election Commission (FEC) for certain expenditures;

Strengthen the prohibition on foreign contributions to federal campaigns, and increase fines for violations of election laws.

Direct the General Accounting Office (GAO) to conduct a study of recently publicly financed campaigns in Arizona and Maine; and

Restrict the advertising rates charged by television broadcasters to candidates for public office.

CBO estimates that implementing H.R. 2356 would cost about $5 million in fiscal year 2002 and about $3 million a year thereafter, subject to appropriation of the necessary funds. Those amounts include administrative and compliance costs for the FEC, as well as costs for GAO to prepare the required report.

Enacting the bill also could increase collections of fines, but CBO estimates that any increase would not be significant. Because the bill would affect direct spending and receipts, pay-as-you-go procedures would apply.

H.R. 2356 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

H.R. 2356 would impose several private-sector mandates as defined in UMRA. CBO estimates that the direct costs to the private sector of complying with those mandates would exceed the annual statutory threshold in UMRA ($113 million in 2001, adjusted annually for inflation) primarily as a result of new mandates on national political party committees and television, cable, and satellite broadcasters. Moreover, CBO estimates that they net direct costs to the private sector could exceed $300 million in a Presidential election year.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 2356 is shown in the following table. The costs of this legislation fall within budget function 800 (general government).

	By fiscal year, in millions of dollars—					
	2001	2002	2003	2004	2005	2006
SPENDING SUBJECT TO APPROPRIATION						
Spending for FEC under current law:						
Estimated authorization level[1]	40	42	43	45	47	48
Estimated outlays	41	42	43	45	47	48
Proposed changes:						
Estimated authorization level	0	5	3	3	3	3
Estimated outlays	0	5	3	3	3	3
Spending under H.R. 2356:						
Estimated authorization level	40	47	46	48	50	51
Estimated outlays	41	47	46	48	50	51

[1] The 2001 level is the amount appropriated for that year. The estimated authorization levels for 2002 through 2006 reflect CBO baseline estimates, assuming adjustments for anticipated inflation.

Basis of Estimate: Based on information from the FEC, CBO estimates that the agency would spend about $2 million in fiscal year 2002 to reconfigure its information systems to handle the increased workload from accepting and processing more reports, to write new regulations implementing the bill's provisions, and to print and mail information to candidates and election committees about the new requirements.

In addition, the FEC would need to ensure compliance with the bill's provisions and investigate possible violations. CBO estimates that conducting those compliance activities would cost $2 million to $3 million a year, mainly for additional enforcement and litigation staff.

CBO estimates it would cost GAO less than $500,000 in fiscal year 2002 to complete the report required by the bill.

Enacting H.R. 2356 could increase collections of fines for violations of campaign finance law. CBO estimates that any additional collections would not be significant. Civil fines are classified as governmental receipts (revenues). Criminal fines are recorded as receipts and deposited in the Crime victims Fund, then later spent.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act specifies pay-as-you-go procedures for legislation affecting direct spending and receipts. These procedures would apply to H.R. 2356 because it would affect both direct spending and receipts, but CBO estimates that the annual amount of such changes would not be significant.

Estimated impact on State, local, and tribal governments: H.R. 2356 contains no intergovernmental mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Estimated impact on the private sector: H.R. 2356 would make changes to federal campaign finance laws that govern activities in elections for federal office. The bill would amend the Federal Election Campaign Act of 1971 by revising current-law restrictions on contributions and expenditures in federal elections. H.R. 2356 would impose mandates on many private-sector entities, including: national party committees, state and local party committees, candidates for federal office, federal officeholders, television, cable and satellite broadcasters, persons who pay for election-related communications, labor unions, corporations, persons who contribute to political campaigns for federal office, and Presidential inaugural committees. The two most costly mandates in the bill would prohibit the use of soft money by national political party committees, and change the rules that television, cable and satellite broadcasters apply to set rates for political advertisements. At the same time, the bill would reduce existing requirements governing election-related contributions and expenditures.

The mandate on national political party committees prohibiting the use of soft money would impose direct costs that equal the forgone amount of soft-money contributions offset by savings in the bill. According to the FEC, national party committees raised approximately $400 million in 2000, $95 million in 1999, $150 million in 1998, and 475 million in 1997 in soft money. Historically, soft-money contributions increase significantly in Presidential election years. During the 2000 election cycle, for example, soft-money contributions for national political parties totaled approximately $495 million, which represented an increase in soft-money contributions of 475 percent over the 1992 election cycle. CBO, therefore, estimate that the losses as a result of prohibiting soft money would be at least $400 million in a presidential election year and at least $75 million in an other election years.

H.R. 2356 also would provide savings as defined in UMRA. The bill would reduce some existing mandates by allowing higher contributions by individuals and thus offset some of the losses resulting from the soft-money prohibition. The bill would increase the following annual limits:

Individual contributions to Senatorial and Presidential candidates from $1,000 to $2,000,

Individual contributions to national political parties from $20,000 to $25,000,

Individual contributions to state parties from $5,000 to $10,000,

Aggregate limit on all individual contributions from $25,000 to $37,500, and

National party committee contributions to Senatorial candidates from $17,500 to $35,000 in an election year.

Further, the bill would provide for future indexing for inflation of certain limitations on annual contributions. The bill would also raise limits on individual and party support for Senate candidates whose opponents exceed designated level of personal campaign funding.

The increased contributions limits would allow candidates and national and state party committees to accept larger campaign contributions. Based on information from the FEC and other experts, CBO expects that the increment in such contributions could be as much as $200 million in a Presidential election year. Thus, such savings would only partially offset the losses from the ban on soft-money contributions.

Additional mandates in H.R. 2356 would impose costs on television, cable, and satellite broadcasters by requiring the lowest

unit rate broadcast time to be nonpreemptible for candidates (with rates based on comparison to prior 180 days) and requiring the rates to be available to national party committees. The bill also would also require broadcasters to maintain records of requests of broadcast time purchases. Based on the latest figures from the National Association of Broadcasters and the FCC, affected political advertising would bring in revenues of $400 million to $500 million in Presidential election years and $200 million to $250 million in other election years. CBO does not have enough information to accurately estimate the effects of the requirements in the bill on those revenues. Based on information from industry experts, however, CBO concludes that such losses could exceed $100 million in a Presidential election year.

H.R. 2356 would also impose private-sector mandates in several additional areas. These areas include: restricting the use of soft money by candidates and state political parties; additional requirements to report information to the FEC about political contributions and expenditures by individuals and political parties; restricting contributions from minors and foreign nationals; restricting disbursements for election-related communications by individuals, labor unions, corporations, and political parties; and prohibiting certain campaign fundraising.

The direct costs associated with additional reporting requirements would not be significant. In general, most entities involved in federal elections must submit reports to the FEC under current law. New requirements in H.R. 2356 also would impose some costs for individuals and organizations who pay for certain election-related communications associated directly and indirectly with federal elections. Finally, mandates that restrict the ability of individuals and organizations to make certain contributions or expenditures would impose additional administrative costs.

Previous estimate: On July 9, 2001, CBO transmitted a cost estimate for H.R. 2360, the Campaign Finance Reform and Grassroots Citizen Participation Act of 2001, as ordered reported by the Committee on House Administration on June 28, 2001. That bill contained some of the provisions in H.R. 2356 and CBO estimated that it would cost the federal government $2 million annually, subject to the availability of appropriated funds. Neither bill contains intergovernmental mandates.

Both bills would impose private-sector mandates by placing new restrictions on contributions and expenditures related to federal elections. The mandates in H.R. 2360 would not impose costs above the statutory threshold. The primary mandate in H.R. 2360 would limit the use of soft-money contributions in certain federal election activities. The primary mandates in H.R. 2356 would impose costs above the threshold by banning the use of soft money for national committees and changing the rules that apply to broadcast rates for political advertisements.

Estimates prepared by: Federal costs: Mark Grabowicz, impact on State, local and tribal governments: Susan Seig Thompkins; impact on the private sector: Paige Piper/Bach.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

THE UNIQUE QUALITIES OF THE AMERICAN WEST

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentleman from Colorado (Mr. MCINNIS) is recognized for 60 minutes as the designee of the majority leader.

Mr. MCINNIS. Mr. Speaker, I come before my colleagues this evening to discuss one of my favorite topics, of course, the American West. I plan to spend the next few minutes talking about the differences between the western United States and the eastern United States.

I talk quite regularly about these issues because, of course, being a native of the wonderful State of Colorado, I believe very strongly, very strongly in the American West and the virtues and the values of the American West.

I think it is important, because of our small population out there, that we continue to be heard in this country; that our way of life in the American West somehow be preserved and not trod upon.

I had a wonderful experience this last weekend. I was in Buena Vista, which in Spanish stands for ''good view,'' Buena Vista, Colorado. I and a couple of friends and my wife, Laurie, we went to Buena Vista for one purpose: We wanted to hear a singer, somebody who I had known, a person of great character, a gentleman named Michael Martin Murphy.

This is an individual who is not only able to sing in such a way that it warms your heart, but also has the very canny ability of passing on and communicating through his music about the values of the American West. Not only can Michael Martin Murphy communicate about the values of the American West, he also communicates about the need and the necessity of character, of real character; of the standards that we as Americans ought to live up to.

When we went to Buena Vista and we heard some of the discussions, we had an opportunity not only to listen to the music of Michael Martin Murphy, who I pay tribute to today; not only to meet his good friend, Karen Richie, but also to listen to some of the background and some of the values and the future that people like Gene Autry, Roy Rogers, and Marty Robbins saw about the American West.

I can say that Michael Martin Murphy in my opinion rises to the level of those legends, the legends of Marty Robbins, the legend of Gene Autry, the legend of Roy Rogers; that he rises to their level, because in my opinion he is able to communicate the message as those people did for their generation, and Michael Martin Murphy does that for this generation. I think his music will carry that message to future generations.

It was a wonderful experience. We were up on the mountain plain, Chalk Mountain right in the distance, of course among 14,000-plus foot peaks. The wind was blowing slightly, the sun was going down, not until about 9 o'clock. It was cool. The mountains can get awful cold this time of year; not like winter, obviously, but very, very cool.

It was just the perfect setting. It was the perfect setting to let one's mind rest for a few minutes and to go back in history and remember the values upon which this great Nation was built, upon the individual characters that stepped forward to settle the West, to stand strong for the West, to make sure that the wrongs were righted, because we know there were wrongs that were committed in the acquisition of the West.

It is interesting, when we look back in history, our history professors tell us, Mr. Speaker, that history often repeats itself, and that if we look upon the strong values of this country, the foundation that made this country the greatest country known in the history of the world, when we look back we see certain characteristics that I think have been represented in music, at least in the West, by the legends of the Gene Autrys, the Marty Robbins, and Roy Rogers, and in my opinion, Michael Martin Murphy.

I intend here in the next few days to issue a tribute for Michael Martin Murphy, because I think it is so important for the generation, for our generation, the obligation of our generation to pass on to the next generation what life in the American West really is about; how wonderful it is and how important it is to preserve that independence, that love of nature, that mountain area way of life.

There are several ways we can do it. Of course, we can put it in history books. We can teach it in our classes. Those are all important. But it seems to me one of the most effective ways to pass the message from one generation to the next generation is through music. Michael Martin Murphy does exactly that.

I was not enthralled, so do not get me wrong, I was not starstruck by Michael Martin Murphy. I was impressed, because I felt that I had met an entertainer who was much more than an entertainer, but an individual who really cared about the American West, an individual who understood the land values and the need for open space and the beauty of the Rocky Mountains, yet firmly believed that people had a right to live in those areas; that people have a right to enjoy that.

In Michael Martin Murphy I saw not a superstar, but I saw a star kind of different than like a Hollywood set. What I saw was a superstar in character, a person who spoke about the characters that are necessary for our new generations; about the obligations we have, the obligations that were fulfilled by previous generations.

We live in a great country, wherever one lives in this country. I just happen to have a prejudice towards the mountains, whether it is in Virginia or in the Missouri flats or up in Montana, up in those areas, Idaho, Jackson Hole, Wyoming, and of course my district, the Third District of Colorado, which is essentially the mountains of Colorado, whether one is in Durango, Buena Vista, Walsenburg, Steamboat Springs, Meeker, Colorado, Glenwood Springs, Beaver Creek, all of these communities.

What is important is that there are a lot of generations that have come ahead of us, including multiple generations on my side of the family and multiple generations on my wife's side of the family.

It is a way of life. It is a way of life that I think we can preserve. It is a way of life that we should not allow the elitists to come out and destroy. It is a way of life of those people who come out and buy property in the mountains, or come out to the West and buy land, whether it is in the prairie or in the mountains. It is a responsibility that kind of runs with the land. It does not disappear from one owner to the other, it is a responsibility that should go with everybody who touches the land. It runs with the land, and it should run with the land for all future generations.

A part of getting that message out is through the music of the likes of Michael Martin Murphy. So for that, I intend to issue a tribute, because I consider him in that bracket, having met that standard of a legend, not just for the music, which by the way is beautiful, whether it is Wildfire, or his rendition of the Yellow Rose of Texas, or I could go through a number of different songs; but most importantly, what Michael Martin Murphy says and what he practices and what he encourages other people to do in regard to the preservation of the American West.

Let me point out some differences in why life in the West requires some special attention, why it really does. I am not trying to preach to my colleagues this evening, but I am trying to say that out in the West we have a unique situation. It is not found in the East, or very rarely in the East. It is unique to the West. We have to have a good understanding of it if we really want to comprehend the challenges that we face out West.

It all started years ago with the founding of this country. As we all know, the country was not founded on the west coast. It was not founded in the mid country, it was founded on the east coast, out in this area. The population was up and down the coastline.

As our forefathers decided to expand this wonderful dream of theirs to build a country of freedom, a country that was free from the king, a country where we would have no king, a country which allowed for a representative and democratic type of government, to do that they in to expand, so they purchased land. They needed to encourage people to occupy that land.

What happened back then, just because one had a deed, they had a piece of paper that said you owned this piece of property, that did not mean much.

□ 2215

What meant something was for an individual to be actually placed on the land with both their feet. Possession of the land. And frankly, not only possession of the land, it also probably required in a lot of cases, a six-shooter strapped to one's side. This was a new frontier for us, and it was a frontier we wanted to build into the country.

And thank goodness they had the raw courage and the persistence to go out west. Despite the illness, despite the fact that there were no maps, despite the fact that they had to break the trails and hunt for their food and negotiate with the Native Americans, we still had people that did it. That is where, by the way, the saying came from, ''possession is nine-tenths of the law.'' That is where that came from.

So let us go back to this map. We know we have people settled on the East Coast. We know that the Government wants them to move to the West. Now remember, to the West could be simply getting them out to Missouri. Somehow we have got to get the American people out into this new land that we want to expand into a country, the United States of America. So they tried to figure out ways and incentives for the American people to move west. Interestingly, they came up with an idea. In 1776, what the Government did, and this is very interesting, by the way, for those who are history buffs, in 1776, the Continental Army decided, hey, let us offer free land to people. Let us allow, in effect, homesteads to soldiers that will defect from the British Army. If they are defectors, we will reward them in our new country with free land.

Well, years later, as our expansion began to take place, and remember our expansion was delayed somewhat because of the ongoing battles between the North and the South. The North and the South, neither one of them wanted to have the other get an advantage over this new land, an advantage that would allow slavery or an advantage that would not allow slavery. So the expansion and the possession of these lands was somewhat delayed. But when they got finally to a position where the Government could really encourage it and take it as a serious effort to go out and settle the American West, they decided that the incentive should be to give away land, and they called it homesteading.

Again, that idea originated in 1776. Now, maybe if there is a history professor amongst my colleagues, they may have a date preceding that, but my reading shows about 1776 with the defections from the British Army.

So now we speed up again back here where we are possessing the country. How do we get people out there? So we decide to homestead. They offer people to go out into Missouri, into Tennessee, out west to Kansas and to Colorado. Go out there and farm, set up their families, and be given 160 acres. If they would go out there and work it for a fee of like $12 and a closing fee of like $5, they could have this land, 160 acres.

And every American, even today, every American dreams of owning their own piece of land. That is one of the beauties of the United States of America, one of the things that sets our country apart from other nations throughout the entire world is the right of private property. It is deep in our heart. It is deep in our heart to own a piece of property. So the Government encouraged families to go out west and be given ownership to 160 acres. They had to go out and work it. They need to put their family on it. The Government wanted it to be farmed, to be productive land. And if a family would make it productive land, if they were dedicated to the cause, meaning that they persevered through all the tough conditions, after a period of time, a few years, they got to own that land free and clear.

However, there was a problem; and the problem is clearly demonstrated by this map that I have to my left, and that was that the frontiersmen, and I say that generically, because clearly it was families that took on this challenge, not just the men of the country but families. And back then the conditions were harsh. Think of women in childbirth, the death rate of women in childbirth. It was horrible. The sacrifices were enormous that these people made to expand our country and in part to go out and find the American Dream.

But as I said, there was a problem; and it is demonstrated by this map. Take a look at this map very carefully. The western United States has lots of color on it on this map. The eastern United States, with the exception of the Appalachians, a little shot down there in the Everglades, a little shot up there in the northeast. With those exceptions some of these States hardly have any color in them at all. Why? The color denotes government lands.

Now, my colleagues might say, well, gosh, there are hardly any government lands in some of these States. And the lands that have very little government land, what we call public lands, are in the East. They are not in the West. Why? Why would be a logical question on this map to my left. Why would all the West be in color or public lands and very little in the East, comparatively speaking? Private property is held by

private individuals. That was the problem they ran into. What happened was, as the frontiersmen began to hit the Rocky Mountains, they discovered that 160 acres not only would not support a family, it would not even feed a cow.

So word got back to Washington, and it kind of put a stop in the expansion plans. They said, hey, we are having a problem. This Homestead Act has worked very, very well getting people halfway across the country, because 160 acres in eastern Colorado, unlike 160 acres in western Colorado, can support a family. 160 acres in Missouri can support a family. Same thing in Kansas. Same thing in some of these other States. But when they hit the mountains, it was a lot different.

So how did we resolve this? What do we do? How did we encourage people to go into those mountains and take the sacrifice that was necessary for us to expand this great country of ours? One of the answers was, well, to get people into this area of the western United States, if 160 acres does not do it, let us give them 3,000 acres. Let us give them whatever amount of land it takes to be comparable to that family in Kansas or Nebraska that can make do on 160 acres. But somebody said, well, we cannot do that. Politically we could never give that much land away to an individual.

