HOUSE OF REPRESENTATIVES—*Thursday, March 1, 2001*

The House met at 10 a.m.

Rabbi Lance Sussman, Temple Concord, Binghamton, New York, offered the following prayer:

Lord Our God, God of all people, Eternal Spirit of the Universe, we ask for blessings on this House and on the United States of America. Keep us strong as a Nation. Sustain in us a deep sense of justice. Incline our hearts to work for the betterment of all and peace for the human family. Keep alive in us the memory of all those who made ultimate sacrifices for our benefit as a Nation.

Bless this land with prosperity. Teach us to celebrate our differences and to unite around our common values. Be present with us in our homes, our places of work and on the way.

We thank You, Lord, for this day and for the opportunity to serve You by serving others. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from New York (Mr. HINCHEY) come forward and lead the House in the Pledge of Allegiance.

Mr. HINCHEY 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.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate has passed a concurrent resolution of the following title in which the concurrence of the House is requested:

S. Con. Res. 18. Concurrent Resolution recognizing the achievements and contributions of the Peace Corps over the past 40 years, and for other purposes.

The message also announced that pursuant to section 9355(a) of title 10, United States Code, the Chair, on behalf of the Vice President, appoints the Senator from Colorado (Mr. ALLARD), from the Committee on Armed Services, to the Board of Visitors of the United States Air Force Academy.

The message also announced that pursuant to section 4355(a) of title 10, United States Code, the Chair, on behalf of the Vice President, appoints the Senator from Pennsylvania (Mr. SANTORUM), from the Committee on Armed Services, to the Board of Visitors of the United States Military Academy.

The message also announced that pursuant to section 6968(a) of title 10, United States Code, the Chair, on behalf of the Vice President, appoints the Senator from Arizona (Mr. MCCAIN), from the Committee on Armed Services, to the Board of Visitors of the United States Naval Academy.

The message also announced that pursuant to Public Law 105–341, the Chair, on behalf of the Majority Leader, announces the appointment of the following individual to the Women's Progress Commemoration Commission: Becky Norton Dunlop, of Virginia, vice Elaine L. Chao.

The message also announced that pursuant to section 8002 of title 26, United States Code, the Chair announces on behalf of the Committee on Finance, the designation of the following Senators as members of the Joint Committee on Taxation:

The Senator from Iowa (Mr. GRASSLEY).

The Senator from Utah (Mr. HATCH).

The Senator from Alaska (Mr. MURKOWSKI).

The Senator from Montana (Mr. BAUCUS).

The Senator from West Virginia (Mr. ROCKEFELLER).

RABBI LANCE SUSSMAN

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

Mr. HINCHEY. Mr. Speaker, it is with a great deal of pleasure and privilege that I welcome here my constituent, Rabbi Lance Sussman, of Binghamton, New York, as the guest chaplain. We are honored to have Rabbi Sussman with us this morning to offer the opening prayer for today's session. Rabbi Sussman is a native of Baltimore, where he graduated from Franklin and Marshall College. He was ordained at the Hebrew Union College Jewish Institute of Religion, where he earned a Ph.D. in American Jewish history.

In 1986, Rabbi Sussman was appointed to the faculty of Binghamton University, where he continues to teach Jewish history. He founded his own small press, called Kesher Press, and has published several notable works that document Jewish history in America and, specifically, in upstate New York.

In 1990, the rabbi was called to lead the Temple Concord in Binghamton and for 11 years has served his congregation and his community with great distinction. He established a food pantry and a seasonal museum called Hanukkah House, which now attracts thousands of school children of all faiths from across our region of New York. Working with Elderhostel, the rabbi has also worked to make Temple Concord a leading center for adult Jewish education.

Rabbi Sussman has been called to a new position as senior rabbi at the Reform Congregation Keneseth Israel in Elkins Park, Pennsylvania, where he will begin serving in July. He will be greatly missed by his congregation and the countless other residents of the Binghamton area whose lives he has touched.

Mr. Speaker, I am proud that this Chamber has honored Rabbi Sussman with the opportunity to offer today's opening prayer. It is a wonderful send-off for a fine man and spiritual leader. I hope that you will join me in welcoming Rabbi Sussman, his wife Liz, their children, family members and congregants.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. QUINN). The Chair will entertain 10 one-minutes per side.

TAX CUTS

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

Mr. PITTS. Mr. Speaker, the President came here this week to present his responsible plan for paying down the debt, saving Social Security and Medicare, strengthening our defense and improving education. It is a good plan. It puts issues front and center that both he and his opponent campaigned on. How we get things done will be the subject of debate.

Mr. Speaker, some are questioning whether the President's tax cut is large enough. Why leave almost a trillion dollars just sitting in the Treasury waiting to be spent. Perhaps it would

be better to increase the size of the President's tax cut and get that money out of Washington and out of the hands of politicians. But some in this body are very ho-hum about tax cuts. They say that we do not need them, that we should keep that money here so it can be spent. Keep in mind that the American people already spend more every year on taxes than they do on food, clothing, shelter and transportation combined.

Mr. Speaker, the American people need, deserve and should get a tax cut. If done soon enough, it will help stimulate the economy.

HONORING THE LIFE OF KAYLA ROLLAND

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

Mr. PASCRELL. Mr. Speaker, I think it is appropriate to take a moment this morning to honor little Kayla Rolland. As a father and grandfather, I can understand the love that Kayla's family feels for her. Six-year-old Kayla was gunned down in a playground in Michigan 1 year ago. Her killer, a classmate in the first grade, had found a loaded gun at home. The tragic death of little Kayla has shaken us all and must force us to ask the question, how can we allow these gun-related tragedies to happen and not respond? Kayla's fate is not uncommon.

Mr. Speaker, do my colleagues know that more than 800 Americans die each year from guns shot from children under the age of 19? Do they know that the rate of firearm deaths of children 1 to 14 years of age is nearly 12 times higher in the United States than in all of the top 25 industrialized countries? If they did not know that, they should.

Whether it is childproof guns, whether it is personalized weapons, we need to come together on both sides of the aisle to do something that makes common sense.

PRESIDENT'S BUDGET IS RESPONSIBLE FOR AMERICA'S FAMILIES

(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, President Bush this week released his budget, a budget which is fashioned in the same way that you and I and millions of Americans figure out their home monthly budget.

First, it funds our priorities, including education, health care, Social Security, Medicare and Defense.

Secondly, it pays down the Nation's debt, providing the greatest amount of debt reduction in U.S. history.

Third, the budget includes a $1 trillion contingency fund to ensure that the United States can meet any unforeseen or emergency funding burden.

Finally, the money left over is returned to the hard-working people of America through responsible tax relief that will not only encourage savings, but also spur continued economic growth.

This budget is responsible. It is visionary, and it is right for our future.

Mr. Speaker, I yield back the criticism of those who refuse to act in responsibly and simply want a frivolous way to spend America's tax dollars on more wasteful big government bureaucracy.

RECORD ADDICTION PROBLEM OF THE WORLD IN THE UNITED STATES

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

Mr. TRAFICANT. Mr. Speaker, another underground tunnel was found on the Mexican border with a half of a ton of cocaine in it. Dug by hand, the tunnel connected a home to a sewer system, ultimately to Mexico.

Now if that is not enough to dust an angel. This is the sixth tunnel found since 1995. Think about it, kids are strung out on heroine and cocaine all across America, while drug pushers are running relay races with backpacks full of narcotics under and across our borders and Congress does nothing, because it is sensitive politically.

Beam me up. Beam me up here. Shame, Congress. American children are strung out, and I yield back a record addiction problem of the world in the United States of America.

THE PRESIDENT'S TAX REDUCTION PLAN

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

Mr. BARTLETT of Maryland. Mr. Speaker, the President is today out in the heartland of America promoting his tax reduction plan, and it sparked a very interesting debate.

Everybody agrees that the money is going to be spent. The only argument is who is going to spend it, the hard-working American taxpayer who earned it or the bureaucrats in Washington who have taken it from them in higher than necessary taxes.

Mr. Speaker, the argument is very simple. There is going to be a lot of rhetoric about this, but cut through the rhetoric and listen to what they are saying. What they are saying is that you who earned it are too dumb to spend it wisely, so because they care so much for you, they are going to keep your money, rather than give it back to you, because if they gave it back to you, you would not spend it wisely and bureaucrats in Washington will spend it more wisely than you will.

I do not think the average American believes that, Mr. Speaker, and I think that the proposed tax cut is even too small. It is going to leave too much money on the table. And if it is there, the bureaucrats in Washington are going to spend it, and we ought to give it back to the people. They earned it, and they will spend it better than we will.

DEFEAT H.R. 333, THE SO-CALLED BANKRUPTCY REFORM BILL

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

Mr. KUCINICH. Mr. Speaker, Americans are told do not leave home without it. But if you overuse it, you can lose your home, or you can lose everything inside your home with it. I am speaking about H.R. 333, the so-called bankruptcy reform bill, which is up today for a vote on this floor.

This bill is a direct threat to American consumers and businesses. The so-called bankruptcy reform bill will hurt American families in financial crisis by subjecting them to an inflexible standard based on IRS collection guidelines.

The bill contains inflexible deadlines, excessive filing requirements, which would needlessly force viable businesses into liquidation. Had it been law a few weeks ago, it would have made impossible the reorganization of LTV Steel in Cleveland, resulting in its liquidation at the cost of 5,000 jobs.

In this bill, protections of household goods against liens have been decimated. Home security computers for adult education, firearms even for subsistence, hunting could be seized by a business or the IRS because of this change.

Defeat H.R. 333.

IDEA FULL FUNDING ACT OF 2001

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

Mr. GARY MILLER of California. Mr. Speaker, today I will be introducing the IDEA Full Funding Act of 2001. I would like to thank my 27 colleagues who have already joined me in supporting this important measure.

In 1975, the U.S. Congress passed the Individuals with Disabilities Education Act, IDEA, mandating that local school districts provide appropriate education to students with special needs. Realizing that this could be a costly endeavor, Congress agreed to fund up to 40 percent of the average per pupil expenditure.

However, to date, Congress has only provided States with 14.9 percent of the

funds promised. We need to do a better job of keeping the IDEA promise, and I am proposing that we strive to meet this goal.

My bill will achieve the 40 percent level in 2011. By steadily increasing funds over the next 10 years, we would demonstrate our commitment to our local school districts and practice fiscal prudence.

Mr. Speaker, I invite my colleagues to join me in meeting the IDEA promise.

EDUCATION AND WORKFORCE COMMITTEE BOYCOTT

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

Mr. RODRIGUEZ. Mr. Speaker, I am deeply concerned about the decision of the Committee on Education and the Workforce to split the higher education issues.

I take offense that the higher education issues affecting Hispanic-serving institutions and historically black universities and colleges are not considered as mainstream, and, therefore, the bias-skewed mentality found it necessary to group them with such disparate issues as juvenile justice, runaway youths and other social issues.

It is a form of segregation and placing blame and blaming the victim. I am really concerned that the mentality that created the proposal is one that is placing blame rather than acknowledging that we all have a problem, that we all need to take ownership, that we all need to solve the issue and not designate it as a problem that belongs to one group or another, given that our Hispanic-serving institutions and our historically black colleges and universities are assisting youth and people throughout the country to make sure that they meet the challenges of the 21st century.

I have spoken to my universities back home, and they are seriously concerned with what has happened in the Committee on Education and the Workforce and, therefore, I ask the gentleman from Ohio (Mr. BOEHNER), the chairman of the Committee on Education and the Workforce, to reconsider this decision and let us make sure that every child is not left behind.

□ 1015

URGING SUPPORT FOR THE PEACE CORPS PROGRAM

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

Mr. WALSH. Mr. Speaker, today marks the 40th anniversary of the Peace Corps. Thirty years ago, I left my very comfortable middle-class home in Syracuse, New York for a thatched hut with a mud floor in the foothills of Nepal. I made a lot of friends. I gained a lot more knowledge than I imparted.

But today, I stand before my colleagues, among other Members of Congress, who served in the Peace Corps. Many of us are back home providing productive lives and leadership throughout many sectors of our country.

The knowledge of the world that these Peace Corps, former Peace Corps volunteers provide becomes more and more valuable as the world gets smaller. Congress needs to continue its strong support for this program. There are benefits certainly to the world in terms of better international relations, and it provides a constant infusion of new leaders to our country.

So, Mr. Speaker, I urge strong support for the continued Peace Corps program.

JUST DO IT

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

Ms. WOOLSEY. Mr. Speaker, just do it. Go ahead, return the historically black colleges and universities and the Hispanic-serving universities to the subcommittee where they belong, the subcommittee that has jurisdiction over higher education, the Subcommittee on 21st Century Competitiveness, the subcommittee for this century.

Separating historically black, Hispanic, and tribal institutions from the higher education subcommittee is insulting. It is harmful. It takes us back to the 19th century.

The Republicans' decision is insulting and harmful. It is harmful to our colleagues. It is harmful to the institutions, to the students, and those who attend them, and it is harmful to our Nation.

What good reason could there be for not changing this decision? There is no good reason. Just do it.

STEEL REVITALIZATION ACT

(Mrs. JONES of Ohio asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. JONES of Ohio. Mr. Speaker, I rise this morning to discuss the steel crisis which has forced American steel producers like LTV Corporation in my city into bankruptcy. Today under the leadership of the gentleman from New York (Mr. QUINN), we will introduce, along with the gentleman from Indiana (Mr. VISCLOSKY), the Steel Revitalization Act.

The aim of this legislation is to aid American steel producers through import relief, legacy cost sharing, adjusting the Steel Loan Guarantee Program, and providing incentives to consolidate. We hope this legislation will help all steelworkers.

The flood of illegally subsidized foreign steel into American markets have caused our companies to declare bankruptcy at alarming rates.

I find it somewhat ironic that we are introducing the Steel Caucus package on the same day the House is expected to debate the bankruptcy reform.

Estimates of the cost of the economic impact of losing LTV in Cleveland show that the steel maker pays $338 million in annual wages and salaries and $68 million in benefits.

I urge my colleagues to support the Steel Revitalization Act and would press the House leadership to bring this legislation to the floor quickly.

EDUCATION AND WORKFORCE SUBCOMMITTEE JURISDICTIONS

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

Mr. ACEVEDO-VILÁ. Mr. Speaker, the exclusion of minority higher education issues from the Subcommittee on 21st Century Competitiveness is a step backward. Congress must take a step forward and combine all higher education programs into one subcommittee.

In my district, Puerto Rico, I am proud to represent 46 institutions of higher education, both public and private, and comprised of over 174,000 students. Compared to many districts, my schools are permanently populated by minority students, and I am here to raise their voice in opposition.

By targeting minorities and placing them in a separate subcommittee with at-risk youth, child abuse, and domestic violence connotes that minorities are a problem in our society, when in reality it is the mixing of many cultures that make this Nation strong.

As minorities grow in numbers and influence our country, we have not forgotten our roots or the pain or discrimination of being ignored or left behind. Minorities seek and demand the same high quality education as the rest of the society. This exclusionary action lessens the quality and promotes ignorance.

I join my fellow colleagues today to let our voice be heard, our presence be known.

SEPARATE BUT EQUAL IS NOT ACCEPTABLE IN AMERICA

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

Ms. MCCOLLUM. Mr. Speaker, today, I am giving my first speech on the House floor. It is a great privilege to be

here. I was sent to Congress to fight for equality and justice for Minnesota families and all American families.

Today I am speaking out against the inequality and injustice that only can be corrected by the majority on the Committed on Education and the Workforce.

Separating historically black colleges from other higher education institutions is a disgrace. Separating tribal colleges is unconscionable. Separating Hispanic-serving institutions is an injustice.

We are one Nation. Separate but equal is not acceptable in America, and it must not be acceptable in Congress.

I call upon the Republican leadership to unite all institutions of higher education into one subcommittee and treat all of our children with dignity and equality.

IN THE 21ST CENTURY, ALL SCHOOLS DESERVE LEVEL PLAYING FIELD

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

Ms. SOLIS. Mr. Speaker, I rise to express my dismay with the plan put forth by my Republican colleagues which would hurt our Nation's important minority-serving higher education institutions. This plan would remove Hispanic-serving institutions, historically black colleges and universities, and tribal colleges from the consideration of the Subcommittee on 21st Century Competitiveness, which deals with higher education and, instead, places them in a select Committee on Education and the Workforce which deals with juvenile crime and child abuse.

What kind of message are we sending when we exclude minority-serving institutions from our consideration of higher education? Why should schools like Cal State Los Angeles and East Los Angeles College located in my district be treated differently than any other college in our country?

Two of my heroes in government were educated there in East Los Angeles College. I am talking about Gloria Molina, the first Latina ever elected as Los Angeles County Supervisor, and a former colleague, Congressman Esteban Torres, who was a Member of this body.

Do we want to send a message that these schools and their graduates are somehow less than any other college or university? I do not think so. I urge Republicans to rethink this proposal and to send the right message; that, in the 21st century, all schools deserve a level playing field.

PROVIDING FOR CONSIDERATION OF H.R. 333, BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2001

Mr. SESSIONS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 71 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 71

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. 333) to amend title 11, United States Code, 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 the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. The amendments recommended by the Committee on the Judiciary now printed in the bill shall be considered as adopted in the House and in the Committee of the Whole. The bill, as amended, shall be considered as the original bill for the purpose of further amendment under the five-minute rule and shall be considered as read. All points of order against provisions in the bill, as amended, are waived. No further amendment to the bill shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill, as amended, to the House with such further 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.

SEC. 2. Upon receipt of a message from the Senate transmitting H.R. 333 with Senate amendments thereto, it shall be in order to consider in the House a motion offered by the chairman of the Committee on the Judiciary or his designee that the House disagree to the Senate amendments and request or agree to a conference with the Senate thereon.

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

Mr. SESSIONS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. FROST), my colleague and my friend; 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, the legislation before us today is a fair and structured rule, providing for the consideration of H.R. 333, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2001. The rule waives points of order against consideration of the bill and provides for 1 hour of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on Judiciary.

The rule also provides that the amendments recommended by the Committee on Judiciary now printed in the bill shall be considered as adopted in the House and in the Committee of the Whole and that the bill, as amended, shall be considered as the original bill for the purpose of further amendment and shall be considered as read.

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

The rule also waives all points of order against the amendments printed in the Committee on Rules report.

Finally, the rule provides one motion to recommit with or without instructions and provides authorization for a motion in the House to go to conference with the Senate on the bill, H.R. 333.

□ 1030

Mr. Speaker, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2001 will fundamentally reform the existing bankruptcy system into a needs-based system. I am proud of the tireless efforts of the House Committee on the Judiciary under the leadership of the gentleman from Wisconsin (Mr. SENSENBRENNER) to address this issue and to ensure that our bankruptcy laws operate fairly, efficiently, and free from abuse.

We must end the days when debtors who are able to repay some portion of their debt are allowed to game the system to take advantage of those laws. Instead, this bill is crafted to ensure the debtor's rights to a fresh start while protecting the system from flagrant abuses from those who can pay their bills.

This should not be a controversial issue because Congress has spoken many times on this issue before today. Two Congresses ago, in the 105th Congress, the House and the Senate passed

different versions of bankruptcy reform legislation. The House agreed to the conference report that was negotiated on October 9, 1998, by a vote of 300 to 125.

During the 106th Congress, both the House and the Senate overwhelmingly approved bankruptcy reform legislation, also on a bipartisan basis. The House passed H.R. 833 by a vote of 313 to 108 in May of 1999 and later passed the conference report by voice vote on October 12, 2000. Each time the bankruptcy reform legislation has received overwhelming support from both sides of the aisle. The Senate also voiced its strong support and passed the conference report by a vote of 70 to 28. Unfortunately, President Clinton chose to pocket veto this bill.

That is why we are here again today, Mr. Speaker. The legislation that we consider today is virtually identical to the conference report that passed the House in the 106th Congress.

There is a great need for this bill now. According to statistics released by the Administrative Office of the United States Courts, bankruptcy filings reached an all-time high of more than 1.4 million in 1998. The debts that remain unpaid as a result of those bankruptcies cost each American family that did pay their bills on time $400 a year in the form of higher cost for credit, goods and services. Unfortunately, much of the debt that was eventually passed on to consumers last year was debt that bankruptcy filers could have afforded to pay. They simply did not because of the current opportunities under the law. That is why it is so important for us today to pass real bankruptcy reform.

Without serious reform of our bankruptcy laws, these trends promise to continue growing, as they have every year, costing business and consumers even more in the form of losses and higher costs of credit. As we debate and vote today, we should keep in mind two important tenets of the bankruptcy reform: number one, the bankruptcy system should provide the amount of debt relief that an individual needs, no more and no less; and, number two, bankruptcy should be the last resort and not a first resort to financial crisis. It should not become a way of life.

Opponents of this bill have tried to divert the discussion away from the merits of the bill and claim it would make it more difficult for divorced women to obtain child support and alimony payments. However, nothing could be further from the truth. This bankruptcy reform bill protects the financial security of women and children by giving them higher priority than today's law. The legislation closes loopholes that allow some debtors to use the current system to delay, or even evade, child support and alimony payments. The bill recognizes that no obligation is more important than that of a parent to his or her children.

Currently, child support payments under today's law are the seventh priority behind such things as attorney's fees. Make no mistake about this, H.R. 333 puts women and children first at the top of the list. We should provide greater protection to families who are owed child support, and this bill will do just that.

One important part of this legislation is known as the ''homestead provision.'' Protection of one's home is something that is very important to myself, the gentleman from Texas (Mr. FROST), who will be speaking in just a minute on behalf of the minority, and also our constituents in Texas. The homestead provision maintains the long-held standard that allows the States to decide if homestead should be protected, yet stops those who purchase a home before filing bankruptcy as a means to evade creditors.

The bill also addresses other problems, including needs-based bankruptcy. The heart of this legislation is a needs-based formula that separates filers into chapter 7 or chapter 13 based upon their ability to pay. While many families may face job loss, divorce, or medical bills and, therefore, legitimately need protection provided by the bankruptcy code, research has shown that some chapter 7 filers actually have the capacity to repay some of what they owe. Needs-based reform says that if someone can reasonably repay some of their debts, they should. This does not mean that the debtor cannot declare bankruptcy, but merely that the debtor needs to use chapter 13 rather than chapter 7 to repay some of the debt if he or she is able to do so.

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

Finally, the bill also imposes new restrictions and responsibilities upon creditors with the goal of preventing borrowers from getting in over their heads. For example, the bill requires creditors to disclose more about the effect of paying only the minimum payment and establishes new creditor penalties designed to encourage good-faith bankruptcy settlements with debtors.

Mr. Speaker, I am proud of this bill. This resolution will bring bankruptcy reform to the House of Representatives. The rule allows for full and fair debate on the underlying measure, as well as adequate opportunity for those who oppose the legislation to offer amendments. I urge my colleagues to support this rule and H.R. 333.

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

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

Mr. Speaker, I have long been a supporter of bankruptcy reform, and I support the bill before us today. I am, however, concerned that the Committee on Rules majority has started the year by denying Democratic Members the opportunity to offer amendments to this significant legislative proposal. Granted, the bill before us is identical to the bill vetoed by the President last year; but at the same time, we do have a deliberate process in this body that is being stifled by the majority. Just as the majority is intent on considering massive tax cuts before we even have received a real budget from the President, much less before we have a budget debate on the Hill, the majority has once again subverted the process.

Mr. Speaker, as I said, I am a supporter of this bill, but there are issues that deserve to be heard and debated. This rule makes in order six amendments. Democrats are grateful the Republican majority has at least seen fit to give us a substitute, but other significant amendments offered in the Committee on Rules yesterday are not included in this list of six.

For example, the gentleman from Michigan (Mr. CONYERS), the ranking member of the committee, offered an amendment, along with the gentlewoman from New York (Ms. SLAUGHTER), who is a member of the Committee on Rules. This amendment relates to the issue of payment of child support and alimony by debtors, which has long been an issue that has given many Members pause when considering whether or not to support reform of the bankruptcy system. Mr. Speaker, many believe the provisions in the bill adequately address these concerns. However, it is an issue that deserves to be heard and the Conyers-Slaughter amendment should have been made in order.

Mr. Speaker, it is not as if we have been extraordinarily busy in the weeks since the 107th Congress convened. Perhaps giving us an extra hour or two of debate time might be too taxing, considering the schedule we have kept so far this year, and that is the reason we will not be able to debate the Conyers-Slaughter amendment or other amendments submitted by Democratic Members; but if we are to have the change of tone in Washington the President is seeking, it seems to me that there should be a little more collegiality on the part of the Republican leadership when it comes time to parcel out amendments to bills the House is to debate.

Mr. Speaker, Democrats are not here to subvert the process. We have constituencies to represent and real problems to address. We can only hope in

the coming months that we will be allowed to do that as we consider legislation that is vital to our country and to the people we represent.

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

Mr. SESSIONS. Mr. Speaker, I yield 1½ minutes to the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman of the Committee on the Judiciary.

Mr. SENSENBRENNER. Mr. Speaker, I rise in strong support of this resolution, an order of business resolution, providing for the consideration of H.R. 333, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2001.

I want to commend the gentleman from Texas (Mr. SESSIONS); the gentleman from California (Mr. DREIER), the chairman of the Committee on Rules; and all the members of the Committee on Rules for reporting a fair, balanced, and appropriate rule for consideration of this important bankruptcy reform bill.

Mr. Speaker, this rule is not unlike rules passed in the 105th and 106th Congress providing for the consideration of bankruptcy reform bills. This structured rule provides ample time for debate and consideration of opposing views. It makes in order one minority substitute and provides one hour of debate on that substitute. It also makes in order a technical amendment which I will be offering which will make some minor technical corrections in the bill.

Mr. Speaker, this is a good rule and I urge the Members to support this resolution.

Mr. FROST. Mr. Speaker, I yield 7 minutes to the gentleman from Massachusetts (Mr. DELAHUNT).

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

Mr. Speaker, this bill represents an ill-considered change in public policy that totally advantages some creditors, particularly large credit card issuers, over families that seek bankruptcy relief because of financial catastrophes caused by major medical expenses, divorce, job loss, death of the family bread winner and the like. In fact, it was the former chairman of the Committee on the Judiciary, the gentleman from Illinois (Mr. HYDE), that pointed out last year during the course of this debate that there were 75 consumer creditor enhancements in this bill. It also advantages the sophisticated debtor who has accumulated so-called ''exempt assets,'' to the detriment of the unsophisticated debtor who has no assets and is earning $40,000, $45,000, or $50,000 a year trying to put bread on the family table.

The American people should know that a debtor can live in a mansion in Florida worth millions, have an individual retirement account of up to $1 million, have annuities worth additional millions of dollars, receive a nice big fat pension and not worry, because these assets are exempt and creditors cannot touch them.

□ 1045

But if you do not have any so-called exempt assets and are barely making it and genuinely need bankruptcy relief, woe is you. Those credit card companies will be able to chase you forever. Just imagine how this different treatment of debtors will appear to the American people. You can properly call this not a tax break for the wealthy but bankruptcy protection for the rich. Every fair-minded American should find this offensive and unconscionable. We are in the process of establishing different classes of debtors.

Now, proponents are concerned, justifiably, about the dramatic increase in the number of personal bankruptcy filings that peaked in 1998, as my friend from Texas indicated. I share his concern and their concerns. It is just that this bill is not the answer. It is not the panacea they claim. They predicted that unless we adopted an earlier version of this bill, those filings would continue to escalate. The original bill was introduced in 1997. Well, they were dead wrong. The bankruptcy rate declined by more than 9 percent in 1999 and further declined 6 percent in the year 2000. That represents 170,000 fewer filings in the year 2000 than in 1998. That is what they are not telling you, Mr. Speaker. That is a 2-year decline of greater than 15 percent in the bankruptcy rate. No doubt if the bill had passed when introduced in 1997, the sponsors would be taking bows for this positive trend. But it would have been undeserved. I have no doubt that they sincerely believe that the spike in the number of personal bankruptcies was caused by debtors, as I have heard the term, gaming the system, that bankruptcy was becoming a financial planning tool and that there was no longer a social stigma associated with bankruptcy and that the current Bankruptcy Code encouraged debtors to file for bankruptcy. Again in large measure they were wrong. Maybe they never carefully examined the evidence, because every independent analysis concluded that there was no data, no empirical research, no hard evidence that supported that theory. Let me add when I say independent analysis, I mean studies that were not bought and paid for by the credit card industry.

Government agencies agreed with those independent experts. To note a few, a CRS report issued in 1998 states, ''There is a dearth of empirical data to support or refute the hypothesis.'' The CBO issued a report last year. One sentence sums it all up, and I am quoting: ''The available research casts a dim light on the causes of personal bankruptcy and its consequences for the cost and availability of credit.''

Myself and others proposed amendments, Mr. Speaker, that would have added some balance to the bill, that would have equaled the relationship between creditors and debtors. But unfortunately they were not made in order.

Mr. Speaker, I hope that the rule is rejected and that the underlying bill is defeated.

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

Our previous speaker, who is a very good friend of mine, was speaking about credit card debts, was speaking about who would and would not get relief under this bill. I would like to just state that the purpose of this bill is to allow all Americans the opportunity to file bankruptcy. The gentleman indicated that credit card companies would stay after that little guy for forever. But, in fact, that is not true. Because if the little guy that was in reference to, unless they had a nondischargeable debt, meaning that they took on this credit card debt fraudulently, immediately upon filing for bankruptcy they would get the relief, just like anyone else in this country.

We are not after the little guy. We are trying to do the right things for everybody. And so whether you did have a pension or whether you were a little guy, we would offer that same protection.

Mr. DELAHUNT. Mr. Speaker, will the gentleman yield?

Mr. SESSIONS. I yield to the gentleman from Massachusetts.

Mr. DELAHUNT. Mr. Speaker, again let me be very, very clear. The priority that is now given to credit card debt under this proposal is vastly different and much of that debt will become nondischargeable and we will be chasing people for $80 a month while others are living, with these exempt assets, the life of luxury. That is totally wrong and unconscionable.

Mr. SESSIONS. I appreciate the gentleman's help. In fact, I believe that a nondischargeable debt, as most of them are, would simply be given relief, and so it would not be cost effective to chase after $80 for forever, nor would it be appropriate and right. Nor would it be allowed under this law.

Mr. Speaker, I yield 2½ minutes to the gentleman from Palm Bay, Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of H.R. 333, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2001. In recent years despite the trends downward, bankruptcies remain too high. I remain deeply troubled by this. I am very concerned that filing for bankruptcy continues to be much higher than it should be, and I believe that today many Americans are filing for bankruptcy again as a financial planning tool.

Filing for bankruptcy should be reserved for Americans who have been

generally responsible but have gotten in over their heads primarily for circumstances that they could not control, such as the loss of a job, high medical bills, a disability in the family that puts a tremendous strain on the family budget, and other such circumstances.

Earlier this week, I had the members of the credit unions in the State of Florida come into my office. As we all know, credit unions are membership-owned financial institutions, owned by working people. They support this bill. Why is that the case? Because they are increasingly seeing bankruptcies of convenience, bankruptcies used as a financial planning tool. These are people who have been often irresponsible in their spending habits.

And who picks up the tab for these bankruptcies of convenience? All of the other members of the credit union, through higher interest rates and reduced benefits. Just to cite as an example what the credit unions are telling me that they are seeing more and more often is people who run up large credit card bills at places like Disney World, on trips to theme parks and trips to very, very nice hotels in the days and weeks prior to them filing for bankruptcy. Meanwhile, thousands of other hardworking Americans in those credit unions do not go to those kinds of places simply because they cannot afford it. But nonetheless they are paying for those trips by those people.

I realize that this is a very difficult issue, but I believe that the bill that we have on the floor today strikes the proper balance. It is a good bill. It protects consumers. That is what we should be primarily concerned about. It protects all Americans fairly. I encourage all my colleagues to support this rule, which is a very, very fair and good rule, and support the underlying bill.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. SCHIFF).

Mr. SCHIFF. Mr. Speaker, I rise in opposition to this rule. During committee consideration, I offered several amendments to correct oversights in the bill. These amendments were of a relatively minor character. The first would provide that when someone, for example, is legally separated from their spouse and files individually for bankruptcy, that we would not consider the separated spouse's income in determining whether the person filing for bankruptcy met the means test. As a practical matter, if someone is legally separated and has no access to the assets of the other spouse and yet that other spouse's assets are considered in the means test, they will not qualify for chapter 7. That is not appropriate. I am really astounded that this provision was taken out of the manager's amendment. During the committee hearing, the sponsor of the bill indicated that he thought that there was likely merit to this amendment.

The second that I offered would provide for a GAO study to determine the impact on child support, whether this will make it more difficult for people to collect child support. That was also rejected, a mere study of the issue. I do not know what we are afraid of. If we have a study of the issue and it finds, as the proponents of the bill say, that this has no net adverse impact on women trying to collect child support, then great, we know that. But if a year goes by and the study is conducted and it finds there are problems, we can then address them. What are we afraid of? Why are we afraid to find out the answer to those questions?

I am hoping this bill comes back from conference with the Senate in a different form. Many of us would like to support this bill. This bill has many important bankruptcy reforms in it. Many of us believe bankruptcy reform is vital. There are some positive things on child support in this bill, like relief from the automatic stay. But if even these minor issues that could ultimately be very important are rejected out of hand as they are in this rule, then the House is essentially delegating to the Senate to do the meaningful work on the bill. We are delegating to the Senate to decide what amendments should be taken and what not, what the form of the bill ought to be. I hope that this pattern would not persist with other legislation as well or we will really be delegating our responsibility to the other House.

In conclusion, Mr. Speaker, I would urge opposition to this rule and in the future would hope that where there are amendments that are acknowledged in committee as probably having merit, where suggestions such as a study are made, that they would be considered in order. I thank the Members for their consideration.

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

Ms. PRYCE of Ohio. Mr. Speaker, I thank my good friend from Texas and my colleague on the Committee on Rules for yielding me this time.

I rise in strong support of this balanced rule and for the underlying legislation.

Mr. Speaker, we have before us a fair and evenhanded rule that will allow us to consider important legislation to reform our Nation's bankruptcy system. This bankruptcy reform legislation will remedy weaknesses in existing law that allow higher income taxpayers to escape their responsibilities even when they are able to repay a portion of what they owe. This bill will take steps to eliminate what we call the bankruptcy of convenience. At the same time, the legislation will protect those who are truly needy and in need of a second chance to maintain their ability and obtain a fresh start.

Further, the legislation contains important protections for children and spouses who are owed child support and alimony. By equipping State child support collection agencies with the necessary tools and codifying the importance of child support and alimony obligations, this legislation will increase our commitment to children and families and will hold parents, husbands and wives to their responsibilities.

Mr. Speaker, the American public has indicated their desire for bankruptcy reform and, in fact, the Congress just last year demonstrated its strong support in passing very similar bankruptcy legislation reform, with 313 bipartisan votes. Today, we build upon our past success and take an important step forward toward finally enacting these needed reforms into law.

The administration has already stated its support for this overall package and recognizes the need to curb many of the abuses of the current bankruptcy protections. I urge my colleagues to support this fair and balanced rule as well as passage of this important legislation.

Mr. FROST. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

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

In closing today, I would like to say that the Bankruptcy Review Commission was created in 1994 and filed its report in 1997. It was composed of people who were on the front lines, not only bankruptcy judges but also trustees from all across the country as well as those who were interested in small business, consumers and others. They have provided us feedback that we have included in this bill today. Today I had an opportunity to speak with the trustee of the Northern District of Texas and the Eastern District of Texas, Bill Neary.

□ 1100

Mr. Neary provided me information and feedback that, in fact, he believed that the most complete, up-to-date opportunities that they are seeing in the marketplace today are included within this bill.

This rule that we are talking about is fair. It is doing the right thing. It will support the underlying legislation.

Mr. SENSENBRENNER. Mr. Speaker, at the request of the Committee on Financial Services, I hereby submit for the RECORD correspondence between that Committee and the Committee on the Judiciary relating to the Financial Services Committee's agreement to waive its consideration of H.R. 333, the "Bankruptcy Abuse Prevention and Consumer Protection Act of 2001."

COMMITTEE ON FINANCIAL SERVICES,
Washington, DC, February 21, 2001.

Hon. F. JAMES SENSENBRENNER, Jr.,
Chairman, Committee on the Judiciary, Rayburn House Office Building, Washington, DC.

DEAR JIM: On February 14, 2001 the Committee on the Judiciary ordered reported H.R. 333, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2001. As you know, the Committee on Financial Services was granted an additional referral upon the bill's introduction pursuant to the committee's jurisdiction under Rule X of the Rules of the House of Representatives over banks and banking, credit, and securities and exchanges.

Because of your willingness to consult with the Committee on Financial Services regarding this matter, your continuing support for our requested changes, and the need to move this legislation expeditiously, I will waive consideration of the bill by the Financial Services Committee. By agreeing to waive its consideration of the bill, the Financial Services Committee does not waive its jurisdiction over H.R. 333. In addition, the Committee on Financial Services reserves its authority to seek conferees on any provisions of the bill that are within the Financial Services Committee's jurisdiction during any House-Senate conference that may be convened on this legislation. I ask your commitment to support any request by the Committee on Financial Services for conferees on H.R. 333 or related legislation.

I request that you include this letter and your response as part of your committee's report on the bill and the Congressional Record during consideration of the legislation on the House floor.

Thanks for your attention to these matters.

Sincerely,

MICHAEL G. OXLEY,
Chairman.

COMMITTEE ON THE JUDICIARY,
Washington, DC, February 22, 2001.

Hon. MICHAEL G. OXLEY,
Chairman, House Committee on Financial Services, Rayburn House Office Building, Washington, DC.

DEAR MIKE: This letter responds to your letter dated February 21, 2001, concerning H.R. 333, the ''Bankruptcy Abuse Prevention and Consumer Protection Act of 2001'' which was favorably reported by the House Committee on the Judiciary on February 14, 2001.

I agree that the bill contains matters within the Financial Services Committee's jurisdiction and appreciate your willingness to be discharged from further consideration of H.R. 333 so that we may proceed to the floor.

Pursuant to your request, a copy of your letter and this letter will be included in the report of the Committee on the Judiciary on H.R. 333.

Sincerely,

F. JAMES SENSENBRENNER, Jr.,
Chairman.

Mr. LAFALCE. Mr. Speaker, I rise in opposition to the Rule. I had hoped that the House would have had an opportunity to debate the amendment sponsored by myself and Representatives KANJORSKI, NADLER, and JACKSON-LEE, that would have addressed the very serious problem of misleading and deceptive credit card practices. It is extremely disappointing that the Rule only provides for a handful of amendments. But, the Rule is thereby consistent with the history of this legislation, for H.R. 333 is the product of a shadow conference, not full congressional deliberations, where issues important to consumers and working families could have been seriously considered. The Financial Services Committee never even availed itself of the opportunity to review the bill, although it contains significant changes to the Truth In Lending Act.

The bill is not balanced. H.R. 333 attempts to deal with the results of the increasing level of consumer bankruptcies. But the bill fails to deal adequately with one of the principal causes. That cause is the aggressive promotion of consumer debt by credit card companies, without any attention to reasonable underwriting standards, and increasingly targeted at vulnerable populations that can neither afford it nor, often, repay it. As policymakers, we cannot expect consumers to willingly assume the greater financial responsibility contemplated under this bill unless we also simultaneously protect them from abusive practices which unfairly trap them into debt they can ill afford.

Our amendment addresses credit card company practices that directly contribute to the increasing level of consumer debt and the rise in consumer bankruptcies. It goes beyond the traditional emphasis on disclosure and provides stronger protections for all consumers against credit card company practices that are at the very least misleading and, often, intentionally deceptive. In particular, it addresses the concerns of populations which have proven to be most vulnerable. People in their twenties are the fastest growing group filing for bankruptcy. To a large degree, that is the result of aggressive targeting of students and young people just starting out in life by credit card companies that trap them into a cycle of debt before they have adequate income to sustain it.

The few provisions in H.R. 333 that attempt to address this issue are inadequate and may turn out to be illusory because their effective date could be delayed indefinitely through a mandatory regulatory process.

The credit card industry is asking Congress for relief from allegedly inadequate bankruptcy statutes. Congress should not consider such relief unless it also relives vulnerable consumers of the burden of abusive credit card company practices. We must do a better job of bringing balance to this bill, and ensuring that credit card issuers take responsibility for their own actions that have helped to create the consumer debt problems that America faces today.

I urge that my colleagues vote against this Rule, and let the Committees do their job and hold full and fair hearings on these issues.

Mr. SESSIONS. 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 SPEAKER pro tempore (Mr. QUINN). The question is on the resolution.

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

Mr. FROST. 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 281, nays 132, not voting 19, as follows:

[Roll No. 22]

YEAS—281

Aderholt	Gilchrest	Miller, Gary
Akin	Gillmor	Moakley
Armey	Gilman	Moore
Bachus	Gonzalez	Moran (KS)
Baker	Goode	Moran (VA)
Ballenger	Goodlatte	Morella
Barcia	Gordon	Myrick
Barr	Goss	Nethercutt
Bartlett	Graham	Ney
Barton	Granger	Northup
Bass	Graves	Nussle
Bentsen	Green (WI)	Ortiz
Bereuter	Greenwood	Osborne
Berkley	Grucci	Ose
Berry	Gutknecht	Otter
Biggert	Hall (OH)	Oxley
Bilirakis	Hall (TX)	Pallone
Bishop	Hansen	Pastor
Blunt	Harman	Paul
Boehlert	Hart	Pence
Boehner	Hastings (WA)	Peterson (MN)
Bonilla	Hayes	Peterson (PA)
Bono	Hayworth	Petri
Boswell	Hefley	Pickering
Boucher	Herger	Pitts
Boyd	Hill	Platts
Brady (TX)	Hilleary	Pombo
Brown (SC)	Hobson	Portman
Bryant	Hoekstra	Price (NC)
Burr	Holt	Pryce (OH)
Burton	Horn	Putnam
Buyer	Hostettler	Quinn
Callahan	Houghton	Radanovich
Calvert	Hulshof	Rahall
Camp	Hunter	Ramstad
Cannon	Hutchinson	Regula
Cantor	Hyde	Rehberg
Capito	Isakson	Reyes
Cardin	Issa	Reynolds
Castle	Istook	Riley
Chabot	Jenkins	Rivers
Chambliss	John	Roemer
Clement	Johnson (IL)	Rogers (KY)
Coble	Johnson, Sam	Rogers (MI)
Collins	Jones (NC)	Rohrabacher
Combest	Keller	Ross
Cooksey	Kelly	Roukema
Cox	Kennedy (MN)	Royce
Crane	Kennedy (RI)	Rush
Crenshaw	Kerns	Ryan (WI)
Crowley	Kind (WI)	Ryun (KS)
Cubin	King (NY)	Sandlin
Culberson	Kirk	Saxton
Cunningham	Kleczka	Scarborough
Davis (FL)	Knollenberg	Schaffer
Davis, Jo Ann	Kolbe	Schrock
Davis, Tom	LaHood	Sensenbrenner
DeLay	Langevin	Sessions
DeMint	Largent	Shadegg
Diaz-Balart	Larsen (WA)	Shaw
Dicks	Larson (CT)	Shays
Dooley	Latham	Sherwood
Doolittle	LaTourette	Shimkus
Dreier	Leach	Shows
Duncan	Lewis (CA)	Simmons
Ehlers	Lewis (KY)	Simpson
Ehrlich	Linder	Sisisky
Emerson	LoBiondo	Skeen
English	Lucas (KY)	Skelton
Etheridge	Lucas (OK)	Smith (MI)
Everett	Maloney (CT)	Smith (NJ)
Ferguson	Maloney (NY)	Smith (TX)
Flake	Manzullo	Smith (WA)
Fletcher	Matheson	Souder
Foley	McCarthy (NY)	Spence
Ford	McCrery	Spratt
Fossella	McHugh	Stearns
Frelinghuysen	McInnis	Stenholm
Frost	McIntyre	Strickland
Gallegly	McKeon	Stump
Ganske	Menendez	Sununu
Gekas	Mica	Sweeney
Gibbons	Miller (FL)	Tancredo

Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Traficant
Turner
Upton
Velázquez
Vitter
Walden
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NAYS—132

Abercrombie
Allen
Andrews
Baca
Baldacci
Baldwin
Barrett
Becerra
Berman
Blagojevich
Blumenauer
Borski
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Carson (IN)
Carson (OK)
Clay
Clayton
Clyburn
Condit
Conyers
Costello
Coyne
Davis (CA)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dingell
Doggett
Doyle
Engel
Eshoo
Evans
Farr
Fattah
Filner
Frank
Gephardt
Green (TX)
Gutierrez
Hastings (FL)
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Honda
Hooley
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kildee
Kilpatrick
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Markey
Mascara
Matsui
McCarthy (MO)
McCollum
McGovern
McNulty
Meehan
Meek (FL)
Meeks (NY)
Millender-McDonald
Miller, George
Mink
Mollohan
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Owens
Pascrell
Payne
Pelosi
Phelps
Pomeroy
Rangel
Rodriguez
Roybal-Allard
Sabo
Sanchez
Sanders
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Slaughter
Solis
Stark
Stupak
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Udall (CO)
Udall (NM)
Visclosky
Waters
Watt (NC)
Waxman
Weiner
Wexler
Woolsey

NOT VOTING—19

Ackerman
Baird
Bonior
Cramer
Cummings
Deal
Dunn
Edwards
Hoyer
Inslee
Kingston
McDermott
McKinney
Norwood
Ros-Lehtinen
Rothman
Snyder
Toomey
Towns

□ 1123

Ms. SOLIS, Mrs. NAPOLITANO, Mr. POMEROY, Mrs. MEEK of Florida, Mr. FARR of California, Mrs. DAVIS of California, Mr. LAMPSON, Mr. GEPHARDT and Ms. MILLENDER-McDONALD changed their vote from ''yea'' to ''nay.''

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SESSIONS. 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. 333.

The SPEAKER pro tempore (Mr. QUINN). Is there objection to the request of the gentleman from Texas?

There was no objection.

APPOINTMENT OF MEMBERS TO PERMANENT SELECT COMMITTEE ON INTELLIGENCE

The SPEAKER pro tempore. Without objection, and pursuant to clause 11 of rule X and clause 11 of rule I, the Chair announces the Speaker's appointment of the following Members of the House to the Permanent Select Committee on Intelligence:

Mr. BISHOP of Georgia,
Ms. HARMAN of California,
Mr. SISISKY of Virginia,
Mr. CONDIT of California,
Mr. ROEMER of Indiana,
Mr. HASTINGS of Florida, and
Mr. REYES of Texas.

There was no objection.

BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2001

The SPEAKER pro tempore (Mr. WALDEN of Oregon). Pursuant to House Resolution 71 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. 333.

□ 1125

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. 333) to amend title 11, United States Code, and for other purposes, with Mr. QUINN 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 Wisconsin (Mr. SENSENBRENNER) and the gentleman from Michigan (Mr. CONYERS) each will control 30 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 6 minutes.

Mr. Chairman, I rise in support of H.R. 333, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2001.

Mr. Chairman, this bill is a bipartisan, balanced, and comprehensive package of reform measures pertaining to both consumer and business bankruptcy cases. The purpose of the bill is to improve bankruptcy law and practice by restoring personal responsibility and integrity in the bankruptcy system, and to ensure that the system is fair to both debtors and creditors.

With respect to its consumer provisions, H.R. 333 responds to several significant developments. One of these developments was the dramatic increase in consumer bankruptcy filings during the 1990s and the losses associated with those filings. Based on data released by the Administrative Office of the United States Courts, bankruptcy filings increased by more than 72 percent between 1994 and 1998. Mr. Chairman, for the first time in our Nation's history, bankruptcy filings exceeded 1 million in 1996. In calendar year 1997 alone, bankruptcy filings increased by more than 19 percent over the prior year. By 1998, the number of bankruptcy filings, according to the AO, reached an all-time high of more than 1.4 million cases. Although the most recent reporting periods indicate the filings have somewhat decreased, the Administrative Office states they remain well above the 1 million mark. Paradoxically, this dramatic increase in bankruptcy filing rates has occurred during a period when the economy was generally robust, with relatively low unemployment and high consumer confidence.

Coupled with this development was the release of a study estimating that financial losses attributable to bankruptcy filings in 1997 exceeded $44 billion. The committee received testimony in the last Congress stating that this figure, when amortized on a daily basis, amounts to a loss of at least $110 million a day.

Please note, those of us who pay our bills as we have agreed end up having to absorb these losses through higher costs and bank fees and interest rates.

Various other studies which thereafter became available concluded that some bankruptcy debtors can in fact repay a significant portion of their debts.

The heart of H.R. 333's consumer bankruptcy provisions is the implementation of an income-expense screening mechanism, usually referred to as a means-based or means test reform.

□ 1130

These provisions are designed to ensure that debtors repay creditors the maximum they can afford.

In addition, the bill institutes significant consumer protection reforms, including mandatory credit counseling requirements and specific disclosures in connection with certain credit transactions.

The reforms are aimed to help debtors understand their rights and obligations with respect to reaffirmation agreements are also included in the legislation.

In addition, the legislation substantially expands the debtor's ability to exempt certain tax-qualified retirement accounts and pensions. It also creates a new provision that allows a consumer debtor to exempt certain education IRA and State tuition plans for his or her child's postsecondary education from the claims of creditors.

Most importantly, H.R. 333 requires debtors to participate in credit counseling programs before they file for bankruptcy relief, unless special circumstances do not permit such participation. The legislation's credit counseling provisions are intended to educate consumers about the consequences of bankruptcy, such as the potentially devastating effect it could have on their credit rating, and to provide them with guidance about how to manage their finances so that they can avoid future financial difficulties.

Mr. Chairman, the bill also makes extensive reforms pertinent to business bankruptcies. Many of these provisions are intended to heighten administrative scrutiny and judicial oversight of small business bankruptcy cases. In addition, the bill includes provisions designed to reduce systemic risk in the financial marketplace and to clarify the treatment of tax claims in bankruptcy cases. H.R. 333 also creates a new form of bankruptcy relief for transnational insolvencies and includes provisions regarding family farmer debtors and health care providers.

It should be noted that this bill is a product of more than 3 years of congressional consideration of bankruptcy reform legislation. As reported, H.R. 333 is virtually identical to the conference report on H.R. 2415, the Gekas-Grassley Bankruptcy Reform Act of 2000, which passed the House by a voice vote last October 12 and passed the other body on December 7 by a vote of 70 to 28. But for former President Clinton's December 19 pocket veto, this legislation would have been become law.

It should also be noted that support for bankruptcy reform legislation in the last two Congresses has been overwhelming and bipartisan. In the 105th Congress, for example, the House passed both H.R. 3150, the Bankruptcy Reform Act of 1998, and the conference report on that bill by veto proof margins. In the last Congress, the House passed H.R. 833, which is the successor to H.R. 2415, by a veto-proof margin of 313–108.

This bill is the product of extensive negotiation and compromise, as well as an exhaustive and amendatory process. In the last Congress alone, the House and Senate engaged in nearly 7 months of negotiations to reconcile the differences between their respective bills. The product of these exhaustive efforts was the conference report on H.R. 2415, which is virtually identical to this bill.

Mr. Chairman, this is a balanced, bipartisan and comprehensive reform measure, which will prevent the costly exploitation of our bankruptcy system, while protecting those debtors truly in need of bankruptcy protection.

Mr. Chairman, I urge my colleagues to support this important legislation.

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

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

Mr. Chairman, at a time when our electoral system is in tatters, voter reform ignored, our campaign finance laws riddled with loopholes, our seniors in desperate need of prescription drug coverage, our minimum wage laws unadjusted for 6 years, the first major bill the Republican majority brings to this floor is bankruptcy. Not just any bankruptcy bill, a bill that massively tilts the playing field in favor of creditors and against the interests of ordinary consumers and workers. A bill opposed by every consumer group, by the bankruptcy judges and trustees themselves, by organized labor, by every major group concerned about seniors, women, children, victims of crime, this is the first bill we bring to the floor in the 107th Congress.

To all of my friends on both sides of the aisle who tell me that this bill is balanced and fair, I have one response, read the bill and understand it.

To those who argue the bill only punishes wealthy debtors or fraudulent debtors, check out how the bill give creditors massive new rights to bring threatening court motions against low-income debtors. Read how the bill permits credit card companies to reclaim common household goods which are of little value to them, but of every value to the debtor's family. Read how the bill makes it more difficult for people below the poverty line to keep their house or their car in bankruptcy.

To those who allege the bill protects alimony and child support, I would ask them if they know that the bill creates major new categories of nondischargeable debt that compete directly against the collection of child support and alimony payments, Mr. Chairman; whether they are aware that the bill allows landlords to evict battered women without bankruptcy child support approval, even if the eviction poses a threat to the women's physical well-being; whether they are aware that the bill forces women and children involved in bankruptcy to file personal information with the court, which is then placed on-line where the whole world has direct access to it.

To my modest efforts to correct the bill and the problems, we were ruled out of order. It was considered to be unworthy of debate in the House.

To those who assert the bill cracks down on credit card abuse, I would ask them to look at the meaningless boilerplate requirements included in the bill to realize that the bill does absolutely nothing to discourage abusive underaged lending, nothing to discourage reckless lending to the developmentally disabled, yes, and nothing to regulate the practice of so-called subprime lending to persons with no means or little ability to repay their debts.

Then some suggest the bill fixes the problem of homestead exemption abuse, I would suggest that rather than repeal or even cap the homestead exemption, the bill places only weak obstacles in its place. The bill does nothing to prevent the very worst abuses in the Bankruptcy Code, such as when financiers and criminals void tens of millions of dollars in debt, while they live high on the hog in their multimillion dollar mansions. They can still do it under this bill. Again, the majority would not even allow us an amendment to try to eliminate the abuse.

To those who believe this bill streamlines and expedites business bankruptcies, look at title 4, which adds numerous new paperwork burdens, imposes arbitrary deadlines, and makes it far more likely that struggling businesses, especially small ones, will be forced to liquidate and terminate workers.

And so it is amazing that Congress is taking these actions at a time when we are in the middle of an economic slowdown. It is like pouring gasoline on a fire of economic uncertainty.

I am ashamed of this legislation.

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

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. ARMEY), the distinguished majority leader.

Mr. ARMEY. Mr. Chairman, let me open my remarks by thanking the Committee on the Judiciary for bringing this bill to the floor early.

I must say, Mr. Chairman, from me personally, I take it as a matter of enormous pride that this is the first significant bill we bring to the floor in this Congress. This Congress represents a new beginning, I hope, for the government of the United States.

Mr. Chairman, I believe that the law of this land should always be a complement to and encouragement for those lessons in life that we as parents invest most heartfelt in the instruction of our children.

Every mom and dad in America today that has that precious baby as their charge, realizing the responsibility that I am this child's first and most important teacher, tries to teach the child those lessons of life that will endure and, if observed and followed, will make it possible for that child to be happy and successful in their own life and a blessing in the lives of the others. That is all we want for our children.

This is a wonderful ability, the ability of adults to hold their head high and know their duty and do their duty.

One of the things that we have already worked so hard with our children is to be so, so careful how we accept obligations in our lives and be judicious in that manner, but once we accept an obligation to understand the need as a matter of personal pride and honor to fulfill that obligation, the law of the land should complement that lesson on

behalf of every child in America and on behalf of every parent that passes that lesson down to yet another generation.

Bankruptcy laws in America have not done that. Bankruptcy laws in America have put a lie to one of the most important lessons we teach our children. Bankruptcy laws in America have said to our children, you are a fool if you do not file. That is not right. Yes, this is a right step for us to take, a good step for us to take. It is not about the money. Anybody who thinks this bill is about who gets the money is missing the point, Mr. Chairman.

This bill is about the character of a Nation and will the Nation's laws have a character of the Nation's people.

Again, let me thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for bringing this opportunity for me as one Member to vote for the character of this great Nation, because, Mr. Chairman, we are a wonderful people. We deserve this bill.

Mr. CONYERS. Mr. Chairman, I yield 4 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the distinguished gentleman from Missouri (Mr. CONYERS), the ranking member, for yielding me the time, and I thank him for his leadership.

Mr. Chairman, I thank the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman of the Committee on the Judiciary, for the time we will have to work together.

It is for that reason that I rise to the floor with a great deal of disappointment, disappointment because this would have been a very simple and gracious way to begin the collaborative uniting that has been so eloquently spoken to by many in this country; but, yet, we took the ice skating rinks of the Nation and we got on some iceskates and we called it bankruptcy.

Before we could even hear the state of the budget, almost before the inauguration, this bill was skidding to victory, a bill that brakes the backs of working women, disappoints children and discourages people who are truly trying to work and do the right thing from getting their life back in order.

Let me simply suggest to you that this is what we are confronting. ''Debt smothers young Americans,'' the USA Today article says. ''As a freshman at the University of Houston in 1995, Jennifer signed up for a credit card and got a free T-shirt. A year later, she had piled up about $20,000 in debt and 14 credit cards. Jennifer is not a deadbeat. She is a young woman in college, seeking an opportunity and responding to the abusive solicitation by our credit card companies.''

One mode of collaboration could have been that in this bill we would have had responsible restrictions and requirements on our credit card companies to educate those who utilize credit. Yes, I think it is good that mom and dad can train a young child and get them to be responsible and pay their debts. It is great. How many of us have tried that?

□ 1145

Mr. Chairman, I have a young 21-year-old in college in America, and the T-shirts are just flowing there from credit card companies attempting to sign up students, and the T-shirts look pretty. They look like the one I am holding. Some are blue and pink, and they come in all colors.

This is a bad bill because it has a means test that says we are going to be guided by the IRS standards. We are going to test you and give you a SAT and LSAT before you go into bankruptcy court. They say we know the difference when there is frivolous lawsuit. We know when deadbeats are trying to get out of paying their debts.

What about Jennifer. Her parents may not have known she was signing up. What about women and children and dads who have custody of children and need alimony and need child support. This is a horrible bill.

What this bill does is it presents a competition, a world boxing match between the credit card companies and those who are trying to get alimony and child support from the bankrupt debtor. It says you have got to get out and fight with a lawyer before you can get prioritization. It does not prioritize alimony and child support. It is a misrepresentation to that. This hurts women and children.

Mr. Chairman, I include for the RECORD an article and a letter signed by the American Association of University Women, Children NOW, Children's Defense Fund, Center for Law and Social Policy, among others, that says we cannot survive. This is a bad bill. This is not a uniting bill. This is bad for America.

The material referred to is as follows:

[From USA Today, Feb. 13, 2001]

DEBT SMOTHERS YOUNG AMERICANS

(By Christine Dugas)

As a freshman at the University of Houston in 1995, Jennifer Massey signed up for a credit card and got a free T-shirt. A year later, she had piled up about $20,000 in debt on 14 credit cards.

Paige Hall, 34, returned from her honeymoon in 1997 to find herself laid off from her job at a mortgage company in Atlanta. She was out of work for 4 months. She and her husband, Kevin, soon were trying to figure out how to pay $18,200 in bills from their wedding, honeymoon and furnishings for their new home.

By the time Mistie Medendorp was 29, she had $10,000 in credit card debt and $12,000 in student loans.

Like no other generation, today's 18- to 35-year-olds have grown up with a culture of debt—a product of easy credit, a booming economy and expensive lifestyles.

They often live paycheck to paycheck and use credit cards and loans to finance restaurant meals, high-tech toys and new cars that they couldn't otherwise afford, according to market researchers, debt counselors and consumer advocates.

''Lenders are much more willing to take a risk on people under 25 than they were 15 years ago,'' says Nina Prikazsky, a vice president at student loan corporation Nellie Mae. ''They will give out credit cards based on a college student's expected ability to repay the bills.''

Young people are taking advantage of the offers. A study out today from Nellie Mae shows that the average credit card debt among undergraduate students increased by nearly $1,000 in the past two years. On average, they owed $2,748 last year, up from $1,879 in 1998.

At a time when they could be setting aside money for a down payment on a home, many young people are mortgaging their financial future. Instead of getting a head start on saving for retirement, they are spending years digging themselves out of debt.

''I knew for a while that I had a problem. I wouldn't say I was living high on the hog, but when I wanted clothes, I'd buy a new outfit,'' says Medendorp, an Atlanta resident. ''I'd go out to eat and charge it on my cards. There were a bunch of small expenses that added up and got out of control.''

Massey, Hall and Medendorp each ended up seeking help from a local consumer credit counseling service. Hundreds of thousands more young people like them are turning to credit counseling or bankruptcy because they can no longer juggle their bills.

In 1999 alone, an estimated 461,000 Americans younger than 35 sought protection from their creditors in bankruptcy, up from about 380,000 in 1991, according to Harvard Law School professor Elizabeth Warren, principal researcher in a national survey of debtors who filed for bankruptcy.

At the Consumer Credit Counseling Service of Greater Denver, more than half of all the clients are 18 to 35 years old, says Darrin Sandoval, director of operations. On average, they have 30% more debt than all other age groups, he says.

''By the time they begin to settle into a suburban lifestyle, they are barely able to meet their debt obligations,'' Sandoval says. ''If there is a job loss, an unexpected medical expense or the birth of a child, they supplement their income with credit cards. Soon they are being financially crushed.''

DEBT HEADS

Unlike the baby boom generation—raised by Depression-era parents—young Americans today are often unfazed by the amount of debt they carry.

''This generation has lived through a time when everything was on the upswing,'' says J. Walker Smith, president of Yankelovich Partners, a market research firm. ''There is no sense of worry about being over-leveraged. It all seems to work out.''

Kevin Jackson, a 32-year-old software engineer in Denver, has about $8,000 in credit card debt and a $20,000 home-equity loan. He doesn't believe he has a debt problem, though his goal is to reduce his credit card balance to $2,000.

''You learn to live with a certain amount of debt,'' he says. ''It's a means to an end. There is something to be said for paying for everything and something to be said for enjoying life, as long as you do it responsibly.''

Unfortunately, enjoying life can be expensive, especially for many young Americans who feel it is essential to have the latest high-tech products and services, such as a cellphone, pager, voice mail, a computer

with a second phone line or a DSL connection, an Internet service provider and a Palm Pilot.

Jackson just bought a DVD player and a big-screen TV. ''I try to control costs,'' he says. ''I easily could have spent $5,000 on the TV, but instead I paid $2,000 and I got a one-year, no-interest deal.''

Movies, TV shows and advertising only reinforce the idea that young people are entitled to have an affluent lifestyle. ''We're encouraged to overspend,'' says Jason Anthony, 31, co-author of Debt-free by 30, a book he wrote with a friend after they found themselves drowning in debt.

''We all see shows like Melrose Place and Beverly Hills 90210. It creates tremendous pressure to keep up. I'm one of the few persons who think a recession will be good for my generation. Our expectations are so elevated. In the frenzy to keep up, we've gotten into financial trouble,'' he says.

THE PERILS OF PLASTIC

Consumers like Massey, who get bogged down in credit card debt before they even graduate from college, learn the hard way about managing money. Now, 24 and married, Massey has a good job in marketing. She has cut up her credit cards and is gradually repaying her debt. However, there have been consequences: She had to explain to her boss that because she no longer has a credit card, she cannot travel for work if it involves renting a car or booking a hotel reservation on her own. She had to tell her husband about her debt problems before they were married.

''I lack confidence now,'' Massey says. ''I'm hard on myself because of my mistakes. But I blame the credit card companies and the university for allowing them to promote the cards on campus without educating students about credit.''

The percentage of undergraduate college students with a credit card jumped from 67% in 1998 to 78% last year, according to the Nellie Mae study. And many of them are filling their wallets with cards. Last year, 32% said they had four or more cards, up from 27% two years earlier.

Although graduate students have an even bigger appetite for credit, they are starting to show signs of restraint. Their average debt declined slightly from $4,925 in 1998 to $4,776 last year, Nellie Mae says.

Many young people will be saddled with credit card debts for years, experts say. Among all age groups, credit cardholders younger than 35 are least likely to pay their bills in full each month, according to Robert Manning, author of Credit Card Nation.

Though credit cards and uncontrolled spending are a combustible combination, many young people are pushed to the financial edge by the staggering cost of college. The average annual tuition at a four-year private university jumped to $16,332 last year from $7,207 in 1980, according to the College Board. Between 1991 and 2000, the average student loan burden among households under 35 increased nearly 142% to $15,700, according to an exclusive analysis of the finances of 18- to 34-year-olds for USA TODAY by Claritas, a market research firm based in San Diego.

Those who choose to go on and get a graduate degree pay an even higher price. Another Nellie Mae study found that those who borrow for graduate work, and specifically those in expensive professional programs in law and medicine, are likely to have unusually high debt burdens that are not always offset by comparably high salaries.

Karen Mann didn't need a survey to come to that conclusion. Her husband, Michael, is about to start his career as an orthopedic surgeon after racking up $400,000 in loans during four years of undergraduate school, four years of medical school, one year in an MBA program and a 5-year residency program.

During his residency and a subsequent fellowship, payments and some of the interest on his student loans have been deferred. Soon they'll have to begin paying them off.

The interest payment alone is $20,000 a year.

The Manns are not extravagant. ''I've always saved, and I have a budget,'' says Karen, 31. ''I'd love to buy a house, but there's no way. We haven't been able to afford kids yet. The loans are so awesome that you do get crazy.''

PAYING FOR EVERYTHING WITH CASH

The Manns are not alone in having to defer important goals because of heavy debt loads. Medendorp, a social worker in Decatur, Ga., lives on a budget and is diligently paying her bills with the help of a Consumer Credit Counseling Service debt-management plan. She pays for everything with cash. There are many things she'd like to do but can't afford, such as having laser eye surgery, going back to school and buying a home.

''When you get in a tar pit, forget about buying a home,'' author Anthony says. ''Instead of saving for a down payment, you're making credit card payments.''

At a time when the overall U.S. homeownership rate has risen to historic highs, young Americans are less likely than people their age 10 years ago to buy a home. The homeownership rate for heads of households younger than 35 has declined from 41.2% in 1982 to 39.7% in 1999, according to the Census Bureau. And if they own a home, young people tend to make smaller down payments or borrow against what equity they have. As a result, the average amount of equity accumulated by homeowners younger than 35 has shrunk to about $49,200 in 1999, from $57,100 10 years earlier, according to a study from the Consumer Federation of America.

''For middle-income Americans, the most important form of private savings is home equity,'' says Stephen Brobeck, executive director of the Consumer Federation of America. ''It's essential to have paid off a mortgage by retirement so that living expenses are lower and one has an asset that can be borrowed on or sold if necessary.''

By almost every measure, young people are falling behind. Between 1995 and 1998, the median net worth of families rose for all age groups except for the under 35 group. Their median net worth declined from $12,700 to $9,000, according to the Federal Reserve.

That is not to say that young people today are slackers and deadbeats, as they have sometimes been characterized. Many work hard and often make good incomes. Although they may have a lot of debt, they also are very focused on saving and investing, especially through 401(k)-type retirement accounts. Jackson, for example, contributes the maximum to his 401(k) plan.

''They want to protect themselves against future uncertainty,'' Smith says. ''They absolutely don't expect that Social Security will be around for them.''

But it's hard to save money if you are head over heels in debt. Massey earns $32,000 a year. With her husband, their annual income is more than $100,000. ''But we're still broke trying to pay our bills,'' she says.

FEBRUARY 26, 2001.

DEAR REPRESENTATIVE: The undersigned organizations write to urge you to stand with America's women, children, and working families and oppose H.R. 333, the bankruptcy act of 2001.

If it becomes law, this bill will inflict greater pain on the hundreds of thousands of economically vulnerable women and families who are affected by the bankruptcy system each year. Over 150,000 women owed child support or alimony by men who file for bankruptcy become bankruptcy creditors. An even larger number of women owed child support or alimony—over 200,000—will be forced into bankruptcy themselves. Indeed, women are the largest and fastest growing group in bankruptcy.

H.R. 333 puts both women and children owed support who are bankruptcy creditors and those who must file for bankruptcy at greater risk. By increasing the rights of many other creditors, including credit card companies, finance companies, auto lenders and others, the bill would set up a competition for scarce resources between parents and children owed child support and these commercial creditors both during and after bankruptcy. And single parents facing financial crises—often caused by divorce, nonpayment of support, loss of a job, uninsured medical expenses, or domestic violence—would find it harder to regain their economic stability through the bankruptcy process. The bill would make it harder for these parents to meet the filing requirements; harder, if they got there, to save their homes, cars, and essential household items; and harder to meet their children's needs after bankruptcy because many more debts would survive.

Contrary to the claims of some, the domestic support provisions included in the bill would not solve these problems. The provisions only relate to the collection of support during bankruptcy from a bankruptcy filer; they do nothing to alleviate the additional hardships the bill would create for the hundreds of thousands of women forced into bankruptcy themselves. And even for women who are owed support by men who file for bankruptcy, the domestic support provisions fail to ensure that, in this intensified competition for the debtor's limited resources before and after bankruptcy, parents and children owed support will prevail over the sophisticated collection departments of these powerful interests.

This bankruptcy bill takes a harsh approach toward working families who fall on hard times. At the same time, it does little to curb real abuses of the bankruptcy system, such as concerted efforts by those convicted of violence, vandalism, and harassment against reproductive health clinics to use the bankruptcy system to avoid paying the judgments and penalties resulting from their illegal acts.

We urge you to vote against H.R. 333, and to insist on bankruptcy reform that is truly fair and balanced.

Very truly yours,

American Association of University Women; Children NOW; Children's Defense Fund; Center for Law and Social Policy (CLASP); Feminist Majority Foundation; National Association of Commissions for Women (NACW); National Center for Youth Law; National Organization for Women; National Partnership for Women & Families; National Youth Law Center; National Women's Conference; National Women's Law Center; NOW Legal Defense and Education Fund; OWL; The Women Activist Fund, Inc.; Wider Opportunities for Women; Women Employed; Women Work!; Women's Law Center of Maryland, Inc.; YWCA of the U.S.A.

Mr. Chairman, the issue of bankruptcy reform has been a heated topic of debate in this body since the first session of the 105th Congress, when shortly before the National Bankruptcy Review Commission issued its report recommending changes to the current bankruptcy laws; legislation was introduced to dramatically change the way in which consumer bankruptcies are administered under the U.S. Code, 11 U.S.C. sec. 101 et seq. Both the House and Senate enacted different versions of the bill in the second session of the 105th Congress and a conference report was filed shortly after. The House agreed to the conference report version of the bill by a vote of 300 to 25 on October 9, 1998, but this bill which then President Clinton threatened to veto, was not brought before the Senate for a vote prior to adjournment.

This legislation was again reintroduced in the 106th Congress and was passed by voice vote in the House and passed in the Senate by a vote of 70 to 28. Then President Clinton withheld his approval, Congress adjourned sine die, and the bill was ''pocket'' vetoed.

Mr. Chairman, in yesterday's hearing, I questioned Philip J. Strauss who was representing the California District Attorney's Association and the California Family Support Council on the fact that H.R. 333 places economically vulnerable women and children who are forced into bankruptcy, and those who are owed support by men who file for bankruptcy at greater risk by increasing the rights of many creditors, including credit card companies, finance companies, auto lenders, and others over that of the women and children. Mr. Strauss, however, appeared shocked at these facts and affirmatively stated that women and children's child support payments for former spouses are protected because the States collect money from people who owe child support and make payments to mothers.

Mr. Chairman, I was not able to finish my point yesterday, however, in the interest of justice for the thousands of women and children who will be held hostage by H.R. 333. However, I will correct this gross misrepresentation today. While it is true that States collect money from people who owe child support to make payments to mothers, H.R. 333 would effectively bottle this money in the coffers of the State because it increases the rights of creditors over these vulnerable women and children, and sets up a competition for scarce resources between parents and children owed support and commercial creditors both during and after bankruptcy. Therefore, single parents facing financial crises often caused by divorce, nonpayment of support, loss of a job, uninsured medical expenses, or domestic violence would find it harder to regain their economic stability through the bankruptcy process.

Mr. Chairman, this fact is not something new whose light has recently been cast over the dark future of bankruptcy reform that would follow H.R. 333. The fact that H.R. 333 would effectively place women and children in a gladiator's arena with creditors to do battle for child support money owed by former spouses who file bankruptcy has been articulated by national organizations such as the National Women's Law Center, the National Association of Consumer Bankruptcy Attorney's, the National Organization for Women, a coalition of bankruptcy professors and bankruptcy judges, and the National Association of Attorney's General's to name but a few. How anyone could argue against the drastic effects and hardships that the language in this bill will cause on the vulnerable women and children in this country is beyond me.

I have consistently said that the greatest challenge before us in the bankruptcy reform efforts is solving the widely recognized inadequacies of the law in the area of consumer bankruptcy. As it has always been in the Congress, the key to this process, is, of course, successfully balancing the priorities of creditors, who desire a general reduction in the amount of debtor filing fraud, and debtors, who desire fair and simple access to bankruptcy protection when they need them. H.R. 333 does not accomplish this goal.

Once again, however, the bankruptcy reform bill has been introduced, now in the 107th Congress. As with the bills introduced in the 105th and 106th Congresses, I cannot in good faith support H.R. 333 introduced in the 107th Congress, because it:

Will weaken important credit card disclosure provisions that will help ensure consumers understand the debt they are incurring;

Will eliminate protections for reasonable retirement pensions that reflect years of contributions by workers and their employers; and

Will include an anticonsumer provision eliminating existing law protections against inappropriate collection practices when collecting from people who bounce checks.

For H.R. 333 to accomplish its intended goals, I believe that it must include provisions that will:

Ensure families who need chapter 7 relief are able to get it, including the preservation of appropriate judicial discretion;

Ensure women and children seeking to collect child support from a debtor do not have to compete with other creditors;

Contain adequate protection for families against abusive reaffirmation practices of creditors;

Enhance, not detract from, the viability of Chapter 13 plans; and

Require adequate and accurate disclosure of credit repayment terms.

In addition, given the recent turn in the economy, resulting in major corporations laying off workers by the thousands, it is even more important for Congress to carefully consider the impact of H.R. 333.

Mr. Chairman, I am for bankruptcy reform, but I believe that it must be equitable and fair to all interested parties. I am for bankruptcy reform that recognizes the financial interest at stake for the debtor, his or her family, and the creditors.

As I have already mentioned, in assessing bankruptcy reform we must balance two key principles. First, debtors must not be allowed to use the law to avoid repaying loans when they can actually afford to do so; and second, debtors should not be forced into serious hardship. Efforts to implement these two ideas have been made for a long time. The statute of Anne, enacted in 1705, was the first such effort. It introduced the idea of the fresh start into our law and punished those who abused the bankruptcy with death by hanging. In the bill before us today, the sponsors sought to draw the line by separating those who are worthy of a fresh start from those who abuse the system, but it is this very goal that they have failed to accomplish.

In reviewing H.R. 333, I was reminded of a hypothetical given by Douglas Baird, a law professor at the University of Chicago on H.R. 333's predecessors in the 105th and 106th Congresses stating that those bankruptcy reform bills would fail to balance the two competing goals that are the base of bankruptcy reform. The same is the case with H.R. 333 today.

Professor Baird's hypothetical considers an elderly woman living in Florida who returned to the workforce several years after her husband became ill and died. She makes $30,000 annually as a secretary and she has not taken a vacation in several years. She rents a one-bedroom apartment and owes $60,000, much of which stems from medical bills for the care of her late husband. Most of the remaining debt consists of unpaid credit card bills, most of it spent on household goods and groceries. Interest runs at 15 percent. The widow is behind in her payments, collection agencies call at home and at work, and they are threatening to garnish her wages.

The hypothetical then considers a 45-year-old businessman, also living in Florida. He works for a large corporation and makes $95,000 a year. He previously had his own business but it failed. Though single, he lives in a 5-bedroom house worth $500,000. He owes $60,000 in debt from his 10 credit cards, which he used to pay for vacations, clothes, and meals in restaurants. In addition, he is personally liable for $200,000 in debt from his failed business venture.

The current bankruptcy law would allow both the elderly widow and the businessman to file chapter 7 bankruptcy petitions and receive a fresh start. However, under H.R. 333, only the businessman would be allowed a fresh start because the widow's use of chapter 7 would be presumed abusive. The widow might be eligible for relief under chapter 13 but only if she commits all of her income for the next 5 years to the repayment of her debts, apart from monthly living expenses.

In contrast, under H.R. 333, the businessman will be eligible for chapter 7 relief, and be able to discharge all of his debt and keep his house.

The reform laid out in H.R. 333, will also increase hardship on debtors because it toughens the rules for ordinary debtors, most of whom declare bankruptcy not out of irresponsibility but because of catastrophic medical bills, unemployment, or divorce.

Mr. Chairman, women are the fastest growing and largest group filing bankruptcy today. In 1999, over half a million women filed for bankruptcy by themselves—more than men filing by themselves or married couples. Of this number, over 200,000 women who filed for bankruptcy, in 1999, tried to collect child support or alimony. The domestic support provisions of H.R. 333 does not solve the problems faced by women in bankruptcy and does nothing to address the additional problems it would cause to the hundreds of thousands of women forced into bankruptcy each year, including the single mothers forced into bankruptcy because they are unable to collect child support.

Furthermore, the National Association of Attorneys General has already warned that increasing the claims of partially secured creditors as H.R. 333 would do would make it more difficult to collect child support because credit card companies would treat all debts as secured, resulting in credit card debt being elevated to the same or a higher level than domestic support claims, and thus, make it more difficult to ensure that debtors are able to satisfy their obligations to their spouses and children.

H.R. 333 also creates a new priority for support debts owed to government units over that of a spouse, former spouse, or child, which must be paid in full in a chapter 13 plan. Mr. Speaker, this bill does not provide further protections to vulnerable women and children facing creditors, instead, the points I have outlined today show that H.R. 333 gives priority in many cases to the creditors over the vulnerable women and children.

H.R. 333 also fails in its attempt to encourage chapter 13 filings by debtors, resulting in many families who currently save their homes and cars through chapter 13 being no longer able to do so. Under current law, a chapter 13 case can be filed after a chapter 7 or 13 discharge, or after a dismissed case. This is important to families who might incur large medical expenses a few years after a prior discharge or whose chapter 13 plans fail for circumstances beyond their control.

H.R. 333, however, prohibits a new chapter 7 case within 8 years, rather than the current 6 years, after a petition resulting in a prior chapter 7 discharge, and a new chapter 13 case within 5 years. Furthermore, it is unclear whether the 5 years runs from the prior petition or the discharge. If the 5 years begin to run from the prior petition, it would mean that a chapter 13 case could be prohibited for up to 10 years after a prior chapter 13 petition.

H.R. 333 will also place many new obstacles in the path of bankruptcy debtors, which would decrease access to the system, especially for those with the least income, primarily by raising costs for filing motions, defending dischargeability litigation, obtaining stays in repeat filing, and other added administrative costs in the area of several hundred dollars which could be prohibitive for many families. This will greatly increase the already significant number of consumers who cannot afford attorney representation in bankruptcy and who would therefore have only the choices of filing pro se, going to an unqualified nonattorney petition preparer, or not filing at all.

In addition, H.R. 333 not only restricts the circumstances that families can file for chapter 13, it also significantly reduces the scope of the chapter 13 discharge making many of the debts that are currently dischargeable, nondischargeable under the full compliance discharge. This would effectively hurt debtors who can presently pay all they can afford.

Mr. Chairman, many of the provisions that are the base of H.R. 333 were designed for the sole purpose of reducing bankruptcy debtor filing fraud. As I stated at the out-set of my statement, I applaud and support this goal. However, the facts at hand tell us decisively that this goal will not be achieved under H.R. 333 because it is not narrowly tailored and does not provide fair and equal treatment in cases like homestead exemption. Furthermore, the goal of curbing bankruptcy debtor filing fraud is in serious question due to the sharp decline in bankruptcy filings overall. Statistics provided by the VISA Bankruptcy Notification Service, which compiles weekly reports on bankruptcy filings show a continued sharp decline in the bankruptcy rate which dropped by more than 9 percent in 1999, continuing to decline at an 8 percent annual rate in the first 5 months of the year 2000. Bankruptcies are now running at a lower level than in 1997, 1998, or 1999. The per capital growth rate in personal bankruptcies was up to 25.2 percent in 1997, up by 3.1 percent in 1998, down by 7.9 percent in 1999, and down by 7.7 percent in 2000. In addition, the growth rate in personal bankruptcies was up by 26.1 percent in 1997, up by 4.0 percent in 1998, down by 7.0 percent in 1999, and down by 6.8 percent in 2000. In addition to the VISA Bankruptcy Notification Services, these numbers are also consistent with those compiled by the Chicago Mercantile Exchange in connection with the Quarterly Bankruptcy Index contract. These numbers that show a continuing decline in bankruptcies supports the view that many of the provisions provided in H.R. 333 are unnecessary and counterproductive.

Mr. Chairman, as elected officials for the American people we must protect America's families. Most individuals who file petitions in the bankruptcy courts are usually experiencing turbulent times. Financial hardship is a serious matter that deserves legislative reform that is the product of a deliberative process. This bill, is an extreme bill undertaken at the direction of special interest groups. We must protect working-class families. We must work to find a viable solution that deters abuse of the bankruptcy system while preserving the fresh start for discharged debtors. It is ironic that the consumer lending industry actively solicits unsuspecting consumers through the mail with terms of easy credit, buy-now, pay-later rhetoric. After addicting debtors to this "financial crack" lenders are advocating for reform. Of course debtors are responsible for financial obligations that they incur; however, lenders must assume responsibility for their actions in creating the precarious financial crisis we are discussing.

In the 105th Congress, I served as a member of the Subcommittee on Commercial and Administrative Law and as a conferee on H.R. 3150, the precursor to the bill before us today. As a member of that subcommittee in the 105th Congress, I signed onto the dissenting views of the accompanied the report from the committee. The dissents' conclusion is appropriate in this context.

For nearly 100 years, Congress has carefully considered the bankruptcy laws and legislated on a deliberate and bipartisan basis. In the past, Congress has elected also to carefully preserve an insolvency system, that provides for a fresh start for honest, hard-working debtors, protects ongoing businesses and jobs, and balances the rights of and between debtors and creditors.

Because H.R. 333 departs from these historical principles, and tramples on the preservation of the American people, I oppose this legislation in the interest of all that is just and fair.

Mr. SENSENBRENNER. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Pennsylvania (Mr. GEKAS), the principal author of the bill.

Mr. GEKAS. Mr. Chairman, to the Members we state and restate the two principal themes that, from the very beginning of this crusade to bring about bankruptcy reform, have remained the truths of the entire debate.

Number one, in bankruptcy those who become so overburdened by debt, so crushed by the overweaning forces of finances that they no longer can meet and handle, to those people we guarantee a fresh start. That is what bankruptcy is all about, to allow and to foster a fresh start once this circumstance occurs. That we have never at all wavered in bringing about even to this moment.

The second truth is that in those circumstances where it is determined that a person filing for bankruptcy does indeed have the ability to repay some of the debt over a period of time, that individual should be compelled through a proper mechanism that we have in the bill to repay that portion of the debt. And so the purposes of bankruptcy envisioned by our forefathers have been met and yet we bring about some reform measures that guarantee or reguarantee the arena of personal responsibility on the part of the American citizen, the American worker and at the same time, to give relief where it is merited.

Mr. Chairman, what is never stated by the opponents of this bill and by the people who would criticize what we have attempted to do here is that most of the provisions of this bill have come about through testimony offered by our fellow citizens from every corner of American life, including women and children to which reference has been made many, many times; by the credit unions; by the taxing authorities; and they bring out two other truths that are part of the debate in this venture of ours here today.

One is this: Every time someone does file bankruptcy, it costs the consumer. All of the other consumers, the ones that the gentleman from Michigan says are opposed to this bill. Consumers are hurt by bankruptcy. Why? Because every time something like that occurs, the price of goods creeps up. Perhaps not envisioned immediately or seen, but they do creep up. So the consumer has to pay more at the supermarket because of bankruptcies.

Secondly, interest rates, because of the cost of credit, the cost of lending money goes up every time somebody files for bankruptcy, hits the consumer who is interested in borrowing money for a refrigerator or an automobile.

Third, I did not realize until we began investigating this whole area of concern, bankruptcy, even our taxes increase as a result of someone filing

bankruptcy. I did not realize that the taxing authorities, until we were able to craft this particular piece of legislation, sometimes did not even know that a person owing back taxes or eventual taxes to be paid did not even know that those moneys were due them. We learned from the City of New York and the State of New York and other taxing authorities, municipal and county and state organizations, that for the first time they have in our bill a methodology for being notified that someone is going bankrupt and have an even chance of retrieving some of the back taxes. Why is that important? Because the consumers, the taxpayers are hurt every single time a bankruptcy is filed. The consumers, the taxpayers of our country, citizens of personal responsibility are supporting this legislation.

Mr. Chairman, I include for the RECORD a letter from the U.S. Chamber of Commerce.

U.S. CHAMBER OF COMMERCE,
Washington, DC., February 28, 2001.

To Members of the U.S. House of Representatives:

The U.S. Chamber of Commerce, the world's largest business federation, with more than three million businesses and organizations of every size, sector and region, strongly urges you to vote for the Bankruptcy Reform Act of 2001.

This balanced, bipartisan bill is identical to the bill which last year passed the House by voice vote and was overwhelmingly approved by the Senate by a 70–28 vote. An earlier version passed the House by a strong 313–108 vote.

There are two pillars upon which bankruptcy reform rests: debtors must not have their access to bankruptcy protection restricted, while those who can afford to pay a significant portion of their debts must be required to do so.

This balanced, bipartisan legislation will accomplish these goals:

Access to bankruptcy will unquestionably remain available for all Americans, regardless of income.

More than 100,000 bankruptcy filers are abusing the system every year by discharging debts that they have the ability to repay.

Abusers of the bankruptcy system, those who earn more than the median income and can afford to repay a signficiant portion of their debts, will be required to pay back what they can afford.

The bill provides substantial new protections for women and children trying to collect their child support and alimony, for example, by moving child support to first priority. Child support collection authorities describe the bill as a ''veritable wish list'' of provisions to assist them in their child support collection efforts.

The safe harbor provisions will protect lower income Americans by ensuring that they will have access to Chapter 7 relief without qualification.

The bill imposes significant new responsibilities and disclosures on lenders, and particularly credit card lenders.

The bill is fair to debtors, while it also stops the very rich from exploiting the system to discharge their debts, leaving everyone else holding the bag.

The U.S. Chamber of Commerce will consider Scoring this vote in its annual ''How They Voted'' Guide.

Mr. NADLER. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. BOUCHER).

Mr. BOUCHER. Mr. Chairman, I thank the gentleman very much for yielding me this time.

Mr. Chairman, I ask the gentleman from Wisconsin (Mr. SENSENBRENNER) if he would be willing to yield 1 additional minute to me.

Mr. SENSENBRENNER. Mr. Chairman, I yield 1 additional minute to the gentleman from Virginia (Mr. BOUCHER).

Mr. BOUCHER. Mr. Chairman, I thank the gentleman from Wisconsin for yielding that additional 1 minute.

Mr. Chairman, I rise in support of the bankruptcy reform legislation and urge its approval in the House. With this measure, we bring to conclusion a process that was launched 4 years ago to bring a much-needed reform to the Nation's bankruptcy laws.

During the time of the generally strong economy, consumer bankruptcy filings should be rare. Contrary, however, to this expectation, there are now more than 1.2 million annual bankruptcy filings, representing a five-fold increase since the last major bankruptcy law revision that took place in 1978.

The current level of annual filings is more than 90 percent greater than the number of one decade ago. Bankruptcies of convenience are driving these increased filings.

Bankruptcy was never meant to be a financial planning tool, but it is increasingly becoming a first stop rather than a last resort, as many filers who can repay a substantial part of their debt use the complete liquidation provisions of chapter 7 of the Bankruptcy Code rather than the court supervised repayment plans that are contained in chapter 13.

Our legislation will direct more filers into chapter 13 plans. Those who can afford to make payments will be required to do so.

This is a consumer protection measure. The typical American family pays a hidden tax of $550 each year arising from the increased cost of credit and the increases in prices for goods and services occasioned by the discharge of $50 billion annually in consumer bankruptcy debt. By requiring that people who can repay a substantial part of their debt do so in chapter 13 plans, we will lessen substantially that hidden tax.

Another key point should be made about the provisions of the bill. The alimony or child support recipient is clearly better off under our bill than she is under current law. At the present time, she stands seventh in the rank of priority for the payment of claims in bankruptcy proceedings.

Under the legislation we are putting forward, the child support or alimony recipient will have priority number one. Her claim will be first in line for payment. Other provisions of the bill also make it easier for her to execute against the assets of the bankruptcy state.

For this reason, our bill has been endorsed by the child support enforcement agencies of a number of States because of the better ability to collect child support payments which this bill provides. I will say again that the child support recipient is clearly better off under this bill than she is under current law.

This is a balanced bipartisan measure which contains new consumer protections and requires greater debt repayment by those who can afford to make the payments. Responsible borrowers and all consumers will benefit from its passage.

I want to commend the gentleman from Pennsylvania (Mr. GEKAS), the sponsor of this measure, for the leadership he has provided over the last 4 years as we have sought to make this important reform. The measure he brings to the floor today deserves the endorsement of this House.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentlewoman from New Jersey (Mrs. ROUKEMA).

Mrs. ROUKEMA. Mr. Chairman, I rise in strong support of this legislation and associate my remarks with the gentleman from Pennsylvania (Mr. GEKAS) and the gentleman from Wisconsin (Mr. SENSENBRENNER).

This is a significant and substantial reform. It improves bankruptcy law and restores personal responsibility and integrity to our system. It does not diminish anything. It, at the same time, is a safety net for those who need it most.

I would like to refer to the child support component of this specifically because I was a pioneer in child support legislation, going back to the mid-1980s; and I served on the Commission for Interstate Child Support Enforcement. I want to make it clear that this is a giant step in terms of protecting child support. It has made those payments number one. Let there not be any misunderstanding about that.

The gentleman from Virginia (Mr. BOUCHER), the previous speaker, made reference to the State situation; and I would specifically like to reference that it does not, the automatic stay does not apply to State child-support collection agencies. I know from speaking with child-support advocates in New Jersey, in my State that has been a leader in this respect, that this change is a top priority for them to ensure the continued payment of child support.

Mr. Chairman, I want to again thank the leaders here and also acknowledge that there are components of this that the Committee on Financial Services has always agreed to.

Let me focus with more explicit details to the key elements of the bill as follows:

Mr. Chairman, I rise today in strong support of H.R. 333, the Bankruptcy Reform Act of 2001.

INTRODUCTION

Consumer bankruptcy reform is an important issue that needs to be addressed now. In 1998 Americans filed a record of 1.4 million consumer bankruptcy petitions representing an over 650 percent increase since 1978. Those who entered into bankruptcy erased an estimated $44 billion in consumer debt. This resulted in a hidden tax of almost $400 per household for families who have to pay monthly bills including mortgages, student loans, and insurance. It is important to note that this surge in bankruptcies in the last few years occurred at a time when the national economy has grown at a strong rate. In fact, between 1986 and 1996, real per capita annual disposable income grew by over 13 percent while personal bankruptcies more than doubled.

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

FINANCIAL SERVICES

Included in this bill are important provisions from H.R. 1161, the Financial Contract Netting Improvement Act of 2000 passed by the House last year. The netting provisions have one primary purpose: to minimize the systemic risk evident in our nation's financial system. Specifically, to minimize risk that could occur when a counterpart to a derivative contract becomes insolvent. It amends our banking and bankruptcy insolvency laws to require netting of the financial and over-the-counter derivatives instruments that are often traded among large financial institutions. It is a commonsense approach that should be enacted this Congress.

These same provisions were part of last year's Working Group recommendations on the netting of derivatives and other financial contracts. The House passed similar netting provisions on three separate occasions in the last Congress—as a stand-alone bill, as part of last year's comprehensive Bankruptcy Reform bill and as part of H.R. 4541, the Commodity Futures Modernization Act of 2000 which reauthorized the Commodities Exchange Act.

CHILD SUPPORT

I would like to thank the Committee for the child support provisions in the Bankruptcy Reform Bill.

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

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

H.R. 333 strengthens Child Support Enforcement by:

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

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

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

The bill requires the GAO to study the feasibility of requiring all pertinent information about debtors to be collected by the Office of Child Support for the purpose to determine whether the debtor has outstanding child support payments. Chairman GEKAS and the committee at my request included the study so we can better enforce the law and make sure that dependent families get every penny they deserve.

These are important and real reforms that are supported by the Child Support Enforcement Services of New Jersey. The child support obligation for last year in New Jersey was $767 million. The total child support payments in arrears is $1.3 billion. Yes, I said $1.3 billion, of which about $800 million is still collectible. Bergen County in my district, along with six other New Jersey counties, makes up 53 percent of the total collections. The reforms in this bill will help us get that outstanding money to the families that need it most.

In conclusion, I strongly support this comprehensive bankruptcy bill and urge my colleagues support.

Mr. NADLER. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Maine (Mr. BALDACCI).

Mr. BALDACCI. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise today in opposition to the Bankruptcy Abuse Prevention and Consumer Protection Act. I do not oppose bankruptcy reform. Rather, I oppose this particular legislation in the manner in which it is being considered.

We have all heard the statistics concerning the alarming increase in bankruptcy filing over the past 2 decades. Consumer bankruptcy filings have reached record highs and our community banks and credit unions continue to suffer the burdens of their members' financial difficulties.

Does abuse of the bankruptcy system exist? Yes. Is reform needed? Certainly. Should those consumers with the means available to pay back some of their debt be required to do so? Absolutely. Does this bill provide the solution that is needed? No.

What is needed, Mr. Chairman, is balanced reform. We need reform that provides an adequate cap on homestead exemptions. We need reform that addresses the source of many recent personal bankruptcy filings, credit-card debt, in a proactive manner.

As our Nation's economy slows down, we need reform that strikes a better balance between meeting the needs of lenders and the needs of families who are in good faith turning to bankruptcy for a fresh start.

□ 1200

Had this legislation been considered in a fair and open manner, we would have been given the opportunity to address those flaws.

I am disappointed in the insistence the legislation be rushed to the floor for a vote without a serious opportunity for the committee or here on the floor to bring the bill into balance and achieve true bipartisan support. This is too important an issue to be rushed through the process as if we were merely naming a post office instead of sealing the economic fate of families and small businesses.

This bill does not strike an appropriate balance between families and lenders. It does not address the proliferation of credit card companies that are extending credit far too easily. It imposes too stringent a means test that takes discretion away from the bankruptcy judges and prevents them from applying their good judgment in a particular case before them.

Bankruptcy reform is clearly needed, but this bill is not the right solution. Once again I urge my colleagues to vote against this bill.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. CHABOT).

Mr. CHABOT. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise in support of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2001. I would also like to thank the chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER), for his leadership in this area and for moving the bill so expeditiously through the Committee on the Judiciary to the House floor for debate. It has been debated and debated; and we have had many, many hearings on this bill, so it is clearly not being rushed.

I want to also thank the gentleman from Pennsylvania (Mr. GEKAS) for his tireless commitment to securing meaningful bankruptcy reform.

The text of H.R. 333, the bill we are considering today, is the result of last spring's conference committee between the House and Senate on which I served as a conferee. This vital piece of legislation protects individuals and businesses from having to pick up the tab for irresponsible debtors, debtors who are capable of paying off a significant portion of their debts. It protects responsible consumers and requires those who can afford to pay their debts to honor their commitments.

Mr. Chairman, there are people who truly have a legitimate need to declare bankruptcy. No one is denying this. At times, hard-working Americans come up against special circumstances that are beyond their control. Family illness, disability, or the loss of a spouse may necessitate the need to seek relief. This legislation effectively protects these individuals. Too frequently, however, people who have the financial ability or earnings potential to repay their debts are simply seeking an easy way out of making good on their debts. While this may prove convenient for the debtor, it is not fair to their friends and neighbors who are ultimately stuck with the bill.

As has been correctly stated by previous speakers, estimates show that the average American pays as much as $550 per year as a bad debt tax in the form of higher prices and increased consumer credit interest rates to cover the economic costs associated with excessive bankruptcy filings of others.

Mr. Chairman, I urge support of the bill.

Mr. NADLER. Mr. Chairman, I yield 5 minutes to the gentleman from North Carolina (Mr. WATT).

Mr. WATT of North Carolina. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, in the 13 or so blocks from my residence to my office this morning I promised myself that I was going to be calm and unemotional in this debate, despite the fact that I think the process in the committee was a charade and I think this is going to be a charade. At the end of the day this bill will not be amended because it is about making a political statement that our Republican leadership can get the bill that they passed last time and it can be signed.

This bill is an unfortunate convergence of expediency and politics. Nobody is likely to like what I say on either side of this issue because what I perceive has happened is that the people who wanted this bill knew that politically they could not get it unless they exempted the poorest people in the country from the provisions of this bill. And for those of us who start with the position that there is abuse in the bankruptcy system and have witnessed that abuse, we know that the abuse not only exists among high-income people but the abuse exists among low-income people also. But basically the same people who a couple of years ago were telling us that we need to make poor people responsible for their actions in the welfare reform context now say, for political expediency, we will accept a means test in the bankruptcy laws that basically sets up two classes of citizens for bankruptcy in this country, and that, Mr. Chairman, will be the legacy of this bill.

I know there are people who have kind of walked away from the debate because they said, well, this does not impact my constituency any more because my constituency is poor and poor people are exempted from this bill. However, it is irrational to set up a pauper's bankruptcy court system and a higher-income court system in this country for bankruptcies, and that will be the worst legacy, I believe, that this bill will carry forward as we go on.

Now, once that unholy coalition got formed and the expediency and politics got together and the agreement was cut, then the people who wanted this bill from the beginning started to pile on additional provisions, because there really was not an effective coalition out there fighting the bill. So now we end up with all kinds of provisions in this bill that are special interest provisions that really have no rational basis.

There was no demonstration of abuse by small businesses of the bankruptcy code. It was about individual abuse. Yet we have a whole body of provisions in this bill now making it more difficult for small businesses to reorganize under the bankruptcy laws. And I tell my colleagues that the impact of that ultimately will be that person after person after person will lose their jobs because small businesses will not be able to reorganize and continue in business to continue the jobs for those people.