So somebody else, one of the other policymakers, came up and said, well, let us do this. In the West, where we meet the mountains, let us just go ahead and keep the land titled, the actual ownership of the property, let us keep it in the name of the Government but let us allow the people to use it as if it were their own. And, in fact, let us encourage them to go out there and use it. And let us call this land that is owned by the Government, it is not a title that fits here in the East, it is a title that was designed for this block of color in the West, let us define it by a land of many uses, public lands.

This was a title held by the Government but described as a land of many uses; a land that will allow people to support families, land that will allow people a sense of freedom, land that will allow people the enjoyment and, in my opinion, the absolute pure pleasure of being able to live in the Rocky Mountains or go up into the plateaus of the Grand Mesa or down into the San Juan Mountains and see the fresh water streams and the waterfalls. It allows this to be a land of many uses.

What we have seen, though, recently is that we have more radical environmental organizations. Now, I think some of the strongest environmentalists are the people who have had to put their hands in the ground, the people like my family who, for generations, next to their family, their deepest appreciation was for where we lived and they loved the land. It is like Michael Martin Murphy. His deepest appreciation was being a part of the American West and a big part of the American West, as he very ably described in his comments and in his music, is the beauty of the land, the ability to get on a horse and ride and not see other people for a long ways. And yet the ability to take that horse back to a barn where hay can be grown to support it, grain to support that horse, and to have a family that could enjoy that horse.

As of late, some of the more radical environmental groups in our country have decided that the Government, what they want to do is go to the populations, and remember most of the populations, when we look at this map to my left, most of the populations, with the exception right here, and again we see the private property, the big white section here in California, that big white section, and the East, that is where the population in the country really is. Here in the West, that is sparsely populated land. So what has happened is some of the more radical environmental organizations, groups like Earth First, groups like, the National Sierra Club, they are trying to educate people in the east that this land in the West is unfit for human occupancy, unfit in their description so that humans should have minimal contact with these public lands; that the design of these public lands was not in fact the concept of multiple use, or a land of many uses.

They use it as one of their priorities to destroy what we knew the land to be, a land of many uses or, in short, multiple use. Their belief is that multiple use should be eliminated or at least minimized in many, many areas, vast amounts of areas out here in the West, regardless of the impact that it has on the generations of people who started back in the homestead days.

So there is a big difference between the East and the West. And we who live in the West feel very strongly about the fact that we, like our friends in the East, like Virginia, for example, when I go into Virginia, my good friend Al Stroobants, he lives in Lynchburg, Virginia. He came from Belgium, but the pride he shows in being an American and the pride he has for Virginia and the Virginia mountains. There is a very strong dedication to our States, and I see it in my friend Al and all his friends down there in Lynchburg, Virginia. Well, we feel the same way as our Virginia colleagues or as our Kentucky or Florida colleagues, or some of these other States. We feel the same way about the American West. We feel very strongly that our way of life should have as much opportunity to be preserved as the way of life in Virginia or Kentucky or Tennessee or Maine or Vermont.

We are lucky. We have 50 of the greatest States in the world. We have probably the most beautiful land mass. We have not only the strongest country economically, education-wise, militarily; but we also have perhaps the most beautiful geography in the world. When we take it all together, we have to come out on top, especially when we add in our little bonuses like Alaska and Hawaii.

But my point here this evening is this: I ask my good friends from the East to understand the differences that we in the West face. And it is not just the geographic differences as a result of public lands, but it is also the fact that we are totally dependent in the West, we are totally dependent, completely, 100 percent, I do not know any other way to say it to describe our dependency, on public lands.

The concept of multiple use is the foundation for the utilization of public lands. If we do not have multiple use, if my colleagues buy into some of the more radical organizations in our country, that the way to eliminate multiple use, for example, is to burn down the lodges in Vail or go to Phoenix, Arizona, and burn down homes, luxury homes. That is sometimes the kind of tactics that they revert to to eliminate multiple use; that is wrong.

And one of the other more legitimate ways, although I disagree with it, is to try to educate the mass population in the East that life in the West is kind of like life in the East; not to educate the people on the need for multiple use. If I went down the street here in Washington, D.C., I bet I could stop 100 people; and of those 100 people, I bet I could not find two, maybe not even one, maybe not even one who could tell me what the concept of multiple use and what public lands really means.

□ 2230

Now, I will bet also out of those 100, based on the educational efforts of some of these more radical environmentalists over the last few years, I bet the perception of a lot of those people out of that 100 is that in the West we are destroying the lands; that Yellowstone is being drilled upon; that we are cutting down all of the forests. It could not be further from the truth, colleagues.

Most of you probably vacation in my particular district because of the resorts. I would hope that you take an opportunity, especially during our August recess, to go out into these public lands. Take a close look at them. Put all the propaganda aside and go out and see it for yourself. Go out to Jackson Hole. Go out to Beaver Creek. Go over to Durango. Go to Buena Vista and see just how well that land is cared for.

If you have an opportunity, which should be a basic requirement of your visit, just go stroll on down to the coffee shop. Go talk to a cowboy or cowgirl and ask them a little about the lands. You know what you will get?

You will get the same kind of feeling I get out of Michael Martin Murphy and a lot of people, millions of people get out of Michael Martin Murphy.

You get a sense of belief out of the American West. You get a sense of the love that these people have for the land upon which they live and upon which they thrive. You get a sense of our inherent responsibilities to protect this land while at the same time enjoying the use of the land, but to protect it in such a way that we can pass on this gem, and that is what it is. It is a gem. It is a diamond in the rough. Pass this on to future generations.

That vision for future generations, as I just mentioned, we consider it an inherent obligation, a part of our heart. Out in the West it is a part of our heart. We need your support here in the East to help us in the West to continue to thrive and continue to enjoy the type of life-style that our forefathers upon the founding of this country intended for us to have.

That does not mean, by the way, that we turn our face the other way if we sense abuse out there. I think you will find the first people to crack down on abuse are the people that are most closely impacted by it. The people that are most closely impacted by abuse of the lands are the people that live on that land.

I have zero tolerance for people that leave decimated trails and tear up the terrain. I have zero tolerance whether it is mountain bikes, whether it is SUVs, whether it is a canoe or a kayak or a sloppy hiker. I have zero tolerance for people that drop litter, for people who do not properly care for the lands, for people that do not leave the land as much as they found it, for people who do not have respect for that land.

If we allow that to occur we then dilute our obligation and our vision for the next generation. So we do feel very strongly about enforcement, but we also believe in balance. We do not think balance is by burning down the lodge at Vail on top of the mountain. We do not believe that balance is going out into a subdivision just because some people who are building these homes have money and burn their homes into the ground. We do not believe you ought to put spikes in trees. We do not think that is necessary.

We have a lot of different projects. I will talk to you about the Colorado National Monument and our special conservation areas.

In our community we felt that we really needed to instill some vision for this generation. To take the Colorado canyons and the Colorado National Monument and come up with some kind of plan, some kind of strategy to preserve those lands in a special way for the future.

Do you know where that inspiration came from? It did not come from Washington, D.C. That inspiration did not come from some radical organization like Greenpeace or Earth First. That inspiration came from the hearts of the people that lived on the land, from the hearts of the people that listen to the music of people like Michael Martin Murphy, from the hearts of the people like David or Sue Ann Smith or Cole and Carol McInnis who lived there and had their family there for generations. That is where that inspiration came from.

Do you know what we were able to put together? We have people like the Gore family up on top of the monument in Glade Park. We have people like the King family, Doug and Cathy, from the King ranches. We have people like Mr. Stroobants from his ranch up in Glenwood Springs to sit down with people from our active environmental community, with people from our chamber of commerce, with locally elected officials like our county commissioners in the various counties, with our State representatives and our State senators.

You know what? We were able to put together a vision that helped preserve this land but at the same time allowing multiple use. We put tens of thousands of acres in the wilderness. That is the most extreme management tool you can use out there. That truly does exclude most of the population from touching that land.

At the same time, we have put in special conservation areas so that people could continue to enjoy their horses for their horseback riding. People could take their hikes. People could spot wildlife. People could go down to the mighty Colorado River and sit on its bank and wonder about the millions and millions of lives and the environment and the heritage of that river.

All of this was done as a result of people who lived on that land coming together, not as a result of a coalition out of Washington, D.C., who thought they knew better about how to describe life out here in the West.

We can do it. We are not a bunch of numbskulls out there or rambling cowboys as some people have the image. In fact, we are pretty proud of ourselves. We think we are pretty thoughtful. We think we are thoughtful in that we understand your concerns here in the East.

There are a lot of people in the East who are justifiably concerned that, regardless of where you live in this country, whether it is the beautiful mountains in Virginia, whether it is the hills of Tennessee, whether it is the coastal areas of Florida, we all as a Nation should be concerned about the preservation of these lands and about the life people lead.

A basic and fundamental part of that concern should be a communication, an expression and participation from the people that live on the land or live on the shore or live on the hills or farm on the plains. Those people ought to have a strong voice at the table. Why? Once you sit down with them as we did with the Colorado Canyon Lands Project, once you sit down with them you will find out that that old geezer has something to say. There is a little history there.

You sit down with somebody like a David Smith and you find out more about water than you ever thought you would know in just a few minutes and about the importance of water in the West and why life in the West is written in water. It is so dry out there that water is fundamentally important.

Mr. Speaker, my real concern this evening, I think I have ably expressed, and I want to deeply again express my appreciation to the communicators in the West, the people who are able to communicate the balance that is necessary so that we can come together as a team to preserve our way of life in the West. Amongst those communicators are the people like the locally elected officials, the State representatives, the State senators, our local county commissioners, our Chamber of Commerce, our local environmental organizations. Those are communicators, ordinary people that love the land, that know the history of the land in the West, that are proud to be a part of the American West.

Also, as I have mentioned several times, I pay special tribute to one of the finest communicators of today's modern day through music, and that is Michael Martin Murphy. It is obvious I have a bias towards his music, but when one goes beyond the music and looks at the message and looks at the intent and deep dedication and the focused love of the communicator, one understands that this is a good way to communicate the word of the importance of the American West.

Not long ago I heard somebody say, ''You better get used to it. Your days in the American West are limited. That is something in the past. We have moved on. The old frontier is out of here. There are no more great, vast areas.'' These are the kinds of people who want to destroy our open space. These people want to come out and tell people they are not allowed to farm and ranch the land. They are not allowed to do this and do that, the big brother out of Washington, D.C., knows best for the West. And that somehow they reinterpret or reinvent the history of why this block of color is located in the West, while there is hardly any color in the East.

Mr. Speaker, they want to educate and use propaganda to say this was intended to be kind of off limits to people. Here in the East, we already have our piece of land. We already have what we want. But out here in the West, we want to control your lives. We have no use for that type of philosophy. We think at the local level, at

the regional level, with input at the national level, because it is one Nation, that we can put together a plan, a blueprint so that the next generation can experience the West as we have experienced it.

Fortunately, because of the visions of people like Teddy Roosevelt and others, in the communication of Gene Autry, as Michael Martin Murphy pointed out so well, or Roy Rogers, they were able to in that generation figure out a blueprint so that the appreciation of the West could continue to my generation.

Mr. Speaker, I hope that I have laid out a blueprint or been a participant, whether it is the Colorado Canyonlands, whether it is Sand Dunes National Monument which last year we put into a national park, whether it is the Black Canyon National Park which Senator CAMPBELL and I created about 4 years ago, we hope that we have somehow participated in that blueprint to pass on the dreams and the life of the West.

Mr. Speaker, it is not something that needs to be eliminated. It is not something that in the East you have to force your way of life upon. It is something that you, too, as American citizens or as visitors to our great country can enjoy. But when you come out there, do not come out with earplugs in your ears, and do not come out thinking that you know it all or trying to impose your values, which may be good values, but for your area. Do not come out and try to impose your values on us in the West. Do not listen to all of this propaganda that you hear.

And I can tell you the propaganda machine about what ought to happen in the West is a well-oiled, well-moneyed machine in the East. I am not saying totally discount what the other side has to say. Listen to that propaganda, but take the time to look up what the other side of the story is. You know the old saying: ''There are two sides to every story.''

That is why I take this microphone tonight, colleagues. I am asking take a look at the other side of the story. Because. When you do, you will understand why we are so proud of our heritage in the West, why we think that we take pretty good care of the Rocky Mountains and the Dakotas and Utah, Montana, and the Colorado River. It is our lifeblood. We care about it. I want you to care about it and care about it in such a way that the next generation and the next generation can live on it, enjoy it, preserve it and respect it because, if we do that, we will have accomplished a great deal for the next generation and for the future of our country.

Mr. Speaker, the rest of this week looks like it is going to be very busy, and it looks like we are going to be working quite late nights. I was hoping to make some comments tomorrow evening and go into specific detail on missile defense. So break away those 40 minutes about which I have spoken to you about the American West, and let us shift our mind into missile defense and talk for just a few minutes. I will not be able to brief Members this evening like I intended to brief Members tomorrow or Thursday evening, but it looks like I will not have that opportunity.

Mr. Speaker, we had a pretty remarkable success with the missile defense this weekend. We had a targeted missile coming under our scenario, a missile aimed at the United States traveling at 4½ miles per second. And we had an intercept missile coming in at 4½ miles. The two of them had to hit. Remember they could not miss by more than three feet. It is like hitting a bullet with a bullet, the effect of shooting a basketball in California and making it through the hoop in Washington, D.C. It is a tremendous success.

Now some would say, oh, especially the Chinese and the Russians, how terrible. Who could imagine the American people ever agreeing to protect themselves from incoming missiles.

Mr. Speaker, most American citizens believe that we have some kind of protection from American missiles. They have heard of Cheyenne Mountain in Colorado Springs, the home of NORAD. Do my colleagues know what NORAD does, NORAD detects?

□ 2245

It is a huge complex, built within the granite mountain of Cheyenne Mountain. They can detect missile launches anywhere in the world. There are a lot of things that they can do for our security. But once they make that detection, that is about all they can do. They can call you on the phone and say to you, hey, look, despite all of the treaties, despite all of the promises made, we have just had a foreign country launch a missile against the United States, against the people that you are sworn to protect. That missile is going to land in about 30 minutes, and we believe it is carrying a nuclear warhead. What else can we tell you?

What are we going to do?

There is not much we can do. We can repeat what we just told you, where it is going to land, the nuclear warhead that we think is on top of it. I think that there is a responsibility for the leaders of this country, not only for this generation and the future generation, but for the people of the world, to provide missile defense so that we do not end up in some kind of horrible, horrible situation, with a world at war, because a missile, an incoming missile, was not stopped before it hit a city like Los Angeles or New York City or Washington, D.C. We can stop that.

The best way to stop a war from happening, the best way to maintain peace is to disarm your neighbor, especially if it is an unfriendly neighbor. Think about it. Why on earth would you say we should not defend ourselves against incoming missiles? It does not make sense. It is kind of like your neighbor having a gun, and your neighbor deciding that he wants your watermelons. And the neighbor is known to sometimes use that gun against you. Do you think it is crazy to set up some kind of defense, maybe a big fence that your neighbor cannot get over to come use his gun? That is exactly what we need to do here.

At some point in time in the future, and mark this, Members who are opposing some kind of missile defense network, at some point in the future, somebody will launch a missile against the United States of America. For those of you who oppose a defensive system, not an offensive system, a defensive system, for those of you who will cast a vote against a defensive missile system, you, I hope, will be around to answer to the survivors of a missile attack against this country. I hope that you will never have to do that. I hope that the idea that a missile would be launched against the United States does not happen.

But I think every one of us has to be realistic here. The fact is, the odds are that somebody at some point will launch a missile against the United States of America and that the United States of America is fooling itself. There is a saying out there. The last person you want to fool is yourself. The last person that the United States of America wants to fool ought to be itself. Kudos to the President. Kudos to our defense and our military operational heads to say, look, we cannot afford to put blinders on and pretend. Look, nobody is going to fire a missile against us. Look, nothing is going to happen against us by these rogue countries.

Take a look at how many rogue countries now have missiles. Take a look at how many of these rogue countries have nuclear warheads on those missiles. Do you think that the United States of America by patting them on the back is going to get them to destroy those missiles, or to disarm? No way. These countries are not going to disarm. They could care less what the United States of America tells them. Having a nuclear missile or any type of missile, that is a pretty macho thing in some of these countries. In some of these Third World countries, having the ability to simply reach over and push a button and take on the strongest country in the history of the world and destroy one of their cities or, even worse, it makes them feel pretty good. We play right into their card game; we play right into their game if we do not build some kind of defense.

We need to have a defense. We use it everywhere else, not missile defense, but we use defenses everywhere. Take a

look at highways. We put speed bumps to slow you down. Why? Because we do not want an incoming car. We want to slow them down. Every one of my colleagues could think of example after example after example where we deploy a defensive mechanism to protect our health and well-being or the health and well-being of our children. That is why we have speed zones at schools. That is why we have crossing guards. That is why we have tough law enforcement, so that we can preserve those things that are special to us. Now, for us not to put out a defense that protects a country that is special to us is foolish.

Now, because I cannot go into the details, but I will in the next week, I hope, I am going to have some diagrams and some charts and show you why this system will work. Now, remember that the critics of this system will tell you, first of all, we have offended China and Russia. Do not offend China and Russia. And our European colleagues, they are upset about this because of the fact we might offend Russia and China.

Who do you think is likely to use a missile against the United States? Not only those rogue countries, but do not discount China and do not discount Russia. I hope it never happens. I hope we become allies with these people. And if we do become allies, then we do not need to use a defensive missile system. You just have it in place. You never have to engage it. But the reality is somewhere in the future there is going to be a difference of opinion, a professional difference with these two countries. A rogue nation, a rogue Third World nation may not need a reason to fire a missile against us. People have been willing to blow up our airplanes, they have been willing to shoot athletes at the Olympics, they have been able to set off a bomb at the Olympics. Do you not think that someday somebody may want to launch a missile against the United States?

Now, the critics, as I was saying earlier, will say, well, the system has had too many failures. How many failures did we have before we came up with penicillin? How many failures did we have before we mastered the car? Of course you are going to have failures. The technological requirement, the expertise to have two objects that are traveling 4½ miles a second, to be able to bring them together and to be able to intercept right on the spot, you cannot afford to miss. You do not get two shots; you get one shot on that intercept over the weekend. It worked. I can assure you that our European colleagues and that the people, the leadership in Russia and China are saying, wow, American technology.

By gosh, we may disarm Russia and China simply by coming up with a defensive mechanism. Why put all your money in an offensive missile system if the country that you are concerned about, the United States, has the ability to stop them? You want to know what is going to stop missile growth in this world? It is the ability to make them an ineffective weapon. But how do you make them an ineffective weapon if you do not have some type of shield against them? What we are talking about with our missile defense system is a shield, a shield that not only protects the United States but a shield that we would share with our allies. Frankly, a shield that the more it is shared, the less likely that there will ever be a missile attack because the missiles, which are very expensive and the technology that is required is substantial, those missiles become pretty darn ineffective. How could somebody legitimately argue that we should not deploy a strategy that will make missiles less effective?

Mr. Speaker, we have a heavy burden on our shoulders. That heavy burden requires that we protect. We have an inherent responsibility to protect the citizens of this country from somebody who decides they want to launch a missile against us. This is not starting a war. It is not starting an arms race. That is rhetoric. And even if it was not rhetoric, are we going to let them bully us into not defending our citizens? Members, we are elected to the United States Congress in part to not only protect the Constitution but to protect the people of this country.

We have deep, running obligations to the people and the safety and the welfare of this country. It is in every bill we pass. A part of doing that requires us to deploy, in my opinion, a missile defense system so that the United States and its allies, 20 years from now, I want them to look back and say, gosh, those missiles, that is what used to scare them back then. Today, nobody could fire a missile anywhere because you could stop it in flight or better yet you could stop it on the launching pad.

So there is a lot to think about with the missile defensive system. But the basic philosophy, the basic thought ought to receive a ''yes'' vote from everybody in these Chambers. Everybody in the Chambers, every one of my colleagues ought to be in support of a missile defense system. I think you owe it to the constituents that you represent.

In summary, we need a missile defensive system for this country. Technologically we are going to be able to do it. Sure it is going to be expensive. The airplane was expensive when we deployed it. Landing a person on the Moon was expensive. Sending a ship to Mars was expensive. There are lots of things the technology requires is expensive. Conservation is going to be expensive for us but it works. And this missile technology worked this weekend, and we have years of testing left; but it will work and it will be a lifesaver for hundreds of millions of people in this world.

Mr. Speaker, I hope my colleagues had an opportunity to listen to my comments on the American West. I am proud to be an American citizen, but I am deeply proud of being able to have been born and raised in the American West. I hope all of my colleagues have that opportunity to experience what I have been able to spend an entire lifetime experiencing.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BISHOP (at the request of Mr. GEPHARDT) for today on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MCNULTY) to revise and extend their remarks and include extraneous material:)

Mr. BONIOR, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mr. LANGEVIN, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. EDWARDS, for 5 minutes, today.

(The following Members (at the request of Mr. KERNS) to revise and extend their remarks and include extraneous material:)

Mr. MORAN of Kansas, for 5 minutes, today.

Mr. RAMSTAD, for 5 minutes, today.

Mr. PAUL, for 5 minutes, today.

Mr. TANCREDO, for 5 minutes, today.

Mr. BUYER, for 5 minutes, today and July 18 and 19.

Mr. DUNCAN, for 5 minutes, today.

Mr. NEY, for 5 minutes, today.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 360. An act to honor Paul D. Coverdell.

S. 560. An act for the relief of Rita Mirembe Revell (a.k.a. Margaret Rita Mirembe).

ADJOURNMENT

Mr. MCINNIS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 58 minutes p.m.), the House adjourned until tomorrow, Wednesday, July 18, 2001, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

2925. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting the Department's final rule—Gypsy Moth Generally Infested Areas [Docket No. 01–049–1] received July 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

2926. A letter from the Secretary, Department of Defense, transmitting a letter on the approved retirement of Vice Admiral Richard A. Nelson, United States Navy, and his advancement to the grade of Vice Admiral on the retired list; to the Committee on Armed Services.

2927. A letter from the Secretary, Department of Defense, transmitting a letter on the approved retirement of Lieutenant General Bruce B. Knutson, Jr., United States Marine Corps, and his advancement to the grade of Lieutenant General on the retired list; to the Committee on Armed Services.

2928. A letter from the Secretary, Department of Defense, transmitting a letter on the approved retirement of Lieutenant General Lawson W. Magruder III, United States Army, and his advancement to the grade of Lieutenant General on the retired list; to the Committee on Armed Services.

2929. A letter from the Secretary, Department of Defense, transmitting a letter on the approved retirement of Lieutenant General William M. Steele, United States Army, and his advancement to the grade of Lieutenant General on the retired list; to the Committee on Armed Services.

2930. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14–85, ''Fiscal Year 2002 Budget Support Act of 2001'' received July 17, 2001, pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform.

2931. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. ACT 14–89, ''Independence of the Chief Financial Officer Establishment Act of 2001'' received July 17, 2001, pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform.

2932. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 767–200 Series Airplanes [Docket No. 2001–NM–87–AD; Amendment 39–12200; AD 2001–08–23] (RIN: 2120–AA64) received July 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2933. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 767 Series Airplanes [Docket No. 97–NM–276–AD; Amendment 39–12205; AD 2001–08–28] (RIN: 2120–AA64) received July 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2934. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Lockheed Model L–1011 Series Airplanes [Docket No. 2001–NM–82–AD; Amendment 39–12204; AD 2001–08–27] (RIN: 2120–AA64) received July 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2935. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bombardier Model DHC–8–100, –200, and –300 Series Airplanes [Docket No. 2000–NM–15–AD; Amendment 39–12160; AD 2001–06–13] (RIN: 2120–AA64) received July 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2936. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; McDonnell Douglas Model DC–9–80 Series Airplanes and Model MD–88 Airplanes [Docket No. 98–NM–326–AD; Amendment 39–12163; AD 2001–06–16] (RIN: 2120–AA64) received July 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2937. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 767–200 and –300 Series Airplanes [Docket No. 2000–NM–296–AD; Amendment 39–12199; AD 2001–08–22] (RIN: 2120–AA64) received July 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2938. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Dassault Model Falcon 10 Series Airplanes [Docket No. 2001–NM–191–AD; Amendment 39–12291; AD 2001–13–11] (RIN: 2120–AA64) received July 9, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2939. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Dornier Model 328–300 Series Airplanes [Docket No. 2000–NM–339–AD; Amendment 39–12288; AD 2001–13–08] (RIN: 2120–AA64) received July 9, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2940. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Saab Model SAAB 2000 Series Airplanes [Docket No. 2001–NM–12–AD; Amendment 39–12290; AD 2001–13–10] (RIN: 2120–AA64) received July 9, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2941. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 737–700IGW Series Airplanes Modified by Supplemental Type Certificate ST09100AC–D, ST09104AC–D, ST09105AC–D, or ST09106AC–D [Docket No. 2000–NM–242–AD; Amendment 39–12323; AD 2001–14–12] (RIN: 2120–AA64) received July 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2942. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Aerospatiale Model ATR42–500 Series Airplanes [Docket No. 2001–NM–66–AD; Amendment 39–12174; AD 2000–23–04 R1] (RIN: 2120–AA64) received July 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2943. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Lockheed Model L–1011–385 Series Airplanes [Docket No. 2000–NM–41–AD; Amendment 39–12198; AD 2001–08–21] (RIN: 2120–AA64) received July 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2944. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; SOCATA—Groupe AEROSPATIALE Model TBM 700 Airplanes [Docket No. 2000–CE–61–AD; Amendment 39–12139; AD 2001–05–03] (RIN: 2120–AA64) received July 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2945. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Dornier Luftfahrt GMBH Models 228–100, 228–101, 228–200, 228–201, 228–202, and 228–212 Airplanes [Docket No. 99–CE–19–AD; Amendment 39–12122; AD 2001–04–04] (RIN: 2120–AA64) received July 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2946. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; BAe Systems (Operations) Limited Model BAe 146 and Model Avro 146–RJ Series Airplanes [Docket No. 2000–NM–253–AD; Amendment 39–12119; AD 2001–04–01] (RIN: 2120–AA64) received July 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2947. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A330–301, –321, –322, and –342 Series Airplanes and Airbus Model A340 Series Airplanes [Docket No. 2000–NM–182–AD; Amendment 39–12202; AD 2001–08–25] (RIN: 2120–AA64) received July 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2948. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; DG Flugzeugbau GmbH Model DG–500MB Sailplanes [Docket No. 99–CE–89–AD; Amendment 39–12137; AD 2001–05–01] (RIN: 2120–AA64) received July 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2949. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; DG Flugzeugbau GmbH Model DG–800B Sailplanes [Docket No. 99–CE–67–AD; Amendment 39–12166; AD 2001–07–01] (RIN: 2120–AA64) received July 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2950. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; VALENTIN GmbH Model 17E Sailplanes [Docket No. 2001–CE–05–AD; Amendment 39–12145; AD 2001–05–08] (RIN: 2120–AA64) received July 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. KOLBE: Committee on Appropriations. H.R. 2506. A bill making appropriations for foreign operations, export financing, and related programs for the fiscal year ending

September 30, 2002, and for other purposes (Rept. 107–142). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. House Concurrent Resolution 62. Resolution expressing the sense of Congress that the George Washington letter to Tuoro Synagogue in Newport, Rhode Island, which is on display at the B'nai B'rith Klutznick National Jewish Museum in Washington, D.C., is one of the most significant early statements buttressing the nascent American constitutional guarantee of religious freedom; with an amendment (Rept. 107–143). Referred to the House Calendar.

Ms. PRYCE of Ohio: Committee on Rules. House Resolution 196. Resolution providing for consideration of the bill (H.R. 7) to provide incentives for charitable contributions by individuals and businesses, to improve the effectiveness and efficiency of government program delivery to individuals and families in need, and to enhance the ability of low-income Americans to gain financial security by building assets (Rept. 107–144). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. LANTOS (for himself, Mr. HYDE, Mr. STUMP, Mr. SKELTON, Mr. COX, Mr. HOEFFEL, Mr. KING, Mr. TANCREDO, Mr. SHERMAN, Mr. FALEOMAVAEGA, Mr. CUNNINGHAM, Mr. MENENDEZ, Mrs. JO ANN DAVIS of Virginia, and Mr. ROHRABACHER):

H.R. 2507. A bill to prohibit payment by the United States Government of any request or claim by the Government of the People's Republic of China for reimbursement of the costs associated with the United States Navy EP–3 aircraft that was forced to land on Hainan Island, China, on April 1, 2001; to the Committee on International Relations.

By Mr. SMITH of Michigan:

H.R. 2508. A bill to authorize a plant pathogen genomics research program at the Department of Agriculture to reduce the economic impact of plant pathogens on commercially important crop plants; to the Committee on Agriculture.

By Mr. KING (for himself and Mrs. MALONEY of New York) (both by request):

H.R. 2509. A bill to authorize the Secretary of the Treasury to produce currency, postage stamps, and other security documents at the request of foreign governments, and security documents at the request of the individual States of the United States, or any political subdivision thereof, on a reimbursable basis; to the Committee on Financial Services.

By Mr. KING (for himself and Mrs. MALONEY of New York) (both by request):

H.R. 2510. A bill to extend the expiration date of the Defense Production Act of 1950, and for other purposes; to the Committee on Financial Services.

By Mr. MCCRERY:

H.R. 2511. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives to encourage energy conservation, energy reliability, and energy production; to the Committee on Ways and Means.

By Mr. HINOJOSA (for himself, Mr. FROST, Mr. FILNER, Mr. REYES, Mr. RODRIGUEZ, Mr. ORTIZ, Mr. GONZALEZ, and Mr. PASTOR):

H.R. 2512. A bill to authorize additional appropriations for the United States Customs Service for personnel, technology, and infrastructure to expedite the flow of legal commercial and passenger traffic along the Southwest land border, and for other purposes; to the Committee on Ways and Means.

By Mr. ALLEN (for himself, Mr. BALDACCI, and Mr. SANDERS):

H.R. 2513. A bill to amend title XI of the Social Security Act to clarify that the Secretary of Health and Human Services has the authority to treat certain State payments made in an approved demonstration project as medical assistance under the Medicaid Program for purposes of a rebate agreement under section 1927 of the Social Security Act, and for other purposes; to the Committee on Energy and Commerce.

By Mr. ALLEN:

H.R. 2514. A bill to provide for burdensharing contributions from allied and other friendly foreign countries for the costs of deployment of any United States missile defense system that is designed to protect those countries from ballistic missile attack; to the Committee on International Relations, and in addition to the Committees on Armed Services, and the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BAKER (for himself and Mr. SCHROCK):

H.R. 2515. A bill to amend title 32, United States Code, to remove the limitation on the use of defense funds for the National Guard civilian youth opportunities program, to lessen the matching funds requirements under the program, and for other purposes; to the Committee on Armed Services.

By Mr. BARRETT (for himself, Mr. BOUCHER, Mr. BROWN of Ohio, Mrs. CAPPS, Mr. DINGELL, Mr. DOYLE, Mr. ENGEL, Mr. LUTHER, Ms. MCCARTHY of Missouri, Mr. MARKEY, Mr. PALLONE, Mr. RUSH, Mr. STRICKLAND, Mr. TOWNS, and Mr. WAXMAN):

H.R. 2516. A bill to enhance the Federal Government's leadership role in energy efficiency by requiring Federal agencies to acquire central air conditioners and heat pumps that meet or exceed certain efficiency standards; to the Committee on Government Reform, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BEREUTER (for himself and Mr. SANDERS):

H.R. 2517. A bill to reauthorize the Export-Import Bank of the United States, and for other purposes; to the Committee on Financial Services.

By Mr. BOEHLERT (for himself and Mr. UDALL of Colorado):

H.R. 2518. A bill to establish a pilot program within the Department of Energy to facilitate the use of alternative fuel school buses through grants for energy demonstration and commercial application of energy technology, and for other purposes; to the Committee on Science, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CHABOT (for himself and Mr. DELAHUNT):

H.R. 2519. A bill to allow media coverage of court proceedings; to the Committee on the Judiciary.

By Mr. DOGGETT (for himself, Mr. RANGEL, Mr. STARK, Mr. MATSUI, Mr. COYNE, Mr. LEVIN, Mr. MCDERMOTT, Mr. KLECZKA, Mr. LEWIS of Georgia, Mr. NEAL of Massachusetts, Mr. MCNULTY, Mr. JEFFERSON, Mr. BECERRA, Mrs. THURMAN, Mr. ALLEN, Mr. BONIOR, Mr. HINCHEY, Mr. MCGOVERN, Mr. GEORGE MILLER of California, Ms. SANCHEZ, Ms. SCHAKOWSKY, Mr. TIERNEY, and Mrs. JONES of Ohio):

H.R. 2520. A bill to amend the Internal Revenue Code of 1986 to curb tax abuses by disallowing tax benefits claimed to arise from transactions without substantial economic substance, and for other purposes; to the Committee on Ways and Means.

By Mr. CLEMENT (for himself and Mr. HILLEARY):

H.R. 2521. A bill to permit States to place supplemental guide signs relating to veterans cemeteries on Federal-aid highways; to the Committee on Transportation and Infrastructure.

By Mr. COBLE (for himself and Mr. BERMAN) (both by request):

H.R. 2522. A bill to make improvements in the operation and administration of the Federal courts, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CUMMINGS (for himself, Mrs. JONES of Ohio, Mr. WYNN, Ms. NORTON, Mr. STUPAK, Mr. LATOURETTE, Ms. MCKINNEY, Mr. GREEN of Texas, Mr. OWENS, Mrs. MINK of Hawaii, Mr. KUCINICH, Mr. DAVIS of Illinois, and Mr. JEFFERSON):

H.R. 2523. A bill to eliminate certain inequities in the Civil Service Retirement System and the Federal Employees' Retirement System with respect to the computation of benefits for law enforcement officers, firefighters, air traffic controllers, nuclear materials couriers, members of the Supreme Court and Capitol police, and their survivors, and for other purposes; to the Committee on Government Reform.

By Mr. DICKS:

H.R. 2524. A bill to provide for the use and distribution of the funds awarded to the Quinault Indian Nation under United States Claims Court Dockets 772–71, 773–71, 774–71, and 775–71, and for other purposes; to the Committee on Resources.

By Mr. LINDER (for himself, Mr. PETERSON of Minnesota, Mr. YOUNG of Alaska, Mr. HALL of Texas, Mr. LEWIS of California, Mr. BARCIA, Mr. BONILLA, and Mr. CONDIT):

H.R. 2525. A bill to promote freedom, fairness, and economic opportunity by repealing the income tax and other taxes, abolishing the Internal Revenue Service, and enacting a national sales tax to be administered primarily by the States; to the Committee on Ways and Means.

By Mr. GOODLATTE (for himself, Mr. BOUCHER, and Mr. COX):

H.R. 2526. A bill to make permanent the moratorium enacted by the Internet Tax Freedom Act, and for other purposes; to the Committee on the Judiciary.

By Mr. KIND (for himself, Mr. ISAKSON, Mrs. MCCARTHY of New York, Mrs. BIGGERT, Mr. ANDREWS, Mr. PETRI, and Mr. KLECZKA):

H.R. 2527. A bill to provide grants for training of realtime court reporters and closed

captioners to meet the requirements for closed captioning set forth in the Telecommunications Act of 1996; to the Committee on Education and the Workforce.

By Mr. KOLBE:

H.R. 2528. A bill to modernize the legal tender of the United States, and for other purposes; to the Committee on Financial Services.

By Mr. NEAL of Massachusetts (for himself and Mr. MATSUI):

H.R. 2529. A bill to amend the Internal Revenue Code of 1986 to provide a revenue-neutral simplification of the individual income tax; to the Committee on Ways and Means.

By Ms. ROS-LEHTINEN (for herself, Mr. SMITH of New Jersey, Mr. TANCREDO, Ms. MCKINNEY, Mr. CHABOT, and Mr. BROWN of Ohio):

H.R. 2530. A bill to prohibit issuance of a visa to any citizen of the People's Republic of China who participates in or otherwise supports the harvesting, transplantation, or trafficking of organs of executed Chinese prisoners, and for other purposes; to the Committee on the Judiciary.