So I do not know. It is difficult for me to even grab ahold of one or two or three provisions. The whole concept of this bill, the whole theory that divides poor people and rich people and says we are going to set up separate systems of bankruptcy for us, one, a pauper's court, in effect, and another a richer people's court, in effect, is just alien to anything I can come to grips with and is bad public policy.

I understand why it was expedient, I understand the politics of it, but it is sorry public policy. And that will be the most devastating legacy of this bill.

Mr. SENSENBRENNER. Mr. Chairman, I yield 1 minute to the gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. Mr. Chairman, I thank the gentleman for yielding me this time.

I rise in strong support of the bankruptcy reform legislation before us today. Many of the bankruptcy filings that do occur do originate from consumers who have been struck by sudden or unexpected financial hardship. No one wants to deny bankruptcy relief to those who truly deserve it. However, there are also consumers contributing to the upward trend in bankruptcy filing who could, with thoughtful planning and dedication, recommit themselves to repaying some of the debts they have incurred. These consumers, if permitted to simply walk away from their debts, will pass along their cost to others in the form of higher credit or tighter credit availability, increased tax burdens and higher prices for goods and services.

Now, the average American household pays about $400 a year in hidden costs associated with consumer bankruptcy. The abusers of this system, it is important to note, are not simply low-income families. In fact, many of the bankruptcy filers actually earn more than $100,000 in the year they file for bankruptcy. While this legislation has been depicted as a one-size-fits-all approach, it is highly flexible.

Mr. NADLER. Mr. Chairman, how much time is remaining?

The CHAIRMAN pro tempore (Mr. LAHOOD). The gentleman from New York (Mr. NADLER) has 11 minutes remaining.

Mr. NADLER. Mr. Chairman, I yield 2½ minutes to the gentleman from Massachusetts (Mr. DELAHUNT).

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

Mr. Chairman, I want to pose the question of why did we see the spike in bankruptcy filings up until 1998 and then saw a dramatic decline of some 15 percent in the last 2 years? Well, in 1998, the FDIC, the government agency, found that as a result of interest rate deregulation, credit card companies had become more profitable and were able to extend more unsecured credit to less creditworthy borrowers.

In other words, credit card issuers were handing money out to just about everyone. Anyone with teenagers knows that because they receive bundles of credit card solicitations. In other words, people who should not have been extended credit were getting it.

This conclusion, I suggest, is supported by an astonishing fact. The median family income of filers has dropped from $23,250 in 1981 to $17,650 in 1997. And we wonder why we have a crisis. But, as the filings peaked in 1998, the credit card companies saw their profits stall and began to tighten their underwriting requirements. In the last 2 years, we have seen this decline. In other words, the invisible hands of the marketplace are working.

As a University of Maryland study has concluded, the bankruptcy crisis is self-correcting. The reason is that lenders are profit-maximizing institutions that select their own credit criteria

and they responded to this unexpected increase in personal bankruptcy. I find it rather ironic that proponents who usually proclaim the benefits of the free market would seek government intervention, a remedy, by the way, which will only impact the debtors and not impose any responsibility or accountability on creditors who behave irresponsibly.

Let the market work and reject this bill.

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the gentleman from Iowa (Mr. LEACH), the distinguished former chairman of the Committee on Banking and Financial Services.

Mr. LEACH. Mr. Chairman, I thank the distinguished chairman for yielding this time to me.

Bankruptcy is an extraordinarily sensitive subject. The issue here, we must bear in mind, is balance, rather than the need for a bankruptcy law itself. After all, one of the first laws of the first Congress was a bankruptcy law, which was passed because we had debtors prisons in the United States. We ended debtors prisons, which were part of our experience as well as the European experience. We never had the pound-for-the-pound experience that was in Merchant of Venice in the European experience, but we had debtors prisons.

This bill is about balance, that is, who bears the cost, not about the principle of bankruptcy itself. I do not know if the balance is exactly right, but I am convinced its thrust is and that it is a better circumstance than current law.

I rise to stress one provision in this bill which I do not believe is controversial and was strongly supported by the Clinton administration Treasury as well as this Treasury and by the Federal Reserve, and that is the provision that relates to netting. We have a circumstance in international trade where the new phenomenon in international finance is a multi-trillion dollar trade in derivatives contracts, now over $30 trillion. These are the notional values of derivatives contracts. If they are allowed to net out, they come to less than a trillion dollars and can be managed.

So what this bill does is call for the automatic netting of derivatives contracts in the event of a bankruptcy circumstance. What this does is protect the international financial system and the domestic economy from true calamity in the event of a major derivatives party declaring bankruptcy.

□ 1215

In essence, in awkward economic times, this is the overwhelmingly most important provision of the bill. On its basis alone, this bill should be adopted.

I thank the distinguished chairman of the Committee on the Judiciary for putting this provision in his bill. I am very appreciative that this step will become one of stabilizing rather than destabilizing the international economy. I urge my colleagues to support the bill.

Mr. NADLER. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, I rise in opposition to this bill which will harm American families, American businesses, especially small businesses, harm children of divorce and open the door to even greater predatory practices by lenders. It is a wish list of every big money special interest group. It does not protect debtors, and that should be no surprise, because families in bankruptcy cannot make large campaign contributions, cannot buy ads in the paper, cannot hire fancy K Street lobbyists. This bill is the poster child for the need for campaign finance reform, the ugly result of much too much special interest money in politics.

Why is this bill being rushed through? Is it because there is a crisis in bankruptcy? No, there is not. Chapter 7 filings have declined by almost 20 percent in the last 2 years. Declined. Although studies bought and paid for by the credit card industry a few years ago told us that up to 25 percent of chapter 7 debtors could repay a substantial portion of their debts, the only independent study, sponsored by the American Bankruptcy Institute, found that only 3 percent could do so. There is no crisis warranting the most radical rewrite of the Bankruptcy Code in a quarter century.

The bill does not protect debtors and families. If it does, ask yourself why every consumer organization, every organization representing debtors, women's groups, children's advocacy groups, civil rights groups, seniors groups, bankruptcy judges, trustees and bankruptcy professionals have consistently criticized this bill for the last 4 years? How dare the sponsors of this bill tell us that it will improve the custodial mother's ability to collect child support because they make child support a priority when they know perfectly well that the priority expires with the bankruptcy discharge and Mom will then have to compete with the bank's collection department in State court with no priority. Why do the agencies that collect child support for State tax departments support this bill while those agencies who try to help mothers collect child support all uniformly oppose this bill? If this bill is good for business, why have some of the top judges and big business reorganization specialists all told us that this bill will make it harder to reorganize a business under chapter 11 and force more viable businesses into chapter 7 liquidation? As the economy slows down, is this any time to make business survival more difficult?

If this bill is about personal responsibility, why have so many consumer protection amendments been rejected, watered down and ruled out of order so we cannot even debate these issues? Why does the bill contain a special interest provision to allow a small group of wealthy investors to avoid having a legal judgment against them enforced in our courts as required by international law? Why does the bill let anti-abortion terrorists abuse the Bankruptcy Code to evade lawful court judgments through costly and lengthy litigation? Why does the bill fail to place a real cap on the millionaire's loophole, the unlimited homestead exemption? Why were we not even allowed to offer amendments and debate these issues on the floor?

If this bill is so pro-family, why was an amendment by the gentleman from California (Mr. SCHIFF) which would have corrected the bill so that a battered, legally separated spouse would not have to count the income of her husband as her own even if she never saw a nickel of it taken out of the bill? Why would the bill require that she use this phantom income to repay her creditors and deny her relief when she cannot? Why should a landlord be allowed to evict tenants despite the normal bankruptcy stay? Will homelessness make people better able to repay their debts?

Does any Member think that credit card companies will really return the extra profits this bill will give them over to consumers in the form of lower interest rates? How much of the profits that the credit card companies realized from interest rate deregulation have been passed on to consumers in lower interest rates? Have credit card interest rates gone down with mortgage rates and car rates?

Why have the conferences been held in secret? Why have industry lobbyists had more access to the deliberations than most members of the Committee on the Judiciary, even those appointed as conferees?

This bill is rotten and, like the bipartisan Garn-St Germain bill of a decade and a half ago that caused the savings and loan crisis and cost the taxpayers half a trillion dollars, this bill will come back to haunt every Member who votes for it when people lose their jobs, lose their families and are crushed under mountains of debt.

I urge rejection of this bill.

Mr. Chairman, I yield 1 minute to the distinguished gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT. Mr. Chairman, there are a number of reasons that have not been pointed out why this bill is a bad bill, the reasons of why we have a fresh start, a tradition that if someone is inundated by debts so that they can cash in all they have and get a fresh start. Some people incur debts through no fault of their own, a business reversal, illness, loss of a job. There is no balance in this bill.

We have heard if you can pay a substantial portion of your bills, you ought to pay those. There is nothing in this bill that limits it to a substantial portion. If you can pay $167 a month out of whatever your bills are, millions of dollars, you have got to pay that $167 for the next 5 years. This will lead to frustration and desperation suffered by many Americans. If our goal were to increase the number of people that go berserk and shoot their colleagues, this is the kind of frustration and desperation that would lead to that kind of result.

I would hope that we would keep our traditional bankruptcy laws so that those who are totally inundated with debts and can never get out can get a fresh start.

Mr. CONYERS. Mr. Chairman, I am delighted to yield 2 minutes to the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Chairman, I thank the gentleman from Michigan for yielding me this time and also for his lifetime work on behalf of people in our country.

I rise today in strong opposition to this anticonsumer, antiworking family, antiwoman, anti-low income, antichild bankruptcy legislation and to support the Democratic alternative which provides for true bankruptcy reform. Many Americans, as we know, were left out of the economic boom of the past decade. They are saving less and accumulating more debt. To add insult to injury, the credit card companies are using aggressive, unsolicited marketing techniques to offer huge lines of credit to consumers who cannot afford it, including college students who have no income. All of these factors contribute to a system where more and more Americans are struggling just to get by, and some need to rely on bankruptcy as a safety net. This has nothing to do with being irresponsible or not wanting to pay one's bills.

Many working families are forced into bankruptcy when emergencies arise, including loss of a job, the loss of a spouse or long-term illness. Instead of helping families get back on their feet in these cases, the Republican reform bill would make declaring bankruptcy under chapter 7 or 13 much more difficult. This is just plain wrong.

The domestic support provisions in H.R. 333 are inadequate. Hundreds of thousands of women who are owed child support or alimony would be harmed financially under the Republican bill. The bill does nothing to protect women owed child support by men who declare bankruptcy or those who need to declare bankruptcy themselves due to financial hardship when their former spouse or noncustodial parent fails to pay child support. Additionally, this bill fails to ensure that parents and children will have first claim on the bankruptcy filer's funds rather than big business collection departments. This bill says to the majority of ordinary Americans that we are abandoning them on behalf of big-time corporations. It is wrong.

The Democratic alternative is sensible and is fair. The Republican bankruptcy reform bill is punitive.

Mr. CONYERS. Mr. Chairman, I proudly yield the balance of my time to the gentleman from Ohio (Mr. KUCINICH).

The CHAIRMAN pro tempore (Mr. LAHOOD). The gentleman from Ohio is recognized for 1 minute.

Mr. KUCINICH. Mr. Chairman, this bill is bad for consumers and bad for business. Recently in Cleveland, the district I represent, a major American company sought to reorganize under chapter 11 of the bankruptcy laws. LTV, one of the most important employers in Ohio, one of the most strategically important companies in the country, was compelled to seek bankruptcy protection because of factors beyond their control, unfair and illegal dumping of cheap foreign steel and inadequate Federal enforcement of antidumping laws.

But if H.R. 333 had been law, LTV would not have been able to reorganize under chapter 11. Instead, the company would have been dissolved and the assets liquidated. Thousands of jobs would have been lost. H.R. 333 makes a change to existing law reducing the assets available to a debtor company for funding operations during a reorganization. H.R. 333, had it been in effect, would have affected LTV's ability to obtain credit, thus keeping the plants open during bankruptcy proceedings.

This is only one of the many extreme changes in the law that H.R. 333 would make. It is a bad bill, but especially as we may be on the verge of a recession at a time when more businesses will need to reorganize or else face layoffs and liquidation, this bill closes the door to reorganization. It virtually guarantees more layoffs, more liquidation, and more ruin for entrepreneurs, both large and small. Defeat H.R. 333.

Mrs. MALONEY of New York. Mr. Chairman, it is with great regret that I come to the floor in opposition to this bankruptcy bill.

Mr. Chairman, I supported this legislation when the House last took a recorded vote on bill.

Unfortunately, the bill that we are voting today lacks a critically important amendment that has been added in the Senate.

In the Senate, Judiciary Chairman HATCH and Senator SCHUMER of New York have agreed to a compromise amendment that resolves the issue of the treatment of perpetrators of abortion clinic violence who declare bankruptcy.

Bankruptcy reform is important but clinic bombers should not be allowed to excuse penalties assessed on them by the courts through bankruptcy.

This is a growing problem that the majority is ignoring.

More than 2,400 acts of violence have been reported at family planning clinics since 1997. These include bombings, arsons, death threats, kidnapings, asaults, and other acts of harassment.

I will carefully follow the progress of this issue in conference and I strongly urge my colleagues to add the Hatch-Schumer compromise.

Mr. DINGELL. Mr. Chairman, I rise today in opposition to H.R. 333, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2001. H.R. 333 will neither prevent more bankruptcies from occurring, nor protect consumers. It will, however, sanction the continued predatory and abusive practices of the credit card industry.

There is no bankruptcy crisis in America. Despite the rascality perpetrated by the credit card industry, including the solicitation of our minors, seniors and pets, personal bankruptcies are not increasing. In fact, even as the average household debt burden has continued to climb, over the past two years personal bankruptcies have dropped by more than 15 percent.

Studies show that irresponsible and overly aggressive lending practices were behind the high level of bankruptcies in the mid 1990's. However, the industry has not learned its lesson. Even as the industry enjoys its highest profit level in five years, it refuses to take responsibility for its poor lending practices and continues to increase its marketing and credit extension. Last year, the credit card industry increased its mail solicitations by about 14 percent. Additionally, total credit extended, which included unused credit lines and debt incurred by consumers, approached three trillion dollars for the first time ever.

This is outrageous behavior and it should not be rewarded. Unfortunately, the Republican leadership feels differently and has crafted a bill which encourages this despicable behavior at the expense of our most at risk citizens. Americans deserve better, especially at a time when the economy is slowing and more jobs are in jeopardy. As such, I urge all of my colleagues to oppose this wrongheaded piece of legislation.

Mr. LAFALCE. Mr. Chairman, this is the wrong bill at the wrong time. It is unfair and unreasonable to consider bankruptcy reform without focusing attention on the practices of the credit card issuers that directly contribute to consumer bankruptcies. Unfortunately, the bill being considered today will only encourage credit card companies to be more aggressive in exacerbating the problem of consumer debt.

The timing of this bill could hardly be worse. By all accounts, we are in the midst of a significant economic slowdown, which will undoubtedly put a strain on many families' budgets in the coming months. Bankruptcy acts as a safety valve during economic slowdowns, providing relief to families that have reached a financial crisis point in the midst of difficult economic times. Yet, Congress is moving full steam ahead to pass a bill that will shut off the safety valve for many families that have reached a financial crisis point, most often through job loss, a medical problem, or divorce.

Moreover, many families face these financial crises as the direct result of the practices of companies assisted by this legislation.

The credit card industry is before Congress asking for relief from allegedly inadequate

bankruptcy statutes. Yet, these same companies continue to aggressively market credit cards to some of our most financially vulnerable citizens—students, seniors and the working poor. Credit card companies issued 3.3 billion credit card solicitations last year, many of which have been targeted at these vulnerable groups. Is it any wonder that young people in their twenties and older Americans are the fastest growing groups filing for bankruptcy?

The credit card industry continues to aggressively market to these groups because it's good business for them. Profits for the industry are up, despite higher overall bankruptcies during the past decade. Nothing boosts the bottom line better than a growing number of families who can do no more than pay the monthly minimum on their credit card bills. If too many customers ultimately default, the companies simply make up for it by raising fees still higher.

But now they come to Congress asking for relief from the burden of so-called ''irresponsible'' customers who default on their debts. I would suggest that some of these companies only have themselves to blame for much of the bankruptcy problem. No less a pro-business source than the Wall Street Journal recently had this to say on the issue: ''America isn't a nation of deadbeats. By one estimate, at least 15% of families could benefit financially by filing for bankruptcy. Many more could do so with a little strategic planning beforehand. Yet fewer than 2% do.''

On this point, I would urge my Republican colleagues to consider letting the free market do its job. If credit card companies have issued too much bad credit, then it is up to these same companies to correct their mistakes. They should not expect any help from the government in avoiding the results of their own bad decisions.

In sum, the current bankruptcy bill is out of balance. The bill increases the burden of families who find themselves unable to repay heavy loads of consumer debt because of job loss, medical illness or the failure of an ex-spouse to pay child support. But, it does not adequately address one of the principal causes of burdensome consumer debt—misleading and deceptive practices of the credit card companies who often aggressively induce the debt.

Congress has failed to act responsibly in its consideration of this legislation. The proponents of the bill have rushed this bill through without full Congressional deliberations, where issues important to consumers and working families could be considered. The Committee process has been circumvented. The bill makes significant changes to the Truth-In-Lending Act, but the Financial Services Committee has passed up the opportunity to review the legislation. We have ignored the advice of the National Bankruptcy Conference, a balanced group of bankruptcy experts that Congress has listened to in every bankruptcy reform effort for the last forty years, until this one.

I had hoped to introduce an amendment to the bankruptcy bill in order to address these unfair and deceptive credit card practices. Unfortunately, in their haste to rush the bankruptcy bill through the Congress, the Republican Leadership has blocked my amendment from being considered during today's Floor debate.

I feel strongly that Congress must address these abusive practices, and that is why I am joining with the Gentleman from Michigan, Mr. CONYERS, in a motion to recommit that will address concerns of populations which have proven to be most vulnerable—students and young people. People in their twenties are the fastest growing group filing for bankruptcy. To a large degree, that is the result of aggressive targeting of students and young people just starting out in life by credit card companies that trap them into a cycle of debt before they have adequate income to sustain it.

Mr. ISRAEL. Mr. Chairman, I rise in support of H.R. 333, the Bankruptcy Abuse Prevention and Consumer Protection Act. At its core, this bill responsibly ensures that those who can afford to repay their debts do so, while protecting important priorities such as child support, alimony, and education savings.

Last year, over $40 billion was lost through bankruptcy filings. This not only affects businesses, but families as well. Bankruptcy costs are passed on to consumers in the forms of higher interest rates and restricted access for lower and middle-income taxpayers to affordable mortgages. Indeed, bankruptcies cost each American household about $400 last year. It is fundamentally unfair that equal access to credit is threatened by those who abuse the system—irresponsible filings by people who can repay their debts.

H.R. 333 provides a mechanism to distinguish between those who can repay their debt from those who cannot. If a filer earns more than the median income and can afford to repay either $6,000 or 25 percent of non-priority debt over five years (after taking into account living expenses and priority expenses such as child support), then the debt should be repaid over time. This bill insists on personal responsibility for repaying obligations while providing bankruptcy protection for special situations such as declining income and unexpected family and medical expenses.

Mr. Chairman, according to a recent study 15 percent of people claiming Chapter 7 bankruptcy relief have the ability to repay 64 percent of their debt. Bankruptcy reform recognizes that when you have the means to repay your debt, you should do so. It restores personal responsibility. It compassionately recognizes that some unique and special circumstances should be considered when ordering a repayment of debt. It will increase access to credit and home mortgages for middle and low-income families.

That is why I support H.R. 333 today.

Mr. KIND. Mr. Chairman, I rise to share my support for H.R. 333—the Bankruptcy Abuse Prevention and Consumer Protection Act. This measure, though not perfect, ensures debtors who can afford to repay their debt do so, while at the same time protecting consumers.

Bankruptcies negatively affect people in the form of higher prices and tightened credit access for lower- and middle-income taxpayers. It is estimated that over $40 billion was discharged through bankruptcies last years. As we all know, money lost to bankruptcies is passed on to consumers in the form of higher prices for goods and services.

H.R. 333 also ensures that those individuals with the ability to repay their debts do so while protecting those truly in need. This legislation creates a needs based system and assures that those who can afford to pay are required to do so. A recent study determined that 15 percent of Chapter 7 filers could repay an average of 64 percent of their debt.

Most importantly, H.R. 333 makes all marital and parental obligations to children the first priority for payment in bankruptcy proceedings. It is for this reason a number of legal and child support enforcement organizations strongly support the bill.

While H.R. 333 is a good bill that could get better, it is my hope that House and Senate negotiators, during conference committee discussion, will work to eliminate current homestead exemption loopholes and seek to protect families from abusive reaffirmation practices of creditors.

Mrs. KELLY. Mr. Chairman, I rise today in strong support for H.R. 333, the Bankruptcy Reform Act, because it boils down to two words: personal responsibility. If one assumes a debt, they should do everything in their power to pay it off. However, a safety net has to remain for those who legitimately cannot pay their debts. Creditors should be made whole, if possible.

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

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

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

I heard from my colleague from Virginia (Mr. MORAN). He stated last year more people filed for bankruptcy than graduated from college. That is a staggering fact. I am pleased to support H.R. 333's provisions which strengthen the Bankruptcy Code protections for ex-spouses and children. They have to be supported.

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

Also under current law, some debtors use the automatic stay to avoid paying child support payments after they file for bankruptcy. H.R. 333 exempts State child support authorities from the automatic stay, thus insuring less delay in the proper payment of child support. I vehemently oppose any legislation that would reduce the ability of women and children to receive support payments.

H.R. 333 is a good bill that moves us in the right direction, and I ask my colleagues from

both sides of the aisle to join me in support of this reasonable reform.

Ms. ROYBAL-ALLARD. Mr. Chairman, I rise in opposition to H.R. 333, the Bankruptcy Abuse Prevention and Consumer Protection Act, that we will be voting on later today. We all agree that bankruptcy reform is necessary. However, the bill clearly puts creditors ahead of families. A fair bankruptcy reform bill would balance important obligations, like child support, with a creditor's right to receive payment. It would take into account the fact that most of the people who declare bankruptcy have been through trying ordeals such as divorce, unemployment, and illness resulting in exorbitant medical bills they can't afford to pay.

In addition, a truly effective bill would address a major cause of bankruptcy: predatory lending. But H.R. 333 remains silent on these and other critical issues. This bill is a missed opportunity to incorporate some real protections for American families.

Simply stated, it is good for credit card companies and bad for consumers. I urge my colleagues to oppose this bill.

Mr. BEREUTER. Mr. Chairman, this Member wishes today to express his support for the Bankruptcy Abuse Prevention and Consumer Protection Act, H.R. 333. It is important to note that this Member is an original cosponsor of H.R. 333.

First, this Member would thank the distinguished gentleman from Pennsylvania (Mr. GEKAS), for introducing the House bankruptcy legislation, H.R. 333. This Member would also like to express his appreciation to the distinguished gentleman from Wisconsin (Mr. SENSENBRENNER), the Chairman of the Judiciary Committee, for his efforts in getting this measure to the House Floor for consideration.

This Member supports the Bankruptcy Reform Act for numerous reasons; however, the most important reasons include the following:

First, this Member supports the provision in H.R. 333 which provides for a means testing—needs-based—formula when determining whether an individual should file for Chapter 7 or Chapter 13 bankruptcy. Chapter 7 bankruptcy allows a debtor to be discharged of his or her personal liability for many unsecured debts. In addition, there is no requirement that a Chapter 7 filer repay many of his or her debts. However, Chapter 13 bankruptcy filers commit to repay some portion of his or her debts under a repayment plan.

Some Chapter 7 filers actually have the capacity to repay some of what they owe, but they choose Chapter 7 bankruptcy and are able to walk away from these debts. For example, the stories in which an individual filed for Chapter 7 bankruptcy and then proceeds to take a nice vacation and/or buys a new car are too common. Moreover, the status quo is costing the average American individual and family increased costs for consumer goods and credit because of the amount of debt which is never repaid to creditors.

As a response to these concerns, the needs-based test of H.R. 333 will help ensure that high income filers, who could repay some of what they owe, are required to file Chapter 13 bankruptcy as compared to Chapter 7. This needs-based system takes a debtor's income, expenses, obligations and any special circumstances into account to determine whether he or she has the capacity to repay a portion of their debts.

Second, this Member supports the additional monthly expense items that are exempted from consideration under the needs-based test which determines, under H.R. 333, whether a person can file either a Chapter 7 or 13 version of bankruptcy. These expenses include the following: reasonable expenses incurred to maintain the safety of the debtor and debtor's family from domestic violence; an additional food and clothing allowance if demonstrated to be reasonable and necessary; and reasonable and necessary expenses for the care and support of an elderly, chronically ill, or disabled member of the debtor's household or immediate family.

Lastly, this Member supports the permanent extension of Chapter 12 bankruptcy in H.R. 333 since it allows family farmers to reorganize their debts as compared to liquidating their assets. Using the Chapter 12 bankruptcy provision has been an important and necessary option for family farmers throughout the nation. It has allowed family farmers to reorganize their assets in a manner which balances the interests of creditors and the future success of the involved farmer.

If Chapter 12 bankruptcy provisions are not permanently extended for family farmers, its expiration would be another very painful blow to an agricultural sector already reeling from low commodity prices. Not only will many family farmers have no viable option but to end their operations, it likely will also cause land values to plunge. Such a decrease in value of farmland will affect the ability of family farmers to obtain adequate credit to maintain a viable farm operation. It will impact the manner in which banks conduct their agricultural lending activities. Furthermore, this Member has received many contacts from his constituents supporting the extension of Chapter 12 bankruptcy because of the situation now being faced by our nation's farm families. It is clear that the agricultural sector is hurting and by a permanent extension of the Chapter 12 authorization, Congress can avoid one more negative possibility.

In closing, for these aforementioned reasons and many others, this Member urges his colleagues to support H.R. 333.

Ms. SLAUGHTER. Mr. Chairman, I offered with my colleague, the distinguished ranking member of the Judiciary Committee (Mr. CONYERS), an amendment in the Rules Committee that would have specified that creditors would not be able to collect the money owed them by a debtor, if that action would prevent the debtor from making family payments, like alimony and child support.

Our amendment was not made in order. However, that does not mean I will remain silent on this issue. In 1994, I introduced the Spousal Equity in Bankruptcy Amendments to give priority to child and spousal support payments in bankruptcy proceedings, so that debtors' obligations to their children could not be discharged. That legislation became law as part of the Bankruptcy Reform Act of 1994.

Due to these and other child support enforcement reforms, child support collections have increased by 123 percent since 1992. But we have further to go, as American children in fiscal year 1999 were still owed $76.9 billion in child support. The supporters of this bill argue that since the bill creates a new priority in bankruptcy proceedings for child support and alimony payments, it provides far greater protections from bankruptcy for such payments than current law. They are wrong. Do not just take my word for it. Twenty women's and children's organizations and more than 100 professors of bankruptcy and commercial law have expressed their grave concerns about some of the provisions of the bankruptcy reform bill, particularly the effects of the bill on women and children.

This bill forces women and children as creditors to compete with powerful creditors, such as credit card issuers, to collect their claims after bankruptcy. In other words, the bill divides the pie into more pieces, leaving less for women and children who are owed child support and alimony. I urge all my colleagues to oppose H.R. 333 for this reason.

Mr. SMITH of Michigan. Mr. Chairman, my amendment is a simple one. It would raise the aggregate debt level a family farmer could have and qualify for Chapter 12 bankruptcy. Currently, the limit is set at $1,500,000, which was the original limit set in 1986 when Chapter 12 was created. It has not been raised since then although CPI–U has increased approximately 43 percent. With the increase in land and equipment values the debt level needs to be increased to accommodate family farmers.

It's important for farmers to be able to qualify for Chapter 12. Chapter 11 is for larger corporations and is very costly and requires that all creditors be paid off, which is typically impossible for a farmer. Chapter 13, on the other hand, can't be used by corporate entities, has low debt levels and doesn't provide for rewrites of debt, which is typical in a farm bankruptcy.

H.R. 333 does provide that Chapter 12's aggregate debt limit will be indexed starting this year. But this ignores the deterioration of the debt level's value from 1986 through 2001. My amendment takes into account this change in the CPI since then and adjusts the debt limit accordingly. The Senate has included this provisions in their bill and I am assured the increase will be in the final version we send to the President.

Mr. CROWLEY. Mr. Chairman, I rise in strong support for H.R. 333, The Bankruptcy Abuse Prevention and Consumer Protection Act of 2001. This legislation represents a good, commonsense approach towards tackling the important yet complicated issues surrounding the issue of bankruptcy.

While the United States has undergone the greatest period of economic expansion in American history, in contrast, our nation has also witnessed over 1 million bankruptcy filings in each of the past five years. The facts show that in 1997 the consumer bankruptcy rate filing hit a record level of 1.3 million with $40 billion in consumer debt discharged. It is estimated that bankruptcy discharges cost each American household $400 a year and cost retailers billions. And recent trends demonstrate that our Nation—and our economy—can expect even more bankruptcies in the coming years. Ultimately, consumers pay the price for the surge in bankruptcy filings.

Last year, working in a bipartisan fashion, the House of Representatives passed basically this same legislation on an overwhelming vote of 318 to 108. The fundamental issue that drove Congress to pass this bill in the 106th Congress, and hopefully again today is—Why should consumers who work hard and pay their bills on time be forced to pick up the check for those who can afford to repay their debts, but instead choose to walk away and burden others with their responsibilities?

A few days ago, representatives from a number of credit unions came to my office, including Alan Kaufmann of the Melrose Credit Union in Woodside, Queens in my Congressional District. He detailed about how the hard working, middle class people of his credit union—and of my district—continually have to pick up the tab for those who file bankruptcy—whether legitimately, as many do, or irresponsibly, as far too many do.

In advocating for this legislation, I stress several key components of this bill: This legislation places child and family support first in bankruptcy—above all other claims. Let me repeat, this bankruptcy reform legislation recognizes that no obligation is more important than that of a parent to his or her children. This bill includes 9 provisions designed to strengthen protections for child support and alimony payments. Family and child support obligations come first—no ifs, ands or buts.

Second, this legislation will assist those that have filed for bankruptcy by assisting those people to pay their bills on time as well as create a new program about financial education. In fact, this bill creates a Debtors Bill of Rights. Specifically, H.R. 333 provides for new disclosures which bankruptcy petition preparers and attorneys who represent debtors must provide their customers or clients. This ensures that debtors are better informed about the nature and scope of bankruptcy, the different remedies available, and the significance of bankruptcy on an individual's personal financial affairs. The intent is also to allow debtors to better negotiate with their attorneys about fees and services provided.

Most importantly, this bill mandates personal responsibility. As I stated earlier, even in the booming economy of the mid and late 1990's—America saw record numbers of new bankruptcy filers. All of this costs tens of billions of dollars, and these losses by companies are passed directly onto Americans—Americans who pay their debts, use their credit cards responsibly and balance their checkbooks. These people should not be held responsible for bad debtors—but they are currently, and this is wrong.

As a believer in personal responsibility and working to protect the working and middle class residents I represent in Queens and the Bronx, I support this legislation. Responsible borrowers should not be paying the price for bankruptcy abuse—and too many of my constituents—hard working, middle class people—are paying for the sins of others.

I believe that individuals with the means to repay some or all of their debt should be required to meet their financial obligations and not pass their debts onto society. Only those who truly cannot repay their debts should be bale to immediately discharge all of their debts under Chapter 7—and this bill protects those people who are in greatest need of bankruptcy protection.

This is a good bill, it promotes personal responsibility and tightens up our current laws. Families and children are protected; consumers are protected; our local credit unions are protected and most important, hard working Americans who pay their bills and balance their household budgets are protected.

I ask for the support of all of my colleagues for this commonsense legislation.

Mr. BENTSEN. Mr. Chairman, I rise today in support of H.R. 333, the ''Bankruptcy Abuse Prevention and Consumer Protection Act of 2001.''

Mr. Chairman, for most people, the decision to file for bankruptcy protection is made with a heavy heart when all hope of managing one's personal finances has disappeared. Most consumers who file for bankruptcy are working families who have experienced a catastrophic event such as illness, job loss, or a recent divorce. The decision to file for bankruptcy is not one easily reached. It is the ultimate public statement of financial failure and a cry for help.

However, there are some with average or higher incomes who have exploited our bankruptcy laws to walk away from debt that they have the means to repay. H.R. 333 is virtually identical to H.R. 2415, legislation that passed both Houses in the 106th Congress. The main feature of this bill is the application of a means test to bar such individuals from filing for bankruptcy under Chapter 7—a section of the bankruptcy code that allows the debtor to escape liability for unsecured debts, such as credit card bills.

Though the number of personal bankruptcy filings skyrocketed in the past two decades, reaching a record of 1.44 million in 1998, recent statistics tell another story. However, in the past two years, bankruptcy filings have declined. Total filings first dropped 8.5 percent, to 1.32 million in 1999 and then another 5 percent, in 2000, to 1.25 million. With the number of consumer filings falling, the question emerges, is bankruptcy reform still necessary? I believe it is.

While most people treat bankruptcy as a last resort, there are some debtors that seek to exploit our current bankruptcy laws to simply walk away from consumer debt. This evenhanded measure establishes a means test for debtors to determine their eligibility for bankruptcy relief, based on the ability to repay debt under Chapter 13. Moreover, this legislation protects those low-income consumers who need a fresh start by allowing them to discharge their debts and rebuild their lives. Additionally, under H.R. 333, creditors also would receive unprecedented fair treatment. Under H.R. 333, all debts, secured or unsecured, are treated equally under bankruptcy law.

Mr. Chairman, I am very pleased that H.R. 333's $100,000 federal homestead cap (indexed for inflation) would only preempt state law if the homeowner file for bankruptcy protection within two years of establishing their initial homestead in the state, unless the value in excess of that amount occurs from a transfer of residences within the same state. Thus, any individual who has an existing homestead in Texas for two or more years would not be subject to the cap nor would they, anytime they moved within the state.

The Texas Homestead Law is a critical part of the Texas Constitution and is part of the history of Texas. The Texas Homestead Law was designed to protect settlers in Texas and to prevent the sale of their home for payment of debts. Sam Houston, one of the original founders of the Republic of Texas, was a strong proponent of including the Texas Homestead Act in the Texas Constitution because he had personal experience with declaring bankruptcy. In his former residence of Tennessee, he and his family lost everything. Sam Houston wanted to make sure that future Texans would not suffer the same humiliation.

H.R. 333 respects the Texas Homestead Act. I would not support any measure that would not do so. I have worked with others who represent Texas, including Senator KAY BAILEY HUTCHISON, to ensure that Texans retain their homestead exemption. In 1999, during consideration of an earlier version of this bill by the House, Representative BENTSEN successfully authored an amendment allowing states to opt out of the federal law placing a cap on the amount of equity protected by state homestead laws. The Bentsen amendment allows states to opt out of any federal cap. This language was amended in the Senate to create a two-year residency requirement before one's homestead is exempt from the cap. H.R. 333 maintains the Senate language, protecting the vast majority of Texas homeowners.

Mr. Chairman, while this legislation is not perfect, I believe it has some important provisions, including expanding the disclosure requirements under the Truth and Lending Act with respect to several types of credit plans and prohibiting retroactive finance charges with respect to open-ended credit card accounts. Therefore, Mr. Chairman, I urge passage of H.R. 333.

Mr. KINGSTON. Mr. Chairman, I have been a strong supporter of this bill throughout its formulation. Despite the healthy economy these past few years, people are still going bankrupt in record numbers. This legislation included some much needed reforms in the area of bankruptcies, especially in terms of personal credit.

I have also been very actively engaged in a section of this bill which deals with bankruptcy judges. In 1998, there were over 26,000 bankruptcy cases filed in the Southern and Middle Judicial Districts of Georgia alone, with only one shared judge to manage this tremendous volume. I fought hard to ensure that this bill would establish a new judgeship in the Southern Judicial District, which is the 7th busiest in the United States. The new judgeship would benefit most of the state, spanning five congressional districts, covering 3 million people.

Finally, I would like to thank Chairman GEKAS for his hard work in this area, and for the work of Alan on his personal staff, and Susan on the committee staff. Without everyone's team effort in dealing with this legislation, we would not have been successful.

Mr. COSTELLO. Mr. Chairman, I rise today in support of H.R. 333. Consumer bankruptcy filings have increased over the past two decades, peaking at 1.44 million in 1998. Flaws in the bankruptcy law allow individuals to walk away from their debts, regardless of whether they are able to pay a portion of them. H.R. 333 offers a fresh start to those overwhelmed

by debt and financial obligations, while also ensuring that debtors with financial means to pay a portion of their debt will have to do so.

I believe this legislation is a good start at consumer protection from predatory credit card companies. Credit card companies need to be held responsible for continued aggressive credit card marketing. The bill includes new safeguards against abusive reaffirmation agreements, new credit card disclosure specifications, and requirements that credit card companies provide explanatory statements on introductory interest rates and minimum payments.

In addition, I support this bill because it considers domestic support obligations, such as alimony and child support, as priority debts. These debts are nondischargeable, meaning they must be paid, regardless of whether an individual files under Chapter 7 or Chapter 13. This legislation raised the priority of domestic support obligations from seventh to first, thereby granting greater protection to child and domestic support.

Mr. Chairman, it is important to ensure bankruptcy protection is available to those who truly need it. This legislation provides such protections, places a higher priority on domestic support obligations, and offers some consumer protection from credit card companies. For these reasons, I support this legislation.

Mr. SENSENBRENNER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. All time for general debate has expired.

Pursuant to the rule, the amendments printed in the bill are adopted and the bill, as amended, is considered read for amendment under the 5-minute rule.

The text of H.R. 333, as amended, is as follows:

H.R. 333

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Bankruptcy Abuse Prevention and Consumer Protection Act of 2001''.

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

Sec. 1. Short title; references; 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.

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.
Sec. 230. GAO study.

TITLE III—DISCOURAGING BANKRUPTCY ABUSE

Sec. 301. Reinforcement of the fresh start.
Sec. 302. Discouraging bad faith repeat filings.
Sec. 303. Curbing abusive filings.
Sec. 304. Debtor retention of personal property security.
Sec. 305. Relief from the automatic stay when the debtor does not complete intended surrender of consumer debt collateral.
Sec. 306. Giving secured creditors fair treatment in chapter 13.
Sec. 307. Domiciliary requirements for exemptions.
Sec. 308. Residency requirement for homestead exemption.
Sec. 309. Protecting secured creditors in chapter 13 cases.
Sec. 310. Limitation on luxury goods.
Sec. 311. Automatic stay.
Sec. 312. Extension of period between bankruptcy discharges.
Sec. 313. Definition of household goods and antiques.
Sec. 314. Debt incurred to pay nondischargeable debts.
Sec. 315. Giving creditors fair notice in chapters 7 and 13 cases.
Sec. 316. Dismissal for failure to timely file schedules or provide required information.
Sec. 317. Adequate time to prepare for hearing on confirmation of the plan.
Sec. 318. Chapter 13 plans to have a 5-year duration in certain cases.
Sec. 319. Sense of Congress regarding expansion of rule 9011 of the Federal Rules of Bankruptcy Procedure.
Sec. 320. Prompt relief from stay in individual cases.
Sec. 321. Chapter 11 cases filed by individuals.
Sec. 322. Limitation.
Sec. 323. Excluding employee benefit plan participant contributions and other property from the estate.
Sec. 324. Exclusive jurisdiction in matters involving bankruptcy professionals.
Sec. 325. United States trustee program filing fee increase.
Sec. 326. Sharing of compensation.
Sec. 327. Fair valuation of collateral.
Sec. 328. Defaults based on nonmonetary obligations.

TITLE IV—GENERAL AND SMALL BUSINESS BANKRUPTCY PROVISIONS

Subtitle A—General Business Bankruptcy Provisions

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

Subtitle B—Small Business Bankruptcy Provisions

Sec. 431. Flexible rules for disclosure statement and plan.
Sec. 432. Definitions.
Sec. 433. Standard form disclosure statement and plan.
Sec. 434. Uniform national reporting requirements.
Sec. 435. Uniform reporting rules and forms for small business cases.
Sec. 436. Duties in small business cases.
Sec. 437. Plan filing and confirmation deadlines.
Sec. 438. Plan confirmation deadline.
Sec. 439. Duties of the United States trustee.
Sec. 440. Scheduling conferences.
Sec. 441. Serial filer provisions.
Sec. 442. Expanded grounds for dismissal or conversion and appointment of trustee.
Sec. 443. Study of operation of title 11, United States Code, with respect to small businesses.
Sec. 444. Payment of interest.
Sec. 445. Priority for administrative expenses.

TITLE V—MUNICIPAL BANKRUPTCY PROVISIONS

Sec. 501. Petition and proceedings related to petition.
Sec. 502. Applicability of other sections to chapter 9.

TITLE VI—BANKRUPTCY DATA

Sec. 601. Improved bankruptcy statistics.
Sec. 602. Uniform rules for the collection of bankruptcy data.
Sec. 603. Audit procedures.

Sec. 604. Sense of Congress regarding availability of bankruptcy data.

TITLE VII—BANKRUPTCY TAX PROVISIONS

Sec. 701. Treatment of certain liens.
Sec. 702. Treatment of fuel tax claims.
Sec. 703. Notice of request for a determination of taxes.
Sec. 704. Rate of interest on tax claims.
Sec. 705. Priority of tax claims.
Sec. 706. Priority property taxes incurred.
Sec. 707. No discharge of fraudulent taxes in chapter 13.
Sec. 708. No discharge of fraudulent taxes in chapter 11.
Sec. 709. Stay of tax proceedings limited to prepetition taxes.
Sec. 710. Periodic payment of taxes in chapter 11 cases.
Sec. 711. Avoidance of statutory tax liens prohibited.
Sec. 712. Payment of taxes in the conduct of business.
Sec. 713. Tardily filed priority tax claims.
Sec. 714. Income tax returns prepared by tax authorities.
Sec. 715. Discharge of the estate's liability for unpaid taxes.
Sec. 716. Requirement to file tax returns to confirm chapter 13 plans.
Sec. 717. Standards for tax disclosure.
Sec. 718. Setoff of tax refunds.
Sec. 719. Special provisions related to the treatment of State and local taxes.
Sec. 720. Dismissal for failure to timely file tax returns.

TITLE VIII—ANCILLARY AND OTHER CROSS-BORDER CASES

Sec. 801. Amendment to add chapter 15 to title 11, United States Code.
Sec. 802. Other amendments to titles 11 and 28, United States Code.

TITLE IX—FINANCIAL CONTRACT PROVISIONS

Sec. 901. Treatment of certain agreements by conservators or receivers of insured depository institutions.
Sec. 902. Authority of the corporation with respect to failed and failing institutions.
Sec. 903. Amendments relating to transfers of qualified financial contracts.
Sec. 904. Amendments relating to disaffirmance or repudiation of qualified financial contracts.
Sec. 905. Clarifying amendment relating to master agreements.
Sec. 906. Federal Deposit Insurance Corporation Improvement Act of 1991.
Sec. 907. Bankruptcy Code amendments.
Sec. 908. Recordkeeping requirements.
Sec. 909. Exemptions from contemporaneous execution requirement.
Sec. 910. Damage measure.
Sec. 911. SIPC stay.
Sec. 912. Asset-backed securitizations.
Sec. 913. Effective date; application of amendments.

TITLE X—PROTECTION OF FAMILY FARMERS

Sec. 1001. Permanent reenactment of chapter 12.
Sec. 1002. Debt limit increase.
Sec. 1003. Certain claims owed to governmental units.

TITLE XI—HEALTH CARE AND EMPLOYEE BENEFITS

Sec. 1101. Definitions.
Sec. 1102. Disposal of patient records.
Sec. 1103. Administrative expense claim for costs of closing a health care business and other administrative expenses.
Sec. 1104. Appointment of ombudsman to act as patient advocate.
Sec. 1105. Debtor in possession; duty of trustee to transfer patients.
Sec. 1106. Exclusion from program participation not subject to automatic stay.

TITLE XII—TECHNICAL AMENDMENTS

Sec. 1201. Definitions.
Sec. 1202. Adjustment of dollar amounts.
Sec. 1203. Extension of time.
Sec. 1204. Technical amendments.
Sec. 1205. Penalty for persons who negligently or fraudulently prepare bankruptcy petitions.
Sec. 1206. Limitation on compensation of professional persons.
Sec. 1207. Effect of conversion.
Sec. 1208. Allowance of administrative expenses.
Sec. 1209. Exceptions to discharge.
Sec. 1210. Effect of discharge.
Sec. 1211. Protection against discriminatory treatment.
Sec. 1212. Property of the estate.
Sec. 1213. Preferences.
Sec. 1214. Postpetition transactions.
Sec. 1215. Disposition of property of the estate.
Sec. 1216. General provisions.
Sec. 1217. Abandonment of railroad line.
Sec. 1218. Contents of plan.
Sec. 1219. Discharge under chapter 12.
Sec. 1220. Bankruptcy cases and proceedings.
Sec. 1221. Knowing disregard of bankruptcy law or rule.
Sec. 1222. Transfers made by nonprofit charitable corporations.
Sec. 1223. Protection of valid purchase money security interests.
Sec. 1224. Bankruptcy judgeships.
Sec. 1225. Compensating trustees.
Sec. 1226. Amendment to section 362 of title 11, United States Code.
Sec. 1227. Judicial education.
Sec. 1228. Reclamation.
Sec. 1229. Providing requested tax documents to the court.
Sec. 1230. Encouraging creditworthiness.
Sec. 1231. Property no longer subject to redemption.
Sec. 1232. Trustees.
Sec. 1233. Bankruptcy forms.
Sec. 1234. Expedited appeals of bankruptcy cases to courts of appeals.
Sec. 1235. Exemptions.

TITLE XIII—CONSUMER CREDIT DISCLOSURE

Sec. 1301. Enhanced disclosures under an open end credit plan.
Sec. 1302. Enhanced disclosure for credit extensions secured by a dwelling.
Sec. 1303. Disclosures related to ''introductory rates''.
Sec. 1304. Internet-based credit card solicitations.
Sec. 1305. Disclosures related to late payment deadlines and penalties.
Sec. 1306. Prohibition on certain actions for failure to incur finance charges.
Sec. 1307. Dual use debit card.
Sec. 1308. Study of bankruptcy impact of credit extended to dependent students.
Sec. 1309. Clarification of clear and conspicuous.
Sec. 1310. Enforcement of certain foreign judgments barred.

TITLE XIV—GENERAL EFFECTIVE DATE; APPLICATION OF AMENDMENTS

TITLE I—NEEDS-BASED BANKRUPTCY

SEC. 101. CONVERSION.

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

SEC. 102. DISMISSAL OR CONVERSION.

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

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

''§ 707. Dismissal of a case or conversion to a case under chapter 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, and siblings 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 elementary or secondary school, if the debtor provides documentation of such expenses and a detailed explanation of why such expenses are reasonable and necessary.

''(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 and the debtor's spouse combined, 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; 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) 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.''.

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 in 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) 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 ''a person, other than 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).

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)'' 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 5-year period preceding the filing of the petition, and the collateral for that debt consists of a motor vehicle (as defined in section 30102 of title 49) acquired for the personal use of the debtor, or if collateral for that debt consists of any other thing of value, if the debt was incurred during the 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. RESIDENCY REQUIREMENT FOR HOMESTEAD EXEMPTION.

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 subsections (o) and (p),'' before ''any property''; and

(2) by adding at the end the following:

''(o) For purposes of subsection (b)(3)(A), and notwithstanding subsection (a), the value of an interest in—

''(1) real or personal property that the debtor or a dependent of the debtor uses as a residence;

''(2) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence; or

''(3) a burial plot for the debtor or a dependent of the debtor;

shall be reduced to the extent that such value is attributable to any portion of any property that the debtor disposed of in the 7-year period ending on the date of the filing of the petition with the intent to hinder, delay, or defraud a creditor and that the debtor could not exempt, or that portion that the debtor could not exempt, under subsection (b), if on such date the debtor had held the property so disposed of.''.

SEC. 309. PROTECTING SECURED CREDITORS IN CHAPTER 13 CASES.

(a) STOPPING ABUSIVE CONVERSIONS FROM CHAPTER 13.—Section 348(f)(1) of title 11, United States Code, is amended—

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

(2) in subparagraph (B)—

(A) by striking ''in the converted case, with allowed secured claims'' and inserting ''only in a case converted to 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 $250 for luxury goods or services incurred by an individual debtor on or within 90 days before the order for relief under this title are presumed to be nondischargeable; and

''(II) cash advances aggregating more than $750 that are extensions of consumer credit under an open end credit plan obtained by an individual debtor on or within 70 days before the order for relief under this title, are presumed to be nondischargeable; and

''(ii) for purposes of this subparagraph—

''(I) the term 'extension of credit under an open end credit plan' means an extension of credit under an open end credit plan, within the meaning of the Consumer Credit Protection Act (15 U.S.C. 1601 et seq.);

''(II) the term 'open end credit plan' has the meaning given that term under section 103 of Consumer Credit Protection Act (15 U.S.C. 1602); and

''(III) the term 'luxury goods or services' does not include goods or services reasonably necessary for the support or maintenance of the debtor or a dependent of the debtor.''.

SEC. 311. AUTOMATIC STAY.

Section 362(b) of title 11, United States Code, is amended by inserting after paragraph (21), as added by this Act, the following:

''(22) under subsection (a)(3), of the continuation of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor involving residential real property in which the debtor resides as a tenant under a rental agreement;

''(23) under subsection (a)(3), of the commencement of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor involving residential real property in which the debtor resides as a tenant under a rental agreement that has terminated under the lease agreement or applicable State law;

''(24) under subsection (a)(3), of eviction actions based on endangerment to property or person or the use of illegal drugs;

''(25) under subsection (a) of any transfer that is not avoidable under section 544 and that is not avoidable under section 549;''.

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 in any case filed under this title within 5 years before the order for relief under this chapter.''.

SEC. 313. DEFINITION OF HOUSEHOLD GOODS AND ANTIQUES.

(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 request 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 any party in interest—

''(1) at the time filed with the taxing authority, all tax returns required under applicable law, including any schedules or attachments, with respect to the period from the commencement of the case until such time as the case is closed;

''(2) at the time filed with the taxing authority, all tax returns required under applicable law, including any schedules or attachments, that were not filed with the taxing authority when the schedules under subsection (a)(1) were filed with respect to the period that is 3 years before the order of relief;

''(3) any amendments to any of the tax returns, including schedules or attachments, described in paragraph (1) or (2); and

''(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 Abuse Prevention and Consumer Protection 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 Abuse Prevention and Consumer Protection 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 a 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. LIMITATION.

(a) EXEMPTIONS.—Section 522 of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

''(p)(1) Except as provided in paragraph (2) of this subsection and sections 544 and 548 of this title, 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 was acquired by the debtor during the 2-year period preceding the filing of the petition which exceeds in the aggregate $100,000 in value in—

''(A) real or personal property that the debtor or a dependent of the debtor uses as a residence;

''(B) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence; or

''(C) a burial plot for the debtor or a dependent of the debtor.

''(2)(A) 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.

''(B) For purposes of paragraph (1), any amount of such interest does not include any interest transferred from a debtor's previous principal residence (which was acquired prior to the beginning of the 2-year period) into the debtor's current principal residence, where the debtor's previous and current residences are located in the same State.''.

(b) ADJUSTMENT OF DOLLAR AMOUNTS.—Section 104(b) of title 11, United States Code, is amended—

(1) in paragraph (1), by striking ''522(d),'' and inserting ''522(d), 522(n), 522(p),''; and

(2) in paragraph (3), by striking ''522(d),'' and inserting ''522(d), 522(n), 522(p),''.

SEC. 323. 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. 324. 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. 325. 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 33.87 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. 326. 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. 327. 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. 328. 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)(1);''; 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''.

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 (25), as added by this Act, the following:

''(26) under subsection (a), of—

''(A) the commencement or continuation of an investigation or action by a securities self regulatory organization to enforce such organization's regulatory power;

''(B) the enforcement of an order or decision, other than for monetary sanctions, obtained in an action by the securities self regulatory organization to enforce such organization's regulatory power; or

''(C) any act taken by the securities self regulatory organization to delist, delete, or refuse to permit quotation of any stock that does not meet applicable regulatory requirements;''.

SEC. 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); and

(2) 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 Abuse Prevention and Consumer Protection 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) through (5), with respect to a case filed under chapter 11, a utility referred to in subsection (a) may alter, refuse, or discontinue utility service, if during the 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.

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) In a small business case, the plan shall be confirmed not later than 175 days after the date of the order for relief, unless such 175-day period is extended as provided in section 1121(e)(3).''.

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 by a preponderance of the evidence that—

''(A) a plan with a reasonable possibility of being confirmed will be filed 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 Abuse Prevention and Consumer Protection 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 Abuse Prevention and Consumer Protection 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 section 523(a)(2) 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 (26), as added by this Act, the following:

''(27) 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 (28) 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 (28) 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 sections 1519 or 1521 must be consistent with the relief granted in the case in the United States; and

''(B) even if the foreign proceeding is recognized as a foreign main proceeding, section 1520 does not apply.

''(2) If a case in the United States under this title commences after recognition, or after the filing of the petition for recognition, of the foreign proceeding—

''(A) any relief in effect under sections 1519 or 1521 shall be reviewed by the court and shall be modified or terminated if inconsistent with the case in the United States; and

''(B) if the foreign proceeding is a foreign main proceeding, the stay and suspension referred to in section 1520(a) shall be modified or terminated if inconsistent with the relief granted in the case in the United States.

''(3) In granting, extending, or modifying relief granted to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the 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, loan, interest, group or index, or option;

''(II) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan unless the Corporation determines by regulation, resolution, or order to include any such agreement within the meaning of such term;

''(III) means any option entered into on a national securities exchange relating to foreign currencies;

''(IV) means the guarantee by or to any securities clearing agency of any settlement of cash, securities, certificates of deposit, mortgage loans or interests therein, group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, loan, interest, group or index or option;

''(V) means any margin loan;

''(VI) means any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

''(VII) means any combination of the agreements or transactions referred to in this clause;

''(VIII) means any option to enter into any agreement or transaction referred to in this clause;

''(IX) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this clause, except that the master agreement shall be considered to be a securities contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), (IV), (V), (VI), (VII), or (VIII); and

''(X) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause.''.

(c) DEFINITION OF COMMODITY CONTRACT.—Section 11(e)(8)(D)(iii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(iii)) is amended to read as follows:

''(iii) COMMODITY CONTRACT.—The term 'commodity contract' means—

''(I) with respect to a futures commission merchant, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade;

''(II) with respect to a foreign futures commission merchant, a foreign future;

''(III) with respect to a leverage transaction merchant, a leverage transaction;

''(IV) with respect to a clearing organization, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization, or commodity option traded on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization;

''(V) with respect to a commodity options dealer, a commodity option;

''(VI) any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

''(VII) any combination of the agreements or transactions referred to in this clause;

''(VIII) any option to enter into any agreement or transaction referred to in this clause;

''(IX) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a commodity contract under this clause, except that the master agreement shall be considered to be a commodity contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII), or (VIII); or

''(X) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause.''.

(d) DEFINITION OF FORWARD CONTRACT.—Section 11(e)(8)(D)(iv) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(iv)) is amended to read as follows:

''(iv) FORWARD CONTRACT.—The term 'forward contract' means—

''(I) a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade, or product or byproduct thereof, with a maturity date more than 2 days after the date the contract is entered into, including, 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).''.

(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, loans, or interests with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptances, securities, loans, or interests as described above, at a date certain not later than 1 year after such transfers or on demand, against the transfer of funds, or any other similar agreement;

''(II) does not include any repurchase obligation under a participation in a commercial mortgage loan unless the Corporation determines by regulation, resolution, or order to include any such participation within the meaning of such term;

''(III) means any combination of agreements or transactions referred to in subclauses (I) and (IV);

''(IV) means any option to enter into any agreement or transaction referred to in subclause (I) or (III);

''(V) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a repurchase agreement under this clause, except that the master agreement shall be considered to be a repurchase agreement under this subclause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), or (IV); and

''(VI) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (III), (IV), or (V).

For purposes of this clause, the term 'qualified foreign government security' means a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development (as determined by regulation or order adopted by the appropriate Federal banking authority).''.

(f) DEFINITION OF SWAP AGREEMENT.—Section 11(e)(8)(D)(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 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 similar to any other agreement or transaction referred to in this clause that is presently, or in the future becomes, regularly entered into in the swap market (including terms and conditions incorporated by reference in such agreement) and that is a forward, swap, future, or option on one or more rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments, or economic indices or measures of economic risk or value;

''(III) any combination of agreements or transactions referred to in this clause;

''(IV) any option to enter into any agreement or transaction referred to in this clause;

''(V) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this clause, except that the master agreement shall be considered to be a swap agreement under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), or (IV); and

''(VI) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in subparagraph (I), (II), (III), (IV), or (V).

Such term is applicable for purposes of this title only and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, and the regulations promulgated by the Securities and Exchange Commission or the Commodity Futures Trading Commission.''.

(g) DEFINITION OF TRANSFER.—Section 11(e)(8)(D)(viii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(viii)) is amended to read as follows:

''(viii) TRANSFER.—The term 'transfer' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property

or with an interest in property, including retention of title as a security interest and foreclosure of the depository institutions's equity of redemption.''.

(h) TREATMENT OF QUALIFIED FINANCIAL CONTRACTS.—Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended—

(1) in subparagraph (A)—

(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 contract 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 subject to the rules of a clearing organization, the clearing organization shall not be required to accept the transferee as a member by virtue of the transfer.

''(D) DEFINITION.—For purposes of this 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.''.

(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; and

(2) by inserting after paragraph (10) the following new paragraph:

''(11) DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.—In exercising the rights of disaffirmance or repudiation of a conservator or receiver with respect to any qualified financial contract to which an insured depository institution is a party, the conservator or receiver for such institution shall either—

''(A) disaffirm or repudiate all qualified financial contracts between—

''(i) any person or any affiliate of such person; and

''(ii) the depository institution in default; or

''(B) disaffirm or repudiate none of the qualified financial contracts referred to in subparagraph (A) (with respect to such person or any affiliate of such person).''.

SEC. 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 ''or that has been granted an exemption under section 4(c)(1) of the Commodity Exchange 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 AND UNINSURED FEDERAL BRANCHES AND AGENCIES.—The Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4401 et seq.) is amended—

(1) by redesignating section 407 as 407A; and

(2) by inserting after section 406 the following new section:

''SEC. 407. TREATMENT OF CONTRACTS WITH UNINSURED NATIONAL BANKS AND UNINSURED FEDERAL BRANCHES AND AGENCIES.

''(a) IN GENERAL.—Notwithstanding any other provision of law, paragraphs (8), (9), (10), and (11) of section 11(e) of the Federal Deposit Insurance Act shall apply to an uninsured national bank or uninsured Federal branch or Federal agency, except that for such purpose—

''(1) any reference to the 'Corporation as receiver' or 'the receiver or the Corporation' shall refer to the receiver of an uninsured national bank or uninsured Federal branch or Federal agency appointed by the Comptroller of the Currency;

''(2) any reference to the 'Corporation' (other than in section 11(e)(8)(D) of such Act), the 'Corporation, whether acting as such or as conservator or receiver', a 'receiver', or a 'conservator' shall refer to the receiver or conservator of an uninsured national bank or uninsured Federal branch or Federal agency appointed by the Comptroller of the Currency; and

''(3) any reference to an 'insured depository institution' or 'depository institution' shall refer to an uninsured national bank or an uninsured Federal branch or Federal agency.

''(b) LIABILITY.—The liability of a receiver or conservator of an uninsured national bank or uninsured Federal branch or agency shall be determined in the same manner and subject to the same limitations that apply to receivers and conservators of insured depository institutions under section 11(e) of the Federal Deposit Insurance Act.

''(c) REGULATORY AUTHORITY.—

''(1) IN GENERAL.—The Comptroller of the Currency, in consultation with the Federal Deposit Insurance Corporation, may promulgate regulations to implement this section.

''(2) SPECIFIC REQUIREMENT.—In promulgating regulations to implement this section, the Comptroller of the Currency shall ensure that the regulations generally are consistent with the regulations and policies of the Federal Deposit Insurance Corporation adopted pursuant to the Federal Deposit Insurance Act.

''(d) DEFINITIONS.—For purposes of this section, the terms 'Federal branch', 'Federal agency', and 'foreign bank' have the same 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), but not to exceed the actual value of such contract on the date of the filing of the petition;'';

(B) in paragraph (46), by striking ''on any day during the period beginning 90 days before the date of'' and 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, loans, or interests, with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptance, securities, loans, or interests of the kind described 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), but not to exceed the actual value of such contract on the date of the filing of the petition; and

''(B) does not include a repurchase obligation under a participation in a commercial mortgage loan;'';

(D) in paragraph (48), by inserting '', or exempt from such registration under such section pursuant to an order of the Securities and Exchange Commission,'' after ''1934''; and

(E) by amending paragraph (53B) to read as follows:

''(53B) 'swap agreement'—

''(A) means—

''(i) any agreement, including the terms and conditions incorporated by reference in such agreement, which is an interest rate swap, option, future, or forward agreement, including—

''(I) a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap;

''(II) a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement;

''(III) a currency swap, option, future, or forward agreement;

''(IV) an equity index or an equity swap, option, future, or forward agreement;

''(V) a debt index or a debt swap, option, future, or forward agreement;

''(VI) a credit spread or a credit swap, option, future, or forward agreement;

''(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 similar to any other agreement or transaction referred to in this paragraph that—

''(I) is presently, or in the future becomes, regularly entered into in the swap market (including terms and conditions incorporated by reference therein); and

''(II) is a forward, swap, future, or option on one or more rates, currencies, commodities, equity securities, or other equity instruments, debt securities or other debt instruments, or economic indices or measures of economic risk or value;

''(iii) any combination of agreements or transactions referred to in this subparagraph;

''(iv) any option to enter into 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), but not to exceed the actual value of such contract on the date of the filing of the petition; 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, and the regulations prescribed by the Securities and Exchange Commission or the Commodity Futures Trading Commission.'';

(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, loan, interest, group or index, or option;

''(ii) any option entered into on a national securities exchange relating to foreign currencies;

''(iii) the guarantee by or to any securities clearing agency of a settlement of cash, securities, certificates of deposit, mortgage loans or interests therein, group or index of securities, or mortgage loans or interests therein (including any interest therein or based on the value thereof), or option on any of the foregoing, including an option to purchase or sell any such security, certificate of deposit, loan, interest, group or index, or option;

''(iv) any margin loan;

''(v) any other agreement or transaction that is similar to an agreement or transaction referred to in this 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, but not to exceed the actual value of such contract on the date of the filing of the petition; and

''(B) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan.''; and

(3) in section 761(4)—

(A) by striking ''or'' at the end of subparagraph (D); and

(B) by adding at the end the following:

''(F) any other agreement or transaction that is similar to an agreement or transaction referred to in this paragraph;

''(G) any combination of the agreements or transactions referred to in this paragraph;

''(H) any option to enter into an agreement or transaction referred to in this paragraph;

''(I) a master agreement that provides for an agreement or transaction referred to in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H), together with all supplements to such master 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, but not to exceed the actual value of such contract on the date of the filing of the petition;''.

(b) DEFINITIONS OF FINANCIAL INSTITUTION, FINANCIAL PARTICIPANT, AND FORWARD CONTRACT MERCHANT.—Section 101 of title 11, United States Code, is amended—

(1) by inserting after paragraph (22) the following:

''(22A) 'financial participant' means an entity that, at the time it enters into a securities contract, commodity contract, or forward contract, or at the time of the filing of the petition, has 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;''; and

(2) by striking paragraph (26) and inserting the following:

''(26) 'forward contract merchant' means a Federal reserve bank, or an entity, the business of which consists in whole or in part of entering into forward contracts as or with merchants or in a commodity, as defined or in section 761 or any similar good, article, service, right, or interest 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; 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 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 under or in connection with any swap agreement or against cash, securities, or other property held by, pledged to, and under the control of, or due from such swap participant to margin, guarantee, secure, or settle any swap agreement;''; and

(D) by inserting after paragraph (27), as added by this Act, the following new paragraph:

''(28) 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:

''(l) LIMITATION.—The exercise of rights not subject to the stay arising under subsection (a) pursuant to paragraph (6), (7), (17), or (28) 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''; and

(B) by striking ''in connection with a swap agreement'' and inserting ''under or in connection with any swap agreement''; and

(2) by adding at the end the following:

''(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'';

and

(2) in the first sentence, by striking ''liquidation'' and inserting ''liquidation, termination, or acceleration''.

(i) TERMINATION OR ACCELERATION OF REPURCHASE AGREEMENTS.—Section 559 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

''§ 559. Contractual right to liquidate, terminate, or accelerate a repurchase agreement'';

and

(2) in the first sentence, by striking ''liquidation'' and inserting ''liquidation, termination, or acceleration''.

(j) LIQUIDATION, TERMINATION, OR ACCELERATION OF SWAP AGREEMENTS.—Section 560 of title 11, United States Code, is amended—

(1) by amending the section heading to read as follows:

"§ 560. Contractual right to liquidate, terminate, or accelerate a swap agreement";

(2) in the first sentence, by striking ''termination of a swap agreement'' and inserting ''liquidation, termination, or acceleration of one or more swap agreements''; and

(3) by striking ''in connection with any swap agreement'' and inserting ''in connection with the termination, liquidation, or acceleration of one or more swap agreements''.

(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

''(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 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 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 that has been approved by the Commodity Futures Trading Commission or submitted to the Commodity Futures Trading Commission under section 5(a)(12)(A) of the Commodity Exchange Act and has been approved; 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 national securities exchange, a national securities association, or a securities clearing agency, a right set forth in a bylaw of a clearing organization or contract market or in a resolution of the governing board thereof, and a right, whether or not evidenced in writing, arising under common law, under law merchant, or by reason of normal business practice.

''(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.''.

(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, 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)(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)(28), 555, 556, 559, 560, or 561 of this title)''; and

(2) in subsection (b)(1), by striking ''362(b)(14),'' and inserting ''362(b)(17), 362(b)(28), 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 section 546(e), by inserting ''financial participant,'' after ''financial institution,'';

(3) in section 548(d)(2)(B), by inserting ''financial participant,'' after ''financial institution,'';

(4) in section 555—

(A) by inserting ''financial participant,'' after ''financial institution,''; and

(B) by inserting before the period at the end '', a right set forth in a bylaw of a clearing organization or contract market or in a resolution of the governing board thereof, and a right, whether or not in writing, arising under common law, under law merchant, or by reason of normal business practice''; and

(5) in section 556, by inserting '', financial participant,'' after ''commodity broker''.

(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, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.'';

and

(B) by inserting after the item relating to section 752 the following:

''753. Stockbroker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.''.

SEC. 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 prescribe regulations requiring more detailed

recordkeeping with respect to qualified financial contracts (including market valuations) by insured depository institutions.''.

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 and 741 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, 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 after the date of enactment of this Act, but shall not apply with respect to cases commenced or appointments made under any Federal or State law before the date of enactment of this Act.

TITLE X—PROTECTION OF FAMILY FARMERS

SEC. 1001. 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), is hereby reenacted, and as here reenacted is amended by this Act.

(2) EFFECTIVE DATE.—Subsection (a) shall take 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.

Section 104(b) of title 11, United States Code, is amended by adding at the end the following:

''(4) The dollar amount in section 101(18) shall be adjusted at the same times and in the same manner as the dollar amounts in paragraph (1) of this subsection, beginning with the adjustment to be made on April 1, 2004.''.

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''.

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, including 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.).

''(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.''.

(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 proceeding subparagraph (A), by inserting ''an ombudsman appointed under section 331, or'' before ''a professional person''; and

(2) in subparagraph (A), by inserting ''ombudsman,'' before ''professional person''.

SEC. 1105. DEBTOR IN POSSESSION; DUTY OF TRUSTEE TO TRANSFER PATIENTS.

(a) IN GENERAL.—Section 704(a) of title 11, United States Code, as amended by 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 (28), as added by this Act, the following:

''(29) 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), (38), and (54A), 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 322 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. DISCHARGE UNDER CHAPTER 12.

Subsections (a) and (c) of section 1228 of title 11, United States Code, are amended by striking ''1222(b)(10)'' each place it appears and inserting ''1222(b)(9)''.

SEC. 1220. 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. 1221. 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. 1222. 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. 1223. 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. 1224. 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) Two 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.

(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, the district of South Carolina, and the eastern district of Tennessee under paragraphs (1), (3), (7), (8), 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) 8 years or more after November 8, 1993, with respect to the northern district of Alabama;

(B) 10 years or more after October 28, 1993, with respect to the district of Delaware;

(C) 8 years or more after August 29, 1994, with respect to the district of Puerto Rico;

(D) 8 years or more after June 27, 1994, with respect to the district of South Carolina; and

(E) 8 years or more after November 23, 1993, with respect to the eastern district of Tennessee.

(2) APPLICABILITY OF OTHER PROVISIONS.—All other provisions of section 3 of the Bankruptcy Judgeship Act of 1992 (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 DATES.—(1) Except as provided in paragraph (2), this section and the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) With respect to the temporary bankruptcy judgeship authorized for the district of South Carolina under paragraph (8) of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note), subsection (c)(1) as it applies to the extension specified in subparagraph (D) of such subsection shall take effect immediately before December 31, 2000.

SEC. 1225. 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. 1226. 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. 1227. 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. 1228. 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 after 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 after 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. 1229. 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. 1230. 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. 1231. 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. 1232. 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. 1233. 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. 1234. EXPEDITED APPEALS OF BANKRUPTCY CASES TO COURTS OF APPEALS.

(a) IN GENERAL.—Section 158 of title 28, United States Code, is amended—

(1) by striking subsection (d) and inserting the following:

''(d)(1) In a case in which the appeal is heard by the district court, the judgment, decision, order, or decree of the bankruptcy judge shall be deemed a judgment, decision, order, or decree of the district court entered 31 days after such appeal is filed with the district court, unless not later than 30 days after such appeal is filed with the district court—

''(A) the district court—

''(i) files a decision on the appeal from the judgment, decision, order, or decree of the bankruptcy judge; or

''(ii) enters an order extending such 30-day period for cause upon motion of a party or upon the court's own motion; or

''(B) all parties to the appeal file written consent that the district court may retain such appeal until it enters a decision.

''(2) For the purpose of this subsection, an appeal shall be considered filed with the district court on the date on which the notice of appeal is filed, except that in a case in which the appeal is heard by the district court because a party has made an election under subsection (c)(1)(B), the appeal shall be considered filed with the district court on the date on which such election is made.

''(e) The courts of appeals shall have jurisdiction of appeals from—

''(1) all final judgments, decisions, orders, and decrees of district courts entered under subsection (a);

''(2) all final judgments, decisions, orders, and decrees of bankruptcy appellate panels entered under subsection (b); and

''(3) all judgments, decisions, orders, and decrees of district courts entered under subsection (d) to the extent that such judgments, decisions, orders, and decrees would be reviewable by a district court under subsection (a).

''(f) In accordance with rules prescribed by the Supreme Court of the United States under sections 2072 through 2077, the court of appeals may, in its discretion, exercise jurisdiction over an appeal from an interlocutory judgment, decision, order, or decree under subsection (e)(3).''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 305(c) of title 11, United States Code, is amended by striking ''section 158(d)'' and inserting ''subsection (e) or (f) of section 158''.

(2) Section 1334(d) of title 28, United States Code, is amended by striking ''section 158(d)'' and inserting ''subsection (e) or (f) of section 158''.

(3) Section 1452(b) of title 28, United States Code, is amended by striking ''section 158(d)'' and inserting ''subsection (e) or (f) of section 158''.

SEC. 1235. EXEMPTIONS.

Section 522(g)(2) of title 11, United States Code, is amended by striking ''subsection (f)(2)'' and inserting ''subsection (f)(1)(B)''.

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 Abuse Prevention and Consumer Protection 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 Banking and 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.

SEC. 1310. ENFORCEMENT OF CERTAIN FOREIGN JUDGMENTS BARRED.

(a) IN GENERAL.—Notwithstanding any other provision of law or contract, a court within the United States shall not recognize or enforce any judgment rendered in a foreign court if, by clear and convincing evidence, the court in which recognition or enforcement of the judgment is sought determines that the judgment gives effect to any purported right or interest derived, directly or indirectly, from any fraudulent misrepresentation or fraudulent omission that occurred in the United States during the period beginning on January 1, 1975, and ending on December 31, 1993.

(b) EXCEPTION.—Subsection (a) shall not prevent recognition or enforcement of a judgment rendered in a foreign court if the foreign tribunal rendering judgment giving effect to the right or interest concerned determines that no fraudulent misrepresentation or fraudulent omission described in subsection (a) occurred.

TITLE XIV—GENERAL EFFECTIVE DATE; APPLICATION OF AMENDMENTS

SEC. 1401. 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.

The CHAIRMAN pro tempore. No further amendment is in order except those printed in the House Report 107–4. Each amendment may be offered only in the order printed, may be offered only by a Member designated in the report, shall be considered read, debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

It is now in order to consider amendment No. 1 printed in House Report 107–4.

AMENDMENT NO. 1 OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Chairman, I offer an amendment made in order by the rule.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. SENSENBRENNER:

Page 10, line 13, strike ''case) who is not a dependent'' and insert ''case who is not a dependent)''.

Page 22, line 3, strike ''an individual case under chapter 7'' and insert ''a case under chapter 7 of this title in which the debtor is an individual and''.

Page 31, line 9, strike ''service'' and insert ''agency''.

Page 34, line 20, strike ''**services**'' and insert ''**agencies**''.

Page 41, lines 12 and 16, strike ''service'' and insert ''agency''.

Page 42, in the matter following line 3, strike ''services'' and insert ''agencies''.

Page 74, strike lines 5 through 20, and insert the following:

(1) in subsection (a)—

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

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

(B) by striking paragraph (18);

(2) in subsection (c), by striking ''(6), or (15)'' each place it appears and inserting ''or (6)''; and

(3) in paragraph (15), as added by Public Law 103–394 (108 Stat. 4133)—

(A) by inserting ''to a spouse, former spouse, or child of the debtor and'' before ''not of the kind'';

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

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

Page 75, strike line 21.

Page 76, strike lines 1 through 5.

Page 86, line 14, insert ''a person other than'' before the open quotation marks.

Page 99, lines 18 through 21, indent the left margin 2 ems to the right.

Page 101, line 22, strike the period at the end and insert a semicolon.

Page 101, line 23, strike ''Nothing in paragraph (18)'' and insert ''but nothing in this paragraph''.

Page 107, line 18, strike ''that person'' and insert ''a person who provides such assistance or of such preparer''.

Page 107, lines 22, 23, and 24, strike ''the person'' and insert ''such assisted person''.

Page 113, strike the matter after line 4, and insert the following:

''526. Restrictions on debt relief agencies.''.

Page 114, line 18, strike ''proceeding'' and insert ''case''.

Page 120, strike the matter after line 22, and insert the following:

''528. Requirements for debt relief agencies.''.

Page 123, lines 19 and 24, strike ''chapter 7, 11, or 13'' and insert ''chapters 7, 11, and 13''.

Page 130, beginning line 15, strike ''an individual case under chapter 7 of this title'' and insert ''a case under chapter 7 of this title in which the debtor in an individual''.

Page 132, beginning on line 13, strike ''an individual case under chapter 7, 11, or 13'' and insert ''in which the debtor is an individual''.

Page 140, line 2, strike ''chapter 13 proceeding'' and insert ''case under chapter 13''.

Page 142, line 1, move the left margin 2 ems to the left.

Page 142, lines 2 through 13, move the left margin 2 ems to the left.

Page 144, line 13, indent the left margin 2 additional ems to the right.

Page 144, lines 14 through 25, indent the left margin 2 additional ems to the right.

Page 145, line 1, indent the left margin 2 additional ems to the right.

Page 145, lines 2 through 14, indent the left margin 2 additional ems to the right.

Page 164, beginning on line 10, strike ''the case of an individual filing under chapter 7, 11, or 13'' and insert ''a case under chapter 7, 11, or 13 in which the debtor in an individual''.

Page 165, line 7, strike ''concerning an individual debtor'' and insert '' in which the debtor is an individual''.

Page 171, line 3, strike ''(3)'' and insert ''(2)''.

Page 172, line 1, strike ''amount'' and insert ''such amount under this clause''.

Page 172, line 20, strike ''amount'' and insert ''such amount under this clause''.

Page 177, line 14, strike ''(b)(l)'' and insert ''(b)(1)''.

Page 183, line 24, strike ''(i)'' and insert ''(h)''.

Page 184, line 2, strike ''(j)'' and insert ''(i)''

Beginning on page 184, line 23 and all that follows through line 2 on page 185, move the left margin 2 ems to the left.

Page 187, line 12, strike ''period'' and insert ''period,''.

Page 189, lines 11 through 14, move the left margin 2 ems to the left.

Page 198, line 24, strike ''claims'' and insert ''expenses''.

Page 200, line 11, strike ''claims'' and insert ''expenses''.

Page 201, line 2, add ''of chapter 11'' after ''Subchapter 1''.

Page 216, line 19, strike ''each district'' and insert ''the district court, or the clerk of the bankruptcy court if one has been certified pursuant to section 156(b) of this title,''.

Page 216, line 22, strike ''on a standardized form'' and insert ''in a standardized format''.

Page 218, line 5, insert ''cases filed during'' after ''in''.

Page 218, line 13, insert ''for cases closed during the reporting period'' after ''case''.

Page 218, line 14, insert ''cases closed during'' after ''for''.

Page 219, line 11, insert ''entered'' after ''orders''.

Page 219, line 13, strike ''issued''.

Page 224, beginning on line 24, strike ''individual cases filed under chapter 7 or 13 of such title'' and insert ''cases filed under chapter 7 or 13 in which the debtor is an individual''.

Page 234, line 7, insert ''the'' after ''date of''.

Page 235, line 3, strike ''(i)''.

Page 235, line 9, strike ''(ii)''.

Page 246, line 16, insert ''claim for a'' after ''to a''.

Page 248, line 3, insert ''(1)'' before ''Section''.

Page 252, after line 22, insert the following:

(2) CLERICAL AMENDMENT.—The table of sections for chapter 3 of title 11, United States Code, is amended by striking the item relating to section 346 and inserting the following:

''346. Special provisions related to the treatment of State and local taxes.''.

Page 252, line 24, insert ''(A)'' after ''(1)''.

Page 252, after line 25, insert the following:

(B) The table of sections for chapter 7 of title 11, United States Code, is amended by striking the item relating to section 728.

Page 281, line 13, strike ''(j)'' and insert ''(k)''.

Page 283, line 3, strike ''15,'' and insert ''15''.

Page 327, line 17, strike the period and insert a semicolon.

Page 331, line 15, strike ''FINANCIAL INSTITUTION''.

Page 336, line 21, strike ''(l)'' and insert ''(m)''.

Page 337, line 13, strike ''(k)'' and insert ''(j)''.

Page 346, line 16, strike ''561'' and insert ''561,''.

Page 348, strike the matter following line 4, and insert 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.'';

Page 356, strike lines 11 through 21 (and make such technical and conforming changes as may be appropriate).

Page 357, line 11, strike ''Bankruptcy,'' and insert ''Bankruptcy''.

Page 369, line 13, insert ''and inserting a semicolon'' after ''paragraph''.

Page 370, line 1, strike ''property.'' and insert ''property;''.

Page 370, line 3, strike ''and (37)'' and insert ''(37), (38A), and (38B),''.

Page 377, beginning on line 20, strike ''judgeship positions shall be filled'' and insert ''bankruptcy judges shall be appointed''.

Page 378, lines 1, 5, 9, 13, 15, 17, 19, 21, and 23, strike ''judgeship'' and insert ''judge''.

Page 378, line 3, 7, and 11, strike ''judgeships'' and insert ''judges''.

Page 379, lines 1, 3, 5, 7, 9, and 11, strike ''judgeship'' and insert ''judge''.

Page 379, beginning on line 23, strike ''bankruptcy judgeship positions'' and insert ''office of bankruptcy judges''.

Page 381, beginning on line 2, strike ''judgeship positions referred to in this subsection'' and insert ''office of bankruptcy judges referred to in paragraph (1)''.

Page 393, strike lines 10 through 13 (and conform the table of contents of the bill accordingly).

Page 411, line 21, strike ''APPLICATIONS AND''.

Page 412, line 1, strike ''APPLICATIONS AND''.

The CHAIRMAN pro tempore. Pursuant to House Resolution 71, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Michigan (Mr. CONYERS) each will control 5 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

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

Mr. Chairman, this amendment is one that proposes to make technical and conforming changes to the bill. The 420-page bill had a number of technical problems, such as improper spacing, incorrect terminology, drafting errors, incorrect headings, incorrect references to section numbers and grammatical inconsistencies. This amendment will clean up the bill which will make the provisions of the legislation easier to execute and to understand.

I want to emphasize that this amendment does not substantively alter the composition of the bill. Over the last several years, the Congress has considered, amended, debated, negotiated and refined this measure, and the product under consideration is the result of those labors. During the last Congress, that delicate balance is preserved in this legislation. This amendment improves the bill by making it as technically accurate as possible, which is important because lawyers, accountants, creditors and debtors will be relying on and scrutinizing its provisions. Again, this is a technical amendment meant only to clarify with precision the terms of this legislation. I urge its adoption.

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

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

Could I ask my friend the chairman why the Schiff provision was struck out after it had been put in, which led to the dilemma that we did not put it in, and so, therefore, it was subsequently struck out, and now we do not have it at all?

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, this provision was struck because it was determined to be substantive in nature and potentially controversial. It is the intention of me as the author of this amendment to have the amendment to be completely technical and nonsubstantive in nature and to clean up the inconsistencies in the bill that was presented to the President last year and ended up being pocket vetoed.

Mr. CONYERS. We are now in this situation that it was subsequently struck after we went to the Committee on Rules. We are under the limitation of the Committee on Rules' determination of what is allowed to be brought to the floor. So what do we do now, assuming that you are sympathetic to this, to what was in it?

By the way, it was also struck unilaterally. We never got any word that it was going to be struck. In the midst of the great atmosphere of bipartisanship which has been repeatedly urged upon us by the administration, we have a problem brewing that, if possible, I would like to try to extinguish. How do we do that?

□ 1230

The gentleman could extend me some kind of a proposal that would lend us to be able to get this measure back in.

By the way, I thought it was a technical amendment that the gentleman from California had accepted.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I thank the gentleman from Michigan (Mr. CONYERS) for yielding again.

Mr. Chairman, the problem is that it ended up not being technical in nature and it ended up changing substantive rights in the bill, which is something that we had decided to keep out of the technical amendment.

I would further point out to my friend, the gentleman from Michigan (Mr. CONYERS), that the change was made prior to the Committee on Rules holding its hearing yesterday, and the amendment that was before the Committee on Rules was the revised text.

Mr. CONYERS. Mr. Chairman, it was issued February 28, 2001, 3:29 p.m.

Does the gentleman know what time we went into Committee on Rules yesterday? 2:00. So this came out afterward.

Beside that, we were not notified, contrary to the practice that I understand that we operate under for technical amendments.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, all of the amendments that were made in order by the Committee on Rules were redrafted to reflect the Union Calendar print that has been submitted to the House for its consideration. So of the five amendments that were made in order by the Committee on Rules, all of them had to be redrafted, recognizing the fact that the text of the bill as reported from committee is not the text of the Union Calendar printed as before the Committee of the Whole today.

Mr. CONYERS. I beg to differ with my friend, the chairman, but the only change was page numbers. There were no substantive changes whatsoever; and if the gentleman knows of any, beside the one of which I complain, which was dropping a technical amendment, there were no other changes made outside of the pagination.

So February 28, 2001, 3:29 p.m. It came after the fact, no notice. I think we are off to a not-good start here about how we are going to operate.

We went before the committee, and I was asked before the Committee on Rules what is my priority for these amendments? And I said in the order in which they are numbered if there is some cutoff.

How much time does the gentleman need?

Well, as much as the generosity will extend.

The CHAIRMAN pro tempore (Mr. LAHOOD). The time of the gentleman from Michigan (Mr. CONYERS) has expired.

Mr. SENSENBRENNER. Mr. Chairman, I yield 1 minute to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Chairman, it was in the Committee on Rules that we were asked how much time and how many amendments we would like; and as I recall it, we got one amendment and certainly not in the priority which was listed.

So this is a very unhappy situation. The version before the House is not the version that was submitted to the Committee on Rules, and the majority dropped the amendment after the Committee on Rules met or the Committee on Rules did or the leadership did or somebody did to ensure that an important provision was eliminated that would ensure that children and single parents do not suffer unduly in bankruptcy.

Therefore, Mr. Chairman, I regretfully announce that I will not be able to support the gentleman's amendment.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself the balance of the time.

Mr. Chairman, this is a technical amendment. The gentleman from Michigan (Mr. CONYERS) is complaining about the fact that there is an omission in the technical amendment, and the fact that it is substantive in nature means that the provisions that the gentleman from Michigan (Mr. CONYERS) is complaining about do not belong in a technical amendment.

Now, the question before the committee, when we vote on this amendment, is whether or not to pass a technical amendment that is needed to clean up the bill and to make its provisions easier to understand and easier to execute when the court has questions placed before them.

A no vote means that people want to make it harder to understand and harder to execute. I would urge the House to support this amendment so that it can be made easier to understand by everybody.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Wisconsin (Mr. SENSENBRENNER).

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

Mr. CONYERS. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) will be postponed.

The point of no quorum is considered withdrawn.

It is now in order to consider amendment No. 2 printed in House Report 107–4.

AMENDMENT NO. 2 OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer amendment No. 2.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Ms. JACKSON-LEE of Texas:

Page 11, line 1, insert ''or public'' after ''private''.

The CHAIRMAN pro tempore. Pursuant to House Resolution 71, the gentlewoman from Texas (Ms. JACKSON-LEE) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself such time as I may consume.

Ms. JACKSON-LEE of Texas. Mr. Chairman, let me thank both the chairman and the ranking member and the

Committee on Rules for seeing merit in this amendment. As I indicated, I have concerns about this legislation. I have offered it to say that important elements of protecting the consumer are not included, but I do believe that we have an opportunity to add to the enhancement of the legislation. So I offer an amendment that speaks to all Americans, Americans who are raising children, from rural hamlets to urban centers, from large school districts to small school districts.

Recognizing that the education of our children from K to 12 is an expensive endeavor, H.R. 333 includes a provision that allows for private school expenses to be deducted or to be utilized as relates to bankruptcy so that those expenses could be paid, and therefore this particular amendment adds a debtor's monthly public school expenses as allowable expenses under the means test.

Mr. SENSENBRENNER. Mr. Chairman, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I thank the gentlewoman from Texas (Ms. JACKSON-LEE) for yielding.

Mr. Chairman, I believe that the gentlewoman has pointed out an unequal treatment in this bill which needs correction. I am happy to support the amendment of the gentlewoman from Texas (Ms. JACKSON-LEE) and hope that we can get it passed quickly.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman from Wisconsin (Mr. SENSENBRENNER) very much for his comments, and I will move to summarize my remarks. I ask the gentleman, if the gentleman would stand, I would very much encourage the gentleman's support. I believe that is what I heard. I am just trying to be clear.

Mr. SENSENBRENNER. Mr. Chairman, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. The gentleman from Wisconsin said he is pleased to support the amendment of the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. I thank the gentleman from Wisconsin very much for his support.

Mr. Chairman, I am going to be very responsive in summarizing simply to say that, as we well know, parents who have children who are in debate clubs and cheerleaders, choir, athletic programs in public schools have many of the enormous expenses that other parents have and we believe that equalizing that provision is very important. It certainly helps our low-income families, our middle-income families.

Mr. Chairman, I would like to ask my colleagues to support this amendment.

Mr. CONYERS. Mr. Chairman, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I have a full page statement touting all of the excellent parts of the amendment of the gentlewoman from Texas (Ms. JACKSON-LEE), but I think I will insert them in the RECORD instead and congratulate the gentlewoman and thank the chairman of the committee for joining in his support.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the ranking member for his leadership and his excellent statement.

Mr. Chairman, I ask support of my amendment.

Mr. Chairman, this amendment to page 11, line 1 of H.R. 333 merely adds a debtor's monthly public school expenses as an allowable expense under the means test. My amendment would put public school expenses at an equal footing with that of private school expenses, which is already included in the bill.

I am surprised that my colleagues in the majority do not know that there are expenses associated with sending children to public schools. Parents whose children participate in extra-curricular activities such as, the debate club, bank, choir, athletic programs, cheerleaders, or dozens of other courses that are offered in public schools. These courses require that parents provide financial support from their own resources in order to support their child's participation in these programs. It is very unfair to assume that only parents whose children attend private schools have expenses worth protecting under this new bankruptcy reform legislation. What does not make sense is protecting private education, for no other reason other than it is private education, while ignoring the overwhelming majority of children who's parents send their children to public schools.

The principal problem with the means test is that the rigid one-size-fits-all in determining eligibility for chapter 7 and the operation of chapter 13 will often operate in an arbitrary fashion.

Access to bankruptcy would be more difficult, especially for low-income filers who are not able to meet the requirements because they cannot list public school expenses as an allowable expense as would their private school counterparts. The "safe harbor" provision that is supposed to protect some low-income families from the application of the IRS standards will not protect many single mothers, because it is based on the combined income of the debtor and the debtor's spouse—even if they are separated and the mother who is filing for bankruptcy is receiving no support from the nondebtor spouse from whom she is separated. As the committee knows, the majority of low-income families send their children to public schools (as opposed to higher income people) because they cannot afford the private school tuition. It would seem that if the true intent of this bill were to assist all Americans, a provision recognizing public school tuition would have accompanied the recognition of private school tuition as an allowable expense under the "means test," however, this is not the case.

Under my amendment, low-income people will have a more flexible standard (that is consistent with that of high-income people) that would allow the debtor to have a fair opportunity to financial recourse, which is not possible under the legislation as written. I think such a change in the standard would be warmly welcomed for middle-income and low-income filers. We cannot in good conscience allow such an unbalanced approach to prevail, Mr. Chairman.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 3 printed in House Report 107–4.

AMENDMENT NO. 3 OFFERED BY MR. GREEN OF WISCONSIN

Mr. GREEN of Wisconsin. Mr. Chairman, I offer amendment No. 3.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. GREEN of Wisconsin:

Page 121, after line 16, insert the following (and make such technical and conforming changes as may be appropriate):

SEC. 231. PROHIBITION ON DISCLOSURE OF IDENTITY OF MINOR CHILDREN.

(a) PROHIBITION.—Title 11 of the United States Code, as amended by section 106, is amended by inserting after section 111 the following:

"§ 112. Prohibition on disclosure of identity of minor child

"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.".

(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 name of minor child.".

The CHAIRMAN pro tempore. Pursuant to House Resolution 71, the gentleman from Wisconsin (Mr. GREEN) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. GREEN).

Mr. GREEN of Wisconsin. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me begin by congratulating not only the gentleman from Pennsylvania (Mr. GEKAS) but also the gentleman from Wisconsin (Mr. SENSENBRENNER) for their fine work in moving this forward. This amendment that I rise to address is not so much an amendment about bankruptcy as it is an effort of closing a small, unintended hole in child safety. It in no way restricts the flow of necessary information regarding debtor's financial records, and it does not attempt to deal with larger issues of privacy or the Internet.

What it does try to do is take a small, modest step toward protecting

children from unnecessary exposure to harm. The problem is a real simple one, Mr. Chairman.

When someone files for bankruptcy, they are naturally required to disclose information regarding themselves and their dependents. This information is vital to ensuring the integrity of the bankruptcy process, but as we all recognize, it is also very detailed and personal.

Schedule I, for example, a document entitled ''The Current Income of Individual Debtors,'' requires the debtor to list his or her dependents, their names, ages and their relationship to the debtor. Now, much of this information is important to creditors. Unfortunately, if it is left unchanged it is also all of the information that some people might need to seek out and contact children. I think in this dangerous world, that represents a problem.

My amendment makes a single, small, modest change that makes no difference to the information that creditors need but perhaps a great difference to debtors. It simply prevents the name of the child from being disclosed in these forms that go into the public domain. That is all that it attempts to do.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. GREEN of Wisconsin. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I am happy to support the amendment. I think the points made by my colleague, the gentleman from Wisconsin (Mr. GREEN) are absolutely correct, and I believe that this would be a significant improvement to this bill and hope that the committee adopts it.

Mr. GREEN of Wisconsin. Mr. Chairman, I thank the chairman for his graciousness.

Ms. JACKSON-LEE of Texas. Mr. Chairman, will the gentleman yield?

Mr. GREEN of Wisconsin. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Chairman, let me say that my preceding amendment dealing with children being educated follows my concern as chair of the Congressional Children's Caucus and welcomes this amendment. I congratulate the gentleman for it.

The personal information about children certainly needs to be avoided in this instance and the gentleman is right, it has no impact on this legislation. We are happy to support his amendment, and congratulations.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Wisconsin and commend him for taking action on a problem that was identified during our Committee hearing on the bill. While I agree that we must protect our children by removing their names from bankruptcy filings, which now can be accessed electronically over the Internet, this amendment is only the tip of the iceberg.

We have a much bigger problem—namely the availability of all kinds of personal information that is part of a bankruptcy proceeding. This information is now available for the world to see over the Internet. That is why our Democratic substitute limits electronic access to all personal, financial, or medical data that is part of a bankruptcy petition.

In addition to the names of children, there are all kinds of other information that debtors have to disclose in bankruptcy. There is basic personal information such as the debtor's social security number, telephone number, credit card and bank account numbers, medical history, mother's maiden name, and other highly sensitive data. I don't think any one of us would want this information to be just a point-and-click away from being available to persons who have no legitimate use for the information.

In addition, there's even a risk that personal information about third parties will be posted on the Internet. If the debtor is paying the medical expenses for a child or an aging parent, that medical information about someone other than the debtor will be just a point-and-click away as well.

If we really want to protect our children whose parent or guardian files for bankruptcy, then we've got to do more than just keep their names out of the filings. A provision in our Democratic substitute amendment that was originally drafted by Senator LEAHY would protect not only the names of children and all other sensitive information by limiting electronic access to such information only to those parties who certify that they are qualified to obtain it.

If we really want to protect the privacy of our children in bankruptcy, then we've got to support the Green amendment and the additional privacy protections in the Democratic substitute.

Mr. GREEN of Wisconsin. Mr. Chairman, I thank the gentlewoman from Texas (Ms. JACKSON-LEE) for her support.

Mr. LAMPSON. Mr. Chairman, today I rise in support of Congressman GREEN's amendment would prevent the name of a child from being disclosed during a bankruptcy proceeding. Although this is a small part of the bigger picture of privacy, this amendment will have an immediate effect in protecting innocent children.

Last Congress, our former colleague and my former co-chairman of the Congressional Missing and Exploited Children's Caucus, Congressman Bob Franks, introduced legislation that would have amended the Federal criminal code to prohibit and set penalties for specified activities relating to personal information about a child including knowingly selling such information (by a list broker) without the written consent of a parent of that child, knowing that such information pertains to a child; and distributing or soliciting any such information, knowing or having reason to believe that the information will be used to abuse or physically harm the child.

How easily could a pedophile construct a list of names, ages and addresses of children simply by obtaining a list of bankruptcy filings over the Internet? Very easily.

I contacted the National Center for Missing and Exploited Children just to be certain that NCMEC doesn't use bankruptcy filings in aiding their searches for missing children. Few, if any, of these filings are used. While it may not be very common practice for a child predator to use these filings to his or her advantage, I would rather not take that chance.

I urge my colleagues to support Congressman GREEN's amendment to keep our children safe.

Mr. GREEN of Wisconsin. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Wisconsin (Mr. GREEN).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 4 printed in House Report 107–4.

AMENDMENT NO. 4 OFFERED BY MR. OXLEY

Mr. OXLEY. Mr. Chairman, I offer amendment No. 4.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. OXLEY:

Page 286, line 10, insert ''mortgage'' before ''loan''.

Page 286, line 11, insert '', and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, loan, interest, group or index, or option'' before the semicolon at the end.

Page 287, line 10, insert a comma after ''index''.

Page 288, line 18, insert ''or any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause'' after ''clause''.

Page 291, line 8, insert ''or any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause'' after ''clause''.

Page 293, line 7, insert ''or any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause'' after ''(III), or (IV)''.

Page 296, line 2, insert ''or any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause'' after ''(IV), or (V)''.

Page 297, line 7, insert ''total return,'' before ''credit''.

Page 297, line 15, insert ''that is'' before ''similar''.

Page 297, line 17, strike ''that'' and insert ''and that has been,''.

Page 297, beginning on line 18, strike ''regularly entered into in the swap market'' and insert ''the subject of recurrent dealings in the swap markets''.

Page 298, line 1, insert ''quantitative measures associated with an occurrence, extent of an occurrence or contingency associated with a financial, commercial or economic consequence,'' before ''or''.

Page 298, line 1, insert ''or financial'' after ''economic''.

Page 298, line 2, insert ''or financial'' after ''economic''.

Page 299, beginning on line 4, strike ''subparagraph'' and insert ''subclause''.

Page 299, line 5, insert ''or any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause'' before the period at the end.

Page 299, line 19, insert ''the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000,'' before ''and''.

Page 305, line 19, strike ''contract'' and insert ''contracts''.

Page 306, line 18, insert ''cleared by or'' before ''subject''.

Page 307, line 2, insert ''and the term 'clearing organization' means a 'clearing organization' as defined in Section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991'' after ''financial institution''.

Page 313, line 2, strike ''or that'' and insert '', that''.

Page 313, line 4, insert ''or that is a multilateral clearing organization (as defined in section 408 of this Act)'' before the closing quotation marks.

Page 317, line 12, strike ''BANKS AND'' insert ''BANKS,''.

Page 317, line 13, insert '', CERTAIN UNINSURED STATE MEMBER BANKS, AND EDGE ACT CORPORATIONS'' before the period.