By Ms. SCHAKOWSKY (for herself, Mr. SANDERS, Mr. GUTIERREZ, Mr. JACKSON of Illinois, Mrs. CLAYTON, Mr. HINCHEY, Ms. NORTON, Mr. PAYNE, Mr. DAVIS of Illinois, Ms. MCKINNEY, Mr. RUSH, Ms. JACKSON-LEE of Texas, Mr. DEFAZIO, Ms. WATERS, Mr. JEFFERSON, and Mr. FILNER):

H.R. 2531. A bill to amend the Truth in Lending Act, the Revised Statutes of the United States, the Home Mortgage Disclosure Act of 1975, and the amendments made by the Home Ownership and Equity Protection Act of 1994 to protect consumers from predatory lending practices, and for other purposes; to the Committee on Financial Services.

By Mr. SMITH of Michigan:

H.R. 2532. A bill to provide for the establishment of regional plant genome and gene expression research and development centers; to the Committee on Agriculture.

By Mr. SMITH of Michigan:

H.R. 2533. A bill to amend the Federal Election Campaign Act of 1971 to reduce the influence of political action committees in elections for Federal office, and for other purposes; to the Committee on House Administration.

By Ms. SOLIS (for herself and Mr. SCHIFF):

H.R. 2534. A bill to authorize the Secretary of the Interior to conduct a special resource study of the Lower Los Angeles River and San Gabriel River watersheds in the State of California, and for other purposes; to the Committee on Resources.

By Mr. STEARNS:

H.R. 2535. A bill to permit wireless carriers to obtain sufficient spectrum to meet the growing demand for existing services and ensure that such carriers have the spectrum they need to deploy fixed and advanced services, and for other purposes; to the Committee on Energy and Commerce.

By Mr. STEARNS:

H.R. 2536. A bill to amend the Communications Act of 1934 to reduce restrictions on media ownership, and for other purposes; to the Committee on Energy and Commerce.

By Mr. UDALL of New Mexico (for himself, Mr. FLAKE, Mr. WU, Ms. HART, Mr. BONIOR, Mr. MOORE, Mr. WEINER, and Mr. UDALL of Colorado):

H.R. 2537. A bill to provide for the appointment of an Assistant United States Attorney for each judicial district for the purpose of prosecuting firearms offenses; to the Committee on the Judiciary.

By Mr. UDALL of New Mexico:

H.R. 2538. A bill to amend the Small Business Act to expand and improve the assistance provided by Small Business Development Centers to Indian tribe members, Native Alaskans, and Native Hawaiians; to the Committee on Small Business.

By Mr. WATKINS:

H.R. 2539. A bill to amend the Internal Revenue Code of 1986 to allow the low-income housing credit without regard to whether moderate rehabilitation assistance is provided with respect to a building; to the Committee on Ways and Means.

By Mr. HUNTER (for himself and Mr. SPRATT):

H. Res. 195. A resolution commending the United States military and defense contractor personnel responsible for the successful in-flight ballistic missile defense interceptor test on July 14, 2001, and for other purposes; to the Committee on Armed Services. considered and agreed to.

By Ms. PRYCE of Ohio:

H. Res. 196. A resolution providing for consideration of the bill (H.R. 7) to provide incentives for charitable contributions by individuals and businesses, to improve the effectiveness and efficiency of government program delivery to individuals and families in need, and to enhance the ability of low-income Americans to gain financial security by building assets.

By Mr. BARRETT (for himself, Mr. BARR of Georgia, Mr. HILLEARY, Mr. HOSTETTLER, Mr. REHBERG, Mr. PAUL, Mr. REYNOLDS, Mr. ADERHOLT, and Mr. SCHAFFER):

H. Res. 197. A resolution urging the President to reject any decree, proclamation, or treaty adopted by the United Nations Conference on Small Arms and Light Weapons which would infringe on the right of United States citizens under the 2nd amendment to the Constitution; to the Committee on the Judiciary, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. DAVIS of California:

H. Res. 198. A resolution congratulating Tony Gwynn on the announcement of his retirement from the San Diego Padres and from Major League Baseball; to the Committee on Government Reform.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

156. The SPEAKER presented a memorial of the Legislature of the State of Texas, relative to House Concurrent Resolution No. 201 memorializing the United States Congress to take appropriate action to prevent further desecration of the SS *Leopoldville* or any of its contents; to the Committee on Armed Services.

157. Also, a memorial of the Legislature of the State of Louisiana, relative to House Concurrent Resolution No. 143 memorializing the United States Congress to assist the Federal Trade Commission in preventing the sale of crawfish and catfish imported from Asia and Spain at prices with which Louisiana producers cannot complete; to the Committee on Energy and Commerce.

158. Also, a memorial of the Legislature of the State of Texas, relative to House Concurrent Resolution No. 8 memorializing the United States Congress to increase funding for research by the National Institutes of Health for the treatment and cure of Duchenne and Becker muscular dystrophy; to the Committee on Energy and Commerce.

159. Also, a memorial of the Legislature of the State of Texas, relative to Senate Concurrent Resolution No. 34 memorializing the United States Congress to support the Minerals Management Service plan to proceed with the Outer Continental Shelf Lease Sale 181 for the eastern Gulf of Mexico scheduled for December 5, 2001; to the Committee on Resources.

160. Also, a memorial of the Legislature of the State of Texas, relative to Senate Concurrent Resolution No. 12 memorializing the United States Congress to authorize an additional 18 federal judges and commensurate staff to handle the current and anticipated caseloads along the United States-Mexico border and to fully reimburse local governments for the costs incurred in prosecuting and incarcerating federal defendants; to the Committee on the Judiciary.

161. Also, a memorial of the Legislature of the State of Louisiana, relative to House Concurrent Resolution No. 152 memorializing the United States Congress to adopt legislation authorizing states to opt out of the federal-aid highway program; to the Committee on Transportation and Infrastructure.

162. Also, a memorial of the Legislature of the State of Louisiana, relative to House Concurrent Resolution No. 188 memorializing the United States Congress to support House Resolution 527 making changes to Section 527 of the Internal Revenue Code to exempt certain state and local political committees which are required to report contributions and expenditures pursuant to local or state law; to the Committee on Ways and Means.

163. Also, a memorial of the Legislature of the State of Louisiana, relative to House Concurrent Resolution No. 140 memorializing the United States Congress to act at once to provide for advanced and increased funding of the Weatherization Assistance Program for Low-Income Persons and the Low-Income Home Energy Assistance Program, so as to enable the programs to engage in planning their work more efficiently and engaging and retaining qualified employees; jointly to the Committees on Energy and Commerce and Education and the Workforce.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 20: Mr. BASS.

H.R. 28: Mr. LARSON of Connecticut and Mr. LANTOS.

H.R. 31: Mr. WALDEN of Oregon.

H.R. 41: Mr. NUSSLE and Mr. SIMPSON.

H.R. 64: Mr. BARTLETT of Maryland.

H.R. 68: Mr. THORNBERRY, Mr. TANCREDO, Mr. BLAGOJEVICH, Mr. FRANK, Mr. DEUTSCH, and Mr. BRADY of Pennsylvania.

H.R. 91: Mr. KILDEE and Mr. CALVERT.

H.R. 163: Mrs. MALONEY of New York.

H.R. 175: Mr. TOOMEY.

H.R. 218: Mrs. CAPPS and Mr. BACHUS.

H.R. 261: Mrs. DAVIS of California.

H.R. 267: Mr. THOMPSON of California, Mr. SHUSTER, and Mr. CROWLEY.

H.R. 281: Mr. KLECZKA, Ms. ESHOO, and Mr. LAMPSON.

H.R. 288: Mr. PRICE of North Carolina.

H.R. 303: Mr. DEMINT.

H.R. 326: Mr. INSLEE, Mr. REYES, and Ms. WATSON of California.

H.R. 356: Mr. WAMP

H.R. 394: Ms. SANCHEZ, Ms. BERKLEY, Mr. MASCARA, Mr. PICKERING, and Mr. RILEY.
H.R. 429: Mr. LEVIN.
H.R. 436: Mr. PAYNE and Mr. NADLER.
H.R. 491: Mr. EVANS, Mr. SCHROCK, Mrs. MINK of Hawaii, Mr. INSLEE, and Ms. BROWN of Florida.
H.R. 527: Mrs. MORELLA.
H.R. 572: Mr. TIERNEY and Mr. JEFFERSON.
H.R. 602: Mr. TOM DAVIS of Virginia.
H.R. 612: Mr. BARRETT.
H.R. 619: Ms. JACKSON-LEE of Texas and Ms. DELAURO.
H.R. 649: Mr. BROWN of South Carolina.
H.R. 656: Mrs. THURMAN and Mr. JEFFERSON.
H.R. 664: Ms. SANCHEZ, Mr. HONDA, Mr. BOYD, Mrs. NAPOLITANO, Mr. CARDIN, and Mr. UNDERWOOD.
H.R. 668: Mrs. WILSON and Mr. KENNEDY of Minnesota.
H.R. 677: Mr. MCKINNEY, Mr. MCDERMOTT, and Mr. BOUCHER.
H.R. 686: Mr. CONYERS.
H.R. 690: Mr. JACKSON of Illinois and Mrs. CLAYTON.
H.R. 702: Mr. SMITH of Washington.
H.R. 710: Mr. PETERSON of Pennsylvania.
H.R. 717: Mr. WATT of North Carolina.
H.R. 737: Mr. PLATTS.
H.R. 751: Mr. PASTOR.
H.R. 752: Mr. JEFFERSON.
H.R. 778: Mr. HOYER.
H.R. 781: Mr. THOMPSON of California, Mr. JEFFERSON, Mr. LUTHER, and Mr. UDALL of Colorado.
H.R. 792: Ms. ROS-LEHTINEN, Mr. CRAMER, Mr. GRAHAM, Mr. BROWN of South Carolina, Mr. BISHOP, Mr. WELLER, and Mr. SOUDER.
H.R. 817: Mr. FARR of California.
H.R. 822: Mr. BLAGOJEVICH, Mrs. MINK of Hawaii, Ms. KAPTUR, and Mr. UDALL of New Mexico.
H.R. 840: Ms. LEE, Mr. NADLER, and Mr. DEFAZIO.
H.R. 862: Mr. SAWYER.
H.R. 870: Ms. JACKSON-LEE of Texas.
H.R. 903: Mr. ENGLISH and Mr. GREENWOOD.
H.R. 964: Mr. OLVER.
H.R. 967: Mr. HONDA.
H.R. 981: Mr. LUCAS of Oklahoma.
H.R. 986: Mrs. THURMAN and Mr. SMITH of Michigan.
H.R. 1013: Mr. POMEROY.
H.R. 1014: Mr. BORSKI, Mr. DAVIS of Illinois, Mr. JEFFERSON, Mr. LANGEVIN, Ms. ROYBAL-ALLARD, Mr. SHERMAN, and Mr. WYNN.
H.R. 1060: Mr. STARK.
H.R. 1070: Mr. KUCINICH.
H.R. 1073: Mrs. JO ANN DAVIS of Virginia, Mr. HONDA, Mr. BOYD, and Mrs. NAPOLITANO.
H.R. 1077: Mrs. CLAYTON.
H.R. 1089: Mrs. MALONEY of New York.
H.R. 1090: Mr. BLAGOJEVICH, Mr. LAHOOD, Mr. GEORGE MILLER of California, Mr. SANDLIN, and Mr. UDALL of Colorado.
H.R. 1093: Mr. UDALL of New Mexico.
H.R. 1094: Mr. UDALL of New Mexico.
H.R. 1110: Mr. LATHAM, Mr. BARTLETT of Maryland, Mr. DEMINT, Mr. FLETCHER, and Mrs. WILSON.
H.R. 1112: Ms. ROYBAL-ALLARD.
H.R. 1134: Mr. MCHUGH.
H.R. 1152: Mr. FARR of California and Ms. LOFGREN.
H.R. 1170: Mr. SMITH of Washington, Mr. ISRAEL, Mr. BENTSEN, and Mr. LAMPSON.
H.R. 1182: Mr. LEWIS of Kentucky and Mr. NEAL of Massachusetts.
H.R. 1186: Mr. HORN and Mr. HONDA.
H.R. 1198: Mr. MATSUI.
H.R. 1265: Mr. HONDA.
H.R. 1266: Mr. BRADY of Pennsylvania, Mr. MORAN of Virginia, Mr. MCDERMOTT, Mr. SAWYER, Mr. SCOTT, Mr. SMITH of Michigan, Mr. KENNEDY of Rhode Island, Mr. LAHOOD, and Mr. NEAL of Massachusetts.
H.R. 1274: Mrs. DAVIS of California.
H.R. 1304: Mr. SESSIONS and Mr. KING.
H.R. 1316: Mr. LARGENT.
H.R. 1338: Mr. CANTOR.
H.R. 1340: Mr. BRADY of Pennsylvania and Mrs. MALONEY of New York.
H.R. 1348: Mr. VISCLOSKY.
H.R. 1366: Ms. WATSON.
H.R. 1367: Mr. MCDERMOTT.
H.R. 1377: Mr. HASTINGS of Washington, Mr. STRICKLAND, Mr. HALL of Ohio, Mr. LANGEVIN, Mr. HANSEN, and Mr. HILLEARY.
H.R. 1383: Mr. ENGLISH, Mr. PASCRELL, Mr. TIAHRT, Ms. HARMAN, and Mrs. MALONEY of New York.
H.R. 1401: Mr. LANTOS and Mr. ROGERS of Kentucky.
H.R. 1406: Mr. BALDACCI.
H.R. 1433: Mr. MCDERMOTT.
H.R. 1436: Mr. REYES, Mr. DICKS, Mr. NADLER, Ms. ROYBAL-ALLARD, Mr. LATOURETTE, Mr. SHIMKUS, Mrs. CHRISTENSEN, Mr. LEVIN, Mr. BRADY of Pennsylvania, Mr. SAXTON, and Mr. LAMPSON.
H.R. 1490: Mr. FARR of California, Mr. MURTHA, Mr. CHAMBLISS, Mr. DEAL of Georgia, Ms. MCKINNEY, Mr. BISHOP, and Mr. MCGOVERN.
H.R. 1509: Mr. TURNER, Mr. TOM DAVIS of Virginia, Mr. TERRY, Mr. FROST, Mr. KUCINICH, and Mr. PLATTS.
H.R. 1510: Mr. PETERSON of Pennsylvania, Mr. NUSSLE, Mr. MILLER of Florida, Mr. CANTOR, and Mr. CRENSHAW.
H.R. 1520: Mr. WU, Mrs. CAPPS, and Mr. LAMPSON.
H.R. 1522: Mr. BONILLA, Mr. CARDIN, and Mr. TIERNEY.
H.R. 1524: Mr. KELLER.
H.R. 1556: Ms. RIVERS, Mr. GORDON, Mr. LAHOOD, Mr. GUTIERREZ, Mr. WAXMAN, Mr. BLAGOJEVICH, Mr. HASTINGS of Florida, Mr. SAXTON, Mr. HOUGHTON, Mr. LAMPSON, Mrs. CLAYTON, Mr. HOLT, Ms. BALDWIN, Mrs. THURMAN, and Mr. SHAYS.
H.R. 1581: Mr. NUSSLE.
H.R. 1592: Mr. TANCREDO.
H.R. 1609: Mr. BONILLA, Mr. SCHAFFER, Mr. LAHOOD, Mr. STUPAK, and Mr. FATTAH.
H.R. 1624: Mrs. MINK of Hawaii, Mr. HONDA, and Mr. MORAN of Kansas.
H.R. 1629: Ms. HART, Ms. BERKLEY, Ms. MCKINNEY, Mr. GEORGE MILLER of California, Mrs. CAPITO, Mr. MATHESON, Mr. LANTOS, Ms. NORTON, Ms. SCHAKOWSKY, and Mr. JEFFERSON.
H.R. 1636: Mr. WELLER.
H.R. 1645: Mr. MORAN of Virginia, Mr. BONIOR, Mr. LARSON of Connecticut, and Mr. LIPINSKI.
H.R. 1650: Mr. ENGLISH and Mrs. MALONEY of New York.
H.R. 1673: Mr. MEEKS of New York.
H.R. 1675: Mr. CALVERT and Mr. KOLBE.
H.R. 1700: Ms. BROWN of Florida, Mr. BLAGOJEVICH, Mr. OBEY, Ms. MCKINNEY, Mr. MCDERMOTT, Mr. ALLEN, and Mr. COSTELLO.
H.R. 1701: Mr. GOODLATTE, Mr. GILLMOR, and Mr. JOHN.
H.R. 1707: Mr. HONDA.
H.R. 1708: Mr. MCGOVERN, Mr. STUPAK, Mr. STRICKLAND, and Mr. BRADY of Pennsylvania.
H.R. 1718: Mr. ABERCROMBIE, Mr. DEUTSCH, Mr. TIERNEY, Mr. WEXLER, Ms. ESHOO, Mr. LANGEVIN, Mr. PASTOR, Mr. LEVIN, Mr. BENTSEN, Mr. SKELTON, Mr. UNDERWOOD, and Mr. PETERSON of Minnesota.
H.R. 1733: Mr. FILNER and Mrs. CLAYTON.
H.R. 1744: Mr. HOLDEN, Mr. TIERNEY, and Mr. BONIOR.
H.R. 1775: Mr. BRADY of Texas.
H.R. 1779: Mr. SHAYS, Mr. FILNER, Ms. ROYBAL-ALLARD, and Mr. OWENS.
H.R. 1795: Mr. FLAKE, Mr. WEXLER, Mr. FRANK, Mr. REYNOLDS, Ms. WOOLSEY, Mr. HOLT, and Mr. SANDLIN.
H.R. 1810: Mr. NADLER.
H.R. 1822: Mr. MEEKS of New York, Mr. BLAGOJEVICH, and Mr. MURTHA.
H.R. 1835: Mr. HASTINGS of Washington, Mr. HAYWORTH, Mr. TERRY, Mr. FILNER, and Ms. ROYBAL-ALLARD.
H.R. 1839: Mr. STUPAK and Mr. KIND.
H.R. 1856: Mr. JEFFERSON.
H.R. 1861: Mr. MCDERMOTT.
H.R. 1862: Mr. HINCHEY and Mr. KILDEE.
H.R. 1864: Mr. CASTLE, Mr. PICKERING, and Mr. BLAGOJEVICH.
H.R. 1882: Mr. KILDEE.
H.R. 1911: Mr. SANDERS.
H.R. 1928: Mr. KILDEE.
H.R. 1949: Mr. CALVERT and Mr. FRANK.
H.R. 1975: Mr. TOOMEY and Mr. RYUN of Kansas.
H.R. 1990: Mr. TIERNEY and Mr. CUMMINGS.
H.R. 1996: Ms. DELAURO.
H.R. 2005: Mr. KILDEE.
H.R. 2023: Mr. LAHOOD, Mr. KOLBE, Mr. TOM DAVIS of Virginia, Mrs. JO ANN DAVIS of Virginia, Mr. BARR of Georgia, Mrs. CUBIN, Mr. POMBO, Mr. BONILLA, Mr. ISAKSON, and Mr. DREIER.
H.R. 2073: Ms. MCKINNEY, Mr. PAUL, and Ms. ROYBAL-ALLARD.
H.R. 2074: Mr. SANDERS and Ms. SOLIS.
H.R. 2098: Mr. ENGEL.
H.R. 2110: Mr. KILDEE.
H.R. 2117: Mr. MORAN of Virginia and Mr. HAYWORTH.
H.R. 2121: Mr. FALEOMAVAEGA, Ms. KAPTUR, Mr. SHERMAN, Mr. FROST, Mr. HOEFFEL, and Mr. HILLIARD.
H.R. 2125: Mr. HINCHEY, Mr. MEEKS of New York, Ms. NORTON, and Mr. CRAMER.
H.R. 2134: Mr. KILDEE.
H.R. 2145: Mr. KUCINICH and Mr. CONYERS.
H.R. 2147: Mr. RANGEL, Mr. WATKINS, and Mr. HERGER.
H.R. 2157: Mr. HINCHEY and Mr. UDALL of New Mexico.
H.R. 2160: Mrs. JONES of Ohio and Mr. BALDACCI.
H.R. 2165: Mr. MCGOVERN, Mr. SCHROCK, Mr. BRADY of Texas, Mr. LAHOOD, Ms. MCKINNEY, Mr. BARTLETT of Maryland, Mr. BALLENGER, Mr. BILIRAKIS, Mr. BRYANT, Mr. BUYER, Mr. COBLE, Mr. CUNNINGHAM, Mr. GIBBONS, Mr. GRAHAM, Mr. HILLEARY, Mr. HOBSON, Mrs. JOHNSON of Connecticut, Mr. SAM JOHNSON of Texas, Mr. OXLEY, Mr. PITTS, Mr. RYUN of Kansas, Mr. SAXTON, Mr. SIMMONS, and Mr. SPRATT.
H.R. 2166: Mr. MATSUI, Mr. LEVIN, Mr. KILDEE, Mr. JEFFERSON, and Mr. MCGOVERN.
H.R. 2173: Mr. WEINER, Mrs. THURMAN, and Mr. BLAGOJEVICH.
H.R. 2178: Ms. MCKINNEY.
H.R. 2211: Mr. SOUDER and Mr. SANDERS.
H.R. 2222: Mr. FALEOMAVAEGA, Mr. GUTIERREZ, and Mr. MEEKS of New York.
H.R. 2223: Mr. GEORGE MILLER of California, Mr. FROST, Mr. SCHIFF, and Mr. SANDLIN.
H.R. 2229: Mr. FOLEY and Mr. COOKSEY.
H.R. 2235: Mr. BAKER and Mr. GRAHAM.
H.R. 2240: Mr. PUTNAM, Mr. DAVIS of Florida, Ms. BROWN of Florida, Ms. ROS-LEHTINEN, and Mrs. THURMAN.
H.R. 2243: Mr. JEFFERSON, Mr. MEEKS of New York, and Ms. NORTON.
H.R. 2259: Mr. WATTS of Oklahoma.
H.R. 2272: Mr. HILLIARD, Mr. EHLERS, and Mr. CAPUANO.
H.R. 2281: Ms. ROYBAL-ALLARD, Mr. COSTELLO, Mr. HILLIARD, and Mr. LAMPSON.

H.R. 2293: Mr. KELLER.

H.R. 2294: Mrs. DAVIS of California, Mr. HINCHEY, Mr. KILDEE, Mr. BONIOR, and Ms. MCKINNEY.

H.R. 2310: Mr. SANDERS and Mr. MALONEY of Connecticut.

H.R. 2326: Mr. UDALL of Colorado, Mr. ISAKSON, Ms. MCCARTHY of Missouri, Mr. SCHIFF, and Mr. GRUCCI.

H.R. 2327: Mr. TERRY and Mrs. CUBIN.

H.R. 2328: Ms. NORTON.

H.R. 2329: Mr. SANDERS, Mr. MCDERMOTT, Mr. JEFFERSON, Mr. CHAMBLISS, Mr. MCINTYRE, Mr. WEINER Mr. HONDA, Mr. ENGEL, and Mr. MEEHAN.

H.R. 2339: Mr. ISAKSON and Mr. KILDEE.

H.R. 2340: Mr. BONIOR.

H.R. 2348: Mr. WEXLER, Mr. WYNN, Ms. KILPATRICK, Mr. KENNEDY of Rhode Island, Mr. UDALL of Colorado, Mr. BACA, Mr. LAMPSON, and Mr. LANGEVIN.

H.R. 2349: Mr. CARDIN, Ms. NORTON, Mr. WYNN, Mr. JEFFERSON, Ms. SOLIS, and Mr. PRICE of North Carolina.

H.R. 2378: Mr. WEXLER.

H.R. 2379: Mr. HINCHEY, Mr. OXLEY, Mr. MEEKS of New York, and Ms. NORTON.

H.R. 2390: Mr. PITTS.

H.R. 2413: Mr. SANDERS, Mr. MINK of Hawaii, and Mr. SCHROCK.

H.R. 2417: Mr. MCGOVERN, Ms. MCKINNEY, Mr. TOWNS, Mr. JACKSON of Illinois, Mr. LUCAS of Kentucky, and Mrs. MINK of Hawaii.

H.R. 2435: Ms. HARMAN and Mr. TERRY.

H.R. 2438: Mr. BORSKI and Mr. KIRK.

H.R. 2453: Ms. MCKINNEY and Mr. HILLIARD.

H.R. 2459: Mr. NADLER.

H.R. 2494: Mr. BLAGOJEVICH, Ms. MCKINNEY, and Mr. THOMPSON of California.

H.R. 2505: Mr. WU.

H.J. Res. 6: Mr. ENGEL.

H. Con. Res. 17: Mr. HOLT and Mr. LAMPSON.

H. Con. Res. 36: Mr. LIPINSKI, Mr. BAIRD, Mr. DOGGETT, Mr. STUPAK, and Mr. DIAZ-BALART.

H. Con. Res. 42: Mrs. CAPPS.

H. Con. Res. 58: Mr. SHERMAN.

H. Con. Res. 61: Mr. RUSH.

H. Con. Res. 97: Mrs. ROUKEMA.

H. Con. Res. 102: Mr. SWEENEY, Mr. WATT of North Carolina, Mr. HOEFFEL, Mr. BERMAN, Mr. LEWIS of Kentucky, Mr. OLVER, Mr. ENGEL, and Mr. BONIOR.

H. Con. Res. 166: Mr. FOLEY, Mr. GREEN of Wisconsin, Mr. HINCHEY, Ms. MILLENDER-MCDONALD, Mr. CARSON of Oklahoma Ms. ROS-LEHTINEN, Mr. HONDA, Ms. NORTON, Mr. HILLIARD, Mr. SANDERS, and Ms. HOOLEY of Oregon.

H. Res. 152: Mr. INSLEE and Mr. MCHUGH.

H. Res. 173: Ms. SLAUGHTER.

H. Res. 191: Mr. SHERMAN, Mr. HOLT, and Mr. SOUDER.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 2500

OFFERED BY: MR. BARTLETT OF MARYLAND

AMENDMENT NO. 14: At the end of the bill (preceding the short title), insert the following:

TITLE VIII—ADDITIONAL GENERAL PROVISIONS

SEC. 801. None of the funds made available in this Act may be used to implement any recommendation or requirement adopted at the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (July 2001), except to the extent authorized pursuant to a law enacted after the date of the enactment of this Act.

H.R. 2500

OFFERED BY: MR. CONYERS

AMENDMENT NO. 15: At the end of the bill (before the short title), insert the following:

TITLE VIII—ADDITIONAL GENERAL PROVISIONS

SEC. 801. None of the funds made available in this Act may be used by the Department of Justice to propose, issue, consider, analyze, or implement any revision, of Office of Management and Budget Circular No. A–102.

H.R. 2500

OFFERED BY: MR. DELAHUNT

AMENDMENT NO. 16: At the end of the bill, insert after the last title (preceding the short title) the following:

TITLE VIII—ADDITIONAL GENERAL PROVISIONS

SEC. 801. None of the funds made available in this Act may be used after December 15, 2001, for any operation of the Office of Independent Counsel in the investigation designated ''In re: Henry G. Cisneros''.

H.R. 2500

OFFERED BY: MR. DELAY

AMENDMENT NO. 17: Page 108, after line 22, insert the following:

TITLE VIII—ADDITIONAL GENERAL PROVISIONS

SEC. 801. None of the funds appropriated in this Act may be used to negotiate or pay any request or claim by the Government of the People's Republic of China for reimbursement of the costs associated with the detention of the crewmembers of the United States Navy EP–3 aircraft that was forced to land on Hainan Island, China, on April 1, 2001, or for reimbursement of any of the costs associated with the return of the aircraft to the United States.

H.R. 2500

OFFERED BY: MR. HASTINGS OF FLORIDA

AMENDMENT NO. 18: Page 45, line 21, after the dollar amount, insert the following: ''(reduced by $250,000)''.

Page 46, line 16, after the dollar amount, insert the following: ''(increased by $250,000, for a grant to the City of Pahokee, Florida to assist in the dredging on the City Marina)''.

H.R. 2500

OFFERED BY: MS. JACKSON-LEE OF TEXAS

AMENDMENT NO. 19: Page 72, line 5, immediately before the period insert the following:

: *Provided further,* That, notwithstanding any other provision of law, of the amount made available under this heading, $7,800,000 shall be available to provide funds for legal representation for parents who are seeking the return of children abducted to or from the United States under the Hague Convention on the Civil Aspects of International Child Abduction

H.R. 2500

OFFERED BY: MS. JACKSON-LEE OF TEXAS

AMENDMENT NO. 20: Page 108, after line 22, insert the following:

TITLE VIII—ADDITIONAL GENERAL PROVISIONS

SEC. 801. None of the funds appropriated in title I of this Act may be used to prohibit states from participating in voluntary child safety gun lock programs.

H.R. 2500

OFFERED BY: MS. JACKSON-LEE OF TEXAS

AMENDMENT NO. 21: At the end of the bill, insert after the last section (preceding the short title) the following:

TITLE VIII—ADDITIONAL GENERAL PROVISIONS

SEC. 801. None of the funds made available in this Act may be used to remove, deport, or exclude any alien from the United States under the Immigration and Nationality Act for conviction of a crime if the alien——

(1) before April 1, 1997, entered into a plea agreement under which the alien pled guilty to the crime that renders the alien inadmissible or deportable; and

(2) after June 25, 2001——

(a) requests discretionary relief under section 212(c) of the Immigration and Nationality Act (as in effect at the time of the alien's plea agreement) on the ground that the opinion of the Supreme court of the United States rendered in Immigration and Naturalization Service v. St. Cyr, 533 U.S. ——(2001) renders the alien eligible to seek such relief; and

(B) has not received a final order of removal, deportation, or exclusion upon denial of such request.

H.R. 2500

OFFERED BY: MS. JACKSON-LEE OF TEXAS

AMENDMENT NO. 22: Page 108, after line 22, insert the following:

TITLE VIII—ADDITIONAL GENERAL PROVISIONS

SEC. 801. Of the amount appropriated for ''Department of Justice, Juvenile Justice Programs'', $2,000,000 shall be available only for the City of Houston At-Risk Children's Program of the At-Risk Children's Program under title V of the Juvenile Justice and Delinquency Prevention Act of 1974.

H.R. 2500

OFFERED BY: MS. JACKSON-LEE OF TEXAS

AMENDMENT NO. 23: Page 108, after line 22, insert the following:

TITLE VIII—ADDITIONAL GENERAL PROVISIONS

SEC. 801. The amounts otherwise provided by this Act are revised by reducing the amount made available for ''Salaries and Expenses, General Administration, Department of Justice'', and increasing the amount made available for ''Salaries and Expenses, Community Relations Service, Department of Justice'', by $1,000,000.

H.R. 2500

OFFERED BY: MS. JACKSON-LEE OF TEXAS

AMENDMENT NO. 24: Page 108, after line 22, insert the following:

TITLE VIII—ADDITIONAL GENERAL PROVISIONS

SEC. 801. Of the amounts made available under the heading ''Immigration and Naturalization Service, Enforcement and Border Affairs'', not less than $3,000,000 shall be used to make legal orientation presentations to aliens being held in detention in order to improve deserving aliens' access to relief, to increase the efficiency of the immigration system, and to reduce the overall cost of detaining aliens.

H.R. 2500

OFFERED BY: MS. JACKSON-LEE OF TEXAS

AMENDMENT NO. 25: Page 108, after line 22, insert the following:

TITLE VIII—ADDITIONAL GENERAL PROVISIONS

SEC. 801. Of the amounts made available under the heading ''Immigration and Naturalization Service, Enforcement and Border

Affairs'', $20,000,000 may be used for a program of alternatives to detention for aliens who are not a danger to the community and are not likely to abscond.

H.R. 2500

OFFERED BY: MR. KERNS

AMENDMENT NO. 26: At the end of the bill (preceding the short title), insert the following:

TITLE VIII—ADDITIONAL GENERAL PROVISIONS

SEC. 801. None of the funds made available in this Act may be used in connection with any system to conduct background checks on persons purchasing a firearm that provides for the retention of any information submitted under the system by, or on behalf of, each person determined under such system not to be prohibited from receiving a firearm.

H.R. 2500

OFFERED BY: MRS. MALONEY OF NEW YORK

AMENDMENT NO. 27: Page 47, line 22, after the dollar amount, insert the following: ''(reduced by $2,500,000)''.

Page 48, line 11, after the dollar amount, insert the following: ''(increased by $2,500,000)''.

H.R. 2500

OFFERED BY: MRS. MALONEY OF NEW YORK

AMENDMENT NO. 28: Page 48, line 3, after the dollar amount, insert the following: ''(increased by $2,000,000)''.

Page 48, line 14, after the dollar amount, insert the following: ''(reduced by $2,000,000)''.

H.R. 2500

OFFERED BY: MRS. MALONEY OF NEW YORK

AMENDMENT NO. 29: Page 48, line 1, after the dollar amount, insert the following: ''(increased by $500,000)''.

Page 48, line 14, after the dollar amount, insert the following: ''(reduced by $500,000)''.

H.R. 2500

OFFERED BY: MR. MORAN OF VIRGINIA

AMENDMENT NO. 30: At the end of the bill (preceding the short title), insert the following:

TITLE VIII—ADDITIONAL GENERAL PROVISIONS

SEC. 801. None of the funds made available in this Act may be used to destroy any record of the national instant criminal background check system established under section 103 of the Brady Handgun Violence Prevention Act, within 90 days after the date the record is created.

H.R. 2500

OFFERED BY MS. NORTON

AMENDMENT NO. 31: Page 88, line 11, after the dollar amount, insert the following: ''(increased by $1,000,000) (reduced by $1,000,000)''.

H.R. 2500

OFFERED BY: MR. OBEY

AMENDMENT NO. 32: At the end of the bill (before the short title), insert the following:

TITLE VIII—ADDITIONAL GENERAL PROVISIONS

SEC. 801. None of the funds made available in this Act may be used by the Federal Communications Commission to implement changes in the Commission's rules, or the policies established to administer the rules, relating to media cross-ownership and multiple ownership as set forth at section 73.3555 of title 47, Code of Federal Regulations.

H.R. 2500

OFFERED BY: MR. OLVER

AMENDMENT NO. 33: Page 107, beginning on line 21, strike section 623 (relating to Kyoto Protocol).

H.R. 2500

OFFERED BY: MR. OXLEY

AMENDMENT NO. 34: Page 94, beginning on line 9, strike '': *Provided further,* That fees'' and all that follows through line 20 and insert a period.

H.R. 2500

OFFERED BY: MR. ROHRABACHER

AMENDMENT NO. 35: At the end of the bill (before the short title), insert the following:

TITLE VIII—ADDITIONAL GENERAL PROVISIONS

SEC. 801. None of the funds made available in this Act may be used by the Department of Justice or the Department of State to file a motion in any court opposing a civil action against any Japanese person or corporation for compensation or reparations in which the plaintiff alleges that, as an American prisoner of war during World War II, he or she was used as slave or forced labor.

H.R. 2500

OFFERED BY: MR. STEARNS

AMENDMENT NO. 36: Page 83, after line 22, insert the following:

SEC. 404. (a) Congress finds the following:

(1) Linda Shenwick, in the performance of her duties, informed the Congress of waste, fraud, and mismanagement at the United Nations.

(2) Linda Shenwick's findings of waste, fraud, and mismanagement led to the creation of the Office of Inspector General at the United Nations.

(3) Department of State officials retaliated against Linda Shenwick by removing her from her position at the United Nations, withholding her salary, downgrading her performance reviews, and ultimately terminating her employment with the Department of State.

(4) The Whistleblower Protection Act of 1989 (Public Law 101–12) protects the disclosure of information to the Congress and prohibits reprisal against an employee for such disclosure.

(b) It is the sense of Congress that Linda Shenwick, a dedicated Federal employee who, in the performance of her duties, informed the Congress of waste, fraud, and mismanagement at the United Nations, should be reinstated to her former position at the Department of State.

H.R. 2500

OFFERED BY: MR. TRAFICANT

AMENDMENT NO. 37. Page 108, after line 7 insert the following:

SEC. . None of the funds made available by this Act shall be used to house prisoners in a Federal prison facility that is deemed overcrowded by Bureau of Prisons standards.

H.R. 2500

OFFERED BY: MR. TRAFICANT

AMENDMENT NO. 38. Page 108, after line 7, insert the following new section:

SEC. ____. No funds appropriated or otherwise made available under this Act shall be made available to any person or entity that has been convicted of violating the Buy American Act (41 U.S.C. 10a–10c).