Page 317, line 21, strike ''**banks and**'' and insert ''**banks,**''.

Page 317, line 22, insert '', **certain uninsured state member banks, and edge act corporations**'' before the period.

Page 318, line 2, insert ''or 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,'' after ''agency''.

Page 318, line 7, insert ''in the case of an uninsured national bank or uninsured Federal branch or agency, or to the receiver of a corporation chartered under section 25A of the Federal Reserve Act or an uninsured State member bank 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'' before the semicolon at the end.

Page 318, line 15, insert ''in the case of an uninsured national bank or uninsured Federal branch or agency, or to the receiver or conservator of a corporation chartered under section 25A of the Federal Reserve Act or an uninsured State member bank 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'' before ''; and''.

Page 318, line 18, strike ''bank or'' and insert ''bank,''.

Page 318, line 19, insert ''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'' before the period at the end.

Page 318, line 21, strike ''bank or'' and insert ''bank,''.

Page 318, line 22, insert ''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,'' after ''agency''.

Page 319, line 3, insert ''and the Board of Governors of the Federal Reserve System'' after ''Currency''.

Page 319, line 4, insert ''each'' after ''may''.

Page 319, line 8, insert ''and the Board of Governors of the Federal Reserve System'' after ''Currency''.

Page 319, line 8, insert ''each'' after ''shall''.

Page 321, line 6, insert ''or 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,'' after ''(C), or (D)''.

Page 321, beginning on line 7, strike ''actual value of such contract on the date of the filing of the petition'' and insert ''damages in connection with any such agreement or transaction measured in accordance with Section 562 of this title''.

Page 323, line 18, insert ''or 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'' after ''(iii), or (iv)'' .

Page 323, beginning on line 19, strike ''actual value of such contract on the date of the filing of the petition'' and insert ''damages in connection with any such agreement or transaction measured in accordance with section 562 of this title''.

Page 324, beginning on line 11, strike ''which is an interest rate swap'' and insert ''which is—

''(I) an interest rate swap''.

Page 324, beginning on line 13, strike ''including—'' and all that follows through ''a rate floor'' on line 14, and insert ''including a rate floor''

Page 325, line 3, insert ''total return,'' before ''credit spread''.

Page 325, line 12, insert ''that is'' before ''similar''.

Page 325, line 13, insert ''and'' before ''that''.

Page 325, line 14, insert ''has been,'' before ''is''.

Page 325, beginning on line 15, strike ''regularly entered into in the swap market'' and insert ''the subject of recurrent dealings in the swap markets''.

Page 325, line 23, insert ''quantitative measures associated with an occurrence, extent of an occurrence or contingency associated with a financial, commercial or economic consequence,'' after ''instruments,''.

Page 325, line 24, insert ''or financial'' after ''economic''.

Page 325, line 25, insert ''or financial'' before ''risk''.

Page 326, line 24, insert ''or 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'' after ''through (v)''.

Page 326, beginning on line 25, strike ''actual value of such contract on the date of the filing of the petition'' and insert ''damages in connection with any such agreement or transaction measured in accordance with section 562 of this title''.

Page 327, line 14, insert ''the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000,'' before ''and''.

Page 328, line 6, insert ''mortgage'' before ''loan''.

Page 328, line 7, insert '', and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, loan, interest, group or index, or option'' before the semicolon at the end.

Page 329, line 25, strike the comma.

Page 330, line 2, insert ''or 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'' before the comma after ''subparagraph''.

Page 330, beginning on line 3, strike ''actual value of such contract on the date of the filing of the petition'' and insert ''damages in connection with any such agreement or transaction measured in accordance with section 562 of this title''.

Page 331, line 12, insert ''or 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'' before the comma after ''paragraph''.

Page 331, beginning on line 12, strike ''actual value of such contract on the date of the filing of the petition'' and insert ''damages in connection with any such agreement or transaction measured in accordance with section 562 of this title''.

Page 331, after line 18, insert the following new paragraph (and redesignate subsequent paragraphs accordingly):

(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;'';

Page 332, line 13, strike ''participant' means an entity'' and insert ''participant' means—

''(A) an entity''.

Page 332, line 15, insert ''swap agreement, repurchase agreement,'' after ''commodity contract,''.

Page 333, line 3, strike the closing quotation marks and the second semicolon.

Page 333, after line 3, insert the following new subparagraph:

''(B) a 'clearing organization' (as such term is defined in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991);''; and

Page 333, line 7, strike the comma after ''entity''.

Page 333, line 9, strike ''or'' after ''merchants''.

Page 334, line 3, insert ''or any guarantee or reimbursement obligation related to 1 or more of the foregoing'' before the semicolon.

Page 334, line 24, strike ''and''.

Page 335, line 2, strike ''and''.

Page 335, line 7, insert ''or financial participant'' after ''swap participant''.

Page 335, line 13, insert ''or financial participant'' after ''swap participant''.

Page 335, line 15, strike ''and''.

Page 335, line 17, insert ''or financial participant'' after ''swap participant''.

Page 336, line 10, strike ''and''.

Page 337, strike line 8.

Page 337, after line 11, insert the following new subparagraph:

(C) by inserting 'or financial participant' after 'swap participant' each time such term appears; and

Page 339, strike line 12.

Page 339, line 15, strike the period at the end and insert ''; and''.

Page 339, after line 15, insert the following new paragraph:

(3) by striking so much of the text of the second sentence as appears before ''whether'' 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 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,''

Page 339, strike line 23.

Page 340, line 3, strike the period at the end and insert ''; and''

Page 340, after line 3, insert the following new paragraph:

(3) by striking so much of the text of the third sentence as appears before ''whether'' 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 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,

Page 340, line 14, strike ''and''.

Page 340, line 18, strike the period and insert ''; and''.

Page 340, after line 18, insert the following new paragraph:

(4) by striking so much of the text of the second sentence as appears before ''whether'' 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 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,''.

Page 341, line 3, insert ''**; proceedings under chapter 15**'' after ''**contracts**''.

Page 342, line 11, insert ''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'' after ''contract''.

Page 342, line 22, insert ''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'' after ''debtor''.

Page 343, line 5, strike ''agreement'' and insert ''or similar arrangement''.

Page 343, beginning on line , strike ''section 5a(a)(12)(A)'' and insert ''paragraph (1) or (2) of section 5c(c)''.

Page 343, line 10, strike ''been approved'' and insert ''not been abrogated or rendered ineffective by the Commodity Futures Trading Commission''.

Page 343, beginning on line 18, strike ''national'' and all that follows through ''market'' on line 21, and insert ''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 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)''.

Page 344, strike the item following line 18, and insert the following new item:

''561. Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts; proceedings under chapter 15.''.

Page 345, line 21, insert ''**financial participants**'' before ''**securities**''.

Page 346, line 9, insert ''in subsection (a)(2)(B)(ii), by inserting before the semicolon, and'' after ''(1)''.

Page 346, line 10, insert a comma after ''period'',

Page 346, after line 22, insert the following new paragraph (and redesignate the subsequent paragraphs as paragraphs (3), (4), (7), and (8), respectively):

(2) in sections 362(b)(7) and 546(f), by inserting ''or financial participant'' after ''repo participant'' each time such term appears;

Page 347, after line 2, insert the following new paragraphs:

(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'';

Page 347, beginning on line 6, strike ''by inserting'' and all that follows through ''contract market'' on line 8, and insert ''by striking the second sentence 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 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)' ''.

Page 347, line 12, strike ''and''.

Page 347, line 14, strike the period and insert a semicolon.

Page 347, after line 14, insert the following new paragraphs:

(9) in section 559, by inserting ''or financial participant'' after ''repo participant'' each time such term appears; and

(10) in section 560, by inserting ''or financial participant'' after ''swap participant''.

Page 348, strike the item following line 4, and insert the following new item:

''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.'';

Page 348, strike the item following line 7, and insert the following new item:

''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.''.

Page 348, after the item following line 7, insert the following new section:

SEC. 907A. SECURITIES BROKER AND COMMODITY BROKER LIQUIDATION.

The Securities and Exchange Commission and the Commodity Futures Trading Commission may consult with each other with respect to—

(1) 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

(2) the treatment in such a liquidation of accounts in which both commodity contracts and securities are carried.

Page 352, line 1, insert a comma after ''101''.

Page 352, line 2, strike ''and 741'' and insert ''741, and 761''.

The CHAIRMAN pro tempore. Pursuant to House Resolution 71, the gentleman from Ohio (Mr. OXLEY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Ohio (Mr. OXLEY).

□ 1245

Mr. OXLEY. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I rise today in support of the amendment offered by the ranking minority member of the Committee on Financial Services, the gentleman from New York (Mr. LAFALCE), and myself.

Our amendment makes several technical and conforming changes to Title IX of H.R. 333. Currently Title IX contains the provisions of H.R. 1161 which passed the House three times in the 106th Congress but did not make it to the President.

That legislation was based upon recommendations of the Clinton administration. It had broad bipartisan support, and was sought by the financial services industry and the regulatory community.

I am very pleased we have brought this bill back to the floor so quickly and successfully. The majority leader and the chairman, the gentleman from Wisconsin (Mr. SENSENBRENNER), both deserve high praise for their work on this legislation.

Unfortunately, the bill before the House today does not make changes to these provisions necessitated by the later enactment of the Commodities Futures Modernization Act of 2000 sponsored by our good friend, Mr. Ewing. Without the changes in this amendment, similar kinds of financial contracts and market participants could be treated differently under the banking laws and the bankruptcy laws, where I come from.

Mr. Chairman, this does not make any sense. To my knowledge, this amendment is noncontroversial and has the support of the Treasury Department, the President's Working Group on Financial Markets, and the financial services industry. I am unaware of any opposition to the substance of this amendment.

We look forward to continuing to work with the administration and our colleagues in conference to address the remaining issues that were not included in this amendment. Mr. Chairman, this bill is a good bill and enjoys broad support.

I also want to thank my ranking minority member, the gentleman from New York (Mr. LAFALCE), for his assistance in developing this amendment which is so important to the smooth operation of our financial markets.

Mr. Chairman, this is a good amendment and a good bill. I urge all of my colleagues to support both.

Mr. Chairman, I am including for the RECORD some material explaining the provisions of title IX and the changes made by this amendment to provide needed technical background. This is a good amendment and a good bill, and I urge all of my colleagues to support both.

SECTION-BY-SECTION ANALYSIS OF TITLE IX OF THE BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2001 (H.R. 333)

I. INTRODUCTION

Title IX of H.R. 333 is based on the work of an interagency working group under the auspices of the President's Working Group on Financial Markets following a review of current statutory provisions governing the treatment of qualified financial contracts and similar financial contracts upon the insolvency of a counterparty.

II. PURPOSE

Title IX amends the U.S. Bankruptcy Code, the Federal Deposit Insurance Act (FDIA), as amended by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), the payment system risk reduction and meeting provisions of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA), and the Securities Investor Protection Act of 1970 (SIPA). These amendments address the treatment of certain financial transactions following the insolvency of a party to such transactions. The amendments are designed to clarify and improve the consistency between the applicable statutes and to minimize the risk of a disruption within or between financial markets upon the insolvency of a market participant.

III. BACKGROUND

Since its adoption in 1978, the Bankruptcy Code has been amended several times to afford different treatment for certain financial transactions upon the bankruptcy of a debtor, as compared with the treatment of other commercial contracts and transactions. These amendments were designed to further the policy goal of minimizing the systemic risks potentially arising from certain interrelated financial activities and markets. Similar amendments have been made to the FDIA and FDICIA, and both the Federal Deposit Insurance Corporation (FDIC) and the Securities Investor Protection Corporation (SIPC) have issued policy statements and letters clarifying general issues in this regard.

Systemic risk has been defined as the risk that a disruption—at a firm, in a market segment, to a settlement system, etc—can cause widespread difficulties at other firms, in other market segments or in the financial system as a whole. If participants in certain financial activities are unable to enforce their rights to terminate financial contracts with an insolvent entity in a timely manner, to offset or net payment and other transfer obligations and entitlements arising under such contracts, and to foreclose on collateral securing such contracts, the resulting uncertainty and potential lack of liquidity could increase the risk of an inter-market disruption.

Congress has in the past taken steps to ensure that the risk of such systemic events is minimized. For example, both the Bankruptcy Code and the FDIA contain provisions that protect the rights of financial participants to terminate swap agreements, forward contracts, securities contracts, commodity contracts and repurchase agreements following the bankruptcy or insolvency of a counterparty to such contracts or agreements. Furthermore, other provisions prevent transfers made under such circumstances from being avoided as preferences or fraudulent conveyances (except when made with actual intent to defraud and taken in bath faith). Protections also are afforded to ensure that the acceleration, termination, liquidation, netting, setoff and collateral foreclosure provisions of such transactions and master agreements for such transactions are enforceable.

In addition, FDICIA was enacted in 1991 to protect the enforceability of close-out netting provisions in ''netting contracts'' between ''financial institutions.'' FDICIA states that the goal of enforcing netting arrangements is to reduce systemic risk within the banking system and financial markets.

The orderly resolution of insolvencies involving counterparties to such contracts also is an important element in the reduction of systemic risk. The FDIA allows the receiver for an insolvent insured depository institution the opportunity to review the status of certain contracts to determine whether to terminate or transfer the contracts to new counterparties. These provisions provide the receiver with flexibility in determining the most appropriate resolution for the failed institution and facilitate the reduction of systemic risk by permitting the transfer, rather than termination, of such contracts.

IV. SUMMARY AND SECTION-BY-SECTION ANALYSIS

In general, Title IX is designed to clarify the treatment of certain financial contracts upon the insolvency of a counterparty and to promote the reduction of systemic risk. It furthers the goals of prior amendments to the Bankruptcy Code and the FDIA regarding the treatment of those financial contracts and of the payment system risk reduction provisions in FDICIA. It has four principal purposes:

1. To strengthen the provisions of the Bankruptcy Code and the FDIA that protect the enforceability of acceleration, termination, liquidation, close-out netting, collateral foreclosure and related provisions of certain financial agreements and transactions.

2. To harmonize the treatment of these financial agreements and transactions under the Bankruptcy Code and the FDIA.

3. To amend the FDIA and FDICIA to clarify that certain rights of the FDIC acting as conservator or receiver for a failed insured depository institution (and in some situations, rights of SIPC and receivers of certain uninsured institutions) cannot be defeated by operation of the terms of FDICIA.

4. To make other substantive and technical amendments to clarify the enforceability of financial agreements and transactions in bankruptcy or insolvency.

All these changes are designed to further minimize systemic risk to the banking system and the financial markets.

Section 901

Subsections (a) through (f) amend the FDIA definitions of ''qualified financial contract,'' ''securities contract,'' ''commodity contract,'' ''forward contract,'' ''repurchase agreement'' and ''swap agreement'' to make them consistent with the definitions in the Bankruptcy Code and to reflect the enactment of the Commodity Futures Modernization Act of 2000 (CFMA). It is intended that the legislative history and case law surrounding those terms, to the date of this amendment, be incorporated into the legislative history of the FDIA.

Subsection (b) amends the definition of ''securities contract'' expressly to encompass margin loans, to clarify the coverage of securities options and to clarify the coverage of repurchase and reverse repurchase transactions. The inclusion of ''margin loans'' in the definition is intended to encompass only those loans commonly known in the securities industry as ''margin loans,'' such as arrangements where a securities broker or dealer extends credit to a customer in connection with the purchase, sale or trading of securities, and does not include loans that are not commonly referred to as ''margin loans,'' however documented. The reference in subsection (b) to a ''guarantee by or to any securities clearing agency'' is intended to cover other arrangements, such as novation, that have an effect similar to a guarantee. The reference to a ''loan'' of a security in the definition is intended to apply to loans of securities, whether or not for a ''permitted purpose'' under margin regulations. The reference to ''repurchase and reverse repurchase transactions'' is intended to eliminate any inquiry under the qualified financial contract provisions of the FDIA as to whether a repurchase or reverse repurchase transaction is a purchase and sale transaction or a secured financing. Repurchase and reverse repurchase transactions meeting certain criteria are already covered under the definition of ''repurchase agreement'' in the FDIA (and a regulation of the FDIC). Repurchase and reverse repurchase transactions on all securities (including, for example, equity securities, asset-backed securities, corporate bonds and commercial paper) are included under the definition of ''securities contract''.

Subsection (b) also specifies that purchase, sale and repurchase obligations under a participation in a commercial mortgage loan do not constitute ''securities contracts.'' While a contract for the purchase, sale or repurchase of a participation may constitute a ''securities contract,'' the purchase, sale or repurchase obligation embedded in a participation agreement does not make that agreement a ''securities contract.''

A number of terms used in the qualified financial contract provisions, but not defined therein, are intended to have the meanings set forth in the analogous provisions of the Bankruptcy Code or FDICIA (for example, ''securities clearing agency''). The term ''person,'' however, is not intended to be so interpreted. Instead, ''person'' is intended to have the meaning set forth in 1 U.S.C. §1.

Subsection (e) amends the definition of ''repurchase agreement'' to codify the substance of the FDIC's 1995 regulation defining repurchase agreement to include those on qualified foreign government securities. See 12 C.F.R. §360.5 The term ''qualified foreign government securities'' is defined to include those that are direct obligations of, or fully guaranteed by, central governments of members of the Organization for Economic Cooperation and Development (OECD). Subsection (e) reflects developments in the repurchase agreement markets, which increasingly use foreign government securities as the underlying asset. The securities are limited to those issued by or guaranteed by full members of the OECD, as well as countries that have concluded special lending arrangements with the International Monetary Fund associated with the Fund's General Arrangements to Borrow.

Subsection (e) also amends the definition of ''repurchase agreement'' to include those on mortgage-related securities, mortgage loans and interests therein, and expressly to include principal and interest-only U.S. government and agency securities as securities that can be the subject of a ''repurchase agreement.'' The reference in the definition to United States government- and agency-issued or fully guaranteed securities is intended to include obligations issued or guaranteed by Fannie Mae and the Federal Home Loan Mortgage Corporation (Freddie Mac) as well as all obligations eligible for purchase by Federal Reserve banks under the similar language of section 14(b) of the Federal Reserve Act.

This amendment is not intended to affect the status of repos involving securities or commodities as securities contracts, commodity contracts, or forward contracts, and their consequent eligibility for similar treatment under the qualified financial contract provisions. In particular, an agreement for the sale and repurchase of a security would continue to be a securities contract as defined in the FDIA, even if not a ''repurchase agreement'' as defined in the FDIA. Similarly, an agreement for the sale and repurchase of a commodity, even though not a ''repurchase agreement'' as defined in the FDIA, would continue to be a forward contract for purposes of the FDIA.

Subsection (e), like subsection (b) for ''securities contracts,'' specifies that repurchase obligations under a participation in a commercial mortgage loan do not make the participation agreement a ''repurchase agreement.'' Such repurchase obligations embedded in participations in commercial loans (such as recourse obligations) do not constitute a ''repurchase agreement.'' However, a repurchase agreement involving the transfer of participations in commercial mortgage loans with a simultaneous agreement to repurchase the participation on demand or at a date certain one year or less after such transfer would constitute a ''repurchase agreement'' (as well as a ''securities contract'').

Subsection (f) amends the definition of ''swap agreement'' to include 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.'' As amended, the definition of ''swap agreement'' will update the statutory definition and achieve contractual netting across economically similar transactions.

The definition of ''swap agreement'' originally was intended to provide sufficient flexibility to avoid the need to amend the definition as the nature and uses of swap transactions matured. To that end, the phrase ''or any other similar agreement'' was included in the definition. (The phrase ''or any similar agreement'' has been added to the definitions of ''forward contract,'' ''commodity contract,'' ''repurchase agreement'' and ''securities contract'' for the same reason.) To clarify this, subsection (f) expands the definition of ''swap agreement'' to include ''any agreement or transactions that is similar to any other agreement or transaction referred to in [subsection (f)] . . . that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap markets 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.''

The definition of ''swap agreement,'' however, should not be interpreted to permit parties to document non-swaps as swap transactions. Traditional commercial arrangements, such as supply agreements, or other non-financial market transactions, such as commercial, residential or consumer loans, cannot be treated as ''swaps'' under either the FDIA or the Bankruptcy Code simply because the parties purport to document or label the transactions as ''swap agreements.'' In addition, these definitions apply only for purposes of the FDIA and the Bankruptcy Code. These definitions, and the characterization of a certain transaction as a ''swap agreement,'' are not intended to affect the characterization, definition, or treatment of any instruments under any other statute, regulation, or rule including, but not limited to, the statutes, regulations or rules enumerated in subsection (f). Similarly, the definition of ''securities contract,'' ''repurchase agreement,'' ''forward contract,'' and ''commodity contract,'' and the characterization of certain transactions as such a contract or agreement, are not intended to affect the characterization, definition, or treatment of any instruments under any other statute, regulation, or rule including, but not limited to, the statutes, regulations or rules enumerated in subsection (f).

The definition also includes any security agreement or arrangement, or other credit enhancement, related to a swap agreement, and any guarantee or reimbursement obligation related to a swap agreement. This ensures that any such agreement, arrangement or enhancement is itself deemed to be a swap agreement, and therefore eligible for treatment as such for purposes of termination, liquidation, acceleration, offset and netting under the FDIA and the Bankruptcy Code. Similar changes are made in the definitions of ''forward contract,'' ''commodity contract,'' ''repurchase agreement'' and ''securities contract.''

The use of the term ''forward'' in the definition of ''swap agreement'' is not intended to refer only to transactions that fall within the definition of ''forward contract.'' Instead, a ''forward'' transaction could be a ''swap agreement'' even if not a ''forward contract.''

Subsection (g) amends the FDIA by adding a definition for ''transfer,'' which is a key term used in the FDIA, to ensure that tit is broadly construed to encompass dispositions of property or interests in property. The definition tracks that in section 101 of the Bankruptcy Code.

Subsection (h) makes clarifying technical changes to conform the receivership and conservatorship provisions of the FDIA. This subsection (h) also clarifies that the FDIA expressly protects rights under security agreements, arrangements or other credit enhancements related to one or more qualified financial contracts (QFCs). An example of a security arrangement is a right of setoff, and examples of other credit enhancements are letters of credit, guarantees, reimbursement obligations and other similar agreements.

Subsection (i) clarifies that no provision of Federal or state law relating to the avoidance of preferential or fraudulent transfers (including the anti-preference provision of the National Bank Act) can be invoked to avoid a transfer made in connection with any QFC of an insured depository institution in conservatorship or receivership, absent actual fraudulent intent on the part of the transferee.

Section 902

Section 902 provides that no provision of law, including FDICIA, shall be construed to limit the power of the FDIC to transfer or to repudiate any QFC in accordance with its powers under the FDIA. As discussed below, there has been some uncertainty regarding whether or not FDICIA limits the authority of the FDIC to transfer or to repudiate QFCs of an insolvent financial institution. Section 902—as well as other provisions in the Act—clarify that FDICIA does not limit the transfer powers of the FDIC with respect to QFCs.

Section 902 denies enforcement to ''walkaway'' clauses in QFCs. A walkaway clause is defined as a provision that, after calculation of a value of a party's position or an amount due to or from one of the parties upon termination, liquidation or acceleration of the QFC, 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 non-defaulting party.

Section 903

Subsection (a) amends the FDIA to expand the transfer authority of the FDIC to permit transfers of QFCs to ''financial institutions'' as defined in FDICIA or in regulations. This provision will allow the FDIC to transfer QFCs to a non-depository financial institution, provided the institution is not subject to bankruptcy or insolvency proceedings.

The new FDIA provision specifies that when the FDIC transfers QFCs that are cleared on or subject to the rules of a particular clearing organization, the transfer will not require the clearing organization to accept the transferee as a member of the organization. This provision gives the FDIC flexibility in resolving QFCs cleared on or subject to the rules of a clearing organization, while preserving the ability of such organizations to enforce appropriate risk reducing membership requirements. The amendment does not require the clearing organization to accept for clearing any QFCs from the transferee, except on the terms and

conditions applicable to other [parties permitted to clear through that clearing organization. ''Clearing organization'' is defined to mean a ''clearing organization'' within the meaning of FDICIA (as amended both by the CFMA and by Section 906 of the Act).

The new FDIA provision also permits transfers to an eligible financial institution that is a non-U.S. person, or the branch or agency of a non-U.S. person or a U.S. financial institution that is not an FDIC-insured institution if, following the transfer, the contractual rights of the parties would be enforceable substantially to the same extent as under the FDIA. It is expected that the FDIC would not transfer QFCs to such a financial institution if there were an impending change of law that would impair the enforceability of the parties' contractual rights.

Subsection (b) amends the notification requirements following a transfer of the QFCs of a failed depository institution to require the FDIC to notify any party to a transferred QFC of such transfer by 5:00 p.m. (Eastern Time) on the business day following the date of the appointment of the FDIC acting as receiver or following the date of such transfer by the FDIC acting as a conservator. This amendment is consistent with the policy statement on QFCs issued by the FDIC on December 12, 1989.

Subsection (c) amends the FDIA to clarify the relationship between the FDIA and FDICIA. There has been some uncertainty whether FDICIA permits counterparties to terminate or liquidate a QFC before the expiration of the time period provided by the FDIA during which the FDIC may repudiate or transfer a QFC in a conservatorship or receivership. Subsection (c) provides that a party may not terminate a QFC based solely on the appointment of the FDIC as receiver until 5:00 p.m. (Eastern Time) on the business day following the appointment of the receiver or after the person has received notice of a transfer under FDIA section 11(d)(9), or based solely on the appointment of the FDIC as conservator, notwithstanding the provisions of FDICIA. This provides the FDIC with an opportunity to undertake an orderly resolution of the insured depository institution.

The amendment also prohibits the enforcement of rights of termination or liquidation that arise solely because of the insolvency of the institution or are based on the ''financial condition'' of the depository institution in receivership or conservatorship. For example, termination based on a cross-default provision in a QFC that is triggered upon a default under another contract could be rendered ineffective if such other default was caused by an acceleration of amounts due under that other contract, and such acceleration was based solely on the appointment of a conservator or receiver for that depository institution. Similarly, a provision in a QFC permitting termination of the QFC based solely on a downgraded credit rating of a party will not be enforceable in an FDIC receivership or conservatorship because the provision is based solely on the financial condition of the depository institution in default. However, any payment, delivery or other performance-based default, or breach of a representation or covenant putting in question the enforceability of the agreement, will not be deemed to be based solely on financial condition for purposes of this provision. The amendment is not intended to prevent counterparties from taking all actions permitted and recovering all damages authorized upon repudiation of any QFC by a conservator or receiver, or from taking actions based upon a receivership or other financial condition-triggered default in the absence of a transfer (as contemplated in Section 11(e)(10) of the FDIA).

The amendment allows the FDIC to meet its obligation to provide notice to parties to transferred QFCs by taking steps reasonably calculated to provide notice to such parties by the required time. This is consistent with the existing policy statement on QFCs issued by the FDIC on December 12, 1989.

Finally, the amendment permits the FDIC to transfer QFCs of a failed depository institution to a bridge bank or a depository institution organized by the FDIC for which a conservator is appointed either (i) immediately upon the organization of such institution or (ii) at the time of a purchase and assumption transaction between the FDIC and the institution. This provision clarifies that such institutions are not to be considered financial institutions that are ineligible to receive such transfers under FDIA section 11(e)(9). This is consistent with the existing policy statement on QFCs issued by the FDIC on December 12, 1989.

Section 904

Section 904 limits the disaffirmance and repudiation authority of the FDIC with respect to QFCs so that such authority is consistent with the FDIC's transfer authority under FDIA section 11(e)(9). This ensures that no disaffirmance, repudiation or transfer authority of the FDIC may be exercised to ''cherry-pick'' or otherwise treat independently all the QFCs between a depository institution in default and a person or any affiliate of such person. The FDIC has announced that its policy is not to repudiate or disaffirm QFCs selectively. This unified treatment is fundamental to the reduction of systemic risk.

Section 905

Section 905 states that a master agreement for one or more securities contracts, commodity contracts, forward contracts, repurchase agreements or swap agreements will be treated as a single QFC under the FDIA. This provision ensures that cross-product netting pursuant to a master agreement, or pursuant to an umbrella agreement for separate master agreements between the same parties, each of which is used to document one or more qualified financial contracts, will be enforceable under the FDIA. Cross-product meeting permits a wide variety of financial transactions between two parties to be netted, thereby maximizing the present and potential future risk-reducing benefits of the netting arrangement between the parties. Express recognition of the enforceability of such cross-product master agreements furthers the policy of increasing legal certainty and reducing systemic risks in the case of an insolvency of a large financial participant.

Section 906

Subsection (a)(1) amends the definition of ''clearing organization'' to include clearinghouses that are subject to exemptions pursuant to orders of the Securities and Exchange Commission or the Commodity Futures Trading Commission and to include multilateral clearing organizations (the definition of which was added to FDICIA by the CFMA).

Subsection (a)(2). FDICIA provides that a netting arrangement will be enforced pursuant to its terms, notwithstanding the failure of a party to the agreement. However, the current netting provisions of FDICIA limit this protection to ''financial institutions,'' which include depository institutions. This subsection amends the FDICIA definition of covered institutions to include (i) uninsured national and State member banks, irrespective of their eligibility for deposit insurance and (ii) foreign banks (including the foreign bank and its branches or agencies as a combined group, or only the foreign bank parent of a branch or agency). The latter change will extend the protections of FDICIA to ensure that U.S. financial organizations participating in netting agreements with foreign banks are covered by the Act, thereby enhancing the safety and soundness of these arrangements. It is intended that a non-defaulting foreign bank and its branches and agencies be considered to be a single financial institution for purposes of the bilateral netting provisions of FDICIA (except to the extent that the non-defaulting foreign bank and its branches and agencies on the one hand, and the defaulting financial institution, on the other, have entered into agreements that clearly evidence an intention that the non-defaulting foreign bank and its branches and agencies be treated as separate financial institutions for purposes of the bilateral netting provisions of FDICIA).

Subsection (a)(3) amends FDICIA to provide that, for purposes of FDICIA, two or more clearing organizations that enter into a netting contract are considered ''members'' of each other. This assures the enforceability of netting arrangements involving two or more clearing organizations and a member common to all such organizations, thus reducing systemic risk in the event of the failure of such a member. Under the current FDICIA provisions, the enforceability of such arrangements depends on a case-by-case determination that clearing organizations could be regarded as members of each other for purposes of FDICIA.

Subsection (a)(4) amends the FDICIA definition of netting contract and the general rules applicable to netting contracts. The current FDICIA provisions require that the netting agreement must be governed by the law of the United States or a State to receive the protections of FDICIA. However, many of these agreements, particularly netting arrangements covering positions taken in foreign exchange dealings, are governed by the laws of a foreign country. This subsection broadens the definition of ''netting contract'' to include those agreements governed by foreign law, and preserves the FDICIA requirement that a netting contract not be invalid under, or precluded by, Federal law.

Subsections (b) and (c) establish two exceptions to FDICIA's protection of the enforceability of the provisions of netting contracts between financial institutions and among clearing organization members.

First, the termination provisions of netting contracts will not be enforceable based solely on (i) the appointment of a conservator for an insolvent depository institution under the FDIA or (ii) the appointment of a receiver for such institution under the FDIA, if such receiver transfers or repudiates QFCs in accordance with the FDIA and gives notice of a transfer by 5:00 p.m. on the business day following the appointment of a receiver. This change is made to confirm the FDIC's flexibility to transfer or repudiate the QFCs of an insolvent depository institution in accordance with the terms of the FDIA. This modification also provides important legal certainty regarding the treatment of QFCs under the FDIA, because the current relationship between the FDIA and FDICIA is unclear.

The second exception provides that FDICIA does not override a stay order under

SIPA with respect to foreclosure on securities (but not cash) collateral of a debtor (section 911 makes a conforming change to SIPA). There is also an exception relating to insolvent commodity brokers.

Subsections (b) and (c) also clarify that a security agreement or other credit enhancement related to a netting contract is enforceable to the same extent as the underlying netting contract.

Subsection (d) adds a new section 407 to FDICIA. This new section provides that, notwithstanding any other law, QFCs with uninsured national banks or uninsured Federal branches or agencies or uninsured State member banks or Edge Act corporations that operate, or operate as, a multilateral clearing organization and that are placed in receivership or conservatorship will be treated in the same manner as if the contract were with an insured national bank or insured Federal branch for which a receiver or conservator was appointed. This provision will ensure that parties to QFCs with these institutions will have the same rights and obligations as parties entering into the same agreements with insured depository institutions. The new section specifically limits the powers of a receiver or conservator for such an institution to those contained in 12 U.S.C. §§1821(e)(8), (9), (10), and (11), which address QFCs.

While the amendment would apply the same rules to such institutions that apply to insured institutions, the provision would not change the rules that apply to insured institutions. Nothing in this section would amend the International Banking Act, the Federal Deposit Insurance Act, the National Bank Act, or other statutory provisions with respect to receiverships of insured national banks or Federal branches.

Section 907

Subsection (a)(1) amends the Bankruptcy Code definitions of ''repurchase agreement'' and ''swap agreement'' to conform with the amendments to the FDIA contained in sections 901(e) and 901(f) of the Act.

In connection with the definition of ''repurchase agreement,'' the term ''qualified foreign government securities'' is defined to include securities that are direct obligations of, or fully guaranteed by, central governments of members of the Organization for Economic Cooperation and Development (OECD). This language reflects developments in the repurchase agreement markets, which increasingly use foreign government securities as the underlying asset. The securities are limited to those issued by or guaranteed by full members of the OECD, as well as countries that have concluded special lending arrangements with the International Monetary Fund associated with the Fund's General Arrangements to Borrow.

Subsection (a)(1) also amends the definition of ''repurchase agreement'' to include those on mortgage-related securities, mortgage loans and interests therein, and expressly to include principal and interest-only U.S. government and agency securities as securities that can be the subject of a ''repurchase agreement.'' The reference in the definition to United States government- and agency-issued or fully guaranteed securities is intended to include obligations issued or guaranteed by Fannie Mae and the Federal Home Loan Mortgage Corporation (Freddie Mac) as well as all obligations eligible for purchase by Federal Reserve banks under the similar language of section 14(b) of the Federal Reserve Act.

This amendment is not intended to affect the status of repos involving securities or commodities as securities contracts, commodity contracts, or forward contracts, and their consequent eligibility for similar treatment under other provisions of the Bankruptcy Code. In particular, an agreement for the sale and repurchase of a security would continue to be a securities contract as defined in the Bankruptcy Code and thus also would be subject to the Bankruptcy Code provisions pertaining to securities contracts, even if not a ''repurchase agreement'' as defined in the Bankruptcy Code. Similarly, an agreement for the sale and repurchase of a commodity, even though not a ''repurchase agreement'' as defined in the Bankruptcy Code, would continue to be a forward contract for purposes of the Bankruptcy Code and would be subject to the Bankruptcy Code provisions pertaining to forward contracts.

Subsection (a)(1) specifies that repurchase obligations under a participation in a commercial mortgage loan do not make the participation agreement a ''repurchase agreement.'' Such repurchase obligations embedded in participations in commercial loans (such as recourse obligations) do not constitute a ''repurchase agreement.'' However, a repurchase agreement involving the transfer of participations in commercial mortgage loans with a simultaneous agreement to repurchase the participation on demand or at a date certain one year or less after such transfer would constitute a ''repurchase agreement'' (as well as a ''securities contract'').

The definition of ''swap agreement'' is amended to include 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.'' As amended, the definition of ''swap agreement'' will update the statutory definition and achieve contractual netting across economically similar transactions.

The definition of ''swap agreement'' originally was intended to provide sufficient flexibility to avoid the need to amend the definition as the nature and uses of swap transactions matured. To that end, the phrase ''or any other similar agreement'' was included in the definition. (The phrase ''or any similar agreement'' has been added to the definitions of ''forward contract,'' ''commodity contract,'' ''repurchase agreement,'' and ''securities contract'' for the same reason.) To clarify this, subsection (a)(1) expands the definition of ''swap agreement'' to include ''any agreement or transactions that is similar to any other agreement or transaction referred to in [subsection (a)(1)] and that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap markets 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.''

The definition of ''swap agreement'' in this subsection should not be interpreted to permit parties to document non-swaps as swap transactions. Traditional commercial arrangements, such as supply agreements, or other non-financial market transactions, such as commercial, residential or consumer loans, cannot be treated as ''swaps'' under either the FDIA or the Bankruptcy Code because the parties purport to document or label the transactions as ''swap agreements.'' These definitions, and the characterization of a certain transaction as a ''swap agreement,'' are not intended to affect the characterization, definition, or treatment of any instruments under any other statute, regulation, or rule including, but not limited to, the statutes, regulations or rules enumerated in subsection (a)(1)(C). Similarly, the definitions of ''securities contract,'' ''repurchase agreement,'' ''forward contract,'' and ''commodity contract,'' and the characterization of certain transactions as such a contract or agreement, are not intended to affect the characterization, definition, or treatment of any instruments under any other statute, regulation, or rule including, but not limited to, the statutes, regulations or rules enumerated in subsection (f).

The definition also includes any security agreement or arrangement, or other credit enhancement, related to a swap agreement and any guarantee or reimbursement obligation related to a swap agreement. This ensures that any such agreement, arrangement or enhancement is itself deemed to be a swap agreement, and therefore eligible for treatment as such for purposes of termination, liquidation, acceleration, offset and netting under the Bankruptcy Code and the FDIA. Similar changes are made in the definitions of ''forward contract,'' ''commodity contract,'' ''repurchase agreement,'' and ''securities contract.'' An example of a security arrangement is a right of setoff; examples of other credit enhancements are letters of credit and other similar agreements. A security agreement or arrangement or guarantee or reimbursement obligation related to a ''swap agreement,'' ''forward contract,'' ''commodity contract,'' ''repurchase agreement'' or ''securities contract'' will be such an agreement or contract only to the extent of the damages in connection with such agreement measured in accordance with Section 562 of the Bankruptcy Code (added by the Act). This limitation does not affect, however, the other provisions of the Bankruptcy Code (including Section 362(b)) relating to security arrangements in connection with agreements or contracts that otherwise qualify as ''swap agreements,'' ''forward contracts,'' ''commodity contracts,'' ''repurchase agreements'' or ''securities contracts.''

The use of the term ''forward'' in the definition of ''swap agreement'' is not intended to refer only to transactions that fall within the definition of ''forward contract.'' Instead, a ''forward'' transaction could be a ''swap agreement'' even if not a ''forward contract.''

Subsections (a)(2) and (a)(3) amend the Bankruptcy Code definitions of ''securities contract'' and ''commodity contract,'' respectively, to conform them to the definition in the FDIA.

Subsection (a)(2), like the amendments to the FDIA, amends the definition of ''securities contract'' expressly to encompass margin loans, to clarify the coverage of securities options and to clarify the coverage of repurchase and reverse repurchase transactions. The inclusion of ''margin loans'' in the definition is intended to encompass only

those loans commonly known in the securities industry as ''margin loans,'' such as arrangements where a securities broker or dealer extends credit to a customer in connection with the purchase, sale or trading of securities, and does not include loans that are not commonly referred to as ''margin loans,'' however documented. The reference in subsection (b) to a ''guarantee'' by or to a ''securities clearing agency'' is intended to cover other arrangements, such as novation, that have an effect similar to a guarantee. The reference to a ''loan'' of a security in the definition is intended to apply to loans of securities, whether or not for a ''permitted purpose'' under margin regulations. The reference to ''repurchase and reverse repurchase transactions'' is intended to eliminate any inquiry under Section 555 and related provisions as to whether a repurchase or reverse repurchase transaction is a purchase and sale transaction or a secured financing. Repurchase and reverse repurchase transactions meeting certain criteria are already covered under the definition of ''repurchase agreement'' in the Bankruptcy Code. Repurchase and reverse repurchase transactions on all securities (including, for example, equity securities, asset-backed securities, corporate bonds and commercial paper) are included under the definition of ''securities contract''. A repurchase or reverse repurchase transaction which is a ''securities contract'' but not a ''repurchase agreement'' would thus be subject to the ''counterparty limitations'' contained in Section 555 of the Bankruptcy Code (i.e., only stockbrokers, financial institutions, securities clearing agencies and financial participants can avail themselves of Section 555 and related provisions).

Subsection (a)(2) also specifies that purchase, sale and repurchase obligations under a participation in a commercial mortgage loan do not constitute ''securities contracts.'' While a contract for the purchase, sale or repurchase of a participation may constitute a ''securities contract,'' the purchase, sale or repurchase obligation embedded in a participation agreement does not make that agreement a ''securities contract.''

Subsection (b) amends the Bankruptcy Code definitions of ''financial institution'' and ''forward contract merchant.'' The definition for ''financial institution'' includes Federal Reserve Banks and the receivers or conservators of insolvent depository institutions. With respect to securities contracts, the definition of ''financial institution'' expressly includes investment companies registered under the Investment Company Act of 1940.

Subsection (b) also adds a new definition of ''financial participant'' to limit the potential impact of insolvencies upon other major market participants. This definition will allow such market participants to close-out and net agreements with insolvent entities under sections 362(b)(6), 555, and 556 even if the creditor could not qualify as, for example, a commodity broker. Sections 326(b)(6), 555 and 556 preserve the limitations of the right to close-out and net such contracts, in most cases, to entities who qualify under the Bankruptcy Code's counterparty limitations. However, where the counterparty has transactions with a total gross dollar value of at least $1 billion in notional or actual principal amount outstanding on any day during the previous 15-month period, or has gross mark-to-market positions of at least $100 million (aggregated across counterparties) in one or more agreements or transactions on any day during the previous 15-month period, sections 362(b)(6), 555 and 556 and corresponding amendments would permit it to exercise netting and related rights irrespective of its inability otherwise to satisfy those counterparty limitations. This change will help prevent systemic impact upon the markets from a single failure, and is derived from threshold tests contained in Regulation EE promulgated by the Federal Reserve Board in implementing the netting provisions of the Federal Deposit Insurance Corporation Improvement Act. It is intended that the 15-month period be measured with reference to the 15 months preceding the filing of a petition by or against the debtor.

''Financial participant'' is also defined to include ''clearing organizations'' within the meaning of FDICIA (as amended by the CFMA and Section 906 of the Act). This amendment, together with the inclusion of ''financial participants'' as eligible counterparties in connection with ''commodity contracts,'' ''forward contracts'' and ''securities contracts'' and the amendments made in other Sections of the Act to include ''financial participants'' as counterparties eligible for the protections in respect of ''swap agreements'' and ''repurchase agreements'', take into account the CFMA and will allow clearing organizations to benefit from the protections of all of the provisions of the Bankruptcy Code relating to these contracts and agreements. This will further the goal of promoting the clearing of derivatives and other transactions as a way to reduce systemic risk. The definition of ''financial participant'' (as with the other provisions of the Bankruptcy Code relating to ''securities contracts,'' ''forward contracts,'' ''commodity contracts,'' ''repurchase agreements'' and ''swap agreements'') is not mutually exclusive, i.e., an entity that qualifies as a ''financial participant'' could also be a ''swap participant,'' ''repo participant,'' ''forward contract merchant,'' ''commodity broker,'' ''stockbroker,'' ''securities clearing agency'' and/or ''financial institution.''

Subsection (c) adds to the Bankruptcy Code new definitions for the terms ''master netting agreement'' and ''master netting agreement participant.''

The definition of ''master netting agreement'' is designed to protect the termination and close-out netting provisions of cross-product master agreements between parties. Such an agreement may be used (i) to document a wide variety of securities contracts, commodity contracts, forward contracts, repurchase agreements and swap agreements or (ii) as an umbrella agreement for separate master agreements between the same parties, each of which is used to document a discrete type of transaction. The definition includes security agreements or arrangements or other credit enhancements related to one or more such agreements and clarifies that a master netting agreement will be treated as such even if it documents transactions that are not within the enumerated categories of qualifying transactions (but the provisions of the Bankruptcy Code relating to master netting agreements and the other categories of transactions will not apply to such other transactions).

A ''master netting agreement participant'' is any entity that is a party to an outstanding master netting agreement with a debtor before the filing of a bankruptcy petition.

Subsection (d) amends section 362(b) of the Bankruptcy Code to protect enforcement, free from the automatic stay, of setoff or netting provisions in swap agreements and in master netting agreements and security agreements or arrangements related to one or more swap agreements or master netting agreements. This provision parallels the other provisions of the Bankruptcy Code that protect netting provisions of securities contracts, commodity contracts, forward contracts, and repurchase agreements. Because the relevant definitions include related security agreements, the references to ''setoff'' in these provisions, as well as in section 362(b)(6) and (7) of the Bankruptcy Code, are intended to refer also to rights to foreclose on, and to set off against-obligations to return, collateral securing swap agreements, master netting agreements, repurchase agreements, securities contracts, commodity contracts, or forward contracts. Collateral may be pledged to cover the cost of replacing the defaulted transactions in the relevant market, as well as other costs and expenses incurred or estimated to be incurred for the purpose of hedging or reducing the risks arising out of such termination. Enforcement of these agreements and arrangements is consistent with the policy goal of minimizing systemic risk.

Subsection (d) also clarifies that the provisions protecting setoff and foreclosure in relation to securities contracts, commodity contracts, forward contracts, repurchase agreements, swap agreements, and master netting agreements free from the automatic stay apply to collateral pledged by the debtor but that cannot technically be ''held by'' the creditor, such as receivables and book-entry securities, and to collateral that has been repledged by the creditor and securities re-sold pursuant to repurchase agreements.

The current codification of section 546 of the Bankruptcy Code contains two subsections designated as ''(g)'; subsection (e) corrects this error.

Subsections (e) and (f) amend sections 546 and 548(d) of the Bankruptcy Code to provide that transfers made under or in connection with a master netting agreement may not be avoided by a trustee except where such transfer is made with actual intent to hinder, delay or defraud and not taken in good faith. This amendment provides the same protections for a transfer made under, or in connection with, a master netting agreement as currently is provided for margin payments, settlement payments and other transfers received by commodity brokers, forward contract merchants, stockbrokers, financial institutions, securities clearing agencies, repo participants, and swap participants under Sections 546 and 548(d), except to the extent the trustee could otherwise avoid such a transfer made under an individual contract covered by such master netting agreement.

Subsections (g), (h), (i) and (j) clarify that the provisions of the Bankruptcy Code that protect (i) rights of liquidation under securities contracts, commodity contracts, forward contracts and repurchase agreements also protect rights of termination or acceleration under such contracts, and (ii) rights to terminate under swap agreements also protect rights of liquidation and acceleration.

Subsection (k) adds a new section 561 to the Bankruptcy Code to protect the contractual right of a master netting agreement participant to enforce any rights of termination, liquidation, acceleration, offset or netting under a master netting agreement. Such rights include rights arising (i) from the rules of a derivatives clearing organization, multilateral clearing organization, securities exchange, securities association, contract market, derivatives transaction

execution facility or board of trade, (ii) under common law, law merchant or (iii) by reason of normal business practice. This reflects the enactment of the CFMA and the current treatment of rights under swap agreements under section 560 of the Bankruptcy Code. Similar changes to reflect the enactment of the CFMA have been made to the definition of ''contractual right'' for purposes of Sections 555, 556, 559 and 560 of the Bankruptcy Code.

Subsections (b)(2)(A) and (b)(2)(B) of new Section 561 limit the exercise of contractual rights to net or to offset obligations where the debtor is a commodity broker and one leg of the obligations sought to be netted relates to commodity contracts 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. Under subsection (b)(2)(A) netting or offsetting is not permitted in these circumstances if the party seeking to net or to offset has no positive net equity in the commodity accounts at the debtor. Subsection (b)(2)(B) applies only if the debtor is a commodity broker, acting on behalf of its own customer, and is in turn a customer of another commodity broker. In that case, the latter commodity broker may not net or offset obligations under such commodity contracts with other claims against its customer, the debtor. Subsections (b)(2)(A) and (b)(2)(B) limit the depletion of assets available for distribution to customers of commodity brokers. This is consistent with the principle of subchapter IV of chapter 7 of title 11 that gives priority to customer claims in the bankruptcy of a commodity broker. Subsection (b)(2)(C) provides an exception to subsections (b)(2)(A) and (b)(2)(B) for cross-margining and other similar arrangements approved by, or submitted to and not rendered ineffective by, the Commodity Futures Trading Commission, as well as certain other netting arrangements.

For the purposes of Bankruptcy Code sections 555, 556, 559, 560 and 561, it is intended that the normal business practice in the event of a default of a party based on bankruptcy or insolvency is to terminate, liquidate or accelerate securities contracts, commodity contracts, forward contracts, repurchase contracts, repurchase agreements, swap agreements and master netting agreements with the bankrupt or insolvent party.

The protection of netting and offset rights in sections 560 and 561 is in addition to the protections afforded in sections 362(b)(6), (b)(7), (b)(17) and (b)(28).

Under the Act, the termination, liquidation or acceleration rights of a master netting agreement participant are subject to limitations contained in other provisions of the Bankruptcy Code relating to securities contracts and repurchase agreements. In particular, if a securities contract or repurchase agreement is documented under a master netting agreement, a party's termination, liquidation and acceleration rights would be subject to the provisions of the Bankruptcy Code relating to orders authorized under the provisions of SIPA or any statute administered by the SEC. In addition, the netting rights of a party to a master netting agreement would be subject to any contractual terms between the parties limiting or waiving netting or set off rights. Similarly, a waiver by a bank or a counterparty of netting or set off rights in connection with QFCs would be enforceable under the FDIA.

Section 502 of the Act clarifies that, with respect to municipal bankruptcies, all the provisions of the Bankruptcy Code relating to securities contracts, commodity contracts, forward contracts, repurchase agreements, swap agreements and master netting agreements (which by their terms are intended to apply in all proceedings under title 11) will apply in a Chapter 9 proceeding for a municipality. Although sections 555, 556, 559 and 560 provide that they apply in any proceeding under the Bankruptcy Code, Section 502 makes a technical amendment in Chapter 9 to clarify the applicability of these provisions.

New Section 561 of the Bankruptcy Code clarifies that the provisions of the Bankruptcy Code related to securities contracts, commodity contracts, forward contracts, repurchase agreements, swap agreements and master netting agreements apply in a proceeding ancillary to a foreign insolvency proceeding under new Chapter 15.

Subsections (l) and (m) clarify that the exercise of termination and netting rights will not otherwise affect the priority of the creditor's claim after the exercise of netting, foreclosure and related rights.

Subsection (n) amends section 553 of the Bankruptcy Code to clarify that the acquisition by a creditor of setoff rights in connection with swap agreements, repurchase agreements, securities contracts, forward contracts, commodity contracts and master netting agreements cannot be avoided as a preference.

This subsection also adds setoff of the kinds described in sections 555, 556, 559, 560, and 561 of the Bankruptcy Code to the types of setoff excepted from section 553(b).

Subsection (o), as well as other subsections of the Act, adds references to ''financial participant'' in all the provisions of the Bankruptcy Code relating to securities, forward and commodity contracts and repurchase and swap agreements.

Section 908

Section 908 amends section 11(e)(8) of the Federal Deposit Insurance Act to explicitly authorize the FDIC, in consultation with appropriate Federal banking agencies, to prescribe regulations on recordkeeping with respect to QFCs. Adequate recordkeeping for such transactions is essential to effective risk management and to the reduction of systemic risk permitted by the orderly resolution of depository institutions utilizing QFCs.

Section 909

Section 909 amends FDIA section 13(e)(2) to provide that an agreement for the collateralization of governmental deposits, bankruptcy estate funds, Federal Reserve Bank or Federal Home Loan Bank extensions of credit or one or more QFCs shall not be deemed invalid solely because such agreement was not entered into contemporaneously with the acquisition of the collateral or because of pledges, delivery or substitution of the collateral made in accordance with such agreement.

The amendment codifies portions of policy statements issued by the FDIC regarding the application of section 13(e), which codifies the ''D'Oench Duhme'' doctrine. With respect to QFCs, this codification recognizes that QFCs often are subject to collateral and other security arrangements that may require posting and return of collateral on an ongoing basis based on the mark-to-market values of the collateralized transactions. The codification of only portions of the exiting FDIC policy statements on these and related issues should not give rise to any negative implication regarding the continued validity of these policy statements.

Section 910

Section 910 adds a new section 562 to the Bankruptcy Code providing that damages under any swap agreement, securities contract, forward contract, commodity contract, repurchase agreement or master netting agreement will be calculated as of the earlier of (i) the date of rejection of such agreement by a trustee or (ii) the date of liquidation, termination or acceleration of such contract or agreement.

New section 562 provides important legal certainty and makes the Bankruptcy Code consistent with the current provisions related to the timing of the calculation of damages under QFCs in the FDIA.

Section 911

Section 911 amends SIPA to provide that an order or decree issued pursuant to SIPA shall not operate as a stay of any right of liquiation, termination, acceleration, offset or netting under one or more securities contracts, commodity contracts, forward contracts, repurchase agreements, swap agreements or master netting agreements (as defined in the Bankruptcy Code and including rights of foreclosure on collateral), except that such order or decree may stay any right to foreclose on or dispose of securities (but not cash) collateral pledged by the debtor or sold by the debtor under a repurchase agreement or lent by the debtor under a securities lending agreement. (A corresponding amendment to FDICIA is made by section 906). A creditor that was stayed in exercising rights against such securities would be entitled to post-insolvency interest to the extent of the value of such securities.

Section 912

Section 912 generally protects asset-backed securitization transactions from legal uncertainties and disruptions related to the bankruptcies of certain parties and allows for the further development of structured finance. Asset securitization involves the issuance of securities supported by assets having an ascertainable cash flow or market value. Securitization of receivables, such as small-business loans, commercial and multifamily mortgages, and car loans, allows for the funding of such loans from capital market sources. The process generally enlarges the pool of capital available and reduces financing costs for vital lending purposes such as the financing of small-business operations and home ownership.

Through a number of definitions designed to ensure that the exclusion from property of the estate applies only to the intended type of transaction, new section 541(b)(5) of the Bankruptcy Code excludes from the property of a debtor's estate any ''eligible asset'' (and 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.'' Each term is explicitly defined to reflect its specific role or application in the securitization process to ensure that only bona fide securitizations are eligible for the safe harbor exclusion. All defined elements of a securitization must be present for the safe harbor to apply. Other commercial transactions lacking any of the defined elements, such as transactions documented and structured as collateralized lending arrangements and other commercial asset sales or financings that are unrelated to securitization transactions, would be ineligible for the safe harbor provided by section 541(b)(5).

The phrase ''to the extent'' in new section 541(b)(5) makes clear that a portion of the eligible asset may remain part of the debtor's

estate, for example, where the eligible entity obtains the right to receive only interest payments on the first 10 percent of payments due on a receivable in connection with an asset-backed securitization. In addition, the reference to section 548(a) in new section 541(b)(5) will make clear that the safe harbor does not supersede a trustee's power to avoid fraudulent transfers.

New section 541(b)(5) is not intended to override state law requirements, if any, regarding ''perfection'' of an asset sale. However, regardless of strict compliance with such state law requirements, new section 541(b)(5) is intended to provide an exclusion of the debtor's interest in eligible assets (and proceeds thereof) from the debtor's estate, upon compliance with section 541(b)(5). Thus, despite an eligible entity's failure to have properly perfected a sale for state law purposes, the eligible assets in question would remain excluded from the debtor's estate. In such event, however, a third party creditor with an interest in such eligible assets under state law would not be precluded from asserting, outside of the bankruptcy proceedings, such interest against the issuer or any other party purporting to have an interest in those assets. In other words, the amendments do not purport to extinguish any party's interest in the securitized assets other than the debtor's interest to the extent transferred by the debtor to the securitization vehicle. In order to provide certainty to participants in the asset-backed securities market (including both issuers and purchasers of such securities), it is noted that the ''strong-arm'' provisions of section 544 of the Bankruptcy Code are not intended to override the general rule set forth in new section 541(b)(5) so as to bring such assets back into the debtor's estate.

Frequently, asset securitizations involve the issuance of more than one class of securities with differing payment priorities subordination provisions and other characteristics. The definition of ''asset-backed securitization'' contained in new section 541(e)(1) requires that at least one tranche of the asset-backed securities backed by the eligible assets in question be rated investment grade, thereby requiring that each asset-backed securitization as to which eligible assets are excluded from the debtor's estate be a carefully reviewed transaction subjected to third party scrutiny by a nationally recognized statistical rating organization. The investment-grade rating requirement applies only when the security is initially issued. In view of the cost and time associated with obtaining an investment-grade rating such ratings are generally not pursued for smaller transactions. These and other burdens of the rating process add further protection against potential abuse of the safe harbor for sham transactions and ensure its application for its intended purpose—to preserve payments on asset-backed securities issued in the public and private markets.

New section 541(e)(2) defines the term ''eligible asset.'' This definition is based upon the definition provided in rule 3a–7 under the Investment Company Act of 1940, which provides an exemption from registration under the Investment Company Act for issuers of asset-backed securities (i.e., issuers in the business of purchasing, or otherwise acquiring, and holding eligible assets). The phrase ''or other assets'' is intended to cover assets often conveyed in connection with securitization transactions such as letters of credit, guarantees, cash collateral accounts, and other assets that are provided as additional credit support. This phrase would also cover other assets, such as swaps, hedge agreements, etc., that are provided to protect bondholders against interest rate, currency and other market risks. The inclusion of cash and securities as eligible assets allows so-called market-value based securitizations of equity and other non-amortizing securities to fall within the purview of the amendment, although securitizations of such securities are not included under Rule 3a–7 and therefore would be subject to regulation under the Investment Company Act if another exemption therefrom were not available.

New sections 541(e)(3) and (4) define the terms ''eligible entity'' and ''issuer,'' respectively. The definitions exclude operating companies by encompassing only single purpose entities. Because securitization transactions often involve intermediary transferees, an eligible entity can be either an issuer or an entity engaged exclusively in the business of acquiring and transferring eligible assets directly or indirectly to an issuer.

New section 541(e)(5) defines the term ''transferred.'' In order for the eligible assets to be excluded from the debtor's estate under section 541, the debtor must represent and warrant in a written agreement that such eligible assets were sold, contributed or otherwise conveyed with the intention of removing them from the debtor's estate pursuant to section 541 (whether or not reference is made to section 541 in the written agreement). The definition makes clear that the debtor's written intention as to the exclusion of the eligible assets will be honored, regardless of the state law characterization of the transfer as a sale, contribution or other conveyance, and regardless of any other aspect of the transaction (such as the debtor's holding an interest in the issuer or any securities issued by the issuer, the ongoing servicing obligation of the debtor; the tax and accounting characterization; or any recourse to the debtor, whether relating to a breach of a representation, warranty or covenant, or otherwise) which may affect a state law analysis as to the true sale.

Section 913

Subsection (a) provides that the amendments made under Title IX take effect on the date of enactment.

Subsection (b) provides that the amendments made under Title IX shall not apply with respect to cases commenced, or to conservator/receiver appointments made, before the date of enactment.

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

The CHAIRMAN pro tempore. Does any Member claim the time in opposition?

Ms. JACKSON-LEE of Texas. I claim the time in opposition, Mr. Chairman.

The CHAIRMAN pro tempore. The gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. LAFALCE), ranking member of the Committee on Financial Services.

Mr. LAFALCE. Mr. Chairman, I thank the gentlewoman for yielding time to me.

Mr. Chairman, I have difficulties with the bankruptcy bill and believe that it needs significant improvements in the amendatory process; amendments that we, unfortunately, for the most part will not be able to offer.

However, there are some technical matters in the bill within the jurisdiction of the Committee on Financial Services which require adjustments, and one of which has been allowed as an amendment by the gentleman from Ohio (Mr. OXLEY) and myself.

That title is solely concerned with changes to the current system for quickly netting the obligations of financial institutions in bankruptcy or receivership situations in order to prevent destabilizing disruptions in our clearing and settlement systems.

The provision now in the bill has passed the House repeatedly and without objection in the last Congress. The adjustments that the gentleman from Ohio (Mr. OXLEY) and I offer are largely technical and are necessitated by enactment of the Commodities Exchange Modernization Act during the last Congress.

Our amendment also includes some minor substantive changes which have been rendered advisable due to transitions in market structure since the President's Working Group on Financial Markets recommended the original text of Title IX in 1998.

The Justice Department and all regulatory departments and agencies which might be affected by these changes have been consulted, in detail, and offer no objections. These regulators include the Department of the Treasury, Federal Reserve, Securities and Exchange Commission, Federal Deposit Insurance Corporation, and the Commodities Futures Trading Commission. This group essentially mirrors the President's Working Group on Financial Markets as it was constituted in 1998.

Title IX contains provisions which are of central importance to the stability of our financial system. Their potential importance is magnified in a time of possible economic downturn. There is no opposition to these changes. Indeed, there is broad support. They could have, and should have, passed the House and Senate and been enacted into law last Congress. Unfortunately, they became unnecessarily caught up in the far more contentious bankruptcy debate.

If H.R. 333 again becomes caught up in a long and contentious debate, I will urge that Title IX be quickly pursued as an independent measure. If there were a major problem with the machinery of the securities system, the country would be hard pressed to resolve it expeditiously and easily without the enactment of these netting provisions. Instability and delay in such a circumstance could prove a recipe for major economic trouble. Our financial system has undergone such fundamental change that existing legal structures are woefully inadequate for handling an emergency—particularly if they involve new instruments for managing risk and transferring value, such as swaps.

The updating amendments Mr. OXLEY and I are proposing ensure that Title IX will be better tailored for the present and well-integrated with the Commodities Exchange Modernization Act of 2000. They will also establish a

ready template for translating Title IX into an independent bill should that become necessary.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield back the balance of my time.

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

Mr. Chairman, let me thank again the chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER), for his leadership on this issue, as well as my colleague, the gentleman from New York (Mr. LAFALCE), and the ranking member of the Committee.

Mr. Chairman, I am pleased to yield such time as he may consume to the gentleman from Alabama (Mr. BACHUS).

Mr. BACHUS. Mr. Chairman, I rise in support of the amendment offered by the distinguished chairman and by his colleague, the ranking member, the gentleman from New York (Mr. LAFALCE).

Among other things, the amendment modifies the bill's so-called netting provisions to conform them to important changes made to Federal law in the Commodities Futures Modernization Act which was signed into law December 21, 2000.

I might point out to my colleagues that the provisions in this amendment were passed by this House in a bipartisan overwhelming vote last year, but they never made it into law. What they do is promote an orderly unwinding of financial contracts in those instances in which one party to a derivative contract becomes insolvent and those contracts go into a bankruptcy proceeding. This avoids that possibility.

We all found out from the long-term capital management situation, and that was 1998, a major hedge fund, what a situation that was. We want to avoid that in the future, tying these contracts up in a long bankruptcy proceeding.

The Commodity Futures Modernization Act made a number of important changes to the regulation of over-the-counter derivatives. The law expressly excluded certain derivative contracts from the Commodities Exchange Act, and allowed for the formation of new clearing entities. The amendment before the House now would update the ''financial contracts'' definition and the netting provisions to reflect new market developments in the swaps industry and the changes made in the Commodity Futures Modernization Act.

Let me again commend the chairman and the ranking member for bringing this important amendment to the floor today, and I urge my colleagues to support its adoption. If we do not do it, the next time we have a major financial player threatened with insolvency we will find ourselves needing to pass this, and we might as well get ahead of the game.

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

Mr. Chairman, I again thank the chairman of the Subcommittee on Financial Institutions of the Committee on Financial Services for his good work in this area.

Mr. Chairman, in summary, there were some other changes that the President's working group had requested that are not contained in this amendment, but we will hopefully reserve the right to seek those changes in conference, working very closely with all of the major players in this historic legislation.

Mr. OXLEY. Mr. Speaker, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Ohio (Mr. OXLEY).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 6 printed in House Report 107–4.

AMENDMENT NO. 6 OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Ms. JACKSON-LEE of Texas:

Page 8, after line 11, insert the following (and make such technical and conforming changes as may be appropriate):

(III) by striking ''whose debts are primarily consumer debts'';

Page 10, line 7, strike ''the continuation of''.

Page 10, after line 22, insert the following (and make such technical and conforming changes as may be appropriate):

''(II) In addition, if the debtor does have health insurance benefits the debtor's monthly expenses shall include an allowance to pay for reasonable medical expenses, as circumstances require, not covered by the insurance for the debtor, the dependents of the debtor, and the spouse of the debtor.

Page 10, beginning on line 24, strike ''actual administrative expenses'' and insert ''reasonable expense''.

Page 11, line 1, insert ''or public'' after ''private''.

Page 11, after line 4, insert the following:

''(V) In addition, the debtor's monthly expenses shall include expenses necessary for the care of foster children in the custody of the debtor.

Page 11, beginning on line 1, strike ''if'' and all that follows through ''why'' on line 3.

Page 12, strike lines 2 through 6, and insert the following:

''(B)(i) In any proceeding brought under this subsection, the presumption of abuse may be overcome if the court finds special circumstances indicating by a preponderance of the evidence that the debtor's income should be adjusted to less than the current monthly income, that the debtor's reasonably necessary expenses are greater than those allowed by the Internal Revenue Service guidelines, or that the debtor's financial difficulties were caused by circumstances beyond the debtor's control including medical problems.

Page 13, after line 3, insert the following:

''(v) A debtor whose current monthly income is equal to or less than the Federal Income Poverty Guidelines and has been for the 1-year period preceding the date of the filing of the petition may, in lieu of the requirements of clauses (iv) and (v) of section 521(a)(1)(B) and subsections (e), (f), and (g) of section 521, file with the court written evidence showing the debtor's income for the 1-year period before the date of the filing of the petition and a declaration under penalty of perjury that the debtor's income meets the test of this clause for that period.

Page 24, line 2, strike ''current monthly income'' and insert ''projected disposable income''.

Page 17, lines 6, 11, and 16, insert ''(adjusted to reflect the percentage change in the Consumer Price Index for All Urban Consumers, published by the Department of Labor, for each subsequent year during which such median family income is not reported by the Bureau of the Census)'' after ''Census''.

Page 18, lines 2, 7, and 12, insert ''(adjusted to reflect the percentage change in the Consumer Price Index for All Urban Consumers, published by the Department of Labor, for each subsequent year during which such median family income is not reported by the Bureau of the Census)'' after ''Census''.

Page 20, lines 18 and 23, insert ''(adjusted to reflect the percentage change in the Consumer Price Index for All Urban Consumers, published by the Department of Labor, for each subsequent year during which such median family income is not reported by the Bureau of the Census)'' after ''Census''.

Page 21, lines 9 and 14, insert ''(adjusted to reflect the percentage change in the Consumer Price Index for All Urban Consumers, published by the Department of Labor, for each subsequent year during which such median family income is not reported by the Bureau of the Census)'' after ''Census''.

Page 25, lines 9, 14, and 19, insert ''(adjusted to reflect the percentage change in the Consumer Price Index for All Urban Consumers, published by the Department of Labor, for each subsequent year during which such median family income is not reported by the Bureau of the Census)'' after ''Census''.

Page 160, lines 14, 19, and 24, insert ''(adjusted to reflect the percentage change in the Consumer Price Index for All Urban Consumers, published by the Department of Labor, for each subsequent year during which such median family income is not reported by the Bureau of the Census)'' after ''Census''.

Page 161, lines 9, 14, and 19, insert ''(adjusted to reflect the percentage change in the Consumer Price Index for All Urban Consumers, published by the Department of Labor, for each subsequent year during which such median family income is not reported by the Bureau of the Census)'' after ''Census''.

Page 162, lines 17 and 23, insert ''(adjusted to reflect the percentage change in the Consumer Price Index for All Urban Consumers, published by the Department of Labor, for each subsequent year during which such median family income is not reported by the Bureau of the Census)'' after ''Census''.

Page 163, line 4, insert ''(adjusted to reflect the percentage change in the Consumer Price Index for All Urban Consumers, published by the Department of Labor, for each subsequent year during which such median family income is not reported by the Bureau of the Census)'' after ''Census''.

Beginning on page 45, strike line 24 and all that follows through line 9 on page 61, and insert the following:

(1) in subsection (c)(2)—

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

(B) in subparagraph (B) by adding ''and'' at the end; and

(C) by adding at the end the following:

''(C) such agreement contains a clear and conspicuous statement which advises the debtor what portion of the debt to be reaffirmed is attributable to principal, interest, late fees, creditors attorney fees, expenses or other costs relating to the collection of the debt;'';

(2) in subsection (c)(6)(B), by inserting ''or is a debt described in subsection (c)(7)'' after ''real property''; and

(3) in subsection (c)—

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

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

(C) by adding at the end the following:

''(7) in a case concerning an individual, if the consideration for such agreement is based in whole or in part on an unsecured consumer debt, or is based in whole or in part upon a debt for an item of personalty the value of which at point of purchase was $1,000 or less, and in which the creditor asserts a purchase money interest, the court, approves such agreement as—

''(A) in the best interest of the debtor in light of the debtor's income and expenses;

''(B) not imposing an undue hardship on the debtor's future ability to pay for the needs of children and other dependents (including court ordered support);

''(C) not requiring the debtor to pay the creditors attorneys fees, expenses or other costs relating to the collection of debt;

''(D) not entered into to protect property that is necessary for the care and maintenance of children or other dependents that would have nominal value on repossession;

''(E) not entered into after coercive threats or actions by the creditor in the creditors course of dealings with the debtor; and

''(F) not unfair because excessive in amount based upon the value of the collateral.'';

(4) in subsection (d)(2)—

(A) by striking ''subsection (c)(6)'' and inserting ''paragraphs (6) and (7) of subsection (c)'', and

(B) by striking '', if the consideration for such agreement is based in whole or in part on a consumer debt that is not secured by real property of the debtor after of this section and adding at the end as applicable''.

Page 86, strike lines 1 through 5 (and make such technical and conforming changes as may be appropriate).

Page 121, after line 16, insert (and make such technical and conforming changes as may be appropriate):

SEC. 231. PRIVACY POLICY ENFORCEMENT.

(a) FTC AND STATE ATTORNEYS GENERAL AUTHORITY TO PROTECT PERSONAL PRIVACY.—

(1) IN GENERAL.—Chapter 3 of title 11, United States Code, is amended by inserting after section 307 the following new section:

''§ 308. Personally identifiable information; authority of Federal Trade Commission and State attorneys general

''(a) FTC AUTHORITY.—The Federal Trade Commission may appear and be heard in any case or proceeding under this title in which personally identifiable information is, or is proposed to be, used, sold, leased, or otherwise disclosed in violation of section 363(b)(3).

''(b) AUTHORITY OF STATE ATTORNEYS GENERAL.—A State, as parens patriae, may appear and be heard in any case or proceeding under this title in which—

''(1) the attorney general of a State has reason to believe that the personally identifiable information of the residents of that State has been or is threatened or adversely affected; and

''(2) personally identifiable information is, or is proposed to be, used, sold, leased, or otherwise disclosed in violation of section 363(b)(3).

''(c) NO AFFECT ON OTHER AUTHORITY.—Nothing in this section shall be construed to limit the authority of the Federal Trade Commission or a State to appear and be heard in any case or proceeding—

''(1) as a creditor where the Federal Trade Commission or a State asserts a claim against a debtor based on alleged violations of statutes within the enforcement jurisdiction of the Federal Trade Commission or the State; or

''(2) as a party in interest concerning other matters or issues within the jurisdiction of the Federal Trade Commission or the State.''.

(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. Personally identifiable information; authority of Federal Trade Commission and State attorneys general.''.

(b) LIMITATION ON SALE, USE, OR LEASE OF CERTAIN PERSONALLY IDENTIFIABLE INFORMATION.—Section 363(b) of title 11, United States Code, is amended by adding at the end the following:

''(3)(A) If the debtor is not an individual, personally identifiable information in the possession of the debtor that relates to any other person may only—

''(i) be used by the debtor—

''(I) in accordance with the terms of the debtor's privacy policy in effect at the time of the bankruptcy filing; or

''(II) if no such privacy policy relating to the personally identifiable information was in effect at the time of the bankruptcy filing, in accordance with subparagraph (B); and

''(ii) be sold, leased, or otherwise disclosed by the debtor—

''(I) to a nondebtor party; and

''(II) in accordance with subparagraph (B).

''(B) In the case of the use, sale, lease, or other disclosure of personally identifiable information, as described in clause (i)(II) or (ii) of subparagraph (A), the debtor shall provide prior clear and conspicuous notice to the person to whom the personally identifiable information relates of—

''(i) the proposed use, sale, lease, or other disclosure of the information;

''(ii) the identity of the purchaser, lessee, or other recipient of the information, if applicable;

''(iii) the privacy policy of the purchaser, lessee, or other recipient of the information, if applicable; and

''(iv) the right of that person to choose not to have the information used or transferred, and an opportunity to choose not to have the information used or transferred.

''(C) The bankruptcy court, after notice to all parties in interest and the Federal Trade Commission and hearing—

''(i) shall establish mechanisms for providing clear and conspicuous notice and choice referred to in subparagraph (B); and

''(ii) may tailor such mechanisms to the specific circumstances of a case, as determined by the bankruptcy court.''.

(c) DEFINITION OF PERSONALLY IDENTIFIABLE INFORMATION.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (41) the following:

''(41A) 'personally identifiable information' means, with respect to the person to whom the information relates—

''(A) a first name, initials, and last name of that person, whether given at birth or adoption, assumed, or legally changed;

''(B) a home or other physical address for that person, including street name and name of city or town;

''(C) an e-mail address for that person;

''(D) a telephone number for that person;

''(E) a social security account number for that person;

''(F) a credit card account number for that person;

''(G) a birth date, birth certificate number, or place of birth for that person;

''(H) information concerning that person that the debtor collects and combines with any other identifier described in this paragraph; and

''(I) any other identifying information relating to that person that permits the physical or electronic contacting or identification of that person, as determined by the bankruptcy court.''.

Page 198, strike lines 3 and 4 and insert the following:

308, as added by this Act, the following:

''§ 309. Debtor reporting requirements

Page 199, strike line 15 and all that follows through the end of the material between lines 15 and 16 and insert the following:

section 308, as added by this Act, the following:

''309. Debtor reporting requirements.''.

Page 254, after line 4, insert the following (and make such technical and conforming changes as may be appropriate):

SEC. 605. PROTECTION OF PERSONAL PRIVACY IN BANKRUPTCY CASES.

(a) PERSONAL PRIVACY PROTECTION.—Section 107 of title 11, United States Code, is amended by adding at the end the following:

''(c) ELECTRONIC ACCESS.—

''(1) IN GENERAL.—The clerk of the bankruptcy court, the United States trustee, and the trustee in a case under this title may provide electronic access to a paper filed in a case under this title, to any of the information contained in a paper filed in such a case, and to the dockets of a bankruptcy court only as permitted in this subsection.

''(2) LIMITATIONS ON ACCESS.—Except as provided in paragraph (3), the clerk of the bankruptcy court, the United States trustee, and the trustee in the case may not provide electronic access—

''(A) to the debtor's social security number, date of birth, mother's maiden name, telephone number, or account numbers (including bank account and credit card account numbers);

''(B) to any of the single line items in the debtor's schedule of assets or statement of income and expenditures; or

''(C) to any personal, medical, or financial information regarding the debtor or a relative of the debtor.

''(3) PERMISSIBLE ACCESS.—The clerk of the bankruptcy court, the United States trustee, and the trustee in the case may provide electronic access to the information specified in paragraph (2) to—

''(A) a party in interest in the case;

''(B) an entity that requires any such information to determine whether it is a party in interest in the case;

''(C) the trustee in the case;

''(D) the United States trustee; or

''(E) a governmental unit that requires any such information for a bona fide law enforcement purpose.

''(4) CERTIFICATION REQUIRED.—A party or entity whose only basis for obtaining electronic access to information in a case under this title is under subparagraph (A) or (B) of paragraph (3) shall, as a condition to obtaining electronic access to any of the information listed in paragraph (2), certify, in writing or in electronic form, to the clerk of the bankruptcy court, the United States trustee, or the trustee in the case, as the case may be, that the party or entity—

''(A) properly qualifies for electronic access to information under paragraph (3);

''(B) will use the information obtained through electronic access only for the purpose of—

''(i) participating or determining whether to participate in the case;

''(ii) the entity's own internal credit evaluation of the debtor; or

''(iii) providing the information to a governmental unit for a bona fide law enforcement purpose;

''(C) will use reasonable means to secure the information obtained from unauthorized access and disclosure; and

''(D) will comply with the requirements of paragraph (6).

''(5) MAINTENANCE OF RECORDS.—The clerk of the bankruptcy court, the United States trustee, or the trustee in the case, as the case may be, shall maintain a record of, and shall make available to the debtor, the identity of and contact information for any entity that has obtained electronic access to information in a case under this title.

''(6) DUTIES OF RECIPIENT.—Upon written request by the debtor, an entity that has obtained electronic information under this subsection shall promptly inform the debtor of the content of the information stored by the entity and shall correct any such information to the extent that it differs from the information contained in the records of the bankruptcy court.

''(7) LIABILITY.—A party or entity that is required to make the certification required under paragraph (4), that obtains electronic access to information in a case, and that does not provide or does not comply with the certification is liable to the debtor for—

''(A) any actual damages;

''(B) the debtor's attorney's fees and costs in enforcing compliance with this subsection;

''(C) $500 per violation; and

''(D) punitive damages, if the violation is willful or part of a pattern or practice of violations of this subsection.

''(8) USE BY OFFICIAL RECIPIENTS.—An entity that obtains electronic access to information under subparagraph (C), (D), or (E) of paragraph (3)—

''(A) may use the information concerning an individual debtor only in connection with carrying out the official duties of that entity in connection with the administration of the case or the administration of the bankruptcy system in general; and

''(B) may not provide electronic access to any such information concerning an individual debtor, except in accordance with the provisions of this subsection.

''(9) ACCESS TO STATISTICAL INFORMATION.—The clerk of the bankruptcy court may provide electronic access to statistical information concerning cases and information concerning particular cases without regard to the restrictions of this subsection, but only if the information does not include any means of identifying a particular debtor's name, social security number, date of birth, mother's maiden name, telephone number, address, or account numbers (including bank account and credit card account numbers).

''(10) DEFINITION.—For purposes of this subsection, 'electronic access' means access through electronic means, such as through a computer or telephone, to a database or to court or other electronic records, without human intervention.

''(11) APPLICABILITY TO INDIVIDUALS.—This subsection applies only in a case in which the debtor is an individual.''.

(b) CONFORMING AMENDMENT.—Section 107(a) of title 11, United States Code, is amended by striking ''subsection (b)'' and inserting ''subsections (b) and (c)''.

(c) CLERICAL AMENDMENTS.—Section 107 of title 11, United States Code, is amended—

(1) by inserting ''GENERAL ACCESS.—'' after ''(a)''; and

(2) by inserting ''PROTECTED MATTER.—'' after ''(b)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective 180 days after the date of enactment of this Act.

Page 145, strike lines 19 through 23 (and make such technical and conforming changes as may be appropriate).

Beginning on page 147, strike line 6 and all that follows through line 16 on page 148, and insert the following:

''(4)(A) For purposes of paragraph (1)(B), the term 'household goods' includes tangible personal property normally found in or around a residence, but does not include motorized vehicles used for transportation purposes.''.

Page 159, line 12, insert '', or on a showing of good cause such longer period as the court considers to be reasonable,'' after ''45 days''.

Page 167, strike lines 21 through 24 (and make such technical and conforming changes as may be appropriate).

Page 236, line 8, strike ''described in section 523(a)(2) or''.

Page 182, line 3, strike the close quotation marks and the period at the end.

Page 182, after line 3, insert the following (and make such technical and conforming changes as may be appropriate):

''(iii) The court may extend the time periods specified in this paragraph if the debtor establishes by clear and convincing evidence that an extension is justified by circumstances beyond the debtor's control that were not foreseeable on the date of the order for relief.''.

Page 186, line 18, strike ''The'' and insert ''Unless the debtor establishes by clear and convincing evidence that there are circumstances beyond the debtor's control that were not foreseeable on the date of the order of relief, the''.

Page 186, line 21, strike ''The'' and insert ''Unless the debtor establishes by clear and convincing evidence that there are circumstances beyond the debtor's control that were not foreseeable on the date of the order of relief, the''.

Page 191, after line 24, insert the following (and make such technical and conforming changes as may be appropriate):

''(4) The court may extend the time period specified in paragraph (2) if the debtor establishes by clear and convincing evidence that an extension is justified by circumstances beyond the debtor's control that were not foreseeable on the date the assurance of payment was due.

Page 201, line 7, insert ''(a)'' before ''In''.

Page 202, line 25, strike the close quotation marks and the period at the end.

Page 202, after line 25, insert the following:

''(b) The court may extend the time periods specified in paragraphs (1) and (3) of subsection (a) if the debtor establishes by clear and convincing evidence that an extension is justified by circumstances that there are beyond the debtor's control that were not foreseeable on the date of the order of relief.''.

Page 204, line 5, strike ''and'' at the end.

Page 204, line 7, strike the close quotation marks and the period at the end.

Page 204, after line 7, insert the following (and make such technical and conforming changes as may be appropriate):

''(D) the debtor establishes by clear and convincing evidence that an extension is justified by circumstances beyond the debtor's control that were not foreseeable on the date of the order of relief.''.

Page 204, line 14, insert ''or the debtor establishes by clear and convincing evidence that an extension is justified by circumstances beyond the debtor's control that were not foreseeable on the date of the order for relief'' after ''1121(e)(3)''.

Page 353, line 19, insert ''of this title or the transfer of the asset-backed securitization would not be a true transfer, conveyance or sale under nonbankruptcy law'' after ''548(a)''.

Page 194, after line 8, insert the following (and make such technical and conforming changes as may be appropriate):

SEC. 420. 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 awarded as backpay and benefits 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.''.

Page 194, before line 9, insert the following (and make such technical and conforming changes as may be appropriate):

SEC. 421. CLARIFICATION OF DEBTOR'S DUTIES.

(a) DUTIES.—Section 521 of title 11, United States Code, as amended by this Act, is amended by inserting after paragraph (6) the following:—

''(7) unless a trustee is serving in the case, the debtor who, at the time of the commencement of the case, served as the administrator or plan sponsor of an employee benefit plan, pursuant to section 1002(16) of title 29, United States Code, shall continue to perform the obligations required of the plan administrator or plan sponsor; and

''(8) unless a trustee is serving in the case, where a proof of claim is filed on behalf of employees or retirees of the debtor by a labor organization serving as the collective bargaining representative of such employees or retirees, the debtor shall, for the purpose of facilitating the location of, and distribution to the employees and retirees of the allowed amount of the claim, provide to such collective bargaining representative a complete list of such employees or retirees and their current addresses as listed on the books and records of the debtor, and such other information as may reasonably be requested for the purpose of aiding in the claims distribution.''.

(b) CHAPTER 7.—Section 704 of title 11, United States Code, as amended by this Act,

is amended by adding at the end the following:

''(12) where, at the time of the commencement of the case, the debtor served as the administrator or plan sponsor of an employee benefit plan, pursuant to section 1002(16) of title 29, United States Code, continue to perform the obligations required of the plan administrator or plan sponsor;

''(13) where a proof of claim is filed on behalf of employees or retirees of the debtor by a labor organization serving as the collective bargaining representative of such employees or retirees, provide to such collective bargaining representative a complete list of such employees or retirees and their current addresses as listed on the books and records of the debtor, and such other information as may reasonably be requested for the purpose of aiding in the distribution of allowed claims to such employees or retirees; and

''(14) assume the obligations of the debtor to withhold, report, and pay withholding taxes to the appropriate taxing authority with respect to the distribution of allowed claims for employee compensation and prepare and submit the reports and returns required by such authorities.''.

(c) CHAPTER 11.—Section 1106(a)(1) of title 11, United States Code, is amended to read as follows:

''(1) perform the duties of the trustee as specified in section 704(2), (5), (7), (8), (9), (10), (11), and (12);''.

(d) OFFICIAL FORM.—The Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States shall propose for adoption an Official Bankruptcy Form to be used to file a proof of multiple claim for wages owed to employees of the debtor.

Page 358, after line 18, insert the following (and make such technical and conforming changes as may be appropriate):

SEC. 1004. EXPANDED DEFINITION OF FAMILY FARMER.

Section 101(18) of title 11, United States Code, is amended—

(1) in subparagraph (A)—

(A) by striking ''$1,500,000'' and inserting ''$3,000,000'';

(B) by striking ''80'' and inserting ''65''; and

(C) by striking ''the taxable year preceding the taxable year'' and inserting ''at least 1 of the 3 taxable years preceding the taxable year''; and

(2) in subparagraph (B)—

(A) in clause (ii), by striking ''80'' and inserting ''65''; and

(B) in clause (ii), by striking ''$1,500,000'' and inserting ''$3,000,000''.

Page 393, after line 13, insert the following (and make such technical and conforming changes as may be appropriate):

SEC. 1236. TECHNICAL CORRECTIONS TO THE COLLEGE SCHOLARSHIP FRAUD PREVENTION ACT OF 2000.

(a) SENTENCING ENHANCEMENT GUIDELINES.—Section 3 of the College Scholarship Fraud Prevention Act of 2000 (Public Law 106–420) is amended—

(1) by striking ''obtaining or providing of'' and inserting ''the obtaining of, the offering of assistance in obtaining''; and

(2) by striking ''base offense level for misrepresentation'' and inserting ''enhanced penalties provided for in the Federal sentencing guidelines for an offense involving fraud or misrepresentation''.

(b) LIMITATION ON EXEMPT PROPERTY.—Section 522(c)(4) of title 11, United States Code, as added by section 4 of the College Scholarship Fraud Prevention Act of 2000 (Public Law 106–420), is amended—

(1) by striking ''in the obtaining or providing of'' and inserting ''or misrepresentation in the providing of, the offering of assistance in obtaining, or the furnishing of information to a consumer on,''; and

(2) by striking ''(20 U.S.C. 1001)''.

(c) EFFECTIVE DATE; APPLICATION OF AMENDMENTS.—

(1) EFFECTIVE DATE.—Except as provided in paragraph (2), this section and the amendments made by this section shall take effect on November 1, 2000.

(2) APPLICATION OF SECTION 552(C)(4) OF TITLE 11, UNITED STATES CODE.—Section 522(c)(4) of title 11, United States Code, as added by section 4 of the College Scholarship Fraud Prevention Act of 2000 (Public Law 106–420) and as amended by subsection (b) of this section, shall apply only with respect to cases commenced under title 11, United States Code, on or after November 1, 2000.

Beginning on page 419, strike lines 5 through 23 (and make such technical and conforming changes as may be appropriate).

The CHAIRMAN pro tempore. Pursuant to House Resolution 71, the gentlewoman from Texas (Ms. JACKSON-LEE) and the gentleman from Wisconsin (Mr. SENSENBRENNER) each will control 30 minutes.

The Chair recognizes the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Democratic substitute makes a number of technical improvements to this bill. It modifies some of the most onerous provisions on lower-income debtors and struggling businesses. We had hoped that most of these amendments could have been accepted by the bill's supporters during the committee markup on the bill. However, the majority have objected to each and every amendment that we were able to offer, no matter how obvious, technical, or noncontroversial.

I think, as the ranking member began his remarks, the gentleman from Michigan (Mr. CONYERS), we noted that this bill has moved at a very fast and very unmeasured speed, so the collaborative efforts have fallen short.

We would hope our colleagues would join us in understanding some of the sensitivities that we are trying to express that H.R. 333 needs to correct: the recognition, of course, of catastrophic illnesses and how it impacts those who file for bankruptcy; how those who are senior citizens fall upon hard times and need to file for bankruptcy; how women and children are negatively impacted and have to file for bankruptcy as it relates to alimony and child support of the particular debtor; that they are now seeking their alimony and child support and cannot do so, and it leads to catastrophic events in their lives.

If they realize, as well, or if the authors of the bill recognize that there are some indications that our economy has some weaknesses, this would be the absolute wrong time not to enhance legislation, of course, and to begin to acknowledge that in fact some of the provisions of this bill actually close or slam the door in the faces of hard-working Americans. That is why we have the AFL–CIO and so many women's groups who oppose this particular amendment, representing millions of Americans, this particular legislation.

While the provisions in the amendment are too numerous to describe in detail, here are a few examples to illustrate the point.

First, our amendment contains provisions clarifying the deductibility of health care costs from the means test. Without this amendment, a single mother could not claim as an expense the cost of medical care for a child who was seriously injured in a car accident after the date that the bankruptcy petition was filed.

The ability to claim medical costs as an expense under the means test should not turn on whether the condition occurred before the petition has been filed. One is still seriously injured.

Second, our amendment seeks to correct an oversight in the bill is that would directly impact on children. Although the bill allows parents to list the costs of caring for their dependent children as a monthly expense, the costs of caring for foster children are not included.

Parents who volunteer to become foster parents should not have a harder time making ends meet during a bankruptcy than biological parents.

Interestingly enough, Mr. Chairman, I work with foster parents in Harris County in Texas. In fact, we work to solicit, recruit foster parents to provide sort of an interlude for foster parents who never get vacations, sort of say to them that we thank them.

I can assure the Members that this is a real aspect of this bill that need to be corrected. It goes without saying that we should not be passing laws in this Congress that penalize children who have to be in foster homes and, as well, the loving foster parents.

Third, our amendment seeks to correct obvious shortcomings in the bill. For example, the bill says that for purposes of the means test, median income is based upon Census Bureau figures.

As we all know, the census only occurs once every 10 years, and obviously the economy is one that changes precipitously, as we have noted over the last couple of weeks, days, and months, which means that under this bill, in its current form, a debtor in 2009 would not pass the means test if her monthly income falls below the median income from 2000.

How ridiculous. How much of a difficulty would that debtor be placed in? All that our provision says is that those census figures should be adjusted periodically by Consumer Price Index updates.

The last position in our amendment that I am going to address is intended to respond to the arbitrary nature of

the business bankruptcy provisions. The bill imposes all kind of bright line rules and firm deadlines on businesses seeking to reorganize. We would think that, at this time of economic uncertainty, we would want to be doing all that we can to ensure that Americans keep their jobs. We know some are losing them as we speak, but the business bankruptcy provisions do just the opposite. If a small business cannot complete its Chapter 11 reorganization plan under the bill's draconian timetable, then the business will be forced to liquidate.

Let me say to the thousands and millions of small businesses and medium-sized businesses, and maybe even large businesses all over America, they should be listening. We have not heard from them as to their understanding that what I have just said is that their doors will be closing, even if a delay is caused through no fault of the small business, such as when the reorganization is delayed pending the completion of a regulatory proceeding. We are slamming the doors shut on business all over America, and we are putting people on the streets without jobs.

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Once the deadline passes, the businesses will have to simply shut their doors. That means jobs will be lost, and this bill will contribute to increased unemployment in America, not reinforcing the value of holding your head up high, paying off your responsibilities, but yet what it will do is undermine hard-working Americans, and certainly our wonderful entrepreneurs who keep this economy running.

Although time allows me to discuss only a sampling of the provisions, I would like to emphasize that this amendment and this substitute is an extremely important bill that adds to H.R. 333. Mr. Chairman, I would like my colleagues to join me in supporting this legislation.

Mr. Chairman, I am pleased to come before you today with my fellow colleagues to offer the Conyers-Nadler-Scott-Watt-Jackson Lee-Baldwin-LaFalce-Tierney Democratic Substitute that would make a number of technical improvements to the Bankruptcy bill and modify some of the most onerous provisions on lower income debtors and struggling businesses.

Mr. Chairman, some of the important modifications that the Democratic Substitute would make to the Bankruptcy bill would be to amend page 10, line 14 of H.R. 333 to merely add a debtor's monthly public school expenses as an allowable expense under the means test. This is important because it would put public school expenses at an equal footing with that of private school expenses which is already included in the bill.

The principal problem with the means test is that the rigid one-size-fits-all test in determining eligibility for Chapter 7 and the operation of Chapter 13 will often operate in an arbitrary fashion.

Access to bankruptcy would be more difficult, especially for low-income filers who are not able to meet the requirements because they cannot list public school expenses as an allowable expense as would their private school counterparts. The "safe harbor" provision that is supposed to protect some low-income families from the application of the IRS standards will not protect many single mothers, because it is based on the combined income of the debtor and the debtor's spouse—even if they are separated and the mother who is filing for bankruptcy is receiving no support from the non-debtor spouse from whom she is separated. As the Committee knows, the majority of low-income families send their children to public schools (as opposed to higher-income people) because they cannot afford the private school tuition. It would seem that if the true intent of this bill were to assist all Americans, a provision recognizing public school tuition would have accompanied the recognition of private school tuition as an allowable expense under the "means test," however, this is not the case.

Under this important amendment, low-income people will have a more flexible standard (that is consistent with that of high-income people) that would allow the debtor to have a fair opportunity to financial recourse, which is not possible under the legislation as written. I think such a change in the standard would be warmly welcomed for middle-income and low-income filers.

The Democratic Substitute would also address one of the real flaws of H.R. 333, the means test approach as it relates to business debtors. It is well known that business debtors enjoy considerable favorable treatment are accorded under the means-test contained when compared to non-business debtors under H.R. 333.

H.R. 333's means-testing, regrettably, is known to be arbitrary and unworkable in practice. A one-size fits-all test will simply hurt low and middle-income filers disproportionately. Accordingly, the Democratic Substitute would ensure that business debtors are treated as favorably as non-business debtors within the framework of the means-testing standard contained in the bill by essentially expanding the means-test to apply to business debts.

Let me explain a few of the glaring difficulties with treatment of business debtors under H.R. 333. First, the bill relies upon IRS collection standards, which lay out no comprehensive or specific standards for the deduction of living expenses. In fact, the bill even fails to provide specific guidance concerning the appropriateness of deducting part or all of the funds a debtor may expend for items such as health care (both medical expenses and health insurance), taxes, and accounting and legal fees, among other things.

The 1973 Commission on Bankruptcy Laws similarly considered and rejected industry calls for mandatory Chapter 13s, noting that Congress itself rejected similar proposals in 1967, and observed: "[b]usiness debtors are not subject to any limitation on the availability of straight bankruptcy relief, including discharge from debts, and it was pointed out, quite apart from bankruptcy, business debtors are able to incorporate and to limit their liability to their investments in corporate assets . . ." See Report of the Commission on Bankruptcy Laws, H.R. Doc. No. 137, Part I, 93rd Congress, 15859 (1973).

The bottom line is that business debtors incur a windfall if the legislation is not amended. There are several consumer provisions in the bill that will exact hardships on all debtors, regardless of income level or degree of culpability. This will harm consumers, especially low-income filers and place them on an unfair playing field when compared to business debtors. For example, by allowing landlords to continue eviction or unlawful detainer actions even after debtors have obtained an automatic stay, the bill will force many battered women and families with children and seniors out on the streets, without ever having an opportunity to use bankruptcy to catch up on their rents.

Mr. Chairman, there is a sense that the approach regarding business and non-debtors within H.R. 333 must be revisited if bankruptcy reform is realized this year. The Democratic Substitute would solve this problem.

The Democratic Substitute would also address an important aspect of H.R. 333, disaster relief for debtors. Disaster relief is not recognizable as something you can write off in H.R. 333 as income. The Democratic Substitute would include disaster relief as part of allowable deductions within means-testing under H.R. 333. This would restore some fundamental fairness to the legislation, particularly when we think of the tragic accidents that occur with regular frequency in America.

If means-testing and other consumer provisions will harm low-income and middle-income people, then H.R. 333 is sure to have an undesirable effect on consumers that are victims of disasters. While it is unclear how such costs will affect the overall bankruptcy system, it is clear that excluding disaster assistance from allowable expenses under the means-test in H.R. 333 is an unfortunate and unnecessary component of the bill.

The Democratic Substitute also modifies some of the most onerous provisions on lower income debtors and struggling businesses by excluding persons below the poverty line from having to fulfill burdensome paperwork requirements that would otherwise be necessary to demonstrate that the debtor does not meet the requirements of means test. Under the provisions of the bill before the Rules Committee today these individuals would be prevented from having a fair and justifiable opportunity to file for bankruptcy due to financial restraints.

The Democratic Substitute would also discourage creditors from attempting to secure repayment of debts by entering into abusive reaffirmation agreements with debtors by providing safeguards so that debtors are made aware of exactly what debts they are agreeing to repay, whether they are secured or unsecured, and provides an opportunity for the court to determine whether the amendment is in the debtor's best interest and would eliminate the provision in the bill that expands the exception to discharge for student loans to cover a wide range of student loans, not just government insured loans and loans from non-profit organizations.

Mr. Chairman, we can not risk the creation of a "two-tier" credit system in this country that generally ignores the interests of individuals at lower income levels. The significant

problems that are present within H.R. 333 will be addressed if you allow the Democratic Substitute to be debated on the floor. We must press forward and work together to find the best way to accomplish these goals for the greater benefit of all of the parties involved in this process.

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

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

Mr. Chairman, I rise in opposition to the substitute amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE), my colleague, and others. This amendment is problematic for several very important reasons.

First, it eviscerates more than 3 years of careful consideration, analysis, negotiation and compromise embodied in H.R. 333's needs-based reforms.

For example, one provision of this amendment completely rewrites the standard for overcoming the presumption of abuse in cases where debtors have the ability to pay debts. Although I did not participate in the negotiations that transpired between the House and the Senate last year, I am informed that H.R. 333's provisions are the product of intense analysis and exhaustive negotiation.

Second, the substitute amendment introduces truly novel concepts that have, to my knowledge, not been the subject of any oversight hearing by the House Committee on the Judiciary. These provisions, although perhaps well-intentioned, attempt to address various privacy issues perceived to be present in the bankruptcy system.

Under current law, most information filed in connection with a bankruptcy case is available to the public. Both the Justice Department and the Judicial Conference of the United States, however, have recently begun to consider whether unlimited public access to such information through the Internet and other electronic means should somehow be restricted.

Nevertheless, the substitute imposes a broad array of restrictions and requirements with regard to this matter and provides for the award of punitive damages for their violation under certain circumstances.

Rather than slip these substantive provisions in an amendment filed on the eve of floor consideration of this bill, they should be the subject of an oversight hearing where they can be aired in the light of day and the public should be given an opportunity to be heard.