H.R. 2500

OFFERED BY: MS. VELÁQUEZ

AMENDMENT NO. 39. Page 59, line 13, after the dollar amount insert the following: ''(reduced by $2,000,000)''.

Page 71, line 4, after the dollar amount insert the following: ''(reduced by $8,000,000)''.

Page 73, line 3, after the dollar amount insert the following: ''(reduced by $7,000,000)''.

Page 95, line 3, after the dollar amount insert the following: ''(increased by $7,000,000)''.

Page 95, line 19, after the dollar amount insert the following: ''(increased by $10,000,000)''.

H.R. 2500

OFFERED BY: MR. WU

AMENDMENT NO. 40. At the end of the bill, insert after the last section (preceding the short title) the following:

TITLE VIII—ADDITIONAL GENERAL PROVISIONS

SEC. 801. None of the funds made available in this Act may be used to process an application under the Immigration and Nationality Act, or any other immigration law, submitted by or on behalf of an alien who has been directly or indirectly involved in the harvesting of organs from executed prisoners who did not consent to such harvesting.

H.R. 2506

OFFERED BY: MS. MILLENDER-MCDONALD

AMENDMENT NO. 1: In title II of the bill under the heading ''CHILD SURVIVAL AND HEALTH PROGRAMS FUND'', insert before the period at the end the following: '': *Provided further,* That of the amount made available under this heading for HIV/AIDS, $5,000,000 shall be for assistance for sub-Saharan Africa and India to prevent mother-to-child HIV/AIDS transmission through effective partnerships with nongovernmental organizations and research facilities pursuant to section 104(c)(5) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c)(5))''.

H.R. 2506

OFFERED BY: MR. OLVER

AMENDMENT NO. 2: Strike section 566 (relating to Kyoto Protocol).

EXTENSIONS OF REMARKS

IN HONOR OF THE 100TH ANNIVERSARY OF THE EAST TOLEDO FAMILY CENTER

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 2001

Ms. KAPTUR. Mr. Speaker, I am pleased to recognize the 100th anniversary of the East Toledo Family Center in Toledo, Ohio.

Begun by a cadre of East Toledoans who felt great pride about their neighborhood and wanted to further enhance opportunities for its residents, the East Toledo Family Center was born in 1901. It has established itself as a stalwart beacon in a community which saw continued and great change in its century of existence.

Evolving with the neighborhood and its changing needs, the center has grown into a full service neighborhood center with 40,000 square feet of space providing educational, recreational, and social programs including preschool, school age childcare, youth enrichment, programs for teens to learn about themselves and their environment, human services case management on site, a family health clinic offering family and maternal health care, and a police substation. It also coordinates with community organizations offering special programs on site.

Amazingly, the East Toledo Family Center serves more than 10,000 people each year. Its longtime former director Warren Densmore, who led the center through unprecedented growth for 38 years, encapsulated the feeling and vision of the East Toledo Family Center: "We want to create a feeling of neighborliness by helping individuals and groups to be interested in one another and to help each other try to better the conditions around themselves physically, culturally, socially, and morally. We try to develop our own leadership, so that when a community problem or need arises we can go to work on it, individually and as groups." It is a philosophy which is a guiding principle yet today. The East Toledo Family Center is governed by the community, of the community, and for the community. Therein lies both its strength and its success. The East Toledo neighborhood is center stage in the planning and implementing of all of the center's opportunities.

Its mission is to "provide quality programs and services to enhance the lives of individuals and families by meeting the emerging needs of our community. We will accomplish this by assisting seniors in maintaining independent lifestyles; preparing young people to do well in school, developing and fostering good character, and helping them become productive members of society; building strong family units within the community; coordinating services and cooperating with other agencies to improve the quality of life in the community." Anyone who has visited the East Toledo Family Center can attest to how well it lives its mission. It is truly a jewel in our city's crown.

A PROCLAMATION RECOGNIZING THE OUTSTANDING WORK OF THE TIMES REPORTER

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 2001

Mr. NEY. Mr. Speaker, I commend the following article to my colleagues:

Whereas, the exemplary work of the staff of the Times Reporter earned them distinguished recognition at the Annual Associated Press of Ohio Awards; and,

Whereas, staff members received high marks for their coverage of the tragic murder of the missing teenager, Elizabeth Reiser in the breaking news category; and,

Whereas, contributing to this successful effort were Benjamin Duer, Joe Mizer, Renee Brown, Kathy Vaughan, Lee Morrison, and Kate Winther; and,

Whereas, also recognized for their accomplishments were Pat Burk, for his photo essay titles, "Sweet Science" and Steve Long, for his editorial column titled "Part of the job";

Therefore, I ask that my colleagues join me in recognizing the impressive accomplishments of these talented individuals that have brought honor and pride to their family, friends and community.

IN HONOR OF MR. WILLIAM J. ROSENDAHL

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 2001

Mr. KUCINICH. Mr. Speaker, I rise today to honor and recognize perhaps the most well-liked and respected man on the California political scene, Mr. William J. Rosendahl, on a lifetime of distinguished achievements and dedicated public service.

Mr. Rosendahl, since 1987, has produced over 2,000 shows that focus on political and social commentary. Now serving as Regional Vice President of Operations for Adelphia Communications, Mr. Rosendahl has served in many other capacities throughout his distinguished career. His civic achievements and public involvement have led him to countless posts during the past few years, including Chairman of the California Cable Television Association, member of the boards of the California Channel, Cable Positive, and the League of Women Voters. In his current professional capacity, Mr. Rosendahl oversees day-to-day operations for 1.2 million customers and more than 3,000 employees. He produces and occasionally hosts public affairs programming that discuss political and social issues of the day.

As moderator of several talk-show programs, Mr. Rosendahl has had the opportunity to host hundreds of political leaders and activists, including Vice President Al Gore, Ralph Nader, James Carville, and Charles Keating Jr. His sincere and heartfelt questions have gained him the respect and admiration from people at both ends of the political spectrum.

Mr. Rosendahl's deep commitment and passionate activism to social justice and equality is clear evidence to his strong integrity, He tries to give everyone, regardless of one's creed, age, race, gender, or sexual orientation, a strong world voice. He has spent many hours tackling global issues and volunteering on senatorial and gubernatorial campaigns.

Mr. Speaker, please join me in honoring not only a fine and distinguished producer, but a respected American, Mr. William J. Rosendahl. His contributions to society have touched countless people.

IN RECOGNITION OF GLORIA WALLICK

HON. CAROLYN McCARTHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 2001

Mrs. MCCARTHY of New York. Mr. Speaker, I rise in recognition of Gloria Wallick, a highly respected and influential child care advocate who recently announced her retirement from the Child Care Council of Nassau, Inc. In her 23 years as Chief Executive Officer, Gloria was the voice of child care in Nassau County. She made the Council the leading agency for child care by sponsoring the first USDA Child & Adult Care Food Program in New York State by a not-for-profit agency and establishing the Child Care Switchboard, an early child care referral service.

Gloria received her undergraduate degree from Brown University and an M.A. in Policy Analysis from the New School of Social Research, now New School University. She began her work in Child Care when she chaired the Policy Advisory Committee of Head Start in her home town of Rockville Centre. She then helped to establish the Rosa Lee Young Child Care Center where she served as Board President for six years.

While serving as CEO of the Child Care Council of Nassau, Gloria worked diligently on various committees to improve the quality of child care in New York. In 1984, she was appointed by Governor Cuomo to the New York State Commission on Child Care. Later, in 1988, as a member of the Nassau County Task Force on Day Care, Gloria helped to create the first salary enhancement program in

America for teachers in the child care field. In 1997, she was appointed to the Nassau County Legislature's Commission on Child Care, which was created as an out-growth of her advocacy.

Throughout her career, Gloria has received numerous awards from elected officials, outreach organizations such as the Health & Welfare Council and the United Way, and child care providers for her commendable leadership and advocacy on behalf of parents and their children.

Gloria Wallick is responsible for the current strength and upward trend of Child Care in Nassau County. She leaves behind a strong legacy and is a good example of the difference that one person can make. I applaud Gloria for her dedication to our community, and thank her on behalf of the parents and children of Nassau County who have benefitted from her hard work and commitment.

TRIBUTE TO RUSH LIMBAUGH

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 2001

Mr. TRAFICANT. Mr. Speaker, I want to pay tribute to a growing legend in American talk radio. Conservative talk show host, Rush Limbaugh, who many know simply as Rush, has brought America back from ultra-liberalism to a more moderate, mainstream approach to politics and the American way of life.

Rush recently received the largest contract ever for a radio personality. He is deserving of the contract and also deserves to be commended for what he has done for this country. Rush was a voice of reason and had a tremendous influence on the passage of my reforms of the Internal Revenue Service. Those reforms have had a significant impact on the lives of Americans everywhere, saving their properties and their homes, providing for their day in court in a civil tax case, and shifting the burden of proof in a civil tax case from the taxpayer to the IRS. The law reduced property seizures from 10,037 to 151 in one year and dramatically reduced wage attachment and property liens. That law, which saves the homes of over 10,000 Americans every year, may not have become a reality without the help of one man's voice, heard by millions.

Though there are many who disagree with the positions he takes on tough issues, Rush provokes thought and debate on the issues that will shape the future of our great nation. He has a tremendous responsibility with the number of Americans who seek out his opinions, and he deserves credit for taking that responsibility very seriously,

Rush Limbaugh is making a difference, and I thank him for his contributions to the spirit of American political debate.

IN REMEMBRANCE OF INA MARIE LEE

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 2001

Ms. KAPTUR. Mr. Speaker, I rise to commemorate the life of a Toledoan and American of note. Ina Marie Lee. Miss Lee passed away at 108 years of age.

Miss Lee was a nurse and a veteran of World War I. She was considered the oldest living veteran in Northwest Ohio, and was one of the oldest in our nation. She served as a nurse during the war, stationed with the Army in Mobile, Alabama and Fort Snelling, Minnesota. Upon her discharge at the War's end, she worked as a private nurse for several of Toledo's prominent families. She did not retire from nursing until the age of 85, after a 55 year career.

Ina Marie Lee was born in the tiny town of Jerry City in Wood County, Ohio. The daughter of a poultry farmer, Ina dreamed of being a nurse. After overcoming tuberculosis as a child, she realized that goal and was one of the first graduates of the former Toledo Hospital School of Nursing. Graduates of the school still meet, and Ina was a revered and popular member. She was "a wonderful role model for other nurses," according to her longtime friend and nurse Mary Lou Leonard.

Believed to be a descendant of General Robert E. Lee, Ina joined the Army on June 10, 1918. As a distinguished veteran, she was a member of the American Legion Argonne Post 545. She was also a member of the Toledo Chapter of the Order of the Eastern Star, the Toledo Hospital Alumni Association, the Idlewood Rebekah Lodge No. 565 in Jerry City, and the Westgate Chapel in Toledo. She was several times the Grand Marshall in Toledo parades and was featured on NBC's Today Show on two occasions. It was my personal honor to join Ina at a recent nurses reunion in Toledo where we unveiled a statue to honor nurses and their contributions to our community.

These few words on the CONGRESSIONAL RECORD cannot do justice to this most remarkable of women and her life well-lived. Perhaps the words of her friend. Ms. Leonard, say it best. Ina Marie Lee "was a fun-loving, happy, caring person. She loved live life, she loved people, and she loved helping people." No greater tribute can there be than to have been recognized and appreciated as a friend, confidante, and dedicated nurse. We extend to her sister, Genetta Grau, and her niece and nephews our heartfelt condolence. At the same time, we celebrate a truly incredible life and honor her memory by trying to live in its example.

IN HONOR OF THE CLEVELAND HEARING AND SPEECH CENTER

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 2001

Mr. KUCINICH. Mr. Speaker, I rise today to honor the great work of the Cleveland Hearing and Speech Center in spreading awareness of hearing loss issues and in providing services to those who are affected by hearing loss.

Founded by President Garfield's daughter-in-law, Helen Newell Garfield, in 1921 the CHSC is the oldest hearing and speech center in the United States and the only nonprofit organization in Northeast Ohio dedicated soley to meeting the hearing, speech, and deafness needs of the community.

To observe its 80th year anniversary this year CHSC will partner with 14 Cleveland attractions for the first annual Communication Celebration. American Sign Language interpreters will be placed at each of the following attractions: The Children's Museum of Cleveland, Cleveland Botanical Garden, The Cleveland Center for Contemporary Art, Cleveland Metroparks Nature Centers, Cleveland Metroparks Zoo, The Cleveland Museum of Art, The Cleveland Museum of Natural History, Great Lakes Science Center, The Health Museum of Cleveland, Lake View Cemetery, The Nature Center at Shaker Lakes, Rock & Roll Hall of Fame & Museum, Steamship William G. Mather Museum, and Western Reserve Historical Society. The event will serve as the culmination of National Deaf Awareness Week.

This is an issue that affects many people. More than 28 million Americans have a hearing loss and approximately 2 million of them are profoundly deaf. One of every 22 infants has hearing problems and one of every 1000 infants is born deaf. But, unfortunately, only an estimated 20 percent of people who could benefit from hearing aids have them. Nonetheless communications skills are the number one predictor of academic success for children and the number one predictor of success at the workplace for adults.

Mr. Speaker, please join me in applauding the efforts of this great organization in spreading awareness and for the hard work it has contributed to this cause.

RECOGNIZING MIRA ROSENFELD SENNETT

HON. CAROLYN McCARTHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 2001

Mrs. MCCARTHY of New York. Mr. Speaker, I rise in recognition of Mira Rosenfeld Sennett, a noted educator in the Jewish community of Nassau County, and a resident of Atlantic Beach, Long Island.

Since she began her career three decades ago at the Brandeis Day School, Mira has been teaching and supervising special education in the New York school system while simultaneously pursuing her love of Jewish education. Over the past 30 years, she has taught at the Hebrew High School and the State University at Stony Brook and directed the Five Towns School of Special Education for the Special Child, Temple Beth El Religious School and the Hebrew School at the Jewish Center of Atlantic Beach.

Mira is known for her love of community and Jewish learning, and she has shared these qualities with countless others. For years, Mira

has organized adult education classes and book reviews for members of our community. Not only has she participated in community events, but she has brought unique ideas to life by teaching others about Judaism while sharing her own experiences. She has led youth groups to Israel and Europe. She is a former executive board member of Hadassah, UJA, and USY and served as president of the Five Towns Jewish Council and Vice President of Jewish Women International for the greater New York region.

On the occasion of Israel's 50th anniversary, Mira was recognized by the Conference of Jewish Organizations of Nassau County as one of 50 residents who make a difference. Additionally, she received the Chancellor's Award for Excellence in Teaching from SUNY.

Mira emigrated from Israel in 1958. She received her undergraduate degree in Supervision and Administration from C.W. Post and a postgraduate degree in Special Education and an MS in History and Jewish Education from Columbia University and the Jewish Theological Seminary.

Mira feels that her greatest accomplishment and dearest reward is her family: her husband Hershel, her children Avery and Robyn Rosenfeld, Drs. Tierry and Melissa Abitbol, Rosalie Sennett and Jonathan and Marianne Sennet, and her grandchildren David, Lauren, Dani, Sophie, Emma and Shaenna.

Mira Rosenfeld Sennett's commitment to our community and our children's education, Judaic and otherwise, is commendable. As a friend, I applaud Mira and her loving family for Mira's accomplishments over the years, and I thank her for all she has done for the Jewish community of Nassau County.

TRIBUTE TO MRS. ANGELINE N. PAOLONE

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 2001

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to Mrs. Angeline N. Paolone, a remarkable woman who contributed greatly to her family, her community, and this country. She passed away at the age of eighty-nine. She will be deeply missed.

One of seven sisters and four brothers, she leaves six grandchildren and thirteen great-grandchildren. She also leaves a daughter, Betty, and two sons, Louis and Anthony.

Mrs. Paolone was an active member of the St. Rose Church in Girard, Ohio, and the Ohio Leather Works Retirees Club where she dedicated much time helping others.

Angeline Paolone will be greatly missed by the Girard community. She touched the lives of many, and was a friend to all who had the privilege of knowing her.

I extend my deepest sympathy to her family and friends.

PAYING TRIBUTE TO GILLIAN REAM

HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 2001

Mr. ROGERS of Michigan. Mr. Speaker, I rise today to pay tribute to Gillian Ream for being awarded the David L. Boren Undergraduate Scholarship from the National Security Education Program (NSEP).

NSEP was established in 1992 to produce a more internationally competent citizenry and to strengthen the expertise base in the federal sector. In the past seven years, NSEP has invested more than $37 million and provided outstanding opportunities for over 2,000 graduate and undergraduate students.

Upon receiving this award, the students must agree to seek work in the Federal government in an organization with national security responsibilities. In addition, each student must have studied in a field that is important to U.S. national security, must display foreign language capability, and must have studied extensively in and about other countries or regions.

In receiving this award, Mr. Ream was one of 143 students out of several hundred applicants to receive the Boren Scholarship.

Therefore Mr. Speaker, I ask that my colleagues join me in congratulating Gillian Ream for being awarded the David L. Boren Undergraduate Scholarship.

IN HONOR OF THE RETIREMENT OF POLICE CHIEF DOMINICK J. RIVETTI

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 2001

Mr. BERMAN. Mr. Speaker, I rise today to pay tribute to my very good friend, Dominick J. Rivetti, retiring Chief of the Police Department of the City of San Fernando. It has been my great pleasure to know Dominick for more than a decade and to see first hand his strong commitment to the City of San Fernando and the safety of its residents. I've had the opportunity to work with him on many issues both in his capacity as Chief and also as head of the Los Angeles County Chiefs of Police, especially with regard to the enactment, extension and expansion of the federal ''Cops on the Beat'' program and the maintenance of funding for the L.A. County Narcotics Task Force. Over the many years of our friendship, I have developed enormous admiration for his integrity, his dedication and his competence.

Dominick is retiring after thirty-one years of distinguished service in law enforcement with the San Fernando Police Department. He began his career as a police officer and worked his way through the ranks of the Department, enjoying more and more responsible positions until he was named Chief of Police in December of 1985. During his 15-year tenure as Chief, Dominick has developed many innovative programs and under his able leadership, the San Fernando Police Department has thrived as a community friendly, highly effective law enforcement agency.