Third, this amendment attempts to include in the bill amendments that were roundly defeated during the Committee on the Judiciary's markup of H.R. 333 last month.

Out of 18 amendments considered during the markup, the bill was reported with only one modest amendment making minor technical and conforming revisions.

The bill as reported clearly reflects the considered judgment of the Committee on the Judiciary that H.R. 333 is the product of an exhaustive and mandatory process, as well as extensive negotiation, and does not need to be further amended.

Accordingly, I urge my colleagues to oppose this substitute amendment

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

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

Mr. Chairman, the Democratic substitute is an effort to make a number of improvements to the bill and to modify and take the sting out of some of the most onerous provisions on lower income debtors and struggling small businesses.

We had hoped that some of these, if not even most of the amendments, would have been accepted by the bill's supporters during the markup in the Committee on the Judiciary, but they have been all with great regularity rejected, and every amendment that we were able to offer was technical. No matter what happened, we were not able to get our message through.

While the provisions in the amendment are too numerous to describe here, a few details illustrate the fact that we have a clarification of the deductibility of health care costs from the means tests.

We correct an oversight in the bill that would directly impact on children, which allows parents to list the costs of caring for their dependent children as a monthly expense, but the costs of caring for foster children are not included at all.

Parents who voluntarily become foster parents will have a harder time making ends meet during bankruptcy than biological parents. Obviously, we do not think this was intended by even the Members of the House Committee on the Judiciary, and we wanted to correct it.

We have other shortcomings that are dealt with. The bill says that for purposes of a means test, the medium income is based on Census figures, but that only occurs every 10 years. We need something a little more periodically adjusted, for example, by Consumer Price Index updates.

Finally, the arbitrary nature of business banking provisions seems to be in order. A small business cannot complete its chapter 11 reorganization plan under the bill's very, very tough timetable. We have asked that we have a little bit more flexibility in that area.

Small businesses are the place where more jobs are created in this country than anywhere else, and so it is very important that these and other mentioned remedies and corrections be included, which have been previously mentioned.

I am hoping that the substitute amendment offered by myself and several of our colleagues would be accepted by the majority of the Members in the House.

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

Mr. SENSENBRENNER. Mr. Chairman, I yield 4 minutes to the gentleman from Pennsylvania (Mr. GEKAS).

Mr. GEKAS. Mr. Chairman, I thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for yielding the time to me, and I rise in opposition to the substitute offered by the gentleman from Michigan (Mr. CONYERS).

If we were to adopt the tenets of the substitute that has been offered here, and that is what the intention is in the offering in the first place, we would be wiping out the tremendous advances in reform of bankruptcy that we have made up to now.

For instance, the gentleman from Virginia (Mr. BOUCHER) outlined in his presentation how we have changed the priorities for alimony and women's rights in support matters from what now exists as being a number 7 position, behind attorneys fees, I believe, in priorities, that is the existing system, to a situation where we place women, alimony, support, all the women's and children's issues, at the first priority.

What it means is if my colleagues vote for the substitute, my colleagues are reverting back to the current situation which places women number 7. We want them to be number 1.

The bankruptcy reform measure which is before my colleagues permits that, mandates that, brings women up to a number 1 position in claims under bankruptcy. If my colleagues want to go back to the system, make women number 7, then vote for the substitute.

The other situation that is obvious about the substitute is that it will not honor what we have tried to do with reform of small business and the business bankruptcies under chapter 11. Everyone should recognize that what we did in this bill was to adopt the recommendations of the Bankruptcy Commission with respect to business, reorganizations and bankruptcies.

If my colleagues vote for the substitute, my colleagues are erasing the recommendations of the Bankruptcy Commission, which this Congress authorized in the first place, to develop reforms in business bankruptcies.

Mr. Chairman, I say to my colleagues, if my colleagues want to go back to the primitive stages of bankruptcy which have caused this flood of bankruptcies or want to enter into a new phase of more responsibility for all phases of bankruptcy, then my colleagues too can argue about what my colleagues want to argue about.

The other phase to show my colleagues is the lack of foresight on the

part of the people who are supporting the substitute.

Mr. Chairman, I would like to ask a question of the gentleman from Michigan (Mr. CONYERS), does the substitute include the recommendations for a change in homestead exemption?

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman from Michigan.

Mr. CONYERS. No, sir, it does not.

Mr. GEKAS. Mr. Chairman, then I will skip that part of the argument.

Mr. WATT of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. Mr. Chairman, I appreciate the gentleman from Pennsylvania (Mr. GEKAS) yielding to me.

Mr. Chairman, I was going to suggest to the gentleman that he skip the first part of the argument, too, because this amendment does not do anything about the priorities. I was wondering whether he was debating another amendment possibly.

Mr. GEKAS. Mr. Chairman, I want to thank the gentleman from North Carolina (Mr. WATT) for setting me right on this.

Mr. Chairman, the point is that the substitute wrecks bankruptcy reform. What I am trying to get across, and what I hope is the message to all the Members is that any amendments practically that would harm the basic reforms that we put into this measure are unacceptable.

Mr. Chairman, I ask that we vote down this substitute, as well as the other amendments.

Mr. WATT of North Carolina. Mr. Chairman, I ask unanimous consent to control the time for our side.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. WATT of North Carolina. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I just want to say that it is very magnanimous of the gentleman from Pennsylvania (Mr. GEKAS) to say that they are following a set of recommendations that were put forward by the Commission. This actually is the only one recommendation in their bill that they followed. They threw out 95 percent of the rest of the recommendations of that Commission, and nothing in this bill really follows the recommendations of the Commission.

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

Mr. SCOTT. Mr. Chairman, I thank the gentleman from North Carolina (Mr. WATT) for yielding the time to me.

Mr. Chairman, I rise to speak in support of the amendment, which would add several improvements to H.R. 333. While the proponents of the underlying legislation portray this as a compromised bill, the approach in this bill is, in fact, a significant departure from well-established sound principles and procedures designed to protect consumers. It eliminates the tradition of a fresh start for those who are willing to cash in all of their chips to get the fresh start.

The underlying bill prevents most Americans from getting access to that fresh start and creates more people in our communities who will be financially desperate with nothing to lose.

There are several amendments that I would like to speak to in the substitute. One, the underlying bill directs the debtor to pay all that they can after food and rent towards their debts. In calculating what they can pay, it is only reasonable that we base the determination on the actual monthly income.

The underlying bill, however, counts all of your income for the last 6 months to determine what your average monthly income is, and that could include money that we received from a job that we have lost, money from an inheritance, or a gift, or an automobile accident settlement, things that are not going to be there. The court ought to have the opportunity to adjust your income to fit actual reality.

This amendment would allow the court to disregard one-time nonrecurring funds or take into consideration the fact that you lost the job, and that is what put you into financial distress to begin with.

Second, the amendment deals with illnesses for family members. The underlying bill allows you to consider ongoing expenses involved in illnesses or disabilities of family members, but it does not recognize new illnesses that may come about during the next 5 years. The amendment would allow those to be considered, too.

□ 1315

Another amendment prevents landlords from evicting tenants pending bankruptcy. The tradition of bankruptcy is that tenants have a stay of all proceedings and they have an opportunity to work out some arrangement so that they can stay in their house. This underlying bill allows for immediate eviction. This would retain the tradition of automatic stay.

Mr. Chairman, administrative expenses, they are limited to 10 percent to what is being paid in. If very much is not being paid in, a debtor may not have a reasonable amount to hire attorneys. This would allow for reasonable expenses which is usually the standard that is used.

Mr. Chairman, another amendment would deal with the assumption under the private school expenses. The underlying bill says private school expenses are paid if documentation and an explanation is provided. It does not say that the documentation is meaningful. A ridiculous explanation could be given. The amendment says that the trustee would determine whether expenses are reasonable and necessary, not whether an explanation was provided.

Mr. Chairman, these are just some of the much-needed changes. It will not fix the bill totally, but it would at least make a bad bill a little better.

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the very distinguished gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Chairman, this is not a perfect bill, the underlying bill; but I think it is an important bill to pass. It is a bill that received the overwhelming bipartisan support of this House and of the Senate last year. Last year, because this bill is almost identical, it is relevant to recognize 96 Democrats voted for this bill last year. That is bipartisan. The reason that they did so was that they recognized that the American public wants a fair system. They want people to be able to get a new fresh start. They do not want a system that lends itself to abuse. That is basically the problem that we face today.

Mr. Chairman, back in 1980 there were only about 300,000 people that filed for bankruptcy. In 1998, 1.4 million people filed for bankruptcy. That is an enormous number. Something is wrong. What is wrong is that it has become too easy to wipe out your debts.

What is particularly galling is that this cost does not go away. It is not just limited to the bankruptcy court. We all pay for it. The American family today pays about $400 more per year to cover the cost of these bankruptcies. That is $400 that families who are paying their bills get stuck with that they ought not to. Approximately 100,000 people file for bankruptcy each year who could in fact pay off their debt, but they are avoiding about $1 billion annually of debt that they could pay off that they do not because the system has not been fixed. That is what this bill would do. It would fix the system. It is a needs-based bankruptcy plan.

Mr. Chairman, I have to tell my colleagues when there is a bill that is able to put child support and spousal support ahead of lawyer's fees, you had better get it passed immediately because once the trial lawyers find out that it is even ahead of lawyer's fees I do not know how long it will last, but we ought to do it.

We have a debtor's bill of rights here that addresses a number of the problems that we have had in terms of credit cards. Some people are taking these credit cards in, they sign up, they max it out whatever they can charge. They pile debt up, and then they get themselves relieved from paying off their debt; and oftentimes they can go right

back to doing it all over again. It needs to be fixed.

Mr. Chairman, this bill is a good, balanced, bipartisan bill to fix it. I think we ought to vote for the underlying bill.

Mr. WATT of North Carolina. Mr. Chairman, would the Chair advise us of the time remaining on both sides.

The CHAIRMAN pro tempore (Mr. HOOD). The gentleman from North Carolina (Mr. WATT) has 15 minutes remaining; the gentleman from Wisconsin (Mr. SENSENBRENNER) has 20 minutes remaining. The gentleman from Wisconsin has the right to close.

Mr. WATT of North Carolina. Mr. Chairman, I yield 3 minutes to the gentlewoman from California (Ms. WATERS), a member of the committee.

Ms. WATERS. Mr. Chairman, I would like to address some strong problems and concerns I have with the proposed legislation. As a whole, the general consensus has been that we need to overhaul the Bankruptcy Code. However, H.R. 333 does so at the expense of consumers and small businesses. It is overly harsh on the honest but unfortunate debtor.

I tried to introduce an amendment which would prevent landlords from being able to evict domestic violence victims, elderly persons on limited income, and single parents with minor children on limited income without going through the bankruptcy court. That protection already exists under current law, but is absolutely removed by H.R. 333. I was not successful with that amendment.

Mr. Chairman, the Democratic substitute amendment which seeks to correct the most glaring problems with H.R. 333 deserves support, and I am here today to try to make a bad bill just a little bit better. The fifth provision of the Democratic substitute, for example, would allow debtors to exclude up to $1,500 for expenses for a child's schooling, whether those expenses are for a public or private school. The proposed legislation only allows for expenses from private schools. This discriminates against low-income debtors and has no logical rationale. I understand the gentlewoman from Texas (Ms. JACKSON-LEE) has taken this up. We have had two attempts to correct this in the bill.

Provision 12 of the Democratic substitute deals with reaffirmations. It would discourage creditors from entering into abusive reaffirmation agreements with debtors. H.R. 333 purports to protect women and children. However, when debtors enter into reaffirmation agreements, they are increasing the number of debts they must pay. Each time another debt is added to the list, it becomes more and more unlikely that child support and alimony will be paid. It does not matter that domestic support obligations are given first priority under this bill. Women and children do not have the resources to defend their rights over the rights of credit card companies. We should not ignore the fact that numerous women and children's organizations have spoken out in strong opposition to this bill.

Mr. Chairman, the Democratic substitute would provide an opportunity for court review of proposed reaffirmations, an essential measure to protect from abusive reaffirmations.

The Democratic substitute also addresses problems with medical expenses and health insurance premiums, exempts debtors who fall below the poverty line from burdensome reporting requirements, and ensures that governmental education loans are not placed in competition with higher interest rate loans from private institutions.

Passage of this amendment is crucial if we are to avoid a crisis in the bankruptcy system. We must not pass a bill merely because the time is right; we must pass a bill when the bill is right.

Mr. Chairman, I would like to address some strong problems and concerns I have with the proposed legislation as a whole. The general consensus has been that we need to overhaul the Bankruptcy Code. However, H.R. 333 does so at the expense of consumers and small businesses. It is overly harsh on the honest but unfortunate debtor.

I tried to introduce an amendment that would prevent landlords from being able to evict domestic violence victims, elderly persons on limited income, and single parents with minor children on limited income without going through bankruptcy court. That protection already exists under current law, but is removed by H.R. 333.

I was not successful with that amendment. However, I am here to support the Democratic Substitute amendment, which seeks to correct the most glaring problems with H.R. 333.

The fifth provision of the Democratic Substitute, for example, would allow debtors to exclude up to $1500 for expenses for a child's schooling, whether those expenses are for public or private school. The proposed legislation only allows for expenses from private school. This discriminates against low-income debtors and has no logical rationale.

Provision 12 of the Democratic Substitute deals with reaffirmations. It would discourage creditors from entering into abusive reaffirmation agreements with debtors.

H.R. 333 purports to protect women and children. However, when debtors enter into reaffirmation agreements, they are increasing the number of debts they must pay. Each time another debt is added to the list, it becomes more and more unlikely that child support and alimony will be paid.

It does not matter that domestic support obligations are given first priority under H.R. 333. Women and children do not have the resources to defend their rights over the rights of credit card companies. We should not ignore the fact that numerous women and children's organizations have spoken out in strong opposition to H.R. 333. The Democratic Substitute would provide an opportunity for court review of proposed reaffirmations, an essential measure to protect from abusive reaffirmations.

The Democratic Substitute also addresses problems with medical expenses and health insurance premiums; exempts debtors who fall below the poverty line from burdensome reporting requirements; and ensures that governmental education loans are not placed in competition with higher-interest rate loans from private institutions. Passage of this amendment is crucial if we are to avoid a crisis in the bankruptcy system.

We must not pass a bill merely because the time is right. We must pass a bill when the bill is right.

Mr. SENSENBRENNER. Mr. Chairman, I yield 5 minutes to the other very distinguished gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Mr. Chairman, I thank my chairman for yielding me this time.

Mr. Chairman, I rise today in strong support of H.R. 333, the Bankruptcy Abuse Prevention and Consumer Protection Act, and in strong opposition to this substitute amendment. This important legislation, which is similar to the bankruptcy reform legislation passed out of the House last year by a vote of 313 to 108, is an honest compromise that is pro-personal responsibility and antibankruptcy abuse.

With a record high 1.4 million bankruptcy filings in 1998, every American must pay more for credit, goods and services when others go bankrupt. I worked to pass H.R. 833 last year and cosponsored H.R. 333 this year because it is high time that we relieve consumers from the burden of paying for the debts of others.

The Bankruptcy Abuse Prevention and Consumer Protection Act restores personal responsibility, fairness, and accountability to our bankruptcy laws and will be of great benefit to consumers. For too long, our bankruptcy laws have allowed individuals to walk away from their debts even though many are able to repay them. That is not fair to millions of hard-working families who pay their bills, mortgages, car loans, student loans, and credit card bills every month.

The loopholes in our bankruptcy laws have led to a 400 percent increase in personal bankruptcy filings since 1980 at a cost of $40 billion per year. These losses have been passed directly to consumers, costing every household that pays its bills an average of $400 in hidden taxes each year. In real terms, that is a year's supply of diapers or 20 tanks of gas.

The bill under consideration today retains the strong income-based means test that will distinguish between those who need the fresh start available under chapter 7 and those who can afford to file under chapter 13, which requires a 5-year repayment plan.

This important provision, which bases a debtor's ability to pay on clear

and well-defined standards, will give a fresh start to those who need it, while ensuring that those who can afford to pay back some of their debt do so.

Under the current system, some irresponsible people filing for bankruptcy run up their credit card debt immediately prior to filing, knowing that their debts will soon be wiped away. These debts, however, do not just disappear. They are passed along to hard-working folks who play by the rules and pay their own bills on time.

The Bankruptcy Abuse Prevention and Consumer Protection Act ends this practice by requiring bankruptcy filers to pay back nondischargeable debts made in the period immediately prior to their filing.

While ending the abuses of our bankruptcy laws, the act is strongly pro-consumer in other ways as well. This legislation, for example, helps children by strengthening protections in the law that prioritize child support and alimony payments.

Additionally, H.R. 333 protects consumers from bankruptcy mills that encourage folks to file for bankruptcy without fully informing them of their rights and the potential harms that bankruptcy can cause.

This legislation also includes language that I strongly support to restore fairness and equity to the relationship between the U.S. Trustee and private-standing bankruptcy trustees. Specifically, the language will provide private trustees the right to seek judicial review in court in certain cases following an administrative hearing on the record of U.S. Trustee actions related to trustee expenses and trustee removal.

This compromise, worked out between the U.S. Trustee's office and representatives of the private bankruptcy trustees, will provide fairness to those who dedicate themselves to their duties as private trustees while ensuring that the U.S. Trustee is subject to the same checks and balances as other government agencies.

Mr. Chairman, bankruptcy should remain available to the folks who truly need it. But those who can afford to repay their debts should not be able to stick other folks with the tab. Enactment of this carefully crafted legislation will send a big signal toward those who would abuse our bankruptcy system that the free ride is over.

I want to commend the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman of the Committee on the Judiciary, for moving this important legislation quickly to the floor, as well as the gentleman from Pennsylvania (Mr. GEKAS) for his outstanding work on this issue.

I urge my colleagues to support this fair and reasonable bill and to oppose the Democratic substitute.

Mr. WATT of North Carolina. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. LAFALCE).

Mr. LAFALCE. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, this is the wrong bill at the wrong time. It is driven, not by the public interest, it is driven by lobbyists primarily for the creditor industry that exists and walks the halls of the Capitol and has for years and years and years.

Most individuals who go into bankruptcy go there because they have lost a job, they have accumulated huge medical expenses, they have been through a divorce, et cetera, and for another major reason, because of the predatory practices of the credit industry; predatory practices with respect to the purchase and mortgage of one's home or a home equity loan; predatory practices with respect to the car that one buys or leases; predatory practices with respect to the credit card that one uses for almost everything in life today; predatory practices even with respect to one's virtual identity, the most personal information about oneself.

□ 1330

This Congress, for 6 years now, has not done a single thing about those predatory practices, has not even looked at them in hearings, refuses to take them up on the floor of the House, refuses to make amendments in order to rectify them; and yet our colleagues come before us with the bill basically drafted by the credit card industry.

I called some friends of mine, referees in bankruptcy and asked them what they thought of the bill before us. Terrible. I called some friends of mine, attorneys for major lending institutions specializing in one issue and one issue only, bankruptcy; and I asked them what they thought of it. They said, terrible.

This bill today in the House will pass, it will probably go before President Bush for his signature; but it is a terrible bill. And what is even more terrible is that my Republican colleagues have not even attempted to deal with the real problems that exist in the real world, the predatory practices of the credit industry.

Mr. WATT of North Carolina. Mr. Chairman, I yield 3½ minutes to the gentleman from Massachusetts (Mr. DELAHUNT), a member of the Committee on the Judiciary.

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

I keep hearing from the proponents how the benefits of this bill will flow to the American people. Well, if they believe that, I have a bridge that I want to sell them.

At one of our subcommittee hearings on this legislation last year I asked each of the panelists, and there were nine, whether the bill would result in lower interest rates to consumers. Every single one of them admitted probably not. Well, I appreciated their honesty. By the way, there is ample empirical evidence, hard evidence, to suggest that consumers will not benefit at all by this bill.

The American people should know that in 1996, a Harvard University study pointed out that between 1980 and 1982 the Federal funds rate fell from 13.4 percent to 3.5 percent, a drop of nearly 10 percentage points. The average credit card interest rates went the other way. It rose from nearly 17.3 percent to 17.9 percent. The bottom line, the credit card industry will be the only beneficiary of this proposal, and to suggest otherwise does not hold water.

So if my colleagues' concern is about credit card company profits, by all means vote for this bill. Be assured, however, if there is a concern that these companies are doing very well, if there are any doubts, pick up a copy of the January 26, 2001, edition of USA Today. The headline reads, and I am quoting, ''Adding fees, new ones, raising old ones, and credit card profits are soaring.'' Credit card industry profit rose to a 5-year high last year. In fact, credit cards are one of the most profitable businesses in banking, according to a CEO in a consulting firm that advises credit card issuers.

The American people should also know that as profits rose, several major credit card issuers, including Chase and Providian, agreed to pay hefty penalties to settle complaints related to unfair late fees and other practices. And just this past week in Business Week, that liberal, liberal magazine, an article reflects how MBNA not only provided substantial contributions to both parties and to individual Members, but the MBNA credit card, which I understand is the third largest in the country, recently paid about $8 million for unfair practices and deceptive advertising.

So given that the credit card companies will be the chief beneficiaries of this public subsidy, because that is exactly what it is, exactly what it is, it seems to me there ought to be at least a quid pro quo. Let us require responsible corporate behavior and continue the decline that we have witnessed over the past 2 years in bankruptcy filings, the 170,000 fewer in 2000 than existed in 1998; and let us support the substitute.

Mr. SENSENBRENNER. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. ROYCE).

Mr. ROYCE. Mr. Chairman, the time has come for bankruptcy reform. This will be the third time that Congress has passed a bankruptcy reform bill in our effort to get this through.

Our bankruptcy laws do play an important and necessary role in protecting Americans who really need them, and that is the key. That should

be the key: need. And this bill makes the existing bankruptcy system a needs-based system addressing the flaw in the current system that encourages people to file for bankruptcy and walk away from their debts regardless of whether they are able to repay any portion of what they owe. It does this while protecting those who truly need protection. They are exempted under the bill.

The cost to all of us in terms of what is going on in these filings is great. This is a cost borne not only by the business community and the property owners but by the consumers who pay their bills responsibly. By some estimates, it takes 33 responsible consumers to pay for just one bankruptcy of convenience.

Mr. WATT of North Carolina. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. TIERNEY).

Mr. TIERNEY. Mr. Chairman, I thank the gentleman for yielding me this time. I also thank the gentleman from Michigan (Mr. CONYERS) and the gentleman from New York (Mr. NADLER), as well as their staffs, for including language on an amendment that I submitted on health care to this bill.

We have heard for some time now supporters of this bill urging us to believe that we face a bankruptcy fraud epidemic, with an exponentially increasing number of debtors who, but for the fact they are in bankruptcy, otherwise would pay their debts. Instead we find out, as one study says, that some 3.6 percent of chapter 7 debtors would hardly be able to pay any more of their bills if bankruptcy were not an option. That hardly constitutes a bankruptcy fraud epidemic, as advocates of the bill claim. More often, filing for bankruptcy is not a way out for scam artists, but a critical source of relief for common people trapped in unfortunate, and sometimes dire, circumstances.

Among the many egregious shortcomings of this particular bill is the absence of a definitive provision to allow the coverage of reasonable medical expenses whether a debtor does or does not have health insurance coverage. Certainly we all share the goal of ensuring that the bankruptcy system is not used as a shield for irresponsible spending decisions. But debt repayment should not preempt reasonable and necessary medical expenses. Currently, H.R. 333 in fact does that.

The health language contained in our substitute would allow debtors to cover reasonable medical expenses in the event of bankruptcy. Without this amendment, this protection is not guaranteed. The IRS guidelines that form the basis for the means test in this reform legislation can change from year to year. Right now these guidelines make it possible but do not guarantee allowance of reasonable medical expenses. In fact, three out of four debtors cite serious medical problems or exorbitant health care costs as the reason for their filing for bankruptcy. In 1999, a half million middle-class families were forced into bankruptcy for these reasons alone.

It does not make sense to deny people who have the financial wherewithal to pay for these medical expenses, when they should be able to file bankruptcy in the first place and be able to afford vital health care costs. This is a vital component of this bill, Mr. Chairman. Real bankruptcy reform should be about not eliminating opportunity but making sure people can stop having themselves financially devastated particularly because of medical problems.

Mr. WATT of North Carolina. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Mrs. DAVIS).

Mrs. DAVIS of California. Mr. Chairman, I rise in strong support of the well-fashioned Democratic alternative and to clarify also a mistake.

Unfortunately, Mr. Chairman, staff inadvertently added me as a cosponsor rather than the correct DAVIS. As the chairman knows, there are several of us here now. I respectfully request the record show I am not a cosponsor.

Mr. Chairman, I rise in strong support of the well fashioned Democratic alternative and to clarify my intentions with regard to H.R. 333, the Bankruptcy Abuse Prevention and Consumer Protection Act. On January 31, due to a clerical error, I was added as a cosponsor to H.R. 333. Evidently, it was intended to list my like-named colleague from Virginia. I was never contacted by the sponsor regarding cosponsorship and did not wish to do so.

It is somewhat rare that there are more members with the name Davis—five this term—than Smith, Lee or Jones, the usual winners.

With that confusion behind us, I want to express my strong support for the Democratic alternative fashioned and sponsored by several of my colleagues. There is no doubt that the bankruptcy system needs reform, however, we must ensure that we do not handicap well-meaning members of our society who have fallen on hard times. Most consumers who file for bankruptcy are not deadbeats, but instead are working families who have experienced a catastrophic event such as illness, job loss, or a recent divorce. The Democratic alternative seeks to remove many of the provisions of the original bill that may hurt lower and middle income families who are in financial difficulty by tilting the playing field against working families and small businesses in favor of creditors.

Mr. WATT of North Carolina. Would the chairman advise us of the amount of time remaining?

The CHAIRMAN pro tempore (Mr. LAHOOD). The gentleman from North Carolina (Mr. WATT) has 4 minutes remaining, and the gentleman from Wisconsin (Mr. SENSENBRENNER) has 14 minutes remaining.

Mr. WATT of North Carolina. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Chairman, earlier today I spoke of my general views on this terrible bill. I want to comment on a remark the chairman of the committee made during the debate on this technical amendment concerning language proposed by the gentleman from California (Mr. SCHIFF) and initially accepted by the majority that would protect legally separated spouses from having the income of their spouses attributed to them in calculating how much they can repay their creditors.

The gentleman from California (Mr. SCHIFF) testified in support of the Sensenbrenner amendment in front of the Committee on Rules yesterday because of the inclusion of his language and what he thought was a simple clarification. In fact, his language, unknown to him, had been dropped from the amendment. The members of the majority on the Committee on Rules sat silently while he testified in favor of the amendment and never once disclosed to him or to any member of the Committee on Rules minority or the Committee on the Judiciary minority that in fact that language was removed from the manager's amendment.

Now the chairman tells us the Schiff amendment is not technical or clarifying but is in fact a controversial and substantive change. That is a startling admission. Is it really his intent that a woman who has been abused and is now separated from her husband and is living in fear and poverty must still count her abuser's income as a resource to be given to her creditors? I can see why some people in the banking industry might support this, but is there a single member of the majority who thinks that making it clear that the victim cannot be charged with the income of her abuser is anything more than a clarification or that it in fact reflects a controversial proposition?

If they really do think so, why did they fail at least to do the minority the courtesy of being honest about dropping the Schiff amendment rather than allowing our colleague from California to testify in support of the manager's amendment thinking his language was still included within it?

Mr. Chairman, our substitute attempts to make this bill a little more humane, or a little less inhumane I should say, by softening the inflexible means test which the former chairman of the committee, the gentleman from Illinois (Mr. HYDE), objected to and attempted to change last year. Evidently, the IRS is more popular on the other side of the aisle than the rhetoric would indicate since they would put into this bill the IRS guidelines to determine how much a debtor can afford to repay, the same IRS guidelines they found too harsh and instructed the IRS not to use with respect to tax cheats.

The substitute amendment drops the special interest amendment that benefits those wealthy investors I mentioned earlier. It makes sure the debtor

has funds to support a foster child and pay for needed medical care. It modifies the bill to take up provisions that were secretly inserted into last year's conference report without any hearings or discussion that would hinder business reorganizations at a time when many more businesses are turning to chapter 11 to stay alive and preserve jobs and communities. It protects the privacy of the public from having their personal information disclosed or resold when a company goes into bankruptcy.

Earlier, we agreed to an amendment to strike the names of children from online bankruptcy information. We did not have hearings on that. We have not had hearings on most of the special interest provisions in this bill. Why so much interest in hearings now? I sympathize with the chairman, who says he was not part of the deliberations in conference on this bill. Neither was I, and I was a conferee.

One last word on child support. I do not want to hear again that this bill makes child support the first priority. No bankruptcy practitioner thinks that this bill in any way benefits children. At worst it will hinder the administration of the case. At best, it will do nothing. In ch. 13, all priority debts must be paid in full. In ch. 7, 98 percent of all cases are zero asset cases, so priority debts are almost never paid. It does nothing to help women whose debts are made non-dischargeable by this bill, and it does nothing to help them compete in state court if the non-custodial parents' debts to Visa survive bankruptcy. It does give a new and perverse meaning to the phrase, "women and children first."

I urge adoption of this amendment which will somewhat improve this bill. I urge adoption of the motion to instruct which would provide basic privacy protections for individuals in the bankruptcy system while we wait for the bureaucracy to get off its keister, and I urge rejection of this terrible bill.

Mr. WATT of North Carolina. Mr. Chairman, I yield myself the balance of my time.

□ 1345

Mr. Chairman, I am not going to belabor this. I do not have time to belabor it any further. There are a number of us who believe that the bankruptcy system has been abused, but we also know that it is abused by people who are above the means test in this bill and people who are below the means test in this bill. So why would you impose an arbitrary means test rather than going directly for the abusers of the system? And if it is not about setting up an arbitrary system, then why would you not make an exception for those who really can show by whatever burden of proof you want to impose that they got into financial straits that result in bankruptcy by no fault of their own because that is what bankruptcy was always about, and that is what it should continue to be about.

We have tried to, in this amendment, soften the provisions. That has not occurred. The charade is over. We can now go forward.

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

Mr. Chairman, this bill has been percolated through the Congress for the last 4 years. It has probably been one of the most debated, amended and negotiated bills that have come before the Congress of the United States in the last 25 years. At the end of the last Congress, overwhelming majorities in both Houses approved this bill. It was a voice vote in the House, and the vote in the other body was 70–28. I think that shows that the vast majority of Members of both political parties are happy with the compromises that have been reached as a result of almost 4 years of painstaking and seemingly never ending negotiations.

We hear an awful lot about the fact that bankruptcy reform is necessary. My friends on the other side of the aisle say, yes, we support bankruptcy reform but not this bill. That argument to me seems to be that the perfect is the enemy of the good. In any legislative body where compromise is the rule in order to pass legislation, the perfect is probably never attainable. This bill is a good bill. It is a bill that will make a dent on the $400 that every family in this country who pays their bills has to pay in increased taxes, increased costs for goods, increased costs for services as a result of about $44 billion a year being written off in debt and bankruptcy.

I think probably the best statement that was made during the debate came early on several hours ago, where our present bankruptcy laws are now being used by some as a financial planning tool. Bankruptcy should never be an item of financial planning. What it should be is a system of last resort, to allow people who have gotten in over their heads in debts to wipe the slate clean and to have a fresh start. This bill takes care of most of the abuses in the present bankruptcy system. It is a good bill. It is one that has been vetted by practically everybody who has been interested in this piece of legislation. It is not a perfect bill. I will be the first one to admit it. But it is a significant improvement.

I would urge support for this bill and opposition to this last amendment that goes back to some of the practices of the bad old days.

The CHAIRMAN pro tempore (Mr. LAHOOD). The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE).

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

RECORDED VOTE

Mr. WATT of North Carolina. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, the Chair will reduce to 5 minutes the period of time within which a vote, if ordered, will be taken on amendment No. 1 offered by the gentleman from Wisconsin (Mr. SENSENBRENNER).

The vote was taken by electronic device, and there were—ayes 160, noes 258, not voting 14, as follows:

[Roll No. 23]

AYES—158

Abercrombie
Allen
Andrews
Baca
Baldacci
Baldwin
Barcia
Barrett
Becerra
Berkley
Berman
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Clay
Clayton
Clyburn
Conyers
Costello
Coyne
Cummings
Davis (CA)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Frank
Gephardt
Gonzalez
Green (TX)
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Honda
Hooley
Israel
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)
Lee
Levin
Lewis (GA)
Lowey
Luther
Maloney (NY)
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Moakley
Moore
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Rahall
Ramstad
Rangel
Reyes
Rivers
Rodriguez
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Slaughter
Solis
Spratt
Stark
Stupak
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—251

Aderholt
Akin
Armey
Bachus
Baker
Ballenger
Barr
Bartlett
Barton
Bass
Bentsen
Bereuter
Berry
Biggert
Bilirakis
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boucher
Boyd
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cantor
Capito
Carson (OK)
Castle
Chabot
Chambliss
Clement
Coble
Collins
Combest
Condit
Cooksey
Cox
Crane
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (FL)
Davis, Jo Ann
Davis, Tom
DeLay
DeMint
Diaz-Balart
Dooley
Doolittle
Everett
Ferguson
Flake
Fletcher
Foley
Ford
Fossella
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon

Goss
Graham
Granger
Graves
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Holt
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
King (NY)
Kirk
Knollenberg
Kolbe
LaHood
Largent
Larsen (WA)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lucas (KY)
Lucas (OK)
Maloney (CT)
Manzullo
Matheson
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller, Gary
Mollohan
Moran (KS)
Moran (VA)
Morella
Myrick
Nethercutt
Ney
Northup
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Regula
Rehberg
Reynolds
Riley
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Roukema
Royce
Ryan (WI)
Ryun (KS)
Sanchez
Sandlin
Saxton
Scarborough
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shows
Simmons
Simpson
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Souder
Spence
Stearns
Stenholm
Strickland
Stump
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Traficant
Turner
Upton
Vitter
Walden
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NOT VOTING—13

Ackerman
Baird
Cannon
Cramer
Deal
Inslee
Kingston
McDermott
Norwood
Ros-Lehtinen
Rothman
Snyder
Toomey

□ 1415

Mrs. KELLY, Ms. GRANGER, Messrs. BASS, GOSS, SHOWS, PORTMAN, CUNNINGHAM, TANCREDO, GARY MILLER of California, OSE, HOLT and SMITH of Michigan changed their vote from ''aye'' to ''no.''

Messrs. BLAGOJEVICH, CUMMINGS, COSTELLO and HOLDEN changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. RAMSTAD. Mr. Chairman, on rollcall No. 23 I inadvertently pressed the "yea" button. I meant to vote "no."

AMENDMENT NO. 1 OFFERED BY MR. SENSENBRENNER

The CHAIRMAN pro tempore (Mr. LAHOOD). The pending business is the demand for a recorded vote on amendment No. 1 offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

□ 1415

Mr. CONYERS. Mr. Chairman, I withdraw my demand for a recorded vote.

The CHAIRMAN pro tempore (Mr. LAHOOD). The demand for a recorded vote on amendment No. 1 is withdrawn and the amendment is adopted by the previous voice vote.

So the amendment was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. HANSEN) having assumed the chair, Mr. LAHOOD, Chairman pro tempore 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. 333) to amend title 11, United States Code, and for other purposes, pursuant to House Resolution 71, he reported the bill back to the House with sundry amendments adopted in the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Speaker, I offer a motion to recommit the bill, H.R. 333, with instructions.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. CONYERS. Yes, sir.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. CONYERS moves to recommit the bill (H.R. 333) to the Committee on the Judiciary, with instructions to report the bill back to the House forthwith, with the following amendment.

Page 393, strike line 16 and all that follows through page 403, line 3, and insert the following (and conform the table of contents accordingly):

SEC. 1301. ISSUANCE OF CREDIT CARDS TO UNDERAGE CONSUMERS.

Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended by inserting after paragraph (6) (as added by section 1303 of this title) the following new paragraph:

''(7) APPLICATIONS FROM UNDERAGE CONSUMERS.—

''(A) PROHIBITION ON ISSUANCE.—No credit card may be issued to, or open end credit plan established on behalf of, any consumer who has not attained the age of 21, except in response to a written request or application to the card issuer that meets the requirements of subparagraph (B).

''(B) APPLICATION REQUIREMENTS.—An application to open a credit card account by a consumer who has not reached the age of 21 as of the date of submission of the application shall require—

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

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

Mr. CONYERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

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

There was no objection.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes in support of the motion.

Mr. CONYERS. Mr. Speaker, I offer the motion to recommit on behalf of myself and the gentleman from New York (Mr. LAFALCE).

Our amendment would simply prohibit the issuance of credit cards to persons under age 21 unless a parent acts as co-signer or the minor can demonstrate an independent source to pay the debt.

Right now, our credit card companies are sending millions of credit card solicitations to teenagers every year with sometimes $10,000 lines of credit. The credit cards offer these young people free gifts, toys, tee shirts. It is outrageous.

Financial troubles caused by reckless lending to teens haunt some of them for the rest of their lives, costing them far more when they try to buy a car or home or take out future loans as they become responsible citizens.

So this is not about fingerpointing. It is all our moral responsibility, our children's, ours as parents, Congress', and yes, even the credit card companies, too. This is a moral responsibility that none of us can shirk.

So this commonsense amendment imposes a reasonable requirement on credit card companies that will help our young people immeasurably.

Mr. Speaker, I yield to the gentleman from New York (Mr. LAFALCE), the ranking member of the Committee on Financial Services.

Mr. LAFALCE. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, motions to recommit are usually considered fairly partisan in nature, and usually there are enormous differences between a motion to recommit and the main bill.

This is not partisan, and the differences are not enormous. I hope

Members would vote their consciences on this.

We take the main bill, and I do not like the main bill, I think it is pretty bad. I think there are dozens of predatory practices of the credit card industry we should have dealt with and we did not.

But there is one in particular that is particularly offensive. That is preying on our youth, entering into agreements with colleges where the colleges will get money so they can come onto campus and market to these youth, flooding them with credit card solicitations, $3.5 billion totally. I cannot tell the Members exactly how many went to our college students under 21.

These students are going to gambling establishments, they are going into their rooms using their laptop computers, they are engaging in Internet gambling. They are suffering enormous stress, financial and emotional, and there have been suicides, dropouts from colleges, because the credit card industry deviated from the standards they had just a few years ago: that is, show sufficient income yourself, or have your parents sign the applications. It is as simple as that.

That is all we do. That is all we do in this motion to recommit, say if one is under 21, show independent means or have your parent co-sign. That is the least we could do to deal with the multitudinous predatory practices that exist in the credit card industry.

Mr. SENSENBRENNER. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. SENSENBRENNER) is recognized for 5 minutes.

Mr. SENSENBRENNER. Mr. Speaker, I rise in opposition to the motion to recommit and ask the Members to vote no on this motion.

This motion to recommit proposes an amendment that does not deal with the Bankruptcy Code whatsoever, but amends the truth-in-lending act, as has been described by its proponents.

In most States of this country, including my home State of Wisconsin, the age of majority is 18. When one achieves the age of 18, one is responsible for one's contracts, one can sue and be sued, one can vote, and in many cases can run for and be elected to public office.

What this amendment proposes to say is that in terms of receiving solicitations for credit cards and receiving applications for credit cards, these adults are considered children for 3 more years. What it does is it paints with a broad brush every 18-, 19-, and 20-year-old and says, ''You have to go run to your parents or show independent financial means before you can apply for a credit card.''

So the good kids who would use credit responsibly and learn how to use credit responsibly are not able to get credit cards, just like the bad kids who would use credit irresponsibly.

I would submit to each Member of the House of Representatives that we should not be tarring kids with this broad brush; we should not be telling 18-, 19-, and 20-year-olds that they are adults for every purpose except just this one.

I think what we should be doing is empowering our young people and giving them the educational tools to make good credit decisions, rather than simply saying, The door is shut for you.

Mr. Speaker, I yield to the gentleman from Ohio (Mr. OXLEY).

Mr. OXLEY. I thank the gentleman for yielding.

Mr. Speaker, I also rise in opposition to the motion.

First let me associate myself with the remarks of the gentleman from Wisconsin, the chairman of the Committee on the Judiciary. As chairman of the Committee on Financial Services, I find some of the same concerns that the gentleman from Wisconsin has. We are again talking about people who are of legal age, 18.

I thought it was interesting that the title is, issuance of credit cards to underage consumers. By whose definition are they under age? By Federal law, they can vote. By most State laws, as the gentleman from Wisconsin (Mr. SENSENBRENNER) indicated, they can engage in contracts.

These are, for the most part, responsible people. We are really dealing here with stereotypes that are unfortunate because many of these people are responsible and treat credit in a responsible way, and they learn from their experience.

In Ohio, we had a young fellow just elected to the Ohio General Assembly just out of high school; he was 18 years old, a member of the Ohio General Assembly. Can Members imagine if he wanted to get a credit card to use, he would have to get his parents' consent. Here is a person who was duly elected by the people of Ohio to serve in the General Assembly.

This is I think a well-meaning amendment, but certainly wrongly directed. I would ask that the motion be defeated.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

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

RECORDED VOTE

Mr. CONYERS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of final passage.

The vote was taken by electronic device, and there were—ayes 165, noes 253, not voting 14, as follows:

[Roll No. 24]

AYES—165

Abercrombie
Allen
Andrews
Baca
Baldacci
Barcia
Becerra
Berkley
Berman
Blagojevich
Blumenauer
Bonior
Borski
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson (IN)
Clay
Clayton
Clyburn
Conyers
Costello
Coyne
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Doyle
Duncan
Edwards
Emerson
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Frank
Frost
Gonzalez
Green (TX)
Gutierrez
Hall (OH)
Hastings (FL)
Hill
Hilliard
Hinchey
Hoeffel
Holden
Holt
Honda
Hooley
Hoyer
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kildee
Kilpatrick
Kleczka
Kucinich
LaFalce
Lampson
Langevin
Lantos
Larson (CT)
LaTourette
Lee
Levin
Lewis (GA)
Lipinski
Lowey
Luther
Maloney (NY)
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Millender-McDonald
Miller, George
Mink
Moakley
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Roemer
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schakowsky
Schiff
Scott
Serrano
Sherman
Slaughter
Solis
Stark
Strickland
Stupak
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Udall (CO)
Udall (NM)
Velázquez
Visclosky
Waters
Watt (NC)
Waxman
Weiner
Weldon (PA)
Wexler
Woolsey
Wu
Wynn

NOES—253

Aderholt
Akin
Armey
Bachus
Baker
Baldwin
Ballenger
Barr
Barrett
Bartlett
Barton
Bass
Bentsen
Bereuter
Berry
Biggert
Bilirakis
Bishop
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boucher
Boyd
Brady (TX)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Carson (OK)
Castle
Chabot
Chambliss
Clement
Coble
Collins
Combest
Condit
Cooksey
Cox
Crane
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
DeLay
DeMint
Diaz-Balart
Dooley
Doolittle
Dreier
Ehlers
Ehrlich
English
Everett
Ferguson
Flake
Fletcher
Foley
Ford
Fossella
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (WI)
Greenwood

Grucci
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hinojosa
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kind (WI)
King (NY)
Kirk
Knollenberg
Kolbe
LaHood
Largent
Larsen (WA)
Latham
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lucas (KY)
Lucas (OK)
Maloney (CT)
Manzullo
Matheson
McCrery
McHugh
McInnis
McKeon
Menendez
Mica
Miller (FL)
Miller, Gary
Mollohan
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Riley
Rivers
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Roukema
Royce
Ryan (WI)
Ryun (KS)
Sanchez
Sandlin
Saxton
Scarborough
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shows
Simmons
Simpson
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Souder
Spence
Spratt
Stearns
Stenholm
Stump
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Tiberi
Traficant
Turner
Upton
Vitter
Walden
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weller
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NOT VOTING—14

Ackerman
Baird
Cramer
Deal
Dunn
Gephardt
Inslee
Kingston
McDermott
Norwood
Ros-Lehtinen
Rothman
Snyder
Toomey

□ 1449

Messrs. HORN, MCCRERY and REGULA changed their vote from ''aye'' to ''no.''

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. HANSEN). The question is on the passage of the bill.

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

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 306, nays 108, not voting 18, as follows:

[Roll No. 25]

YEAS—306

Aderholt
Akin
Andrews
Armey
Baca
Bachus
Baker
Ballenger
Barcia
Barr
Bartlett
Barton
Bass
Bentsen
Bereuter
Berkley
Berry
Biggert
Bilirakis
Bishop
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boucher
Boyd
Brady (TX)
Brown (FL)
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
Crane
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (FL)
Davis, Jo Ann
Davis, Tom
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dooley
Doolittle
Dreier
Duncan
Edwards
Ehlers
Ehrlich
Emerson
English
Etheridge
Everett
Ferguson
Flake
Fletcher
Foley
Ford
Fossella
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutknecht
Hall (TX)
Hansen
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hinojosa
Hobson
Hoekstra
Holden
Holt
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Isakson
Israel
Issa
Istook
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kind (WI)
King (NY)
Kirk
Kleczka
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Largent
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Maloney (CT)
Manzullo
Matheson
McCarthy (MO)
McCarthy (NY)
McCrery
McHugh
McInnis
McIntyre
McKeon
Meek (FL)
Meeks (NY)
Menendez
Mica
Miller (FL)
Miller, Gary
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Myrick
Nethercutt
Ney
Northup
Nussle
Ortiz
Osborne
Ose
Otter
Oxley
Pallone
Pascrell
Pastor
Paul
Pence
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Roukema
Royce
Ryan (WI)
Ryun (KS)
Sandlin
Saxton
Scarborough
Schaffer
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Simmons
Simpson
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solis
Souder
Spence
Spratt
Stearns
Stenholm
Strickland
Stump
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Thune
Tiahrt
Tiberi
Traficant
Turner
Upton
Velázquez
Vitter
Walden
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NAYS—108

Abercrombie
Allen
Baldacci
Baldwin
Barrett
Becerra
Berman
Blagojevich
Bonior
Borski
Brady (PA)
Brown (OH)
Capuano
Cardin
Carson (IN)
Clay
Clayton
Conyers
Coyne
Cummings
Davis (CA)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dingell
Doggett
Doyle
Engel
Eshoo
Evans
Farr
Fattah
Filner
Frank
Gutierrez
Hall (OH)
Hilliard
Hinchey
Hoeffel
Honda
Jackson-Lee (TX)
Jones (OH)
Kanjorski
Kaptur
Kildee
Kilpatrick
Kucinich
LaFalce
Lantos
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (NY)
Markey
Mascara
Matsui
McCollum
McGovern
McKinney
McNulty
Meehan
Millender-McDonald
Miller, George
Mink
Moakley
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Owens
Payne
Pelosi
Rahall
Rangel
Rodriguez
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sawyer
Schakowsky
Schiff
Scott
Serrano
Slaughter
Stark
Stupak
Thompson (MS)
Thurman
Tierney
Udall (CO)
Udall (NM)
Visclosky
Waters
Watt (NC)
Waxman
Weiner
Wexler
Woolsey

NOT VOTING—18

Ackerman
Baird
Cramer
Deal
Dunn
Gephardt
Gilman
Inslee
Jackson (IL)
Kingston
McDermott
Norwood
Peterson (MN)
Ros-Lehtinen
Rothman
Snyder
Toomey
Towns

□ 1457

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. GILMAN. Mr. Speaker, earlier today, I was unavoidably delayed by official business during the vote on final passage for H.R. 333. Accordingly, I was unable to vote on rollcall No. 25. If I had been present I would have voted "yea."

Mr. KINGSTON. Mr. Speaker, regrettably, I was unable to be in Washington on March 1, 2001 to cast a vote on H.R. 333, The Bankruptcy Abuse Prevention and Consumer Protection Act of 2001, when it came to the House floor. At President Bush's request, I was attending an event in my home state of Georgia with the President. Had I been here, however, I would have voted in favor of the Bankruptcy Reform bill.

PERSONAL EXPLANATION

Mr. MCDERMOTT. Mr. Speaker, due to the 6.8 magnitude earthquake that struck my district yesterday I have returned to Seattle with the FEMA Director and was unable to vote today.

I would have voted against agreeing to the resolution to consider H. Res. 71 (rollcall No. 22).

I would have voted in favor of the Jackson-Lee amendment (rollcall No. 23).

I would have voted in favor of the motion to recommit (rollcall No. 24).

I would have voted against passage of H.R. 333, the Bankruptcy Abuse Prevention and Consumer Protection Act (rollcall No. 25).

PERSONAL EXPLANATION

Ms. DUNN. Mr. Speaker, I was detained due to being with FEMA Director Joe Allbaugh to assess the damage caused by the earthquake in the Puget Sound. Had I been present, I would have voted "yea" on rollcall No. 22, "no" on rollcall No. 23, "no" on rollcall No. 24, and "yea" on rollcall No. 25.

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.R. 333.

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

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Ms. Wanda Evans, one of his secretaries.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN THE ENGROSSMENT OF H.R. 333, BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2001

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that, in the engrossment of the bill, H.R. 333, the Clerk be authorized to correct section numbers, punctuation, citations and cross references and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending the bill.

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

There was no objection.

LEGISLATIVE PROGRAM

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

Mr. BONIOR. Mr. Speaker, I ask to take this time to inquire from the distinguished majority leader and ask him to clarify the schedule for the remainder of the day, the week, and next week.

I yield to my colleague, the gentleman from Texas.

Mr. ARMEY. Mr. Speaker, I thank the gentleman for yielding.

I am pleased to announce that the House has completed its legislative business for the week. The House will next meet for legislative business on Tuesday, March 6 at 12:30 p.m. for morning hour and at 2:00 p.m. for legislative business. No recorded votes are expected before 6 p.m. The House will consider a number of measures under suspension of the rules, a list of which will be distributed to Member's offices tomorrow.

On Wednesday, March 7, and Thursday, March 8, the House will consider the following measures: H.R. 624, the Organ Donation Improvement Act of 2001; and H.R. 3, the Economic Growth and Tax Relief Act of 2001.

Mr. Speaker, I would like to wish all of my colleagues a safe journey home for the weekend and a pleasant weekend with their families and constituents.

Mr. BONIOR. Mr. Speaker, if I may inquire from the gentleman from Texas, we have been hearing rumors on our side of the aisle that we will be denied an opportunity for a fair and fiscally responsible tax cut substitute when the bill reaches the floor next week. I ask the gentleman from Texas if that is indeed the case.

□ 1500

Mr. ARMEY. Mr. Chairman, will the gentleman continue to yield.

Mr. BONIOR. I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Speaker, I appreciate the gentleman asking that, and it is unfortunate when there are rumors that are upsetting the Members.

The fact of the matter is the rule that governs consideration of that bill will be drafted in the Committee on Rules, and there has been no determination from the committee regarding that. I really cannot, in fact, predict or even suggest what the rule would look like except that it would be, I should think, and we would expect it to be consistent with what the Committee on Rules has done in the past.

Mr. BONIOR. Well, I would say to my friend that that leads me to be even more suspicious of what may transpire next week or in the Committee on Rules.

I just want the gentleman from Texas to know that we would consider it a real breach of bipartisanship. And our reaction to not being able to offer on our side of the aisle, on behalf of 211 Members of Congress that represent quite close to half the population in this country, a substitute that would express our views on how we want to give money back to people, put money in their pockets, if that is not made available to us, I would assure the gentleman from Texas that there will be a very, very negative reaction on this side of the aisle.

I think that the gentleman, per his comments on precedent, can look back and see that when there were examples of tax bills that came to the floor in the past, in fact when we were in the majority, did make available at various times, and I recall certainly during when President Bush was in the White House, during the late 1980s and early 1990s, we were able to do that for the minority. We expect to have the same kind of courtesy and the same type of response when we come to the floor next week.

We would be sadly and terribly disappointed and angry, if I might say so, if we do not have a chance to voice our view on behalf of 211 Members in our caucus.

Mr. ARMEY. Mr. Speaker, if the gentleman will continue to yield, there certainly can be no failure on the part of this gentleman to perceive from the manner in which the gentleman from Michigan has just expressed that that would indeed be the case.

But the gentleman from Michigan, having served on the Committee on Rules while in the majority, must certainly be very well aware of the fact that the Committee on Rules does now, as it did then, take its responsibility and its prerogatives seriously. The rule will be written by the Committee on Rules in the Committee on Rules. I am just sorry to say that this gentleman cannot predict what the Committee on Rules will do at that time.

I am sorry that there is a rumor out there, but I have told the gentleman as candidly and straightforwardly as I can that the Committee on Rules has not met on this subject; that I have not discussed the subject of this rule with any member of the Committee on Rules; and I have no basis to project what the Committee on Rules would do except to observe what has been in fact the history of practices with the Committee on Rules with respect to rules of bills of this nature.

Mr. BONIOR. Mr. Speaker, I would say to the gentleman from Texas, having served for 14 years on the Committee on Rules, the Committee on Rules is an extension of the leadership. It is a leadership committee. And I am sure the gentleman from Texas is not telling me on the floor this afternoon that he has no input into what is going to happen up in the Committee on Rules, because I know, and I think everybody in this institution knows, that the gentleman from Texas and the Speaker and the majority whip, in fact, do have an input, always have had an input on what decision is being made up in the Committee on Rules, especially on such an important issue as a major, major tax bill.

So we expect to be treated with dignity and with fairness, and that means having an opportunity, win or lose, to offer a substitute to what the President and the Republican Party wants to offer.

Mr. ARMEY. Mr. Speaker, I do appreciate the gentleman's point. I mean the

gentleman is being quite firm, but the fact of the matter is the chairman of the Committee on Rules does meet with the leadership, usually on Tuesday, to sit down and discuss a bill of this importance and the rule that would be drawn. And, yes indeed, in the Republican leadership model there is leadership input.

But the Committee on Rules is in fact a committee of very competent and able people who are quite able to make a final determination for themselves. That determination will be made by the Committee on Rules, and I do hope and expect with input, suggestions, recommendations from House leadership. I am just sorry to report to the gentleman there has been no such meeting now, and any rumors one has heard to the contrary should have very little credence in light of the fact that no such meeting to discuss this matter has taken place.

Mr. STENHOLM. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Texas.

Mr. STENHOLM. Mr. Speaker, I thank my friend for yielding to me, and I would like to ask a question of the distinguished leader, my friend from Texas.

There has been a decision made, apparently by the leadership to which you refer, that we shall not follow the precedent and the history of the House regarding having a budget on the floor and discussed and debated before we get into significant parts of the budget, as the gentleman has indicated next week we will be voting on H.R. 3, which is a major, major tax bill with tremendous implications for Social Security, Medicare, defense, agriculture, and many other areas.

My question to the gentleman is, Under what history and precedence of the House has the leadership decided to bring forward a major tax bill before we have had an opportunity to have a good bipartisan discussion of the budget?

Mr. ARMEY. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Texas.

Mr. ARMEY. I do appreciate the gentleman from Texas' inquiry. I believe if one sought history and precedence for this decision, which in fact I would find no need to seek, one could find that in the consideration of the marriage penalty bill just last year.

Mr. STENHOLM. Mr. Speaker, will the gentleman continue to yield?

Mr. BONIOR. I yield to the gentleman from Texas.

Mr. STENHOLM. Mr. Speaker, I would advise the majority leader that that is precisely what bothers me about this particular decision this year. Because now we have a tremendous potential problem with dealing with projected surpluses of $5.6 trillion, 70 percent of which will not occur until the years 2007, 2008, 2009, and 2010. Yet next week I believe the leadership decision has been made that we are going to discuss the utilization of that.

I know the gentleman will say we are going to discuss giving back to the American people some of which they have already paid. I am for that. I know of no one as yet that is not for that. But it seems to me that we are getting the cart before the horse when we come with that bill first without first dealing with the budget so that we might in fact conservatively deal with the future economics of this country.

Mr. ARMEY. If the gentleman from Michigan will continue to yield, and I do appreciate the gentleman yielding for the points made by the gentleman from Texas (Mr. STENHOLM), but let me just say with regard to the President's budget proposal of $1.6 trillion over the next 10 years in tax relief for the American people that we have under consideration in the Committee on Ways and Means right now a bill which would be only one of the seven items proposed by the President in his proposal that would amount to under $1 trillion over the next 10 years. That would still leave a $600 billion cushion between that and the budget, which we are confident will also, as passed by the House, call for $1.6 trillion.

So there is ample room to be certain that whatever is passed in the House on this floor, on the subject of tax reduction for the American people, will fit nicely within the parameters of the budget that will be acted upon by this body.

Mr. STENHOLM. If the gentleman from Michigan will continue to yield briefly for the majority leader's response. Precisely why we are having this kind of discussion today in dealing with these kinds of numbers is why some of us feel very strongly that there is a tremendous mistake about to be made if we get into these kinds of decisions before we have had the kind of open and honest debate in the Committee on the Budget in a bipartisan way and on the floor of the House in a bipartisan way, before we have committed as yet undetermined projected surpluses.

Some of us feel very strongly that we are making a mistake, and I hope my friend from Texas will have a good two or three nights sleep on this question and will come to a little different conclusion before we make that mistake next week.

Mr. ARMEY. Again, I appreciate the comments made by the gentleman from Texas. I understand the concern he has. I served in this body for 10 years in the minority. For 10 years in the minority I often found that I had disagreements, oftentimes heartfelt disagreements, with the manner in which the majority scheduled the business of the House. But the one inescapable fact that I had to live with for all those 10 years was the fact that it was the majority's prerogative to schedule the business of the House.

Mr. BONIOR. Reclaiming my time, Mr. Speaker, I am not arguing with the scheduling of the business, although I agree with the gentleman from Texas (Mr. STENHOLM). I would say to the majority leader that we should have a budget before we do this tax bill. It is what good common sense and what good families do when they plan their resource distribution. They put a budget down together before they decide on how they want to distribute it.

The President of the United States stood up there and gave a speech to us within the last week in which he quoted Yogi Berra when he said Yogi Berra said, ''When you come to the fork in the road, you ought to take it.'' He probably should have quoted Yogi Berra when Yogi Berra said, ''This is deja vu all over again.'' Because what we are about to do here, Mr. Speaker, without a budget first, we are going to go right to a tax bill where the numbers are in great dispute in terms of what the projections are going to be in the year 2007, 2088, 2009 and 2010.

We do not know that. We cannot predict the weather in the years 2007, 2008, 2009, and 2010. OMB has been wrong continually on their projections; and here we are rolling the dice like we did in 1981, assuming the money is going to be there, and the fact of the matter is we do not know that. That is why it is important for us to lay a budget out before we move ahead with a tax bill.

Now we are being told, not by the gentleman from Texas (Mr. ARMEY), because he has been forthright and he has said he does not know what he is going to do on the rule, but I gather from the gentleman's remarks and what I have heard on the floor in the last couple of days, is we are going to be shut out of even offering what we think is a more responsible and fiscally prudent substitute to deal with that question of exploding deficits, particularly in the out years, and putting us back into the deja-vu-all-over-again 1981 situation that we found ourselves in, and which took 15 years to dig ourselves out of debt from.

So the gentleman needs to understand, and I hope he does from the passion in our voices here this afternoon, that we want to be treated fairly. And if we make our case and we lose on the House floor, fine, that is the way this place is supposed to work. But if we do not get a chance to offer on behalf of 211 Members who were elected, as the gentleman was and his colleagues were, we feel aggrieved and we should be angry about it.

So I just plead with the gentleman, as we start this new Congress with this very important bill, that the gentleman goes back to his leadership meeting with the gentleman from California (Mr. DREIER), the Speaker, the

gentleman from Texas (Mr. DELAY), and whoever else is in there, the gentleman from California (Mr. THOMAS) and the whole crowd, and the gentleman allows us to offer a substitute.

We know that the majority is probably going to win this vote. We are not naive. The gentleman has the majority on his side of the aisle. But we want the American people to understand that there is another viewpoint here. And for the gentleman to shut us off and not allow us to debate for at least an hour our view on a very important issue that is going to affect us perhaps for not only years but decades to come, I think it is, if I may say so, the height of irresponsibility and not in keeping with the bipartisan tone in which the President of the United States has been so proudly displaying and advocating over the course of the last couple weeks.

Mr. ARMEY. If I may, Mr. Speaker, let me just say the gentleman from Michigan makes a good point. I understand that rumors can be upsetting and I regret that. But I still, nevertheless, in light of the rumor, the gentleman is, on behalf of his party, correct to come to the floor and make the points he has made, and I respect that. I can only tell the gentleman with respect to that question, which I think is a very important question for him to raise here today, that the gentleman's views have been expressed very clearly here. I see no way that the Republican leadership in the Committee on Rules when they meet on that can be unaware of how strongly they have been expressed. Let me thank the gentleman for that.

If I may have just one more moment on the matter of the points raised by the gentleman from Texas (Mr. STENHOLM) with respect to scheduling consideration of the tax bill relative to the budget bill.

□ 1515

His position is well known to us, has been well known to us, and has been expressed by people on this side of the aisle. We have been and are cognizant of that position as we plan the legislative schedule for the next few weeks. It is not a position that has not been considered. It is a position that has been weighed well, as raised by people on both sides of the aisle. Still in light of those considerations, we have made these scheduling decisions. We are quite comfortable to proceed on that. We understand that they will be disconcerting and upsetting to Members, but we believe in the interest of managing the business of this House, that is the best way to proceed and I would hope that the gentleman could accept that.

Mr. BOYD. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Florida.

Mr. BOYD. I thank the gentleman from Michigan for yielding.

Mr. Speaker, not to belabor the point, but I want to make a quick point that maybe has not been made. That is, that there are many on this side of the aisle that happen to agree with the President and many of the initiatives that he laid out in his speech on Tuesday evening and also in his budget he has presented, including strengthening our defense, including improving our educational system, including writing and implementing a prescription drug program, including helping assisting our veterans on their health care needs, including agricultural baseline needs that we know will exist, and also including his position on demeanor and the way he deals with people in a bipartisan way. It is refreshing. I know many of us on this side of the aisle have had many meetings with him since he has become President, including this Member, and with his staff to work on these issues.

I would simply say to the majority leader that I believe that most responsible people would think that it would be the proper thing to do to develop the budget, that is what the regular order of the rules of the House call for, prior to picking out a very small portion of that financial plan to pass which may seriously affect the way you do the other part. That is the only thing that I would say to the distinguished gentleman from Texas. There are a group of us that feel very strongly about that.

Mr. ARMEY. If the gentleman will yield further, again I appreciate that. I hope the gentlemen on his side of the aisle and my side of the aisle that feel so strongly in terms of this operational management model will abide with us in our interest of signaling to the American people on this tax reduction, this tax relief, that help is on the way. We want to get that signal out there early. We believe we can do that and be perfectly consistent with the requirement that in the end, as we work our way through this, it must all be reconciled to the budget that is passed by this body, the other body, and, of course, reconciled between the two bodies. There, of course, is no getting around that. So no matter how early we might act on any one part of it, in the end we will have that full reconciliation that I think would be a comfort to his concerns.

REPORT ON STATUS OF FEDERAL CRITICAL INFRASTRUCTURE PROTECTION ACTIVITIES—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mr. SIMMONS) 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 Government Reform:

To the Congress of the United States:

Pursuant to section 1053 of the Defense Authorization Act of 2001 (Public Law 106–398), enclosed is a comprehensive report detailing the specific steps taken by the Federal Government to develop critical infrastructure assurance strategies as outlined by Presidential Decision Directive No. 63 (PDD–63).

This report was drafted by the previous Administration and is a summary of their efforts as of January 15. However, since this requirement conveys to my Administration, I am forwarding the report.

Critical infrastructure protection is an issue of importance to U.S. economic and national security, and it will be a priority in my Administration. We intend to examine the attached report and other relevant materials in our review of the Federal Government's critical infrastructure protection efforts.

GEORGE W. BUSH.

THE WHITE HOUSE, *March 1, 2001.*

ADJOURNMENT TO MONDAY, MARCH 5, 2001

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 2 p.m. on Monday next.

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

There was no objection.

HOUR OF MEETING ON TUESDAY, MARCH 6, 2001

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, March 5, 2001, it adjourn to meet at 12:30 p.m. on Tuesday, March 6, 2001, for morning hour debates.

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

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

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

There was no objection.

CELEBRATING 40TH ANNIVERSARY OF PEACE CORPS

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

Mr. FARR of California. Mr. Speaker, I rise also with the gentleman from New York (Mr. WALSH) to celebrate the 40th anniversary of the Peace Corps. It was founded on March 1, 1961 when President John F. Kennedy signed the legislation launching the Peace Corps.

Since then, more than 162,000 Americans have served and returned to this United States, having served in 134 different countries. Six now serve in the House of Representatives, three Republicans and three Democrats: the gentleman from Wisconsin (Mr. PETRI), the gentleman from Connecticut (Mr. SHAYS), the gentleman from New York (Mr.WALSH), myself, the gentleman from Ohio (Mr. HALL), and the gentleman from California (Mr. HONDA).

More than 67,000 volunteers are in the field today teaching in elementary schools, high schools and technical schools, building water systems and agricultural co-ops, teaching health care, and treating people in need.

But, Mr. Speaker, we need to do more. The demand for the Peace Corps is at an all-time high. More host countries want volunteers. The interest in serving in this country is at an all-time high. In fact, only about one out of nine people that have shown interest have a space abroad, because Congress has not fully funded the Peace Corps. The goal was to have 10,000 volunteers in the field by 2000. We only have 7,000. We need to do a better job. Fully fund the Peace Corps.

Mr. Speaker, it has been 38 years since I joined the Peace Corps, and I rise today to celebrate the 40th anniversary of the Peace Corps.

It was started on March 1, 1961, when President Kennedy signed the legislation launching the Peace Corps—establishing a bold and hopeful experiment to allow Volunteers to bring practical grassroots assistance to the people of developing nations to help them build a better life for themselves and their children.

Forty years later, the Peace Corps has succeeded beyond everyone's expectations.

Today there are more than 162,000 returned volunteers in the United States, six of whom serve in the House of Representatives and two in the United States Senate. They have served in 134 different nations, making significant and lasting contributions from Armenia and Bangladesh to Uzbekistan and Zimbabwe.

There are more than 7,000 Volunteers that are now living and working overseas. They are addressing critical development needs on a person-to-person basis: working with teachers and parents to teach English, math and science; helping spread and gain access to clean water; to grow more food; to help prevent the spread of AIDS; to help entrepreneurs start new businesses; to train students to use computers; and to work with nongovernmental organizations to protect our environment. Above all, Volunteers leave behind skills that allow individuals and communities to take charge of their own futures.

In our increasingly interconnected global community, Peace Corps Volunteers also promote greater cross-cultural awareness, both in the countries in which they serve and when they return home. As they work shoulder to shoulder with their host communities, Volunteers embody and share some of America's most enduring values: freedom, opportunity, hope, progress. It is these bonds of friendship and understanding that they create that can build the foundations for peace among nations.

And I can personally testify that the best service that is given to the Peace Corps is the continuation of service to our communities when we all come home. Today, because of the anniversary of the Peace Corps, thousands of returned Volunteers are visiting schools and local communities throughout the United States, sharing the knowledge and insights gained from their experiences abroad and passing along the value of services to others.

As we have learned around the world, the best way to support a democracy is to help development at the local level. Meanwhile, America's young and old, single and married, would like to serve their country, humanity and democracy. The Peace Corps is one of the most effective mechanisms for uniting these two ideals. This is an asset we should not let go to waste.

On this 40th anniversary of the Peace Corps, please join me in honoring all Volunteers, past, present, and future, and in celebrating their four decades of service to the world. The Peace Corps has served its country well, and we should all be proud.

CONGRATULATING MOST REVEREND EDWARD M. EGAN, ARCHBISHOP OF NEW YORK, ON HIS ELEVATION TO THE DIGNITY OF CARDINAL

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

Mr. GRUCCI. Mr. Speaker, it is with great pleasure that I rise today to congratulate the Most Reverend Edward M. Egan, Archbishop of New York, upon his elevation to the dignity of Cardinal. It is most fitting that Cardinal Egan is the successor of the late John Cardinal O'Connor. New York's new Cardinal is well aware of the legacy left by his predecessor and he is well prepared to continue and strengthen that legacy. He too is dedicated to the dignity of all peoples and to caring for those who are most scorned or ignored by society.

Cardinal Egan has the wonderful ability to nurture and develop a sense of social justice among his fellow Catholics. As was the case with Cardinal O'Connor, he understands and deeply respects the values inherent in a multicultural and multireligious community. He has a deep and abiding respect for and dedication to education.

As he assumes his leadership role in the great Archdiocese of New York, it is right for us to wish him success in making this great community a more human, more caring and more believing community of brothers and sisters.

I ask my colleagues to please join me and all the members of the Archdiocese of New York in congratulating the Most Reverend Edward M. Egan upon his elevation to the dignity of Cardinal.

REGARDING THE DISTRICT OF COLUMBIA RETROCESSION ACT

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

Mr. REGULA. Mr. Speaker, today I am introducing H.R. 810 to retrocede the District of Columbia to the State of Maryland, minus the Federal portion of the city. The city has the bumper slogan of ''taxation without representation.'' This bill will provide taxation with representation for the residents of D.C. I think that this would be a great move forward for the people of this community. It would give them access to all the services of the State of Maryland and also an opportunity to elect a Congressperson, to vote on two United States Senators and to vote on members of the State legislature in Maryland.

The retrocession would create the fourth largest regional market in the United States between Baltimore and Washington. Does it work? In Canada there is a prime example of how this proposal could and would work. Its capital, Ottawa, lies in the province of Ontario and sends representatives to the provincial parliament in Ontario as well as the federal parliament as part of the Ontario delegation. It works very well for our neighbor Canada and I think it would work very well for the United States. Most importantly, it would give the people of the District of Columbia the right to vote, to have taxation with representation.

Mr. Speaker, two hundred years have passed since District of Columbia residents lost their right to vote. Despite the ratification of the 23rd Amendment in 1961, which returned their right to vote for President, District residents still lack voting representation on the floor of Congress. To increase national awareness of this situation, the District recently changed the slogan on its automobile license plates to read ''Taxation Without Representation.''

Today, I am once again introducing a bill that I strongly believe is the best solution to this problem, especially given the failure of other alternatives. This legislation would return the District of Columbia, barring a small federal enclave, to the State of Maryland.

The District of Columbia was originally comprised of territory ceded by the states of Virginia and Maryland. The Virginia portion was retroceded back to that state in 1846. Under this bill, the remaining territory, excluding a small enclave encompassing the White House, Congress, the Supreme Court and most executive agencies, would be returned to Maryland.

Retrocession would be mutually beneficial for both the District and the State of Maryland. It would finally give District residents a voting U.S. Representatives as well as two U.S. Senators. In addition, they would have further representation on the state level in Maryland. Beyond these political gains, District residents would stand to benefit from Maryland's larger and more established state infrastructure of facilities, services and assistance programs.

Maryland stands to gain as well. It most certainly would receive an additional seat in the House of Representatives, thus increasing its influence in Congress. Economically, Maryland would gain an area that boasts the nation's 2nd highest per capita income. Retrocession would create the 4th largest regional market in the country between Baltimore and Washington.

Canada offers a prime example of how this proposal could and would work. Its capital, Ottawa, lies in the province of Ontario and sends representatives to the provincial parliament in Toronto as well as the federal parliament as part of the Ontario delegation.

We need to come up with a practical and realistic solution to restore the full democratic rights of District residents. Efforts to give the District delegate full voting rights have not succeeded. I believe this legislation is the only reasonable option left to end Taxation Without Representation in the nation's capital.

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.

DISTRICT OF COLUMBIA RETROCESSION ACT OF 2001

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. HORN) is recognized for 5 minutes.

Mr. HORN. Mr. Speaker, I am pleased today to join my colleague, the gentleman from Ohio (Mr. REGULA), in introducing the District of Columbia Retrocession Act of 2001, H.R. 810. This legislation, long championed by the gentleman from Ohio (Mr. REGULA), would provide an immediate, practical solution to a serious problem, the lack of full voting rights for citizens of the District of Columbia.

The gentleman from Ohio (Mr. REGULA) first introduced this legislation in the 101st Congress and has renewed it in each succeeding Congress in an effort to return the District of Columbia, with the exception of a small Federal enclave, to the State of Maryland. The goal, which I strongly support, is to restore the basic rights of representative democracy to District of Columbia residents.

Residents of the District lost their voting rights in 1800 when Congress took control of areas ceded by the States of Maryland and Virginia to form the new Federal District as a permanent home for our national government. In 1961, a partial restoration of voting rights was provided by the 23rd Amendment to the Constitution. That amendment gave District of Columbia residents the right to vote for President but not for voting Members of Congress, either Representatives or Senators.

Since that time, there have been endless and fruitless talks about either statehood for the District or some other means to provide full and permanent representation in the House and with the Senate.

The legislation we are offering today would cut through this logjam by retrocession of a part of the current District as a Federal enclave containing the White House, Congress, the Supreme Court and most of the executive agencies.

The rest of the current District would be returned to the State of Maryland, just as the portion of the District west of the Potomac was returned to Virginia in 1846. By making this statutory change, we can restore full voting rights to every resident of the District of Columbia. Every resident would run and vote at least for one United States Representative and two United States Senators.

In addition, they would have the representation at the State level in Maryland. In addition, the gentleman from Ohio (Mr. REGULA) rightly points out that the D.C. residents would gain other benefits by becoming a part of Maryland's established economic and educational infrastructure and judicial system. The District would be able to reduce and streamline its bureaucracy to eliminate duplicating functions that the State of Maryland already performs for its citizens. At the same time, Maryland would gain economically and politically from retrocession.

District residents pay at least $1.6 billion in personal and property taxes and the Baltimore-Washington area would become the fourth largest regional market in the country.

In addition, Maryland would gain at least one seat in the House of Representatives, extending its influence in Congress.

Mr. Speaker, I would note that other benefits come from this legislation. Under the current arrangement, Congress exercises extensive oversight and even direction of District of Columbia governmental activities. Due to its unique status, the District has never attained the full powers and rights of a city and it has never been covered by the authority we accord to every State. The ambiguous status given to the District, under current arrangements, invites both internal confusion and uncertainty and external interference from Congress. We need to end the unnecessary difficulties that this creates by giving the District the full powers of a city within the full rights of a State. This legislation would achieve that goal and it could do so immediately.

It does not require passage and ratification of a constitutional amendment or the surmounting of any other impossibly high barrier to a solution. This is a sound and sensible approach that would benefit all concerned. I urge my colleagues to support it.

When my great grandfather came from Ireland to the District of Columbia, he could not vote then, but in the 1870s the District was permitted to vote, and for about 3 years he marched down there with top hat and tails because he was so proud to have the franchise. We do not have that franchise and we need to do it for the people that live within the District of Columbia, and we need to return that portion that was given from Maryland back to Maryland.

HUMAN RIGHTS COMMISSION OF PAKISTAN SAYS ABUSES GETTING WORSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, within the last week, a report investigating the state of human rights in Pakistan was released showing that no significant improvements have been made to restore a democratic government in that country. In fact, Mr. Speaker, there is growing evidence that seems to suggest that General Musharraf will put off national elections perhaps until January 2003, the deadline required by the nation's Supreme Court.

Mr. Speaker, I have come to the House floor numerous times over the last couple of years to voice my strong opposition to a 1999 coup that ended democratic rule in Pakistan. In October 1999, Pakistan Army Chief Musharraf led a coup against civilian Prime Minister Sharif and then proclaimed himself the nation's chief executive. Musharraf also suspended Pakistan's constitution as well as its representative bodies, including the National Assembly and the Senate. Musharraf says he will abide by the Supreme Court's deadline to return the nation to democratic rule, but I do not believe that January 2003 is soon enough.

Mr. Speaker, the U.S. Congress should voice its opposition to the Pakistani coup. We should go on record and collectively state that we will not tolerate the overthrow of an elected government. I cosponsored a resolution back in 1999 with former Congressman Sam Gejdenson of Connecticut that would accomplish this goal. The resolution was approved by the Committee on International Relations less than a month after it was introduced and less

than a month after the coup. Unfortunately, after passing in committee the legislation was never seen again and never came to the floor of the House for a final vote.

I must say, Mr. Speaker, I am ashamed that the 106th Congress never went on record in opposition to the coup in Pakistan, and I would still like this Congress to do so in light of these latest reports. The ability of the military to seize power away from an elected government should not be tolerated.

The human rights report, released this week by the State Department, which included some documentation collected by the independent group, the Human Rights Commission of Pakistan, said that, quote, citizens continued to be denied the right to choose or change their government peacefully.

The report also included disturbing news that the Musharraf regime has taken, quote, steps to control the judiciary and to remove itself from judicial oversight. This so-called control over the judiciary could explain the reason why the nation's Supreme Court gave Musharraf 2 years to rule.

Another concern, Mr. Speaker, was that human rights abuses, which have been a problem in Pakistan for years, have not improved, even though goals were set at a conference on human rights at the beginning of last year. I should point out that Musharraf was very critical of human rights abuses that occurred under Sharif's watch, but after more than a year in office, Musharraf has not made any significant changes.

Mr. Speaker, other major human rights violations are also taking place across the border by General Musharraf and his government in India's state of Jammu and Kashmir. Pakistan's role in sowing death and destruction has been going on for years, but received world attention in 1999 when Pakistani military leaders, many of whom were involved in that year's coup d'etat, precipitated a major crisis by unleashing an attack against Indian positions in the area of Kargil, along the Line of Control that separates Indian and Pakistani controlled areas of Kashmir. Pakistan's actions were condemned by the United States and the international community, and Pakistan was forced to essentially withdraw. Over the past 2 years, the attacks by Pakistani forces on Indian army positions have continued, causing casualties on both sides and threatening the stability of the entire South Asia region.

Another State Department report, released last year and investigating terrorism around the world, notes that ''Kashmiri extremist groups continued to operate in Pakistan, raising funds and recruiting new cadre.'' It blames these groups for numerous terrorist attacks against civilian targets in India's state of Jammu and Kashmir.

Mr. Speaker, I am also concerned that Pakistan is becoming a breeding ground for terrorists and the training of terrorist activities. That same State Department report looking at terrorist activities around the world found that the locus of terrorism directed against the United States continued to shift from the Middle East to South Asia.

Mr. Speaker, each of these reports sheds light on what is really going on in Pakistan. It is important that we not only be aware of these situations but also be willing, both the new Congress and the new administration, to call upon the current government in Pakistan to change the situation.

□ 1530

PERMISSION TO MOVE REMARKS

Mr. HORN. Mr. Speaker, I ask unanimous consent that my 5 minutes follow the 1-minute speech of the gentleman from Ohio (Mr. REGULA), since we are talking on the same subject.

The SPEAKER pro tempore (Mr. SIMMONS). Is there objection to the request of the gentleman from California?

There was no objection.

FREEDOM OF ASSEMBLY, FREEDOM OF SPEECH, FREEDOM OF PRESS CANNOT BE COMPROMISED IN UKRAINE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, I rise this evening to report to my colleagues and to our country indeed on an extremely troubling event that occurred early this morning in the nation of Ukraine, the most important strategic nation in Central Europe today.

What happened was that Ukrainian police, and I am quoting from an international news report, launched an early morning strike on opponents of President Leonid Kuchma, swiftly pulling down a makeshift tent camp which had become a focus of protests against that country's leader.

I might add, having just returned from that country, those demonstrators were peaceful; they were living in freezing temperatures, in tents; and they have a right to assemble; they have a right to speech; they have a right to express their opinion.

The news report goes on, as police tore down the tents, demonstrators tried to wrest back meager belongings which were dumped into lorries. Those resisting were manhandled into the back of unmarked gray trucks. Several protestors waving the blue and yellow Ukrainian national flag threw themselves desperately in front of the vehicles before being dragged away. Four hundred police arrested 100 peaceful demonstrators. The demonstrators, who have braved months of freezing temperatures and alleged harassment in one of the most potent symbols of resistance against that country's President, vowed not to give up.

Two hundred people, bystanders, watched as officers rapidly dismantled the camp. They were shouting, shame on the police. Most seemed stunned by the action against the peaceful tent dwellers.

I have some pictures here from the international press showing the arrest of peaceful demonstrators.

Now, politically I may not agree with some of those demonstrators in terms of their ideology. Some may be of the far right or the far left. It really does not matter. They have a right to assemble. The government of Ukraine is saying, well, the courts of Ukraine ordered them to be dismantled because they were assembled in a part of the city where they did not have a permit. Having been there, I can say they were large sidewalks. They were not bothering anybody. It was in a median strip.

The question is, why would that government choose to forcibly remove these demonstrators at this time?

Our delegation, having just returned from Ukraine, spent over 2 hours with the President of that country offering the President the help of the West and getting at the bottom of what was causing the demonstrators to assemble, and that is the beheading of a journalist in that country and the possible implication of the President of that nation in that terrible act.

We offered the President advice, saying that transparency in investigation, objectivity in investigation, could raise the confidence level of his own people and, in fact, all freedom-loving peoples. We received his assurance that freedom of assembly would not be marred, that freedom of speech would be able to continue, that freedom of press would be allowed.

We said we would come back here to Washington and offer a resolution in which we would support those principles being maintained in that country as it emerges into a more democratic arrangement, and yet today we hear about this awful act in that country.

Now, as we develop this resolution, as Members of this body, we are going to word a stronger resolution because we believe that regardless of an individual's views, one cannot compromise freedom of assembly; one cannot compromise freedom of speech; one cannot compromise freedom of press.

I would urge in the strongest possible terms the government of that nation to find a central place in which these demonstrators might be allowed to express their opinions. They were not even talking. They were merely staying in tents in cold weather.

The government says, well, there were no toilets in the area. Let me say, respectfully, in many places there are no toilets in that country.

It is important that freedom be allowed to emerge. The West has to be a strong voice for freedom of assembly, the very principles that allow a democratic nation to emerge. Again, we would offer to the President of Ukraine all of the institutions that this country has to offer, with our friends in the OSCE, the Organization of Security and Cooperation in Europe; to have a thorough and impartial investigation; to raise the confidence level of citizens of Ukraine and citizens of the free world everywhere that investigations are being pursued thoroughly, completely, in a fair-minded and open manner.

To do this, to take this action, is a terrible, terrible sign to the West, and we ask that government to please provide an area for people to freely demonstrate.

[From the New York Times, Mar. 1, 2001]

UKRAINIAN POLICE TEAR DOWN ANTI-KUCHMA TENT CAMP

KIEV.—Ukrainian police launched an early morning strike on opponents of President Leonid Kuchma on Thursday, swiftly pulling down a makeshift tent camp which has become a focus of protests against the country's leader.

To cries of ''Shame, shame'' and ''Kuchma out!'' from bystanders, some 400 policemen took about an hour to surround and evict around 100 occupants from some 50 tents on Kiev's elegant Kreshchatyk street.

The camp was set up in December by protesters demanding that Kuchma investigate the mysterious death of a journalist, which has triggered a huge scandal in Ukraine.

The United States and European Union have expressed concern over the case and Kuchma's office published a letter from George W. Bush, during the Ukrainian leader to pursue reform and respect the rights of individuals.

As police tore down the tents, demonstrators tried to wrest back meager belongings, which were dumped into lorries. Those resisting were manhandled into the back of unmarked gray trucks.

Several protesters waving the blue and yellow Ukrainian national flag threw themselves desperately in front of the vehicles before being dragged away.

The demonstrators, who have braved months of freezing temperatures and alleged harassment in one of the most potent symbols of resistance against Kuchma, vowed not to give up.

''We'll put them back up. I can't say right now how quickly, but we'll be back,'' said a visibly-shaken Yuri Lutsenko, one of the leaders of the Ukraine Without Kuchma movement.

Around 200 people watched as officers rapidly dismantled the camp, several shouting ''Shame on the police.'' Most seemed stunned by the action against the peaceful tent-dwellers.

Lutsenko, whose movement includes opposition parties, rights groups and ordinary citizens, said 40 protesters were arrested. Police spokesman Olexander Zarubytsky said 15 people had been charged with preventing officials from carrying out their duties.

The scandal was sparked when journalist Georgiy Gongadze, who was critical of Kuchma's rule, went missing. It intensified when a headless corpse was found outside Kiev in November.

CASE OF THE HEADLESS CORPSE

Kuchma's involvement was alleged when opposition politicians published tapes in which a voice similar to his was heard giving orders to ''deal with'' the reporter.

Austrian experts said on Wednesday that they could not verify that the voice was Kuchma's.

But the International Press Institute, a press freedom group, said that after nearly two months of deliberation it seemed hard to believe that the hundreds of hours of expletive-strewn recordings had been faked.

Kuchma denies all involvement but this did not prevent the U.S. and European statements of concern, as well as those from international human rights groups.

The Ukrainian president's office said the letter from Bush urged Kuchma to pursue reform and respect the rights of individuals. It also said the United States was ready to help Ukraine get through its current difficulties.

The tent dwellers, whose eviction had been ordered by a Kiev court, accused police of violating their freedom.

''You should have more respect for the constitution,'' one shouted as he was carried off by around 20 police.

''It is unbelievable, I am an invalid and he is pushing me around,'' said Vitaly Yushevich, who was pulled out of his tent by a burly police officer and bundled out of the camp.

Police said the protesters' belongings would be returned.

''We are carrying out the court's orders. . . . All the tents' occupiers will be able to claim their property back later,'' said a police officer at the scene.

GOVERNMENT'S DEMAND AND APPETITE FOR MONEY CAN NEVER BE SATISFIED

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, we see on an almost daily basis here in the Congress that government's demand or appetite for money can never be satisfied. I believe if we gave a department or agency twice what they were asking for, they might be happy for a short time but they would soon be back crying about a shortfall in funding. However, the message we need desperately to get out is that everyone is better off the more money that can be left in the private sector. More jobs are created and prices are lower the more money that is left in the private sector.

The most economical, most efficient way to spend money, the biggest bang for the buck so to speak, is to leave more money in private hands. This is because even though there is waste and inefficiency in the private sector, it pales in comparison to the waste and inefficiency within government, especially the Federal Government.

This has been proven all over the world throughout history. The countries with the best economies and the greatest progress have always been and continue to be the Nations with the lowest percentage of their total national income going to the government. The opposite is also true. The countries with populations closest to starvation or the lowest standard of living have always been countries where the government has taken most of the money, such as Cuba, several African nations, the former Soviet Union and others.

Also, big government produces a very small, elite class at the top and a huge starvation or under class. Probably the thing big government is best at is wiping out the middle class and creating huge differences between the rich and the poor. A small government such as in the U.S. prior to the mid-1960s produces a huge middle class. This is just part of why it is so important to pass President Bush's tax cut. The people are paying in a huge tax surplus. They not only deserve some of it back, but everyone will be better off and our economy will be stronger in the long run if we can get more money back into the private sector.

I realize that some big corporations are mad at the President now because his plan has no corporate tax breaks but is going entirely for individuals. However, the average person today is spending almost 40 percent of his or her income in taxes of all types, Federal, State and local; gas taxes, sales taxes, property taxes, income taxes, excise taxes, Social Security taxes. The GAO reports that 80 percent of the people now pay more in Social Security taxes than in income taxes. Also, most estimates are that people pay another 10 percent in regulatory costs, things that government makes businesses do that are passed on to the consumer in the form of higher prices.

This means that even here in the United States almost half of the average family's income is going to support government or pay the costs of things ordered by the government. This is not only enough, it is too much, and this is why President Bush and millions of others feel that it is time we started giving some of this tax surplus back to the people who paid it.

Mr. Speaker, also just like government's appetite for money can never be satisfied, one can never satisfy government's appetite for land. One of the most important things we need to do to ensure future prosperity is to stop government at all levels from taking over more private property.

□ 1545

The Nobel Prize-winning economist Milton Friedman has said, ''You cannot have a free society without private property.'' Over the years when government has taken private property, it has most often taken it from lower- and middle-income people and small farmers.

Today, Federal, State, and local governments and quasi-governmental units and agencies now own about half the land in this Nation. The most disturbing thing is the rapid rate as which

this taking has increased in the last 40 years.

Environmentalists who have supported most of this taking should realize that the worst polluters in the world have been the socialist nations, because their economies do not generate enough income to do good things for the environment, and that private property is almost always better cared for than public property, and at much lower cost.

There is a very dangerous plan, Mr. Speaker, being pushed by some liberal elitists and wealthy environmental extremists called the Wildlands Project. This project envisions taking 50 percent of the land now in private hands into wilderness. If people do not think their property would ever be taken, they should just look around at all the land around them that government has already taken.

We do not need more industrial parks, for example, where land is taken from small farmers or lower- or middle-income people and then given later to big multinational corporations, or land is taken from poor people and used for some project that enhances its value and then sold for big prices to rich people later on.

We had a policy of no net loss of wetlands. What we need now is a policy of no net loss of private property, requiring government to sell off some of its land to private owners for every new acre they take from lower- and middle-income people.

Private property, Mr. Speaker, is a very important part, a basic part of the freedom we have always treasured so highly in this Nation.

PUBLICATION OF THE RULES OF THE COMMITTEE ON EDUCATION AND THE WORKFORCE 107TH CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BOEHNER) is recognized for 5 minutes.

Mr. BOEHNER. Mr. Speaker, pursuant to Rule XI, Clause 2 of the Rules of the House of Representatives, I respectfully submit the rules for the 107th Congress for the Committee on Education and the Workforce for publication in the CONGRESSIONAL RECORD.

THE RULES OF THE COMMITTEE ON EDUCATION AND THE WORKFORCE FOR THE 107TH CONGRESS

RULE 1. REGULAR, ADDITIONAL AND SPECIAL MEETINGS: VICE-CHAIRMAN

(a) Regular meetings of the committee shall be held on the second Wednesday of each month at 9:30 a.m., while the House is in session. When the Chairman believes that the committee will not be considering any bill or resolution before the committee and that there is no other business to be transacted at a regular meeting, he will give each member of the committee, as far in advance of the day of the regular meeting as the circumstances make practicable, a written notice to that effect; and no committee meeting shall be held on that day.

(b) The Chairman may call and convene, as he considers necessary, additional meetings of the committee for the consideration of any bill or resolution pending before the committee or for the conduct of other committee business. The committee shall meet for such purposes pursuant to that call of the Chairman.

(c) If at least three members of the committee desire that a special meeting of the committee be called by the Chairman, those members may file in the offices of the committee their written request to the Chairman for that special meeting. Immediately upon the filing of the request, the staff director of the committee shall notify the Chairman of the filing of the request. If, within three calendar days after the filing of the request, the Chairman does not call the requested special meeting to be held within seven calendar days after the filing of the request, a majority of the members of the committee may file in the offices of the committee their written notice that a special meeting of the committee will be held, specifying the date and hour thereof, and the measure or matter to be considered at that special meeting. The committee shall meet on that date and hour. Immediately upon the filing of the notice, the staff director of the committee shall notify all members of the committee that such meeting will be held and inform them of its date and hour and the measure or matter to be considered; and only the measure or matter specified in that notice may be considered at that special meeting.

(d) All legislative meetings of the committee and its subcommittees shall be open to the public, including radio, television and still photography coverage. No business meeting of the committee, other than regularly scheduled meetings, may be held without each member being given reasonable notice. Such meeting shall be called to order and presided over by the Chairman, or in the absence of the Chairman, by the vice-chairman, or the Chairman's designee.

(e) The Chairman of the committee or of a subcommittee, as appropriate, shall preside at meetings or hearings, or, in the absence of the Chairman, the vice-chairman, or the Chairman's designee shall preside.

RULE 2. QUESTIONING OF WITNESSES

(a) Subject to clauses (b) and (c), committee members may question witnesses only when they have been recognized by the Chairman for that purpose, and only for a 5-minute period until all members present have had an opportunity to question a witness. The questioning of witnesses in both committee and subcommittee hearings shall be initiated by the Chairman, followed by the ranking minority party member and all other members alternating between the majority and minority party in order of the member's appearance at the hearing. In recognizing members to question witnesses in this fashion, the Chairman shall take into consideration the ratio of the majority to minority party members present and shall establish the order of recognition for questioning in such a manner as not to place the members of the majority party in a disadvantageous position.

(b) The Chairman may permit a specified number of members to question a witness for longer than five minutes. The time for extended questioning of a witness under this clause shall be equal for the majority party and the minority party and may not exceed one hour in the aggregate.

(c) The Chairman may permit committee staff for the majority and the minority party members to question a witness for equal specified periods. The time for extended questioning of a witness under this clause shall be equal for the majority party and the minority party and may not exceed one hour in the aggregate.

RULE 3. RECORDS AND ROLLCALLS

(a) Written records shall be kept of the proceedings of the committee and of each subcommittee, including a record of the votes on any question on which a rollcall is demanded. The result of each such rollcall vote shall be made available by the committee or subcommittee for inspection by the public at reasonable times in the offices of the committee or subcommittee. Information so available for public inspection shall include a description of the amendment, motion, order, or other proposition and the name of each member voting for and each member voting against such amendment, motion, order, or proposition, and the names of those members present but not voting. A record vote may be demanded by one-fifth of the members present or, in the apparent absence of a quorum, by any one member.

(b) In accordance with Rule VII of the Rules of the House of Representatives, any official permanent record of the committee (including any record of a legislative, oversight, or other activity of the committee or any subcommittee) shall be made available for public use if such record has been in existence for 30 years, except that—

(1) any record that the committee (or a subcommittee) makes available for public use before such record is delivered to the Archivist under clause 2 of Rule VII of the Rules of the House of Representatives shall be made available immediately, including any record described in subsection (a) of this Rule;

(2) any investigative record that contains personal data relating to a specific living individual (the disclosure of which would be an unwarranted invasion of personal privacy), any administrative record with respect to personnel, and any record with respect to a hearing closed pursuant to clause 2(g)(2) of Rule XI of the Rules of the House of Representatives shall be available if such record has been in existence for 50 years; or

(3) except as otherwise provided by order of the House, any record of the committee for which a time, schedule, or condition for availability is specified by order of the committee (entered during the Congress in which the record is made or acquired by the committee) shall be made available in accordance with the order of the committee.

(c) The official permanent records of the committee include noncurrent records of the committee (including subcommittees) delivered by the Clerk of the House of Representatives to the Archivist of the United States for preservation at the National Archives and Records Administration, which are the property of and remain subject to the rules and orders of the House of Representatives.

(d)(1) Any order of the committee with respect to any matter described in paragraph (2) of this subsection shall be adopted only if the notice requirements of committee Rule 18(c) have been met, a quorum consisting of a majority of the members of the committee is present at the time of the vote, and a majority of those present and voting approve the adoption of the order, which shall be submitted to the Clerk of the House of Representatives; together with any accompanying report.

(2) This subsection applies to any order of the committee which—

(A) provides for the non-availability of any record subject to subsection (b) of this rule

for a period longer than the period otherwise applicable; or

(B) is subsequent to, and constitutes a later order under clause 4(b) of Rule VII of the Rules of the House of Representatives, regarding a determination of the Clerk of the House of Representatives with respect to authorizing the Archivist of the United States to make available for public use the records delivered to the Archivist under clause 2 of Rule VII of the Rules of the House of Representatives; or

(C) specifies a time, schedule, or condition for availability pursuant to subsection (b)(3) of this Rule.

RULE 4. STANDING SUBCOMMITTEES AND JURISDICTION

(a) There shall be five standing subcommittees. In addition to the conducting oversight in the area of their respective jurisdictions as required in clause 2 of House Rule X, each subcommittee shall have the following jurisdictions:

Subcommittee on Education Reform.—Education from preschool through the high school level including, but not limited to, elementary and secondary education generally, vocational education, preschool programs including the Head Start Act, school lunch and child nutrition, and overseas dependent schools; special education programs including, but not limited to, alcohol and drug abuse, education of the disabled, migrant and agricultural labor education and homeless education; educational research and improvement, including the office of Educational Research and Improvement; poverty programs, including the Community Services Block Grant Act and the Low Income Home Energy Assistance Program (LIHEAP).

Subcommittee on 21st Century Competitiveness.—Education and training beyond the high school level including, but not limited to higher education generally, including postsecondary student assistance and employment services, Title IV of the Higher Education Act; training and apprenticeship including the Workforce Investment Act, displaced homemakers, adult basic education (family literacy), rehabilitation, professional development, and training programs from immigration funding; pre-service and in-service teacher training, including Title II of the Elementary and Secondary Education Act and Title II of the Higher Education Act; Title I of the Higher Education Act as it relates to Titles II and IV; science and technology programs, including Title III of the Elementary and Secondary Education act; all welfare reform programs including, work incentive programs, welfare-to-work requirements, and childcare services, including the Childcare Development Block Grant; Native American Programs Act, Robert A. Taft Institute, and Institute for Peace.

Subcommittee on Select Education.—rograms and services for the care and treatment of certain at risk youth, including the Juvenile Justice and Delinquency Prevention Act and the Runaway and Homeless Youth Act; all matters dealing with child abuse and domestic violence, including the Child Abuse Prevention and Treatment act, and child adoption; all matters dealing with programs and services for the elderly, including nutrition programs and the Older Americans Act; environmental education; all domestic volunteer programs; School to Work Opportunities Act; library services and construction, and programs related to the arts and humanities, museum services, and arts and artifacts indemnity; and Titles III, V, VI, and VII and Title I, as it relates to those Titles, of the Higher Education Act.

Subcommittee on Workforce Protections.—Wages and hours of labor including, but not limited to, Davis-Bacon Act, Walsh-Healey Act, Fair Labor Standards act (including child labor), workers' compensation generally, Longshore and Harbor Workers' Compensation Act, Federal Employees' Compensation Act, Migrant and Seasonal Agricultural Worker Protection Act, Service Contract Act, Family and Medical Leave Act, Worker Adjustment and Retraining Notification Act, Employee Polygraph Protection Act of 1988, workers' health and safety including, but not limited to, occupational safety and health, mine health and safety, youth camp safety, and migrant and agricultural labor health and safety; and, in addition, oversight of compulsory union does within the jurisdiction of another subcommittee.

Subcommittee on Employer-Employee Relations.—All matters dealing with relationships between employers and employees generally including, but not limited to, the National Labor Relations Act, Bureau of Labor Statistics, pension, health, and other employee benefits, including the Employee Retirement Income Security Act (ERISA); all matters related to equal employment opportunity and civil rights in employment.