Dominick's achievements are perhaps understood best through his personal philosophy toward law enforcement. He not only believes that the Department should protect the community, but that the Department must be an integral part of the community. Under his guidance, the Department has made San Fernando a safer, more peaceful place, embracing the notion that this can best be accomplished through earning and maintaining the support of the community. It is noteworthy that in the past five years, violent crime in San Fernando has dropped more than 50 percent and overall, crime has been reduced by 44 percent.

Dominick has directed his Police Department to use its resources so as to get more officers on the street and into the community. He has seen to it that programs for young people such as DARE and special youth at risk prevention/intervention programs have been implemented. These programs help keep children from falling through the cracks by redirecting their energy and activities from potentially dangerous ones to constructive ones.

Dominick's commitment to public service extends beyond his official law enforcement duties. He has been an active member of the San Fernando Kiwanis Club, the San Fernando Rotary and the Board of Directors Northeast Valley Jeopardy Program. He also has taught at UCLA and the Los Angeles Sheriff's Department North Academy.

It is my distinct honor and pleasure to pay tribute to my good friend Dominick Rivetti. He will be greatly missed by the City of San Fernando, but he will be leaving an extremely competent, honored Police Department and a safer community as his legacy. I ask my colleagues to join me in wishing him many happy, healthy and productive years ahead.

RENAMING OF USNS GUNNERY SGT. FRED W. STOCKHAM

HON. ANDER CRENSHAW

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 2001

Mr. CRENSHAW. Mr. Speaker, recently my family had the honor of participating in the renaming ceremony for the *USNS Gunnery Sergeant Fred W. Stockham* at Blount Island Command in Jacksonville, Florida. The event was held to rename the Maritime Prepositioning Force (Enhanced) ship Stockham after Medal of Honor recipient and World War I hero, Fred. W. Stockham.

The *USNS Stockham* will be part of the Maritime Prepositioning Force of ships operated by the United States Military Sealift Command. These ships carry additional airfield matting, fleet hospital equipment, construction battalion equipment and other supplies needed to supplement the requirements of a forward-deployed military force.

The ships that make up the Maritime Prepositioning Force of the Military Sealift Command play a vital role in our nation's national defense. Our military relies on its capability to be a sustainable force and project its

power throughout the world. Maritime Prepositioning Force ships perform this mission by offering our military the equipment needed to be a fast deploying, mobile and sustainable force.

The July 6th renaming event for the newest of our Maritime Prepositioning Force ships offered my family the chance to incorporate the personal background of the ship's new namesake with that of our own life experiences. My wife, Mrs. Kitty Crenshaw, was given the honor of being the Stockham's official sponsor. She performed the ceremonial breaking of the champagne bottle over the ship's railing and was given the opportunity to offer her personal thoughts of motherly pride for the men and women that would man the Stockham.

Mr. Speaker, I submit the speech given by Mrs. Kitty Crenshaw at the renaming ceremony for the *USNS Fred W. Stockham* into today's RECORD. This speech is an example of the pride our nation holds for our military personnel and the pride a mother feels not only for her own children, but also those in her heart.

Thank you Mr. Speaker for the time today to discuss the *USNS Fred W. Stockham* renaming event and the vital role the men and women of the Military Sealift Command play in the capabilities of our military force.

I was thrilled when I was asked to be the sponsor of this ship. It seemed like an exciting and wonderful thing to experience. As I read about Sgt. Stockham and the traditions of this time-honored ceremony, I became increasingly humbled and grateful for this rarest of honors. As a mother, I felt especially honored and even singled out for this particular ship named for this particular soldier. Sgt. Stockham was an orphan. He had no family and he never married. A friend was notified of this death. His body was placed in an unmarked grave that was lost for 60 years. Only the men of his company knew of his heroism until 21 years later because his Medal of Honor citation was lost in the chaos following the war. Having known the indescribable joy and privilege of being an adoptive mother, I immediately adopted this great soldier of the Great War into my heart and memory forever.

On June 13, 1918, the Germans savagely bombarded Belleau Wood with deadly mustard gas and high explosives for six long hours. Sgt. Stockham courageously led the evacuation of wounded and gassed marines. When he saw a young 17-year-old private cut down by shrapnel and his gas mask torn away, Sgt. Stockham without hesitation pulled off his own mask and put it on the young private and carried him to safety. He returned again and again to carry the wounded out. He finally collapsed from the effects of the deadly gas. He suffered an agonizing death a week later. He was 37.

Sgt. Stockham's heroism seems to me to be of a higher order. When he took off his mask, he was not just putting himself in harm's way or even risking death, he was knowingly condemning himself to a horrible death to save the life of his friend. 2000 years ago Jesus of Nazareth said that the greatest thing in the world is love and that there is no greater love than that a man would lay down his life for another. I am profoundly honored and it is with mother-like pride that I offer the gift of the memory of this great man to you and the mariners of the *USNS Gunnery Sergeant Fred W. Stockham.*

APPOINTMENT OF COLONEL CHRISTOPHER ALLEN KNIGHT AS DIRECTOR OF THE FLORIDA HIGHWAY PATROL

HON. DAN MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 2001

Mr. MILLER of Florida. Mr. Speaker, I rise today to recognize the appointment of Christopher Allen Knight as the newest Director of the Florida Highway Patrol. Colonel Knight has accelerated through the ranks to become the leader of "Florida's finest." This is an exciting time for the people of Florida's 13th Congressional District.

The Florida Highway Patrol provides citizens with the highest level of professional service while promoting safety on Florida's highways through enforcement and education. I commend the FHP for their promotion of a safe driving environment through aggressive law enforcement, public education, and safety awareness; while reducing the number and severity of traffic crashes in Florida, and preserving and protecting human life, property and the rights of all people.

Colonel Knight was recently appointed by Governor Jeb Bush to serve as the Director of the Florida Highway Patrol. Knight was given his new badge on June 29, 2001 in Tallahassee. At his side were his 10-year-old son, Mitch, his mother and father, Herman and Genevieve, his sister, Connie Bennett of Venice, and his brother, Thomas Knight, who is a Highway Patrol Troop Commander in Pinellas Park.

Colonel Knight graduated from Venice High School and earned a degree in criminology from Florida State University, before taking a job as a patrolman with the Venice Police Department. He was later selected to serve in the Florida Highway Patrol, and progressed through the ranks in his 20 year career. He has been stationed in Miami, Bradenton, Palatka, and Tallahassee in various positions, including Commander of Troop H, Tallahassee, and Chief of Training at the FHP Academy. His most recent assignment has been Chief of Field Operations for Region II, which includes oversight of Troops C (Tampa), D (Orlando) and F (Bradenton). Knight will now supervise nearly 1,800 officers throughout the state of Florida as the FHP Director.

I congratulate this fine American, and I rest assured that the Florida law enforcement community is in good hands.

HONORING THE 30th ANNIVERSARY OF WHITE HOUSE, TENNESSEE

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 2001

Mr. GORDON. Mr. Speaker, I rise today to honor the 30th anniversary of one of the friendliest towns you will ever find—White House, Tennessee. Nestled among the rolling hills of Middle Tennessee, White House is home to 7,220 residents.

The town got its name from an inn that was painted white and used extensively by people traveling the old Nashville and Louisville Pike in the late 1700s and early 1800s. The historic route was used often by such notable figures as Andrew Jackson, James K. Polk and Andrew Johnson.

With its proximity to Interstate 65 and Old Hickory Lake, White House offers its residents a desirable and unique quality of life. Incorporated in 1971, the town is close to a thriving metropolitan area, but not close enough to spoil its pastoral qualities.

I congratulate White House and its leaders, including Mayor Billy Hobbs, who has served as the town's mayor for 25 years, for developing a community that understands the need for managed growth. May the town's next 30 years be as successful as its first 30 years.

PAYING TRIBUTE TO THE HOWELL JAYCEES

HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 2001

Mr. ROGERS of Michigan. Mr. Speaker, I rise today to congratulate the Howell, Michigan Jaycees Chapter on receiving the prestigious Harold R. Marks award for most outstanding local chapter in the country.

Franklin D. Roosevelt once said "there are many ways of going forward, but only one way of standing still." Through their hard work and public service, the Howell Jaycees have done anything but stand still.

The Marks award is granted to chapters based on membership growth and the type of programs they offer their members and the community.

Therefore Mr. Speaker, I respectfully ask my colleagues to join me in paying tribute to the Howell Jaycees for receiving the Harold R. Marks award. May success continue to follow this outstanding civic organization.

TRIBUTE TO DANIEL BROWN

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 2001

Ms. KAPTUR. Mr. Speaker, I rise to pay tribute to Mr. Daniel Brown. For the past three decades he has been a proponent of higher education in northwest Ohio, serving our community as President of Owens Community College.

Mr. Brown has been affiliated with Owens since its inception in 1965, serving in various capacities that culminated in his serving the past seventeen years as President. Always a proponent of the student, he has been the watchdog on tuition increases. He proved his commitment to higher education by lowering tuition five percent for the 2000–01 academic

year. Through his hard work and dedication, Owens and its Findlay campus have excelled into the fastest growing two-or-four-year college in Ohio.

His dedication to students doesn't stop there. Owens has articulation agreements with almost twenty four-year colleges and universities, including Bowling Green State University, Ohio State University, University of Michigan and University of Toledo, allowing a smooth transfer for graduates pursuing bachelor's degrees. The school offers more than 100 technical programs and majors in various fields, such as health, business, industrial and engineering technologies and agriculture, in order to prepare students for careers of the future.

With a focus on state-of-the-art facilities, President Brown has expanded the college with such complexes as the Fire Science/Law Enforcement Center and Industrial and Engineering Technologies Building. A new library, audio/visual classroom center, math/science center and student health and activities center have increased the Galleria Complex, a new addition to the old campus. A Fine and Performing Arts Center will round out the construction for this site.

Even though growth, both at the physical campus and enrollment, has been exponential during the tenure of Mr. Brown, Owens remains committed to offering small classes, personal attention and flexible class schedules so that each person interested in a higher education will be afforded the opportunity to quality instruction.

The efforts of Daniel Brown will be evident for years to come. He has touched the lives of countless individuals and will be remembered with reverence and veneration.

REIMPORTATION OF FDA-APPROVED PHARMACEUTICALS

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 2001

Mr. PAUL. Mr. Speaker, due to a personal matter I was unable to be present for roll-call votes last week. I particularly regret not being in attendance for the votes on the amendments to the Agriculture Appropriations bills offered by the gentleman from Vermont (Roll Call no. 216) and the gentleman from Minnesota (Roll Call no. 217) dealing with the reimportation of FDA-approved pharmaceuticals. I would have enthusiastically supported both amendments had I been able to be here last week and I was quite disappointed to see the gentleman from Vermont's amendment rejected and pleased to see the gentleman from Minnesota's amendment accepted by this body.

I appreciate the opportunity to explain why I supported these amendments. As my colleagues are aware, many Americans are concerned about the high cost of prescription drugs. These high prices particularly affect low-income senior citizens because many seniors have a greater than average need for prescription drugs and lower than average income. One of the reasons prescription drug prices are high is government policies which give a few powerful companies a monopoly position in the prescription drug market, such as those restricting the importation of quality pharmaceuticals. Therefore, all members of Congress who are serious about lowering prescription drug prices should have supported these amendments.

As a representative of an area near the Texas-Mexican border I often hear from angry constituents who cannot purchase inexpensive quality imported pharmaceuticals in their local drug store. Some of these constituents regularly travel to Mexico on their own to purchase pharmaceuticals.

Opponents of the amendments offered by the gentlemen from Vermont and Minnesota waged a hysterical campaign to convince members that this amendment will result in consumers purchasing unsafe products. Acceptance of this argument requires one to assume that consumers will buy cheap pharmaceuticals without making any efforts to ensure that they are buying a quality product. However, the experience of my constituents who are currently traveling to Mexico to purchase prescription drugs shows that consumers are quite capable of ensuring they purchase safe products without interference from Big ''Mother.''

Furthermore, if the supporters of the status quo were truly concerned about promoting health, instead of protecting the special privileges of powerful companies, they would be more concerned with reforming the current policies which endanger health by artificially raising the cost of prescription drugs. Oftentimes lower income Americans will take less of a prescription medicine than necessary to save money. Some senior citizens even forgo other necessities, including food, in order to afford their medications. By reducing the prices of pharmaceuticals this amendment will help ensure no child has to take less than the recommended dosage of a prescription medicine and no senior has to choose between medication and food.

In conclusion, Mr. Speaker, I once again wish to express my regret for missing the votes on the amendments by the gentlemen from Vermont and Minnesota and urge my colleagues to show they are serious about lowering the prices of prescription drugs and that they trust the people to do what is in their best interest, by supporting future efforts to establish a true free market in pharmaceuticals.

HONORING RON MADSEN, DIRECTOR, PROVO CITY ECONOMIC REDEVELOPMENT

HON. CHRIS CANNON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 2001

Mr. CANNON. Mr. Speaker, today I pay tribute to the work of Ron Madsen, a dedicated public servant who has been Provo City's Economic Redevelopment Director. Ron Madsen has spent the last thirty years working for the City of Provo, and has been an integral part of Provo's downtown revitalization efforts. On July 13 Ron Madsen will retire from the City of Provo, and his absence will be sorely missed.

Mr. Madsen began working with Provo City in August 1971 as a Planning Aide, and was promoted to Redevelopment Agency Manager in July 1973. He also worked as Housing and Redevelopment Manager from 1975 to 1983. Since 1983 he has been Provo's Economic Redevelopment Director.

Throughout his career, Mr. Madsen has worked in a tireless and selfless manner to preserve the character of Provo while at the same time encouraging balanced economic growth. Some of the projects he has worked on include developing Provo City's Historic Downtown into the central point in Utah County for government and legal services, as well as prime office space, and working to bring NuSkin, Inc. international headquarters to downtown Provo. Perhaps the pinnacle of Ron Madsen's career was the development of the East Bay Retail and Business Park. Mr. Madsen succeeded in securing millions of dollars in federal funds that were crucial to completing this premiere business park. The establishment of the East Bay Business Park resulted in key national businesses relocating to Provo, such as Novell, Inc.

In addition to his professional accomplishments, Mr. Madsen was well known for his integrity and civility in working with his peers. I am also told that like that great American Cowboy Humorist Will Rogers, Mr. Madsen had a wry, genial common sense that was enjoyed by all who worked with him.

Therefore, I am proud to join with his many admirers in extending my highest praise and congratulations to Ron Madsen for his dedicated service to the City of Provo. I extend my most heartfelt good wishes for all his future endeavors.

HONORING STATE REPRESENTATIVE MARCY MORRISON

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 2001

Mr. UDALL of Colorado. Mr. Speaker, I rise today to honor former Colorado State Representative Marcy Morrison for her tireless efforts in improving health care for all Coloradans. This week, the American Medical Association is presenting Rep. Morrison with a Dr. Nathan Davis Award for Outstanding Government Service, Member of a State Legislature, for her significant achievements in advancing public health.

Throughout her two-decade career, Marcy has fought to help Coloradans gain greater access to health care. Her efforts include passing legislation to provide health insurance parity for mental health, to guarantee 48 hour extended hospital stays for maternity care, and to make it possible for children up to five years old to receive speech therapy and physical therapy each year for development delay. In addition, Marcy has helped form a task to evaluate the management of chronic intractable pain in Colorado and she served on the Legislative Task Force on Health Care.

When I served with Marcy in the State Legislature, I always admired her for her courage

and tenacity. Nearly every piece of major health care legislation that passed the General Assembly and went on to become law had Marcy's mark on it. Coloradans owe a great deal of thanks to Rep. Morrison for helping us get the health care services we need and for helping us stay healthier and happier longer.

So today, Mr. Speaker, I honor Rep. Marcy Morrison and congratulate her for being the recipient of this prestigious award. I hope that her efforts thus far are only the tip of the iceberg.

HONORING STANLEY LATHEN, SR.

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 2001

Mr. GEORGE MILLER of California. Mr. Speaker, I rise today to invite my colleagues to join me in congratulating Stanley Lathen, Sr., on the occasion of his being honored for his lifelong commitment to labor by the United Food and Commercial Workers Union Local 373R.

President Emeritus Stanley Lathen, Sr., was born on April 30, 1908, in the territory of Arizona. His family moved to Lake County soon after his birth and then relocated to Marin County, where he was raised and educated. Stanley served an apprenticeship under the program of the Plasterers and Cement Masons Union in Marin County as a teenager. While working as a mason, he moved to Vallejo in the early 1930's.

Always active in labor affairs, Stanley assisted in the re-organization of the Solano County Building Trade Council. Stanley served as Chairman of the Building Codes Committee for the revision of city building codes and the establishing of building codes in Solano County. He also served as the first Chairman of a county Apprentice Training Program (prior to the formation of a State training program).

In October 1941, Stanley accepted an executive position with the Retail Store Employees Union No. 373, and was later elected Executive-Manager and Treasurer of Local 373, a position he held for 27 years.

Stanley was instrumental in establishing the Local's first health insurance plan and acted as the plan's administrator for many years before the formation of its Trust Funds. He later served with distinction as Trustee and Chairman of the Local's Health Insurance/Pension and Drug Trust Funds.

President Lathen served a term as President of Solano County's Central Labor Council in 1946 and he also served as Vice President of the California Labor Federation, AFL-CIO, as a representative of District 12 (Solano, Napa, Marin and Sonoma Counties) for 13 years.

Stanley was also very involved in local civic affairs serving on the Solano County Grand Jury, Chairman of the March of Dimes, member of the first Board of Directors of the Greater Vallejo Recreation District, as well as serving on the boards of the YMCA, Red Cross, Salvation Army and United Crusade.

California Governor Earl Warren selected President Lathen to serve as the chairman of the Solano County committee to explore the possibilities of a statewide health plan. Due to strong opposition from the Solano County Medical Society and other such organizations across the state, the state health plan never got off the ground.

On January 1, 1968, at the age of 60, Stanley Lathen ended his distinguished career as Executive Manager (President) of Local 373. When he assumed office in 1941 there were 105 members; today the union has over 1,800 members.

Stanley and his wife of 45 years, Bernice, are enjoying the retired life, sharing good times with their five children and six grandchildren.

On May 16, 1997, San Francisco State University entered President Emeritus Stanley Lathen's history as a Vallejo Labor and Civic Leader permanently into the records at the Labor Archives and Research Center. On January 13, 1998, President Linda Russell, the officers and members of Local 373R, honored President Lathen by naming the Local Union Hall's board room the Stanley Lathen Board Room. Later that year, Local 373R named its annual scholarship golf tournament in his honor, The Stanley Lathen Scholarship Golf Tournament.