(b) The majority party members of the committee may provide for such temporary, ad hoc subcommittees as determined to be appropriate.

RULE 5. EX OFFICIO MEMBERSHIP

The Chairman of the committee and the ranking minority party member shall be ex officio members, but not voting members, of each subcommittee to which such Chairman or ranking minority party member has not been assigned.

RULE 6. SPECIAL ASSIGNMENT OF MEMBERS

To facilitate the oversight and other legislative and investigative activities of the committee, the Chairman of the committee may, at the request of a subcommittee chairman, make a temporary assignment of any member of the committee to such subcommittee for the purpose of constituting a quorum and of enabling such member to participate in any public hearing, investigation, or study by such subcommittee to be held outside of Washington, DC. Any member of the committee may attend public hearings of any subcommittee and any member of the committee may question witnesses only when they have been recognized by the Chairman for that purpose.

RULE 7. SUBCOMMITTEE CHAIRMANSHIPS

The method for selection of chairmen of the subcommittees shall be at the discretion of the full committee Chairman, unless a majority of the majority party members of the full committee disapprove of the action of the Chairman.

RULE 8. SUBCOMMITTEE SCHEDULING

Subcommittee chairmen shall set meeting dates after consultation with the Chairman and other subcommittee chairmen with a view toward avoiding simultaneous scheduling of committee and subcommittee meeting or hearings, wherever possible. Available dates for subcommittee meetings during the session shall be assigned by the Chairman to the subcommittees as nearly as practicable in rotation and in accordance with their workloads. No subcommittee markups shall be scheduled simultaneously. As far as practicable, the Chairman shall not schedule a subcommittee markup during a full committee markup, nor shall the Chairman schedule any hearing during a markup.

RULE 9. SUBCOMMITTEE RULES

The rules of the committee shall be the rules of its subcommittees.

RULE 10. COMMITTEE STAFF

(a) The employees of the committee shall be appointed by the Chairman in consultation with subcommittee chairmen and other majority party members of the committee within the budget approved for such purposes by the committee.

(b) The staff appointed by the minority shall have their remuneration determined in such manner as the minority party members of the committee shall determine within the budget approved for such purposes by the committee.

RULE 11. SUPERVISION AND DUTIES OF COMMITTEE STAFF

The staff of the committee shall be under the general supervision and direction of the Chairman, who shall establish and assign the duties and responsibilities of such staff members and delegate authority as he determines appropriate. The staff appointed by the minority shall be under the general supervision and direction of the minority party members of the committee, who may delegate such authority as they determine appropriate. All committee staff shall be assigned to committee business and no other duties may be assigned to them.

RULE 12. HEARINGS PROCEDURE

(a) The Chairman, in the case of hearings to be conducted by the committee, and the appropriate subcommittee chairman, in the case of hearings to be conducted by a subcommittee, shall make public announcement of the date, place, and subject matter of any hearing to be conducted on any measure or matter at least one week before the commencement of that hearing unless the committee or subcommittee determines that there is good cause to begin such hearing at an earlier date. In the latter event, the Chairman or the subcommittee chairman, as the case may be, shall make such public announcement at the earliest possible date. To the extent practicable, the Chairman or the subcommittee chairman shall make public announcement of the final list of witnesses scheduled to testify at least 48 hours before the commencement of the hearing. The staff director of the committee shall promptly notify the Daily Digest Clerk of the Congressional Record as soon as possible after such public announcement is made.

(b) All opening statements at hearings conducted by the committee or any subcommittee will be made part of the permanent written record. Opening statements by members may not be presented orally, unless the Chairman of the committee or any subcommittee determines that one statement from the Chairman or a designee will be presented, in which case the ranking minority party member or a designee may also make a statement. If a witness scheduled to testify at any hearing of the Committee or any subcommittee is a constituent of a member of the committee or subcommittee, such member shall be entitled to introduce such witness at the hearing.

(c) To the extent practicable, witnesses who are to appear before the committee or a subcommittee shall file with the staff director of the committee, at least 48 hours in advance of their appearance, a written statement of their proposed testimony, together with a brief summary thereof, and shall limit their oral presentation to a summary thereof. The staff director of the committee shall promptly furnish to the staff director of the minority a copy of such testimony

submitted to the committee pursuant to this rule.

(d) When any hearing is conducted by the committee or any subcommittee upon any measure or matter, the minority party members on the committee shall be entitled, upon request to the Chairman by a majority of those minority party members before the completion of such hearing, to call witnesses selected by the minority to testify with respect to that measure or matter during at least one day of hearing thereon. The minority party may waive this right by calling at least one witness during a committee hearing or subcommittee hearing.

RULE 13. MEETINGS-HEARINGS-QUORUMS

(a) Subcommittees are authorized to hold hearings, receive exhibits, hear witnesses, and report to the committee for final action, together with such recommendations as may be agreed upon by the subcommittee. No such meetings or hearings, however, shall be held outside of Washington, DC, or during a recess or adjournment of the House without the prior authorization of the committee Chairman. Where feasible and practicable, 14 days' notice will be given of such meeting or hearing.

(b) One-third of the members of the committee or subcommittee shall constitute a quorum for taking any action other than amending committee rules, closing a meeting from the public, reporting a measure or recommendation, or in the case of the committee or a subcommittee authorizing a subpoena. For the enumerated actions, a majority of the committee or subcommittee shall constitute a quorum. Any two members shall constitute a quorum for the purpose of taking testimony and receiving evidence.

(c) When a bill or resolution is being considered by the committee or a subcommittee, members shall provide the clerk in a timely manner a sufficient number of written copies of any amendment offered, so as to enable each member present to receive a copy thereof prior to taking action. A point of order may be made against any amendment not reduced to writing. A copy of each such amendment shall be maintained in the public records of the committee or subcommittee, as the case may be.

(d) In the conduct of hearings of subcommittees sitting jointly, the rules otherwise applicable to all subcommittees shall likewise apply to joint subcommittee hearings for purposes of such shared consideration.

(e) No person other than a Member of Congress or Congressional staff may walk in, stand in, or be seated at the rostrum area during a meeting or hearing of the committee or Subcommittee unless authorized by the Chairman.

RULE 14. SUBPOENA AUTHORITY

The power to authorize and issue subpoenas is delegated to the Chairman of the full committee, as provided for under clause 2(m)(3)(A)(i) of Rule XI of the Rules of the House of Representatives. The Chairman shall notify the ranking minority member prior to issuing any subpoena under such authority. To the extent practicable, the Chairman shall consult with the ranking minority member at least 24 hours in advance of a subpoena being issued under such authority, excluding Saturdays, Sundays, and federal holidays. As soon as practicable after issuing any subpoena under such authority, the Chairman shall notify in writing all members of the committee of the issuance of the subpoena.

RULE 15. REPORTS OF SUBCOMMITTEES

(a) Whenever a subcommittee has ordered a bill, resolution, or other matter to be reported to the committee, the chairman of the subcommittee reporting the bill, resolution, or matter to the committee, or any member authorized by the subcommittee to do so, may report such bill, resolution, or matter to the committee. It shall be the duty of the chairman of the subcommittee to report or cause to be reported promptly such bill, resolution, or matter, and to take or cause to be taken the necessary steps to bring such bill, resolution, or matter to a vote.

(b) In any event, the report, described in the proviso in subsection (d) of this rule, of any subcommittee on a measure which has been approved by the subcommittee shall be filed within seven calendar days (exclusive of days on which the House is not in session) after the day on which there has been filed with the staff director of the committee a written request, signed by a majority of the members of the subcommittee, for the reporting of that measure. Upon the filing of any such request, the staff director of the committee shall transmit immediately to the chairman of the subcommittee a notice of the filing of that request.

(c) All committee or subcommittee reports printed pursuant to legislative study or investigation and not approved by a majority vote of the committee or subcommittee, as appropriate, shall contain the following disclaimer on the cover of such report: This report has not been officially adopted by the Committee on Education and the Workforce (or pertinent subcommittee thereof) and therefore may not necessarily reflect the views of its members.

The minority part members of the committee or subcommittee shall have three calendar days, excluding weekends and holidays, to file, as part of the printed report, supplemental, minority, or additional views.

(d) Bills, resolutions, or other matters favorably reported by a subcommittee shall automatically be placed upon the agenda of the committee as of the time they are reported. No bill or resolution or other matter reported by a subcommittee shall be considered by the full committee unless it has been delivered or electronically sent to all members and notice of its prior transmission has been in the hands of all members at least 48 hours prior to such consideration; a member of the Committee shall receive, upon his or her request, a paper copy of the such bill, resolution, or other matter reported. When a bill is reported from a subcommittee, such measure shall be accompanied by a section-by-section analysis; and, if the Chairman of the committee so requires (in response to a request from the ranking minority member of the committee or for other reasons), a comparison showing proposed changes in existing law.

(e) To the extent practicable, any report prepared pursuant to a committee or subcommittee study or investigation shall be available to members no later than 48 hours prior to consideration of any such report by the committee or subcommittee, as the case may be.

RULE 16. VOTES

With respect to each rollcall vote on a motion to report any bill, resolution or matter of a public character, and on any amendment offered thereto, the total number of votes cast for and against, and the names of those members voting for and against, shall be included in the committee report on the measure or matter.

RULE 17. AUTHORIZATION FOR TRAVEL

(a) Consistent with the primary expense resolution and such additional expense resolutions as may have been approved, the provisions of this rule shall govern travel of committee members and staff. Travel to be paid from funds set aside for the full committee for any member or any staff member shall be paid only upon the prior authorization of the Chairman. Travel may be authorized by the Chairman for any member and any staff member in connection with the attendance of hearings conducted by the committee or any subcommittee thereof and meetings, conferences, and investigations which involve activities or subject matter under the general jurisdiction of the committee. The Chairman shall review travel requests to assure the validity to committee business. Before such authorization is given, there shall be submitted to the Chairman in writing the following:

(1) the purpose of the travel;

(2) the dates during which the travel is to be made and the date or dates of the event for which the travel is being made;

(3) the location of the event for which the travel is to be made; and

(4) the names of members and staff seeking authorization.

(b)(1) In the case of travel outside the United States of members and staff of the committee for the purpose of conducting hearings, investigations, studies, or attending meetings and conferences involving activities or subject matter under the legislative assignment of the committee or pertinent subcommittees, prior authorization must be obtained from the Chairman, or, in the case of a subcommittee, from the subcommittee chairman and the Chairman. Before such authorization is given, there shall be submitted to the Chairman, in writing, a request for such authorization. Each request, which shall be filed in a manner that allows for a reasonable period of time for review before such travel is scheduled to begin, shall include the following:

(A) the purpose of travel;

(B) the dates during which the travel will occur;

(C) the names of the countries to be visited and the length of time to be spent in each;

(D) an agenda of anticipated activities for each country for which travel is authorized together with a description of the purpose to be served and the areas of committee jurisdiction involved; and

(E) the names of members and staff for whom authorization is sought.

(2) Requests for travel outside the United States may be initiated by the Chairman or the chairman of a subcommittee (except that individuals may submit a request to the Chairman for the purpose of attending a conference or meeting) and shall be limited to members and permanent employees of the committee.

(3) The Chairman shall not approve a request involving travel outside the United States while the House is in session (except in the case of attendance at meetings and conferences or where circumstances warrant an exception).

(4) At the conclusion of any hearing, investigation, study, meeting, or conference for which travel outside the United States has been authorized pursuant to this rule, each subcommittee (or members and staff attending meetings or conferences) shall submit a written report to the Chairman covering the activities of the subcommittee and containing the results of these activities and other pertinent observations or information gained as a result of such travel.

(c) Members and staff of the committee performing authorized travel on official business shall be governed by applicable laws,

resolutions, or regulations of the House and of the Committee on House Administration pertaining to such travel, including rules, procedures, and limitations prescribed by the Committee on House Administration with respect to domestic and foreign expense allowances.

(d) Prior to the Chairman's authorization for any travel, the ranking minority party member shall be given a copy of the written request therefor.

RULE 18. REFERRAL OF BILLS, RESOLUTIONS AND OTHER MATTERS

(a) The Chairman shall consult with subcommittee chairman regarding referral, to the appropriate subcommittees, of such bills, resolutions, and other matters, which have been referred to the committee. Once printed copies of a bill, resolution, or other matter are available to the Committee, the Chairman shall, within three weeks of such availability, provide notice of referral, if any, to the appropriate subcommittee.

(b) Referral to a subcommittee shall not be made until three days have elapsed after written notification of such proposed referral to all subcommittee chairman, at which time such proposed referral shall be made unless one or more subcommittee chairmen shall have given written notice to the Chairman of the full committee and to the chairman of each subcommittee that he [or she] intends to question such proposed referral at the next regularly scheduled meeting of the committee, or at a special meeting of the committee called for that purpose, at which time referral shall be made by the majority members of the committee. All bills shall be referred under this rule to the subcommittee of proper jurisdiction without regard to whether the author is or is not a member of the subcommittee. A bill, resolution, or other matter referred to a subcommittee in accordance with this rule may be recalled therefrom at any time by a vote of the majority members of the committee for the committee's direct consideration or for reference to another subcommittee.

(c) All members of the committee shall be given at least 24 hours' notice prior to the direct consideration of any bill, resolution, or other matter by the committee; but this requirement may be waived upon determination, by a majority of the members voting, that emergency or urgent circumstances require immediate consideration thereof.

RULE 19. COMMITTEE REPORTS

(a) All committee reports on bills or resolutions shall comply with the provisions of clause 2 of Rule IX and clauses 2, 3, and 4 of Rule XIII of the Rules of the House of Representatives.

(b) No such report shall be filed until copies of the proposed report have been available to all members at least 36 hours prior to such filing in the House. No material change shall be made in the report distributed to members unless agreed to by majority vote; but any member or members of the committee may file, as part of the printed report, individual, minority, or dissenting views, without regard to the preceding provisions of this rule.

(c) Such 36-hour period shall not conclude earlier than the end of the period provided under clause 4 of Rule XIII of the Rules of the House of Representatives after the committee approves a measure or matter if a member, at the time of such approval, gives notice of intention to file supplemental, minority, or additional views for inclusion as part of the printed report.

(d) The report on activities of the committee required under clause 1 of Rule XI of the Rules of the House of Representatives, shall include the following disclaimer in the document transmitting the report to the Clerk of the House: This report has not been officially adopted by the Committee on Education and the Workforce or any subcommittee thereof and therefore may not necessarily reflect the views of its members.

Such disclaimer need not be included if the report was circulated to all members of the committee at least 7 days prior to its submission to the House and provision is made for the filing by any member, as part of the printed report, of individual, minority, or dissenting views.

RULE 20. MEASURES TO BE CONSIDERED UNDER SUSPENSION

A member of the committee may not seek to suspend the Rules of the House on any bill, resolution, or other matter which has been modified after such measure is ordered reported, unless notice of such action has been given to the Chairman and ranking minority member of the full committee.

RULE 21. BUDGET AND EXPENSES

(a) The Chairman in consultation with the majority party members of the committee shall prepare a preliminary budget. Such budget shall include necessary amounts for staff personnel, for necessary travel, investigation, and other expenses of the committee; and, after consultation with the minority party membership, the Chairman shall include amounts budgeted to the minority party members for staff personnel to be under the direction and supervision of the minority party, travel expenses of minority party members and staff, and minority party office expenses. All travel expenses of minority party members and staff shall be paid for out of the amounts so set aside and budgeted. The Chairman shall take whatever action is necessry to have the budget as finally approved by the committee duly authorized by the House. After such budget shall have been adopted, no change shall be made in such budget unless approved by the committee. The Chairman or the chairman of any standing subcommittee may initiate necessary travel requests as provided in Rule 16 within the limits of their portion of the consolidated budget as approved by the House, and the Chairman may execute necessary vouchers therefor.

(b) Subject to the rules of the House of Representatives and procedures prescribed by the Committee on House Administration, and with the prior authorization of the Chairman of the committee in each case, there may be expended in any one session of Congress for necessary travel expenses of witnesses attending hearings in Washington, DC:

(1) out of funds budgeted and set aside for each subcommittee, not to exceed $5,000 for expenses of witnesses attending hearings of each such subcommittee;

(2) out of funds budgeted for the full committee majority, not to exceed $5,000 for expenses of witnesses attending full committee hearings; and

(3) out of funds set aside to the minority party members,

(A) not to exceed, for each of the subcommittees, $5,000 for expenses of witnesses attending subcommittee hearings, and

(B) not to exceed $5,000 for expenses of witnesses attending full committee hearings.

(c) A full and detailed monthly report accounting for all expenditures of committee funds shall be maintained in the committee office, where it shall be available to each member of the committee. Such report shall show the amount and purpose of each expenditure, and the budget to which such expenditure is attributed.

RULE 22. APPOINTMENT OF CONFEREES AND NOTICE OF CONFERENCE MEETINGS

(a) Whenever in the legislative process it becomes necessary to appoint conferees, the Chairman shall recommend to the Speaker as conferees the names of those members of the subcommittee which handled the legislation in the order of their seniority upon such subcommittee and such other committee members as the Chairman may designate with the approval of the majority party members. Recommendations of the Chairman to the Speaker shall provide a ratio of majority party members to minority party members no less favorable to the majority party than the ratio of majority members to minority party members on the full committee. In making assignments of minority party members as conferees, the Chairman shall consult with the ranking minority party member of the committee.

(b) After the appointment of conferees pursuant to clause 11 of Rule I of the Rules of the House of Representatives for matters within the jurisdiction of the committee, the Chairman shall notify all members appointed to the conference of meetings at least 48 hours before the commencement of the meeting. If such notice is not possible, then notice shall be given as soon as possible.

RULE 23. BROADCASTING OF COMMITTEE HEARINGS AND MEETINGS

(a) *Television, Radio and Still Photography.* (1) Whenever a hearing or meeting conducted by the Committee or any subcommittee is open to the public, those proceedings shall be open to coverage by television, radio, and still photography subject to the requirements of Rule XI, clause 4 of the Rules of the House of Representatives and except when the hearing or meeting is closed pursuant to the Rules of the House of Representatives and of the Committee. The coverage of any hearing or meeting of the Committee or any subcommittee thereof by television, radio, or still photography shall be under the direct supervision of the Chairman of the Committee, the subcommittee chairman, or other member of the Committee presiding at such hearing or meeting and may be terminated by such member in accordance with the Rules of the House.

(2) Personnel providing coverage by the television and radio media shall be then currently accredited to the Radio and Television Correspondents' Galleries.

(3) Personnel providing coverage by still photography shall be then currently accredited to the Press Photographers' Gallery.

(b) *Internet Broadcast.* An open meeting or hearing of the committee or subcommittee may be covered and recorded, in whole or in part, by Internet broadcast, unless such meeting or hearing is closed pursuant to the Rules of the House and of the Committee. Such coverage shall be fair and nonpartisan and in accordance with clause 4(b) of House Rule XI and other applicable rules of the House of Representatives and of the Committee. Members of the Committee shall have prompt access to any recording of such coverage to the extent that such coverage is maintained. Personnel providing such coverage shall be employees of the House of Representatives or currently accredited to the Radio and Television Correspondents' Galleries.

RULE 24. CHANGES IN COMMITTEE RULES

The committee shall not consider a proposed change in these rules unless the text of

such change has been delivered or electronically sent to all member and notice of its prior transmission has been in the hands of all members at least 48 hours prior to such consideration; a member of the Committee shall receive, upon his or her request, a paper copy of the such proposed change.

EVENTS IN THE UKRAINE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. KUCINICH) is recognized for 5 minutes.

Mr. KUCINICH. Mr. Speaker, Ukraine is a country that was at one time a satellite of the Soviet Union, and 10 years ago it moved towards its own independence. Our President, Ronald Reagan, stood before the world and said, ''Tear down that wall.'' And when the wall fell there were so many nations across the Soviet Union who became free, and Ukraine was one of those nations.

Ukraine, in declaring its independence, established the rights of its citizens, the same rights that are the bedrock of our democracy here in America. Freedom of speech, the right to assemble, freedom of press, are rights that have been granted to the people of Ukraine, and they are rights that have been fundamental to the unfolding of democracy in that country.

A few months ago, a Ukrainian journalist by the name of Heorhiy Gongadze, remember that name, it is an unusual name, but remember it, Heorhiy Gongadze, a Ukrainian journalist who challenged the government of his country, as journalists do here every day, Georgiy Gongadze was found dead. His head was cut off. His hands had their fingerprints removed, obviously with acid, and his hand was protruding from the shallow grave that his body had been put in.

After that, tapes were discovered, tapes that had been recorded by a member of the Presidential security staff in Ukraine, tapes were discovered that had the voice of the President of Ukraine on those tapes, although the government denies it is his voice, and the President of the Ukraine was calling upon someone to get rid of this journalist; very clear implications here, very clear implications that the President of a free nation was involved in calling for the demise of a reporter who later on turned up dead with his head cut off and his fingerprints obliterated.

As a result of this despicable crime, freedom-loving people in Ukraine began to protest: protest the government, protest what happened in the attack on the free press. They set up, as a symbol of their protest, a series of tents that went for a couple hundred yards down the main street of Kiev, the capital city. It was very impressive to see, and it was a protest that came from all levels of Ukrainian culture and society, from young and old, from the political left and the political right, from the political center, from nongovernment organizations, members of the media, and from members of the Ukrainian Rada, all involved in this protest.

The protests had been going on in this tent city for 2 months. A U.S. congressional delegation led by the gentleman from Pennsylvania (Mr. WELDON), a delegation that I was proud to be a member of, visited Ukraine last week, and we met with members of the press who expressed their concern about freedom of the press, about the chilling effect which the murder of this reporter had on free press in Ukraine.

We met with members of the nongovernment organizations who expressed concern about this tendency to drift away from democracy that the government had shown. We went, and some of us visited this tent city and actually talked to the people.

We had the opportunity to meet with the President of Ukraine in a 2-hour-and-15 minute meeting. During that meeting, the President assured us that he stood for freedom of press, that he stood for freedom of speech, that he stood for the right of assembly, those same rights that we know so well, those same rights that were accorded to the people of Ukraine.

We were asked by the media before we left, what would happen if, after we left, these tents came down? Because it was thought that our presence there discouraged any effort to remove the tents.

We found out the answer today, because once the congressional delegation left, the government ordered the police to remove the tents, protesters arrested, tents thrown in the truck. An area known as Independence Square is boarded off in Ukraine, boarded off, a statue of St. Michael sitting in the middle of that square that is boarded off, and people cannot even gather together.

There will be consequences, I say to President Kuchma, for his denial of the right of assembly and freedom of speech in his country. The international community is watching. The whole world is watching.

ROLE MODELS AND BLACK HISTORY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ROSS) is recognized for 5 minutes.

Mr. ROSS. Mr. Speaker, promoting awareness of black history throughout the month of February allowed all of us an opportunity to not only learn from the past, but also remind ourselves and others about the importance of practicing acceptance and inclusion. However, while black history is recognized in February, it does not stop today, on March 1. If it truly is history in February, it is also history in March through January. That is why I decided to make these remarks today, rather than in February.

I am pleased that our Nation has chosen to recognize and celebrate the history of the African American culture. History teaches us that every culture and every society endures good and bad, and it is essential that we continue to learn from our past.

From the days of early American statehood, when African Americans like Harriet Tubman and many others fought to gain freedom from slavery, to the inspiring civil rights movement fostered by the determination of individuals such as Rosa Parks, Daisy Bates, and Dr. Martin Luther King, Jr., to our current times today, African Americans have played a vital role in America's history.

Last month, as we celebrated Black History Month, I was reminded of how the contributions of African Americans have had a particular influence on my life. Growing up during the 1960s and 1970s in south Arkansas in small towns like Emmet, Hope, and Prescott, I was fortunate to be among the first generation to attend integrated public schools.

Those were difficult times for our Nation, but as the son of public school educators, I was taught early on that blacks and whites could live and work together and value each other's differences.

As many small schools did at that time, our elementary school in Emmet combined two grades in each classroom. The teachers had close relationships with the students, and had a profound influence on our young lives.

I remember that two particular teachers played a special role in my upbringing as a young student, perhaps because they were both African American, or perhaps because they were simply warm, caring individuals. Their names were Velma Rowe and Corrine Gilbert.

Ms. Rowe and Ms. Gilbert always went the extra mile to make a difference in our lives as students, whether it was providing encouragement when we were having trouble keeping up, guidance and discipline when we stepped out of line, or congratulations for a job well done.

I may have been too young at that time to fully understand the history of racial inequality in our country, but looking back, they gave me a special insight into the important role of African Americans in our community and in our society. The impact of their example as teachers and as leaders in the African American community helped to shape my view, as I grew older, that we must all work together to accept each other and respect our differences.

In class, Ms. Rowe and Ms. Gilbert taught all of us that we were each important as individuals, no matter what our race or background, no matter

whether we were rich or poor, and that we must show respect for all those around us. They instilled in us the value of a good education, and that, with hard work, determination, and a good heart, we could build a better world.

On Sunday, February 18, my wife, Holly, and our two children, Sydney Beth and Alex, joined me in attending the black history program at Greater Pleasant Hill Baptist Church in Arkadelphia, Arkansas. I had the privilege of participating with African Americans, young and old, in the program, which highlighted historical accomplishments of African Americans, named by using each letter of the alphabet from A to Z.

The service was a great opportunity for my family and me to reflect on how far we have come in the last 150 years towards the goal of racial harmony in this country, and yet, how far we still have to go in the continued battle for civil justice.

As I told Pastor Lewis Shepherd's congregation following the program, we must continue to reflect on black history throughout the year as we work together to foster greater understanding so that we can bridge the racial gaps that still exist in today's world.

I can only imagine what it was like for Ms. Rowe and Ms. Gilbert when they were growing up in the segregated South, and what challenges and obstructions they had to face each and every day.

As adults, they used their lives and experiences to bring people together and to serve as role models for me and so many students. Our challenge is to be the Ms. Rowes and Ms. Gilberts of today.

THE SITUATION IN UKRAINE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. WELDON) is recognized for 5 minutes.

Mr. WELDON of Pennsylvania. Mr. Speaker, I rise to continue the efforts started by my colleagues here this afternoon regarding the situation in Ukraine.

I just had the pleasure of leading a delegation to Russia, Ukraine, and Moldova, where our primary purpose was to reestablish strong ties with the people of those three countries; to announce, specifically in Ukraine, the establishment of a new interparliamentary dialogue between the Rada and the American Congress.

While meeting in Ukraine, we were scheduled to have a 30-minute meeting with the President of that country, President Kuchma. The meeting lasted for 2 hours and 15 minutes because of the current turmoil in Ukraine relative to the murder and the atrocities committed against a reporter, and the evidence that some have put forth indicating a tape with supposedly or allegedly President Kuchma's voice ordering the assassination of the reporter.

In our meeting with President Kuchma, we pleaded with him that Ukraine had to abide by the rule of law and had to maintain the freedom of the press in this investigative process. We offered the support of our Federal Bureau of Investigation to the Ukrainian government to fully investigate this incident, so that everyone in the world would know the facts about this particular incident.

President Kuchma accepted that offer of the cooperation of our FBI.

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We stressed with President Kuchma the need to maintain the rule of law, as well as protect the freedom of those to speak out who were in disagreement with his government.

He reaffirmed the commitment to those principles with the seven-member delegation that was a part of this trip. Today we find out, Mr. Speaker, that the Ukrainian government has shut down the basic first amendment rights of the people of that country to speak out. There had been a peaceful protest set up in downtown Kiev, where people from all walks of life in Ukraine were protesting what they felt was inadequate response by the government to this incident.

While we reaffirmed to President Kuchma that we were not there to try to impose our will on the people of Ukraine, it was absolutely essential that the rights guaranteed by any democracy under a Constitution such as that which Ukraine is now under be held up and be maintained.

It is absolutely devastating that today we hear that Ukraine has taken a step in the wrong direction. Mr. Speaker, this is not good news for America. It is not good news for Ukraine, nor the Ukrainian people.

I call upon President Kuchma and the Ukrainian government as friends of Ukraine wanting to support more enhanced cooperation to reestablish the basic principles of a free democracy, to reestablish the principles of freedom of speech and freedom of assembly, to reestablish the principle of the rule of law, to have a full and complete investigation of the murder of Mr. Gongadze wherever it might lead.

Unfortunately, if these steps are not taken, my prediction is that this Congress will act to send a signal to Ukraine that we are not happy with the steps that are being taken to reverse the progress that Ukraine has achieved over the past several years.

Mr. Speaker, as a friend of Ukraine and a friend of the Ukrainian people, I plead with President Kuchma to live up to the standards that he affirmed to the seven-member congressional delegation for his country, because the word received today does not coincide with what President Kuchma told us he would do as the leader of that great Nation.

PROBLEMS WITH ILLEGAL NARCOTICS

The SPEAKER pro tempore (Mr. SIMMONS). Under the Speaker's announced policy of January 3, 2001, the gentleman from Indiana (Mr. SOUDER) is recognized for 60 minutes as the designee of the majority leader.

Mr. SOUDER. Mr. Speaker, this afternoon and this evening I would like to talk about our problems with illegal narcotics. We have a new President. We have a new Congress.

I have recently, as of 2 weeks ago, been named chairman of the Subcommittee on Criminal Justice, Drug Policy, and Human Resources that deals with both the authorizing and the oversight on the narcotics question. Today I would kind of like to lay out where we are likely to head this year and some of the fundamental issues that we will be addressing.

This subcommittee has been headed by former Congressman Bill Zeliff, by the gentleman from Illinois (Mr. HASTERT), the Speaker of the House, by the gentleman from Florida (Mr. MICA), and we have been working together since the Republicans took over Congress to put an aggressive plan together with how to deal with drug abuse in America.

What we saw in 1992 to 1994 was such a dramatic rise in drug abuse in America that since 1994 we would have to have a reduction of 50 percent among young people to get back to where we were in 1992. We had been making steady progress for over a decade, but two events, in my opinion, set the whole chart in the wrong direction.

One was we cut our interdiction budget and let the drugs pour into our country, which gave a cheaper supply on the street in more purity and potency to the illegal narcotics.

Secondly, the messages were sent in our culture, including at the top of our political structure, that hey, I did not inhale, kind of joked around about drug abuse. We saw such a dramatic rise.

Let me repeat that, in 2 years drug abuse in America soared so much in 1992–1994 that among young people it would take a 50 percent reduction to get back to where it was the first 2 years of the Clinton administration.

Let me explain a couple of things, because I am going to talk more in detail tonight about interdiction. We just had a delegation, a congressional delegation, that went to an antinarcotics conference in Bolivia. We were there for several days, as well as in South America and the former landing operations that we have now to replace Panama. And I am going to get into

that in more detail as we get into this discussion of the issue.

Because of Plan Colombia, we had, I believe, 5 congressional delegations, most from the Senate in Colombia, including ours, in the last district work period, because we have had a lot more focus in the United States on what is happening down in Colombia, not only in Congress, but the movie Traffic that is currently a nominated movie for the Oscars.

West Wing, the TV show, in the last couple of weeks featured a question of lost Americans in Colombia and the attention to the subject has soared. Before I get into the details of Plan Colombia, it is important to lay out a more comprehensive approach.

Mr. Speaker, we have to eradicate the drugs at the source. We have to work to interdict it. We need to work to arrest and prosecute those who are dealing and using it. We need to work with prevention. We need to work with treatment.

That is, in fact, what we do in the budget. Frequently, those who would attract those who are trying to fight illegal narcotics say all we are concerned about is Plan Colombia. The efforts in interdiction total $2.2 billion, or 17 percent of the Federal budget, and interdiction cannot be done by State and local governments.

We do not want the State of Indiana that I represent going and sending P–3 customs planes to get intelligence in the air. We do not want the State of Mississippi sending out boats to interdict in international waters. That is a Federal role.

International aid is $.9 billion, or another 5 percent. So total, the international aid interdiction totals 17 percent.

Domestic law enforcement from the Federal level aid is 51 percent of our budget, $9.8 billion. What we are doing in domestic law enforcement is almost three times as much as what we do in the international arena. That is only the Federal Government.

The State and local government also have even larger expenditures in law enforcement, the result of drug abuse in America.

In demand reduction, because sometimes we would think when we hear debates on the House floor that Plan Colombia, which is $1.2 billion, just dwarfs that. Why do we not spend it in treatment? Why do we not spend it in prevention.

We spend $3.8 billion Federal dollars in treatment and $2.5 billion in prevention, or $6.3 billion, or over twice as much as we spend in interdiction. The reason that is important to note here is only the Federal Government can do international interdiction. State and local governments and the private sector do most prevention and treatment programs.

The amount of dollars that we spend in prevention and treatment far dwarfs anything we spend in interdiction. It is just that only Congress can do international interdiction, whereas we have many, many State and local government and private sector programs in addition to this category at the Federal level being over twice the amount as interdiction international.

Let me give my colleagues some more examples, because every once in a while somebody will say to me, whether we are down in Central and South America or here, why are we so focused on interdiction and why are we not more focused on prevention and treatment?

Mr. Speaker, I also serve on the Committee on Education and the Workforce, and I have worked with the drug free and safe schools program. I also have an amendment currently, arguably the most unpopular amendment in the college campuses in America, where I said if you were convicted of either dealing or using illegal narcotics when you had a student loan, you would lose your loan for one year unless you go through a treatment program and tested clean twice.

If you are caught a second time, you lose your loan for 2 years, unless you go through a treatment program and tested clean twice. The third time, you cannot get a loan, which is pretty generous.

The goal here is to get people into treatment and to prevent people from getting onto drugs in the first place. If you are a dealer, by the way, that is not quite as generous a policy, it is two times.

The reason that is important is because those who say they really want prevention and treatment often criticize that amount as well. It seems like they want to criticize interdiction, but they also do not want actual accountability to people who abuse drugs, even if it means they will be led into a treatment program.

Rolling Stone magazine, I guess the current issue, attacks me again. They attacked me in the fall for this amendment saying somehow this is depriving, I guess, drug abusers and drug users of a tax-subsidized college education.

Thirdly, we have sponsored legislation which I carried through committee, and the gentleman from Ohio (Mr. PORTMAN) drafted, on community prevention grants. We have several of these in my district. This sometimes can be used for groups like Pride in Noble County, which is in my district. It can be used for other community drug prevention programs.

We also passed legislation to help businesses assist in how to work with drug testing and drug treatment programs that are within the civil liberties demands of any program.

We cannot just randomly test people. We have to have an equal, fair process, multiple tests so you do not get sued. Your goal here is not to play gotcha. Your goal is to help the individuals, because as businesses invest in people and develop them, they need to figure out how to help them be productive and not mess up their lives.

The gentleman from Minnesota (Mr. RAMSTAD) and others and I have cosponsored a bill to require drug and alcohol treatment as part of any health insurance plan. These are important to see, because tonight when I talk about interdiction, I am not saying there are not other aspects of the drug problem we have to deal with. We have to have a comprehensive approach.

Our committee, in addition to the interdiction, part of the way we wound up with the authorizing is ONDCP gets its budget approval and authorizing from our committee. General McCaffrey is the head of that, and hopefully under this administration, the efforts and the gains we have made in the last few years will be continued, and we will not have any backup in the sense of downgrading the Drug Czar's office or of getting rid of drug certification.

One important part, and I want to just take a minute, because this is another kind of hot issue being debated right now because of President Fox meeting with President Bush and President Pastrana meeting with President Bush, and that is what is the role of drug certification?

Whenever we meet with Central and South American countries and other countries around the world, they are very concerned that we have a certification process here in Congress that can pass judgment on whether their countries are working on drug certification.

They have a similar concern with human rights certification. If we drop drug certification, we certainly will be dropping human rights certification, too, because both things have the same rationale, and that is, we have certain standards on the money that we distribute that is passed through the government by the taxpayers of the United States, and we expect that the countries who get that aid or, for that matter, the drug certification is not tied to this directly, but it is something certainly to consider, is trade.

If they want benefits from America, then we have a right to say that the American taxpayers want to make sure that they are helping us with our biggest domestic problem, and that they are helping in not using any of our funds for human rights violations.

I hope that this administration, while working in a positive way with Mexico and the other South and Central American countries, will not drop the drug certification process or ask Congress to drop, because these would be bad signals, much like the bad signals that were sent out at the beginning of former President Clinton's administration. We do not want to have

bad signals come out here at the beginning of President Bush's administration, even if that would not be his direct intent.

There are some difficulties. I admit that there are difficulties. For example, in the President's budget, do we keep the drug free and safe schools, or do we block grant more funds to give State and local schools more of an opportunity to make the decisions what they want to spend it on? Because if we do, in fact, only create five grant categories, as is potentially going to come in the President's education bill, that means we could be eliminating the only prevention program that we fund through the Federal Government, or the primary one, which is safe and drug free schools. That will be a difficult question that we have to address.

Secondly, we have in the faith-based question in the new faith based office, how do you deal with the fact that many of the most effective drug abuse programs, for example, Teen Challenge, Victory Life Temples in Texas, many of the most effective programs in America are religious-based, and how do we make sure that people who are not comfortable with the religious orientation, religious content-driven curriculum have alternatives because we cannot force and should not force anyone into a program that they do not agree with, yet those programs are very effective because it can change somebody's heart. You can often get them off drugs; otherwise, they often learn just how to scam the system.

We also have to face a very difficult fact; not only has it been hard to eliminate drugs at the source country level, but quite frankly, the results and the facts on everything from drug courts, which I support, to drug treatment programs, which I support, to drug free schools programs, which I support, have mixed effectiveness records as well. Sometimes it is an amount of dollars.

If your drug treatment program is not long enough, the person does not get completely rehabilitated. Sometimes it is dollars at the schools levels. Their dollars are so little about all they can get done is passing out rulers or pencils.

We have to figure out how to make the dollars effective. There are other reasons why they are not as effective either. We have to look at those. Are they targeting the right people? Is the message something that actually appeals to kids or do the messages appeal more to adults?

Then another big question that was tackled under General McCaffrey as Drug Czar was a media campaign. We had a national media campaign that looked in lump sum like a lot of dollars, but compared to what people were getting hit with in the movies and on television and, in particular, in rock music, it was a little tiny dribble in a huge ocean, and was our ad campaign very successful in changing people's attitudes, and how do we do that.

A lot of the questions that we are going to deal with in treatment and prevention are also very difficult. It is not just that what is happening in Colombia is difficult and what is happening in law enforcement is difficult, it is also difficult in prevention and treatment.

Some people say, well, it is just hopeless. We should just give up. We cannot eliminate drug abuse.

I happen to believe that the core problem is sin, because as long as people are going to sin, which they always will, it is going to be very difficult to eliminate it. Even if we do not accept that premise and want to say well, the problems are family breakup, their lack of economic opportunity, there is self-esteem problems, all of which are, to a degree, true, and certainly they are mostly intractable problems.

□ 1615

We cannot in the Federal Government say every family has to stay together. We have to make sure that every single person gets a job. We cannot pass a law to say that your self-esteem must be high. Obviously we cannot do that, but we need to work towards those things.

Mr. Speaker, we know that 70 to 85 percent of all crime in America is alcohol and illegal narcotics related. We hear about so-called victimless crime where someone is thrown in a jail for using a small amount of marijuana. I would like to see those cases; there are not very many. The bulk of crime that is drug related is robbery, assault, to get money or it is because the illegal narcotics has been an enabler and have resulted in child abuse, spouse abuse, rape, you name the problem. 70 to 85 percent of those problems are drug and alcohol related. It is clearly the biggest at least enabler problem that we have in this country.

Do we just give up? People say Congress has spent a lot of money, and has not eliminated drug abuse. Do we just give up. We have been spending money trying to eliminate child abuse since America was founded. Do we just give up? We have been trying to eliminate spouse abuse. Do we just give up? We have been trying to eliminate rape in America. Do we just give up? Of course not.

If you think that the drug war is something that takes 12 months or 24 months, you do not understand the nature of the problem. This is a problem that comes up every time young people are born, move into elementary and into junior high years, start to be exposed to the temptations, you have a whole other market that has to be reeducated and relearn why drug abuse is a problem. Just like racism and child abuse and spouse abuse, it is a never-ending problem that sometimes we get more control over and sometimes we get less control over, and we need to work on getting control of this.

There is a fad in America of ''medicinal'' use of marijuana, implying that there is anything in marijuana that is good, rather than it has one subcomponent in it that can be helpful in alleviating vomiting when you take certain things for cancer, that that component can be isolated and used other ways. Much like there is probably one good component in arsenic, there is probably one good chemical component in most things. But marijuana is not medicinal. Marijuana is no different than any other cigarette except that it is more potent and more dangerous than other cigarettes.

Mr. Speaker, for example, that kind of fad and the legalization fad, today in Washington we have an assistant health minister from the Netherlands bragging on C–SPAN earlier today and other places about how great the Netherlands program has been. Anybody who has heard of the drug Ecstacy in America and knows how it is ripping apart, starting on the East Coast and moving into the West gradually, and see what it is doing to individuals and young kids in our country, thank the Netherlands.

Their legalization program has made them the home port for the entire world for synthetic drugs. They can talk about how great their legalization program has worked, but they are the exporters causing problems in my hometown, and yet they have the nerve to tell the world how great their legalization program is working.

Mr. Speaker, I wanted to go through the demand focus before I move into Plan Colombia. First, on this chart let me illustrate a couple of fundamental points about the drug question. We have a hearing tomorrow morning at 9:30 where we are going to have General Pace, the head of SOUTHCOM, the military command structure of our Department of Defense that has the area south of Mexico and in South America with Randy Beers, who is the narcotics chief in the State Department, and also Mr. Marshall, who is the director of the DEA to talk about Plan Colombia in particular.

We know where the drugs come from, and we know where they come into the United States. That said, it is still hard to get control of it. Colombia, Peru just to the south and Bolivia, the Andean region, constitute basically 100 percent of the cocaine that comes into America, almost all of the heroin that is currently in America with the exception of some Asian heroin in the West, and most of our high-grade marijuana in America. So we know where it comes from and how it gets here.

It comes through the western Caribbean, through the eastern Pacific, often then up through Mexico, occasionally up increasingly through the

Caribbean corridor which has gone down as low as 38 percent, as high as 58 percent, it depends where the pressure is. Now, if you look at this, it gets harder as the drugs move from the source country. And understand Colombia, Bolivia and Peru are not little countries. They are together about the same size as the United States, so it is still a large area to cover. As they move into the whole Caribbean Sea and the eastern Pacific and can come into the United States from any direction, and much of it also goes to Europe and Asia, it becomes more difficult as we move from those countries.

The next thing is that in Colombia, it is also clear that coca and heroin poppy are not grown everywhere in the Andean country. While they can be grown in other places, it tends to be that the coca is concentrated near the equator with a certain elevation, and you can get better yields and better grades in some parts of these countries. Furthermore, the heroin poppy basically needs a high temperature, lots of humidity, that is why the Equator, at 8,000 feet or above. So within these countries, they can only go basically in some places. Furthermore, in those countries they do not want to be where there are population centers or roads because then it is easier for the military and the police to get them.

In Colombia there are two basic regions where the coca is grown. What has happened over the last few years for those who say that this is a hopeless battle, Bolivia at one point, because of the Chapare and Camiri areas being such a great area to grow coca, once produced 30 to 50 percent of the coca production. It is now down to less than 10 with their President committed to getting it to zero in the next few years through working with alternative development.

In Peru that used to be producing 30 to 40 percent, they made dramatic efforts to reduce it in Peru. Now, the instability of their current governmental situation leads the vulnerability back towards Peru. Ecuador, which is right up and right near the big cocaine area of Colombia, has not had the same level of growing of coca for a number of reasons. But they are very worried that this may spread to them along the Putamyo River.

Now, there are a number of reasons. One is the road system is a little more developed in the areas, that there is so much instability, and Ecuador has never been a target, five Presidents in 5 years. The tradition has been more in Colombia partly for access to the United States.

Let me illustrate one other thing. What is our compelling national interest in this? I have been going on about 70 to 85 percent of our crime in America being related to drug abuse. But it is more than just that.

Panama here, for those who are historians realize that this really is Colombia and was made Panama when Colombia would not take our offer when we wanted to build the canal there.

The narcotraffickers and others, these circles represent areas where the different terrorist groups have taken over part of Colombia have moved into the southern part of Panama and are in danger of threatening and shutting off or at least gaining control of the Panama Canal.

We have had our military kicked out of Panama. We cannot have our AWACS and our other spy planes which we were doing to interdict traffickers for the last few years, we cannot fly them out of Panama anymore. So we are busy building forward landing locations, one here in Ecuador, one over here in Aruba and Curacao. We have refueling stops up here in Honduras and in El Salvador because we have had to scatter around.

But what that means is right now some of our spy planes because we so, in my opinion, botched the Panama Canal situation, that we are having to come down from Puerto Rico or way in the United States and spending so much time trying to get a plane down there that they can fly around a little bit and then head back.

Now, in the Netherlands Antilles, we have had some usage of their fields, but we do not have an AWACS down there. Plus, quite frankly, the last administration diverted most of our intelligence capabilities over to the Balkan area.

Now the reason that becomes important, as I said, there is a trade nexus here. There is a drug nexus here. But this area is our choke-point on oil. Seventeen percent of America's oil comes from the Lake Maracaibo Venezuela area.

Colombia and Ecuador and Venezuela together supply more oil to America than the Middle East. We have had our attention diverted into every skirmish and every terrible human rights crisis in the world, and we are not watching in our own hemisphere. Our trade choke-point, the agriculture products that come from the Midwest and down and go to Asia come through here.

We are not watching our energy choke-point. We whine if gas hits $1.50. What if we lose this area to the narcotraffickers and they have a gun to our head and gas goes to $4 or $5 a gallon. What happens to the pickup makers in my district? What happens to people who drive trucks? What happens to the people who make RVs? What happens to the people who build boats? Ask the question, What are we going to do if we have this area fall under the narcotraffickers? We have a compelling national interest in these areas.

I want to respond, too, to two other things. One is in Plan Colombia. One would think from hearing much of the debate that Plan Colombia is predominantly a military exercise.

Now, I would like to insert into the RECORD two parts from the U.S. support for Plan Colombia from the U.S. Embassy document. And I have marked the pages, and I will insert that.

I want to read a couple of the highlights. We are spending 25 million to establish a human-rights task force. So it is 25 million to establish a human-rights task force, 7 million to strengthen human-rights institutions, 4 million to enhance protection of human-rights workers, 15 million to witness and judicial security and witness protection in human-rights cases, 2.5 million in child soldier rehabilitation, 1.5 million in human-rights monitoring, support for U.N. human-rights offices another million.

Then we are also investing in their governing capacity and reform to judicial system; for prosecuting or training, 4 million; for how to training judges, 3.5 million; how to train public defenders, 2 million; how to create the houses of justice, 1 million; policy reform criminal code, 1.5 million; policy reform enabling environment, 1 million.

We also have different programs on asset forfeiture, on countering organized financial crime, on prison security, on judicial police training academy, on multilateral case initiatives, and a whole series of things.

I wanted to point that out because what we realize here is our drug consumption, America has literally nearly destroyed one of the oldest democracies in South America, a democracy as old as America. The narco-terrorists represent a public support percent of 4 percent. The number of people in American prisons is approximately 1.5 percent. With one family member, they would represent 3 percent of our population.

This is not a rising up of a dissident movement in a country. These are people who predominantly are terrorists, funded by our drug habit in America that have undermined their governmental structure.

Now, as we work with trying to get control of the country, enable their structures to work again, and anybody who saw the movie ''Clear and Present Danger,'' while it was a fictitious movie based on a fictitious book by Tom Clancy, I asked former Ambassador Morris Busby, who was ambassador at the time that so many of those judges were killed, whether the movie was accurate. He said not completely. I died in the movie.

It was basically accurate in the sense of nearly one-third of their judges were killed. Their police departments in many of these countries are terrorized because of the weaponry and the dollars that the dissident groups have.

□ 1630

Now, that said, I am also going to insert some marked pages here from Plan

Colombia, a document from President Pastrana in Colombia, for the RECORD. Let me read this paragraph:

''In short, the hopes of the Colombian people and the work of the Colombian government have been frustrated by drug trafficking, which makes it extremely difficult for the government to fulfill its constitutional duty. A vicious and pervasive cycle of violence and corruption has drained the resources essential to the construction and success of a modern state.''

President Pastrana has set aside a demilitarized zone for the FARC. The right wing terrorists are now into narcotics and almost as large as the FARC, but there is a demilitarized zone where the president is trying to work with the peace process so at least those who have been concerned about land reform and other issues in Colombia have the ability to separate themselves from the narcoterrorists. He is working at that. But we have grave concerns that it has become a launching area and a protection area under the guise of a DMZ for the other areas.

Now, in trying to reestablish all those dollars I said for criminal justice reform and for legal reform, first there has to be order and the crops have to be eradicated; and then they can do the alternative development, which gives people an alternative to illegal narcotics.

Now, in addition to that, I worked with the gentleman from Alabama (Mr. Callahan) in last year's foreign operations where the University of Notre Dame, the Kellogg Institute, the Ford Foundation and others have put together a human rights center for Colombians who fled, often with $1 to $2 million prices on their head. Many of their top writers, many of their top people in the movie industry, people in all forms of cultural life in Colombia have gravitated to the University of Notre Dame because of Catholic ties and because of this center; and we need to help keep their culture together. This is an old democracy being destroyed in large part because of our drug consumption.

Now, they have to fight the battle there. A part of Plan Colombia I ask to insert is very clear. They have asked us for help. If they are not willing to do the fighting on the ground, if they are not willing to work to rebuild their institutions, there is not much we can do here. We have been through that before. But when people like the Colombian National Police, where they have had 30,000 police officers killed as they battled illegal narcotics, how can we not help them? The bullets being shot at them are coming predominantly with American and European money. All the battle is because in the soaring into Colombia, most of which has occurred in the last 5 to 8 years, is because of our habits.

Now, if we can help them, and that is all they are asking, is will we help them financially; they will do the fighting, they will do the rebuilding, but can we help them financially, our answer should be, since we have at stake our energy, or kids' and families' lives on the street with drug abuse and our trade, our answer should be, yes, what can we do. We should thank them for being willing to risk their lives to help fight our battles.

My colleagues can also see in the President's budget additional funds for the Andean region. Because if we are successful working with Colombia and giving them the resources with which to fight this battle, the narcotraffickers are not just going to give up. They will endanger other countries in the zone. As we heard the vice president of Bolivia so articulately say, what we need to do is convince people. People do not want to deal in narcotics that destroy people's lives; but we have to give them an alternative life-style to say, look, at least decent living can be made in other things. To some degree that means infrastructure questions; to some degree it means helping them with marketing, with training and different things so that they do not go back into narcotrafficking.

I do not believe they have a moral claim on us. I do not believe anybody who grows illegal narcotics or deals in illegal narcotics has a moral claim on the United States that says we must give them money. But I believe it is in our self-interest to help them, or they in fact will grow coca and will deal it. So it is in our self-interest to do so. Plus, I believe it is our moral charity that says, look, certainly they would not be doing this illegal activity if we were not consuming it. So we are going to help them.

But there is a difference from the cocaleros, the people who grow the coca, demanding a moral right to X amount of money in their life-style. We do not tell the kids on the street who are making $300 for 10 minutes' working as a lookout that if they go to McDonald's that they can earn $300. But we do have an obligation in America to try to make sure that people have a decent education; that there are economic opportunities for all Americans and that they can make it if they work at it. But they are not going to make $300 for 10 minutes as a lookout.

Some of these countries seem to be thinking that we are going to replace their cocaine income. No, what we want to do is, through trade policies and through helping them and their countries, get enough of an income that a mother and dad can support their kids with an acceptable life-style, where they are not hungry, where they have a shelter above their heads, where they can learn to read and write and have the potential to advance themselves. And to some degree we owe it to them because we have moved and fueled this narcotics effort.

So I thank my colleagues for giving me this opportunity today. As I say, we have a hearing tomorrow on Plan Colombia. We have money in the current President's budget, and this will be a hot debate over the next few months. As our colleagues who have just been down there, with many more going in a couple of weeks, and as the national media focuses on this issue, we will hear lots more about it. I intend to come down to the House floor and continue to stress the overall Andean package, of which Plan Colombia is part. It is part of a comprehensive approach to drug abuse, which is our number one source of crime in America, 70 to 85 percent, according to every sheriff and prosecutor in the country. And also it is a threat to our energy and economic trade in America and our very economic system.

Mr. Speaker, I include for the RECORD those articles I referred to earlier.

ALTERNATIVE ECONOMIC DEVELOPMENT AND RESETTLEMENT—FACTS AND FIGURES

Alternative Development (Voluntary Eradication): US $30M.

Assists farmers growing coca on small plots (three hectares or less) to obtain a licit income from agricultural, forestry, or livestock production and marketing.

The activity concentrates in three areas: (1) technical assistance in production, processing and marketing of licit, alternative products; (2) social infrastructure, such as schools and health clinics, and productive infrastructure, such as access roads and agroindustry; and (3) strengthening of local producer, community and government entities to eliminate illicit crops.

Environmental Programs: US $2.5M.

Protects Colombia's globally important biological diversity. By introducing economic alternatives to deforestation for communities living on the edges of protected areas, these programs offset ecological damage done by coca and poppy production in the Colombian Amazon and protect watersheds.

Support to Affected Municipalities: US $12M.

Encourages participation by municipalities in deciding investment priorities, on agreeing how to use social development funds, and in establishing oversight and monitoring procedures. This program will assist approximately 100 municipalities that have been involved in illicit crop eradication and that are aiding displaced persons.

Assist Internally Displaced Persons—Small Infrastructure Projects: US $22.5M.

Up to 50 municipalities are being identified in northern Colombia where support for displaced persons can be established. Medium term support for displaced persons is being implemented in cooperation with international organizations through grants for public infrastructure projects such as schoolrooms, water systems, road and bridge constitution and repair, and market shelters. The communities themselves select the projects, provided they meet criteria for participation in the development of municipal decisions, transparency in financial management, and active participation in alternative development or other governance activities. Approximately 100,000 displaced persons will benefit from these programs.

Alternative Development (Small Infrastructure Projects for existing Communities): US $10M.

Unless a community is able to improve its social and economic situation it is likely to return to illicit crop cultivation even after it has completed an eradication effort. These funds provide public infrastructure projects such as schoolrooms, water systems, road and bridge construction and repair, through municipal governments to provide the conditions in which communities continue to raise licit crops.

Alternative Development in Southern Colombia: US $10M.

Provides technical assistance and material support to municipal governments and local NGOs to strengthen local social services including education, health, and potable water. The program also provides agricultural extension services, agricultural inputs and marketing support. In exchange, some 2,000 farmers, through farmer associations, sign agreements voluntarily to abandon coca production. The entire Alternative Development zone, comprising eight municipalities in southern Colombia and 18,000 families, will benefit from this program.

Emergency Assistance in Southern Colombia: US $15M.

This program provides temporary food and shelter assistance for up to six months to families displaced by conflict and coca eradication in southern Colombia.

USAID Operating Expenses for Managing these programs: US $4M.

Total U.S. Plan Colombia support for alternative development and displaced persons: US $106M.

PROTECTING HUMAN RIGHTS, IMPROVING GOVERNING CAPACITY AND REFORMING THE JUDICIAL SYSTEM: FACTS AND FIGURES

HUMAN RIGHTS

Establish Human Rights Task Forces: US $25M.

Strengthen Human Rights Institutions: US $7M.

Enhance Protection of Human Rights Workers: US $4M.

Witness and Judicial Security and Witness/Judicial Security in Human Rights Cases: US $15M.

Child Soldier Rehabilitation: US $2.5M.

Human Rights Monitoring: US $1.5M.

Support for U.N. Human Rights Office: US $1M.

IMPROVING GOVERNING CAPACITY AND REFORM TO THE JUDICIAL SYSTEM.

Prosecutor Training: US $4M.

Oral Accusatory Public Trials and Training of Judges: US $3.5M.

Public Defenders: US $2M.

Casas de Justicia: US $1M.

Policy Reform—Criminal Code: US $1.5M.

Policy Reform—Enabling Environment: US $1M.

ADDITIONAL SUPPORT FOR COLOMBIAN LAW ENFORCEMENT

Asset Forfeiture/Money-Laundering Task Force/Anti-corruption program/Asset Management Program/Financial Crime Program Counter-narcotics Investigative Units: US $15.OM.

Countering Organized Financial Crime: US $14M.

Prison Security: US $4.5M.

Judicial Police Training Academy: US $3M.

Multilateral Case Initiative: US $3M.

Banking Supervision Assistance and Revenue Enhancement Assistance: US $1.5M.

Maritime Enforcement and Port Security: US $2.5M.

Train Customs Police and Customs and Training Assistance: US $3M.

Military HR & Legal Reform: US $1.5M.

Anti-Kidnapping Strategy: US $1M.

Army JAG School: US $1M.

Total U.S. Plan Colombia support for protecting human rights, improving governing capacity and reform to the judicial system: US $119M.

In short, the hopes of the Colombian people and the work of the Colombian government have been frustrated by drug trafficking, which makes it extremely difficult for the government to fulfill its constitutional duty. A vicious and pervasive cycle of violence and corruption has drained the resources essential to the construction and success of a modern State.

We understand that reaching our objectives will depend on a social and governmental process that may take several years—a time when it is critical to achieve a lasting consensus within a Colombian society where people understand and demand their rights, but are also willing to abide by their responsibilities.

In the face of all this, my government is absolutely committed to strengthen the State, regain the confidence of our citizens, and restore the basic norms of a peaceful society. Attaining peace is not a matter of will alone. Peace must be built; it can come only through stabilizing the State, and enhancing its capacity to guarantee each and every citizen, throughout the entire country, their security and the freedom to exercise their rights and liberties.

Negotiaiton with the insurgents, which my government initiated, is at the core of our strategy because it is one critical way to resolve a forty-year-old historic conflict that raises enormous obstacles to creating the modern and progressive state Colombia so urgently needs to become. The search for peace and the defense of democratic institutions will require long effort, faith and determination, to deal successfully with the pressures and doubts inherent in so difficult a process.

The fight against drug trafficking constitutes another important part of Plan Colombia. The strategy would advance a partnership between consumer and producer countries, based on the principles of reciprocity and equality. The traffic in illicit drugs is clearly a transnational and complex threat, destructive to all our societies, with enormous consequences for those who consume this poison, and enormous effects from the violence and corruption fed by the immense revenues the drug trade generates. The solution will never come from finger-pointing by either producer or consumer countries. Our own national efforts will not be enough unless they are part of a truly international alliance against illegal drugs.

Colombia has demonstrated its absolute commitment and made heavy sacrifices to forge a definitive solution to the phenomenon of drug trafficking, to the armed conflict, human rights violations and destruction of the environment caused by drug production. Yet, in truth, we must acknowledge that more than twenty years after marijuana cultivation came to Colombia, along with increased cocaine and poppy cultivation, drug trafficking continues to grow as a destabilizing force, distorting the economy, reversing the advances made in land distribution, corrupting society, multiplying violence, depressing the investment climate—and most seriously, providing increased resources to fund all armed groups.

Colombia has been leading the global battle against drugs, taking on the drug cartels and losing many of our best citizens in the process. Now, as drug trafficking becomes a more fragmented network, more internationalized, underground, and thus harder to combat, the world continues testing new strategies. More resources are being targeted for education and prevention. We see the results in the increased confiscation and expropriation of profits and properties obtained from illegal drug trafficking. In Colombia, we have recently launched operations to destroy processing laboratories and distribution networks. We are improving and tightening security and control of our rivers and airspace to assure better interdiction, and we are exploring new ways to eradicate illegal crops. The factors directly related to drug trafficking—like money laundering, smuggling of chemicals, and illegal arms trafficking—are components of a multifaceted problem that must be dealt with across the globe, wherever illicit drugs are produced, transported, or consumed.

Our success also requires reforms at the very heart of our institutions, in particular, in our military forces to uphold the law and return a sense of security to all Colombians everywhere in Colombia. Strong, responsible, responsive military and police forces committed to peace and respect for human rights are indispensable to consolidating and maintaining the rule of law. Also, we need—and we are committed—to securing a modern and effective judicial system sworn to defend and promote respect for human rights. We will be tireless in this cause, convinced that our first obligation as a government is to guarantee that our citizens can exercise their rights and fundamental liberties, free from fear.

But Colombia's strategy for peace and progress also depends on reforming and modernizing other institutions so the political process can function as an effective instrument of economic advancement and social justice. To make progress here, we have to reduce the causes and provocations of violence, by opening new paths to social participation and creating a collective conscience which holds government accountable for results. Here our strategy includes a specific initiative to guarantee, within five years, full access for all our people to education and an adequate healthcare system, with special attention for the most vulnerable and neglected. In addition, we plan to strengthen local governments, in order to make them more sensitive and responsive to the needs and will of our citizens. We will also encourage active grassroots participation in our fight against corruption, kidnapping, violence, and the displacement of people and communities.

Finally, Colombia requires aid to strengthen its economy and generate employment. Our country needs better and fairer access to markets where our products can compete. Assistance from the United States, the European community and the rest of the international community is vital to our economic development. That development, in turn, is a critical counter force to drug trafficking, because it brings alternative legal employment, for individuals who might otherwise be lost to organized crime or to the insurgent groups that feed off drug-trafficking. We are convinced that the first step toward meaningful worldwide globalization is to create a sense of global solidarity. This is why Colombia is asking for support from its partners. We cannot succeed without programs for alternative development in rural areas, and easier international access for our legitimate exports. This is the only way to successfully offset the illegal drug trade.

There are reasons to be optimistic about the future of Colombia, especially if we receive a positive response from the world community, as we work to create widespread prosperity combined with justice. This will make it possible for Colombians to pave the way to a lasting peace.

The Spanish philosopher Miguel de Unamuno wrote: ''Faith is not to believe in the invisible, but rather to create the invisible.'' Today, a peaceful, progressive, drug-free Colombia is an invisible ideal—but we are determined to make it the reality of our future. With the full commitment of all our resources and resolve, with the solidarity and assistance of our international partners in the common fight against the plague of drug trafficking, we can and will forge the new reality of a modern, democratic, and peaceful Colombia, not just surviving, but thriving in the new millennium as a proud and dignified member of the world community.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. TOOMEY (at the request of Mr. ARMEY) for today on account of personal reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:)

Mr. PALLONE, for 5 minutes, today.

Mr. ROSS, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mrs. MINK of Hawaii, for 5 minutes, today.

Mr. KUCINICH, for 5 minutes today.

(The following Members (at the request of Mr. DUNCAN) to revise and extend their remarks and include extraneous material:)

Mr. HORN, for 5 minutes, today.

Mr. WHITFIELD, for 5 minutes, today.

Mr. DUNCAN, for 5 minutes, today.

Mr. BOEHNER, for 5 minutes, today.

Mr. FOLEY, for 5 minutes, today.

Mr. MILLER of Florida, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. WELDON of Pennsylvania, for 5 minutes, today.

SENATE CONCURRENT RESOLUTION REFERRED

A concurrent resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. Con. Res. 18. Concurrent resolution recognizing the achievements and contributions of the Peace Corps over the past 40 years, and for other purposes; to the Committee on International Relations.

ENROLLED BILL SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 559. An act to designate the United States courthouse located at 1 Courthouse Way in Boston, Massachusetts, as the ''John Joseph Moakley United States Courthouse''.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 279. An act affecting the representation of the majority and minority membership of the Senate Members of the Joint Economic Committee.

ADJOURNMENT

Mr. SOUDER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 37 minutes p.m.), under its previous order, the House adjourned until Monday, March 5, 2001, at 2 p.m.

OATH FOR ACCESS TO CLASSIFIED INFORMATION

Under clause 13 of rule XXIII, the following Members executed the oath for access to classified information:

Neil Abercrombie, Aníbal Acevedo-Vilá, Gary L. Ackerman, Robert B. Aderholt, W. Todd Akin, Thomas H. Allen, Robert E. Andrews, Richard K. Armey, Spencer Bachus, Brian Baird, Richard H. Baker, John Elias E. Baldacci, Tammy Baldwin, Cass Ballenger, Bob Barr, Roscoe G. Bartlett, Joe Barton, Charles F. Bass, Ken Bentsen, Doug Bereuter, Shelley Berkley, Howard L. Berman, Judy Biggert, Michael Bilirakis, Rod R. Blagojevich, Roy Blunt, Sherwood L. Boehlert, John A. Boehner, Henry Bonilla, David E. Bonior, Mary Bono, Robert A. Borski, Leonard L. Boswell, Rick Boucher, Kevin Brady, Robert A. Brady, Corrine Brown, Sherrod Brown, Henry E. Brown, Jr., Ed Bryant, Richard Burr, Dan Burton, Steve Buyer, Sonny Callahan, Ken Calvert, Dave Camp, Chris Cannon, Eric Cantor, Shelley Moore Capito, Lois Capps, Benjamin L. Cardin, Brad Carson, Michael N. Castle, Steve Chabot, Saxby Chambliss, Wm. Lacy Clay, Eva M. Clayton, Howard Coble, Mac Collins, Larry Combest, Gary A. Condit, John Cooksey, Christopher Cox, William J. Coyne, Philip P. Crane, Ander Crenshaw, Joseph Crowley, Barbara Cubin, John Abney Culberson, Randy ''Duke'' Cunningham, Danny K. Davis, Jo Ann Davis, Susan A. Davis, Thomas M. Davis, Nathan Deal, Peter A. DeFazio, Diana DeGette, William D. Delahunt, Rosa L. DeLauro, Tom DeLay, Jim DeMint, Peter Deutsch, Lincoln Diaz-Balart, Norman D. Dicks, John D. Dingell, Lloyd Doggett, Calvin M. Dooley, John T. Doolittle, Michael F. Doyle, David Dreier, John J. Duncan, Jr., Jennifer Dunn, Chet Edwards, Vernon J. Ehlers, Robert L. Ehrlich, Jr., Jo Ann Emerson, Eliot L. Engel, Phil English, Lane Evans, Terry Everett, Eni F.H. Faleomavaega, Sam Farr, Chaka Fattah, Mike Ferguson, Jeff Flake, Ernie Fletcher, Mark Foley, Vito Fossella, Barney Frank, Rodney P. Frelinghuysen, Martin Frost, Elton Gallegly, Greg Ganske, George W. Gekas, Richard A. Gephardt, Jim Gibbons, Wayne T. Gilchrest, Paul E. Gillmor, Benjamin A. Gilman, Charles A. Gonzalez, Virgil H. Goode, Jr., Bob Goodlatte, Bart Gordon, Porter J. Goss, Lindsey O. Graham, Kay Granger, Sam Graves, Gene Green, Mark Green, James C. Greenwood, Felix J. Grucci, Jr., Gil Gutknecht, Tony P. Hall, James V. Hansen, Jane Harman, Melissa A. Hart, J. Dennis Hastert, Alcee L. Hastings, Doc Hastings, Robin Hayes, J. D. Hayworth, Joel Hefley, Wally Herger, Baron P. Hill, Van Hilleary, Earl F. Hilliard, Maurice D. Hinchey, David L. Hobson, Joseph M. Hoeffel, Peter Hoekstra, Rush D. Holt, Michael M. Honda, Darlene Hooley, Stephen Horn, John N. Hostettler, Amo Houghton, Steny H. Hoyer, Kenny C. Hulshof, Duncan Hunter, Asa Hutchinson, Henry J. Hyde, Jay Inslee, Johnny Isakson, Steve Israel, Darrell E. Issa, Ernest J. Istook, Jr., Jesse L. Jackson, Jr., Sheila Jackson-Lee, William J. Jefferson, William L. Jenkins, Christopher John, Eddie Bernice Johnson, Nancy L. Johnson, Sam Johnson, Timothy V. Johnson, Stephanie Tubbs Jones, Walter B. Jones, Paul E. Kanjorski, Marcy Kaptur, Ric Keller, Sue W. Kelly, Mark R. Kennedy, Patrick J. Kennedy, Brian D. Kerns, Dale E. Kildee, Ron Kind, Peter T. King, Jack Kingston, Mark Steven Kirk, Gerald D. Kleczka, Joe Knollenberg, Jim Kolbe, Dennis J. Kucinich, Ray LaHood, Nick Lampson, James R. Langevin, Steve Largent, John B. Larson, Tom Latham, Steven C. LaTourette, James A. Leach, Barbara Lee, Sander M. Levin, Jerry Lewis, John Lewis, Ron Lewis, John Linder, William O. Lipinski, Frank A. LoBiondo, Zoe Lofgren, Nita M. Lowey, Frank D. Lucas, Ken Lucas, Bill Luther, Carolyn B. Maloney, James H. Maloney, Donald A. Manzullo, Edward J. Markey, Frank Mascara, Robert T. Matsui, Carolyn McCarthy, Jim McCrery, John McHugh, Scott McInnis, Mike McIntyre, Howard P. McKeon, Cynthia A. McKinney, Michael R. McNulty, Martin T. Meehan, Carrie P. Meek, Gregory W. Meeks, John L. Mica, Dan Miller, Gary G. Miller, Patsy T. Mink, John Joseph Moakley, Alan B. Mollohan, Dennis Moore, James P. Moran, Jerry Moran, Constance A. Morella, John P. Murtha, Sue Wilkins Myrick, Jerrold Nadler, George R. Nethercutt, Jr., Robert W. Ney, Anne M. Northup, Charlie Norwood, Jim Nussle, James L. Oberstar, David R. Obey, John W. Olver, Solomon P. Ortiz, Tom Osborne, Doug Ose, C. L. Otter, Michael G. Oxley, Frank Pallone, Jr., Bill Pascrell, Jr., Ed Pastor, Nancy Pelosi, Mike Pence, Collin C. Peterson, John E. Peterson, Thomas E. Petri, David D. Phelps, Charles W. Pickering, Joseph R. Pitts, Todd Russell Platts, Richard W. Pombo, Rob Portman, Deborah Pryce, Adam H. Putnam, Jack Quinn, George Radanovich, Nick J. Rahall II, Jim Ramstad, Charles B. Rangel, Ralph Regula, Dennis R. Rehberg, Silvestre Reyes, Thomas M. Reynolds, Bob Riley, Lynn N. Rivers, Ciro D. Rodriguez, Tim Roemer, Harold Rogers, Mike Rogers, Dana Rohrabacher, Ileana Ros-Lehtinen, Steven R. Rothman, Marge Roukema, Edward R. Royce, Bobby L. Rush, Paul Ryan, Jim Ryun, Martin Olav Sabo, Loretta Sanchez, Bernard Sanders, Max Sandlin, Tom Sawyer, Jim Saxton, Joe Scarborough, Bob Schaffer, Janice D. Schakowsky, Adam B. Schiff, Edward L. Schrock, F. James Sensenbrenner, Jr., José E. Serrano, Pete Sessions, John B. Shadegg, E. Clay Shaw, Jr., Christopher Shays, Brad Sherman, Don Sherwood, John Shimkus,

Ronnie Shows, Rob Simmons, Michael K. Simpson, Norman Sisisky, Joe Skeen, Ike Skelton, Louise McIntosh Slaughter, Adam Smith, Christopher H. Smith, Lamar S. Smith, Nick Smith, Vic Snyder, Mark E. Souder, Floyd Spence, John M. Spratt, Jr., Cliff Stearns, Charles W. Stenholm, Bob Stump, Bart Stupak, John E. Sununu, John E. Sweeney, Thomas G. Tancredo, Ellen O. Tauscher, W. J. (Billy) Tauzin, Charles H. Taylor, Gene Taylor, Lee Terry, William M. Thomas, Bennie G. Thompson, Mike Thompson, Mac Thornberry, John R. Thune, Karen L. Thurman, Todd Tiahrt, Patrick J. Tiberi, John F. Tierney, Patrick J. Toomey, James A. Traficant, Jr., Jim Turner, Mark Udall, Robert A. Underwood, Fred Upton, Peter J. Visclosky, David Vitter, Greg Walden, James T. Walsh, Zach Wamp, Maxine Waters, Wes Watkins, J.C. Watts, Jr., Henry A. Waxman, Curt Weldon, Dave Weldon, Jerry Weller, Ed Whitfield, Roger F. Wicker, Heather Wilson, Frank R. Wolf, Lynn C. Woolsey, Albert Russell Wynn, C.W. Bill Young, Don Young.

RULES AND REPORTS SUBMITTED PURSUANT TO THE CONGRESSIONAL REVIEW ACT

Pursuant to 5 U.S.C. 801(d), executive communications [final rules] submitted to the House pursuant to 5 U.S.C. 801(a)(1) during the period of July 13, 2000 through January 3, 2001, shall be treated as though received on March 1, 2001. Original dates of transmittal, numberings, and referrals to committee of those executive communications remain as indicated in the Executive Communication section of the relevant CONGRESSIONAL RECORDS of the 106th Congress.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

1036. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting the Department's final rule—Specifically Approved States Authorized To Receive Mares and Stallions Imported from Regions where CEM Exists [Docket No. 00–115–3] received February 20, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

1037. A letter from the Special Assistant to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.2029(b), Table of Allotments, FM Broadcast Stations (Sparta and Buckhead, Georgia) [MM Docket No. 00–101; RM–9885] received February 13, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1038. A letter from the Special Assistant to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations (Fresno, California) [MM Docket No. 00–162; RM–9948] received February 13, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1039. A letter from the Special Assistant to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations (Portsmouth, Virginia) [MM Docket No. 00–201; RM–9919] received February 13, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1040. A letter from the Special Assistant to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations (Arkadelphia, Arkansas) [MM Docket No. 00–179; RM–9947] received February 13, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1041. A letter from the Special Assistant to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations (Sheridan, Wyoming) [MM Docket No. 00–184; RM–9955] received February 13, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1042. A letter from the Special Assistant to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations (Albany, New York) [MM Docket No. 00–183; RM–9959] received February 13, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1043. A letter from the Special Assistant to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations (Henderson, Neveda) [MM Docket No. 00–181; RM–9933] received February 13, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1044. A letter from the Special Assistant to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Pentwater, Michigan) [MM Docket No. 00–141; RM–9930]; (Hawthorne, Neveda) [MM Docket No. 00–142; RM–9923]; (Ludington, Michigan) [MM Docket No. 00–143; RM–9931]; (Groveton, New Hampshire) [MM Docket No. 00–144; RM–9925]; and (Marceline, Missouri) [MM Docket No. 00–153; RM–9936] received February 13, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1045. A letter from the Special Assistant to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations (Evansville, Indiana) [MM Docket No. 99–346; RM–9763] received February 13, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1046. A letter from the Special Assistant to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Alva, Mooreland, Tishomingo, Tuttle, and Woodward, Oklahoma) [MM Docket No. 98–155; RM–9082; RM–9133] received February 13, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1047. A letter from the Special Assistant to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations (McAllen, Texas) [MM Docket No. 99–315; RM–9731] received February 13, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1048. A letter from the Special Assistant to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations (Hazleton, Pennsylvania) [MM Docket No. 00–119; RM–9879] received February 13, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1049. A letter from the Special Assistant to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Macon and Walnut Grove, Mississippi) [MM Docket No. 97–188; RM–9137] received February 13, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

1050. A letter from the Acting Director, Defense Security Cooperation Agency, transmitting notification of justification of defense articles, services, and military education and training furnished under section 506 of the Foreign Assistance Act of 1961 for the purpose of providing anti-narcotics assistance, pursuant to 22 U.S.C. 2318(b)(2); to the Committee on International Relations.

1051. A letter from the Acting Director, Defense Security Cooperation Agency, transmitting notification of justification of defense articles, services, and military education and training furnished under section 506 of the Foreign Assistance Act of 1961 for the purpose of providing anti-narcotics assistance, pursuant to 22 U.S.C. 2318(b)(2); to the Committee on International Relations.

1052. A letter from the Acting Assistant Secretary, Bureau of Indian Affairs, Department of the Interior, transmitting the Department's final rule—Distribution of Fiscal Year 2001 Indian Reservation Roads Funds—received February 16, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1053. A letter from the Deputy Assistant Chief Counsel, Federal Railroad Administration, Department of Transportation, transmitting the Department's final rule—Brake System Safety Standards for Freight and Other Non-Passenger Trains and Equipment; End-of-Train Devices; Final Rule: Delay of Effective Date [FRA Docket No. PB–9; Notice No. 18] (RIN: 2130–AB16) received February 2, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1054. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Establishment of Class E2 Airspace; Tri-City, TN [Airspace Docket No. 01–ASO–1] received February 15, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1055. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Revision of VOR Federal V–480 and Jet Route J–120; AK [Airspace Docket No. 00–AAL–07] (RIN: 2120–AA66) received February 15, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

1056. A letter from the Deputy Executive Secretary to the Department, Office of Child Support Enforcement, Department of Health and Human Services, transmitting the Department's final rule—National Medical Support Notice; Delay of Effective Date (RIN: 0970–AB97) received February 22, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1057. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Modification of Rev. Rul. 2001–4 [Notice 2001–23] received February 20, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

1058. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Repeal of the Modification of the Installment Method for Accrual Method Taxpayers [Notice 2001–22] received February 27, 2001, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. DELAHUNT:

H.R. 780. A bill to authorize and request the President to award the Medal of Honor to James L. Cadigan of Hingham, Massachusetts; to the Committee on Armed Services.

By Mr. VISCLOSKY (for himself, Mr. QUINN, Mr. KUCINICH, Mr. ENGLISH, Mr. MURTHA, Mr. NEY, Mr. CARDIN, Ms. HART, Mr. COYNE, Mr. BILIRAKIS, Mrs. JONES of Ohio, Mr. WALSH, Mr. MOLLOHAN, Mr. HORN, Mr. MATSUI, Mr. EVANS, Mr. COSTELLO, Mr. BROWN of Ohio, Ms. KAPTUR, Mr. MASCARA, Mr. LIPINSKI, Mr. OBERSTAR, Mr. RAHALL, Mr. STRICKLAND, Mr. BRADY of Pennsylvania, Mr. BONIOR, Mr. DINGELL, Mr. ABERCROMBIE, Mr. ANDREWS, Mr. BARCIA, Mr. BERRY, Mr. BISHOP, Mr. BLAGOJEVICH, Mr. BOSWELL, Mr. BOUCHER, Mr. BOYD, Ms. BROWN of Florida, Mrs. CHRISTENSEN, Mr. CLYBURN, Mr. CONYERS, Mr. CRAMER, Mr. CROWLEY, Mr. CUMMINGS, Mr. FILNER, Mr. FROST, Mr. GORDON, Mr. GREEN of Texas, Mr. HALL of Ohio, Mr. HILLIARD, Mr. HINCHEY, Mr. HOEFFEL, Mr. HOLDEN, Ms. HOOLEY of Oregon, Mr. JACKSON of Illinois, Mr. KANJORSKI, Mr. KILDEE, Ms. KILPATRICK, Mr. KLECZKA, Mrs. MCCARTHY of New York, Ms. MCCARTHY of Missouri, Mr. MCGOVERN, Mr. MCINTYRE, Ms. MCKINNEY, Mr. MCNULTY, Mr. MENENDEZ, Mr. GEORGE MILLER of California, Mrs. MINK of Hawaii, Ms. NORTON, Mr. PALLONE, Mr. PASCRELL, Mr. PETERSON of Pennsylvania, Mr. PHELPS, Ms. RIVERS, Mr. RODRIGUEZ, Mr. SANDERS, Mr. SANDLIN, Mr. SAWYER, Mr. SCOTT, Mr. SHIMKUS, Mr. THOMPSON of Mississippi, Mrs. THURMAN, Mr. TOWNS, Mr. TRAFICANT, Mr. WEXLER, and Mr. WYNN):

H.R. 808. A bill to provide certain safeguards with respect to the domestic steel industry; referred to the Committee on Ways and Means, and in addition to the Committees on Financial Services, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SENSENBRENNER (for himself, Mr. CONYERS, Mr. HYDE, Ms. NORTON, Mr. UNDERWOOD, Mr. FALEOMAVAEGA, Mrs. CHRISTENSEN, and Mr. ACEVEDO-VILÁ):

H.R. 809. A bill to make technical corrections to various antitrust laws and to references to such laws; referred to the Committee on the Judiciary, and in addition to the Committee on Armed Services, 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. REGULA (for himself, Mr. ROHRABACHER, Mr. HOBSON, Mr. HORN, Mr. FOLEY, and Mr. DUNCAN):

H.R. 810. A bill to provide for the retrocession of the District of Columbia to the State of Maryland, and for other purposes; referred to the Committee on the Judiciary, and in addition to the Committee on Government Reform, 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. SMITH of New Jersey (for himself, Mr. EVANS, Mr. MORAN of Kansas, Mr. FILNER, Mr. STUMP, Mr. REYES, Mr. BILIRAKIS, Mr. STEARNS, Mr. BAKER, Mr. SIMMONS, Mr. BROWN of South Carolina, and Mr. BUYER):

H.R. 811. A bill to authorize the Secretary of Veterans Affairs to carry out construction projects for the purpose of improving, renovating, and updating patient care facilities at Department of Veterans Affairs medical centers; to the Committee on Veterans' Affairs.

By Mr. UDALL of Colorado (for himself, Mr. HEFLEY, Ms. DEGETTE, Mr. TANCREDO, and Mr. SCHAFFER):

H.R. 812. A bill to establish the Rocky Flats National Wildlife Refuge in Colorado, and for other purposes; referred to the Committee on Resources, 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. ANDREWS:

H.R. 813. A bill to amend title 10, United States Code, to enhance the ability of States and local governments to participate in projects conducted under the alternative authority of the Department of Defense to acquire and improve military housing; to the Committee on Armed Services.

By Mr. ANDREWS:

H.R. 814. A bill to amend the Immigration and Nationality Act to provide for the admission to the United States for permanent residence without numerical limitation of spouses of permanent resident aliens; to the Committee on the Judiciary.

By Mr. ANDREWS:

H.R. 815. A bill to amend title 9, United States Code, to allow employees the right to accept or reject the use of arbitration to resolve an employment controversy; to the Committee on the Judiciary.

By Mr. ANDREWS:

H.R. 816. A bill to protect the Social Security System and to amend the Congressional Budget Act of 1974 to require a two-thirds vote for legislation that changes the discretionary spending limits or the pay-as-you-go provisions of the Balanced Budget and Emergency Deficit Control Act of 1985 if the budget for the current year (or immediately preceding year) was not in surplus; referred to the Committee on Ways and Means, and in addition to the Committees on the Budget, and Rules, 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. BILIRAKIS:

H.R. 817. A bill to ensure the availability of spectrum to amateur radio operators; to the Committee on Energy and Commerce.

By Mr. BONIOR (for himself, Mr. ABERCROMBIE, Mr. BORSKI, Ms. BROWN of Florida, Mr. CAPUANO, Ms. CARSON of Indiana, Mr. CROWLEY, Mr. DELAHUNT, Mr. DINGELL, Mr. DOYLE, Mr. ENGEL, Mr. EVANS, Mr. FILNER, Mr. FOLEY, Mr. FROST, Mr. GILMAN, Mr. GUTIERREZ, Mr. HINCHEY, Mr. HOLT, Mr. HORN, Ms. JACKSON-LEE of Texas, Mrs. KELLY, Mr. KILDEE, Mr. KNOLLENBERG, Mr. LEVIN, Mr. LOBIONDO, Mr. MCGOVERN, Ms. MCKINNEY, Mr. MENENDEZ, Mr. MOAKLEY, Mr. PASCRELL, Ms. RIVERS, Ms. SCHAKOWSKY, Ms. SLAUGHTER, and Mr. STUPAK):

H.R. 818. A bill to amend title 36, United States Code, to grant a Federal charter to the Ukrainian American Veterans, Incorporated; to the Committee on the Judiciary.

By Mr. BROWN of Ohio (for himself, Mr. TRAFICANT, Mr. GILLMOR, Mr. LATOURETTE, Ms. KAPTUR, Mr. HALL of Ohio, Mr. SAWYER, Mr. OXLEY, Mrs. JONES of Ohio, Mr. KUCINICH, Mr. HOBSON, and Mr. NEY):

H.R. 819. A bill to designate the Federal building located at 143 West Liberty Street, Medina, Ohio, as the ''Donald J. Pease Federal Building''; to the Committee on Transportation and Infrastructure.

By Mrs. CLAYTON:

H.R. 820. A bill to amend title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Americans with Disabilities Act of 1990, the Vocational Rehabilitation Act of 1973, and the Civil Rights Act of 1991, to require the Equal Employment Opportunity Commission to mediate employee claims arising under such Acts, and for other purposes; to the Committee on Education and the Workforce.

By Mr. COBLE:

H.R. 821. A bill to designate the facility of the United States Postal Service located at 1030 South Church Street in Asheboro, North Carolina, as the ''W. Joe Trogdon Post Office Building''; to the Committee on Government Reform.

By Mr. COLLINS (for himself, Mr. DEAL of Georgia, Mr. FOLEY, Mr. HOEKSTRA, Mr. PICKERING, Mrs. CAPPS, Mr. BRADY of Pennsylvania, Mr. GREENWOOD, Ms. DEGETTE, Mr. STRICKLAND, Mr. MCDERMOTT, Mr. FATTAH, Mr. NORWOOD, Mr. ENGLISH, Mr. COOKSEY, and Mr. INSLEE):

H.R. 822. A bill to amend title XVIII of the Social Security Act to provide for coverage under the Medicare Program for surgical first assisting services of certified registered nurse first assistants; referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, 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. CONDIT (for himself, Mr. DREIER, Mr. BONILLA, Mr. BECERRA, Mr. HUNTER, Mr. FILNER, Mr. SKEEN, Mr. REYES, Mr. FLAKE, Mr. DEUTSCH, Mr. BISHOP, Mr. GUTIERREZ, Mr. MCDERMOTT, Mr. GARY MILLER of

California, Mr. PASTOR, Mr. ANDREWS, Mr. SESSIONS, Mr. HAYWORTH, Mr. DOOLEY of California, Mr. HASTINGS of Washington, and Mr. SHADEGG):

H.R. 823. A bill to provide Federal reimbursement for indirect costs relating to the incarceration of illegal criminal aliens and for emergency health services furnished to undocumented aliens; referred to the Committee on the Judiciary, 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 Ms. DUNN (for herself, Mr. DUNCAN, Mr. SIMPSON, Mr. WHITFIELD, Mr. DEAL of Georgia, Ms. HART, Mr. PETERSON of Pennsylvania, Mr. CRENSHAW, Mr. ENGLISH, Mr. PASCRELL, Mr. WATTS of Oklahoma, Mr. GREENWOOD, Mr. BAIRD, Mr. OTTER, Mr. TAYLOR of North Carolina, Mr. SCHAFFER, and Mr. SOUDER):

H.R. 824. A bill to amend the Internal Revenue Code of 1986 to allow individuals who do not itemize their deductions a deduction for a portion of their charitable contributions, and for other purposes; to the Committee on Ways and Means.

By Mr. FLAKE (for himself, Mr. SHADEGG, Mr. HORN, Mrs. MYRICK, Mr. POMBO, and Mr. FROST):

H.R. 825. A bill to provide funds to schools that provide educational services to homeless children and youth; referred to the Committee on Education and the Workforce, and in addition to the Committee on Financial Services, 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. FOLEY (for himself, Mr. WATKINS, Mr. WAMP, Mr. PICKERING, Ms. DUNN, Mr. SHOWS, and Mr. STUMP):

H.R. 826. A bill to amend the Internal Revenue Code of 1986 to provide a shorter recovery period for the depreciation of certain restaurant buildings; to the Committee on Ways and Means.

By Mr. GRUCCI (for himself and Mr. WELDON of Pennsylvania):

H.R. 827. A bill to authorize the Director of the Federal Emergency Management Agency to make grants to fire departments for the acquisition of thermal imaging cameras; to the Committee on Transportation and Infrastructure.

By Mr. GRUCCI:

H.R. 828. A bill to amend title XVIII of the Social Security Act to expand coverage of preventive services under the Medicare Program and to provide coverage of outpatient prescription drugs under that program; referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, 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. HASTINGS of Florida:

H.R. 829. A bill to direct the Federal Election Commission to set uniform national standards for Federal election procedures, change the Federal election day, and for other purposes; referred to the Committee on House Administration, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HOSTETTLER (for himself, Mr. BARTLETT of Maryland, Mr. RYUN of Kansas, Mr. AKIN, Mr. FLAKE, Mr. BURTON of Indiana, Mr. SMITH of New Jersey, Mr. WOLF, Mr. PAUL, Mr. DEMINT, Mr. SCHAFFER, Mr. TANCREDO, Mrs. MYRICK, Mr. HILLEARY, Mr. CANTOR, Mr. JONES of North Carolina, Mr. SAM JOHNSON of Texas, Mr. SHADEGG, Mr. TOOMEY, Mr. HOEKSTRA, Mr. HERGER, Mr. ISTOOK, and Mr. PITTS):

H.R. 830. A bill to amend the Defense Dependents' Education Act of 1978 to allow home school students who are eligible for enrollment in a school of the overseas defense dependents' education system to use the auxiliary services of such schools; to the Committee on Education and the Workforce.

By Mrs. JOHNSON of Connecticut (for herself, Mrs. THURMAN, Mr. MCCRERY, and Mr. POMEROY):

H.R. 831. A bill to amend the Internal Revenue Code of 1986 to allow individuals a deduction for qualified long-term care insurance premiums, use of such insurance under cafeteria plans and flexible spending arrangements, and a credit for individuals with long-term care needs; to the Committee on Ways and Means.

By Mr. JONES of North Carolina (for himself and Mr. TANCREDO):

H.R. 832. A bill to guarantee the right of individuals to receive Social Security benefits under title II of the Social Security Act in full with an accurate annual cost-of-living adjustment; to the Committee on Ways and Means.

By Mr. LAHOOD:

H.R. 833. A bill to amend title 39, United States Code, to prevent certain types of mail matter from being sent by a Member of the House of Representatives as part of a mass mailing; referred to the Committee on House Administration, and in addition to the Committee on Government Reform, 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. MCINNIS (for himself, Mr. HEFLEY, Mr. SCHAFFER, Mr. TANCREDO, Mr. UDALL of Colorado, Mr. POMBO, Mr. CANNON, Ms. BALDWIN, Mr. BARRETT, Mr. BEREUTER, Mr. BOEHLERT, Mr. BROWN of Ohio, Mr. DOOLITTLE, Mr. EHLERS, Mr. ENGLISH, Mr. HINCHEY, Mr. HOUGHTON, Mr. KIND, Mr. OBEY, Mr. PETRI, and Mr. TRAFICANT):

H.R. 834. A bill to amend the National Trails System Act to clarify Federal authority relating to land acquisition from willing sellers for the majority of the trails in the System, and for other purposes; to the Committee on Resources.

By Mr. GARY MILLER of California (for himself, Mr. KING, Mr. BACA, Mr. BALLENGER, Mrs. KELLY, Mr. ENGLISH, Mr. HERGER, Mr. SIMMONS, Mr. LANTOS, Mr. RYUN of Kansas, Mr. DOOLITTLE, Mr. BEREUTER, Mr. ROGERS of Michigan, Mr. VITTER, Mr. FROST, Mr. WATTS of Oklahoma, Ms. MCKINNEY, Mr. PLATTS, Mr. GREEN of Wisconsin, Mr. GILLMOR, Mr. SMITH of New Jersey, Mr. UNDERWOOD, Mr. BERMAN, Mr. CARSON of Oklahoma, Mr. WICKER, Mr. BALDACCI, Mr. CAMP, and Mr. OSBORNE):

H.R. 835. A bill to authorize appropriations for part B of the Individuals with Disabilities Education Act to achieve full funding for part B of that Act by 2011; to the Committee on Education and the Workforce.

By Mr. NETHERCUTT (for himself and Ms. DEGETTE):

H.R. 836. A bill to amend title XVIII of the Social Security Act to provide for State accreditation of diabetes self-management training programs under the Medicare Program; referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, 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. OBERSTAR (for himself and Mr. STUPAK):

H.R. 837. A bill to provide that, for purposes of making determinations for certain trade remedies and trade adjustment assistance, imported semi-finished steel slabs and taconite pellets produced in the United States shall be considered to be articles like or directly competitive with each other; to the Committee on Ways and Means.

By Mr. PITTS (for himself, Mr. PORTMAN, Mr. ENGLISH, Mr. REGULA, Mr. PETERSON of Pennsylvania, and Mr. SOUDER):

H.R. 838. A bill to amend the Internal Revenue Code of 1986 to allow individuals who are exempt from the self-employment tax by reason of their religious beliefs to establish Keogh plans, etc; to the Committee on Ways and Means.

By Mr. PRICE of North Carolina (for himself, Mr. ETHERIDGE, Mr. FROST, Ms. MCCARTHY of Missouri, Mr. CLEMENT, Ms. CARSON of Indiana, Mr. PAYNE, Mr. STRICKLAND, Ms. HOOLEY of Oregon, Mrs. CLAYTON, Mr. BAIRD, Mr. WATT of North Carolina, and Mr. HOLT):

H.R. 839. A bill to establish a national teaching fellowship program to encourage individuals to enter and remain in the field of teaching at public schools; to the Committee on Education and the Workforce.

By Ms. PRYCE of Ohio (for herself, Mr. WATTS of Oklahoma, Mrs. JOHNSON of Connecticut, Mr. FOLEY, Mr. LEWIS of Georgia, Mr. MATSUI, and Mr. BECERRA):

H.R. 840. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income amounts received on account of claims based on certain unlawful discrimination and to allow income averaging for backpay and frontpay awards received on account of such claims, and for other purposes; to the Committee on Ways and Means.

By Mr. REYES:

H.R. 841. A bill to suspend for two years the certification procedures under section 490(b) of the Foreign Assistance Act of 1961 in order to foster greater multilateral cooperation in international counternarcotics programs, and for other purposes; to the Committee on International Relations.

By Mr. REYNOLDS:

H.R. 842. A bill to convey certain property at the Canandaigua Veterans Administration Medical Center in Canandaigua, New York, to the Canandaigua City School District; to the Committee on Veterans' Affairs.

By Mr. REYNOLDS:

H.R. 843. A bill to amend title 38, United States Code, to allow the sworn affidavit of a veteran who served in combat during the Korean War or an earlier conflict to be accepted as proof of service-connection of a disease or injury alleged to have been incurred or aggravated by such service; to the Committee on Veterans' Affairs.

By Mr. REYNOLDS (for himself, Mr. CROWLEY, Mr. SERRANO, Mr. LAFALCE, Mrs. KELLY, Mr. TOWNS, Mr.

SWEENEY, Mr. ACKERMAN, Mr. MEEKS of New York, Mr. QUINN, Mr. HOUGHTON, Mrs. MCCARTHY of New York, Mr. GRUCCI, Mrs. LOWEY, Mr. MCHUGH, Mr. GILMAN, Mr. FOSSELLA, Mr. HINCHEY, Mr. ENGEL, and Ms. SLAUGHTER):

H.R. 844. A bill to amend title XVI of the Social Security Act to provide that annuities paid by States to blind veterans shall be disregarded in determining supplemental security income benefits; to the Committee on Ways and Means.

By Ms. RIVERS:

H.R. 845. A bill to amend the Solid Waste Disposal Act to require a refund value for certain beverage containers, to provide resources for State pollution prevention and recycling programs, and for other purposes; to the Committee on Energy and Commerce.

By Ms. RIVERS:

H.R. 846. A bill to require the Administrator of the Environmental Protection Agency to prescribe a rule that prohibits the importation for disposal of polychlorinated biphenyls at concentrations of 50 parts per million or greater; to the Committee on Energy and Commerce.

By Ms. RIVERS:

H.R. 847. A bill to amend the Toxic Substances Control Act to establish certain requirements regarding the approval of facilities for the disposal of polychlorinated biphenyls, and for other purposes; to the Committee on Energy and Commerce.

By Mr. SANDLIN (for himself, Mr. ALLEN, Mr. ANDREWS, Mr. BALDACCI, Ms. BALDWIN, Mr. BARCIA, Mr. CARSON of Oklahoma, Mr. CLEMENT, Mr. COSTELLO, Mr. DOYLE, Mr. FILNER, Mr. FRANK, Mr. FROST, Ms. HOOLEY of Oregon, Mr. MCINTYRE, Mr. MENENDEZ, Mrs. MINK of Hawaii, Mr. OBERSTAR, Mr. OLVER, Mr. PALLONE, Mr. PAUL, Mr. QUINN, Mr. RAHALL, Ms. WOOLSEY, Mr. WU, and Mr. BROWN of Ohio):

H.R. 848. A bill to amend title II of the Social Security Act to eliminate the provision that reduces primary insurance amounts for individuals receiving pensions from noncovered employment; to the Committee on Ways and Means.

By Mr. SESSIONS (for himself and Mr. SHADEGG):

H.R. 849. A bill to provide for each American the opportunity to provide for his or her retirement through a S.A.F.E. account, and for other purposes; referred to the Committee on Ways and Means, and in addition to the Committee on Government Reform, 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. SIMMONS (for himself, Mr. EHRLICH, Ms. DELAURO, Mr. STUPAK, Mr. CAPUANO, Mr. MCGOVERN, Mr. DELAHUNT, Mr. SHAYS, Mr. CLEMENT, Mr. LAMPSON, Ms. MILLENDER-MCDONALD, Mr. LARSON of Connecticut, Mrs. JONES of Ohio, Mr. MALONEY of Connecticut, Mr. CRENSHAW, Ms. WOOLSEY, Mr. JONES of North Carolina, Mrs. JOHNSON of Connecticut, Mr. KUCINICH, Mr. SPENCE, Ms. MCKINNEY, Mr. DINGELL, Mr. FROST, and Mr. TAYLOR of Mississippi):

H.R. 850. A bill to provide for the establishment of the National Coast Guard Museum on Federal lands administered by the Coast Guard; to the Committee on Transportation and Infrastructure.

By Mr. STUPAK:

H.R. 851. A bill to amend the Emergency Steel Loan Guarantee Act of 1999 to prohibit steel companies receiving loan guarantees from investing the loan proceeds in foreign steel companies and using the loan proceeds to import steel products from foreign countries that are subject to certain trade remedies; to the Committee on Financial Services.

By Mr. TRAFICANT:

H.R. 852. A bill to designate the Federal building and United States courthouse to be constructed at 10 East Commerce Street in Youngstown, Ohio, as the ''Nathaniel R. Jones and Frank J. Battisti Federal Building and United States Courthouse''; to the Committee on Transportation and Infrastructure.