We salute President Emeritus Stanley Lathen, Sr. for all the good that he has done for working men and women, union members and the citizens of Vallejo, Solano County, the state and our country.

IN RECOGNITION OF ERICH SEEHAFER

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 2001

Mr. HOYER. Mr. Speaker, I rise today to give recognition to Erich Seehafer for his 23 years of service to the United States House of Representatives.

Hired by the Doorkeeper's Office in April 1978, Erich began as a Congressional liaison for the House Publications Distribution Service. In addition to orienting new members and their staffers to available services, he was responsible for allotment and distribution of various books and publications to all House Members.

In 1991 he was selected to be part of the new mail list processing office. This role was an ideal opportunity for a detailed-oriented person like Erich to serve the House Members by processing and expediting their mass mailing requests. Erich has processed over 6,000 mailing lists totaling over 350 million addresses without error.

Born at Walter Reed Hospital in Washington, DC on July 23, 1951, Erich is the son of Erich Seehafer Sr. and Charlotte Hennessy Seehafer. He has three sisters, a wife of sixteen years, one stepson and two grandsons. He and his wife have resided in Waldorf, Maryland since 1985.

A motorcycle accident in 1970 resulted in a spinal cord injury that left Erich a paraplegic. Erich's determination and cheerful outlook have endeared him to many in the Hill community. His sense of humor has always been a welcome asset to all who have worked with him.

A musician of thirty-five years, Erich has played music in New York, New Jersey, Pennsylvania, Maryland and the District of Columbia. He is looking forward to traveling around playing music again with the extra time he will endure during his retirement. We wish him well and a long happy retirement.

I submit the following for the RECORD.

OFFICE OF THE
CHIEF ADMINISTRATIVE OFFICER,
Washington, DC, June 29, 2001.

Hon. STENY HOYER,
Longworth House Office Building,
Washington, DC.

DEAR CONGRESSMAN HOYER: Thank you for taking the time to include this in your extension of remarks to recognize Erich Seehafer for his 23 years of service to the U.S. House of Representatives. Erich plans to retire on July 30, 2001. Listed below is some background information on Erich that describes his dedicated working experience for the United States House of Representatives as well as his personal background.

Hired by the Doorkeeper's office in April 1978, Erich began as Congressional Liaison for the House Publications Distribution Service. In addition to orienting new Members and their Staffs to available services, he was responsible for allotment and distribution of various books and publications to all House Members. Job Consolidation in 1986 added responsibilities associated with the newly implemented computer based inventory system.

In 1991 he was selected to be part of the new Mail List Processing Office. This role was an ideal opportunity for a detailed-oriented person like Erich to serve the House Members by processing and expediting their mass mailing requests. Erich has processed over 6,000 mailing lists totaling over 350 million addresses without error.

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A motorcycle accident in 1970 resulted in a spinal cord injury that left Erich a paraplegic. Erich's determination and cheerful outlook have endeared him to many in the Hill community. His sense of humor has always been a welcome asset to all who have worked with him.

A musician of thirty-five years, Erich has played music in New York, New Jersey, Pennsylvania, Maryland and the District of Columbia. He is looking forward to traveling around playing music again with the extra time he will endure during his retirement. He also plans to work with his brother-in-law repairing guitars. Erich says that he is most looking forward to enjoying his role as full time Granddad when he retires.

We all will miss Erich and wish him a long, happy, retirement.

Sincerely,

POSTAL OPERATIONS STAFF,
The Staff of Postal Operations,
Mail List Processing.

COMMEMORATING THE RETIREMENT OF MARGARET L. HUNT

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 2001

Ms. KAPTUR. Mr. Speaker, I rise today in both celebration and sadness to commemorate the retirement of Margaret L. Hunt, senior citizens advocate extraordinaire, from Toledo, Ohio. A pioneer in the Toledo area senior citizens' movement, Margaret takes with her 45 years of experience in senior services.

Born in Kentucky, Margaret has been a Toledoan since the age of two. She has lived in South Toledo, graduating from Libbey High School and raising a family. She and her husband, Daniel, to whom she was married for more than fifty years, have four children: Rebecca, Nancy, Margaret, and Daniel. Margaret is also grandmother to eleven grandchildren and seventeen great-grandchildren.

Margaret got her start in Toledo area services while a young mother. Even while she was employed by a local bakery, she helped to establish Teen Town in Highland Park, working with the City of Toledo's Parks & Recreation Department. During that time it became apparent that although Toledo actively developed programs for young people, the same could not be said for older Toledoans. Margaret was charged with the task of developing and implementing such programming. She started by promoting the formation of neighborhood social clubs that met regularly in park shelter houses. Prior to the days of the Older Americans Act and thus with no kind of senior nutrition program available, Margaret took the creative approach of encouraging weekly potluck luncheons. While enjoying each other's camaraderie and a hot meal, the seniors participated in games and crafts and planned outings. Soon this very successful program was expanded into local senior housing complexes. These groups were the precursor of the modern senior centers. In fact, Margaret was instrumental in the establishment of Toledo's first senior center, Senior Centers Inc.

In 1981, when the idea of senior centers was still in its infancy and there were just a few beginning locally, Margaret took on the task of growing a center in native South Toledo. The South Toledo Senior Center was born in August of that year, with Margaret at the helm as Executive Director. In the twenty years that followed, Margaret fostered unprecedented growth in the center, which is now in a large and airy freestanding building and continuing to grow. The South Toledo Senior Center serves hundreds of seniors a nutritious lunch every day, and is the only one in the area serving lunch on Sunday as well. Its programs are varied and all-inclusive: if it's something seniors enjoy doing it's being done at the South Toledo Senior Center. I cannot imagine it without her, nor not being greeted with her cheerful smile upon my visits there.

Hayes's belief that ''Old age is not something to which I have arrived kicking and screaming. It is something I have achieved,'' Margaret Hunt has arrived at this place in her life with grace. While we wish her a wonderful life of retirement, we yet look to her for continued quiet greatness.

VICE PRESIDENT CHENEY'S EXPENSIVE ELECTRICITY BILL

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 2001

Mr. DINGELL. Mr. Speaker, oh, pity the Vice President. His electricity bill is too expensive. It seems that like many other Americans, the Vice President is faced with an intolerably high energy bill this year.

What is our unfortunate Vice President to do?

President Bush has suggested that American people spend their tax-rebate check to pay their energy bills. Regrettably, the Vice President's rebate check will be not enough to cover his costs—his electricity bill is in the six-figure range.

Perhaps he would be well served by turning off some more lights around the house as Lyndon Johnson used to do, or maybe turning his air-conditioner off when he is not at home. But until recently, the Vice President has not been strong on conservation—dismissing it as ''a sign of personal virtue, but not the basis for a sound, comprehensive energy policy.''

Consistent with that thinking, Vice President CHENEY said, ''If you want to leave all the lights on in your house, you can. There's no law against it. But you will pay for it.''

Well, thankfully, the Vice President is putting his money where his mouth is.

Or is he?

You see now, Mr. CHENEY, with his 33-room mansion and $186,000 per year energy bill, doesn't want to ''pay for it.'' He wants the United States Navy to pick up the tab, and House Republicans are going to extraordinary lengths to help him get off the hook. House Republicans are poised to relieve his official budget from paying for his electricity costs, by passing the buck on to our sailors in the Navy.

That's correct, in a classic instance of do-as-I-say, not-as-I-do, Mr. CHENEY, doesn't want to pay his electricity bill. If only the American public had it so easy, to be able to pass their bills on to somebody else.

Coming from an Administration that is doing nothing to help consumers cope with the sharp rise in electricity prices, this raises real questions.

Mr. Vice President at least practice what you preach, and pay for your own electricity bill.

INDIVIDUAL TAX SIMPLIFICATION ACT OF 2001

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 2001

Mr. NEAL of Massachusetts. Mr. Speaker, today I am introducing with Mr. Matsui the Individual Tax Simplification Act of 2001, and invite all my colleagues to join me in sponsoring this legislation.

It is fitting that this bill on tax simplification is being introduced on the first day of joint hearings on tax simplification in the Select Revenue Measures and Oversight Subcommittees of the Ways and Means Committee. Simplification is on everyone's wish list. While my bill may not fulfill everyone's wish, this bill will eliminate approximately 200 lines from tax forms, schedules and worksheets. My bill generally does this in a revenue neutral manner, and without moving money between economic income groups. As we all know, the tax code is terribly complex, and has become dramatically more complex for average taxpayers during the past six years.

A skeptic might argue that there is no constituency for simplification, but that is changing. A poll by ICR found that 66 percent said the federal tax system is too complicated. Five years ago slightly less than half agreed.

I believe that with a little compromise, we can enact significant tax simplification. That is why I have made sure this bill is essentially revenue neutral, so it contains no tax increase. And that is why the bill does not try to change the tax burden between economic income groups. This is not an attack on the wealthy, nor anyone else. As with any change in the tax law, there are some winners and losers—but I want to stress that this is incidental to the objective of the bill—which is simplification that benefits us all.

The bill has three parts. The first is based on legislation I introduced in the last two Congresses regarding nonrefundable personal credits. The second part simplifies the taxation of capital gains. The third part repeals two hidden marginal tax rates on high income individuals, and repeals the individual minimum tax.

TITLE I—SIMPLIFICATION RELATING TO NONREFUNDABLE PERSONAL CREDITS

In recent years, much tax relief has been given to taxpayers in the form of nonrefundable credits, like the two education credits. These credits are not usable against the alternative minimum tax. That means that more and more individuals will lose all or part of these credits, and will have to fill out the extremely complicated AMT form. Congress recognized this problem last year by enacting my proposal to waive this until the end of this tax year. It also, this year, permanently took the child credit and the adoption credit out of the AMT. Now is the time to finish the job.

The other problem with nonrefundable credits is that the phase out provisions vary from credit to credit, causing unnecessary complexity. In addition, the same additional dollar of income can result in a reduction in more than one nonrefundable credit.

It is fundamentally wrong to promise the American public tax relief, then take all or part of it away in a backhanded manner. This fundamentally flawed policy, enacted in 1997, will get worse each and every year as more American families find themselves to be AMT taxpayers simply because of the impact of inflation, or because of their desire to take advantage of the tax relief we have promised them. Not only that, this situation will also get worse if additional nonrefundable credits are approved by Congress.

The bill addresses both concerns. First, it permanently waives the minimum tax limitations on all nonrefundable credits. Second, the

bill creates a single phase out range for the adoption credit, the child credit, and the education credits, replacing the current three phase out ranges.

TITLE II—SIMPLIFICATION OF CAPITAL GAINS TAX

The second title of this bill is, essentially, Mr. Coyne's capital gains proposal from 1999. Under current law, there are 5 different tax rates for long term capital gains, and a 54 line tax form that must be endured. Moreover, this part of the tax code is already scheduled to get worse because additional rates will take affect under current law in 2006.

The solution is clear. Replace this jumble of rates and forms with a simple 38 percent exclusion. Not only will this result in tremendous simplification (eliminating 36 of the 54 lines), but more than 97 percent of individuals would be eligible for modest capital gains tax reductions.

TITLE III—REPEAL OF CERTAIN HIDDEN MARGINAL RATE INCREASES, AND OF THE INDIVIDUAL MINIMUM TAX

The third title of the bill repeals the hidden marginal rate increases in current law, and repeals the individual minimum tax. Most of my colleagues understand the phrases, PEP and Pease. Under current law, itemized deductions are gradually reduced by 3 percent of adjusted gross income above approximately $124,000. This is known as the Pease provision. In addition, personal exemptions are phased out for incomes between approximately $187,000 and $309,000. This is PEP. If we did not hide the effect of these provisions of current law, more people would know that these provisions result in hidden marginal rate increases. These marginal rate increases begin at almost 1 percent for incomes above $124,000, and increases for those with incomes above $187,000 by about .78 percent for each dependent. The important point here is that current law has a hidden marginal rate increase, which gets worse as families grow larger. The most recently passed tax bill made some progress in this area, but not enough.

The second part of this title is a complete repeal of the individual minimum tax. The minimum tax was intended to make sure that wealthy individuals did not overuse certain tax benefits and unfairly reduce their tax burden. It no longer accomplishes that goal. Most of the significant business related provisions have already been repealed. Since the AMT is not adjusted for inflation, more and more middle and upper middle income taxpayers are falling into the AMT. This is not what was intended, especially when you note that what pushes taxpayers into the AMT now, more often than not, are state and local income and property taxes, personal exemptions, and the nonrefundable credits. I repeat, this is not what Congress was trying to accomplish when the AMT was passed.

My suggestion is to repeal it for individuals, and substitute a simple tax on adjusted gross income. The current hidden tax is dropped, and is paid for with an explicit tax on the same individuals. They get simplification, and we convert a deceptive practice into an open one.

In the last Congress, the replacement tax began at 1 percent for adjusted gross incomes in excess of $120,000 on a joint return, and increased to 2.08 percent for income greater than $150,000, which is where the minimum tax exemption begins to phase out. This year I have given the Secretary of the Treasury the ability to set the rate so that this bill would be revenue neutral over ten years. The initial threshold amount and the second threshold amount remain the same—$120,000 and $150,000 in the cases of a joint return.

CONCLUSION

Ironically, this simplification proposal must be complex, because it mirrors our current law. I want, therefore, to focus on what is important.

This bill provides fairly dramatic simplification of the individual tax system.

It eliminates approximately 200 lines on tax forms, schedules and worksheets.

It is basically revenue neutral, so it can be accomplished during a year when there is no non-social security non-medicare budget surplus to fund tax cuts.

It does not attempt to shift money between income groups. The general philosophy behind the bill is that those who benefit from tax simplification of the current code should offset any revenue loss involved.

It is estimated that more than 50 percent of individuals use tax return preparers, and that more than 16 percent use computer software to prepare their return. Only about one-third of individuals actually fill out their own forms. There is no excuse for that reality, and we should do something about it. Given the lack of resources to write another major tax bill the priority for which is likely to be business tax breaks anyway, the reality that no one wants to pay for simplification no matter how much they support the goal, and the need to resolve the solvency issues surrounding social security and Medicare, I think the opportunity exists this year to solve some of the problems that bother all our constituents during this tax filing season in the manner that I have suggested. I am introducing this legislation to continue the discussion I began in the last Congress, and I hope it will be seriously considered by all parties.

MARKING THE FIFTH ANNIVERSARY OF THE TRAGEDY OF TWA FLIGHT #800

HON. FELIX J. GRUCCI, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 2001

Mr. GRUCCI. Mr. Speaker, I rise today in recognition of the fifth anniversary of the tragedy of TWA Flight #800, remembering the passengers and crew who perished in that horrible event, and expressing our thoughts and sympathies to the families they left behind and those who participated in the rescue and recovery effort in the days following.

On the night of July 17, 1996, 1 was called and told that the unthinkable happened. A commercial jet, TWA Flight #800 bound from New York to Paris, had exploded in the skies over Long Island's South Shore.

There were no survivors.

As a locally elected official of the community closest to the crash site, I was one of the first people on the scene in the moments following the crash at the U.S. Coast Guard Facility in East Moriches, New York.

This tragedy has left an indelible memory that will last forever in the minds of all the residents of Long Island. They rallied to the aid of those who needed them when Flight #800 crashed off the shores of East Moriches.

I speak today to honor not only those who lost their lives that night, but the families and friends they left behind and those who worked so hard, day and night, in the recovery effort.

For so long after this tragedy, many of our residents wanted to know how they could help the families of the victims or those participating in the rescue effort. They came with donations of food, clothing, and eventually contributed to the construction of two separate memorials.

The Tragedy of TWA Flight #800 is an event that has changed all of us as a nation forever, and one we should never forget.

As the families of our lost neighbors and friends gather on the South Shore of Long Island in a candlelight vigil, Colleagues, please join me today in remembering and honoring the fifth anniversary of this tragedy with a moment of silence. Let us also recognize those who worked so hard in the rescue and recovery effort, and in expressing our sympathy and support to the families who lost a loved one that frightful night five years ago.

HONORING MR. ANTHONY F. CAROZZA FOR HIS OUTSTANDING CAREER IN THE RESTAURANT AND FOOD SERVICE INDUSTRY

HON. DAVID L. HOBSON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 17, 2001

Mr. HOBSON. Mr. Speaker, Whereas, Mr. Anthony F. Carozza, known as ''Tony'' by his friends and family, retired on the first day of May 2001, after more than 40 years of exemplary service in the restaurant industry; and

Whereas, Tony launched his career in 1960 with Gino's successfully assisting in the start up of many of these famous food chains, and

Whereas, in 1962, he desired a new challenge, and he opened three of his own pizza and sub shops, in Baltimore, MD, called Tony's Snack Shops; and

Whereas, in 1970, Tony Carozza and family grew tired of city life, and up and moved to Ocean City, Maryland, where Tony worked as pile driver in the frigid February waters before becoming a manager at Pappy's Pizza and Beer, and taking over Beefy's, the first real fast food restaurant in this resort town; and

Whereas, in a small community where all the locals know each other, Tony, his wife, Mary Pat, and their four young children ran the restaurant, with each family member making his/her own significant and sometimes humorous contribution to the business; and

Whereas, the Carozza home and Beefy's served as a ''home away from home'' for countless friends, neighbors, and family members who shared many fond and funny memories with the Carozza family including enjoying the famous upside down Christmas tree hanging from the rafters of Beefy's; and

Whereas, in 1980, Tony, a shrewd businessman who was known for being tough on

salesmen, began his 20 years in the food service industry, beginning with Shoreland Food Service, followed by PYA Monarch from 1985–1990, then Sandler Foods from 1990–1993, and ending finally in 2001 with J.P. Food Service/U.S. Food Service; and

Whereas, his many years of hard work in the restaurant business led to his becoming an award winning salesman with J.P. Food Service/U.S. Food Service bringing in over $3.5 million annually for several consecutive years; and

Whereas, Tony Carozza's impressive work ethic and complete dedication to his family and his community have brought him many successes and much happiness, and his many friends and family members who recognize his integrity, his standards of conduct, and his honorable work and life code.

Now therefore, on behalf of the United States Congress, I take great pleasure and pride in joining with his family and friends to honor Anthony F. Carozza upon his retirement after more than 40 years of outstanding service to his customers, community, and family.