By Mr. WEXLER (for himself, Mr. BLAGOJEVICH, Mr. EVANS, Mr. TRAFICANT, Mr. FILNER, Mrs. THURMAN, Ms. VELÁZQUEZ, Ms. DELAURO, Mr. PALLONE, Mr. HILLIARD, Mr. PAYNE, and Mr. SISISKY):

H.R. 853. A bill to amend title II of the Social Security Act to allow workers who attain age 65 after 1981 and before 1992 to choose either lump sum payments over four years totalling $5,000 or an improved benefit computation formula under a new 10-year rule governing the transition to the changes in benefit computation rules enacted in the Social Security Amendments of 1977, and for other purposes; referred to the Committee on Ways and Means, and in addition to the Committee on 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. WHITFIELD (for himself and Ms. DEGETTE):

H.R. 854. 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; to the Committee on Energy and Commerce.

By Mr. ANDREWS:

H.J. Res. 24. A joint resolution proposing an amendment to the Constitution of the United States to authorize the line item veto; to the Committee on the Judiciary.

By Mr. LEACH:

H.J. Res. 25. A joint resolution proposing an amendment to the Constitution of the United States to abolish the electoral college and establish a new procedure for electing the President and Vice President; to the Committee on the Judiciary.

By Mr. TAYLOR of Mississippi:

H.J. Res. 26. A joint resolution proposing an amendment to the Constitution of the United States to provide that certain trust funds are outside the budget of the United States; to the Committee on the Judiciary.

By Mr. MANZULLO:

H. Con. Res. 46. A concurrent resolution expressing the sense of the Congress regarding chiropractic health care benefits; to the Committee on Government Reform.

By Mr. SCARBOROUGH:

H. Res. 75. A resolution expressing the sense of the House of Representatives that the Secretary of Veterans Affairs should recognize board certifications from the American Association of Physician Specialists, Inc., for purposes of employment of physicians by the Veterans Health Administration; to the Committee on Veterans' Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII, private bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. REGULA:

H.R. 855. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Skimmer*; to the Committee on Transportation and Infrastructure.

By Mr. SCARBOROUGH:

H.R. 856. A bill for the relief of Donna Christine Fargo; to the Committee on the Judiciary.

By Mr. SCARBOROUGH:

H.R. 857. A bill for the relief of Romeo P. Teodoro; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 13: Mr. LAFALCE.

H.R. 27: Mr. HEFLEY.

H.R. 41: Mrs. MORELLA, Mr. HONDA, Mr. KIRK, Mrs. ROUKEMA, Ms. LOFGREN, Mr. COYNE, Mr. POMEROY, Mrs. CAPPS, Mr. OTTER, Mr. LEWIS of Georgia, Mr. FATTAH, Mr. CONDIT, Mr. WAXMAN, Mr. PETERSON of Pennsylvania, Mr. SHERMAN, Mr. WU, Mr. HAYWORTH, Mr. FOLEY, Mr. MCINNIS, Ms. HARMAN, Mr. DEAL of Georgia, Mr. HOLT, Mr. HOEFFEL, Mr. COX, Mr. SNYDER, and Mr. FERGUSON.

H.R. 51: Mr. MCNULTY, Mr. BOEHLERT, Mr. REYES, and Mr. JENKINS.

H.R. 90: Mrs. MORELLA.

H.R. 127: Mr. GUTKNECHT, Mr. TAYLOR of Mississippi, Mr. SNYDER, Mr. PETERSON of Minnesota, Mr. SENSENBRENNER, and Ms. LOFGREN.

H.R. 128: Mrs. MALONEY of New York.

H.R. 129: Mr. ISSA.

H.R. 148: Mr. FILNER, Ms. MCCARTHY of Missouri, Ms. MCKINNEY, Mr. BRADY of Pennsylvania, Mr. KILDEE, Mrs. CHRISTENSEN, and Mrs. JONES of Ohio.

H.R. 154: Mr. CRENSHAW, Mr. OTTER, Mr. LEACH, and Mr. TAYLOR of North Carolina.

H.R. 161: Mr. SESSIONS.

H.R. 167: Mr. WELDON of Florida.

H.R. 169: Mrs. MORELLA, Mr. SMITH of Texas, Mr. GUTKNECHT, Mr. WYNN, and Mr. EHLERS.

H.R. 179: Mr. GALLEGLY and Mr. UDALL of Colorado.

H.R. 214: Mr. JOHNSON of Illinois.

H.R. 218: Mr. ISSA, Mr. RADANOVICH, Mr. NORWOOD, Mr. WELDON of Pennsylvania, and Mr. EHRLICH.

H.R. 238: Mr. SCHIFF.

H.R. 281: Mr. CUNNINGHAM, Mr. HOLDEN, Mr. WOLF, Mr. MCNULTY, Ms. JACKSON-LEE of Texas, Mr. SANDLIN, Ms. HOOLEY of Oregon, Ms. PRYCE of Ohio, and Ms. SLAUGHTER.

H.R. 294: Mr. HASTINGS of Washington, Mr. LEWIS of Kentucky, Mr. SOUDER, Mr. WATKINS, and Mr. CAMP.

H.R. 301: Mr. CLYBURN.

H.R. 302: Mr. CLYBURN.

H.R. 303: Ms. GRANGER, Ms. LOFGREN, and Mr. UDALL of Colorado.

H.R. 311: Mr. KIRK and Mr. RYUN of Kansas.

H.R. 320: Mr. STUPAK, Ms. MCKINNEY, Mr. HASTINGS of Florida, Ms. KILPATRICK, Mr. TRAFICANT, Mr. OWENS, Mr. ROHRABACHER, Mr. TIERNEY, Ms. RIVERS, Mr. CROWLEY, Mr. TAYLOR of North Carolina, and Mr. RAHALL.

H.R. 336: Mr. STUPAK, Mr. DAVIS of Illinois, Mr. GREEN of Wisconsin, Ms. MCKINNEY, Mr. STENHOLM, Mr. UDALL of New Mexico, Mrs. THURMAN, and Mr. NEY.

H.R. 346: Mr. EVANS.

H.R. 354: Mrs. CHRISTENSEN and Mrs. MYRICK.

H.R. 356: Mr. SNYDER and Mr. RAHALL.

H.R. 365: Mr. ENGLISH, Mr. BEREUTER, Mr. EVANS, Mr. INSLEE, and Ms. MCKINNEY.

H.R. 366: Mr. EVANS and Mrs. CHRISTENSEN.

H.R. 373: Mr. CALVERT.

H.R. 380: Mr. MATHESON.

H.R. 385: Mr. NORWOOD.

H.R. 428: Mr. HASTINGS of Florida, Mr. EHRLICH, Mr. MALONEY of Connecticut, Mr. ENGLISH, Mr. BURTON of Indiana, Mr. MARKEY, and Mr. SCHROCK.

H.R. 432: Ms. RIVERS.

H.R. 433: Ms. RIVERS.

H.R. 475: Mr. UPTON, Mr. SMITH of New Jersey, Mr. NEY, and Mr. SOUDER.

H.R. 477: Mr. CANTOR, Mrs. MINK of Hawaii, Ms. SLAUGHTER, and Mr. LANTOS.

H.R. 481: Ms. MCKINNEY, Mrs. MALONEY of New York, Mr. SANDERS, and Mr. BALDACCI.

H.R. 482: Mr. HAYWORTH and Mr. RYUN of Kansas.

H.R. 488: Mr. BORSKI, Mr. JACKSON of Illinois, and Ms. DELAURO.

H.R. 496: Mr. SIMPSON and Mr. PORTMAN.

H.R. 511: Mr. LIPINSKI.

H.R. 516: Ms. MCKINNEY, Mr. CRENSHAW, Mr. SWEENEY, Mr. SMITH of New Jersey, Mr. STUMP, Mr. PETERSON of Pennsylvania, Mr. BARCIA, and Mr. INSLEE.

H.R. 527: Mr. TANCREDO and Mr. WELLER.

H.R. 550: Mr. CONYERS, Mr. HOEKSTRA, Mr. SMITH of Michigan, Ms. RIVERS, Mr. EHLERS, Mr. DINGELL and Mr. KNOLLENBERG.

H.R. 561: Mr. HOYER and Mr. UDALL of Colorado.

H.R. 570: Mr. HYDE.

H.R. 576: Mr. CONDIT, Mr. CRAMER, Ms. JACKSON-LEE of Texas, Mr. MORAN of Virginia, Mrs. JONES of Ohio, Mr. ABERCROMBIE, Mr. REYES, Mr. KENNEDY of Rhode Island, and Mr. ETHERIDGE.

H.R. 583: Mr. CRAMER and Mr. ISAKSON.

H.R. 585: Ms. MCKINNEY.

H.R. 606: Ms. ROS-LEHTINEN and Ms. DELAURO.

H.R. 608: Mr. MORAN of Kansas.

H.R. 609: Mr. INSLEE, Mr. PETERSON of Minnesota, Ms. MCKINNEY, Mr. FILNER, Ms. HOOLEY of Oregon, Mr. FROST, Ms. SCHAKOWSKY, Mr. COYNE, and Mr. BONIOR.

H.R. 612: Mr. GILMAN, Mr. WYNN, Mr. FROST, Mr. UDALL of Colorado, Mr. NETHERCUTT, Mr. BURTON of Indiana, Mr. RAHALL, and Mr. SOUDER.

H.R. 619: Mr. FROST, Mr. KENNEDY of Rhode Island, and Mr. BERMAN.

H.R. 620: Mr. GONZALEZ and Mr. GUTIERREZ.

H.R. 623: Mr. PAYNE, Mr. HORN, and Mr. FROST.

H.R. 624: Mr. BURR of North Carolina, Mr. DEAL of Georgia, Mr. SESSIONS, Mr. CANTOR, and Mr. BENTSEN.

H.R. 631: Mr. HILLIARD, Mr. HOLDEN, Ms. MCKINNEY, Mr. FROST, Ms. MCCARTHY of Missouri, Mr. HORN, Mr. MCINTYRE, Mr. GOODLATTE, Mr. GOODE, Mr. CRANE, Mr. TAUZIN, Mr. PICKERING, Mr. SUNUNU, Mr. WAMP, Mrs. KELLY, Mr. KING, and Ms. BALDWIN.

H.R. 665: Mr. LIPINSKI, Mr. PASCRELL, and Mrs. THURMAN.

H.R. 673: Mr. SOUDER.

H.R. 674: Mrs. KELLY, Mr. NADLER, Mr. BERMAN, Mr. PASCRELL, Mr. UNDERWOOD, Mrs. CHRISTENSEN, Mr. LAMPSON, Mr. KUCINICH, and Mr. CLEMENT.

H.R. 677: Mr. CLEMENT, Mr. RUSH, Ms. SCHAKOWSKY, and Mr. PHELPS.

H.R. 683: Mr. MCGOVERN.

H.R. 692: Mr. ALLEN, Mr. UDALL of New Mexico, and Mr. MCHUGH.

H.R. 698: Mr. WAXMAN, Mr. FRANK, Mr. KILDEE, Mr. BACA, Mr. KLECZKA, Mrs. THURMAN, Ms. NORTON, Mr. MCGOVERN, Mrs. JONES of Ohio, Mr. BRADY of Pennsylvania, Ms. RIVERS, Mr. GREEN of Texas, Mr. WEINER, and Mr. EVANS.

H.R. 708: Mr. HINCHEY, Mr. SESSIONS, Mr. MCGOVERN, Mr. BALDACCI, Mrs. MALONEY of New York, and Mr. FROST.

H.R. 709: Mr. RAMSTAD.

H.R. 716: Mr. ISAKSON, Mr. BURR of North Carolina, Ms. MCKINNEY, Mr. GUTKNECHT, and Mr. BACHUS.

H.R. 742: Mr. KUCINICH and Ms. LEE.

H.R. 752: Mr. PASCRELL.

H.R. 755: Mr. JEFFERSON, Mr. MEEKS of New York, Mr. CLAY, Mr. ANDREWS, and Mr. PALLONE.

H.R. 760: Mr. BEREUTER, Mr. ISSA, Mr. BACHUS, Mrs. JONES of Ohio, Mr. GARY MILLER of California, Mr. DREIER, and Mr. LEWIS of California.

H.R. 761: Mr. DELAHUNT, Mr. HINCHEY, Mr. FARR of California, Ms. DELAURO, Mr. KUCINICH, Mr. KANJORSKI, Mr. BROWN of Ohio, Mr. MOAKLEY, and Mr. SANDERS.

H.R. 770: Ms. WATERS, Mr. ROEMER, Ms. LOFGREN, and Mr. GEORGE MILLER of California.

H.R. 778: Mr. WEINER and Mr. SOUDER.

H.R. 805: Mr. SANDLIN and Mr. HALL of Texas.

H.J. Res. 8: Mr. SENSENBRENNER, Mr. CALVERT, Mr. TAYLOR of North Carolina, Mr. PETERSON of Pennsylvania, Mr. KIRK, and Mr. ISSA.

H.J. Res. 13: Mr. DEFAZIO, Mr. MCDERMOTT, Mrs. MINK of Hawaii, Mr. BONIOR, Mrs. MALONEY of New York, and Mr. MCGOVERN.

H. Con. Res. 22: Mr. BURR of North Carolina, Mr. GILLMOR, Mr. BARTLETT of Maryland, Mr. SESSIONS, Mr. TAYLOR of Mississippi, Mr. GILCHREST, Mr. TOM DAVIS of Virginia, Mr. HOSTETTLER, and Mr. PETERSON of Pennsylvania.

H. Con. Res. 31: Mr. PLATTS, Mr. WATT of North Carolina, Mrs. TAUSCHER, Mr. MASCARA, Mr. BROWN of Ohio, Mr. STENHOLM, Mr. BRADY of Pennsylvania, Mr. BENTSEN, Mr. SOUDER, and Mr. INSLEE.

H. Con. Res. 41: Mr. KIRK and Mr. HONDA.

H. Res. 13: Mr. HILLEARY, Mr. ISSA, Mr. RANGEL, and Mr. KLECZKA.

SENATE—*Thursday, March 1, 2001*

The Senate met at 10:01 a.m. and was called to order by the Honorable GEORGE ALLEN, a Senator from the State of Virginia.

PRAYER

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

Dear God, as we begin Women's History Month today, we thank You for the indelible impact of women on American history. Specifically, we praise You for women like Emma Willard who started the first college for women, Jarena Lee who was the first black woman to preach in the African Methodist Episcopal Church, Harriet Beecher Stowe who helped abolish slavery by writing ''Uncle Tom's Cabin,'' and Carrie Chapman Catt who tirelessly led the way for women to win the right to vote. We praise You for each of these women and the many others who have made personal sacrifices so that all women can claim their equality and freedom.

Today, Gracious God, we also give You thanks for the women who serve here in the Senate: the outstanding women Senators, the women who serve as officers, and the many women throughout the Senate family who continually glorify You in their loyalty and excellence.

Our prayer today, Gracious Lord, is that the role of women in the Senate will exemplify to the American people the importance of the leadership of women in every sector of our society.

Thank You, Gracious God. In Your Holy Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable GEORGE ALLEN 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. THURMOND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 1, 2001.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable GEORGE ALLEN, a Senator from the State of Virginia, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. ALLEN thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 1 p.m. with Senators permitted to speak therein for up to 10 minutes each. Under the previous order, the time until 10:15 a.m. shall be under the control of the Senator from Alaska, Mr. MURKOWSKI.

Mr. MURKOWSKI. Good morning, Mr. President. Let me wish you well, and the minority whip, Senator REID.

SCHEDULE

Mr. MURKOWSKI. I say on behalf of the leader, today the Senate will be in a period of morning business until 1 p.m. with all the time allocated by unanimous consent. Following morning business, it is hoped that the Senate can begin consideration of the bankruptcy legislation. It is hoped that an agreement can be reached on its consideration prior to the end of the week. The Senate may also consider any nominations that are available for action.

I thank my colleagues for their attention.

EXECUTIVE SESSION

NOMINATION OF MARK A. WEINBERGER TO BE AN ASSISTANT SECRETARY OF THE TREASURY

Mr. MURKOWSKI. Mr. President, on behalf of the leadership, on the Executive Calendar, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nomination reported by the Finance Committee: Calendar No. 17, Mark Weinberger. I further ask unanimous consent that the nomination be confirmed, the motion to reconsider be laid upon the table, any statements relating to the nomination be printed in the RECORD, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. REID. Reserving the right to object, Mr. President, I note for the record that the Democrats were ready to move on this yesterday. There was a problem on the other side. We are most happy to move this whenever the leader feels it appropriate. Therefore, I withdraw my reservation.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is confirmed.

Mr. MURKOWSKI. Mr. President, let me be sure the minority whip understands that this is for Assistant Secretary of the Treasury. I thank the Senator for his cooperation.

LEGISLATIVE SESSION

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will return to legislative session.

ENERGY CRISIS

Mr. MURKOWSKI. Mr. President, let me take a few moments this morning to discuss the merits of the energy bill which was introduced earlier this week by a number of our colleagues. It is a bipartisan introduction by myself, Senator BREAUX, Senator LOTT, and a number of other Senators who are on the bill.

I think it is appropriate to kind of focus in on reality. We have an energy crisis in this country. It has been developing for a long time. It does not solve anything to point fingers at where the responsibility is. The bottom line is how to address it, how to resolve it, and how to get this country moving again. We are looking at the stock market, shaking our heads. We are listening to Alan Greenspan. The predictions for the economy are gloomy, and one of the causes, a significant cause, obviously, is the price of energy.

The price of energy has hit everyone in this body. If you live in Washington, DC, and you use gas, you know your gas bills have doubled. That means you have had to take a greater percentage of your disposable income to pay your gas bill. I will not go into gasoline prices which have escalated over an extended period of time. But the American public and Members of this body have an opportunity, and I think have an obligation, to come up with some positive solutions.

We would like to think that energy is bipartisan. We all have the same responsibility. We have different views on how to achieve a balance. But I think there is a basic philosophical opportunity for some self-examination

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

because some folks suggest we can simply conserve our way out of this crisis. Factually, we cannot conserve our way out of this crisis. It is understandable as we reflect on where we have come in the last 10 years. We are dependent on computers, air-conditioning. With a larger more affluent population, it simply uses more energy.

We can be more energy efficient, but the reality is, as the CSIS study showed, we are going to be dependent on fossil fuels for the next two decades at an increasing percentage—somewhere from 86 to close to 90 percent. We forget we are not the whole world. We kind of look at ourselves and say, well, we set the pattern. But given the growth of Third World countries such as China, their consumption of energy suggests that, as we look at the future, there is going to be more pressure on conventional hydrocarbons. We have to look to alternatives. We have to examine ways not to throw the baby out with the bath water, which is what some have suggested in criticism of this bill.

We have to recognize that for a long time we are going to be dependent on our conventional sources of energy, even though we have an abundance of coal and we have the technology to clean up our coal. Still, as we look for power generation relief, we don't look to coal anymore. There are a number of reasons for it. Obviously some coal has problems. It has problems associated with Btu's; it has problems associated with ash; it has problems associated with the chemical makeup of the coal that requires removal of impurities. But the technology is there although the cost increases. We work in this competitive area on the cost of energy per Btu.

Sulfur in coal can be removed. We can have scrubbers on our stacks. But we have to have a plan and an encouragement and in some cases assistance in developing this technology. We have this in this legislation.

Mr. President, 20 percent of our power—and I know my friend from Nevada occasionally rises to the occasion concerning nuclear power—20 percent of the power in this country is generated by nuclear energy. Yet we have not built a new plant in almost 20 years. You cannot build a plant. It is not economic. We cannot address what to do with the nuclear waste. I am not here to promote nuclear energy, solely. I am simply saying nuclear energy has a place in the mix of our energy production, just as coal does.

We have tremendous capacity and capability for hydro, particularly in the Pacific Northwest, but the prospects for building new hydro plants are very remote. We are talking about taking dams down, but we don't honestly evaluate what the tradeoff is. If we take down dams on the Columbia River, what is the result? We will lose the capability of barge traffic moving huge tonnages on that river. What will we do with them? We will put them on the highway; that is the tradeoff—oil.

Obviously, we are becoming more dependent on imported oil, 56 percent dependent. At what point do we sacrifice our national security effort by becoming increasingly dependent, and at what percentage does that occur? It is pretty hard to say. We are 56 percent dependent now. We were 37 percent in 1973 when we had the Arab oil embargo. The Department of Energy says it is going to be somewhere in the area of 63 or 64 or 65 percent.

I was asked that question the other day by a reporter: You talk about our dependence. We have become used to it. At what point do we really compromise our national security?

I thought for a moment. I said that in 1991–1992 we fought a war. We lost 147 lives. Is that sufficient? I think it is.

As we look to the future, we are going to continue to have a problem unless we relieve our dependence on imported energy sources, and particularly oil.

How do we do that? We do it through a combination of ways, developing other known sources of energy, such as I outlined, and opening up new sources of domestic energy.

One of the interesting things about this bill is it focuses. It is 300 pages, but it focuses like a lightning rod on one issue: opening ANWR. Do we do it safely? Can we do it safely? Do we have the technology? Clearly we do. There is absolutely no question about that.

On the other hand, America's environmental community has rallied to the cause to save ANWR, saying that we cannot do it safely. Somebody is wrong. But I can tell you what it has done. It has given the environmental community a cause. They need a national cause where people cannot evaluate the issue for themselves because they will not go up there. It increases membership and dollars.

Look at some of the colleges in the East: Save ANWR. There is no question of technology capability.

What we are facing here is very little focus on the energy bill in itself but great rhetoric. For example, the Sierra Club—may I ask what the time agreement is?

The ACTING PRESIDENT pro tempore. The Senator had until 10:15. It is now 10:15, I say to the Senator.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent to add 10 minutes.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. REID. Mr. President, reserving the right to object, and I will not object.

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

Mr. REID. That being the case, I ask everyone's time be advanced accordingly so no one loses any time because under the time agreement everyone has allocated time by the minute. I ask as part of that that everyone be advanced 10 minutes.

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

Mr. MURKOWSKI. I thank my colleague.

The ACTING PRESIDENT pro tempore. The Senator from Alaska has an additional 10 minutes, and all other Senators' times will be moved back 10 minutes from that previously agreed to.

Mr. MURKOWSKI. Mr. President, I thank my colleague from Nevada.

Let me spend a few minutes countering the allegations against this legislation. The Sierra Club came out with a report saying the bill was a giveaway for fossil fuel producers.

There is absolutely no incentive in this legislation for big oil. We focus on maintaining a viable domestic industry, reducing our dependence on foreign oil, and ensuring our national security. The Sierra Club release also calls for increased efficiency, renewable energy, and more efficient, less-polluting powerplants. I wonder if they have read the bill. We provided incentives for alternatives: fuels, renewable energy production, energy efficiency, just as they and we advocate.

Did they also ignore our new R&D program in the bill, and the incentives to use clean coal technology in existing and new powerplants? I doubt if they have read the bill.

The Sierra Club focuses on the need to improve fuel economy for cars, SUVs, and light trucks, and we agree. That is why our bill requires a 3-mile-per-gallon improvement in the fuel economy of Federal fleets by the year 2005. Why did we start with Federal fleets? We ought to start with Government. That is where it belongs. Government should show the way. So we provided new incentives for the purchase of hybrid vehicles that give double, even triple the gas mileage of today's cars. But they must not have seen this because the Sierra Club just doesn't appreciate the reality, that this is just not a bill that has one little portion covering ANWR.

Regarding the provisions of the bill, I think, for the most part, if the Sierra Club would sit down and read it, they would agree with it.

We have another group, the League of Conservation Voters, who, in a press release, have some polling data showing the public is against opening up the Arctic in Alaska. They say 66 percent of American voters support permanently closing ANWR to oil and gas exploration.

Isn't it funny what polls say. The Christian Science Monitor poll and the Chicago Tribune poll say otherwise.

The Christian Science Monitor; 54 percent support opening the area; the Chicago Tribune; 52 percent support opening the area. Three out of four support increased oil and gas exploration in our country.

The League of Conservation Voters goes on to state:

> America needs a sensible energy policy that places serious emphasis on energy conservation and alternative fuels. . .

Title VI of our bill focuses on energy efficiency, conservation, and assistance to low-income families. Title VII of the bill focuses on alternative fuels and renewable energy.

Our tax provisions have several new incentives for energy-efficient homes, appliances, vehicles, and for renewables.

As I indicated in my opening remarks, the Center for Strategic International Studies says, unfortunately, that we will remain dependent on fossil fuels for the near future. Shouldn't we direct our efforts towards developing technology to use these fuels more cleanly and more efficiently? We simply can't ignore our reliance on foreign oil. As I indicated, it is expected to reach 70 percent by the year 2002. We cannot ignore our coal at 52 percent of our electricity. We can't ignore nuclear, which is 20 percent of our electricity.

Instead of a comprehensive approach, some environmental groups want a national energy policy that requires massive shifts in our energy industry. Elimination of fossil fuels entirely, thousands of jobs lost, higher energy prices, and standard investment are not in their equation.

Our approach to an energy policy—the National Energy Security Act of 2001—we think is the right approach. It is comprehensive. It is balanced.

Obviously, in the hearing process we had input from all Members, and the administration is yet to be heard. But we are trying to use the philosophy of using the fuels of today to yield the technologies of tomorrow and ensuring clean, secure, and affordable energy in the future. I think this bill attempts to do that.

Let me leave you with one additional thought. We hear from many of the opponents of ANWR that all we have to do is get an extra 3 miles per gallon out of our cars and we will get the same amount of oil as drilling and opening up that area in our State. I question that claim. The real issue is do you think everyone in America should trade in their cars and buy new vehicles. And there are about 132 million cars in America. That doesn't count the trucks and the buses. But if the Americans have to go all out and buy new and efficient cars as pseudoenvironmentalists want them to do, it will cost more than $2.6 trillion. Since most Americans don't have $20,000 sitting around just waiting to go buy a new car, they are going to have to finance that car. That will probably raise the cost to more than $3 trillion. That seems to be their answer to Americans—get a new car and spend $3 trillion. That isn't going to happen either.

I think everyone has a responsibility to make some positive contributions to this legislation and recognize what is happening to our economy as a consequence of the scarcity of energy associated with the higher prices and the fact that energy is, indeed, taking a larger share out of everyone's budget and, as a consequence, affecting dramatically our economy.

Let's get serious, and let's do something meaningful about this.

I thank my colleague for the additional time. I appreciate the courtesy, and at any time I will certainly respond.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. Under the previous order, as amended by the Senator from Nevada, the Senator from Nevada, Mr. ENSIGN, has control of the time until 10:40 a.m.

Mr. REID. Mr. President, I ask unanimous consent I be allowed to speak for 5 minutes following the statement of Senator ENSIGN.

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

The Senator from Nevada is recognized.

LET NO NEVADA CHILD BE LEFT BEHIND

Mr. ENSIGN. Mr. President, Nevada's slogan is ''Battle Born.'' And Nevadans are proud to use that slogan. It is on our State flag. It reflects the firmness of purpose and the willingness to fight for what is right that is so much a part of the character of Nevadans. This is as true today as it was when our State entered the Union during the Civil War.

I am humbled to stand here in this Chamber where many distinguished Nevadans have preceded me, giants like Pat McCarran, Alan Bible, Howard Cannon, Paul Laxalt, and the man I succeeded, Dick Bryan. None of them forgot the unique culture of the West and their Nevada roots. The nature of the challenges may have changed over the years, but not the nature of the Nevadans fighting to overcome them.

In this era of globalization we are condemning our children, and our nation, to an uncertain future if we fail to confront a very different kind of threat—the intractable problems in our public schools.

Let me share some troubling statistics with you. If you compare our children to their counterparts in other nations, the most academically advanced American high school seniors ranked 15 out of 16—second from the bottom—on an advanced math test and 16 out of 16 on an advanced physics test. This is unacceptable.

Our public schools are failing our children. And unless we address this problem now—today—we will bear the consequences for a generation or more. Let's not forget: Today's students are tomorrow's leaders—in business, technology, engineering, government and every other field. If even the brightest of our young people cannot compete in the classroom with their colleagues abroad in math and science, how will they be able to compete with them as adults in the world of business? How can we expect them to develop into the innovators America needs to maintain—and, yes, expand—her dominant role in the global marketplace?

We need to make sure every single student in America graduates with the basic skills in communications, math, and information technology that are necessary to excel in the New Economy. As a nation, we simply cannot afford to accept the status quo.

As a fourth generation Nevadan, I know the people of my State are up to the challenge of creating a better education system. But they need the Federal Government to get out of their way so they can do it. We need a results-based system, which gives States greater flexibility to spend Federal education dollars, while holding them accountable for student achievement.

Today, Federal funds for States and local school districts are not linked to whether academic progress has been attained. The Department of Education simply doles out money in keeping with Washington-designed funding formulas and grant proposals. There is no incentive for innovation, and no penalty for failure.

President Bush wants to change this. He has proposed requiring federally funded annual reading and math testing in grades 3–8 to ensure student achievement and hold States accountable for the Federal money they receive. The test results will be the ruler by which the Department of Education can measure whether students are improving. These results will also provide parents with the information they need to track the progress of not only their own children, but of the schools their children attend.

The question we are all struggling with is what to do if and when this new system reveals that a particular school is failing to successfully educate our children. Under President Bush's plan, if a school is shown to be failing after three years (based on objective measures of student achievement), then a voucher will be given to parents whose children attend that failing school. The parents will then have the power to say to school officials: Shape up—or my kids are shipping out.

Now, I am certainly open to real alternatives to vouchers that are not driven by the anti-choice agenda of entrenched interests. However, I am not

willing to sacrifice the well-being of individuals—our children—in order to preserve failing institutions. In my opinion, vouchers are an important part of the solution.

But to those who oppose them, let me challenge you—parents, teachers, administrators, alike—to come up with a better system that accomplishes just two things: First, it holds schools accountable for failing our children; and second, it actually helps the students. Together, we must find a way to save our children from being condemned to a virtual prison of poor literacy and numeracy which constrains their ability to succeed.

That means exploring all the options—from vouchers to charter schools—that can help level the playing field for our disadvantaged young people. For example, a new charter school will be opening in Las Vegas this fall—the Andre Agassi College Preparatory Academy—which will be committed to providing students access to technology on a daily basis.

The principal, Mr. Wayne Tanaka, left Clark High School, my alma mater, to help found this revolutionary new academy. He did it because he believed this focus would provide underprivileged students with a chance to excel in the classroom. And if they excel in the classroom, then ultimately they will have the tools to excel in the 21st century.

While I am pleased President Bush has proposed an 11-percent increase in funding for Federal education programs, I am concerned Nevada students will not be receiving their fair share of that increase. Currently, Nevadans get back only 41 cents for every dollar they send back to Washington, DC, for the education of their children. For years, this return has lagged behind nearly every State in the Union. It is just not right.

The majority of Federal education dollars are allocated through Title I of the Elementary and Secondary Education Act. Under Title I, Nevadans received a little over $600 per eligible student in the year 1999. Let's compare that to over $1,300 per student in Vermont.

I ask my colleagues, is this fair? Is a disadvantaged student in Vermont that much more worthy of additional funds than a disadvantaged student in Nevada? Does this promote the idea of equal access to education?

The theme of President Bush's education plan is ''no child left behind.'' But under the current system children are getting left behind in fast growing States such as Nevada, and the President's plan does not adequately address this problem.

Nevada has grown by 66 percent over the last 10 years and shows no signs of slowing down. Under Title I, funding is based on the number of Title I students in each State, but the Department of Education updates these numbers only once every 4 years. And for Nevada, which has grown an average of 5 percent per year for the last 10 years, this has created an untenable situation.

Nevada school enrollment is increasing at three times the national average, and Federal funds are not keeping pace. In Clark County, which is where Las Vegas is, we are forced to build one new elementary school a month just to keep pace with the explosive growth. It is for that reason I am speaking with the White House and a number of my colleagues about a new high-growth grant, which I hope to include in the Elementary and Secondary Education Act. This grant will benefit all States with high growth rates, such as Nevada, Arizona, Georgia, Florida, North Carolina, and other States, so that we can give real meaning to the phrase ''no child left behind.''

Mr. President, I need my colleagues to understand what the students, parents, teachers, and administrators are faced with in my home State of Nevada. Every time I speak with them, I hear, time and time again, that our State needs more of these Title I dollars. The high growth grant is a means to provide high-growth States much needed relief without directly adjusting the current funding formula.

Ensuring that our children stay in school is one of my top priorities. I want to work with my colleagues on dropout prevention, particularly with the senior Senator from Nevada, who has been a leader on this issue. But what good does it do to keep young people in the classroom if they are not being taught the basics of civic virtue, such as citizenship, justice, fairness, respect, responsibility, and trustworthiness?

In addition to dropout prevention programs, we must also promote character education programs that train our young people to be virtuous citizens.

Our Nation's teachers are the key to solving many of our problems in our schools. And how can we require this of our teachers without the proper training or adequate pay?

I am encouraged that President Bush's education plan includes a new commitment to professional development for teachers. This is critical to ensuring that our teachers are properly trained to teach our Nation's children.

With all the talk about school construction and whether or not the Federal Government should or should not play a role in that activity, shouldn't we first ensure that our teachers are properly trained in the subjects they teach? Our math and science teachers need better training in math and science. Our reading and writing teachers need better training in reading and writing. It is that simple. We cannot expect our teachers to succeed in imparting knowledge to our children if our teachers are not properly trained in the areas they teach.

Teachers and administrators must be permitted to take the necessary steps to restore order in the classrooms. The Federal Government can work with State and local school districts to ensure that teachers have the freedom to discipline violent and disruptive students without the fear of lawsuits.

Our young people have a fundamental right to classrooms where they are free to learn and teachers are free to teach. That is denied them when a few chronically difficult children are allowed to poison the atmosphere, and teachers are left with no resources to stop them.

We also need to end the cycle of social promotion. Social promotion forces teachers to deal with underprepared students while they try to teach the prepared. It gives parents a false sense of progress and leads employers to conclude that diplomas are literally meaningless. But above all, the practice of social promotion dumps poorly educated graduates into a society where they cannot perform in the workplace, nor care for their families, nor discharge their duties as citizens. It is not fair to those individuals who have been at the mercy of a flawed system, and it is not fair to their dependents and our society as a whole.

I have been witness to the perils of social promotion. One of the heartbreaking experiences of my life was when I was sitting in a local library with a fourth grader who could not read Dr. Seuss's ''Cat in the Hat.'' This young boy, when he was 10 years old, could not read these lines:

> The sun did not shine. It was too wet to play. So we sat in the house all that cold, cold, wet day.

This child is one of the lucky ones. His problem was caught relatively early. He has since received help with basic reading and other academic and social skills, skills that he should have learned in the first, second, and third grades. He is 13 now, and he is doing better. He has worked hard and made progress. But despite his efforts, he is still struggling to catch up with his classmates because habits of social promotion shuffled him forward in a system before he was ready.

If we expect our students to be able to compete in the global workforce, then we must provide them with the proper learning tools. Part of that answer lies in providing technology and the means to use it. Another part lies in better teacher training and higher teacher pay. Another part lies in holding failing schools accountable, and giving parents greater control over where and how education dollars are spent. And another part lies in more equitable funding. Together these individual answers create a solution.

The 107th Congress has a unique opportunity to fundamentally change the

Federal Government's role in education. I am not satisfied with the status quo, and neither are Nevada parents. After 36 years, the system is ripe for change. On behalf of Nevada families, I intend to press for that change.

I know that Nevadans have a fighting spirit to make our schools the best in the country—a fighting spirit that has been passed on, starting with our settlers, from one generation to the next. Our battle-born State was formed by facing up to difficult challenges, and we are up for the challenge of making sure that when it comes to education, no child is left behind.

I yield the floor.

The PRESIDING OFFICER. I thank the Senator from Nevada.

Under the previous order, the senior Senator from Nevada, Mr. REID, is recognized for 5 minutes.

COMMENDING SENATOR ENSIGN

Mr. REID. Mr. President, for more than 30 years, Senator Richard Bryan and I served together in various public offices. We took the bar together. We became inseparable friends. We were known in Nevada—and are still known—as the ''Gold Dust Twins.'' So when Senator Bryan decided to retire, it was a tremendous personal blow to me. I really miss Richard.

But in life you move on. I feel so fortunate to be able to serve with JOHN ENSIGN. JOHN and I have known each other for a long time. His family, prior to 1998, were some of my biggest supporters. In 1998, of course, we ran against each other. It was an extremely close race, one of the closest races in the history of the State of Nevada, and, of course, in the history of the country.

It is easy to be gracious when you win; it is not so easy when you lose. It shows the goodness of a person as to how they are able to take defeat. JOHN ENSIGN could write a book on how people who suffer adversity should react.

Twenty-four years prior to that race between REID and ENSIGN, I lost a very close race in the State of Nevada. I didn't handle it nearly as well as JOHN ENSIGN handled his loss. I only wish I had handled the loss in 1974 the way JOHN ENSIGN did in 1998. To his credit, not only did he handle it, as my father would say, ''as a man,'' he handled it extremely well. Not only that, he came back and 2 years later was elected to the Senate. One reason he was elected as easily as he was is how he handled the loss in 1998.

I am happy to be on the floor today at the time of the maiden speech of the junior Senator from the State of Nevada. I am sure his parents were watching on C–SPAN, and I know how proud they are. His father is a very quiet man. He goes to very few public functions. When he does, he is easy to find because he is always back someplace, usually alone, watching his son. His mother is more in the mix of things, but I am sure they were watching this morning as their son delivered his first speech on the Senate floor. I am sure they are very proud of JOHN, as they should be. He has been a real good son.

He is well educated. He is a doctor of veterinary medicine. He is someone who has been a successful businessman, both in the veterinary field and also in the business field. More important than that, JOHN ENSIGN has something his parents are more proud of than how he has succeeded in his professional public life. They are more proud of how he succeeded in his personal life. His wife Darlene and he have been extraordinary parents. I called JOHN at home not long ago and Darlene took the phone. I said: Could I speak to JOHN; what is he doing? She said: He is on the bed playing with the kids. That is what dads are supposed to be doing.

Mr. President, Mayor LaGuardia in New York City started a saying that we all use now: There is no Democratic or Republican way of cleaning the streets. That is true. In that same vein, there is no Democratic or Republican way of handling the problems that come to us in the State of Nevada, as they come to people in the State of Virginia. There is no strictly Democratic or Republican way of fixing the problems in the State of Nevada.

JOHN ENSIGN and I know that. That is why as soon as the election was over this past November he and I got together and said that we were going to set an example for the people of the State of Nevada. Everyone knew of the friendship of Richard Bryan and HARRY REID, but people were doubtful how HARRY REID and JOHN ENSIGN could represent the State of Nevada. Were we simply going to cancel each other's votes and be mean spirited about how we reacted to each other?

We were not going to vote the same way all the time, but we decided we would be gentlemen in the way that we handled the problems of the people of the State of Nevada. We believed there was no reason we couldn't become friends, just as HARRY REID and Richard Bryan were friends. While we are only a few months into this relationship, we both feel very good about it. We are on the road to setting an example for having the best bipartisan relationship in the history of the State of Nevada. We are going to try to do that. We vow to work closely together to protect the interests of our home State and protect the interests of bipartisanship.

We are here now. The Senate is 50/50. It is not going to stay that way. We don't know how much longer, whether the Democrats are going to control the Senate or the Republicans. Regardless of that, ENSIGN and REID are going to work together and have a good bipartisan relationship.

I ask unanimous consent to speak for 2 additional minutes.

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

Mr. REID. Today Senator ENSIGN in his maiden speech talked about substantive issues. These are substantive issues he has talked about for a number of years. He feels strongly about education and other matters. I am very proud of his first speech. I can remember my first Senate speech. Presiding over the Senate that day was Senator David Pryor of Arkansas. I gave a speech on the Taxpayers' Bill of Rights. That is now law. I was very fortunate the man that ran the subcommittee that had jurisdiction over this issue liked what I said. CHUCK GRASSLEY was listening. He was also interested in this issue. Immediately I got bipartisan support for the legislation, and it became law.

I salute my friend JOHN ENSIGN for his first speech. I look forward to many years of service to the State of Nevada by JOHN ENSIGN. I look forward to many years of friendship between JOHN ENSIGN and HARRY REID.

Mr. ENSIGN. Mr. President, I ask unanimous consent to speak for 1 minute.

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

Mr. ENSIGN. Mr. President, I say to my good friend from Nevada—I call him that, too—he has welcomed me to the Senate. He has shown me the ropes. As he discussed, we are going to work for the people of the State of Nevada because there are a lot of issues that affect our State that are very unique to it. They are not Republican or Democratic issues. We have agreed to disagree on issues that we feel strongly about that are national issues, and that is fine. We hope to also set an example for the rest of the Senate of how one can agree or not agree but not be disagreeable.

I thank the senior Senator from Nevada. He is representing our State in the tremendous position he is in today. We in Nevada are all very proud of him. I thank Mr. REID for attending my maiden speech on the floor. I look forward to many great years of working together.

The ACTING PRESIDENT pro tempore. Under the previous order, as amended, the time until 11:17 shall be under the control of the Senator from Wyoming, Mr. THOMAS.

ENERGY POLICY

Mr. THOMAS. Mr. President, I thank the Senators from Nevada for their conversation. Certainly we have a lot of things in common with Nevada, mostly public lands. We don't have the gambling revenue, however.

I rise to speak a few moments today on energy and energy policy. Certainly,

this is one of the issues President Bush has talked about, and we have talked about it for some time in the Congress, the lack of a policy on energy. The President has asked Vice President CHENEY to come up with some ideas with regard to energy and an energy policy. I believe he is going to do that within the next month. I look forward to that.

One of the important and interesting aspects of this working group Vice President CHENEY has put together is that it involves the directors of several agencies. That is extremely important. What we thought is, we have an agency called the Department of Energy, which is fine, but much of what is done with respect to energy is done in some other agencies, such as Interior, EPA, and Agriculture. It is extremely important that we have a high level group such as this that will bring together the differences that have evolved out of the various agencies.

We also are seeking to reactivate and continually activate an oil and gas forum in the Senate for those States that have particular interests in the production aspect of oil and gas and fuel. Obviously, everyone has an interest in it. No one pays much attention to it when gas is $1 or $1.10 a gallon. When it gets to be $1.90, there is suddenly a lot of interest in it. I understand that. Even in our State of Wyoming, where we are maybe the energy center of the country our natural gas prices have gone up, for heating, of course, in the wintertime. And then the California situation certainly has brought attention to it as well.

So I think even though we have sought to do this over the last several years, it is time we really focused in on having a national energy policy. That will give some vision to what we expect and want to do with regard to energy and, indeed, how we would do that. It is interesting; I guess I wasn't aware of the impact high-tech has had on the electricity consumption in California. You don't think of this computer sitting in front of you, Mr. President, which is using a lot of energy. But there are so many that are turned on that it has, indeed, had an impact.

What do we need to do with the energy policy? I guess we ought to begin by saying, what do we want, expect, and need in terms of energy for our economy, our families, our communities, to have the kind of life we want to have? I think then we look at that demand situation. Of course, we have to take a look at how we are going to supply those needs.

We are currently about 56-percent dependent on foreign sources for our Nation's supply of oil. It cost more than $100 billion last year to bring those things here. Our dependence has increased over the years. It was about 36 percent in 1973 during the Arab oil embargo and 46 percent during Desert Storm. Now DOE projects that it will be about 65 percent by the year 2020—our dependency on foreign sources of energy—unless we change our situation.

So coupled with producing the product, I think there are some other things that each of us would like to see. We have to do something with the costs, see if we can level out costs. That is particularly important to us, really, those of us who are in the production field. I think a year ago the wellhead price of natural gas was about $1.50, and of course that wasn't enough to even offset the costs. You had a little exploration, a little production, and really our economy in those areas was kind of down, and all of a sudden it was like $9. So now there is a rush. We tend to have energy boom-and-bust cycles—not only for consumers but for producers and for communities around the country. How can we level that out some?

Diversity: I think we have to look at diversity. Certainly, there are a number of sources of energy. Some are used more than others. I think we need to have diversity.

The environment: As we produce domestically, obviously, we need to take into account very seriously the protection of the environment. There are new ways being discovered all the time as to how to do it. There is horizontal drilling where you can reach out over thousands of square miles with a very small footprint.

Conservation: As we look at that, there are ways in which we can use energy more efficiently than in the past.

So I hope we can do that on domestic production. We can do it, of course, in a number of ways. One of the ways, I am sure, that is most important is access. We were just listening to the Senator from Nevada and 87 percent of Nevada belongs to the Federal Government. Fifty percent belongs to the Federal Government in my State of Wyoming. So many of the lands where there is access and there are designs for multiple use—we haven't had the access to be able to explore and produce in these natural resource areas. Access is something that is very important to be able to do that. I suspect we will have to take a look at some incentives, whether they be tax incentives or other kinds of incentives, to urge people to produce, of course. One of them that is always talked about that has a certain amount of merit is a tax reduction for small production wells. Wells get to the point that it is not profitable to produce them but there is a good deal of resource there. So to encourage them to do that would be useful, I am sure.

I mentioned diversity. Gas is a great resource, and we are going to use a great deal of it. That is the problem we have, really, out in California. Of course, it is electricity, but to generate electricity, or want to, with gas. So you have to get gas there. But gas has a lot of opportunities to be used in many ways. I guess you could ask yourself, from a policy standpoint, should we be using gas almost exclusively in electricity generation when we could be using coal, for example, of which we have great reserves, and for stationary production; perhaps that is an alternative we ought to consider.

We want to be certain that coal will be clean fuel; and it is clean now, but it can be even cleaner if we use some research and continue to work at doing CO_2 and SO_2 and doing some things that we can do there.

Hydro: In the past several years, we have been in a situation where people were seeking to reduce the number of dams that were there and take away the production we have now. Hydro is a very efficient and, obviously, very clean fuel source. We can do that. I mentioned coal. Coal is one of our greatest resources, and we can do much with that as well.

Nuclear: There is a good deal more interest in doing nuclear things. I think in Illinois, right now, nuclear plants produce 40 or 50 percent of the electricity. Now we have to find something to do with nuclear waste. We haven't yet finished our Yucca Mountain proposition or some other things. Nor do we use it as they do in Europe, where they recycle and a great deal of their generation is done by nuclear. It is the cleanest in terms of air quality, as I understand it.

Renewables: We have some opportunities to increase the efficiency and make more competitive the cost of renewables, whether they be wind, air, sun, whatever. I think that is something we are looking forward to in the future.

In addition to that, the markets for energy, of course, are not generally where the energy is produced, so you have to move it. Part of the problem is, in California, nobody really wanted to build transmission lines. They didn't want to provide rights of way to move fuel. Well, if you are going to have fuel, you have to move it there. Are there better ways perhaps to do it? Maybe so.

I think one of the things we want to look at here, because it is interstate movement, is an electric transmission grid, so that there is an opportunity to move electricity perhaps even from Wyoming to California and that can be done.

So there are a lot of things that need to be done. I think they need to be set out, and we need to balance protection of the environment. Obviously, nobody wants to overlook that. At the same time, you can make it so restrictive that it is impossible to even produce it efficiently, cost effectively. Those are the kinds of things that I think very certainly need to be considered.

We have an act before us now. The chairman of the Energy Committee,

Senator MURKOWSKI from Alaska, has put together a bill. I happen to be a cosponsor. It is a large bill that has to do with many of the things that are involved. I suspect there will be some changes in it before it is finally passed. I think it is a start, and I am very proud of what has been done there. It talks about protecting energy supplies, security for increasing efficiency, and the certification of pipelines. It has to do with technological research, advancing clean coal technology, alternative fuels, renewables, and conservation measures, just to name a few. It has to do with all kinds of things that would encourage us to have a clean, useful economic energy program in the United States to meet our needs.

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

The PRESIDING OFFICER (Mr. ALLARD). 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.

Under the previous order, the time until 11:25 a.m. shall be under the control of the Senators from Minnesota. The Senator from Minnesota is recognized.

Mr. WELLSTONE. I thank the Chair.

(The remarks of Mr. WELLSTONE and Mr. DAYTON pertaining to the introduction of S. 422 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER (Mr. ENSIGN). The Senator from New York is recognized.

Under the previous order, the time until 11:40 a.m. is in morning business under the control of the Senator from New York.

(The remarks of Mrs. CLINTON pertaining to the introduction of S. 426, S. 427, S. 428, S. 429, S. 430, S. 431, and S. 432 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

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

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

UNANIMOUS CONSENT AGREEMENT—S. 420

Mr. LOTT. Mr. President, I am very pleased to see the Presiding Officer in the chair this morning. I ask unanimous consent that at 1 p.m. on Monday, March 5, the Senate begin consideration of an original bill reported out of the Judiciary Committee yesterday, S. 420, regarding bankruptcy reform. I further ask unanimous consent that consideration on Monday be for debate only, to be equally divided in the usual form.

Mr. REID. Reserving the right to object, I am wondering if the leader would consider changing the 1 p.m. time to 1:30 or 2.

Mr. LOTT. Mr. President, I see no problem with that. I amend my request to indicate that we would begin at 2 p.m. on Monday, March 5 instead of 1 p.m.

Mr. WELLSTONE. Reserving the right to object, and I shall not, I first thank Senator REID and the majority leader for their good-faith discussion. I say to the majority leader, it is my understanding—and it is his word, which, to me, is enough—that the agreement we have, which is fine with me now, is that we will get started early next week, Monday afternoon, and that the majority leader is absolutely committed and intends for there to be full debate; Senators can bring substantive amendments out, and we will have a debate. That is what this agreement is about. We will move forward and we will have plenty of opportunity for important debate on this piece of legislation.

Am I correct that we will have the right to introduce amendments and have votes?

Mr. LOTT. Mr. President, absolutely. I know the Senator from Minnesota has more than one amendment he would want to have debated and considered and voted on. I presume there will be other Senators who may have amendments they would like to offer. I hope we can set reasonable time agreements so that at some point we will get a vote on the amendments and that we will move through the amendments and not have just one or two amendments tie up a day or days. Certainly, I believe both sides will act in good faith and will be reasonable, and we want a full debate and votes. We intend to proceed in that way.

Mr. WELLSTONE. Mr. President, I do not object. I thank the majority leader.

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

Mr. LOTT. Mr. President, I also ask unanimous consent that all sponsors of S. 220 be considered as cosponsors on S. 420.

Mr. REID. Reserving the right to object, Mr. President, next week we are going to get into some heavy lifting. This is a very important bill. There are a lot of amendments. For those in the press and others who have been wondering why we haven't been doing things, it is difficult early in the session to get to substantive matters. This is going to be some real substantive legislation. My friend from Minnesota has indicated he has a number of amendments to offer and others do. I look forward to some long days and a lot of good work next week on this bill.

Mr. LOTT. Mr. President, let me respond in this way: At the beginning of a new session, particularly with a new administration, you do have to have time to get amendments or bills produced. They have to work through committees. The committees have to get organized before they can begin reporting bills, plus a lot of time is spent on confirmations. I am glad we are ready now, though, to go to serious legislation.

Our colleagues should be on notice that the days probably will be long next week, and we will be having votes throughout the day Tuesday, Wednesday, Thursday, possibly even Friday. I can't project right now what will be required in that area. We may need to even go late in order to give Senators time to make their case on amendments and have votes. It is time to do that. I appreciate the help we have had in getting this bill ready for the floor.

Mr. REID. Mr. Leader, I am wondering if I could also ask—we have had a number of inquiries from Democratic Senators—what is the rest of the day going to be like?

Mr. LOTT. Let me respond to that, Mr. President, in that I know we have some requests from Senators who would like to make remarks. We are still looking to see if there are additional nominations that might be cleared either by voice vote or recorded votes. We should have a fix on that within the next couple hours. We will announce that. It is not expected that we would have votes into the night or tomorrow. Whatever we are going to do, we will do within a reasonable hour today.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Under the previous order, the time until 12:30 p.m. shall be under the control of the Senator from Texas.

Mrs. HUTCHISON. Mr. President, I am not using that full 30 minutes, so if anyone else wishes the floor, they should come down at this time.

TEXAS INDEPENDENCE DAY

Mrs. HUTCHISON. Mr. President, I rise today to commemorate an important point in our history and that is the 165th anniversary of March 2, 1836, commonly known as Texas Independence Day.

Each year, I look forward to March 2. This is a special day for Texans, a day that fills our hearts with pride. On March 2, 165 years ago, a solemn convention of 54 men, including my great, great grandfather Charles S. Taylor, met in the small settlement of Washington-on-the-Brazos. There they signed the Texas Declaration of Independence. The declaration stated:

We, therefore . . . do hereby resolve and declare . . . that the people of Texas do now constitute a free, sovereign and independent republic.

At the time, Texas was a remote territory of Mexico. It was hospitable only to the bravest and most determined of settlers. After declaring our independence, the founding delegates quickly wrote a constitution and organized an interim government for the newborn republic.

As was the case when the American Declaration of Independence was signed in 1776, our declaration only pointed the way toward a goal. It would exact a price of enormous effort and great sacrifice. My great, great grandfather was there, signing the Texas Declaration of Independence. As most of the delegates did, he went on eventually to fight in the Battle of San Jacinto, and Texas would finally become an independent nation.

He didn't know it at the time, but all four of his children who had been left back at home in Nacogdoches died trying to escape from the Mexican troops who they feared were coming after them.

This was known as the ''runaway scrape,'' when the women and children in the Nacogdoches Territory fled toward Louisiana because they feared Indians and Mexican troops, and they were trying to go to safety. But the rigors of the trip were very harsh and all four of their children were dead when he returned.

Fortunately, he and his wife, my great, great grandmother, had nine more children. But it is just an example of the sacrifices that were made by people who were willing to fight for something they believed in. That, of course, was freedom.

While the convention sat in Washington-on-the-Brazos, 6,000 Mexican troops held the Alamo under siege, challenging this newly created republic.

Several days earlier, from the Alamo, Col. William Barrett Travis sent his immortal letter to the people of Texas and to all Americans. He knew the Mexican Army was approaching and he knew that he had only a very few men to help defend the San Antonio fortress. Colonel Travis wrote:

Fellow Citizens and Compatriots: I am besieged with a thousand or more of the Mexicans under Santa Anna. I have sustained a continual Bombardment and cannonade for 24 hours and have not lost a man. The enemy has demanded surrender at discretion, otherwise, the garrison is to be put to the sword, if the fort is taken. I have answered the demand with a cannon shot, and our flag still waves proudly over the wall. I shall never surrender or retreat. Then I call on you in the name of Liberty, of patriotism, of everything dear to the American character, to come to our aid with all dispatch. The enemy is receiving reinforcements daily and will no doubt increase to three or four thousand in four or five days. If this call is neglected I am determined to sustain myself as long as possible and die like a soldier who never forgets what is due his honor and that of his country—Victory or Death.—William Barrett Travis, Lt. Col. Commander.

What Texan or otherwise can fail to be stirred by Colonel Travis' resolve. In fact, Colonel Travis' dire prediction came true, 4,000 to 5,000 Mexican troops did lay siege to the Alamo.

In the battle that followed, 184 brave men died in a heroic but vain attempt to fend off Santa Anna's overwhelming army. The Alamo, as we all in Texas know, was crucial to Texas independence because those heroes at the Alamo held out for so long that Santa Anna's forces were battered and diminished. Gen. Sam Houston gained the time he needed to devise a strategy to defeat Santa Anna at the Battle of San Jacinto just a month or so later on April 21, 1836. The Lone Star was visible on the horizon at last.

Each year on March 2, there is a ceremony at Washington-on-the-Brazos State Park where there is a replica of the modest cabin where the 54 patriots pledged their lives, honor, and treasure for freedom.

Every year, in, on, or around March 2, I read Colonel Travis' letter to my colleagues in the Senate. This is a tradition started by the late Senator John Tower, my friend. This is a reminder to all of us of the pride that Texans share in our history and in being the only State that came into the Union as a republic.

I am pleased to continue the tradition started by my friend, Senator Tower, because we do have a unique heritage in Texas where we fought for our freedom. Having grown up in the family and hearing the stories of my great-great-grandfather and my great-great-grandmother and her heroism as well as his, it was something that was ingrained in us: fighting for something we believe is right and for maintaining the vigil for freedom throughout our country to this day.

It is very important we remember the people who sacrificed, the 184 men who died at the Alamo, the men who died at Goliad later that same month, and those 54 men who met at Washington-on-the-Brazos putting their lives in danger as well by signing that declaration of independence and becoming traitors for a cause. Their deaths gave birth to Texas independence, and we became a nation, a status we enjoyed for 10 years before we entered the United States as a State.

I might add, we entered the Union by a 1-vote margin in the House and a 1-vote margin in the Senate. In fact, we were originally going to come into the United States through a treaty, but the two-thirds vote could not be received in the Senate for ratification. Therefore, President John Tyler, for whom one of our great cities in Texas is named, introduced the resolution into Congress. He said: No, we will pass a law to invite Texas to become a part of our Union. And that law passed by 1 vote in the House and 1 vote in the Senate.

I am very pleased Senator Tyler thought enough of us to ask us to join the Union and fight for our ability to do that. We have contributed a lot to the United States, and we are very proud of our heritage and the history of fighting for freedom that has been passed through the generations in my family, as well as in the families of so many Texans.

I am pleased to commemorate our great heritage and the history of Texas—Texas the republic and Texas the State.

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

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

The assistant legislative clerk proceeded to call the roll.

Mr. ALLARD. 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. ALLARD. Mr. President, I rise today to introduce some legislation which I send to the desk.

THE PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. ALLARD. I thank the Chair.

(The remarks of Mr. ALLARD pertaining to the introduction of S. 425 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. ALLARD. 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. NELSON of Florida. 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. NELSON of Florida. Mr. President, I ask unanimous consent to be allowed to proceed for 10 minutes.

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

(The remarks of Mr. NELSON of Florida pertaining to the introduction of legislation is are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. NELSON of Florida. Mr. President, I yield the floor and 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. CRAPO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

EXTENSION OF MORNING BUSINESS

Mr. CRAPO. Mr. President, I ask unanimous consent that the period for morning business be extended until 2 p.m. with Senators permitted to speak therein for up to 10 minutes each.

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

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

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

STARTLING ENERGY FACTS

Mr. MURKOWSKI. Mr. President, I rise to share with my colleagues circumstances that should be evidenced in prompt action on the energy bill which has been introduced as a bipartisan bill by Senator BREAUX and myself, Senator LOTT, and a number of other Senators.

I have said for some time that we have an energy crisis in this country. Let me share some startling facts.

The majority of the Fortune 500 corporations in this country, reporting fourth quarter earnings, have indicated their earnings have come in far less than projected as a consequence of the increased cost of energy in this country. There is a multiplier associated with that.

This has an effect on inventories, an effect on transportation, on virtually every facet of our economy from buying furniture to big-ticket items such as automobiles. Think for a moment that 50 percent of the homes in this country are dependent on natural gas. The average billing for energy for those homes has gone up 50 percent in the last year. There is no end in sight.

We have a situation where companies that traditionally make fertilizer—urea, the technical name—and use natural gas in the conversion of the fertilizer are no longer making fertilizer. They are reselling their supply of gas because they have some relatively low-cost gas sources. We have aluminum companies in the Northwest that are no longer manufacturing aluminum. They have shut their aluminum production down and are reselling their electricity because they have long-term contracts at favorable rates. In other words, it is cheaper to resell the power than it is to make the aluminum from the standpoint of return on investment. We have in Colorado copper mines that are no longer operating as a consequence of the cost of power. More and more people are becoming unemployed in these industries as a consequence of a lack of an energy policy.

It is not my intent to point fingers because that doesn't get us anywhere. We have to recognize that we have a crisis, and we have to recognize how we are going to get out of it. We are not going to get out of it by drilling our way out, nor are we going to get out of it by conservation. We are going to have to go back to the basics of our conventional energy sources, as well as the prospects for greater dependence on alternatives and renewables, and recognize the use of our technological capabilities to achieve a balance because our energy supply is out of balance.

We haven't built a new coal-fired plant in this country since the mid 1990s. Why? A number of reasons: Permitting, costs, the problems associated with removing high sulfur, and the realization that we have had to take many of our old coal-fired plants, which became inefficient and no longer could meet permits, out of the mix.

We haven't built a new nuclear plant in this country in nearly 20 years. Why? It is not because we don't have the technology. Nuclear contributes about 20 percent of our energy. It is emission free. The reality is that we have not been able to address what to do with our nuclear waste. We can't come to grips with the technology or with how or where we are going to dispose of it. As a consequence, nobody in their right mind would build a nuclear plant in this country. We talk about hydro, but we have limited the hydro available. We are debating whether to take some dams down, but there is a tradeoff. If you take the dams down, you eliminate the ability to move traffic by barge, so you put it on the highways.

So we have turned to natural gas as our preferred source of energy. A year ago, natural gas was about $2.16 per thousand cubic feet; now it is $8 or $9, and it has been up as high as $10. The point is that we are pulling our natural gas reserves down at a very rapid rate. The realization is, as we have seen in the California dilemma where they have become dependent on outside energy sources within their State of about 25 percent, the danger of becoming dependent on outside sources.

Let me conclude with a reference to oil, which is something I know something about. Currently, 56 percent of our oil comes from overseas, primarily the Mideast. The CSIS study shows that for the next decade we are going to increase our dependence on hydrocarbons. That doesn't mean we are not conserving more, or should not, or develop more alternatives. The realization is we are simply using more energy. Society moves by computer and e-mail, by technology, and it is fostered by energy.

The picture I am painting today is not very pretty, but there is one more facet of concern to this Senator from Alaska. When do we begin to compromise our national security interests by increasing our dependence on imported oil? I have said this in this Chamber on many occasions, and I will say it again.

If we look at our policy toward Iraq, a country we fought a war against in 1991 and 1992 to ensure that Saddam Hussein didn't invade Kuwait and go on into Saudi Arabia and basically control the world's supply of oil, isn't it ironic that since that time we have flown over 20,000 sorties, enforcing the no-fly zone, and the cost of that to the American taxpayer is difficult to calculate. You might say it is a Pentagon energy tax, but it costs each one of us to enforce that no-fly zone.

The other day, the raids in the northern part of Iraq were carried out to destroy Saddam Hussein's technical capability that he developed with his radar sensing system, which endangers our aircraft and our pilots. If you look at that scenario—and I have said this before—we seem to have an arrangement where we buy his oil, 750,000 barrels a day, and we put it in our airplanes, and then we go bomb him. That may be an oversimplistic statement, but I think it is fairly accurate.

What does he do with our money? He develops his missile capability, the delivery capability, and his biological capability. At whom is it aimed? Our greatest ally in the Mideast, Israel. So we have some inconsistencies.

I was asked the other day to explain at what point I thought we would compromise our energy security interests by increasing our dependence on imported oil from the Mideast. I thought for a while, and I responded by saying: I guess we have already been there. We fought this war and lost 147 lives. We have had 427 wounded. Now, the Department of Energy says we are going to be close to 63-, 64-, 65-percent dependence in the early years of the 2007 period, or thereabout. If we are going to increase that, at what point are we really vulnerable to being held hostage by the Mideast, Mr. President?

What does that mean? Well, it means that since we have become so dependent on one source—the Mideast, which is a very unstable part of the world—we face the reality of them controlling the price to the point where they can pretty well dictate the terms of our addiction to oil. They can do that simply by reducing the supply at any given time, and they have shown the discipline to do that. As a consequence of that, they can increase the price.

The point of my discussion is to suggest to you that we should all come to grips with the reality that this administration has to adopt an energy policy with great dispatch. It has been estimated that the high oil prices are reducing our U.S. economic growth by as much as 2 percent a year. Our lost GDP has been estimated at about $165 billion a year. It is estimated that we are losing approximately 5.5 million jobs that we would have had, had we had the availability of relatively low-cost energy.

The last point I want to make is as to our vulnerability. As I indicated in my opening remarks, we are not going to drill our way out of this, by any means. We are not going to conserve our way out. We have to go back to the basics and get the balance. There is legislation introduced in this body to put the one single area in North America where you are likely to find a major oil discovery into a wilderness in perpetuity. I really question the judgment of that action in a time of supply shortage of the present magnitude. To suggest that that arbitrary action is going to resolve our energy shortage is not only shortsighted but unrealistic.

If, indeed, this body chooses to open that sliver of ANWR—and I say a sliver because it is just that—out of 19 million acres, an area of the size of the State of South Carolina, we would propose to open a million and a half acres. The technology is in place, and we would have a footprint of between 1,000 and 2,000 acres. Imagine that, an area the size of the State of South Carolina. That is the sliver about which we are talking.

We have the technology to protect the environment, the ecology, and the caribou. The answer is certainly.

This alone will not, by any means, resolve the energy policy, but it will go a long way in two particular areas. If the oil is there in the abundance the geologists suggest, that one act will reduce our dependence on Mideast oil to less than 50 percent.

The goal of our energy bill—and its objective with which I think most people will agree—is to reduce our dependence on foreign sources of energy by the year 2010. The question is, How do we do it? We develop domestic sources with our technology in the overthrust belt, offshore of the Gulf of Mexico, my State of Alaska. We expand our energy sources by using technology to do it better.

To suggest this is the time to consider putting the wilderness off limits is unrealistic and I think bad politics because each one of us is going to bear the responsibility to our constituents to explain why we cannot get together on a workable, responsible energy policy, one that addresses the merits of a balanced effort to lower the cost, increase the productivity of our Nation, and do it with some dispatch.

I encourage my colleagues to take a look at this bill. It is a 300-page bill. God knows why it has to be 300 pages, but nevertheless that is what it came out to.

Also, this bill is a composite of Republican and Democratic ideas. It is a bipartisan bill—Senator BREAUX is one of the original cosponsors—and it attempts to promote alternative fuels, increase our conservation, and explore our own resource base and use our technology. As a consequence, we should get on with the challenge ahead because the sooner we get on with it, the sooner we can rectify this terrible situation that is beginning to throttle our economy, increase unemployment, and result in a situation where there is perhaps a similar exposure to that we have already seen in California.

California is striving for more energy as a consequence of not having produced energy in a manner to keep up with demand. We are in that same situation nationally.

I encourage my colleagues to review the legislation. I encourage them to communicate with us on changes and additions, and I encourage the administration, which is in the process of developing their view of an energy policy to do it with some dispatch because the rates are going up, the problem is getting worse, and the economic impact on our society and our businesses is evident, as I have already said.

EXTENSION OF MORNING BUSINESS

Mr. MURKOWSKI. Mr. President, I have been asked by the leader to propound a unanimous consent request.

I ask unanimous consent that the period for morning business be extended, with speakers permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I ask unanimous consent to speak 20 minutes in morning business.

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

FISCAL POLICY

Mr. DORGAN. Mr. President, we will begin, following the President's State of the Union Address, hopefully a thoughtful and aggressive debate about this country's fiscal policy including tax cuts, the budget, and related matters.

These are very important issues. I wish to speak about some of them today, not from the standpoint of politics or polls, but more from the standpoint of what I think the choices ought to be for this country's future. I know there is a heavy dose of politics surrounding all of this. That is not my interest. I am much more interested in trying to think through what would be good for this country, what is going to keep us on track for the next 5 and 10 years to provide an economy that expands and provides jobs and opportunities for our children and their children.

Having said that, I want to make a couple of comments to set the stage for where we are.

There are a lot of people who continually complain about this country, and it is hard to complain about this country with a straight face. This is the most remarkable place on the face of the Earth. We are the country that created a system of public education, saying to every child in this country: You can go to school and be whatever you want to be. We are not going to move you off in one direction or the other. Universal education.

It is us, our country, that has spawned an educational system that has created the scientists, engineers, and the thinkers. We split the atom and spliced genes. We have cloned animals. We invented the silicon chip and radar. We built television sets, the telephone, and computers. We built airplanes and learned to fly them. We built rockets and flew them all the way to the Moon. We cured small pox and polio. That is us; that is what we have done in this country. What a remarkable place in which to live.

We are also a country that in all of my adult lifetime, and the adult lifetime of most of the people who serve in this Congress, have had two enduring truths underlining everything else we have done. One of those truths is we were involved in a cold war with the Soviet Union, and that affected virtually everything we did, including the choices we made in this country in fiscal policy. The second enduring truth is we had a budget that seemed to produce deficits that every year grew larger and larger.

Those two truths which underlined virtually everything else we did in our lifetimes are now gone. There is no Soviet Union, there is no cold war, and there are no budget deficits. Everything has changed, and the result is a different kind of economy in this country in which we have surpluses. The question is what to do with these surpluses.

My great concern as a policymaker, not from the standpoint of someone who represents a political party, is that we not make the mistake we made before.

Twenty years ago this country embarked on a fiscal policy advocated by a President who said we can do the following: We can double our spending on defense, because then we were in the middle of a cold war with the Soviets; we can double our spending on defense; and we can have a very substantial tax cut, and it will all add up to a balanced budget.

In fact, it did not. It added up to trillions of dollars of Federal debt that

then marched toward $5.7 trillion of Federal indebtedness in this country.

Let us not make that same mistake again. The author Russell Hoban said:

> If the past cannot teach the present, if a father cannot teach the son, then history need not have bothered to go on, and the world has wasted a great deal of time.

Let us learn from the past. Let us learn the lessons of the past in fiscal policy.

What does that mean for us with respect to these surpluses and with respect to proposed tax cuts and budgets?

Let me speak first about uncertainty. Nine months ago, Alan Greenspan—who is canonized in a new book, the American soothsayer, the economist who knows all and sees all—said our economy was growing way too fast and he needed to slow it down. Think of that. Nine months ago our economy was growing too rapidly, according to Alan Greenspan and the Federal Reserve Board. Nine months later, we are wondering whether we might be nearing a recession. Certainly, the economic growth rate has now dropped to near zero.

My point is this: If we can't see 9 months in advance, and the Federal Reserve Board could not, how can we then believe we can see 3 years, 5 years, 7 years, or 10 years ahead in terms of economic prosperity that would allow us to say there is enough surplus available to provide a very large permanent tax cut without providing substantial risk that will put this country right back in the same deficit ditch we were in for so long? The answer is, we cannot provide that assurance.

This is faith-based economic forecasting, nothing more, nothing less. No one knows what will happen in this country's future. We hope what happens is continued prosperity, economic growth without a recession. That is what we hope happens. But having both studied economics and taught economics, I understand no one has repealed the business cycle. There is inevitably an expansion and a contraction. We provide the stabilizers that tend to even those out just a bit, but no one has been able to repeal the business cycle. The uncertainty with respect to economic forecasting ought to lead us to be cautious.

Now the President proposes a $1.6 trillion tax cut. The actual numbers are closer to $2.6 trillion when you add up what needs to be done in order to implement his tax cut. It is not a difficult proposition to say to the American people: What I would like to provide for you is a tax cut. That is not difficult. Most people feel they are overtaxed. Most people want a tax cut. I also feel most people want a country that produces an expanding economy with the jobs and opportunity that comes with it.

Let me describe what I believe makes this economy work. It is not like the engine room of a ship of state where there are dials and knobs and levers and you have a bunch of folks with green hats who are down there dialing these things up just right—tax cuts here, M1b over here, velocity buddy over here, spending over here—and you get all the knobs and dials adjusted just right and the ship of state moves along effortlessly. That is not what moves the ship of state. It is confidence.

When the American people have confidence in the future, they make decisions and do things that represent that confidence. They buy cars, homes, and they do things that move the economy forward, producing jobs and opportunity.

When they are not confident, they withhold those judgments. They decide they can't afford to buy a car, they can't afford to buy a home, they will defer this purchase and the economy contracts. It is as simple as that, nothing more than a mattress of confidence upon which the economy rests.

The reason it turned around in 1992 and 1993, after the 1993 economic proposal that passed by one vote in the House and the Senate, was because people finally felt the Congress was serious about putting this country on track and getting rid of the budget deficits that became the growing tumor in this country's annual budget. So people had confidence about that and confidence in the future and we had this unprecedented lengthy economic expansion.

My fear is if we lock in place a tax cut that is enormously uncertain in terms of its consequences with respect to future deficits, that we will lose the confidence of the American people.

Let me be clear, I believe there is room for a tax cut. That is not what is at debate here. Republicans and Democrats both believe there can and should be a tax cut with this surplus. I also believe, however, the tax cut ought not be of such a size that it threatens our economic expansion. And I believe that a tax cut is part of a series of things that represents priorities in this country's economy.

We should, with a surplus, not only provide a tax cut, but we should as a priority also begin to pay down the Federal debt in a significant way. If during tough times you run up the Federal debt, during good times you have a responsibility to pay it down.

So reducing the Federal debt, $5.7 trillion to be exact, that was run up during tougher times and during periods when fiscal policy was not working, that ought to be paid down with part of that surplus. That ought to be a priority. Then let's have a tax cut. Especially let's have a tax cut that is fair.

Some say when you criticize the proposed tax cut offered to us by the present administration as being unfair, you are engaged in class warfare. Nonsense. It is well within our right to talk about what kind of tax cut ought to be proposed that is fair to all Americans.

Let me give an example. We have a range of taxes that are paid by the American people every year. Roughly $1 trillion in individual income taxes is paid by individual workers across this country. Roughly $650 billion in payroll taxes is paid by people who are working on jobs every day and every night across this country. The top 1 percent of the American income earners pay 21 percent of the total federal taxes. But the President has sent us a proposed tax cut that says the top 1 percent should get 43 percent of the tax cut.

Let me say that again: The top 1 percent of the income earners pay 21 percent of the taxes, and the President proposes they should get 43 percent of the tax cut. I say that doesn't make any sense. That is not fair. And others say, well, gee you are involved in class warfare. Nonsense.

Sigmund Freud's grandson had something to say about this. He said: When you hit someone over the head with a book and get a hollow sound, it doesn't mean the book is empty. Facts are facts. Facts are sometimes stubborn. The proposed tax cut will have an overwhelming advantage for the highest income earners in the country and provide far too little for working families. That is just a fact.

There is kind of a breathless quality to those who advocate this tax cut of $1.6 trillion or actually $2.6 trillion. There is an old saying: Never buy something from somebody who is out of breath.

We should do a tax cut. But it should be part of a set of priorities of paying down the Federal debt; providing a tax cut that is fair to all Americans, especially working families in this country; and, third, also recognizing there are other things we need to do that represent priorities.

What are those priorities? Among those priorities are to provide a prescription drug benefit in the Medicare program. We all know we need to do that. There isn't any question that if we had a Medicare program being created today, we would have a prescription drug benefit in that program. All of us have had the experience of someone coming up to us at a town meeting. I recall a meeting one evening in northern North Dakota. A woman came up to me, probably close to 80 years old, and grabbed me by the arm and said: Senator DORGAN and her eyes began to fill with tears and her chin began to quiver—I take several kinds of medicine for heart disease and diabetes, and I can't afford them. I can't pay the bills anymore. Yet I need that medicine to extend my life. What do I do?

All of us have had that experience. We know we need to put a prescription drug program in the Medicare program.

We know that ought to be a priority as well.

Education is a priority. We know what has made this country great, in part, is a public education system available to all children to become the best they can be, wherever they are, no matter their circumstance in life. We know that has contributed to the significance of this country's growth and opportunity.

How do we do that if it is not a priority to say we want to fix schools that are in serious disrepair? We can help do that. We want to reduce class size. We know it is easier to teach children in a class size of 15 kids than a class size of 32 kids. We know kids learn better in well-equipped classrooms rather than in some adjunct trailer in which you have stuck 30 kids with an inch between desks and a teacher trying to deal with all of them. That is a priority, as well.

Another priority for me is family farmers. We have a great many family farmers in North Dakota struggling mightily to try to stay on the farm. That is a priority. Grain prices have collapsed. Our farmers are told by the grain market that the food they produce has no value. What on Earth can we be thinking of? Has no value? Five hundred million people will go to bed with an ache in their belly in this world because it hurts to be hungry, and a farmer harvests grain and hauls it to the elevator to be told, ''your food has no value.'' There is something dreadfully wrong with that. This country would want, it seems to me, to create and maintain a network of family farmers for this country's security interests, if for no other reason, but from my own view, we want to do that because it enriches our country to have a broad network of food production all across our country. Yet families are discovering they are losing their heritage on the family farm.

A friend of mine is an auctioneer. He said he was doing an auction sale one day, and a little boy came up at the end of the auction sale, and he had tears in his eyes. He was about 10 years old. He grabbed my friend by the leg. He was very distraught. The auctioneer tried to comfort him, and this little boy said to him: You sold my father's tractor.

He patted him on the shoulder, and he tried to comfort him some more, and the little boy said: I wanted to drive that tractor when I got big.

So that is a priority for me, family farmers.

My point is this. When we talk about having a budget policy, we cannot just have one central piece that says, here is what we want to do, to the exclusion of every other thing. That is not what made this country a great country in which to live.

Those of us who believe strongly that we ought to have a balanced fiscal policy believe we should avoid the mistake we made in the past, and that is believing that numbers that inherently don't add up do add up. We know better than that. We all took math and algebra. We understand what adds up. This proposal that has come to this Congress with a budget and a tax plan is well over $1 trillion short. It does not take a genius to see that. It is well over $1 trillion short of adding up. Yet everyone will walk around here, pretending this adds up. You would fail fourth-grade math believing that.

So first, it ought to add up—not for the purposes of helping one political party or another. That doesn't matter so much to me. It ought to add up for the benefit of this country's future. We need to keep this country on track. We need to continue an economy that provides jobs and opportunity ahead.

How will we do that? By encouraging and maintaining the confidence of the American people that we are doing the right thing. Most of the American people, I think, believe the right thing is, during good times, help pay down the Federal debt with some of that surplus: You ran it up in tougher times; pay it down in better times.

Second, yes, have a tax cut and make it fair to everybody.

Third, yes, there are other priorities as well. Pay some attention to them. If you want to talk about education, then pay attention to education and make some investments that will make our schools better schools. If you want to talk about prescription drug prices and helping senior citizens, then if both parties say let's do a prescription drug plan in Medicare, do it, and have the money to pay for it.

If you want to talk about the family farm and say it is important and is not just some little old diner that got left behind when the interstate came through, if you really believe family farmers are important, then decide you want to do something for them and help them during tough times. Those are priorities as well.

Simply put, my point is we have a lot to be thankful for in this country. Nobody lives in a better place on the face of this Earth. It is not an accident that we are here. As stewards of this country's legacy and its future, we as policymakers need to come together and engage in some cooperation on these things.

I am not someone who believes if we break out into full-scale debate, that is a bad thing for the country. People ask me from time to time, how are you getting along with 50 Senators on the Democratic side and 50 Senators on the Republican side? It is as if they are afraid we are going to have a debate. Look, a debate is what this country is about. There is the old saying, when everyone in the room is thinking the same thing, nobody is thinking very much.

This entire body is about debate. There is nothing wrong with aggressive, robust debate. In fact, that is the only way we get the best of what everyone has to offer. So we are going to have some significant, aggressive debates. And we should. I hope at the end of this debate good thinkers on all sides, from both political parties represented here in the Senate, will agree with me that it doesn't matter what the polls say, it doesn't matter what the politics are; what matters is that we do the right thing to keep this country on track, that we do the right thing to keep this country growing and to have this country provide the opportunities we want it to provide for our children and their children.

What we have inherited is not accidental. Those who came before us have struggled mightily to do the right thing. In some cases, it wasn't the popular thing but it was the right thing. We have a responsibility to accept this opportunity given to us to do the right thing as well.

I say to our new President, his Address to Congress, I think, dealt with a number of significant and important issues. On some of them, I will be supportive. On others, I will be a fierce opponent. But I hope, as we think through all of these issues, we can understand what the public interest is—not the party interest.

The decisions we make in this Chamber could well affect this country 5, 10, and 25 years from now. If we put this country on the wrong course and throw this economy back into growing, choking, heavy deficits year after year after year, it will once again be one of the enduring truths of the political life and the public life of everyone who comes after us in this Chamber; it will be one of the enduring truths that serves as a backdrop for every other decision that is made for the next 5, 10, and 25 years.

We were able, as I said when we started, to shed the yoke of those two enduring truths that cost us so much. The cold war? The Soviet Union is gone. That was a backdrop for virtually everything we did for many years. That is behind us. The growing budget deficits that represented a cancer in this country's budget—they are gone. They affected virtually everything we did in this Chamber for many years. That is a blessing. Those enduring truths have changed.

So let us make decisions now that do not re-create those liabilities for those who follow us. Let's make decisions that put this country on track to a much better and brighter future that is sustained for the long term.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative 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.

The Senator from Michigan is recognized.

Ms. STABENOW. Thank you very much. I ask unanimous consent to speak in morning business for 10 minutes.

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

SOCIAL SECURITY AND MEDICARE OFF-BUDGET LOCKBOX ACT OF 2001

Ms. STABENOW. Mr. President, this afternoon I urge my colleagues to join with Senator CONRAD and myself and others who are sponsoring S. 21, the Social Security and Medicare Off-Budget Lockbox Act of 2001.

I know this legislation came before the body last year and passed by 60 votes, including 14 votes by my colleagues on the other side of the aisle.

I think this legislation is particularly critical at this time given the budget that the President has proposed to the Congress, and the fact that while he has indicated support for Social Security—although not reserving all of it but he has talked about Social Security—he did not mention reserving the Medicare trust fund. This is a critical issue for me and all the people I represent. To leave the Medicare trust fund unprotected as we talk about investments and spending and how we are going to address tax cuts for the future is very dangerous.

This morning we had the opportunity in the Budget Committee to hear from our new Secretary of the Treasury. Again, he spoke about Social Security but did not indicate a commitment to protecting the Medicare trust fund.

We have about $500 billion that needs to remain within the trust fund and be protected for the future. We all know that we are going to see within the next 10 or 11 years additional strains on Medicare as those of us who are baby boomers come into the system, and beyond. We have critical needs in Medicare. We don't need to put $500 billion in the column that is open for spending or a tax cut. We need to place it on the side with Social Security, in a lockbox—all of Social Security, all of Medicare in a lockbox—so we are guaranteeing that we are not touching a penny of either Social Security or Medicare.

When I first came to the Congress and was in the House of Representatives for 4 years, we were talking about trying to keep ourselves moving to pay off our debt so we could finally say that Social Security and Medicare trust funds would not be used in the bottom line of the budget.

We heard people in both parties—in fact, again a vote was taken last year to support this bill that has been reintroduced—and yet with all of that support, we now find ourselves in the position with a budget being proposed that does not add up, unless you add using Medicare trust funds to the bottom line. I am gravely concerned about that as we look to the future in Medicare.

We all want to see a tax cut. We may struggle and debate who ought to be receiving the majority of that tax cut. My preference is that a lot of it go across the board and be targeted to the working class men and women and their families.

We all talk about deficit reduction and protecting Social Security and Medicare for the future. Unfortunately, while sitting in the House Chamber on Tuesday night, I saw a proposal in broad terms that did not add up. My fear is that will move us backwards rather than forwards as we have been continuing to strengthen our fiscal position and our economy.

We do not need to go back to the eighties and higher interest rates and high unemployment. In my great State of Michigan, those were tough times for families, small businesses, and family farmers that I represent. I am in no way interested in going back to those times with fiscal policies that do not add up.

I join with the President and with others who want to see tax cuts for middle Americans. We can do that without spending Medicare and Social Security. We can do it without putting ourselves back into a situation where we are going into deficit spending.

I truly believe the people of the great State of Michigan want me to support a balanced approach that continues to pay down the debt and protects Social Security and Medicare, and to provide tax relief across the board that is focused on middle-income workers, small businesses, family farmers; and that we also are committed to a future that includes investment in our children, in education, access to college, and making sure that health care, particularly prescription drugs, is available for the people whom we represent.

Again, I urge my colleagues to join with us in a proactive way to support S. 21. I hope we can get everyone in this Chamber to be a cosponsor of this bill which clearly sends a message across the country that we want to work together to fashion a plan to keep our economy going and provide tax cuts, and that we not spend Medicare trust funds to do it.

I urge my colleagues to join in supporting the lockbox for Social Security and for Medicare.

Thank you, Mr. President. I yield my time. 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. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

THE PRESIDENT'S BUDGET AND TAX REDUCTION PROPOSAL

Mr. BOND. Mr. President, one of the very lucky things we have around here is the opportunity to listen to some very intelligent people giving us their ideas on a lot of important subjects. Recently, I have had the pleasure of listening to Chairman Alan Greenspan, who spoke before the Budget Committee a couple weeks ago. Yesterday, we had our budget director, David Walker, speaking to the Centrist Coalition and also had an opportunity to listen to Larry Lindsey, the President's economic adviser, who used to serve on the Federal Reserve. I have learned a good number of things from them that I think are very important for the discussions we have about the budget and how we deal with the tax surplus that is confronting our country. As previous speakers have said, we are no longer in a cold-war world; we are no longer trying to get out of the budget deficit problem.

I think a couple things need to be clarified about some remarks I heard earlier. No. 1, it was not the tax increase of 1993 that got us out of the budget deficit situation. I served on the Budget Committee during those, what I would say were very frustrating years—1993, 1994, 1995. We went back and checked. Do you know something very interesting? In spite of the fact that President Clinton and the then-majority Democrats passed the largest tax increase in history, it did not do anything to lessen the deficits.

We went back and checked because the President's budget proposal, I think for four straight budgets, proposed deficits of $200 billion a year, roughly, as far as the eye could see.

There was no decrease in the deficit because they proposed to spend the money. We raised taxes to deal with the deficit, but then they raised spending to cover up the tax increases.

So it was not until we got into those battles in 1995—and those were difficult battles; I don't want to relive those days—but those were important battles because we finally made the point—with a Republican Congress and a Democratic President—that we had to start getting spending under control to get out of this deficit spiral that was driving us further and further into debt. And we did it.

And we did something else, again, without the support of the President initially, and with some, but not a lot of, support from the other side of the aisle. We cut the capital gains tax rate. At the time, CBO and others were saying: Oh, the capital gains cut is going

to cost revenue to the Federal Government.

Some of us believe that when you cut taxes, particularly on an optional activity, such as selling property—which triggers capital gains—you can actually get more sales of property; that we could unlock some of the locked-in gains. We did, and capital gains revenues went up significantly.

But lo and behold, something else very important happened. As we took away the disincentive to roll over old investments and put them into new investments, we started investing them in something new called information technology, which enabled us to develop much more productive ways of doing things. Lo and behold, the productivity of this economy grew. When the productivity grows, that means we can get more goods and more services—a better quality—without paying more, and we can pay better wages.

We also had welfare reform, which took significant portions of the people off welfare and put them to work. Again, I am proud that the Republican Congress was able to pass a bill three times—two vetoes—and then it was finally signed, and we got more people working.

So we were really generating things with our economy. We had good jobs, and productivity was up. Our lucky streak ran out, probably back in September, as the indicators turned down. We are seeing signs that are not encouraging, that the business cycle may be going into a downturn. But we believe that for the long term, this country is going to continue to grow. The budget projections of the CBO, and the blue chip indicators, suggest that even if we do have these budget downturns, we still are probably going to have about a $5.6 trillion tax surplus over the next 10 years. It might be lower; it might be higher.

Most likely, if we can continue to invest in productivity—the rate of productivity growth we have had in recent years—it will be higher. So the question becomes, What do we do with that $5.7 trillion tax surplus? David Walker says we ought to pay down all the debt as quickly as we can.

Chairman Greenspan used to say that, but now he has said: Wait a minute, you can only pay down so much of the debt because a lot of it is in bonds and other long-term instruments that people are not going to want to sell because a lot of us have given savings bonds, and other things, to our kids or people who have made long-term commitments to saving. So we cannot get them all back.

So Alan Greenspan, when he testified before the Budget Committee, said it is time that we start reducing taxes. We need to continue to pay down the debt in a steady, consistent, prompt manner, but do not try to get rid of all of it, and start now with some tax relief.

So the President has come up with a proposal for that $5.6 trillion: To use $2.9 trillion of it for Social Security and Medicare; to use $1.6 trillion to reduce the tax burden of those who are paying taxes; and set aside another $1 trillion for needed investments—actually, expenditures that may come along, and that is after we have the ordinary inflationary growth. So that is even after Government grows by, say, 4 percent in discretionary spending.

The one thing that everybody agrees we should not do with that surplus is lock it in totally to more mandatory spending, entitlements, because that is what, according to David Walker, is going to break this country 20, 30, 40 years down the road, if we do not do something about it. We cannot continue to lock in automatic spending because you never can get out of it; it is too difficult.

So the President said he wants to give a $1.6 trillion tax reduction. Our Democratic friends say: We want only $900 billion in tax reduction. The President said: We are going to increase spending some. But apparently—my guess is—my colleagues on the other side of the aisle would want to spend the $700 billion difference between what they want as a tax reduction and what we want as a tax reduction.

Frankly, I think that is a bad way to go because our economy is suffering right now under the highest income tax rates we have ever had in peacetime. Mr. President, 21.6 percent is what we pay in taxes now. The only time it was higher was in 1944, at the height of World War II. That tax rate is too high. It threatens to choke off the money flowing into productivity, to businesses, to families, to make their own decisions, to make their own investments. So I believe $1.6 trillion is a reasonable figure. A portion of that must go to reduce marginal income tax rates.

Just a few years ago, the top marginal rate was 28 percent. A lot of people, if you poll them, will say: Yes, the Federal Government could take 28 to 30 percent of a rich person's income, take it in taxes.

The President is only lowering the top rate to 33 percent, but he is giving across-the-board tax relief to all Americans paying income tax. Six million people, the lowest income people paying income tax, could be dropped off the rolls. For a family of four making $35,000 a year now paying income tax, they would pay none. For a family of four making $50,000 a year, their income tax burden would be cut in half.

A question has been raised in this Chamber about progressivity. Are you continuing to tax the wealthy more? The answer to that is yes. You drop 6 million people off at the bottom; then you have the wealthy. Anybody who makes over $100,000 a year—we could say that is relatively high income—right now those people making over $100,000 a year pay 61.9 percent of the total income taxes collected. After the Bush plan is fully implemented, they would pay 64.1 percent. They would be paying a larger share, more than 2 percent more of the taxes. If we want progressivity, President Bush's plan is important.

Why is it important? Because only with that tax reduction can we make available the continuing investment in productivity that keeps the economy growing. Individuals, small businesses are making investments in other companies and in their own companies. There are some 20.7 million small businesses in America taxed at personal rates. They are proprietorships, personal operations—a farm, a small store, a computer consultant—or they are partnerships or sub S corporations. That means the individual tax rate affects the business.

A few years ago, after the 1985–86 tax cut, they only had to pay 28 percent as a top rate on their income. They used that money to invest in new equipment, in new employees, to expand their business. Now some of them at some rates pay as much as 44 percent as a top rate in their business. That is a significant cut in the amount of money that is available to invest in business and expand productivity.

I asked Alan Greenspan: Why is it that marginal tax rate cuts are the best thing we can do for the economy?

He said: For the long-term, the best thing you can do for the economy is to reduce marginal rates because reducing marginal rates puts more money into the investments we need—into technology, equipment that improves productivity, provides better wages and better economic opportunity and more jobs.

That is basically the reason why the Bush tax plan makes a great deal of sense.

There are a lot of other ideas around here. I am sure we will have an opportunity to work on them. For the long term, if we want to keep our economy growing—and I think we certainly do—we need a balanced approach that does as the President said: No. 1, reduces the debt as far as it can; provides tax reductions that will be put into productive investment; and puts money into high priority items, items such as education, items where we can see a real need.

We also need to reform Medicare, including prescription drug options for seniors in assisting low-income seniors. We ought to get about working to reform Social Security as well. As we do those things, leaving money in the private sector is the best way to make sure our country can progress.

There are those on the other side who say we are giving tax money back to the wealthy to purchase a Lexus. Frankly, we make a lot of cars in Missouri; we don't make the Lexus. If they

have earned the money, the question is, How much of that do you tax away? If they buy a Ford or a Chevy or a Dodge minivan, they are putting a Missourian to work. That is not all bad. We could have that if we adopt a sound economic plan, a sound budget, and a responsible tax reform proposal. I believe the President's proposal is sound.

We have heard statements made, a lot of statements, that the top 1 percent of the income earners only pay 20 percent or 21 percent of the income tax. That is not true. They pay 34 percent of the income tax. They would wind up paying more under the Bush plan. It does keep progressivity as well as providing relief up and down the line.

I hope the American people will take the time to find out the truth about the economics of the budget and this tax relief plan. I believe if they do, they will find that this is a plan that makes sense. It is balanced. It meets the priority needs of the American people, and it is the best recipe we have to see continued economic growth, good jobs, increasing productivity, and a better way of life for all Americans.

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

The PRESIDING OFFICER (Mr. SMITH of Oregon). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

FEMA

Mr. REID. Mr. President, in recent years in the State of Nevada we have had two natural disasters that have been very traumatic. One was in Reno, one in Las Vegas, and both were floods. The majority of the natural disasters that we have in America, are caused by water. There are earthquakes, of course, and there are fires, but most of our natural disasters have to do with water.

As I just mentioned, in Las Vegas and Reno we had two devastating floods. They both destroyed property. Thankfully the loss of life was fairly minimal, but there were lives lost, nevertheless, these floods were devastating. Homes were washed away. Businesses were washed away.

The one highlight, as I look back, was the fact that the Federal Emergency Management Agency, FEMA, was there and they did a wonderful job.

They were there during the violent storms—the storm in Las Vegas and the one in Reno.

I cannot stress enough how important FEMA was to the people of the State of Nevada. They move in quickly, set up first aid and relief stations, and constructed temporarily shelters. They set up a Federal office where they would meet with people to talk with them about their losses, whether or not there were emergency loans available.

After the worst was over, FEMA, through something called ''Project Impact,'' set up a disaster mitigation project. In effect, what it did after the flood, was to help in Las Vegas to reduce Las Vegas' vulnerability to floods. Project Impact offers seed money to help cities all around the country allay the effects of natural disasters.

In Las Vegas, officials worked with State and local officials on waste, to upgrade the sewer system, build ducts, install backlog valves to prevent flood waters from entering homes, and install barriers to prevent similar disasters from happening again. Project Impact has made a real difference in Nevada.

The former mayor of Las Vegas, Jan Jones, said Las Vegas could not have gotten through the floods without the assistance of project impact.

I credit this project with helping hundreds and hundreds of Nevadans bounce back from a very difficult time.

Most recently, in fact yesterday, I was doing a radio program, National Public Radio, with Juan Williams. The program was interrupted because of the earthquake that took place at about 11:15 a.m. in Washington State. At the time I was on the radio program and he did not indicate the severity of the quake.

Yesterday's earthquake survivors were fortunate that the quake occurred deep in the ocean, some 30 miles underground. Even though it was almost 7 on the Richter scale, the loss of life was minimal. At this point we only know of one person who died as a result of that very severe earthquake. Several hundred have been hospitalized, and several of them are hurt badly, but the impact, because of where it occurred, was lessened.

Project Impact is a program that works. In the State of Nevada, with the money allocated to FEMA under Project Impact, the city is working on bracing schools, water tanks, working on bookshelves—things like that. The same is taking place, as we speak, in Seattle. Furniture and computers are being restored or repaired, and they have trained 1,600 homeowners to shore up their own houses.

I give this brief background to indicate that I think this new administration, wants to wipe out Government waste, they want to cut Federal spending, as we all do. I commend this administration for that. They want to save whatever money they can and return it back to the people in the form of tax cuts, and that is the right thing to do. But with all the good Project Impact has done, it is hard to understand why President Bush has targeted this program for elimination in his budget.

In the budget proposal, the outline which was presented to Congress yesterday, the President canceled FEMA's Project Impact, saying that the $25 million Federal-city program has not been effective.

I ask President Bush to reconsider. I am deeply concerned, because from the experience we have had in Nevada, this is a good program.

I am also very concerned that the President plans to cut overall FEMA spending by 17 percent. This is wrong. He is going to cut this program by about $400 million, forcing us to come back with a supplemental and put this money in anyway.

I do not know where the natural disasters are going to take place in America today. I do not know where the floods are going to take place. I do not know where the fires are going to take place. I do not know where the earthquakes are going to take place. But they are going to take place sometime during this fiscal year, and FEMA must have the money and resources to meet these emergencies.

When people are hurt, when people are afraid, we need to have the Federal Emergency Management Agency have the resources to take care of these people. FEMA has done a remarkably good job. They have become so much better than they were.

I say that our President, must take a look at what his people have recommended be done. This is the President's budget. He makes the ultimate decision. But I want those people who are working with President Bush to take another look at this. We cannot—we should not—eliminate $400 million from FEMA because, I repeat, even with the full funding, it is very likely we are going to have to come back, as we do every year, for more money for these emergencies.

Late yesterday, President Bush dispatched his new Director of FEMA, Joe Allbaugh, to the State of Washington. President Bush said Mr. Allbaugh would work with State and local officials to provide whatever help he could to the people of the State of Washington.

We have seen the pictures of Washington after the quake—the still pictures in newspapers—and we have seen the disaster more vividly on television. Seattle and other places in the State of Washington have very serious problems, and Seattle is showing the Nation exactly why FEMA funding is necessary and the real impact some of these budget cuts would have on our cities.

The State of Washington needs these moneys. Project Impact is a major reason that damage to Seattle was not more serious than it was.

So as we find ourselves in this tax and budget debate, these are the details we have to account for these emergencies.

I know Nevadans want a tax cut, and I know the people of Alabama want a tax cut. In every State of the Union, people want a tax cut. Nevadans and all Americans have worked hard to ensure this surplus. We have worked hard and they have worked hard to get it. They deserve a major tax cut. It is time to reach a compromise to make sure they can receive a fair tax cut, but it has to be one that pays down the debt and protects Social Security.

We have to give people their fair share of a tax cut, but that does not eliminate programs such as FEMA. It has to leave money so we can have a prescription drug benefit. It has to leave money so we can do the things we need to do regarding education.

So just as families plan for unexpected demands on their resources, we have the responsibility to ensure that this Nation has resources to respond to its emergencies, such as the floods I have talked about in Nevada and this earthquake that took place yesterday in Seattle.

In the past, parts of our Nation have been devastated by unyielding wildfires and unforgiving hurricanes and earthquakes. Unfortunately, we will have these emergencies.

I believe it is our responsibility to account for these inevitable commitments. The best way to do that is by preparing for the worst, not by reacting when lives have been taken and property has been destroyed. We need to be prepared, and we cannot be if we are going to cut Federal Emergency Management Agency funding by 17 percent. Certainly, we should not cancel FEMA's Project Impact moneys. These moneys are very important.

As I said, with Seattle, Project Impact has helped make Seattle buildings more earthquake resistant. Without this, problems in the State of Washington would even be worse.

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

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

RULES OF THE ARMED SERVICES COMMITTEE

Mr. WARNER. Mr. President, I ask unanimous consent that the Rules of Procedure of the Committee on Armed Services, as adopted yesterday by the Committee, be printed in the RECORD.

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

COMMITTEE ON ARMED SERVICES RULES OF PROCEDURE

(Adopted February 28, 2001)

1. *Regular Meeting Day*. The Committee shall meet at least once a month when Congress is in session. The regular meeting days of the Committee shall be Tuesday and Thursday, unless the Chairman, after consultation with the Ranking Minority Member, directs otherwise.

2. *Additional Meetings*. The Chairman, after consultation with the Ranking Minority Member, may call such additional meetings as he deems necessary.

3. *Special Meetings*. Special meetings of the Committee may be called by a majority of the members of the Committee in accordance with paragraph 3 of Rule XXVI of the Standing Rules of the Senate.

4. *Open Meetings*. Each meeting of the Committee, or any subcommittee thereof, including meetings to conduct hearings, shall be open to the public, except that a meeting or series of meetings by the Committee or a subcommittee thereof on the same subject for a period of no more than fourteen (14) calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated below in clauses (a) through (f) would require the meeting to be closed, followed immediately by a record vote in open session by a majority of the members of the Committee or subcommittee when it is determined that the matters to be discussed or the testimony to be taken at such meeting or meetings—

(a) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(b) will relate solely to matters of Committee staff personnel or internal staff management or procedure;

(c) will tend to charge an individual with a crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy or will represent a clearly unwarranted invasion of the privacy of an individual;

(d) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(e) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person if—

(1) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(2) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(f) may divulge matters required to be kept confidential under other provisions of law or Government regulations.

5. *Presiding Officer*. The Chairman shall preside at all meetings and hearings of the Committee except that in his absence the Ranking Majority Member present at the meeting or hearing shall preside unless by majority vote the Committee provides otherwise.

6. *Quorum*. (a) A majority of the members of the Committee are required to be actually present to report a matter or measure from the committee. (See Standing Rules of the Senate 26.7(a)(1).

(b) Except as provided in subsections (a) and (c), and other than for the conduct of hearings, eight members of the Committee, including one member of the minority party; or a majority of the members of the Committee, shall constitute a quorum for the transaction of such business as may be considered by the Committee.

(c) Three members of the Committee, one of whom shall be a member of the minority party, shall constitute a quorum for the purpose of taking sworn testimony, unless otherwise ordered by a majority of the full Committee.

(d) Proxy votes may not be considered for the purpose of establishing a quorum.

7. *Proxy Voting*. Proxy voting shall be allowed on all measures and matters before the Committee. The vote by proxy of any member of the Committee may be counted for the purpose of reporting any measure or matter to the Senate if the absent member casting such vote has been informed of the matter on which he is being recorded and has affirmatively requested that he be so recorded. Proxy must be given in writing.

8. *Announcement of Votes*. The results of all roll call votes taken in any meeting of the Committee on any measure, or amendment thereto, shall be announced in the Committee report, unless previously announced by the Committee. The announcement shall include a tabulation of the votes cast in favor and votes cast in opposition to each such measure and amendment by each member of the Committee who was present at such meeting. The Chairman, after consultation with the Ranking Minority Member, may hold open a roll call vote on any measure or matter which is before the Committee until no later than midnight of the day on which the Committee votes on such measure or matter.

9. *Subpoenas*. Subpoenas for attendance of witnesses and for the production of memoranda, documents, records, and the like may be issued, after consultation with the Ranking Minority Member, by the Chairman or any other member designated by him, but only when authorized by a majority of the members of the Committee. The subpoena shall briefly state the matter to which the witness is expected to testify or the documents to be produced.

10. *Hearings*. (a) Public notice shall be given of the date, place, and subject matter of any hearing to be held by the Committee, or any subcommittee thereof, at least 1 week in advance of such hearing, unless the Committee or subcommittee determines that good cause exists for beginning such hearings at an earlier time.

(b) Hearings may be initiated only by the specified authorization of the Committee or subcommittee.

(c) Hearings shall be held only in the District of Columbia unless specifically authorized to be held elsewhere by a majority vote of the Committee or subcommittee conducting such hearings.

(d) The Chairman of the Committee or subcommittee shall consult with the Ranking Minority Member thereof before naming witnesses for a hearing.

(e) Witnesses appearing before the Committee shall file with the clerk of the Committee a written statement of their proposed testimony prior to the hearing at which they are to appear unless the Chairman and the Ranking Minority Member determine that there is good cause not to file such a statement. Witnesses testifying on behalf of the

Administration shall furnish an additional 50 copies of their statement to the Committee. All statements must be received by the Committee at least 48 hours (not including weekends or holidays) before the hearing.

(f) Confidential testimony taken or confidential material presented in a closed hearing of the Committee or subcommittee or any report of the proceedings of such hearing shall not be made public in whole or in part or by way of summary unless authorized by a majority vote of the Committee or subcommittee.

(g) Any witness summoned to give testimony or evidence at a public or closed hearing of the Committee or subcommittee may be accompanied by counsel of his own choosing who shall be permitted at all times during such hearing to advise such witness of his legal rights.

(h) Witnesses providing unsworn testimony to the Committee may be given a transcript of such testimony for the purpose of making minor grammatical corrections. Such witnesses will not, however, be permitted to alter the substance of their testimony. Any question involving such corrections shall be decided by the Chairman.

11. *Nominations*. Unless otherwise ordered by the Committee, nominations referred to the Committee shall be held for at least seven (7) days before being voted on by the Committee. Each member of the Committee shall be furnished a copy of all nominations referred to the Committee.

12. *Real Property Transactions*. Each member of the Committee shall be furnished with a copy of the proposals of the Secretaries of the Army, Navy, and Air Force, submitted pursuant to 10 U.S.C. 2662 and with a copy of the proposals of the Director of the Federal Emergency Management Agency, submitted pursuant to 50 U.S.C. App. 2285, regarding the proposed acquisition or disposition of property of an estimated price or rental of more than $50,000. Any member of the Committee objecting to or requesting information on a proposed acquisition or disposal shall communicate his objection or request to the Chairman of the Committee within thirty (30) days from the date of submission.

13. *Legislative Calendar*. (a) The clerk of the Committee shall keep a printed calendar for the information of each Committee member showing the bills introduced and referred to the Committee and the status of such bills. Such calendar shall be revised from time to time to show pertinent changes in such bills, the current status thereof, and new bills introduced and referred to the Committee. A copy of each new revision shall be furnished to each member of the Committee.

(b) Unless otherwise ordered, measures referred to the Committee shall be referred by the clerk of the Committee to the appropriate department or agency of the Government for reports thereon.

14. Except as otherwise specified herein, the Standing Rules of the Senate shall govern the actions of the Committee. Each subcommittee of the Committee is part of the Committee, and is therefore subject to the Committee's rules so far as applicable.

15. *Powers and Duties of Subcommittees*. Each subcommittee is authorized to meet, hold hearings, receive evidence, and report to the full Committee on all matters referred to it. Subcommittee chairmen, after consultation with Ranking Minority Members of the subcommittees, shall set dates for hearings and meetings of their respective subcommittees after consultation with the chairman and other subcommittee chairmen with a view toward avoiding simultaneous scheduling of full Committee and subcommittee meetings or hearings whenever possible.

RULES OF THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. GRAMM. Mr. President, in accordance with Rule XXVI.2. of the Standing Rules of the Senate, I submit for publication in the RECORD the rules of the Committee on Banking, Housing, and Urban Affairs, as unanimously adopted the committee this morning.

I present these rules, as well as the text of a Memorandum of Understanding entered into by Senator SARBANES, the ranking member of the committee, and myself, for inclusion in the RECORD. While the Memorandum of Understanding is not a part of the committee rules, it is a mutual statement of the manner in which the committee will conduct its affairs for the best interests of all of the members of the committee and of the Senate.

I ask unanimous consent that the text of the committee rules and of the Memorandum of Understanding be printed in the RECORD.

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

RULES OF PROCEDURE FOR THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

(Adopted in executive session, March 1, 2001)

RULE 1.—REGULAR MEETING DATE FOR COMMITTEE

The regular meeting day for the Committee to transact its business shall be the last Tuesday in each month that the Senate is in Session; except that if the Committee has met at any time during the month prior to the last Tuesday of the month, the regular meeting of the Committee may be canceled at the discretion of the Chairman.

RULE 2.—COMMITTEE

(a) Investigations.—No investigation shall be initiated by the Committee unless the Senate, or the full Committee, or the Chairman and Ranking Member have specifically authorized such investigation.

(b) Hearings.—No hearing of the Committee shall be scheduled outside the District of Columbia except by agreement between the Chairman of the Committee and the Ranking Member of the Committee or by a majority vote of the Committee.

(c) Confidential testimony.—No confidential testimony taken or confidential material presented at an executive session of the Committee or any report of the proceedings of such executive session shall be made public either in whole or in part or by way of summary, unless specifically authorized by the Chairman of the Committee and the Ranking Member of the Committee or by a majority vote of the Committee.

(d) Interrogation of witnesses.—Committee interrogation of a witness shall be conducted only by members of the Committee or such professional staff as is authorized by the Chairman or the Ranking Member of the Committee.

(e) Prior notice of markup sessions.—No session of the Committee or a Subcommittee for marking up any measure shall be held unless (1) each member of the Committee or the Subcommittee, as the case may be, has been notified in writing of the date, time, and place of such session and has been furnished a copy of the measure to be considered at least 3 business days prior to the commencement of such session, or (2) the Chairman of the Committee or Subcommittee determines that exigent circumstances exist requiring that the session be held sooner.

(f) Prior notice of first degree amendments.—It shall not be in order for the Committee or a Subcommittee to consider any amendment in the first degree proposed to any measure under consideration by the Committee or Subcommittee unless fifty written copies of such amendment have been delivered to the office of the Committee at least 2 business days prior to the meeting. It shall be in order, without prior notice, for a Senator to offer a motion to strike a single section of any measure under consideration. Such a motion to strike a section of the measure under consideration by the Committee or Subcommittee shall not be amendable. This section may be waived by a majority of the members of the Committee or Subcommittee voting, or by agreement of the Chairman and Ranking Member. This subsection shall apply only when the conditions of subsection (e)(1) have been met.

(g) Cordon rule.—Whenever a bill or joint resolution repealing or amending any statute or part thereof shall be before the Committee or Subcommittee, from initial consideration in hearings through final consideration, the Clerk shall place before each member of the Committee or Subcommittee a print of the statute or the part or section thereof to be amended or repealed showing by stricken-through type, the part or parts to be omitted, and in italics, the matter proposed to be added. In addition, whenever a member of the Committee or Subcommittee offers an amendment to a bill or joint resolution under consideration, those amendments shall be presented to the Committee or Subcommittee in a like form, showing by typographical devices the effect of the proposed amendment on existing law. The requirements of this subsection may be waived when, in the opinion of the Committee or Subcommittee Chairman, it is necessary to expedite the business of the Committee or Subcommittee.

RULE 3.—SUBCOMMITTEES

(a) Authorization for.—A Subcommittee of the Committee may be authorized only by the action of a majority of the Committee.

(b) Membership.—No member may be a member of more than three Subcommittees and no member may chair more than one Subcommittee. No member will receive assignments to a second Subcommittee until, in order of seniority, all members of the Committee have chosen assignments to one Subcommittee, and no member shall receive assignment to a third Subcommittee until, in order of seniority, all members have chosen assignments to two Subcommittees.

(c) Investigations.—No investigation shall be initiated by a Subcommittee unless the Senate or the full Committee has specifically authorized such investigation.

(d) Hearings.—No hearing of a Subcommittee shall be scheduled outside the District of Columbia without prior consultation with the Chairman and then only by agreement between the Chairman of the Subcommittee and the Ranking Member of the Subcommittee or by a majority vote of the Subcommittee.

(e) Confidential testimony.—No confidential testimony taken or confidential material presented at an executive session of the

Subcommittee or any report of the proceedings of such executive session shall be made public, either in whole or in part or by way of summary, unless specifically authorized by the Chairman of the Subcommittee and the Ranking Member of the Subcommittee, or by a majority vote of the Subcommittee.

(f) Interrogation of witnesses.—Subcommittee interrogation of a witness shall be conducted only by members of the Subcommittee or such professional staff as is authorized by the Chairman or the Ranking Member of the Subcommittee.

(g) Special meetings.—If at least three members of a Subcommittee desire that a special meeting of the Subcommittee be called by the Chairman of the Subcommittee, those members may file in the offices of the Committee their written request to the Chairman of the Subcommittee for that special meeting. Immediately upon the filing of the request, the Clerk of the Committee shall notify the Chairman of the Subcommittee of the filing of the request. If, within 3 calendar days after the filing of the request, the Chairman of the Subcommittee does not call the requested special meeting, to be held within 7 calendar days after the filing of the request, a majority of the members of the Subcommittee may file in the offices of the Committee their written notice that a special meeting of the Subcommittee will be held, specifying the date and hour of that special meeting. The Subcommittee shall meet on that date and hour. Immediately upon the filing of the notice, the Clerk of the Committee shall notify all members of the Subcommittee that such special meeting will be held and inform them of its date and hour. If the Chairman of the Subcommittee is not present at any regular or special meeting of the Subcommittee, the Ranking Member of the majority party on the Subcommittee who is present shall preside at that meeting.

(h) Voting.—No measure or matter shall be recommended from a Subcommittee to the Committee unless a majority of the Subcommittee are actually present. The vote of the Subcommittee to recommend a measure or matter to the Committee shall require the concurrence of a majority of the members of the Subcommittee voting. On Subcommittee matters other than a vote to recommend a measure or matter to the Committee no record vote shall be taken unless a majority of the Subcommittee is actual present. Any absent member of a Subcommittee may affirmatively request that his or her vote to recommend a measure or matter to the Committee or his vote on any such other matters on which a record vote is taken, be cast by proxy. The proxy shall be in writing and shall be sufficiently clear to identify the subject matter and to inform the Subcommittee as to how the member wishes his or her vote to be recorded thereon. By written notice to the Chairman of the Subcommittee any time before the record vote on the measure or matter concerned is taken, the member may withdraw a proxy previously given. All proxies shall be kept in the files of the Committee.

RULE 4.—WITNESSES

(a) Filing of statements.—Any witness appearing before the Committee or Subcommittee (including any witness representing a Government agency) must file with the Committee or Subcommittee (24 hours preceding his or her appearance) 75 copies of his or her statement to the Committee or Subcommittee, and the statement must include a brief summary of the testimony. In the event that the witness fails to file a written statement and brief summary in accordance with this rule, the Chairman of the Committee or Subcommittee has the discretion to deny the witness the privilege of testifying before the Committee or Subcommittee until the witness has properly complied with the rule.

(b) Length of statements.—Written statements properly filed with the Committee or Subcommittee may be as lengthy as the witness desires and may contain such documents or other addenda as the witness feels is necessary to present properly his or her views to the Committee or Subcommittee. The brief summary included in the statement must be no more than 3 pages long. It shall be left to the discretion of the Chairman of the Committee or Subcommittee as to what portion of the documents presented to the Committee or Subcommittee shall be published in the printed transcript of the hearings.

(c) Ten-minute duration.—Oral statements of witnesses shall be based upon their filed statements but shall be limited to 10 minutes duration. This period may be limited or extended at the discretion of the Chairman presiding at the hearings.

(d) Subpoena of witnesses.—Witnesses may be subpoenaed by the Chairman of the Committee or a Subcommittee with the agreement of the Ranking Member of the Committee or Subcommittee or by a majority vote of the Committee or Subcommittee.

(e) Counsel permitted.—Any witness subpoenaed by the Committee or Subcommittee to a public or executive hearing may be accompanied by counsel of his or her own choosing who shall be permitted, while the witness is testifying, to advise him or her of his or her legal rights.

(f) Expenses of witnesses.—No witness shall be reimbursed for his or her appearance at a public or executive hearing before the Committee or Subcommittee unless such reimbursement is agreed to by the Chairman and Ranking Member of the Committee.

(g) Limits of questions.—Questioning of a witness by members shall be limited to 5 minutes duration when 5 or more members are present and 10 minutes duration when less than 5 members are present, except that if a member is unable to finish his or her questioning in this period, he or she may be permitted further questions of the witness after all members have been given an opportunity to question the witness.

Additional opportunity to question a witness shall be limited to a duration of 5 minutes until all members have been given the opportunity of questioning the witness for a second time. This 5-minute period per member will be continued until all members have exhausted their questions of the witness.

RULE 5.—VOTING

(a) Vote to report a measure or matter.—No measure or matter shall be reported from the Committee unless a majority of the Committee is actually present. The vote of the Committee to report a measure or matter shall require the concurrence of a majority of the members of the Committee who are present.

Any absent member may affirmatively request that his or her vote to report a matter be cast by proxy. The proxy shall be sufficiently clear to identify the subject matter, and to inform the Committee as to how the member wishes his vote to be recorded thereon. By written notice to the Chairman any time before the record vote on the measure or matter concerned is taken, any member may withdraw a proxy previously given. All proxies shall be kept in the files of the Committee, along with the record of the rollcall vote of the members present and voting, as an official record of the vote on the measure or matter.

(b) Vote on matters other than to report a measure or matter.—On Committee matters other than a vote to report a measure or matter, no record vote shall be taken unless a majority of the Committee are actually present. On any such other matter, a member of the Committee may request that his or her vote may be cast by proxy. The proxy shall be in writing and shall be sufficiently clear to identify the subject matter, and to inform the Committee as to how the member wishes his or her vote to be recorded thereon. By written notice to the Chairman anytime before the vote on such other matter is taken, the member may withdraw a proxy previously given. All proxies relating to such other matters shall be kept in the files of the Committee.

RULE 6.—QUORUM

No executive session of the Committee or a Subcommittee shall be called to order unless a majority of the Committee or Subcommittee, as the case may be, are actually present. Unless the Committee otherwise provides or is required by the Rules of the Senate, one member shall constitute a quorum for the receipt of evidence, the swearing in of witnesses, and the taking of testimony.

RULE 7.—STAFF PRESENT ON DAIS

Only members and the Clerk of the Committee shall be permitted on the dais during public or executive hearings, except that a member may have one staff person accompanying him or her during such public or executive hearing on the dais. If a member desires a second staff person to accompany him or her on the dais he or she must make a request to the Chairman for that purpose.

RULE 8.—COINAGE LEGISLATION

At least 67 Senators must cosponsor any gold medal or commemorative coin bill or resolution before consideration by the Committee.

EXTRACTS FROM THE STANDING RULES OF THE SENATE

RULE XXV, STANDING COMMITTEES

1. The following standing committees shall be appointed at the commencement of each Congress, and shall continue and have the power to act until their successors are appointed, with leave to report by bill or otherwise on matters within their respective jurisdictions:

* * * * *

(d)(1) Committee on Banking, Housing, and Urban Affairs, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

1. Banks, banking, and financial institutions.
2. Control of prices of commodities, rents, and services.
3. Deposit insurance.
4. Economic stabilization and defense production.
5. Export and foreign trade promotion.
6. Export controls.
7. Federal monetary policy, including Federal Reserve System.
8. Financial aid to commerce and industry.
9. Issuance and redemption of notes.
10. Money and credit, including currency and coinage.
11. Nursing home construction.
12. Public and private housing (including veterans' housing).

13. Renegotiation of Government contracts.

14. Urban development and urban mass transit.

(2) Such committee shall also study and review, on a comprehensive basis, matters relating to international economic policy as it affects United States monetary affairs, credit, and financial institutions; economic growth, urban affairs, and credit, and report thereon from time to time.

COMMITTEE PROCEDURES FOR PRESIDENTIAL NOMINEES

Procedures formally adopted by the U.S. Senate Committee on Banking, Housing, and Urban Affairs, February 4, 1981, establish a uniform questionnaire for all Presidential nominees whose confirmation hearings come before this Committee.

In addition, the procedures establish that:

(1) A confirmation hearing shall normally be held at least 5 days after receipt of the completed questionnaire by the Committee unless waived by a majority vote of the Committee.

(2) The Committee shall vote on the confirmation not less than 24 hours after the Committee has received transcripts of the hearing unless waived by unanimous consent.

(3) All nominees routinely shall testify under oath at their confirmation hearings.

This questionnaire shall be made a part of the public record except for financial information, which shall be kept confidential.

Nominees are requested to answer all questions, and to add additional pages where necessary.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS—MEMORANDUM OF UNDERSTANDING

(February 28, 2001)

This memorializes the understanding between Senators Gramm and Sarbanes regarding budget, staffing, organizational, and procedural matters affecting the Committee on Banking, Housing, and Urban Affairs during the 107th Congress while the Republicans and Democrats each have 50 members in the Senate, except that the points regarding budget/funding and the equal division of office space shall apply for the duration of the 107th Congress.

I. FUNDING

A. Staff funding will be divided in equal portions for Republicans and Democrats. This will be achieved by increasing the funding allocation available for the Democrats to the level equal to that which has been available for Republican staff.

B. The funding for non-designated staff (the Chief Clerk, the Deputy Chief Clerk, the Editor, and the front office staff) would continue to be provided equally from funds allocated to both Republicans and Democrats, as has been the customary practice for the committee.

C. Additional funds for administrative expenses will be divided equally.

II. OFFICE SPACE

Office space will be divided in equal portions for staff for Republicans and Democrats, not counting the space allocated for non-designated staff and the hearing room and the anteroom to the hearing room.

III. SUBCOMMITTEE ORGANIZATION

Subcommittees will be organized with regard to jurisdiction, leadership, and membership, as agreed to by vote of the Committee in accordance with Committee rules (see attached).

IV. PROCEDURES

A. Witnesses at committee and subcommittee hearings

1. Every effort will be made to work cooperatively in the identification of witnesses for each hearing. Republicans and Democrats will be allowed to identify equal numbers of witnesses (not counting administration or government agency witnesses, or presidential nominees), both for full committee hearings or any subcommittee hearings, and the Chairman of the Committee or subcommittee holding the hearing will, accordingly, issue invitations to all witnesses in a timely fashion so as to meet the requirements of Senate rules to give public notice of hearings at least one week prior to the holding of the hearing.

2. In keeping with this understanding, the general intention will be to keep the number of witnesses invited to a level that can be comfortably accommodated in a single hearing, including equal division of witnesses at each hearing, recognizing that circumstances may sometimes arise where an additional day or days of hearings would be advisable.

B. Hearing topics

1. The specific topics of hearings, both for the Committee and for subcommittees, will be developed by the respective Committee or Subcommittee Chairman in consultation with the appropriate Ranking Member.

2. The topic of two hearings per month (either at the full Committee or subcommittee level) may be designated by the Ranking Member of the Committee, in consultation with the Chairman of the Committee and relevant subcommittee, and such designation will be made in a timely fashion so as to meet the needs for scheduling, adequate notice of the hearing, and identification of witnesses.

3. Point 2 will not apply to any matter that could be placed on the Executive Calendar of the Senate, such as nominations and treaties.

C. Agenda of committee business meetings

The agenda for business meetings of the Committee, or of any subcommittee, will be developed by the Chairman in consultation with the appropriate Ranking Member.

TRADE AGREEMENT COMPLIANCE

Mr. BAUCUS. Mr. President, yesterday, I led a group of 11 Senators in urging President Bush to ensure that there will be full funding for the Commerce Department's International Trade Administration efforts to make sure that our Nation's trade agreements are fully implemented and followed by our trading partners. In the days leading up to the President's budget proposal, we were seriously concerned by reports that there would be deep cuts in this program. Although it appears that the fiscal 2002 budget does not include cuts, we continue to be concerned that anyone would even consider such a damaging move.

This Nation has had a serious problem over the past two decades with many of our most important trading partners who have not complied with commitments made in trade agreements. The Japanese record, for example, of compliance with trade agreements is poor. We have brought disputes against the European Union at the WTO, and won those cases, yet the EU still does not comply with its obligations. China has presented major problems in implementing agreements on intellectual property rights protection and on market access, and China's entry into the WTO will bring new and even more difficult challenges to our efforts to ensure compliance.

It is critical that our Government agencies have the resources they need to monitor compliance, and then to take the actions necessary to enforce the commitments made by other nations. Shortchanging those agencies means shortchanging the American farmer, rancher, worker, and business owner. Further, when our trading partners fail to comply with a trade agreement, it corrupts the negotiating process and leads to a loss of confidence in the entire trading system. We cannot allow that to happen.

Therefore, we 11 Senators are calling on the President to ensure that the Department of Commerce, USTR, and other agencies responsible for trade agreement compliance are fully funded to ensure that our trading partners follow the rules that they have agreed to follow.

I ask unanimous consent that the letter we sent to the President be printed in the RECORD.

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

FEBRUARY 28, 2001.

President GEORGE W. BUSH,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: Over the past twenty years, the United States has negotiated hundreds of bilateral, regional and multilateral trade agreements. Unfortunately, the record of compliance by many of our trading partners is woefully inadequate. In the case of Japan, for example, the American Chamber of Commerce in Japan has concluded that barely half of our major bilateral trade agreements were fully or mostly successful. China's imminent accession to the WTO gives us an unprecedented challenge in ensuring compliance with their new commitments to open and liberalize the Chinese market.

In order to rebuild the consensus on trade in this country, it is imperative that we demonstrate, to our businesses and to our citizens, that the agreements we have concluded produce results. Agreements without full compliance debase the entire trade negotiating process. Ensuring compliance must be a top priority for the United States.

Therefore, we are distressed by recent reports that the proposal for fiscal 2002 funding for the Commerce Department's International Trade Administration will not provide sufficient resources for compliance activities. Congress provided significant new funding to USTR and the International Trade Administration to increase their compliance capabilities in fiscal 2001. It would be a serious mistake to reduce our government's ability to ensure that trade agreements fulfill their goals and that our manufacturers, farmers and ranchers, service providers, and exporters benefit.

We urge you to ensure full budgetary support for these critically important compliance efforts.

Sincerely,

Max Baucus, Jeff Bingaman, Blanche L. Lincoln, Dick Durbin, Dianne Feinstein, Ted Kennedy, Byron L. Dorgan, Bob Graham, Max Cleland, Jack Reed, Patty Murray.

TRIBUTE TO DALE EARNHARDT

Mr. THOMPSON. Mr. President, it has been almost two weeks since American sports lost one of its greatest legends. On a Sunday, just like any other Sunday, millions of NASCAR fans watched the concluding laps of the Daytona 500 race. But February 18, 2001 is a Sunday that even those who were not at the race track, or glued to their televisions, will never forget. This was the day that we lost the person who many say was the sport's fiercest competitor.

I am, of course, speaking of Dale Earnhardt, a man who was aptly described as both ''NASCAR's greatest driver'' and ''the Intimidator.'' As fans, friends and family continue to mourn his death, he is also remembered by labels such as ''devoted husband'' and ''loving father'' whose fearlessness on the track was eclipsed only by the size of his heart.

Adults and children alike are searching for the reasons why their hero was taken from them. Dale Earnhardt brought these strangers together, week after week, as a family devoted to following his career and celebrating his many victories. He became part of our lives through sports broadcasts and the media. He was only months away from his 50th birthday. He will not get to see his son follow in his footsteps and become a champion. But fans know that his devotion to the sport was so great that he was doing what he loved until the last moment.

A week after this tragedy, before all of the tears had dried, NASCAR continued with the racing season, but Dale Earnhardt was far from forgotten. The respect for this man was so great that drivers and crewman, men who raced against him for years, wore black, red and silver caps with Earnhardt's number three on them to honor their fallen comrade.

No one was ready to let Dale Earnhardt go. A man who had such spirit for the race of life as well as for the competition on the track will not easily fade into the past. His spectacular career statistics will certainly not let us forget and the way he lived his 49 years will be an even greater remembrance. He was admired in life and he will continue to be admired now that he has left us. He will continue to be a role model for drivers and fans alike. Dale Earnhardt will always be with us in our hearts, every time someone strives for greatness and every time someone takes the checkered flag.

TESTING FOR DEOXYNIVALENOL IN BARLEY

Mr. CONRAD. Mr. President, I believe the Senator from Indiana, the chairman of the Agriculture Committee, is aware that barley growers are concerned about the U.S. Department of Agriculture's Grain Inspection, Packers and Stockyards Administration testing of deoxynivalenol, or DON, levels in malting barley. Is that correct?

Mr. LUGAR. The Senator from North Dakota is correct. Identifying the presence of DON in malting barley is important because the presence of DON reduces the price producers receive for their barley. Malting barley purchasers are affected because DON can affect the characteristics of the products they make with that barley.

Mr. CONRAD. Many malting barley growers believe that current GIPSA measurement standards are unacceptable. When the Congress reauthorized the Grain Standards Act late last year, the Senator and I discussed these measurement standards. The Senate suggests that the Federal Grain Inspection Program Grain Standards division of GIPSA consider new technology that would allow for the more accurate measurement of DON in barley.

Mr. LUGAR. We also suggest that GIPSA consider ceasing the use of the ''Optional Procedure,'' under which they measure to the tenth of one part per million, and use only the ''Standard Procedure,'' where measurements are rounded to the nearest whole number.

MARCH IS EYE DONOR MONTH

Mr. DURBIN. Mr. President, I rise today to bring to the attention of my colleagues and the public that March is National Eye Donor Month.

National recognition of Eye Donor Month dates back to the very early days of transplantation, when corneas were the only human transplants. Now, transplantations are common medical procedures by which people may give, so that others can live better, fuller, healthier lives.

National Eye Donor Month honors the thousands of Americans who, over the past 55 years, have each left behind a priceless legacy, their eyes. Since the first transplant agency was founded in New York City in 1944, sight has been restored to over half a million individuals by means of cornea transplantation.

Eye Donor Month is also about increasing public awareness of the continuing need for donors. Many people are still unaware of how easy it is to become an eye donor. All a donor needs to do is sign a card and announce to his or her family the intent to leave behind this special gift.

I am confident that if more Americans realized the true extent of the need for transplants, many more would willingly donate their corneas, once they can no longer use them. More than 46,000 Americans will need cornea transplants this year. Thousands of researchers will need donor eye tissue to explore prevention and treatment of blinding diseases.

Our Nation's eye banks, non-profit agencies operating under the umbrella of the Eye Bank Association of America, have done a heroic job of restoring sight to blind people. Today, cornea transplantation is the most common transplant procedure performed, with an extremely high success rate of nearly 90 percent.

This incredible success rate is due in part to a meticulous screening process that separates out corneas unsuitable for transplantation. These may be used for research purposes in surgical training and medical education. So, while each donated eye is put to good use, such a selective screening process must be supported by a large number of donations.

Right now, there are simply not enough donors. We must change that. I want to encourage my colleagues to celebrate National Eye Donor Month by working closely with our Nation's eye banks to educate the American public about how they can help others to see. Let us all aim to increase the number of eyes available for transplantation, so that we may illuminate the darkness for so many of our fellow citizens.

FEMA's PROJECT IMPACT

Mr. AKAKA. Mr. President, I was dismayed and confused to learn that the President's fiscal year 2002 budget proposal would eliminate the Federal Emergency Management Agency, FEMA, initiative, Project Impact. I draw my colleagues' attention to this nationwide program that works with cities and counties to help reduce the destructive effects of natural disasters because so many of their citizens have benefitted from these successful partnerships.

The very first Project Impact designated community was Deerfield Beach, FL, which joined in 1997 in response to the devastating effects of hurricanes. Another pilot community, Seattle, WA, uses Project Impact funds to ensure an earthquake-resistant community by retrofitting school buildings and bridges, identifying zones of vulnerability, training homeowners, and reinforcing hundreds of Seattle-area homes. Seattle formed neighborhood disaster teams and brought in local businesses to help.

It is important to note that Project Impact is a major reason why damage to Seattle during yesterday's earthquake was minimal. Only last April,

Seattle held its eighth ''Disaster Saturday'' at a school that had been retrofitted with non-structural seismic retrofits as part of the city's ''Project Impact's School Retrofit'' program. I share Senator MURRAY's appreciation for FEMA's work, as well as her concern over the proposed cancellation of this important disaster mitigation program.

Since its inception in 1997, nearly 250 community partners and 2,500 business partners across the country have joined with Project Impact. In my own State of Hawaii, all four counties are community partners to Project Impact. The 50th State is vulnerable to risks from hurricanes, torrential rains and flooding, tsunamis, droughts, earthquakes, and even wildland fires. Urban areas like Houston, TX and Tulsa, OK, as well as rural communities, like Fremont County, WY, largely rural area of about 38,000 residents, and Virginia's Central Shenandoah Valley Planning District, have joined.

Kenai Peninsula Borough and Soldotna, AK are educating their citizens about mitigation measures that can be taken to prevent damage from earthquakes, wildfires and floods. The city of Buffalo, which lies on a major fault, has joined Project Impact to help with earthquake mitigation, as well damage from snow storms and floods. A few months ago, North Carolina was named the Outstanding Disaster-Resistant State in recognition for all the work that has been done in communities across the State. In Colorado, a $150,000 grant to a coalition in San Luis Valley was leverage into a $268,000 Emergency Preparedness Fund. Other Colorado communities that have benefitted include Fort Collins, Delta and Clear Creek, Morgan and El Paso counties. In Elgin, IL, Project Impact helped start a pilot program to mitigate the effects of tornadoes.

Project Impact's full title is ''Project Impact: Building Disaster-resistant Communities.'' The initiative works by empowering communities to fashion hazard mitigation responses to local concerns and needs. FEMA helps communities carry out a detailed risk assessment and create disaster resistant strategies. Communities turn these strategies into policy by revising local building and land use codes and passing bond issues to construct prevention measures that will impact the entire community.

Project Impact operates on three simple principles: preventive action must be decided at local levels, private sector participation is vital, and long-term efforts and investments in prevention measures are essential. Project Impact takes resources from a Federal agency and gives it to the communities, helping them to become stronger and self-reliant.

Since its inception, Project Impact partners have revamped their local emergency management plans, elevated flood prone properties, developed mobile demonstration models for hazard resistant construction techniques and upgraded storm water drainage systems. In addition, Project Impact communities are encouraged to exchange ideas with each other. As former FEMA director James Lee Witt stated, ''. . . participants know that Project Impact empowers them to save lives, protect property, protect their economies, livelihoods and save their citizens from the heartache of disaster.''

Everything that I hear about Project Impact points to its successes. NASA, the U.S. Geological Survey, the U.S. Chamber of Commerce, and the Humane Society have all become Project Impact signatories in the past few months. Although the President's budget proposal states that Project Impact has not been effective, it is unclear how that conclusion was reached. We should not eliminate a program without reviewing its successes or failures. In order to evaluate Project Impact, I am requesting that the General Accounting Office review the program and measure its performance. It is only right that there be an audit of this program, which so many communities believe is an important government partnership, before eliminating its funding.

FEMA estimates that for every dollar spent on disaster mitigation, two dollars are saved in disaster response and recovery. I sincerely hope that the Project Impact communities will not be left without any Federal assistance for disaster mitigation. Roger Faris, a Seattle homeowner who thanked Project Impact for his home surviving Wednesday's earthquake without damage, said, ''This is one of these non-partisan success programs that should have been expanded, not shut off.''

ADDITIONAL STATEMENTS

OKLAHOMA SOONER WOMEN'S SOFTBALL 2000 NATIONAL CHAMPIONS

• Mr. NICKLES. Mr. President, I rise today to congratulate the Oklahoma Sooner softball team, which on September 19, defeated UCLA by a score of 3–1 to win the first women's national championship at the University of Oklahoma.

The championship game was played at Amateur Softball Association Hall of Fame Stadium in Oklahoma City, where the Sooner softball team closed out the year with a 66–8 record; 8 of these victories were consecutive wins during the NCAA Tournament.

The Sooner women were led to this championship by Patty Gasso, who was recognized as Coach of the Year, along with her assistants, Melyssa Panzer, Tim Walton and Jennifer Jamie, all of whom were recognized as the 2000 Speedline/NFCA Division 1 National Coaching Staff of the Year. Gasso, just finished her sixth season as head of the Sooner softball program. She has guided each of her teams to the NCAA Regional play-offs and won three Big 12 Conference championships.

From the entire State, we want to congratulate the University of Oklahoma women's softball team and their first-class coaching staff on this outstanding achievement.•

IN RECOGNITION OF BERNICE WILLIAMS

• Mr. TORRICELLI. Mr. President, I rise today to recognize Mrs. Bernice Williams as she retires after a distinguished 45 year career in the Immigration and Naturalization Service. Throughout this time, she has been of great service to both her nation and her community.

Mrs. Williams' accomplished a great deal during her tenure at the INS. In 1968 she had the distinction of becoming the first African American female officer for the Northern New Jersey office of the Department of Immigration. Since then, she has taken on many important roles in the INS such as serving as manager for EEO and Affirmative Action Programs and Projects as well as the Senior Immigration Examiner on sensitive political asylum cases.

Whether dealing with a timely asylum case or helping those in need in her community, Mrs. Williams has been selfless in everything she approaches. She is a member of the A. Philip Randolph Association and works through the Giblin Association to provide food and clothing to the less fortunate. She has also worked as a tutor for local children, helping to ensure a brighter future for our students. In these and countless other ways, she has given graciously of herself. In every aspect of her life, Mrs. Williams has exemplified the meaning of good citizenship.

The INS and the community of Newark have truly been blessed to have an individual as dedicated, talented and generous as Bernice Williams. It is a privilege to recognize her many accomplishments today.•

TRIBUTE TO JOHN CRADDOCK

• Mr. LUGAR. Mr. President, I rise today to recognize the efforts of a dedicated public servant, Mr. John Craddock of Muncie, IN.

As the Director of the Bureau of Water Quality for the City of Muncie for almost 30 years, Mr. Craddock has made a meaningful contribution to improving the quality of life for the people in Indiana and the Nation through his work to improve water quality for our cities.

Mr. Craddock created the Bureau of Water Quality in 1972 and has served as its only Director since its inception. He has transformed the river in Muncie from a polluted waterway to a healthy and beautiful centerpiece of the city.

Mr. Craddock's influence has reached well beyond the city of Muncie. He has been internationally recognized as an authority on environmental management of our rivers and streams. He has been asked by the Indiana Department of Environmental Management, the Indiana State Board of Health, and the Environmental Protection Agency to help develop industrial waste limits in state and federal laws and help set Indiana stream water quality standards.

During the past 10 years, Mr. Craddock has made approximately 575 presentations around the world, reaching more than 51,000 individuals who can make a difference in the effort to ensure a fresh water supply. He has been an active participant in United Nations conferences all over the world. His techniques and procedures in controlling industrial waste and sewage overflow have helped influence the methods now being used in Japan, England, Canada, Europe, South America, and many Third World countries where he has shared his knowledge and experience.

Mr. Craddock has dedicated his life to the preservation of our world's precious water resources. In addition to his service to the Muncie community, Mr. Craddock has been an outstanding representative for Muncie, the State of Indiana and the United States during his many world travels. Mr. Craddock also served his country in active duty in the U.S. Coast Guard for 4 years.

Mr. Craddock is a remarkable public servant who has done so much to help strengthen our cities and communities. On this very special occasion of Mr. Craddock's retirement, I want to take this opportunity to acknowledge his many achievements and to thank him for his commitment to our State and to our Nation.●

A TRIBUTE TO STEVEN A. HOOK

● Mr. CHAFEE. Mr. President, I am humbled today to honor the 1-year anniversary of the passing of Steven A. Hook of North Providence, RI.

During his 44 years, Steven proved that having a disability does not disable one from leading an active life. At the age of 14, Steve broke the fifth vertebra in his neck in an automobile accident, which left him partially paralyzed. Determined to walk again, Steven endured months of extensive therapy sessions, constantly pushing himself to new limits. During this battle, Steven found an inner-strength, a strength that would allow him to fight to empower people with disabilities.

Steven's desire to help those with disabilities led him to the PARI (People Actively Reaching Independence) Living Center in Pawtucket, RI. He began his career there in 1980 as a volunteer peer counselor and then program director. He was named executive director in 1997.

Steven was a crusader in implementing the landmark Americans with Disabilities Act of 1990 in Rhode Island's communities. He participated in two national training programs on the ADA. The programs were conducted by the National Council on Independent Living, Independent Living Research Utilization and the Disability Rights Education and Defense Fund under a grant provided by the Equal Employment Opportunity Commission and the U.S. Department of Justice. He also trained and was certified as a Rhode Island state mediator on Titles I, II, and III of the ADA. Steven was a member of countless other state and local boards, making strong contributions to Rhode Island and its residents.

Today my heart is with Steven's family and friends, mourning the loss of a great citizen of Rhode Island and our Nation. Steven's dedicated service on behalf of those living with disabilities should serve as inspiration for us all to give back to our communities. His life story should serve as a reminder that no matter the obstacles, where there is a will, there will always be a way.●

HONORING DR. JOHN C. CHAPMAN

● Mr. FRIST. Mr President, I rise today to recognize the remarkable accomplishments of Dr. John E. Chapman, who is today retiring as Dean of the Vanderbilt University School of Medicine. Dr. Chapman is not only one of the longest-serving deans in medical school history, but a man who has made a major contribution to medical education in America and around the world.

I had the great honor of serving with Dean Chapman from 1986 to 1994 when I was a member of the Vanderbilt Medical School faculty. Even then, his reputation around campus was legendary—for his compassion for young people, for his scholarship of medicine and history, and for his concern for the future of medical school education—a concern overwhelmingly apparent from even the most cursory glance around his office.

In addition to a bust of Winston Churchill, whom he met in 1946 when a national debate competition coincided with the Prime Minister's famous ''Iron Curtain'' speech, it housed a virtual museum of medical history. But perhaps the greatest evidence of his dedication to advancing the state of American medical education was a small album filled with the photographs of multi-generations of family members—grandfathers, sons and grandsons whose degrees were all conferred by Dr. Chapman.

In all, 3,317 men and women have received a medical degree from the man lovingly known as ''the patron saint of medical students.'' And Dr. Chapman and his wife, Judy, made time for each of them, hosting parties for them at their home, and attending all their many functions to cheerlead their cause. Indeed, I'm convinced, Mr. President, that Vanderbilt's continuous Number One medical school rating based on student satisfaction would not have been achieved without Dr. Chapman.

But Dr. Chapman's influence was not confined to Tennessee. In addition to his leadership as the only three-term member of the American Medical Association's Council on Medical Education, he chaired the U.S. Medical Licensure Examination Committee—that oversees the examination of all physicians seeking to practice in the United States, and was one of only a small handful of physicians to sit on the governing councils of both the AMA and the Association of American Medical Colleges. In 1994, he lent his expertise to the Senate in testimony before this body on the state of medical school funding in America.

Yet, not content to confine his efforts to one country, he reached out even further, spearheading a medical student exchange program between Vanderbilt and the prestigious Karolinska Institute in Sweden. Other U.S. medical schools, following his lead, soon joined this remarkable program, causing the Karolinska Institute to hail his efforts as a ''conspicuous contribution to medical education worldwide.''

John Chapman has come a long way from the boy from the Missouri Ozarks, who became the man who shook the hand of Winston Churchill in 1946, to the physician who, in conjunction with Nobel Prize ceremonies in Stockholm, Sweden, received an honorary M.D. from the Karolinska Institute, to the medical historian and scholar who represented the AMA in hearings before the Senate. But despite his many awards and accolades and international recognition, his most remarkable accomplishment remains his commitment to students. While the average tenure for a medical school dean is five years, Dr. Chapman served his students five times as long.

Yet while he leaves the office of Dean tomorrow after 25 years, he will not leave Vanderbilt, but continue his commitment to students as Associate Vice Chancellor of Alumni Affairs.

For more than one quarter of a century, Dr. John Chapman has been a bulwark of strength in the often turbulent sea of medicine and medical education. Not only has medical education been his life's work, but he's done it for so long and at such a high level that the magnitude of his contributions to the entire field of medicine is both

enormous and historic. They are accomplishments that make John Chapman not just a great physician, scholar, and teacher but a great American.

On behalf of all the people of Tennessee and physicians everywhere, I congratulate him and wish him well.●

TRIBUTE TO SPECIAL AGENT DAVID J. KARPOWICH

● Mr. ALLEN. Mr. President, I rise today to honor a lifetime commitment to law and order in the United States. On this day, March 1, 2001, Mr. David J. Karpowich of Springfield, VA, retires as a special agent with the U.S. Naval Criminal Investigative Service (NCIS), ending some 30 years of Federal law enforcement service.

Mr. Karpowich began his service to his country in July 1971, as a member of the U.S. Army's Military Police Corps. Following a brief stint as a uniformed officer with the U.S. Capitol Police Force, Mr. Karpowich was appointed a special agent with the Naval Investigative Service, now known as the Naval Criminal Investigative Service, on July 14, 1975, and embarked on a career that would span more than 25 years. His history of assignments includes South Carolina, California, and in Washington, DC, as a field investigator, polygraph examiner, counterintelligence manager, and inspector.

Among his many achievements with the Naval Criminal Investigative Service, Special Agent Karpowich will long be remembered for his contribution to its Polygraph Program. Under his responsible leadership, the NCIS Polygraph Program was considered among the finest within the Department of Defense, and he is credited with modernizing the program with new personnel, equipment and techniques.

More recently, Special Agent Karpowich shared the wisdom of his experience with the On-Site Inspection Agency (OSIA), as the senior NCIS representative to its Counterintelligence Staff and lastly as the Senior Inspector with the NCIS Headquarters Inspections Directorate, seeking to ensure efficiency and integrity within the Service.

In closing, I wish to commend David Karpowich for his commitment to law enforcement and for his many years of outstanding service to our nation and, in particular, to the members of our armed services. I wish him and his wife, Connie, Godspeed in his retirement.●

REPORT ON THE STATUS OF FEDERAL CRITICAL INFRASTRUCTURE PROTECTION ACTIVITIES—MESSAGE FROM THE PRESIDENT—PM 9

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 jointly to the Committees on Appropriations; and the Judiciary.

To the Congress of the United States:

Pursuant to section 1053 of the Defense Authorization Act of 2001 (Public Law 106–398), enclosed is a comprehensive report detailing the specific steps taken by the Federal Government to develop critical infrastructure assurance strategies and outlined by Presidential Decision Directive No. 63 (PDD–63).

This report was drafted by the previous Administration and is a summary of their efforts as of January 15. However, since this requirement conveys to my Administration, I am forwarding the report.

Critical infrastructure protection is an issue of importance to U.S. economic and national security, and it will be a priority in my Administration. We intend to examine the attached report and other relevant materials in our review of the Federal Government's critical infrastructure protection efforts.

GEORGE W. BUSH.

THE WHITE HOUSE, *March 1, 2001.*

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 12:08 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 559. An Act to designate the United States courthouse located at 1 Courthouse Way in Boston, Massachusetts, as the ''John Joseph Moakley United States Courthouse.''

S. 279. An Act affecting the representation of the majority and minority membership of the Senate Members of the Joint Economic Committee.

The enrolled bills were signed subsequently by the President pro tempore (Mr. THURMOND).

At 1:41 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 and joint resolution, in which it requests the concurrence of the Senate:

H.R. 256. An Act to extend for 11 additional months the period for which chapter 12 of title 11 of the United States Code is reenacted.

H.R. 558. An Act to designate the Federal building and United States courthouse located at 504 West Hamilton Street in Allentown, Pennsylvania, as the ''Edward N. Cahn Federal Building and United States Courthouse.''

H.R. 621. An Act to designate the Federal building located at 6230 Van Nuys Boulevard in Van Nuys, California, as the ''James C. Corman Federal Building.''

H.J. Res. 19. Joint resolution providing for the appointment of Walter E. Massey as a citizen regent of the Board of Regents of the Smithsonian Institution.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 27. Concurrent resolution honoring the National Institute of Standards and Technology and its employees for 100 years of service to the Nation.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 558. An act to designate the Federal building and United States courthouse located at 504 West Hamilton street in Allentown, Pennsylvania, as the ''Edward N. Cahn Federal Building and United States Courthouse,'' to the Committee on Environment and Public Works.

H.R. 621. An act to designate the Federal building located at 6230 Van Nuys Boulevard in Van Nuys, California, as the ''James C. Corman Federal Building''; to the Committee on Environment and Public Works.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, March 1, 2001, he had presented to the President of the United States the following enrolled bill:

S. 279. An act affecting the representation of the majority and minority membership of the Senate Members of the Joint Economic Committee.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–851. A communication from the Deputy General Counsel of the Federal Bureau of Investigation, Department of Justice, transmitting, pursuant to law, the report of a rule entitled ''National Instant Criminal Background Check System Regulation; Delay of Effective Date'' (RIN1110-AA02) received on February 28, 2001; to the Committee on the Judiciary.

EC–852. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, a report concerning purchases from foreign entities for Fiscal Year 2000; to the Committee on Armed Services.

EC–853. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Pendimethalin; Re-establishment of Tolerance for Emergency Exemptions'' (FRL6766–5) received on February 23, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–854. A communication from the Acting Director of the Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''North Dakota Regulatory Program'' (ND–041–FOR) received on February 26, 2001; to the Committee on Energy and Natural Resources.

EC–855. A communication from the Acting Director of the Defense Security Cooperation

Agency, Department of Defense, transmitting, pursuant to law, a report concerning anti-narcotics assistance totaling $20,000,000; to the Committee on Foreign Relations.

EC–856. A communication from the Acting Director of the Defense Security Cooperation Agency, Department of Defense, transmitting, pursuant to law, a report relating to the anti-narcotics assistance to Mexico; to the Committee on Foreign Relations.

EC–857. A communication from the Acting Director of the Defense Security Cooperation Agency, Department of Defense, transmitting, pursuant to law, a report concerning the anti-narcotics assistance totaling $60,300,000; to the Committee on Foreign Relations.

EC–858. A communication from the Acting Director of the Defense Security Cooperation Agency, Department of Defense, transmitting, pursuant to law, a report concerning the Economic Community of West African States' Peacekeeping Force relating to Liberia; to the Committee on Foreign Relations.

EC–859. A communication from the Acting Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, a report relating to the Foreign Agents Registration Act, as amended, from January through June of 2000; to the Committee on Foreign Relations.

EC–860. A communication from the Chairman of the Counsel of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 13–593, ''District Government Personnel Exchange Agreement Amendment Act of 2000''; to the Committee on Governmental Affairs.

EC–861. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 13–587, ''Nurse's Rehabilitation Program Act of 2000''; to the Committee on Governmental Affairs.

EC–862. A communication from the Executive Director for Operations of the Nuclear Regulatory Commission, transmitting, pursuant law, a report concerning the commercial activities inventory for the year 2000; to the Committee on Governmental Affairs.

EC–863. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 13–539, ''Interim Disability Assistance Amendment Act of 2000''; to the Committee on Governmental Affairs.

EC–864. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Coast Guard Activities New York Annual Fireworks Displays'' ((RIN2115–AA97)(2001–0003)) received on February 27, 2001; to the Committee on Commerce, Science, and Transportation.

EC–865. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Siesta Key Bridge (SR 758), Sarasota, FL'' ((RIN2115–AE47)(2001–0020)) received on February 27, 2001; to the Committee on Commerce, Science, and Transportation.

EC–866. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Arroyo Colorado, TX'' ((RIN2115–AE47)(2001–0019)) received on February 27, 2001; to the Committee on Commerce, Science, and Transportation.

EC–867. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Fort Point Channel, MA'' ((RIN2115–AE47)(2001-0018)) received on February 27, 2001; to the Committee on Commerce, Science, and Transportation.

EC–868. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Kennebec River, ME'' ((RIN2115–AE47)(2001–0017)) received on February 27, 2001; to the Committee on Commerce, Science, and Transportation.

EC–869. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Stickney Point Bridge (SR 72), Sarasota, FL'' ((RIN2115–AE47)(2001–0022)) received on February 27, 2001; to the Committee on Commerce, Science, and Transportation.

EC–870. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Cortez Bridge (SR 684), Cortez, FL'' ((RIN2115–AE47)(2001–0021)) received on February 27, 2001; to the Committee on Commerce, Science, and Transportation.

EC–871. A communication from the Attorney of the National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modified Vehicles To Accommodate a Person's Disability'' (RIN2127–AG40) received on February 27, 2001; to the Committee on Commerce, Science, and Transportation.

EC–872. A communication from the Chairman of the Office of Economics, Environmental Analysis and Administration, Surface Transportation Board, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''STB Ex Parte No. 542 (Sub-No. 7) Regulations Governing Fees for Services Performed in Connection with Licensing and Related Services—2001 Update'' received on February 26, 2001; to the Committee on Commerce, Science, and Transportation.

EC–873. A communication from the Paralegal Specialist of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Raytheon (Beech) Model MU–300, MU–300–10, 400, and 400A Series Airplanes'' ((RIN2120–AA64)(2001–0145)) received on February 27, 2001; to the Committee on Commerce, Science, and Transportation.

EC–874. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Floor Stock Payments'' (Rev. Rul. 2001–8) received on February 27, 2001; to the Committee on Finance.

EC–875. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''BLS–LIFO Department Store Indexes for January 2001'' (Rev. Rul. 2001–14) received on February 27, 2001; to the Committee on Finance.

EC–876. A communication from the Acting Chief of the Regulations Division, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Final Rule Realingning the Boundry of the Walla Walla Valley Viticultural Area and the Eastern Boundary of the Columbia Valley Viticultural Area'' (RIN1512–AA07) received on February 27, 2001; to the Committee on Finance.

EC–877. A communication from the Deputy Executive Secretary to the Department of Health Care Financing Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''State Child Health; Implementing Regulations for the State Children's Health Insurance Program; Delay of Effective Date'' (RIN0938–AI28) received on February 23, 2001; to the Committee on Finance.

EC–878. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Applicable Federal Rates for March 2001'' (Rev. Rul. 2001–12) received on February 21, 2001; to the Committee on Finance.

EC–879. A communication from the Deputy Executive Secretary, Health Care Financing Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicaid Program: Medicaid Managed Care: Delay of Effective Date'' (RIN0938–AI70) received on February 23, 2001; to the Committee on Finance.

EC–880. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Election for Disaster Losses 2000'' (Rev. Rul. 2001–15) received on February 28, 2001; to the Committee on Finance.

EC–881. A communication from the Acting Chief of the Regulations Division, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Delegation of Authority in Part 170'' (RIN1512–AC23) received on February 28, 2001; to the Committee on Finance.

EC–882. A communication from the Acting Chief of the Regulations Division, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Delegation of Authority in Part 30'' (RIN1512–AC16) received February 28, 2001; to the Committee on Finance.

EC–883. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled ''Fiscal Year Clean Water Act Section 106 Grant Guidance''; to the Committee on Environment and Public Works.

EC–884. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled ''Applicability of RCRA to Draindown and Seepage from Gold Heap Leaches''; to the Committee on Environment and Public Works.

EC–885. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled ''Implementation of Vacature of TCLP Use for Evaluating Manufactured Gas Plant (MGP) Wastes in the Battery Recycling Case''; to the Committee on Environment and Public Works.

EC–886. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled ''Release of Appraisals for Real Property Acquisitions at Superfund Sites''; to the Committee on Environment and Public Works.

EC–887. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled ''Distribution of OSWER Soil Screening Guidance for Radionuclides: User's Guide and Technical Background Document''; to the Committee on Environment and Public Works.

EC–888. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled ''Additional GPRA Measures''; to the Committee on Environment and Public Works.

EC–889. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled ''Interpretive Letter to Greig R. Siedor, Onyx Environmental''; to the Committee on Environment and Public Works.

EC–890. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled ''Financial Structure of Cooperative Agreement Funds Under the Brownsfields Cleanup Revolving Loan Fund (BCRLF) Program''; to the Committee on Environment and Public Works.

EC–891. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled ''Enhancing State and Tribal Role Directive''; to the Committee on Environment and Public Works.

EC–892. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled ''Use of Latest Planning Assumptions in Conformity Determinations''; to the Committee on Environment and Public Works.

EC–893. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled ''Guidance on Distributing the 'Notice of SEC Registrants' Duty to Disclose Environmental Legal Proceedings' in EPA Administrative Enforcement Actions''; to the Committee on Environment and Public Works.

EC–894. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled ''Support of Regional Efforts to Negotiate Prospective Purchaser Agreements (PPAs) at Superfund Sites and Clarification of PPA Guidance''; to the Committee on Environment and Public Works.

EC–895. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law,the report of a rule entitled ''New Stationary Sources; Supplemental Delegation of Authority to Knox County, Tennessee'' (FRL6941–7) received on February 27, 2001; to the Committee on Environment and Public Works.

EC–896. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''NESHAP: Group IV Polymers and Resins'' (FRL6948) received on February 28, 2001; to the Committee on Environment and Public Works.

EC–897. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Emission Standards For Hazardous Air Pollutant Emissions: Group IV Polymers and Resins'' (FRL6768–2) received on February 28, 2001; to the Committee on Environment and Public Works.

EC–898. A communication from the Director of the Office of Congressional Affairs, Office of Nuclear Material Safety and Safeguards, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''List of Approved Spent Fuel Storage Casks: Fuel Solutions Revision'' (RIN3150–AG72) received on February 28, 2001; to the Committee on Environment and Public Works.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–1. A resolution adopted by the Ascension Parish Council relative to the Louisiana ammonia industry; to the Committee on Energy and Natural Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

From the Committee on Banking, Housing, and Urban Affairs, without amendment:

S. Res. 40: An original resolution authorizing expenditures by the Committee on Banking, Housing, and Urban Affairs.

From the Committee on the Judiciary, without amendment:

S. 420: An original bill to amend title II, United States Code, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. GRASSLEY (for himself, Mr. TORRICELLI, Mr. BIDEN, Mr. HATCH, Mr. SESSIONS, Mr. CARPER, and Mr. JOHNSON):

S. 420. An original bill to amend title 11, United States Code, and for other purposes; from the Committee on the Judiciary; placed on the calendar.

By Mr. GRASSLEY (for himself, Mr. CLELAND, Mr. COCHRAN, Mr. WELLSTONE, Mr. DEWINE, Mr. BAUCUS, Mr. MCCONNELL, Mr. JOHNSON, Mr. BUNNING, and Ms. SNOWE):

S. 421. A bill to give gifted and talented students the opportunity to develop their capabilities; to the Committee on Health, Education, Labor, and Pensions.

By Mr. WELLSTONE (for himself, Mr. DAYTON, Mr. LEVIN, and Ms. STABENOW):

S. 422. A bill to provide that, for purposes of certain trade remedies, imported semi-finished steel slab shall be treated as like or directly competitive with taconite pellets; to the Committee on Finance.

By Mr. WYDEN (for himself, Mr. SMITH of Oregon, and Mrs. MURRAY):

S. 423. A bill to amend the Act entitled ''An Act to provide for the establishment of Fort Clatsop National Memorial in the State of Oregon, and for other purposes''; to the Committee on Energy and Natural Resources.

By Mrs. FEINSTEIN:

S. 424. A bill to provide incentives to encourage private sector efforts to reduce earthquake losses, to establish a national disaster mitigation program, and for other purposes; to the Committee on Finance.

By Mr. ALLARD (for himself and Mr. CAMPBELL):

S. 425. A bill to establish the Rocky Flats National Wildlife Refuge in the State of Colorado, and for other purposes; to the Committee on Armed Services.

By Mrs. CLINTON (for herself, Mr. BAUCUS, Mr. CORZINE, Mr. DAYTON, Mr. DODD, Mr. LEAHY, Mr. LIEBERMAN, Ms. MIKULSKI, Mr. ROCKEFELLER, and Mr. SCHUMER):

S. 426. A bill to amend the Internal Revenue Code of 1986 to provide an income tax credit to holders of bonds financing new communications technologies, and for other purposes; to the Committee on Finance.

By Mrs. CLINTON (for herself, Ms. SNOWE, Mr. CORZINE, Mr. DAYTON, Mr. DODD, Mr. LIEBERMAN, Ms. MIKULSKI, Mr. ROCKEFELLER, and Mr. SCHUMER):

S. 427. A bill to amend the Internal Revenue Code of 1986 to expand the work opportunity tax credit for small business jobs creation; to the Committee on Finance.

By Mrs. CLINTON (for herself, Mr. BAUCUS, Mr. BINGAMAN, Mr. CORZINE, Mr. DAYTON, Mr. DODD, Mr. LEAHY, Mr. LIEBERMAN, Ms. MIKULSKI, Mr. ROCKEFELLER, and Mr. SCHUMER):

S. 428. A bill to provide grants and other incentives to promote new communications technologies, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mrs. CLINTON (for herself, Mr. BAUCUS, Mr. BINGAMAN, Mrs. BOXER, Mr. CORZINE, Mr. DAYTON, Mr. DODD, Mr. LEAHY, Mr. LIEBERMAN, Ms. MIKULSKI, Mr. ROCKEFELLER, and Mr. SCHUMER):

S. 429. A bill to expand the Manufacturing Extension Program to bring the new economy to small and medium-sized businesses; to the Committee on Commerce, Science, and Transportation.

By Mrs. CLINTON (for herself, Mr. BAUCUS, Mr. CORZINE, Mr. DAYTON, Mr. DODD, Mr. LEAHY, Mr. LIEBERMAN, Ms. MIKULSKI, Mr. ROCKEFELLER, and Mr. SCHUMER):

S. 430. A bill to provide incentives to promote broadband telecommunications services in rural America, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mrs. CLINTON (for herself, Ms. SNOWE, Mr. BAUCUS, Mr. CORZINE, Mr. DAYTON, Mr. DODD, Mr. LIEBERMAN, Ms. MIKULSKI, Mr. ROCKEFELLER, and Mr. SCHUMER):

S. 431. A bill to establish regional skills alliances, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. CLINTON (for herself, Ms. SNOWE, Mr. BAUCUS, Mr. BINGAMAN, Mrs. BOXER, Mr. CORZINE, Mr. DAYTON, Mr. DODD, Mr. KENNEDY, Mr. LIEBERMAN, Ms. MIKULSKI, Mr. ROCKEFELLER, and Mr. SCHUMER):

S. 432. A bill to provide for business incubator activities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SMITH of New Hampshire:

S. 433. A bill to amend the Internal Revenue Code of 1986 to remove the limitation

that certain survivor benefits can only be excluded with respect to individuals dying after December 31, 1996; to the Committee on Finance.

By Mr. DASCHLE (for himself, Mr. JOHNSON, and Mr. HAGEL):

S. 434. A bill to provide equitable compensation to the Yankton Sioux Tribe of South Dakota and the Santee Sioux Tribe of Nebraska for the loss of value of certain lands; to the Committee on Indian Affairs.

By Mrs. BOXER (for herself and Mr. GRAMM):

S. 435. A bill to provide that the annual drug certification procedures under the Foreign Assistance Act of 1961 not apply to certain countries with which the United States has bilateral agreements and other plans relating to counterdrug activities, and for other purposes; to the Committee on Foreign Relations.

By Mr. KOHL (for himself, Mr. CHAFEE, Mrs. BOXER, Mr. DURBIN, Mr. SCHUMER, Mr. REED, Mr. KERRY, and Mr. CORZINE):

S. 436. A bill to amend chapter 44 of title 18, United States Code, to require the provision of a child safety lock in connection with the transfer of a handgun and provide safety standards for child safety locks; to the Committee on the Judiciary.

By Mr. DEWINE (for himself, Mr. DODD, Mrs. MURRAY, and Mr. GRASSLEY):

S. 437. A bill to revise and extend the Safe and Drug-Free Schools and Communities Act of 1994; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DEWINE:

S. 438. A bill to improve the quality of teachers in elementary and secondary schools; to the Committee on Health, Education, Labor, and Pensions.

By Mr. FRIST (for himself and Mr. THOMPSON):

S. 439. A bill to authorize the establishment of a suboffice of the Immigration and Naturalization Service in Nashville, Tennessee; to the Committee on the Judiciary.

By Mr. CAMPBELL:

S. 440. A bill to establish a matching grant program to help State and local jurisdictions purchase bullet-resistant equipment for use by law enforcement departments; to the Committee on the Judiciary.

By Mr. CAMPBELL (for himself, Mr. MCCONNELL, Mr. FEINGOLD, Mr. INOUYE, Mr. LEVIN, Mr. DAYTON, Mr. LUGAR, and Mr. STEVENS):

S. 441. A bill to provide Capitol-flown flags to the families of law enforcement officers and firefighters killed in the line of duty; to the Committee on Rules and Administration.

By Mr. CAMPBELL (for himself and Mr. HATCH):

S. 442. A bill to exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed firearms and to allow States to enter into compacts to recognize other States' concealed weapons permits; to the Committee on the Judiciary.

By Mr. CAMPBELL:

S. 443. A bill to amend chapter 44 of title 18, United States Code, to increase the maximum term of imprisonment for offenses involving stolen firearms; to the Committee on the Judiciary.

By Mr. WELLSTONE (for himself, Mr. KENNEDY, and Mr. SCHUMER):

S. 444. A bill to amend title II of the Elementary and Secondary Education Act of 1965 to support teacher corps programs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. WELLSTONE:

S. 445. A bill to provide for local family information centers, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CRAPO (for himself and Mr. CRAIG):

S. 446. A bill to preserve the authority of States over water within their boundaries, to delegate to States the authority of Congress to regulate water, and for other purposes; to the Committee on the Judiciary.

By Mr. CRAPO (for himself, Mr. CRAIG, and Mr. HELMS):

S. 447. A bill to subject the United States to imposition of fees and costs in proceedings relating to State water rights adjudications; to the Committee on Energy and Natural Resources.

By Mr. DOMENICI (for himself and Mr. HATCH):

S. 448. A bill to provide permanent appropriations to the Radiation Exposure Compensation Trust Fund to make payments under the Radiation Exposure Compensation Act (42 U.S.C. 2210 note); to the Committee on Appropriations.

By Mr. DOMENICI (for himself and Mr. HATCH):

S. 449. A bill to ensure the timely payment of benefits to eligible persons under the Radiation Exposure Compensation Act (42 U.S.C. 2210); to the Committee on Appropriations.

By Mr. NELSON of Florida:

S. 450. A bill to amend the Gramm-Leach-Bliley Act to provide for enhanced protection of nonpublic personal information, including health information, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. NELSON of Florida:

S. 451. A bill to establish civil and criminal penalties for the sale or purchase of a social security number; to the Committee on Finance.

By Mr. NICKLES (for himself, Mr. ENZI, Mr. BOND, and Mr. HUTCHINSON):

S.J. Res. 6. A joint resolution providing for congressional disapproval of the rule submitted by the Department of Labor under chapter 8 of title 5, United States Code, relating to ergonomics; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. GRAMM:

S. Res. 40. An original resolution authorizing expenditures by the Committee on Banking, Housing, and Urban Affairs; from the Committee on Banking, Housing, and Urban Affairs; to the Committee on Rules and Administration.

By Mr. SHELBY (for himself and Mr. SESSIONS):

S. Res. 41. A resolution designating April 4, 2001, as ''National Murder Awareness Day''; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 11

At the request of Mrs. HUTCHISON, the name of the Senator from Arkansas (Mr. HUTCHINSON) was added as a cosponsor of S. 11, a bill to amend the Internal Revenue Code of 1986 to eliminate the marriage penalty by providing that the income tax rate bracket amounts, and the amount of the standard deduction, for joint returns shall be twice the amounts applicable to unmarried individuals, and for other purposes.

S. 16

At the request of Mr. DASCHLE, the names of the Senator from North Dakota (Mr. DORGAN) and the Senator from New Jersey (Mr. TORRICELLI) were added as cosponsors of S. 16, a bill to improve law enforcement, crime prevention, and victim assistance in the 21st century.

S. 19

At the request of Mr. DASCHLE, the names of the Senator from Georgia (Mr. CLELAND) and the Senator from New Jersey (Mr. TORRICELLI) were added as cosponsors of S. 19, a bill to protect the civil rights of all Americans, and for other purposes.

S. 29

At the request of Mr. BOND, the name of the Senator from Rhode Island (Mr. CHAFEE) 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. 70

At the request of Mr. INOUYE, the names of the Senator from Louisiana (Mr. BREAUX) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 70, a bill to amend the Public Health Service Act to provide for the establishment of a National Center for Social Work Research.

S. 77

At the request of Mr. DASCHLE, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 77, a bill to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes.

S. 88

At the request of Mr. ROCKEFELLER, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 88, a bill to amend the Internal Revenue Code of 1986 to provide an incentive to ensure that all Americans gain timely and equitable access to the Internet over current and future generations of broadband capability.

S. 123

At the request of Mrs. FEINSTEIN, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 123, a bill to amend the Higher Education Act of 1965 to extend loan forgiveness for certain loans to Head Start teachers.

S. 126

At the request of Mr. CLELAND, the name of the Senator from Minnesota

(Mr. DAYTON) was added as a cosponsor of S. 126, a bill to authorize the President to present a gold medal on behalf of Congress to former President Jimmy Carter and his wife Rosalynn Carter in recognition of their service to the Nation.

S. 152

At the request of Mr. GRASSLEY, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 152, a bill to amend the Internal Revenue Code of 1986 to eliminate the 60-month limit and increase the income limitation on the student loan interest deduction.

S. 205

At the request of Mrs. HUTCHISON, the name of the Senator from Arkansas (Mr. HUTCHINSON) was added as a cosponsor of S. 205, a bill to amend the Internal Revenue Code of 1986 to waive the income inclusion on a distribution from an individual retirement account to the extent that the distribution is contributed for charitable purposes.

S. 234

At the request of Mr. GRASSLEY, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 234, a bill to amend the Internal Revenue Code of 1986 to repeal the excise tax on telephone and other communications services.

S. 261

At the request of Ms. SNOWE, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 261, a bill to amend the Public Health Service Act to provide, with respect to research on breast cancer, for the increased involvement of advocates in decisionmaking at the National Cancer Institute.

S. 280

At the request of Mr. JOHNSON, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 280, a bill to amend the Agriculture Marketing Act of 1946 to require retailers of beef, lamb, pork, and perishable agricultural commodities to inform consumers, at the final point of sale to consumers, of the country of origin of the commodities.

S. 295

At the request of Mr. KERRY, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 295, a bill to provide emergency relief to small businesses affected by significant increases in the prices of heating oil, natural gas, propane, and kerosene, and for other purposes.

S. 326

At the request of Ms. COLLINS, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 326, a bill to amend title XVIII of the Social Security Act to eliminate the 15 percent reduction in payment rates under the prospective payment system for home health services and to permanently increase payments for such services that are furnished in rural areas.

S. 340

At the request of Mr. DASCHLE, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 340, a bill to recruit and retain more qualified individuals to teach in Tribal Colleges or Universities.

S. 352

At the request of Mr. BINGAMAN, the names of the Senator from Maryland (Mr. SARBANES) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 352, a bill to increase the authorization of appropriations for low-income energy assistance, weatherization, and state energy conservation grant programs, to expand the use of energy savings performance contracts, and for other purposes.

S. 361

At the request of Mr. MURKOWSKI, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 361, a bill to establish age limitations for airmen.

S. 411

At the request of Mr. LIEBERMAN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 411, a bill to designate a portion of the Arctic National Wildlife Refuge as wilderness.

S. CON. RES. 11

At the request of Mrs. FEINSTEIN, the names of the Senator from Wisconsin (Mr. FEINGOLD) and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S. Con. Res. 11, a concurrent resolution expressing the sense of Congress to fully use the powers of the Federal Government to enhance the science base required to more fully develop the field of health promotion and disease prevention, and to explore how strategies can be developed to integrate lifestyle improvement programs into national policy, our health care system, schools, workplaces, families and communities.

S. CON. RES. 17

At the request of Mr. SARBANES, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. Con. Res. 17, a concurrent resolution expressing the sense of Congress that there should continue to be parity between the adjustments in the compensation of members of the uniformed services and the adjustments in the compensation of civilian employees of the United States.

S.J. RES. 4

At the request of Mr. HOLLINGS, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S.J. Res. 4, a joint resolution proposing an amendment to the Constitution of the United States relating to contributions and expenditures intended to affect elections.

S. RES. 22

At the request of Mr. HUTCHINSON, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. Res. 22, a resolution urging the appropriate representative of the United States to the United Nations Commission on Human Rights to introduce at the annual meeting of the Commission a resolution calling upon the Peoples Republic of China to end its human rights violations in China and Tibet, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRASSLEY (for himself, Mr. CLELAND, Mr. COCHRAN, Mr. WELLSTONE, Mr. DEWINE, Mr. BAUCUS, Mr. MCCONNELL, Mr. JOHNSON, Mr. BUNNING, and Ms. SNOWE):

S. 421. A bill to give gifted and talented students the opportunity to develop their capabilities; to the Committee on Health, Education, Labor, and Pensions.

Mr. GRASSLEY. Mr. President, today I am reintroducing, with nine of our colleagues, the Gifted and Talented Students Education Act. It is vital that we recognize the nearly three million students in the United States who are talented and gifted and provide them with a challenging education.

Our nation depends on students who will become the next generation of leaders in business, economics, the sciences, medicine, and education. Our lives will be enriched by the next generation of performing and fine artists. However, many of our gifted and talented students are not being challenged to their fullest ability at school and, as a result, are not performing at world-class levels. Worse, many of our top students lose interest in school and abandon their education altogether. If these gifted students are not adequately challenged, they will direct their energy and gifts toward destructive and wasteful activities and become a burden to society, instead of the most productive contributors.

The Gifted and Talented Students Education Act will help to ensure that gifted and talented students have the opportunity to achieve their highest potential by providing block grants, based on a state's student population, to state education agencies. These grants will be used to identify and provide educational services to gifted and talented students from all economic, ethnic, and racial backgrounds, including students with limited English proficiency and students with disabilities. The bill outlines four broad spending areas but leaves decisions on how best to serve these students to states and local school districts. The legislation ensures that the federal money benefits students by requiring the state education agency to distribute not less than 88 percent of the funds to schools and that the funds must supplement, not supplant, funds currently being

spent. Additionally, rather than simply accepting federal funds for a new program, states must make their own commitment to these students by matching 20 percent of the federal funds. The matching requirements will help ensure that programs and services for gifted education develop a strong foothold in the state.

Currently, the only support talented and gifted students receive from the federal government is through the successful research based Javits Gifted and Talented Students Education Program. One well-known effort is Project CUE, a collaborative effort that included the College of New Rochelle and School District 9 in the South Bronx, which serves approximately 32,000 mostly poor and minority students. The program was designed to institute high-level challenging content for elementary school students, and to identify and nurture those students whose interests and talents could be developed in mathematics and science. Evaluation of the project indicated a significant improvement in the overall academic achievement of those students identified as potentially gifted, as well as increases in school attendance rates. Furthermore, the project resulted in a twenty percent improvement school-wide in science and math achievement, as measured in both local and statewide standardized tests. Just imagine how ALL talented and gifted students could benefit from consistent funding and support to implement programs like the one in the South Bronx.

Mr. President, our nation's gifted and talented students are among our great untapped resources. We must help states and local school districts provide a challenging education for these students so their particular gifts can flourish and be fully realized. It is my sincere hope that you and the rest of our colleagues will make this commitment to talented and gifted students this year.

By Mr. WELLSTONE (for himself, Mr. DAYTON, Mr. LEVIN, and Ms. STABENOW):

S. 422. A bill to provide that, for purposes of certain trade remedies, imported semifinished steel slab shall be treated as like or directly competitive with taconite pellets; to the Committee on Finance.

Mr. WELLSTONE. Mr. President, I send a bill to the desk. This is a bill Senator DAYTON and I are introducing today, and we are joined by Senators Levin and Stabenow.

This legislation is a huge priority for Senator DAYTON, and it is a huge priority for me. This is not abstract legislation. This is all about people whom we love and in whom we believe. This is about taconite. This is northeast Minnesota, the Iron Rangers. This is about our State.

Senator DAYTON and I are going to divide our time equally. I will follow Senator DAYTON.

Sometimes when we introduce legislation, it stays on the calendar, and other times we introduce legislation because we are determined in every way possible to look for ways to pass it, to work with the Department of Labor administratively on trade adjustment assistance.

We are going to devote all of our efforts jointly to pass legislation and get some relief, some assistance for people who are going through such difficult times. I think our colleagues will support us in this effort. I yield the floor to Senator Dayton.

The PRESIDING OFFICER. The Senator from Minnesota, Mr. Dayton.

Mr. DAYTON. Mr. President, I am proud to rise today to join with my very distinguished colleague and longtime friend, the senior Senator from Minnesota, Mr. WELLSTONE, to introduce with him the Taconite Workers Relief Act of 2001.

That this legislation is even needed is a great American tragedy because this hard and dangerous work of iron ore mining and taconite production has bred a very special type of person. In Minnesota, we call them Iron Rangers. They are men and women who for generations have been hard-working, community-building, and patriotic Americans.

The bitter irony in the title of this legislation is that these men and women do not want relief; they want work. Unfortunately, over the last 20 years, the trade policies of successive administrations have thrown thousands of them out of work, and they now threaten to extinguish the iron ore mining and taconite-producing industries in Minnesota entirely, as well as the basic steel-making industry throughout this country.

Twenty years ago, this industry employed over 15,000 Minnesotans. Today, it is less than 5,000. Over 2,000 workers have been laid off in the last 2 years, and 1,400 of them come from one company, LTV, which has announced it is closing permanently.

It is bad enough that U.S. trade policies have allowed, and even encouraged, this economic and social devastation which has caused immeasurable and unspeakable human devastation in northeastern Minnesota—broken lives, broken homes and families, severe depressions, even suicides. Yet adding the grievous offense to these terrible tragedies, the U.S. Government has also refused to allow these displaced workers the benefits, the job training, and other supports which Congress clearly intended when it passed the Trade Adjustment Assistance Act.

In fact, the U.S. Department of Labor has consistently ruled that taconite pellets were not in direct competition with imports of semifinished steel or slab steel. That view is so ill-informed and absurd that it would be laughable if it were not for the further damage it has caused these already seriously harmed men and women. That makes such rulings inexcusable and trade adjustment assistance denials inhumane and even immoral.

This legislation would make such denials illegal. It would establish the obvious: that the imports of semifinished steel, in addition to the continuous import of foreign steel and iron ore, are directly causing these job losses.

It establishes that the illegal dumping of these products are within the province of the International Trade Commission which, I might add, is proven to be an ineffective protector of Minnesota industries and American jobs.

This legislation, while needed to provide the assistance these workers need and deserve, is by no means a solution to the much larger problem of protecting this basic industry for the sake of our national economy, for the sake of our national security, and certainly for the sake of these dedicated men and women in Minnesota and elsewhere in the country who want to go to work, who want to earn a living, who want to contribute to the economic strength of this country and who, through misguided policies, are now being denied the opportunity to do so.

I yield the floor to my colleague from Minnesota.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that some letters from steelworkers and their families—without using last names, Barry, David, Lisa, Cliff, Joanne, and Lenore—be printed in the RECORD, along with a letter of support from John Swift, who is a commissioner of IRRRB, Jerry Fallos, USWA, which has just been ravaged by the LTV shutdown, Vince Lacer, who is mayor of the city of Aurora, and Richard Rojeski, USWA Local 2705, Chisholm, MN, along with letters from Louis Jondreau, Cleveland Cliffs Union Coordinator, and other letters of support from other steelworker local presidents throughout the range, along with a letter from David Foster, who is director of Steelworker District 11.

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

To: The Honorable Senator WELLSTONE and Senator DAYTON.

From: Barry.

GENTLEMEN: I am writing this letter to you in support of receiving Trade Readjustment Allowance for those that have been displaced because of illegally dumped steel. I would like to tell you a little about my situation and myself. I am married with 3 daughters 2 cats and one dog. I am 40 years old, my wife Kathy is 41, my oldest daughter Jamie is 18, Allycia is 13, and my youngest daughter is Alexandra. She likes to be called Alex and is 7 years old. My oldest daughter Jamie is currently going to college, which has also

stressed our financial situation. We are determined to get her through college. We live in a little town called Gilbert, MN. I have helped coach Babe Ruth Baseball and am on the United Way board of directors. I feel I do whatever I can to contribute to try to strengthen or support the community. I guess that is why I feel compelled to write to you about our situation.

LTV Steel Mining is the company that I used to work for. The reason that I say used to work for is because LTV Steel Corporation has announced that they are permanently closing our plant because they cannot compete with cheap dumped imported steel. There were approximately 1500 full time employees working there. Except for just a handful of employees to shut down the plant, the rest have been laid off including myself.

I would hope that you could seriously consider promoting TRA Benefits for those of us that are laid off. When I heard the announcement last spring, I immediately enrolled and took courses at a local junior college. Fall semester came and I went into a 2-year course called Automated Control Technologies. It was a struggle going to school full time, working full time, and trying to spend time with my family. I did it. I guess that I just want to show an example of my sincerity in trying to educate myself for whatever job the future may have for me. I really believe that I need an education now in order to market myself for employment. I am currently in the first year of a 2-year course. I would need one more year to get my diploma. The graduation date would be around June of 2002. I would need a monetary benefit to support my family while I continue my education. Then I promise you that once I finish school, I will be back into the workforce.

I know that everything costs money but I believe that this would be a good investment. The human element is the most important factor in this equation. The financial assistance that we need would strengthen our small rural areas and renew our will and spirit. The opportunity to get an education would help us make our transition into another employment area. I am 40 years old and this could be my last chance to be retrained. I am ready to take on the challenge but we need your help. Our fate and future are in your hands. Thank you for taking the time out to listen to me.

Sincerely,

BARRY AND FAMILY.

UNITED STEELWORKERS OF AMERICA,
LOCAL UNION 4108, DISTRICT 11,
Aurora, MN.

Dave and Lisa are both in their mid thirties. They have two daughters, Haley seven and Nadia four. Two years ago Dave injured his back at work and now has a partial permanent disability. Dave was permanently laid off Friday and will start collecting unemployment in two weeks. Dave is only one of hundreds of laid off steelworkers who are in desperate need of retraining. Dave will be out of unemployment and medical benefits in six months.

Cliff and Joanne have two teenage children. Cliff has twenty years of service with LTV. Cliff was permanently laid off last week. In six months Cliff will run out of unemployment benefits and will not have any health benefits in one year. Cliff's wife was recently diagnosed with breast cancer, their main concern is health insurance. With the proper retraining, Cliff would be able to get a good job that would help with health insurance.

Lenore is a single parent of a teenage son. She was just permanently laid off from LTV. Lenore has a high school education and general labor type skills she acquired from working at the mine. She realizes that without the opportunity to get retrained, she will have a difficult time trying to get a decent paying job.

These are just a couple of examples of some of the 1400 people that will be impacted by the shutdown of LTV.

As of today 797 employee's have applied for retraining through The Office Of Job Training. There are 189 people that are currently taking some type of retraining classes. The USWA/LTV Career Development Center has paid out over $50,000.00 in tuition assistance and has used up their budget for the entire year already. At the rate the money is being spent we are afraid the entire grant of 2.1 million dollars that the Office Of Job Training received for the LTV workers, will be used up before everyone has an opportunity to use it.

IRON RANGE RESOURCES &
REHABILITATION BOARD,
Eveleth, MN, February 27, 2001.

Hon. PAUL WELLSTONE,
U.S. Senator, Hart Senate Office Building Washington, DC.
Hon. MARK DAYTON,
U.S. Senator,
Washington, DC.
Hon. JAMES OBERSTAR,
U.S. Representative, Rayburn House Office Building, Washington, DC.

DEAR SENATOR WELLSTONE, SENATOR DAYTON AND CONGRESSMAN OBERSTAR: I am writing to endorse the ''Taconite Workers' Relief Act of 2001.'' Our agency believes it is of vital importance that the taconite industry and its workers fully benefit from our trade laws. The ''Taconite Workers' Relief Act'' will enable Minnesota's working families on the Iron Range to gain access to benefits and protections they need, including Trade Adjustment Assistance.

Every ton of semi-finished steel displaces 1.3 tons of taconite in basic steel production. With U.S. imports of semi-finished steel at all time highs and their prices at all time lows, some domestic steel producers have turned to dumped imports of steel slab, which has devastated the taconite industry, and thousands of working families in Minnesota. The injury caused by these imports is unquestionable. Last month, production cutbacks ravaged the U.S. iron ore industry: Northshore Mining Company announced that it will cut 700,000 tons of production; U.S. Steel's Minntac plant will cut 450,000 tons; the Hibbing Taconite Company will cut 1.3 million tons of production; and LTV Steel Mining Company closed its mining plant, permanently eliminating 8 million tons of production and 1400 jobs.

By all accounts, the taconite industry and its workers are in crisis. We must enact the Taconite Workers Relief Act immediately to protect and strengthen the industry and the communities of northern Minnesota.

Sincerely,

JOHN SWIFT,
Commissioner.

UNITED STEELWORKERS OF AMERICA,
LOCAL UNION 4108, DISTRICT 11,
Aurora, MN, February 23, 2001.

DEAR SENATORS WELLSTONE, DAYTON, AND CONGRESSMAN OBERSTAR: I'm writing this letter on behalf of the 1200 employee's I represent, that formally worked for LTV Steel Mining Company. I can't begin to tell you how much your bill, the Taconite Workers Relief Act, will mean to our members. As of today 900 employees were placed on permanent layoff. In six months these people will be out of unemployment benefits and a lot of them will be out of Health Benefits.

As every one knows the continued flow of imported steel is devastating not only the steel industry, but also the taconite industry. The taconite plants in Minnesota and across the country are in a crisis they may never recover from. With the closure of LTV steel Mining Company and the continued layoffs of miners from the six other mines it is critical to the survival of the Iron Range that this important piece of legislation gets passed. The benefits and protection that would be gained from this, is a critical piece of legislation to keep the people in Northern Minnesota. If this legislation is adopted it will enable the people to get the assistance and retraining they need to get on with their lives. With the help of you and other legislators, we can help prevent what happened in the early 80's, when there were massive layoffs across the range, and people lost their homes, and families were torn apart.

I know you have always said that our young people are our greatest resource, with this legislation we can keep our young people in Minnesota.

Sincerely,

JERRY FALLOS,
President, Local 4108.

CITY OF AURORA,
Aurora, MN, February 26, 2001.

Senator PAUL WELLSTONE,
St. Paul, MN.

DEAR SENATORS WELLSTONE AND DAYTON AND CONGRESSMAN OBERSTAR: I am writing to endorse the ''Taconite Workers' Relief Act of 2001''. We believe it is of vital importance that the taconite industry and its workers fully benefit from our trade laws. The ''Taconite Workers' Relief Act of 2001'' will enable Minnesota's working families on the Iron Range to gain access to benefits and protections they need, including Trade Adjustment Assistance.

Every ton of semi-finished steel displaces 1.3 tons taconite in basic steel production. With U.S. imports of semi-finished steel at all time highs and their prices at all time lows, domestic steel producers have turned to dumped imports of steel slab, which has devastated the taconite industry, and thousands of working families in Minnesota. The injury caused by these imports is unquestionable. Last month, production cutbacks ravaged the U.S. iron ore industry: Northshore Mining Company announced that it will cut 700,000 tons of production; U.S. Steel's Minntac Plant will cut 450,000 tons; the Hibbing Taconite Company will cut 1.3 million tons of production; and LTV Steel Mining Company closed its mining plant, permanently eliminating 8 million tons of production and 1400 jobs.

By all accounts, the taconite industry and its workers are in crisis. We must enact the ''Taconite Workers Relief Act of 2001'' immediately to protect and strengthen the industry and the communities of Northern Minnesota.

Sincerely,

VINCENT P. LACER,
Mayor.

USWA LOCAL 2705,
Chisholm, MN, February 23, 2001.

Senator PAUL WELLSTONE,
Washington, DC.

DEAR SENATOR WELLSTONE: I am writing to you today to thank you and Senator Dayton

for taking time out of your busy schedules to come to the Iron Range and listen to our concerns in the mining Industry. I would like to tell you that I am in full support of the TAA recommendations and hope that we can get this through the Senate.

The importing of semi finished steel into this country is detrimental to the economy of the Iron Range. We need to get taconite pellets equal with semi-finished slabs and with the bill that you are proposing on TAA recommendations I believe will help the Taconite Industry and the Iron Range.

Please continue to press our issue of unfairly imported or dumped steel and semi-finished steel. With your help I know that we will win this battle.

RICHARD ROJESKI,
President.

UNITED STEELWORKERS OF AMERICA,
Chisholm, MN, February 23, 2001.

Senator PAUL WELLSTONE,
Washington, DC.

DEAR SENATOR WELLSTONE: I am writing you today to thank you and Senator Dayton for taking time out of your busy schedules to come to the Iron Range and listen to our concerns about the mining industry. I would like you to know that I am in full support of the TAA recommendations and hope that we can get this bill through the Senate.

The importing of semi finished steel into this country is detrimental to the Iron Range economy. We need to get taconite pellets equal to semi-finished slabs and with the bill that you are proposing on TAA recommendations I believe will help the taconite industry and the Iron Range.

Please continue to press our issue of unfairly imported or dumped steel and semi-finished steel. With your help I know that we will win this battle.

Sincerely,

LOUIS P. JONDREAU,
Cleveland Cliffs Union Coordinator.

LOCAL UNION NO. 6860,
UNITED STEELWORKERS OF AMERICA,
Eveleth, MN, February 22, 2001.

DEAR SENATOR WELLSTONE: I am writing this letter in support of the new legislation that you, Sen. Dayton and Rep. Oberstar are introducing into the Senate and House of Representatives on the illegal dumping of imports of semi-finished steel into the U.S. market.

As you know, in June of 1999, EVTAC Mining laid off approx. 150 Bargaining Unit employees because of the illegal dumping of imports of semi-finished steel into the U.S. market. I attempted, thru your office and Rep. Oberstar's office to get TAA/TRA benefits and was denied three (3) different times by the Dept. of Labor because Pellets were considered to be not alike, the same or not in direct competition with the imports of semi-finished steel. At least half of these employees are still in need of these benefits yet today.

This law could change this or at least help other employees in the future.

I will do everything I can to help you, Sen. Dayton and Rep. Oberstar get this Bill passed.

Please feel free to call if I can help.

In Solidarity,

SAMUEL H. RICKER,
President.

UNITED STEELWORKERS OF AMERICA,
DISTRICT #11,
Minneapolis, MN, FEBRUARY 27, 2001.

Senator PAUL WELLSTONE,
Washington, DC.

DEAR SENATOR WELLSTONE: I am writing to express my strong support for your introduction of the Taconite Workers' Relief Act which is designed to correct certain long-standing inequities in American trade laws as they apply to the unique situation of Minnesota and Michigan iron ore miners.

As you know, northern Minnesota was settled over 100 years ago by immigrant miners recruited from over 30 different countries to mine what were then known as the world's richest deposits of iron ore. The Mesabi Range fueled the industrial development of North America throughout the 20th Century, provided the raw material for the steel that won two world wars, and contributed to building many of the nation's great industrial fortunes. It likewise was typical of the ethnic melting pots that created the archetypal American communities—governed by strong family values, a sense of fair play, self-reliance, and a belief that working together we could shape our own future as we wished.

The steelworkers who go to work every day in Minnesota's iron ore mines, drilling, blasting, digging, hauling, crushing, and refining millions of tons of taconite ore still do so under remarkably harsh conditions. Twenty-four hours a day, 365 days a year, working on graveyard shifts in wind chills of 60 degrees below zero in the winter, as their parents, grandparents and great-grandparents did, our members are men and women with stamina and grit. We have always felt capable of standing up for our families and ourselves.

But now we need our government to stand up for our jobs and our communities. Without the enactment of federal legislation that prevents the illegal dumping of semi-finished steel products in the U.S. which destroy the market for the iron ore we mine, our jobs will be lost and our communities will die. We need the Taconite Workers' Relief Act to be passed immediately.

Thank you for your efforts on our behalf.

Sincerely,

DAVID FOSTER,
Director.

CITY OF BIWABIK,
Biwabik, MN.

DEAR SENATORS WELLSTONE AND DAYTON AND CONGRESSMAN OBERSTAR: I am writing to endorse the ''Taconite Workers' Relief Act of 2001.'' We believe it is of vital importance that the taconite industry and its workers fully benefit from our trade laws. The ''Taconite Workers' Relief Act'' will enable Minnesota's working families on the Iron Range to gain access to benefits and protections they need, including Trade Adjustment Assistance.

Every ton of semi-finished steel displaces 1.3 tons of taconite in basic steel production. With U.S. imports of semi-finished steel at all time highs and their prices at all time lows, domestic steel producers have turned to dumped imports of steel slab, which has devastated the taconite industry, and thousands of working families in Minnesota. The injury caused by these imports is unquestionable. Last month, production cutbacks ravaged the U.S. iron ore industry: Northshore Mining Company announced that it will cut 700,000 tons of production, U.S. Steel's Minntac plant will cut 450,000 tons; Hibbing Taconite Company will cut 1.3 million tons of production; and LTV Steel Mining Company closed its mining plant, permanently eliminating 8 million tons of production and 1400 jobs.

As you may or may not know, this not only impacts the direct employees of the taconite industry, but equally as great the families, vendors, schools and communities that are affected by these layoffs, production cutbacks and shutdowns. This is an issue of today, not tomorrow.

By all accounts, the taconite industry and its workers are in crisis. We must enact the Taconite Workers' Relief Act immediately to protect and strengthen the industry and the communities of Northern MN.

Sincerely,

STEVE BRADACH,
Mayor.

UNITED STEELWORKERS OF AMERICA,
LOCAL 6115,
Virginia, MN.

TO WHOM IT MAY CONCERN: As a representative of workers at a northern Minnesota mining operation, I feel you should know the devastation on the lives of hard working individuals and their families when our industry is shrinking, because of unfairly traded steel and slabs. The downsizing of the steel industry is a result of unfairly traded imports and we (the mining industry) are doubly hit because of dumped slabs coming into this country. Why won't an administration or law help us or protect us with the same types of laws as the other end of our industry? On behalf of our membership, I would like to express our urgent support of Senator Wellstone's ''Taconite Import Injury Adjustment Act of 2001.''

Sincerely,

MARTY HENRY,
President.

UPPER PENINSULA BUILDING
TRADES COUNCIL,
Marquette, MI, February 28, 2001.

Re: Taconite Workers Relief Act.

Hon. PAUL WELLSTONE,
U.S. Senate,
Washington, DC.

DEAR SENATOR WELLSTONE: I want to go on record thanking you for introducing the Taconite Workers Relief Act. You well know the various consequences resulting from the Free Market Free-for-All occurring in the unprotected Steel Industry. Not the least of these consequences are the hardships that come down on the workers and their families who mine iron ore, the basic ingredient in steel production.

Those of us who provide construction services to the mines also lose out when the profiteers dump steel, import cheap iron ore, or otherwise take market steps that destroy our basic industries in the united States. Our situation in the Upper Peninsula of Michigan is that workers in the construction industry will also suffer along with mining families as our steel and iron ore industries are decimated by imports of one kind or another.

There is another related side issue that bothers me, too. What happens to our national defense capabilities when the United States no longer has the capacity to produce high grade steel, has no iron ore industry remaining, and perhaps, no longer has a friendly relationship with those who produce steel? Would that scenario not invite belligerence from our enemies?

Thank you, Senator Wellstone, for your concern for all workers.

Sincerely,

JON G. LASALLE,
Field Representative.

STAND UP FOR IRON ORE,
Ishperning, MI, February 28, 2001.

Hon. PAUL WELLSTONE,
Washington, DC.

DEAR SENATOR WELLSTONE: I applaud your introduction of the Taconite Workers Relief Act and offer you the full support and encouragement of our organization, Stand Up For Iron Ore. Your legislation will go a long way toward resolving the problems we have come together to work on. As iron ore miners and managers, vendors and suppliers, political and community leaders we all have a stake in ensuring that our industry is treated equally when trade cases are considered.

The iron ranges in Michigan and Minnesota have long been integral to that basic foundation of America's industrial might, the steel industry. For over one hundred and fifty years vibrant communities have grown up around the mines. Miners have worked under dangerous, grueling conditions to support their families. Mining companies and employees have paid the taxes that support government efforts Keewatin to Washington.

I find it unconscionable that our industry has been ignored as the impact of illegally traded steel has reverberated through the economy. I thank you for attempting to rectify this situation and I will do all I can to assist in rallying support for your efforts.

Respectfully,

MIKE PRUSI,
Coordinator.

Mr. WELLSTONE. Mr. President, I thank Senator DAYTON. This Taconite Workers Relief Act that we are introducing is also being introduced in the House of Representatives today by Congressman OBERSTAR.

This legislation has two central objectives. The first is to make sure the taconite workers in the Iron Range in Minnesota, and taconite-producing regions in Michigan, are eligible for trade adjustment assistance. The second provision says that the taconite industry and its workers should be fully brought under trade laws that, if enforced, provide some protection for our working families: section 201 cases, antidumping cases, and countervailing duty cases. I would like to take those one at a time.

On trade adjustment assistance, I could not be more in agreement with my colleague, Senator DAYTON, from Minnesota. The argument that has been made is that our taconite workers are not in competition with slab steel or semifinished steel and that could not be further from the truth in this highly integrated steel industry. We want to make sure we get this trade adjustment assistance to people, and the sooner the better. This is a matter of lifeline support. This is a matter of enabling a worker or workers to go to school, to get additional training, to have some support, to be able to keep their families going. It is unconscionable—I think Senators, Democrats and Republicans, will agree—that taconite workers now are not getting this protection.

We will make the direct appeal to Secretary of Labor Chao, who seems to me to be a very good person—agree or disagree on policies—because I still think, Senator DAYTON, that the Department of Labor can administratively provide this support. It has been done before. We hope it can be done again. We will make the direct appeal. We will work very hard at this administratively.

But if we cannot do it that way, we will come out on the floor of the Senate with an amendment, with a separate bill—however we best do it—to make sure we can get this trade adjustment assistance for taconite workers in Minnesota and in Michigan as well.

The other part of it deals with the whole question of trade laws and making sure for taconite workers—and, for that matter, steelworkers in general, because they are not, Senator DAYTON, getting the protection they deserve right now—that we really apply section 201 and really look at the whole problem of other countries illegally dumping steel and semifinished steel on our market way below the cost of production; and our taking action.

What is Government for, if not to be on the side of hard-working people. I say to my colleagues, you will not find a stronger work ethic or a group of citizens who work harder than those on the Iron Range. You cannot if you go anywhere in the country. The taconite workers fit everything we say on the floor of the Senate about what we think is important about America. They are people who work, work under tough conditions, are absolutely committed to supporting their families, and through no fault of their own they are out of work.

So I say to Senator DAYTON, and I would like to go back and forth with him in discussion in the time we have, I would say this is a short-run solution and then we will be trying to get to the bottom of this. In the short run, we want to make sure the assistance is there for the taconite workers. This is about survival. This is about supporting people who desperately need the help.

The other thing we want to do is get it right on trade on the Iron Range in Minnesota, and I am sure the same is true for Michigan. Frankly, I think about steelworkers and think about auto workers and I think about industrial workers all across our country. Our workers are not asking for any kind of isolationist policy. Our workers are more than willing to compete in an international economy. But we want trade laws that give us a level playing field.

When you have a situation where you have really what amounts to illegal dumping of cheap semifinished steel or steel on the market or when you have children working under deplorable working conditions, with nothing done about that, we have to figure out a way that this new global economy works for working people—works for working people in Brazil, works for working people in Russia, works for working people in South Korea, but also works for working people in the Iron Range of Minnesota and all across our country.

We are committed to both fronts. I say to Senator DAYTON, initially we want to get this assistance to people right away, immediately. Then we want to get colleagues engaged in this debate on trade policy which is so important when it comes to what crucially affects the lives of people.

I ask my colleague from Minnesota, if I can, whether he would be willing to reflect with me on the floor of the Senate on some of the meetings he has had in the range, just some of the conversations with people and what this all means to Iron Rangers in personal terms. What has been your experience meeting with steelworkers and others? I ask my colleague that question.

Mr. DAYTON. I agree with you, Senator WELLSTONE. People up there are suffering enormously because of these tragedies. To look in their faces, to see the pain and suffering, to see fathers and mothers who cannot support their families, who are losing not only their homes but their jobs and way of life—as you know, Senator, thousands of people from across the Iron Range have had to leave the area where they were born, where their families have lived for generations, because they cannot find work there.

We are losing especially the youngest. In fact, part of a whole generation of Minnesotans have had to leave the Iron Range because of the lack of job opportunities. The average age of a citizen now in northeastern Minnesota is over the age of 55. Over half the citizens who reside there are senior citizens. This kind of devastation is really unspeakable, unfair, and, as I say, it is a consequence of over 20 years of what I believe are misguided trade policies.

I agree with my distinguished colleague, the senior Senator from Minnesota, that we should be looking forward to working with the new Secretary of Labor, the new ambassador, and the international trade ambassador. They are not the architects of these policies. Hopefully, with a new administration, we can work together because at least the trade adjustment assistance benefits, the program itself—this is clearly, precisely what was intended by Congress when it was passed. It is just unconscionable that it has not been provided administratively already.

I agree with you that should be an option. But in the broader context of these policies, before these industries are wiped out in the United States, I hope the administration will take a serious look at them. I yield back to my colleague.

Mr. WELLSTONE. I say to my colleague, he is absolutely right. There have been a number of meetings I have been at and I know the same applies to

Senator DAYTON. I can remember one. It was right before Christmas. It was a meeting in Aurora. There were a lot of people there, a lot of the steelworkers, taconite workers, and also some of their families. I was asking people, besides legislation, what else can be done? This is the first time this has ever happened in the Iron Range, at least in the 20 or 25 years I have been up there. Senator DAYTON, this one fairly young worker stood up and he said: We need help for Christmas presents.

I never heard that before. When people were working, they made good wages and had health care benefits. Now they are worried about presents.

On the other issue that we are going to come up with, I don't know what the position of the administration will be. I think the Clinton administration was not strong enough at all. I am very skeptical about where the Bush administration is going to go, but we are going to push very hard, and where we can cooperate with them, we will do so; no question about it.

One of the terrible issues when we get to the bankruptcy bill soon is that for younger workers, next to losing their jobs, the next worst thing is health care. You are losing your job, but then you are scared to death about what is going to happen to health care coverage with your children.

For the younger workers who have been laid off in the case of the LTV mine shutting down, in a few months, they lose their health benefits; for the older workers who have worked a little longer, 1 year.

Maybe the Senator would want to respond to this.

Then there are the retirees. What I heard from the retirees was they are terrified LTV will file for chapter 7 and walk away from any health care. A lot of those retirees—too many I think—are struggling with cancer.

Did the Senator find that people were talking about health care as well when he met with them, and does he think that is yet another issue we ought to focus on?

Mr. DAYTON. Mr. President, I agree with Senator WELLSTONE. He points to a couple of other failures of our society. As he said, there is a lack of health coverage for families when someone loses their job through no choice or fault of their own. That is one of the great travesties of this situation. It takes what is an already awful situation and makes it even more destructive to an individual. It is bad enough when people can't afford Christmas presents, but then they cannot afford to take their child to a doctor and cannot afford to have their own health problems diagnosed on a timely basis. When they cannot afford to get surgery, then it becomes a problem this country and society should not allow.

I underscore the Senator's point that he made a short while ago. There was a janitor's position that opened up to take care of all sorts of restrooms and everything else in one of the county buildings and, that paid less than $7 an hour. There were over 300 applicants for that one position.

It underscores again how hard it is for people who want to work and are willing to work at anything rather than take a handout and relief.

It is basic humanity to offer assistance.

Again, I hope to work with the Senator so that we can pass this legislation. The administration must acknowledge their failure to provide assistance to the men and women of the Iron Range who want to contribute to the economic strength of this country.

Mr. WELLSTONE. Mr. President, I look forward to working with my colleague, Senator DAYTON, on this. I think two Senators from the same State who care deeply about people who are really hurting and who love northeastern Minnesota are going to give this every bit of effort. I am really looking forward to working with the Senator on this. I so much want to help people.

I yield the floor.

Mr. LEVIN. Mr. President, I am pleased to join with my colleagues from Michigan and Minnesota in sponsoring the Taconite Workers Relief Act of 2001. This is an important piece of legislation for the future of our States' taconite iron ore mines and their employees which are facing a severe import crisis that is threatening to put them out of business. Enactment of this legislation will simply allow an industry providing a key input into finished steel to use existing trade laws to fight back against harmful import surges and dumped steel as other sectors of the steel industry may currently do under existing trade law.

Taconite, iron ore, is an input into basic steel production and is displaced when semi-finished steel slab are imported. For example, one ton of semi-finished steel displaces 1.3 tons of iron ore in basic steel production.

Unfairly traded steel imports are overwhelming U.S. production, threatening to endanger both our national defense and manufacturing base. Recently, steel producers have found it cheaper to import semi-finished steel slabs than to make it themselves using iron ore from Michigan's Upper Peninsula and Minnesota. Unfortunately, if our taconite mines are overwhelmed by cheap imports and driven to bankruptcy, we will lose our capacity to make steel without depending on foreign sources of semi-finished steel. In effect, if we lose our taconite mining industry, we lose our domestic integrated steel manufacturing capabilities. For national security reasons, I don't think that is something we want to do.

This crisis particularly impacts Michigan and Minnesota. The taconite iron ore mines located there are a foundation of the economies in the communities where they are located. To make matters worse, the iron ore industry faces a unique problem in trying to combat these harmful and unfair trade practices. Although its workers are losing their jobs to cheap and probably illegally dumped imports, they cannot fight back using our trade laws that were specifically designed to deal with these situations.

This is because of how our trade laws have been interpreted in the past and the failure to recognize the U.S. iron ore industry's standing to file import relief cases against foreign producers of semi-finished steel. For example, under previous interpretations of U.S. trade laws, iron ore is not considered an article that is ''like or directly competitive'' with an imported article that is found to be a substantial cause of serious injury, or threat, to the domestic industry, even though it is a key input in making finished steel. This is clearly an oversight that should be corrected. The bill we are introducing today will achieve that goal.

This legislation would ensure that the taconite industry and its employees fully benefit from the protection of section 201, anti-dumping and countervailing duties laws as well as making its displaced employees eligible for Trade Adjustment Assistance. It does this by designating Taconite pellets as ''like or directly competitive with semi-finished steel slab'' for the purposes of eligibility for TAA and Section 201 remedies. It also would consider imported semi-finished steel slab eligible for countervailing duties, CVD, which are duties intended to provide relief to a domestic industry, taconite, that has been injured by subsidized imports, such as semi-finished steel, and for anti-dumping remedies.

I hope the Senate will recognize the fairness in giving parity to a critical sector of the steel industry that has been overlooked in the past and should not be forgotten now. There is too much at stake to let this industry go under.

By Mr. WYDEN (for himself, Mr. SMITH of Oregon, and Mrs. MURRAY):

S. 423. A bill to amend the Act entitled ''An Act to provide for the establishment of Fort Clatsop National Memorial in the State of Oregon, and for other purposes''; to the Committee on Energy and Natural Resources.

Mr. WYDEN. Mr. President, today I am pleased to introduce the Fort Clatsop National Memorial Expansion Act of 2001 with my friends and colleagues, Senator GORDON SMITH of Oregon and Senator PATTY MURRAY from Washington.

The Fort Clatsop Memorial marks the spot where Meriwether Lewis, William Clark, and the Corps of Discovery spent 106 days during the winter of 1805. The bicentennial of their historic journey is fast approaching. It is estimated that over a quarter-million people will visit the memorial during the bicentennial years of 2003 though 2006. Despite this anticipated influx of visitors, the memorial is legally limited to be no larger than 130 acres. This legislation would authorize a boundary expansion of the memorial up to 1500 acres and will therefore help accommodate the increasing number of visitors expected during the Lewis and Clark Bicentennial. The bill also authorizes a study of the national significance of Station Camp, another Lewis and Clark stopping point in 1805, located in Washington State.

Since the 1980s, the United States Park Service in Astoria, OR has been negotiating with Willamette Industries to acquire approximately 928 acres for the expansion of the Ft. Clatsop National Memorial. These acres are integral to the interpretation and enjoyment of the memorial's historic site. The Park Service and Willamette Industries have reached an agreement that will enable the Park Service to acquire this property. However, this legislation is necessary to authorize the expansion of the memorial's boundary before any additional lands can be acquired.

The Park Service has targeted the expansion of the Fort Clatsop Memorial as one of its highest priorities. The Clatsop County Commission supports this legislation, as do the local landowners in and around the memorial. In addition, I have heard from the National Parks and Conservation Association NPCA, the Trust for Public Lands, and the Conservation Fund, all of whom support this effort to expand the Ft. Clatsop Memorial.

I look forward to working with my colleagues to pass this legislation because the protection of this important American historic area will enable us to illustrate the story of Oregon and America's western expansion for all who visit this special place. I ask unanimous consent that the bill be printed in the RECORD.

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

S. 423

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Fort Clatsop National Memorial Expansion Act of 2001''.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) In 1805, the members of the Lewis and Clark Expedition built Fort Clatsop at the mouth of the Columbia River near Astoria, Oregon, where they spent 106 days waiting for the end of winter and preparing for their journey home. The Fort Clatsop National Memorial was created by Congress in 1958 for the purpose of commemorating the culmination, and the winter encampment, of the Lewis and Clark Expedition following its successful crossing of the North American continent, and is the only National Park Service site solely dedicated to the Lewis and Clark expedition.

(2) The 1995 General Management Plan for the Fort Clatsop National Memorial, prepared with input from the local community, calls for the addition of lands to the memorial to include the trail used by expedition members to travel from the fort to the Pacific Ocean and to include the shore and forest lands surrounding the fort and trail to protect their natural settings.

(3) The area near present day McGowan, Washington where Lewis and Clark and the Corps of Discovery camped after reaching the Pacific Ocean, performed detailed surveying, and conducted the historic ''vote'' to determine where to spend the winter, is of undisputed national significance.

(4) The National Park Service and State of Washington should identify the best alternative for adequately and cost effectively protecting and interpreting the ''Station Camp'' site.

(5) Expansion of the Fort Clatsop National Memorial would require Federal legislation because the size of the memorial is currently limited by statute to 130 acres.

(6) Congressional action to allow for the expansion of Fort Clatsop for both the trail to the Pacific and, possibly, the Station Camp site would be both timely and appropriate before the start of the national bicentennial celebration of the Lewis and Clark Expedition planned to take place during the years 2004 through 2006.

SEC. 3. ACQUISITION OF LANDS FOR FORT CLATSOP NATIONAL MEMORIAL.

The act entitled ''An Act to provide for the establishment of Fort Clatsop National Memorial in the State of Oregon, and for other purposes'', approved May 29, 1958 (Chapter 158; 72 Stat. 153), is amended—

(a) by inserting in section 2 ''(a)'' before ''The Secretary''.

(b) by inserting in section 2 a period, ''.'', following ''coast'' and by striking the remainder of the section.

(c) by inserting in section 2 the following new subsections:

''(b) The Memorial shall also include the lands depicted on the map entitled 'Fort Clatsop Boundary Map', numbered and dated '405–80016–CCO–June–1996'. The area designated in the map as a 'buffer zone' shall not be developed but shall be managed as a visual buffer between a commemorative trail that will run through the property, and contiguous private land holdings.

''(c) The total area designated as the Memorial shall contain no more than 1,500 acres.''

(d) by inserting at the end of section 3 the following:

''(b) Such lands included within the newly expanded boundary may be acquired from willing sellers only, with the exception of corporately owned timberlands.''

SEC. 4. AUTHORIZATION OF STUDY OF STATION CAMP.

The Secretary of the Interior shall conduct a study of the area known as ''Station Camp'' near McGowan, Washington, to determine its suitability, feasibility, and national significance, for inclusion into the National Park System. The study shall be conducted in accordance with Section 8 of Public Law 91–383 (16 U.S.C. 1a–5).

By Mrs. FEINSTEIN:

S. 424. A bill to provide incentives to encourage private sector efforts to reduce earthquake losses, to establish a national disaster mitigation program, and for other purposes; to the Committee on Finance.

Mrs. FEINSTEIN. Mr. President, my thoughts go out today to the people of Washington as they assess the damage and begin recovery from the earthquake there yesterday afternoon.

Yesterday's event is a reminder that earthquakes are a national problem, and one that can strike at any time, without warning.

It is in this light that I introduce, today, the Earthquake Loss Reduction Act of 2001. This bill provides incentives to encourage responsible state and local governments, individuals, and businesses to invest in damage prevention measures before an earthquake strikes. It is an ''ounce of prevention'' that will save the federal treasury, homeowners, businesses, and state and local governments the ''pound of cure'' for relief and recovery.

The legislation builds on the excellent work of our nation's earth scientists and engineers by making implementation of loss reduction measure a federal priority. We know where earthquake hazards exist, which buildings and utility and transportation systems are most vulnerable, and what the consequences will be to public safety, community character, and our economy if an earthquake strikes. We also know how to reduce losses. Guidelines exist that provide rational, common sense approaches to upgrade weak facilities.

The challenge as we enter the 21st century is to put this knowledge to work to reduce future losses, and improving the safety of Americans and the performance of privately and publicly owned buildings and facilities. The time to implement our knowledge is now.

There is no question that mitigation efforts save dollars and lives in the long run. It worries me greatly that the President, in his Budget, proposes a cut to existing mitigation efforts.

First, the President proposes eliminating the Project Impact program. Project Impact is the nation's premier disaster prevention initiative. Communities use Project Impact funds to retrofit hospitals and schools, to create flood barriers, and to help shore-up communities against any number of other possible natural disasters.

California has eight Project Impact communities, and has used Project Impact funds to stabilize emergency facilities and other important structures. Local communities do not always have the resources to mitigate these facilities on their own.

There are two other proposals in President Bush's budget that are cause for alarm.

1. The President's budget outline assumes $83 million in FEMA savings by

including a public buildings disaster insurance requirement, phased in over three years. This provision would mean that public entities like the U.C. system would have to have insurance on ALL structures before they could apply for federal assistance in the event of a disaster.

This proposal simply is not feasible for states like California. Insurance companies in California do not offer disaster insurance or, specifically, earthquake insurance.

It will be interesting to see how the cities affected by the Washington earthquake would be affected by this rule. Insurance companies in Washington do offer earthquake insurance and will be paying-out over the coming months. It will be interesting to see if the insurers are able to withstand the costs.

2. The budget also proposes reducing from 75 percent to 50 percent the federal share of funding for hazard mitigation grants. Once again, this is simply not feasible in California. California public institutions would not be able to afford 50 percent of clean-up costs after a major earthquake. It would be difficult for them to pay even 25 percent, which is current law.

These two provisions could cause my State, and others, great harm if enacted. I am prepared to fight them, and I will.

The United States Geological Survey tells us there are 40 states and five territories with a moderate or higher earthquake risk. Entire metropolitan areas in these states and territories are at risk of being crippled by earthquake damage because existing buildings and infrastructure were built without appropriate seismic requirements.

Areas lying outside ''earthquake zones'' are also affected. Even localized damage threatens complex economic systems and the magnitude of federal disaster aid. Let me give you a few examples of potential losses estimated by FEMA's regional earthquake loss estimation model, HAZUS.

A magnitude of 7.0 earthquake on California's Newport-Inglewood fault running through the Los Angeles basin could cause an estimated $80 billion in losses. Damage to buildings and business interruption would affect Los Angeles, Orange, San Bernardino, Riverside, Ventura, and San Diego Counties. About 58 percent of the damage would be to residential buildings, displacing about 400,000 people. An estimated 100,000 people would need shelter.

A magnitude 7.0 earthquake on the Hayward fault running along the east side of the San Francisco Bay could cause about $37 billion in damage. About 56 percent of the damage would be to residential buildings, displacing about 140,000 people. More than half of the losses would stem from damage to wood-frame homes and small business buildings.

A magnitude 7.5 earthquake on the Border Ranges fault near Anchorage, AK could cause about $5 billion in losses. Anchorage, a city of about 260,000 people, would suffer most of the damage. More than 60 percent of the damage would be to wood-frame buildings serving as homes and small businesses.

A magnitude 7.2 earthquake on the Wasatch fault on the east side of Salt Lake City could cause about $13 billion in losses to the eight counties in that region. Most of the damage, about $11 billion, would occur in Salt Lake County. Throughout the region, about 150,000 people would be displaced, nearly 38,000 would require shelter, and nearly $10 billion of the losses would result from damage and disruption to residential buildings.

As large as these estimates seem, the actual losses could be even greater. Make no mistake, earthquakes will strike these regions and others, we just do not know when. In each estimate, over half of the losses are expected to come from residential buildings. Most vulnerable residential buildings can be upgraded for reasonable levels of expenditures. The incentives proposed in this bill could make it happen.

While it is too early to determine the extent of the damage of yesterday's earthquake in Washington, taking a look at the losses from the 1994 earthquake in Northridge, CA. The direct losses from that quake totaled more than $44 billion. For all disasters declared since 1989, FEMA has paid nearly $28 billion in disaster assistance for repairs to public buildings and infrastructure and for humanitarian aid. FEMA's outlay for Northridge alone represents 25 percent of this 12-year aggregate figure, approximately $7 billion.

You and I know that supplemental relief funds disrupt carefully planned budget decisions and undermine ongoing programs. For some people, reducing recurring demands for federal disaster aid may be reason enough to support this bill, but there are more compelling reasons.

The cost and consequences of earthquakes are painful to the victims, both individuals and businesses. The plight of those in the disaster area may be obvious, but the effects extend outside of the disaster area, often across state borders affecting those who depend on damaged businesses and affected customers. The American economy depends on closely linked businesses, suppliers of raw materials and components, manufacturers, transporters, and marketers. Worldwide competitors seek the market share of American business when a disaster disrupts our economy.

Research from the Northridge earthquake indicates that even when businesses did not suffer direct damage in that quake, their presence in or near areas of wide-spread damage or disruption caused economic hardship. Economic losses can be large and have long-term effects on the future of businesses and regions. Simply put, earthquake loss reduction efforts improve the sustainability of American businesses.

What we need is a widespread investment in loss reduction by many parties, not just the federal government. Responsibility for earthquake safety rests with state and local government, individuals, and companies. The federal role I advocate is one of leadership backed by incentives to inform and motivate those responsible to implement loss-reduction actions. The result I seek is reduced pain and suffering, and more sustainable communities and businesses.

The Federal Government is already contributing to earthquake disaster prevention. In a little over twenty years, our National Earthquake Hazard Reduction Program has sponsored research and development activities in earth sciences and engineering and has produced the knowledge and tools, such as the HAZUS estimates I noted earlier, we need to reduce our risk. If we are to reduce losses, however, we must put this knowledge to work.

Reducing earthquake losses depends on the actions of millions of individual decision-makers, homeowners, business owners, and government officials. Many successful measures are easy to implement, but may seem expensive when considering competing demand for funds between immediate issues and the perceived low probability threat of an earthquake. The incentives in this bill provide good reasons to undertake loss reduction efforts. This bill will move knowledge from the laboratory to the community. The bill recognizes that shared responsibility for prevention means that those responsible for the facilities at risk accept responsibility for reducing the risk.

This legislation does the following:

1. It provides a credit against federal income taxes equal to 50 percent of a homeowner's investment in seismic retrofit, not to exceed $6,000.

2. It provides businesses an opportunity to depreciate the cost of seismic retrofit over five years.

3. The bill defines a seismic retrofitting bond as a bond for which 95 percent of the proceeds are used for seismic retrofitting expenditures or used to finance loans to borrowers for seismic retrofitting expenditures as ''qualified bonds.''

4. It encourages private investments in seismic retrofitting of residential properties by allowing deduction of passive activity losses.

5. The legislation provides mortgage insurance incentives for seismic retrofitting of residences.

6. It authorizes a $1 billion Loss Reduction Trust Fund to provide matching grants for mitigation measures and

recovery planning grants to reduce damage to buildings and utility and transportation systems critical to disaster response. Provided to local government entities, public and private hospitals, institutions of higher education, and special districts, the trust fund grants would require that the state and the local entity recipients benefitting from the investment fund a portion of the cost. To be eligible, the local entities must also have in place a long-term strategic earthquake loss reduction plan and enforce land use, building code, and other measures to reduce the vulnerability of facilities in the jurisdiction.

7. And the bill authorizes establishment of the Advanced National Seismic Research and Monitoring System by the United States Geological Survey.

The incentives offered in this bill are available only if the recipient, sometimes with state aid, invests in the effort to prevent losses. These investments will spawn meaningful loss prevention actions that will benefit all of the stakeholders involved and will reduce the need for disaster aid.

Public/private partnership work:

City of Berkeley, CA, has demonstrated that even small incentives work. This city of 109,000 people spends about $1 million each year in hazard reduction activities. It rebates a portion of its real estate transfer tax, up to $1,500, to homeowners for loss reduction actions, waives permit fees for seismic residential retrofit projects, and offers low income loans up to $15,000 and some grants to low income senior and disabled homeowners for retrofit work.

In the 10 years since these incentives were put in place, 38 percent of the single-family homes have had some form of retrofit work done and 30 percent of small apartment buildings have been improved.

Berkeley has also passed seven special taxes that concentrate funding on pre-disaster mitigation.

Federal incentives can empower similar results nationwide. Cities like Berkeley, where the earthquake threat is a critical community concern, will benefit from the additional inducements included in this bill.

Preventing damage makes sense, and it benefits our nation in many ways besides reducing the need for disaster aid. Not all benefits are easily quantified because they accrue to a variety of stakeholders and many of the indirect and human effects are subtle, yet important.

Earthquakes impact all segments of the communities they strike, individuals, businesses, and public services such as police, fire, hospitals, and schools. Damage often creates economic ripples throughout the community and beyond state borders. Homeowners, building owners, their tenants, neighboring businesses, local and state government, and the Federal Government will benefit.

Let me give you three examples of loss reduction projects that have widespread benefits:

1. Water officials in Memphis, TN recently made the wise decision to invest in a structural upgrade of the Davis Water Pumping station. Strengthening this critical station cost about $488,000.

What the officials at the Memphis Light, Gas, and Water Division recognize is that there is a fifty-fifty chance that a moderate earthquake will strike the Memphis area within the next fifteen years. It would cost $17 million to replace the water pumping station after such an earthquake. Plus, every day the station is inoperable costs about $1.4 million in lost services.

The loss of drinkable water affects the entire community and cripples business activity. Considering the time to repair or replace a damaged pump facility, it is estimated that the cost of lost services would be $112 million. Clearly, a $488,000 investment is a good one.

The Loss Reduction Trust Fund established by this bill authorizes $1 billion in matching grants to strengthen critical infrastructure like the Davis Water Pumping Station.

2. Another good example of forward thinking is the Anheuser-Busch brewery in Los Angeles. After realizing its facilities were vulnerable to earthquake damage, the company began a $20 million program to retrofit critical buildings and equipment. The brewery is a critical company asset because it supplies the Southwest and Pacific regions. Although located only a few miles from the epicenter of the 1994 Northridge earthquake, the brewery was able to return to operation after just minor cleanup, repairs, and restoration of off-site water supply.

Anheuser-Busch estimated that damage and business interruption costs could have exceeded $300 million after the Northridge quake, had it not strengthened its facilities. There was more at stake than the viability of a major business. Damage affects employees, federal, state, and local government income, suppliers, vendors, and the surrounding community.

By accelerating depreciation of seismic retrofit expenses, this bill will encourage other businesses to carry out similar projects.

3. And there is another example from the Northridge earthquake. Three months before that quake, a homeowner in the Hollywood area of Los Angeles spent $3,200 to retrofit his 1911-vintage home. The house survived with only minor damage, while similar houses on the same block suffered severe damage. In fact, several of those neighboring homes were demolished by the earthquake.

Many homes across the nation are built on poorly braced foundation walls or piers and posts and are vulnerable to damage during even mild earthquake activity. The cost to add the bracing needed generally is only a few thousand dollars, yet the cost of repairing a home after it falls is tens of thousands of dollars. As with a business, when a home topples, there is more at stake than injury to family members and the cost of repairs. Not to mention the fact that a falling home can spark a fire that can burn an entire community.

This bill creates a tax credit for half of the cost of the seismic retrofit of a residence, makes mortgages for earthquake resistant homes more attractive than those for homes meeting lower standards, and makes it easier for local government to use general obligation bonds financing for loss prevention project loans.

FEMA's HAZUS software was recently used to estimate how the individual actions provided by the bill could add up to significant savings of importance to our communities, economy, and governments.

If a magnitude 7.0 earthquake occurred on the Newport-Inglewood fault under Los Angeles today, it could cause about $80 billion in damages. Thousands of businesses would be interrupted, 400,000 people would be displaced, and there would be several hundred deaths. If every existing building in that area were retrofitted to the standards in current codes, the losses would drop by $28 billion to $52 billion. Business interruption losses would drop from $15 billion to less than $6 billion. The number of people displaced would shrink to 93,000, and the estimated number of deaths would drop by over 90 percent.

Similarly, a magnitude 7.0 earthquake on the Hayward fault in the San Francisco Bay area would cause about $37 billion in damages, if it struck today. 140,000 people would be displaced. However, if every existing building were retrofitted to the standards in current codes, the losses would be reduced by a third. Business interruption losses would drop from $6.5 billion to about $2 billion. The number of people displaced would shrink to 40,000 and the estimated deaths would drop by more than 90 percent.

Assuming that all buildings meet the latest seismic standards is ambitious, but the resulting estimates give convincing evidence that implementing loss reduction measures can pay handsome dividends.

Moreover, the importance of loss reduction efforts extends beyond these quantitative estimates. Less damage means less psychological pain, more sustainable communities and businesses, protected stocks of low-income housing and architecturally and historically significant buildings and neighborhoods, and protected family savings. Every time a neighbor, employer, or local government invests in

prevention, the entire community benefits.

Earthquakes are a nationwide problem. They have struck the Northeast and Northwest, damaged Charleston, Saint Louis, and Memphis, struck our mountain states, Alaska, and Hawaii. They will strike these and other places again.

Much of the knowledge we need to reduce losses from future earthquakes exists. While some forward thinking businesses, individuals, and local governments are already using the knowledge to invest in measures to reduce future losses, the Earthquake Loss Reduction Act creates modest federal incentives to foster a needed increase in the implementation of hazard mitigation measures.

This bill also establishes a $1 billion grant program to match the investments from local government entities, hospitals, and institutions of higher education. It challenges states to add to this match, and makes investment in properties for the purpose of seismic retrofit an attractive investment in our future. While the occurrence of large-scale earthquakes may be perceived as a low probability, our experience shows the high consequence of these events.

Strong federal leadership, and modest incentive, can lead Americans to undertake loss reduction measures and can lead us to a safer tomorrow. I urge my colleagues to support the Earthquake Loss Reduction Act.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 424

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Earthquake Loss Reduction Act of 2001''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) After 23 years of research funded by the National Earthquake Hazards Reduction Program, a substantial body of knowledge exists about earth sciences, geotechnical, and structural engineering and human behavior relating earthquakes.

(2) The foremost challenge as we enter the 21st century is putting this knowledge to work by reducing future losses to improve the safety of Americans and the performance of State and local government facilities and private buildings and facilities.

(3) Earthquakes and tsunamis cause great danger to human life and property throughout the United States and continue to threaten Americans significantly in over 40 States and territories.

(4) Too few States and local communities have sufficiently identified and assessed their risk and implemented adequate measures to reduce losses from such disasters and to ensure that their critical public infrastructure and facilities will continue to function after the disaster.

(5) Too much of the Nation's stocks of housing and commercial buildings remain inherently vulnerable to earthquake shaking. Future losses in these facilities can be lessened using currently feasible technology.

(6) Too much of local government infrastructure remain at risk and are likely to be non-functional in the aftermath of foreseeable earthquake events at the time when the services they provide are critically necessary.

(7) Federal, State and local government expenditures for disaster assistance and recovery have increased without commensurate reduction in the likelihood of future losses from such earthquakes.

(8) Feasible techniques for reducing future earthquake losses are readily available.

(9) Without economic incentives, it is unlikely that States and local communities and the public will be able to implement available measures to reduce losses and ensure continued functionality of their infrastructure.

(b) PURPOSE.—It is the purpose of this Act to establish a national disaster mitigation program that—

(1) reduces the loss of life and property, human suffering, economic disruption, and disaster assistance costs resulting from earthquakes;

(2) offers financial incentives to encourage private sector efforts to reduce earthquake losses;

(3) provides matching funds to encourage and assist States and local governments and the private sector in their efforts to implement measures designed to ensure the continued functionality of public infrastructure, commerce, and habitation after earthquakes; and

(4) creates Federal, State and local government partnerships to reduce the vulnerability of public infrastructure, commercial enterprises, and residential buildings to earthquakes.

SEC. 3. NONREFUNDABLE CREDIT FOR EXPENSES RELATED TO SEISMIC RETROFIT OF PRINCIPAL RESIDENCE.

(a) GENERAL RULE.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by inserting after section 25A the following:

''SEC. 25B. EXPENSES RELATED TO SEISMIC RETROFIT OF PRINCIPAL RESIDENCE.

''(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of so much of the qualified seismic retrofit expenses of the taxpayer for the taxable year as do not exceed $6,000.

''(b) QUALIFIED SEISMIC RETROFIT EXPENSES.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified seismic retrofit expenses' means amounts paid or incurred by the taxpayer during the taxable year in relation to any seismic retrofit construction of the principal residence of the taxpayer.

''(2) SEISMIC RETROFIT CONSTRUCTION.—The term 'seismic retrofit construction' means any addition or improvement—

''(A) which is certified by the State disaster agency or other applicable agency—

''(i) as resulting in the mitigation of the risk of damage to existing property from an earthquake, and

''(ii) as being in addition to any addition or improvement required by any State or local law with respect to such property, and

''(B) which is placed in service at least 5 years after the date the building is first placed in service.

Such term does not include the cost of acquiring such property (or any interest therein).

''(3) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 121.

''(c) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under any other provision of this chapter with respect to any amount of qualified seismic retrofit expenses taken into account under subsection (a).

''(d) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section with respect to any residence, the basis of such residence shall be reduced by the amount of the credit so allowed.''.

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 25A the following new item:

''Sec. 25B. Expenses related to seismic retrofit of principal residence.''.

(2) Subsection (a) of section 1016 of such Code is amended by striking ''and'' at the end of paragraph (26), by striking the period at the end of paragraph (27) and inserting '', and'', and by adding at the end the following new paragraph:

''(28) in the case of a residence with respect to which a credit was allowed under section 25B, to the extent provided in section 25B(d).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses paid or incurred in taxable years beginning after December 31, 2000.

SEC. 4. RECOVERY PERIOD FOR DEPRECIATION OF CERTAIN SEISMIC RETROFIT EXPENSES.

(a) TREATMENT AS 5-YEAR PROPERTY.—Section 168(e)(3)(B) of the Internal Revenue Code of 1986 (relating to 5-year property) is amended by striking ''and'' at the end of clause (v), by striking the period and inserting '', and'' at the end of clause (vi), and by inserting after clause (vi) the following new clause:

''(vii) any qualified seismic retrofit property.''.

(b) DEFINITION OF QUALIFIED SEISMIC RETROFIT PROPERTY.—Section 168(i) of the Internal Revenue Code of 1986 (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

''(15) QUALIFIED SEISMIC RETROFIT PROPERTY.—

''(A) IN GENERAL.—The term 'qualified seismic retrofit property' means any addition or improvement to real property for which depreciation is allowable under this section—

''(i) for which the expenditure is properly chargeable to the capital account, and

''(ii) which is a seismic retrofit.

''(B) SEISMIC RETROFIT.—For purposes of subparagraph (A)(i), the term 'seismic retrofit' means any addition or improvement—

''(i) which is certified by the State disaster agency or other applicable agency—

''(I) as resulting in the mitigation of the risk of damage to existing property from an earthquake, and

''(II) as being in addition to any addition or improvement required by any State or local law with respect to such property, and

''(ii) which is placed in service at least 5 years after the date the building is first placed in service.

Such term does not include the cost of acquiring such property (or any interest therein).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to qualified

seismic retrofit property placed in service after December 31, 2000.

SEC. 5. QUALIFIED SEISMIC RETROFITTING BONDS.

(a) IN GENERAL.— Section 144 of the Internal Revenue Code of 1986 (relating to qualified small issue bond; qualified student loan bond; qualified redevelopment bond) is amended by adding at the end the following new subsection:

''(d) QUALIFIED SEISMIC RETROFITTING BOND.—For purposes of this part—

''(1) IN GENERAL.—The term 'qualified seismic retrofitting bond' means any bond issued as part of an issue 95 percent or more of the net proceeds of which are to be used—

''(A) for seismic retrofitting expenditures, and

''(B) in a manner which meets the requirements of paragraph (3).

''(2) SEISMIC RETROFITTING EXPENDITURE.—For purposes of paragraph (1), the term 'seismic retrofitting expenditure' means any amount properly chargeable to capital account—

''(A) which is certified by the State disaster agency or other applicable agency—

''(i) as resulting in the mitigation of the risk of damage to existing property from an earthquake, and

''(ii) as being in addition to any addition or improvement required by any State or local law with respect to such property, and

''(B) which is placed in service at least 5 years after the date the building is first placed in service.

Such term does not include the cost of acquiring such property (or any interest therein).

''(3) USE OF PROCEEDS REQUIREMENTS.—The use of the proceeds of an issue meets the requirements of this paragraph if within the 26-month period beginning with the date of issue—

''(A) at least 95 percent of the net proceeds of such issue are used for seismic retrofitting expenditures or are used to finance 1 or more loans to ultimate borrowers for such expenditures, or

''(B) to the extent not so used under subparagraph (A), such proceeds in excess of $10,000 are used to redeem bonds which are part of such issue.''.

(b) BONDS TREATED AS QUALIFIED BONDS.—Paragraph (1) of section 141(e) of the Internal Revenue Code of 1986 (defining qualified bond) is amended by striking ''or'' at the end of subparagraph (F), by redesignating subparagraph (G) as subparagraph (H), and by inserting after subparagraph (F) the following new subparagraph:

''(G) a qualified seismic retrofitting bond, or''.

(c) BONDS INCLUDED FOR PURPOSES OF SMALL ISSUER EXEMPTION STATUS.—Subclause (I) of section 265(b)(3)(C)(ii) of the Internal Revenue Code of 1986 (relating to obligations not taken into account in determining status as qualified small issuer) is amended by inserting '', or a qualified seismic retrofitting bond, as defined in section 144(d)(1)'' after ''section 145''.

(d) EXCEPTION FROM VOLUME CAP.—Section 146(g) of the Internal Revenue Code of 1986 (relating to exception for certain bonds) is amended by striking ''and'' at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting a comma, and by adding after paragraph (4) the following new paragraphs:

''(5) any qualified mortgage bond if 95 percent or more of the net proceeds of the bond are to be used to provide home improvement loans in connection with seismic retrofitting expenditures (as defined in section 144(d)(2) without regard to the capital account requirement), and

''(6) any qualified seismic retrofitting bond.''.

(e) PROCEEDS OF MORTGAGE REVENUE BONDS USED IN CONNECTION WITH SEISMIC RETROFITTING.—

(1) IN GENERAL.—Paragraph (4) of section 143(k) of the Internal Revenue Code of 1986 (relating to other definitions and special rules for qualified mortgage bonds) is amended to read as follows:

''(4) QUALIFIED HOME IMPROVEMENT LOAN.—The term 'qualified home improvement loan' means—

''(A) the financing (in an amount which does not exceed $15,000)—

''(i) of alterations, repairs, and improvements on or in connection with an existing residence by the owner thereof, but

''(ii) only for such items as substantially protect or improve the basic livability or energy efficiency of the property, and

''(B) the financing (in an amount which does not exceed $20,000) of seismic retrofitting expenditures (as defined in section 144(d)(2) without regard to the capital account requirement) in connection with an existing residence by the owner thereof.''.

(2) EXCEPTION FROM INCOME REQUIREMENTS.—Section 143(f) of such Code (relating to income requirements) is amended by adding at the end the following new paragraph:

''(7) EXCEPTION FOR CERTAIN QUALIFIED HOME IMPROVEMENT LOANS.—Paragraph (1) shall not apply with respect to any qualified home improvement loan (as defined in subsection (k)(4)(B).''.

(f) CLERICAL AMENDMENTS.—

(1) The heading of section 144 of the Internal Revenue Code of 1986 is amended by striking ''**bond.**'' and inserting ''**bond qualified seismic retrofitting bond.**''.

(2) The item relating to section 144 in the table of sections for subpart A of part IV of subchapter B of chapter 1 of such Code is amended by striking ''bond.'' and inserting ''bond; qualified seismic retrofitting bond.''

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

SEC. 6. TREATMENT OF PASSIVE LOSSES OF CERTAIN PARTNERSHIPS ENGAGED IN SEISMIC RETROFITTING.

(a) IN GENERAL.—Section 469 of the Internal Revenue Code of 1986 (relating to passive activity losses and credits limited) is amended by adding at the end the following new subsection:

''(n) EXEMPTION FOR SEISMIC RETROFITTING TRADE OR BUSINESS.—

''(1) IN GENERAL.—In the case of any natural person, subsection (a) shall not apply to that portion of the passive activity loss or the deduction equivalent (within the meaning of subsection (j)(5)) of the passive activity credit for any taxable year which is attributable to any seismic retrofitting activity which such person engages in during the taxable year, whether or not the taxpayer materially participates in such activity.

''(2) SEISMIC RETROFITTING ACTIVITY.—For purposes of this subsection, the term 'seismic retrofitting activity' means any activity which involves the trade or business of seismic retrofit construction (as defined in section 25B(b)(2)) for residential property.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2000.

SEC. 7. MORTGAGE INSURANCE INCENTIVE.

Section 203(b)(2) of the National Housing Act (12 U.S.C. 12 U.S.C. 1709(b)(2)), is amended, in the second undesignated paragraph, by inserting ''or due to seismic retrofitting of the residence (within the meaning of the term 'seismic retrofit construction' under section 25B(b)(2) of the Internal Revenue Code of 1986)'' before the period at the end.

SEC. 8. EARTHQUAKE DISASTER MITIGATION AND RECOVERY PLANNING GRANT PROGRAM.

(a) DEFINITIONS.—

(1) IN GENERAL.—Section 4 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7703) is amended by adding at the end the following:

''(8) AGENCY.—The term 'Agency' means the Federal Emergency Management Agency.

''(9) CRITICAL FACILITY.—The term 'critical facility' means—

''(A) a public structure (including a police station, fire station, city or town hall, school, or other public building) or a public or nonprofit private hospital that is—

''(i) owned by an entity; and

''(ii) critical to the continuity of the entity or to the conduct of the disaster response activities of the entity; or

''(B) a facility that—

''(i) provides medical services to a specific occupational or industry segment of the general public; and

''(ii) is operated by an organization described in subsection (c) or (d) of section 501 of the Internal Revenue Code of 1986 and exempt from taxation under subsection (a) of such section.

''(10) CRITICAL PUBLIC INFRASTRUCTURE.—The term 'critical public infrastructure' means a utility or transportation system (including a bridge, energy system, water or sewer system, or communication system) that is—

''(A) owned by an entity; and

''(B) critical to the conduct of the disaster response activities of the entity.

''(11) EARTHQUAKE DISASTER.—

''(A) IN GENERAL.—The term 'earthquake disaster' means a disaster that results from a movement of the earth.

''(B) INCLUSIONS.—The term 'earthquake disaster' includes a disaster that results from a tsunami or an earthquake-caused landslide or liquefaction (as determined by the Director of the Agency).

''(12) GRANT PROGRAM.—The term 'grant program' means the earthquake disaster mitigation and recovery planning grant program established under section 6.

''(13) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

''(14) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given the term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

''(15) LOCAL GOVERNMENT.—The term 'local government' means—

''(A) a city, town, township, county, parish, village, or other general-purpose political subdivision of a State;

''(B) an Indian tribe; and

''(C) a geologic hazard abatement or similar special purpose district formed to carry out or fund projects to reduce the vulnerability of infrastructure and buildings to earthquake disasters.

''(16) LOSS REDUCTION TRUST FUND.—The term 'Loss Reduction Trust Fund' means the Loss Reduction Trust Fund established by section 7.''.

(2) CONFORMING AMENDMENT.—Section 5(b)(1) of the Earthquake Hazards Reduction

Act of 1977 (42 U.S.C. 7704(b)(1)) is amended by striking ''(hereafter in this Act referred to as the 'Agency')''.

(b) GRANT PROGRAM.—The Earthquake Hazards Reduction Act of 1977 is amended by inserting after section 5 (42 U.S.C. 7704) the following:

"SEC. 6. EARTHQUAKE DISASTER MITIGATION AND RECOVERY PLANNING GRANT PROGRAM.

''(a) ESTABLISHMENT.—The Director of the Agency may establish a grant program to provide financial assistance to eligible recipients described in subsection (b) to pay the Federal share of the cost of carrying out earthquake disaster mitigation and recovery planning measures with respect to the critical facilities and critical public infrastructure under the jurisdiction of the recipients.

''(b) ELIGIBLE RECIPIENTS.—

''(1) IN GENERAL.—To be eligible for a grant under the grant program, an entity shall be a local government, public or nonprofit private hospital, or public institution of higher education that—

''(A) has jurisdiction over, or is located in, an area that is subject to earthquake disasters;

''(B) submits to the Director of the Agency for approval an application for the grant in such form as the Director shall require;

''(C) has completed an earthquake disaster risk analysis;

''(D) has adopted a long-term strategic earthquake disaster loss reduction plan that identifies high priority earthquake disaster loss reduction projects; and

''(E) meets criteria established by the Director under paragraph (2).

''(2) CRITERIA.—

''(A) ESTABLISHMENT.—The Director of the Agency shall establish, by regulation, criteria that local governments, public and nonprofit private hospitals, and public institutions of higher education shall meet to qualify for grants under the grant program.

''(B) REQUIREMENT APPLICABLE TO LOCAL GOVERNMENTS.—The criteria under subparagraph (A) applicable to local governments shall include the requirement that a local government adopt and enforce comprehensive ordinances, building codes, land use measures, and other measures for earthquake disaster loss reduction that—

''(i) take into consideration the identified earthquake hazards applicable to the area over which the local government has jurisdiction; and

''(ii) reflect current, cost-effective techniques designed to reduce losses from earthquake disasters and ensure the continued functionality of critical facilities and critical public infrastructure.

''(C) CONSULTATION.—The criteria under subparagraph (A) shall be adopted after consultation with—

''(i) Federal, State, and local government officials and agencies; and

''(ii) other persons knowledgeable in the fields of natural disasters and hazard mitigation.

''(c) COST SHARING.—

''(1) FEDERAL SHARE.—

''(A) IN GENERAL.—Subject to subparagraph (B), the Federal share of the cost of measures carried out using a grant under the grant program shall be 75 percent.

''(B) INSUFFICIENCY OF FEDERAL FUNDS.—In paying the Federal share under subparagraph (A) in a case in which there are insufficient funds in the Loss Reduction Trust Fund to fund all applications that are eligible for approval, the Director of the Agency may consider—

''(i) the desirability of geographical dispersal of available funds;

''(ii) the extent to which any applicant faces a greater risk of earthquake disasters, in number or severity, than other applicants;

''(iii) the extent to which each applicant is expending resources on addressing urgent problems concerning critical facilities or critical public infrastructure; and

''(iv) the extent to which the measures proposed to be funded using the grant are expected to result in cost savings to the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

''(2) NON-FEDERAL SHARE.—

''(A) GRANTS TO LOCAL GOVERNMENTS (OTHER THAN INDIAN TRIBES).—In the case of a grant to a local government (other than an Indian tribe) under the grant program, the non-Federal share of the cost of measures carried out using the grant shall be provided as follows:

''(i) ½ by the State.

''(ii) ½ by the local government.

''(B) GRANTS TO INDIAN TRIBES.—In the case of a grant to an Indian tribe under the grant program, the non-Federal share of the cost of measures carried out using the grant shall be provided as follows:

''(i) ½ by the Bureau of Indian Affairs.

''(ii) ½ by the Indian tribe.

''(C) GRANTS TO PUBLIC HOSPITALS.—In the case of a grant to a public hospital under the grant program, the non-Federal share of the cost of measures carried out using the grant shall be provided as follows:

''(i) ½ by the State, from funds other than general State appropriations to the hospital.

''(ii) ½ by the public hospital, from general State appropriations to the hospital or from funds donated to the hospital.

''(D) GRANTS TO NONPROFIT PRIVATE HOSPITALS.—In the case of a grant to a nonprofit private hospital under the grant program, the non-Federal share of the cost of measures carried out using the grant shall be provided by the nonprofit private hospital.

''(E) GRANTS TO PUBLIC INSTITUTIONS OF HIGHER EDUCATION.—In the case of a grant to a public institution of higher education under the grant program, the non-Federal share of the cost of measures carried out using the grant shall be provided as follows:

''(i) ½ by the State, from funds other than general State appropriations to the institution of higher education.

''(ii) ½ by the public institution of higher education, from general State appropriations to the institution of higher education or from funds donated to the institution of higher education.

''(d) USE OF GRANT FUNDS.—

''(1) IN GENERAL.—A grant under the grant program may be used—

''(A) to retrofit critical facilities and critical public infrastructure in accordance with paragraph (2);

''(B) to implement earthquake disaster mitigation measures in accordance with paragraph (3); or

''(C) to develop earthquake disaster recovery plans in accordance with paragraph (4).

''(2) RETROFIT OF CRITICAL FACILITIES AND CRITICAL PUBLIC INFRASTRUCTURE.—

''(A) IN GENERAL.—A grant under the grant program may be used to retrofit a critical facility or critical public infrastructure with parts or equipment that meets current standards for withstanding earthquake disasters (as determined by the Director of the Agency).

''(B) SELECTION OF CRITICAL FACILITIES AND CRITICAL PUBLIC INFRASTRUCTURE.—A critical facility or critical public infrastructure shall be selected for a grant under subparagraph (A) if the critical facility or critical public infrastructure is identified in a long-term strategic earthquake disaster loss reduction plan adopted under subsection (b)(1)(D) as having high priority for retrofit because of the effect that damage to the critical facility or critical public infrastructure from an earthquake disaster would have on the quality of human life in the region and on recovery from the earthquake disaster.

''(3) IMPLEMENTATION OF EARTHQUAKE DISASTER MITIGATION MEASURES.—A grant under the grant program may be used to implement an earthquake disaster mitigation measure designed to ensure the continued functionality of a critical facility or critical public infrastructure.

''(4) DEVELOPMENT OF EARTHQUAKE DISASTER RECOVERY PLANS.—

''(A) IN GENERAL.—A grant under the grant program may be used to develop an earthquake disaster recovery plan that includes—

''(i) a plan for reestablishing government operations and community services after an earthquake disaster; and

''(ii) a plan for long-term recovery after an earthquake disaster.

''(B) SCHEDULE FOR PAYMENT OF GRANT FUNDS.—Of a grant for measures described in subparagraph (A)—

''(i) 50 percent shall be paid upon approval by the Director of the Agency of the application for the grant; and

''(ii) 50 percent shall be paid upon adoption of the earthquake disaster recovery plan by the local government, public hospital, or public institution of higher education.

"SEC. 7. LOSS REDUCTION TRUST FUND.

''(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the 'Loss Reduction Trust Fund', consisting of—

''(1) such amounts as are appropriated to the Loss Reduction Trust Fund under subsection (b);

''(2) such amounts as are appropriated to the Loss Reduction Trust Fund under section 13(e); and

''(3) any interest earned on investment of amounts in the Loss Reduction Trust Fund under subsection (d).

''(b) TRANSFERS TO LOSS REDUCTION TRUST FUND.—There are appropriated to the Loss Reduction Trust Fund amounts equivalent to—

''(1) such amounts as the Director of the Agency determines are remaining after the close-out of any active disaster declaration account under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.);

''(2) such amounts as—

''(A) were allocated for hazard mitigation assistance with respect to a major disaster under section 404 of that Act (42 U.S.C. 5170c); and

''(B) the Director of the Agency determines are remaining after expiration of the time limits established under subsection (c) of that section; and

''(3) amounts received as gifts under subsection (f).

''(c) EXPENDITURES FROM LOSS REDUCTION TRUST FUND.—Upon request by the Director of the Agency, the Secretary of the Treasury shall transfer from the Loss Reduction Trust Fund to the Director of the Agency such amounts as the Director of the Agency determines are necessary to carry out section 6.

''(d) INVESTMENT OF AMOUNTS.—

''(1) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the

Loss Reduction Trust Fund as is not, in the judgment of the Secretary of the Treasury, required to meet current withdrawals. Investments may be made only in interest-bearing obligations of the United States.

''(2) ACQUISITION OF OBLIGATIONS.—For the purpose of investments under paragraph (1), obligations may be acquired—

''(A) on original issue at the issue price; or

''(B) by purchase of outstanding obligations at the market price.

''(3) SALE OF OBLIGATIONS.—Any obligation acquired by the Loss Reduction Trust Fund may be sold by the Secretary of the Treasury at the market price.

''(4) CREDITS TO FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Loss Reduction Trust Fund shall be credited to and form a part of the Loss Reduction Trust Fund.

''(e) TRANSFERS OF AMOUNTS.—

''(1) IN GENERAL.—The amounts required to be transferred to the Loss Reduction Trust Fund under this section shall be transferred at least monthly from the general fund of the Treasury to the Loss Reduction Trust Fund on the basis of estimates made by the Secretary of the Treasury.

''(2) ADJUSTMENTS.—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

''(f) GIFTS.—The Secretary of the Treasury may accept gifts of cash for transfer to the Loss Reduction Trust Fund.''.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 12 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

''(e) LOSS REDUCTION TRUST FUND.—There is authorized to be appropriated to the Loss Reduction Trust Fund $1,000,000,000.''.

(d) POSTDISASTER ASSISTANCE.—

(1) DEFINITIONS.—Section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122) is amended by adding at the end the following:

''(10) CRITICAL FACILITY.—The term 'critical facility' means—

''(A) a public structure (including a police station, fire station, city or town hall, school, or other public building) or a public or nonprofit private hospital that is—

''(i) owned by an entity; and

''(ii) critical to the continuity of the entity or to the conduct of the disaster response activities of the entity; or

''(B) a facility that—

''(i) provides medical services to a specific occupational or industry segment of the general public; and

''(ii) is operated by an organization described in subsection (c) or (d) of section 501 of the Internal Revenue Code of 1986 and exempt from taxation under subsection (a) of such section.

''(11) CRITICAL PUBLIC INFRASTRUCTURE.—The term 'critical public infrastructure' means a utility or transportation system (including a bridge, energy system, water or sewer system, or communication system) that is—

''(A) owned by an entity; and

''(B) critical to the conduct of the disaster response activities of the entity.''.

(e) CONFORMING AMENDMENTS.—Section 12(a) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706(a)) is amended by inserting ''(as in effect on September 30, 1997)'' after ''6 of this Act'' each place it appears.

SEC. 9. ADVANCED NATIONAL SEISMIC RESEARCH AND MONITORING SYSTEM.

(a) IN GENERAL.—The Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.) is amended—

(1) by redesignating section 12 as section 13; and

(2) by inserting after section 11 the following:

''SEC. 12. ADVANCED NATIONAL SEISMIC RESEARCH AND MONITORING SYSTEM.

''(a) ESTABLISHMENT.—The Director of the United States Geological Survey shall establish and operate an advanced national seismic research and monitoring system (referred to in this section as the 'system').

''(b) PURPOSE.—The purpose of the system shall be to organize, modernize, standardize, and stabilize the national, regional, and urban seismic monitoring systems in the United States, including sensors, recorders, and data analysis centers, and meld the monitoring systems into a coordinated system that will measure and record the full range of frequencies and amplitudes exhibited by seismic waves, in order to enhance earthquake research and warning capabilities.

''(c) MANAGEMENT PLAN.—

''(1) IN GENERAL.—Not later than 90 days after the date of enactment of the Earthquake Loss Reduction Act of 2001, the Director of the United States Geological Survey shall submit to Congress a 5-year management plan for establishing and operating the system.

''(2) REQUIRED ELEMENTS.—The plan shall include—

''(A) annual cost estimates for—

''(i) milestones, standards, and performance goals for modernization of the seismic monitoring systems referred to in subsection (b); and

''(ii) milestones, standards, and performance goals for operation of the system; and

''(B) plans for securing the participation of all existing networks in the system and for establishing new, or enhancing existing, partnerships to leverage resources.

''(d) AUTHORIZATION OF APPROPRIATIONS.—

''(1) ESTABLISHMENT.—In addition to amounts made available under section 13(b), there are authorized to be appropriated to establish the system—

''(A) $33,500,000 for fiscal year 2002;

''(B) $33,700,000 for fiscal year 2003;

''(C) $35,100,000 for fiscal year 2004;

''(D) $35,000,000 for fiscal year 2005; and

''(E) $33,500,000 for fiscal year 2006.

''(2) OPERATION.—In addition to amounts made available under section 13(b), there are authorized to be appropriated to operate the system—

''(A) $4,500,000 for fiscal year 2002; and

''(B) $10,300,000 for fiscal year 2003.''.

(b) CONFORMING AMENDMENTS.—Section 2 of Public Law 105–47 (42 U.S.C. 7704 note) is amended—

(1) in subsection (a)(7), by striking ''section 12(b) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706(b))'' and inserting ''section 13(b) of the Earthquake Hazards Reduction Act of 1977''; and

(2) in subsection (c)(2), by striking ''section 12(c) of such Act (42 U.S.C. 7706(c))'' and inserting ''section 13(c) of that Act''.

By Mr. ALLARD (for himself and Mr. CAMPBELL):

S. 425. A bill to establish the Rocky Flats National Wildlife Refuge in the State of Colorado, and for other purposes; to the Committee on Armed Services.

Mr. ALLARD. Mr. President, I rise today to introduce legislation, along with my good friend and Colorado colleague, Senator BEN NIGHTHORSE CAMPBELL, to permanently designate Rocky Flats as a National Wildlife Refuge following the cleanup and closure of the site.

This legislation is the beginning of a new chapter in the history of Rocky Flats. The Rocky Flats National Wildlife Refuge Act is the product of more than a year's worth of work by citizens, community leaders, and local elected officials. Its passage will ensure our children and grandchildren will continue to enjoy the wildlife and open space that currently exists at Rocky Flats.

To that end, I have worked in a bipartisan manner with my Colorado colleague from the other body, Congressman MARK UDALL, to produce the Rocky Flats National Wildlife Refuge Act of 2001. This bill was originally introduced in November of 2000, and with a few refinements, is being reintroduced today in both the Senate and House. Also, this bill could not be possible without the hard work and dedication of the local governments and the Rocky Flats stakeholders.

My vested interest in Rocky Flats began during the 1980's when I was the Chairman of the State Senate Committee on Health, Environment, Welfare and Institutions. Although I supported the national security mission of the Rocky Flats site prior to closure, I believe that the Department of Energy must also ensure the safety and health of all Coloradans and the environment. When the Rocky Flats site was shut down in 1990, cleaning up and closing of the site became one of my top legislative priorities and will remain so until this project is complete.

In 1999, I became the Strategic Subcommittee Chairman of the Senate Armed Services Committee, which has direct oversight of former DoE weapons facilities including Rocky Flats. This is the first site in the DoE complex to receive funding for cleanup and closure, and will therefore be a role model for other sites in the complex. As Chairman of the Subcommittee, I will continue to work closely with my colleagues to educate them on the importance of cleaning up and closing down Rocky Flats so it can be utilized as a National Wildlife Refuge. This education extends beyond the cleanup and closure of Rocky Flats to the importance of cleaning up and closing of all the former DoE weapons sites and how all closure sites in the DoE complex are closely tied together. That is why it is important for everyone in Congress with a closure site to work together in a non-partisan manner for the good of the country. We also need to work close with our new Secretary of Energy, Spencer Abraham, to ensure that cleanup and closure remain a priority for DoE.

As a brief summary of the bill, I would like to bring to your attention a few of the following high points of the bill:

To begin, Rocky Flats will remain in permanent federal ownership through a transfer from the Department of Energy to the U.S. Fish and Wildlife Service after the cleanup and closure of the site is complete.

The historic Lindsay Ranch will be preserved for future generations.

There will be no annexation of land to any local government, nor any construction of through roads. The only roads that may be constructed on the site would be by the Fish and Wildlife Service for the management of the refuge.

The Secretary of Energy and the Secretary of the Interior are authorized to grant a transportation right-of-way on the eastern boundary of the site for transportation improvements along Indiana Street. Please note, however, that we are aware of the continued evaluation of this issue and want this section of the bill to be consistent with the needs of the local governments.

The Department of Energy and the Fish and Wildlife Service are to enter into a Memorandum of Understanding addressing administrative responsibilities prior to the transfer of the site not later than 1 year after the enactment of this Act.

The Department of Energy will not transfer any property to the Fish and Wildlife Service that must be retained for future onsite monitoring or that must be retained for protection of human health and safety. This legislation also clarifies that in the event of future cleanup activities, this action will take priority over wildlife management.

One of the most important directives in this Act and it states that ''nothing in this Act shall be construed to affect the degree of cleanup at the Rocky Flats site required under the Rocky Flats Cleanup Agreement or any Federal or State law.'' I believe it is important to reiterate that this bill should not be used as a mechanism to drive the level of cleanup. As with any cleanup, the future land use is always considered in setting cleanup levels, but other important factors will play into any decision. For instance, the protection of surface water coming off the site, the desire to minimize long-term operation and monitoring costs, and the State of Colorado's rules for decommissioning nuclear sites which say licensees should reduce potential radiation dose levels as low as reasonably achievable.

Once the site is transferred to the Fish and Wildlife Service, the refuge will be managed in accordance with the National Wildlife Refuge System Act to preserve wildlife, enhance wildlife habitat, conserve threatened and endangered species, provide education opportunities and scientific research, as well as wildlife compatible recreation.

The Fish and Wildlife Service are to convene a public process to include input on the management of the site.

I firmly believe that access rights and property rights must be preserved. Therefore, this legislation recognizes and preserves all mineral rights, water rights and utility rights-of-way. This Act does, however, provide the Secretary of Energy and the Secretary of Interior the authority to impose reasonable conditions on the access to private property rights for cleanup and refuge management purposes.

With regard to mineral rights, the Secretary of Energy is required to seek to purchase mineral rights from willing sellers.

As a tribute to the Cold War and the dedicated Rocky Flats workers both prior to and after the site closure, the bill authorizes the establishment of a Rocky Flats museum to commemorate the site requiring that the creation of the museum shall be studied, and a report shall be submitted to Congress within three years following the enactment of this act.

Finally, this bill directs the Department of Energy and the Fish and Wildlife Service to inform Congress on the costs associated with the implementation of this Act.

Lastly, I want to thank Representative MARK UDALL for the bi-partisan manner in which he and his staff worked with me and my office. Rocky Flats, like all other cleanup sites, is bigger than partisan politics and this effort proves it. I would also like to specifically thank the Department of Energy for taking the expedited cleanup plan and making it work within their budgetary guidelines; Kaiser-Hill for making the impossible, possible; and, I would like to say a great big thanks to all of the workers at Rocky Flats whose skill and dedication have made the reality of cleanup possible. Without the workers, even the best laid plans would be for naught.

Once cleanup and closure is accomplished in 2006, I look forward to returning to Rocky Flats for the dedication of the new Rocky Flats National Wildlife Refuge.

By Mrs. CLINTON (for herself, Mr. BAUCUS, Mr. CORZINE, Mr. DAYTON, Mr. DODD, Mr. LEAHY, Mr. LIEBERMAN, Ms. MIKULSKI, Mr. ROCKEFELLER, and Mr. SCHUMER):

S. 426. A bill to amend the Internal Revenue Code of 1986 to provide an income tax credit to holders of bonds financing new communications technologies, and for other purposes; to the Committee on Finance.

By Mrs. CLINTON (for herself, Ms. SNOWE, Mr. CORZINE, Mr. DAYTON, Mr. DODD, Mr. LIEBERMAN, Ms. MIKULSKI, Mr. ROCKEFELLER, and Mr. SCHUMER):

S. 427. A bill to amend the Internal Revenue Code of 1986 to expand the work opportunity tax credit for small business jobs creation; to the Committee on Finance.

By Mrs. CLINTON (for herself, Mr. BAUCUS, Mr. BINGAMAN, Mr. CORZINE, Mr. DAYTON, Mr. DODD, Mr. LEAHY, Mr. LIEBERMAN, Ms. MIKULSKI, Mr. ROCKEFELLER, and Mr. SCHUMER):

S. 428. A bill to provide grants and other incentives to promote new communications technologies, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mrs. CLINTON (for herself, Mr. BAUCUS, Mr. BINGAMAN, Mrs. BOXER, Mr. CORZINE, Mr. DAYTON, Mr. DODD, Mr. LEAHY, Mr. LIEBERMAN, Ms. MIKULSKI, Mr. ROCKEFELLER, and Mr. SCHUMER):

S. 429. A bill to expand the Manufacturing Extension Program to bring the new economy to small and medium-sized businesses; to the Committee on Commerce, Science, and Transportation.

By Mrs. CLINTON (for herself, Mr. BAUCUS, Mr. CORZINE, Mr. DAYTON, Mr. DODD, Mr. LEAHY, Mr. LIEBERMAN, Ms. MIKULSKI, Mr. ROCKEFELLER, and Mr. SCHUMER):

S. 430. A bill to provide incentives to promote broadband telecommunications services in rural America, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mrs. CLINTON (for herself, Ms. SNOWE, Mr. BAUCUS, Mr. CORZINE, Mr. DAYTON, Mr. DODD, Mr. LEAHY, Mr. LIEBERMAN, Ms. MIKULSKI, Mr. ROCKEFELLER, and Mr. SCHUMER):

S. 431. A bill to establish regional skills alliances, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. CLINTON (for herself, Ms. SNOWE, Mr. BAUCUS, Mr. Bingaman, Mrs. BOXER, Mr. CORZINE, Mr. DAYTON, Mr. DODD, Mr. KENNEDY, Mr. LIEBERMAN, Ms. MIKULSKI, Mr. ROCKEFELLER, and Mr. SCHUMER):

S. 432. A bill to provide for business incubator activities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mrs. CLINTON. Mr. President, I rise today to talk about bringing development and good jobs to upstate New

York and other regions of our country that have not fully participated in our nation's economic growth.

As I travel across the state and listen to the struggles of small business owners and workers, I'm often reminded of my father, who ran a small business and worked hard every day to provide for our family. I think about people like him who live in Plattsburgh and Buffalo, Rochester, Syracuse, Binghamton, Oneonta and every town and village in between. Most importantly, I think that—with the right ideas and a lot of hard work—we can create opportunities that will revitalize New York's upstate economy, as well as in places like these all across our country.

Now as we all know, a historic shift has taken place in our economy and, to succeed in the twenty first century new economy, businesses have to be innovative, creative and flexible. Workers have to have better education and training; and community leaders have to bring all sectors of our communities together to make their hometowns more hospitable to high tech industries.

Many parts of upstate New York have not been able to fully enjoy the fruits of the new knowledge based economy. Too many of our finest young people leave the state for better jobs elsewhere. Two summers ago, I talked to an upstate New York professor who told me what he thought was the biggest barrier to economic progress in the region: poor internet access. He pointed out that just as canals and railroad lines had made upstate, western and central New York the hub of the industrial economy in the 19th and 20th centuries, the region's shortage of high speed internet lines would hold us back in the 21st Century.

Studies have shown, for example, that New York lags behind many states when it comes to the internet connections that are essential to commerce and communications in this new economy. But with leadership, and through partnerships, we can meet these challenges. All of us who care about the towns and villages in upstate New York and across our country have an obligation to help. That is why I am very proud today to introduce a package of legislation that is designed to bring new jobs to New York and to America.

This legislation is the result of a lot of conversations, and listening, and hard work by many people. These seven bills will help bring all of New York online and into the new economy by promoting entrepreneurship and innovation, and by knocking down some of the stubborn barriers to economic progress.

Just in the past three weeks, I have been in Rochester, and Rome and Watertown—Buffalo, and Niagara Falls meeting with business and labor leaders, academic, religious and civic leaders as well as citizens from all walks of life. I've also been meeting and talking with many of my Republican and Democratic colleagues here in the Congress—talking about the budget, and talking about the economies of New York and the rest of our nation.

I have found that this legislation I propose today reflects the views and values, not only of many New Yorkers, but also a number of my colleagues here in the Senate. We agree that we have to clear away some of the major obstacles to economic growth and that we must invest in the skills of our country's greatest resources—our people.

After all, upstate New York is the region where America's innovators, businesses and workers spun Thomas Edison's first light bulb, made cameras widely available to all Americans, created the nation's first business incubator and the pacemaker. Now, with a proud place in the economic history of our country, upstate New York deserves its place in the economic future as well. My legislation is designed to help bring all of New York to the forefront of the 21st century economy.

Specifically, I propose the creation of new technology bonds. Using federal tax credits, states and local governments will be able to issue such bonds to help local governments invest in the high-speed data lines they need to attract cutting edge businesses.

I propose creating new incentives to link industrial parks and small business incubators to the Internet—and to bring access to high-speed internet connections called broadband. Too many families and businesses still have to dial long distance to get on the Internet. That's why my plan also includes a $100 million initiative to help businesses bring broadband to rural and underserved communities.

I also support research into the next generation of broadband technologies that could make access to the Internet even more cost-effective. We have to help small businesses make the most of the new technologies to maximize profits and productivity. Too many firms still do not know where to begin when it comes to bringing their businesses online. Large businesses, we know, can spend millions on high-priced consultants to find out which computer and software systems to buy so they can best use the new technologies. But small, and even medium size businesses, just can't afford to do that.

So, as part of my package of incentives, I am introducing what I call a Technology Extension Program to help small and medium business owners. For years, the federal government has provided farmers advice and expertise through the Cooperative Extension system. More recently, the Department of Commerce has successfully helped small manufacturers with new technologies through the Manufacturing Extension Program. I think we can build on the successes of these programs and help small and medium business owners in the same way, creating partnerships with universities and community colleges to transform their innovations into jobs for more and more people.

New York is also a state blessed with some of the finest colleges and research institutions in the world. Yet, we haven't been able to transform a lot of those discoveries into commercial ventures near where they have been made. That's why my plan increases support for business incubators that can cut the time it takes for a breakthrough on the laboratory bench to make it to the factory and sales floor.

Of course one of the most important parts of this legislation focuses on investing in the skills of our people. We can create all the high tech jobs we need from, you know, Plattsburg to Reno—but if they don't have people to fill them it's not going to mean anything, as I know that the President understands. That's why I'll fight to increase America's investment in the Regional Skills Alliances that bring businesses, universities, and community colleges together to make sure workers have the training they need in the modern workplace.

I know that we have to support and encourage small businesses to bring jobs to places like upstate New York. My legislation will create a new Small Business Jobs Tax Credit to allow small firms in underserved communities across the country eligible because of population loss and low job growth—to claim a $3,000 tax credit for every employee they hire.

Mr. President, during my campaign I promised that my first legislation would focus on promoting economic growth in upstate New York. That is why I am particularly pleased to be here in fulfillment of that pledge.

But I see my plan as a part of a larger partnership to spur job creation across our country, where good people and their communities are in need of help. According to the latest Labor Department statistics New York, for example, as a whole enjoyed a 2.3 percent job growth rate last year. But upstate New York's job growth rate was about half of that at 1.2% and below the national average of 2.1 percent. Now behind those numbers are the lives and livelihoods of millions of people, and it is for those people that this legislation is being introduced. No parent should have to see a child leave his or her hometown simply because a good job can't be found.

My co-sponsors and I know that the fight for new jobs for New York and America is a long and difficult one. We do not expect everything in this plan to pass in one year alone, or even in the exact form in which it is introduced. And standing alone, no single

plan or Senator will be able to get the job done. But my colleagues and I understand we need a long-term partnership among people in government at all levels and with the private sector, business, labor, schools universities and others.

That is why I also support S. 41 introduced by Senators HATCH and BAUCUS, and supported by many Democrats and Republicans to make the research and development tax credit permanent and to promote entrepreneurship and innovation. It's why I think we have to continue to tackle other stubborn barriers to economic growth like high utilities costs, high taxes and inadequate transportation and poor infrastructure. And of course, I can't talk about upstate New York without mentioning the spectacular geography and cultural heritage that is not only a source of pride, but also as a valuable economic resource.

Mr. President, I would like to thank my colleagues, representing both parties, who have come together to join and sponsor one or more of my bills today. I look forward to talking to more members of this chamber and the other body in the days and weeks ahead. I believe if we take good ideas and through hard work make them real, we can revitalize New York's upstate economy and also give hope to the hardworking, deserving families of communities across our country. No one should have to leave their hometown, their families, and their roots to find a good job in America.

I ask unanimous consent that text of the bills, the summary of the bills, and articles relevant to the bills be printed in the RECORD.

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

S. 426

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Technology Bond Initiative of 2001''.

SEC. FINDINGS.

Congress finds the following:

(1) Access to high-speed Internet is as important to 21st Century businesses as access to the railroads and interstate highways was to businesses of the last century.

(2) Up to one-third of the United States population lacks access to high-speed Internet.

(3) Companies without access to high-speed Internet are unable to meet their market potential, just as a community cannot prosper if it doesn't have high quality roads and bridges.

(4) Technology bonds would provide incentives to State and local governments to partner with the private sector to expand broadband deployment in their communities, especially underserved urban and rural areas.

SEC. 2. CREDIT TO HOLDERS OF QUALIFIED TECHNOLOGY BONDS.

(a) IN GENERAL.—Part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to credits against tax) is amended by adding at the end the following new subpart:

''Subpart H—Nonrefundable Credit for Holders of Qualified Technology Bonds

''Sec. 54. Credit to holders of qualified technology bonds.

''SEC. 54. CREDIT TO HOLDERS OF QUALIFIED TECHNOLOGY BONDS

''(a) ALLOWANCE OF CREDIT.—In the case of a taxpayer who holds a qualified technology bond on a credit allowance date of such bond which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year the amount determined under subsection (b).

''(b) AMOUNT OF CREDIT.—

''(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any qualified technology bond is the amount equal to the product of—

''(A) the credit rate determined by the Secretary under paragraph (2) for the month in which such bond was issued, multiplied by

''(B) the face amount of the bond held by the taxpayer on the credit allowance date.

''(2) DETERMINATION.—During each calendar month, the Secretary shall determine a credit rate which shall apply to bonds issued during the following calendar month. The credit rate for any month is the percentage which the Secretary estimates will permit the issuance of qualified technology bonds without discount and without interest cost to the issuer.

''(c) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

''(1) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(2) the sum of the credits allowable under this part (other than this subpart and subpart C).

''(d) QUALIFIED TECHNOLOGY BOND.—For purposes of this part—

''(1) IN GENERAL.—The term 'qualified technology bond' means any bond issued as part of an issue if—

''(A) 95 percent or more of the proceeds of such issue are to be used for any or a series of qualified projects,

''(B) the bond is issued by a State or local government within the jurisdiction of which such project is located.

''(C) the issuer designates such bond for purposes of this section.

''(D) certifies that it has obtained the written approval of the Secretary of Commerce for such project, and

''(E) the term of each bond which is part of such issue does not exceed 15 years.

''(2) QUALIFIED PROJECT.—

''(A) IN GENERAL.—The term 'qualified project' means a project—

''(i) to expand broadband telecommunications services in an area within the jurisdiction of a State or local government,

''(ii) which is nominated by such State or local government for designation as a qualified project, and

''(iii) which the Secretary of Commerce, after consultation with the Secretary of Housing and Urban Development designates as a qualified project or a series of qualified projects.

''(B) DESIGNATION PREFERENCES.—With respect to designations under this section, preferences shall be given to—

''(i) nominations of projects involving underserved urban or rural areas lacking access to high-speed Internet connections, and

''(ii) nominations reflecting partnerships and comprehensive planning between State and local governments and the private sector.

''(e) LIMITATIONS ON AMOUNT OF BONDS DESIGNATED.—

''(1) NATIONAL LIMITATION.—There is a national technology bond limitation for each calendar year. Such limitation is $100,000,000 for 2002, 2003, 2004, 2005, and 2006, and, except as provided in paragraph (4), zero thereafter.

''(2) ALLOCATION OF LIMITATION.—The national technology bond limitation for a calendar year shall be allocated by the Secretary among the qualified projects designated for such year.

''(3) DESIGNATION SUBJECT TO LIMITATION AMOUNT.—The maximum aggregate face amount of bonds issued during any calendar year which may be designated under subsection (d)(1) with respect to any qualified project shall not exceed the limitation amount allocated to such project under paragraph (2) for such calendar year.

''(4) CARRYOVER OF UNUSED LIMITATION.—If for any calendar year—

''(A) the national technology limitation amount, exceeds

''(B) the amount of bonds issued during such year which are designated under subsection (d)(1) with respect to qualified projects, the national technology limitation amount for the following calendar year shall be increased by the amount of such excess.

''(f) OTHER DEFINITIONS.—For purposes of this subpart—

''(1) BOND.—The term 'bond' includes any obligation.

''(2) CREDIT ALLOWANCE DATE.—The term 'credit allowance date' means, with respect to any issue, the last day of the 1-year period beginning on the date of issuance of such issue and the last day of each successive 1-year period thereafter.

''(3) STATE.—The term 'State' means the several States and the District of Columbia.

''(g) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed to the taxpayer under this section (determined without regard to subsection (c)) and the amount so included shall be treated as interest income.

''(h) OTHER SPECIAL RULES.—

''(1) PARATNERHSIP; S CORPORATION; AND OTHER PASS-THRU ENTITIES.—Under regulations prescribed by the Secretary, in the case of a partnership, trust, S corporation, or other pass-thru entity, rules similar to the rules of section 41(g) shall apply with respect to the credit allowable under subsection (a).

''(2) BONDS HELD BY REGULATED INVESTMENT COMPANIES.—If any qualified technology bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

''(3) TREATMENT FOR ESTIMATED TAX PURPOSES.—Solely for purposes of sections 6654 and 6655, the credit allowed by this section to a taxpayer by reason of holding a qualified technology bond on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.

''(4) REPORTING.—Issuers of qualified technology bonds shall submit reports similar to the reports required under section 149(e).''.

(b) REPORTING.—Subsection (d) of section 6049 of the Internal Revenue Code of 1986 (relating to returns regarding payments of interest) is amended by adding at the end the following new paragraph:

''(8) REPORTING OF CREDIT ON QUALIFIED TECHNOLOGY BONDS.—

''(A) IN GENERAL.—For purposes of subsection (a), the term 'interest' includes amounts includible in gross income under section 54(g) and such amounts shall be treated as paid on the credit allowance date (as defined in section 54(f)(2)).

''(B) REPORTING TO CORPORATIONS, ETC.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A) of this paragraph, subsection (b)(4) of this section shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i).

''(C) REGULATORY AUTHORITY.—the Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.''.

(c) CLERICAL AMENDMENTS.—

(1) The table of subparts for part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''Subpart H. Nonrefundable Credit for Holders of Qualified Technology Bonds.''

(2) Section 6401(b)(1) of such Code is amended by striking ''and G'' and inserting ''G, and H''.

(d) EFFECTIVE DATE.—the amendments made by this section shall apply to obligations issued after December 31, 2001.

S. 427

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Small Business Jobs Tax Credit Act of 2001''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) In many parts of the United States, segments of large cities, smaller cities, and rural areas are experiencing population loss and low job growth that hurt the surrounding communities.

(2) In areas hurt by low job growth, people are forced to leave the communities they have lived in their whole life to secure a job.

(3) A small business tax credit to promote jobs in areas suffering from low job growth and population loss would spur economic growth and would provide incentives for businesses to take advantage of an often underutilized, well-educated workforce.

(4) By promoting economic growth, such a tax credit would revitalize these areas that are less likely to receive other Federal investments.

SEC. 3. EXPANSION OF WORK OPPORTUNITY TAX CREDIT.

(a) IN GENERAL.—Section 51(d)(1) of the Internal Revenue Code of 1986 (relating to members of targeted groups) is amended by striking ''or'' at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting '', or'', and by adding at the end the following:

''(I) a qualified small business employee.''.

(b) QUALIFIED SMALL BUSINESS EMPLOYEE.—Section 51(d) of the Internal Revenue Code of 1986 is amended by redesignating paragraphs (10) through (12) as paragraphs (11) through (13), respectively, and by inserting after paragraph (9) the following:

''(10) QUALIFIED SMALL BUSINESS EMPLOYEE.—

''(A) IN GENERAL.—The term 'qualified small business employee' means any individual—

''(i) hired by a qualified small business located in a development zone, or

''(ii) hired by a qualified small business and who is certified by the designated local agency as residing in such a development zone.

''(B) QUALIFIED SMALL BUSINESS.—The term 'qualified small business' has the meaning given the term 'small employer' by section 4980D(d)(2).

''(C) DEVELOPMENT ZONE.—For purposes of this section—

''(i) IN GENERAL.—The term 'development zone' means any area—

''(I) which is nominated under the procedures defined in sections 1400E(a)(1)(A) and 1400E(a)(4) for renewal communities;

''(II) which the Secretary of Housing and Urban Development designates as a development zone, after consultation with the Secretary of Commerce;

''(III) which has a population of not less than 5,000 and not more than 150,000;

''(IV) which has a poverty rate not less than 20 percent (within the meaning of section 1400E(c)(3)(C));

''(V) which has an average annual rate of job growth of less than 2 percent during any 3 years of the preceding 5-year period; and

''(VI) which, during the period beginning January 1, 1990 and ending with the date of the enactment of this Act, has a net out-migration of inhabitants, or other population loss, from the area of at least 2 percent of the population of the area during such period.

''(ii) NUMBER OF DESIGNATIONS.—The Secretary of Housing and Urban Development may not designate more than 100 development zones.

''(D) SPECIAL RULES FOR DETERMINING AMOUNT OF CREDIT.—For purposes of applying this subpart to wages paid or incurred to any qualified small business employee—

''(i) subsection (a) shall be applied by substituting ''20 percent of the qualified first, second, third, fourth, or fifth year wages'' for ''40 percent of the qualified first year wages'', and

''(ii) in lieu of paragraphs (2) and (3) of subsection (b), the following definitions and special rule shall apply:

''(I) QUALIFIED FIRST-YEAR WAGES.—The term 'qualified first-year wages' means, with respect to any individual, qualified wages attributable to service rendered during the 1-year period beginning with the day the individual begins work for the employer.

''(II) QUALIFIED SECOND-YEAR WAGES.—The term 'qualified second-year wages' means, with respect to any individual, qualified wages attributable to service rendered during the 1-year period beginning on the day after the last day of the 1-year period with respect to such individual determined under subclause (I).

''(III) QUALIFIED THIRD-YEAR WAGES.—The term 'qualified third-year wages' means, with respect to any individual, qualified wages attributable to service rendered during the 1-year period beginning on the day after the last day of the 1-year period with respect to such individual determined under subclause (II).

''(IV) QUALIFIED FOURTH-YEAR WAGES.—The term 'qualified fourth-year wages' means, with respect to any individual, qualified wages attributable to service rendered during the 1-year period beginning on the day after the last day of the 1-year period with respect to such individual determined under subclause (III).

''(V) QUALIFIED FIFTH-YEAR WAGES.—The term 'qualified fifth-year wages' means, with respect to any individual, qualified wages attributable to service rendered during the 1-year period beginning on the day after the last day of the 1-year period with respect to such individual determined under subclause (IV).

''(VI) ONLY FIRST $15,000 OF WAGES PER YEAR TAKEN INTO ACCOUNT.—The amount of the qualified first, second, third, fourth, and fifth year wages which may be taken into account with respect to any individual shall not exceed $15,000 per year.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after the date of the enactment of this Act.

S. 428

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Broadband Expansion Grant Initiative of 2001''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Investing in a telecommunications infrastructure for underserved rural communities will increase the potential for long-term economic growth in those areas.

(2) Currently, too many families have to make long distance calls to connect to the Internet, and the deployment of broadband networks would make sure that connection to the Internet is more cost-effective and only a local call away.

(3) Small businesses would benefit from access to high-speed Internet links that would allow them to compete on national and international levels.

(4) Broadband deployment grants and loan guarantees would encourage private-sector investment in infrastructure advances.

SEC. 3. FACILITATION OF DEPLOYMENT OF BROADBAND TELECOMMUNICATIONS CAPABILITIES TO UNDERSERVED RURAL AREAS.

(a) IN GENERAL.—In order to facilitate the deployment by the private sector of broadband telecommunications networks and capabilities (including wireless and satellite networks and capabilities) to underserved rural areas, the Secretary of Commerce (in this section, referred to as the ''Secretary'') may—

(1) make grants to eligible recipients for that purpose;

(2) guarantee loans, either whole or in part, of eligible recipients the proceeds of which are to be used for that purpose; or

(3) carry out activities under both paragraphs (1) and (2).

(b) ELIGIBLE RECIPIENTS.—For purposes of this section, an eligible recipient of a grant or loan guarantee under subsection (a) is any person or entity selected by the Secretary in accordance with such procedures as the Secretary shall establish.

(c) UNDERSERVED RURAL AREAS.—The Secretary shall identify the areas that constitute underserved rural areas for purposes of this section.

(d) EMPHASIS ON PARTICULAR CAPABILITIES.—In selecting a person or entity as an eligible recipient of a grant or loan guarantee under subsection (a), the Secretary shall give particular emphasis to persons or entities that propose to use the grant or the proceeds of the loan guaranteed, as the case may be, to leverage non-Federal resources to do one or more of the following:

(1) Provide underserved rural areas with access to Internet service by local telephone.

(2) Demonstrate new models or emerging technologies to bring broadband telecommunications services to underserved rural areas on a cost-effective basis.

(3) Use broadband telecommunications services to stimulate economic development, such as providing connections between and among industrial parks located in such areas and providing high-speed telecommunications service links to small business incubators.

(e) CONSULTATION.—The Secretary may consult with the Federal Communications Commission in carrying out activities under this section.

(f) LIMITATION ON AMOUNT.—The amount of any grants made under this section, and the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)) of any loans guaranteed under this section, may not, in the aggregate, exceed $100,000,000.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Department of Commerce for purposes of grants and loan guarantees under this section $100,000,000 for fiscal year 2002, and such sums as are necessary for each fiscal year thereafter.

S. 429

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Technology Extension Act of 2001''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The Federal Government developed the Agriculture Extension Program, and more recently, the Manufacturing Extension Program to help farmers and small manufacturers gain access to the latest technologies. Today's small and medium-sized businesses need a technology extension program that provides access to cutting edge technology.

(2) There is a need to create partnerships to cut the time it takes for new developments in university laboratories to reach the manufacturing floor, to help small and medium-sized businesses transform their innovations into jobs.

(3) There is a need to build upon the Manufacturing Extension Program to encourage the adoption of advanced technology.

SEC. 3. TECHNOLOGY EXTENSION PROGRAM.

(a) PURPOSE.—It is the purpose of this section—

(1) to encourage meaningful use of the most advanced available technologies by small businesses and medium-sized businesses to the maximum extent possible to improve the productivity of those businesses and thereby to promote economic growth; and

(2) to promote regional partnerships between educational institutions and businesses to develop such technologies and products in the surrounding areas.

(b) GRANT PROGRAM.—To achieve the purpose of this section, the Secretary of Commerce (in this section, referred to as the ''Secretary'') shall carry out a program to provide, through grants, financial assistance for the establishment and support of regional centers for the commercial use of advanced technologies by small businesses and medium-sized businesses.

(c) ELIGIBILITY.—An entity is eligible to receive a grant as a regional center under this section if the entity—

(1) is affiliated with a United States-based institution or organization that is operated on a not-for-profit basis, or any combination of two or more of such institutions or organizations;

(2) offers to enter into an agreement with the Secretary to function as a regional center for the commercial use of advanced technologies for the purpose of this section within a region determined appropriate by the Secretary; and

(3) demonstrates that it has the capabilities necessary to achieve the purpose of this section through its operations as a center within that region.

(d) SELECTION OF APPLICANTS.—

(1) COMPETITIVE PROCESS.—The Secretary shall use a competitive process for the awarding of grants under this section and, under that process, select recipients of the grants on the basis of merit, with priority given to underserved areas.

(2) APPLICATIONS FOR GRANTS.—The Secretary shall prescribe the form and content of applications required for grants under this section.

(e) SPECIFIC ACTIVITIES OF REGIONAL CENTERS.—A regional center may use the proceeds of a grant under this section for any activity that carries out the purpose of this section, including such activities as the following:

(1) Assist small businesses and medium-sized businesses to address their most critical needs for the application of the latest technology, improvement of infrastructure, and use of best business practices.

(2) In conjunction with institutions of higher education and laboratories located in the region, transfer technologies to small businesses and medium-sized businesses located in such region to create jobs and increase production in surrounding areas.

(f) ADDITION ADMINISTRATIVE AUTHORITIES.—

(1) COST-SHARING.—The Secretary may require the recipient of a grant to defray, out of funds available from sources other than the Federal Government, a specific level of the operating expenses of the regional center for which the grant is made.

(2) ADDITIONAL TERMS AND CONDITIONS.—The Secretary, in awarding a grant, may impose any other terms and conditions for the use of the proceeds of the grant that the Secretary determines appropriate for carrying out the purpose of this section and to protect the interests of the United States.

(g) DEFINITIONS OF SMALL BUSINESS AND MEDIUM-SIZED BUSINESS.—

(1) SECRETARY TO PRESCRIBE.—The Secretary shall prescribe the definitions of the terms ''small business'' and ''medium-sized business'' for the purpose of this section.

(2) SMALL BUSINESS STANDARDS.—In defining the term ''small business'', the Secretary shall apply the standards applicable for the definition of the term ''small-business concern'' under section 3 of the Small Business Act (15 U.S.C. 632).

(h) REGULATIONS.—The Secretary shall prescribe regulations for the grant program administered under this section.

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Department of Commerce for carrying out this section $125,000,000 for fiscal year 2002, and such sums as are necessary for each fiscal year thereafter.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Broadband Rural Research Investment Act of 2001''.

SEC. 2. FINDINGS.

Congress find the following:

(1) The availability of broadband telecommunications services in rural America is critical to economic development, job creation, and new services such as distance learning and telemedicine.

(2) Existing broadband technology cannot be deployed in many rural areas, either because of technical limitations, or the cost of deployment relative to the available market.

(3) Research in new broadband technology that addresses these barriers could increase the availability of broadband telecommunications services in rural areas.

SEC. 3. RESEARCH ON ENHANCEMENT OF BROADBAND TELECOMMUNICATIONS SERVICES.

(a) IN GENERAL.—The Director of the National Science Foundation (in this section, referred to as the ''Director'') shall carry out research on the following:

(1) Means of enhancing or facilitating the availability of broadband telecommunications services in rural areas and other remote areas.

(2) Means of facilitating or enhancing access to the Internet through broadband telecommunications services.

(b) SCOPE OF AUTHORITY.—The Director may carry out research under subsection (a) within the National Science Foundation or pursuant to such grants, agreements, or other arrangements as the Director considers appropriate.

(c) RESULTS OF RESEARCH.—The Director shall make available to the public, in such manner as the Director considers appropriate, the results of any research carried out under this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the National Science Foundation for purposes of activities under this section $25,000,000 for fiscal year 2002, and such sums as are necessary for each fiscal year thereafter.

S. 431

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Regional Skills Alliances Act of 2001''.

SEC. 2. FINDINGS.

(1) Many small businesses lack the financial capacity to support the training of high-skilled workers.

(2) Many high-tech companies concerned about worker training consider recruiting employees from overseas because a shortage of information technology workers remains a significant problem.

(3) Too many highly educated workers in underserved communities do not have the specialized skills needed to meet the needs of local businesses.

(4) Regional skills alliances bring businesses and 4-year colleges and universities and community colleges together to help develop and implement effective programs to make sure workers have the training needed to compete in the modern workplace.

SEC. 3. DEFINITION.

In this Act, the term ''Secretary'' means the Secretary of Labor.

TITLE I—SKILL GRANTS

SEC. 101. AUTHORIZATION.

(a) IN GENERAL.—The Secretary, in consultation with the Secretary of Commerce, shall award grants to eligible entities described in subsection (b) to assist such entities to improve the job skills necessary for employment in specific industries.

(b) ELGIBLE ENTITIES DESCRIBED.—

(1) IN GENERAL.—An eligible entity described in this subsection is a consortium that—

(A) shall consist of representatives from not less than 5 businesses, or a lesser number of businesses if such lesser number of businesses employs at least 30 percent of the employees in the industry involved in the region (or a non-profit organization that represents such businesses);

(B) may consist of representatives from—

(i) labor organizations;

(ii) State and local government; and

(iii) educational institutions;

(C) is established to serve one or more particular industries; and

(D) is established to serve a particular geographic region.

(2) MAJORITY OF REPRESENTATIVES.—A majority of the representatives described in paragraph (1)(A).

(c) PRIORITY FOR SMALL BUSINESSES.—In providing grants under subsection (a), the Secretary shall give priority to an eligible entity if a majority of representatives forming the entity represent small-business concerns (as defined in section 3(a) of the Small Business Act (15 U.S.C. 632(a)).

(d) MAXIMUM AMOUNT OF GRANT.—The amount of a grant awarded to an eligible entity under subsection (a) may not exceed $1,000,000 for any fiscal year.

SEC. 102. USE OF AMOUNTS.

(a) IN GENERAL.—The Secretary may not award a grant under section 101 to an eligible entity unless such entity agrees to use amounts received from such grant to improve the job skills necessary for employment by businesses in the industry with respect to which such entity was established.

(b) CONDUCT OF PROGRAM.—

(1) IN GENERAL.—In carrying out the program described in subsection (a), the eligible entity may provide for—

(A) an assessment of training and job skill needs for the industry;

(B) the development of a sequence of skill standards that are benchmarked to advanced industry practices;

(C) the development of curriculum and training methods, including, where appropriate, e-learning or technology-based training;

(D) the purchase, lease, or receipt of donations of training equipment;

(E) the identification of training providers and the development of partnerships between the industry and educational institutions, including community colleges;

(F) the development of apprenticeship programs;

(G) the development of training programs for workers, including dislocated workers;

(H) the development of training plans for businesses; and

(I) the development of the membership of the entity.

(2) ADDITIONAL REQUIREMENT.—In carrying out the program described in subsection (a), the eligible entity shall provide for the development and tracking of performance outcome measures for the program and the training providers involved in the program.

(c) ADMINISTRATIVE COSTS.—The eligible entity may use not more than 10 percent of the amount of a grant to pay for administrative costs associated with the program described in subsection (a).

SEC. 103. REQUIREMENT OF MATCHING FUNDS.

(a) IN GENERAL.—The Secretary may not award a grant under section 101 to an eligible entity unless such entity agrees that the entity will make available non-Federal contributions toward the costs of carrying out activities under the grant in an amount that is not less than $2 for each $1 of Federal funds provided under the grant, of which—

(1) $1 shall be provided by the businesses participating in the entity; and

(2) $1 shall be provided by the State or local government involved.

(b) OTHER CONTRIBUTIONS.—

(1) EQUIPMENT.—Equipment donations to facilities that are not owned or operated by the members of the eligible entity involved and that are shared by such members may be included in determining compliance with subsection (a).

(2) LIMITATION.—An eligible entity may not include in-kind contributions in complying with the requirement of subsection (a). The Secretary may consider such donations in ranking applications.

SEC. 104. LIMIT ON ADMINISTRATIVE EXPENSES.

The Secretary may use not more than 5 percent of the amounts made available to carry out this title to pay the Federal administrative costs associated with awarding grants under this title.

SEC. 105 AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this title $50,000,000 for each of the fiscal years 2002, 2003, and 2004, and such sums as are necessary for each fiscal year thereafter.

TITLE II—PLANNING GRANTS

SEC. 201. AUTHORIZATION.

(a) IN GENERAL.—The Secretary, in consultation with the Secretary of Commerce, shall award grants to States to enable such states to assist businesses, organizations, and agencies described in section 101(b) in conducting planning to form consortia described in such section.

(b) MAXIMUM AMOUNT OF GRANT.—The amount of a grant awarded to a State under subsection (a) may not exceed $500,000 for any fiscal year.

SEC. 202. APPLICATION.

The Secretary may not award a grant under section 201 to a State unless such State submits to the Secretary an application at such time, in such manner, and containing such information as the Secretary may reasonably require.

SEC. 203. REQUIREMENT OF MATCHING FUNDS.

The Secretary may not award a grant under section 201 to a State unless such State agrees that it will make available non-Federal contributions toward the costs of carrying out activities under this title in an amount that is not less than $1 for each $1 of Federal funds provided under the grant.

SEC. 204. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this title $5,000,000 for fiscal year 2002.

S. 432

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Entrepreneurial Incubators Development Act of 2001''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) While small businesses have been an engine of economic growth over the past decade, they often lack access to the technology available to larger businesses.

(2) Business incubators have proven an effective source of economic growth in the States.

(3) Scientific discoveries need to be quickly converted into job and community ventures.

SEC. 3. GRANTS FOR SUPPORT OF BUSINESS INCUBATOR ACTIVITIES.

(a) PURPOSE.—It is the purpose of this section to encourage entrepreneurial creativity and risk taking through the support of the furnishing of business incubator services for newly established small businesses and medium-sized businesses.

(b) GRANT PROGRAM.—to achieve the purpose of this section, the Secretary of Commerce (in this section, referred to as the ''Secretary'') shall carry out a program to provide, through grants, financial assistance for the establishment and support of entities that provide business incubator services in support of the initiation and initial sustainment of business activities by newly established small businesses and medium-sized businesses.

(c) AWARDS OF GRANTS.—

(1) ELIGIBILITY REQUIREMENTS.—The Secretary shall prescribe the eligibility requirements for the awarding of grants under this section.

(2) COMPETITIVE SELECTION.—The Secretary shall use a competitive process for the awarding of grants under this section and, under that process, select recipients of the grant son the basis of merit, with priority given to underserved rural and urban communities.

(3) APPLICATIONS FOR GRANTS.—The Secretary shall prescribe the form and content of applications required for grants under this section.

(d) ADDITIONAL ADMINISTRATIVE AUTHORITIES.—

(1) COST-SHARING.—The Secretary may require the recipient of a grant under this section to defray a specific level of its operating expenses for business incubator services out of funds available from sources other than the Federal Government.

(2) ADDITIONAL TERMS AND CONDITIONS.—The Secretary, in awarding a grant, may impose any other terms and conditions for the use of the proceeds of the grant that the Secretary determines appropriate for carrying out the purpose of this section and to protect the interests of the United States, including the requirement that entities providing business incubator services that receive a grant under this section develop a plan for ultimately becoming self-sufficient.

(e) DEFINITIONS.—

(1) BUSINESS INCUBATOR SERVICES.—In this section, the term ''business incubator services'' includes professional and technical services necessary for the initiation and initial sustainment of operations of a newly established business, including such services as the following:

(A) LEGAL SERVICES.—Legal services, including aid in preparing corporate charters, partnership agreements, and basic contracts.

(B) INTELLECTUAL PROPERTY SERVICES.—Services in support of the protection of intellectual property through patents, trademarks, or otherwise.

(C) TECHNOLOGY SERVICES.—Services in support of the acquisition and use of advanced technology, including the use of Internet services and web-based services.

(D) PLANNING.—Advice on—

(i) strategic planning; and

(ii) marketing, including advertising.

(2) SMALL BUSINESS AND MEDIUM-SIZED BUSINESS.—

(A) SECRETARY TO PRESCRIBE.—The Secretary shall prescribe the definitions of the terms ''small business'' and ''medium-sized business'' for the purpose of this section.

(B) SMALL BUSINESS STANDARDS.—In defining the term ''small business'' for the purpose of this section, the Secretary shall apply the standards applicable for the definition of the term ''small business concern'' under section 3 of the Small Business Act (15 U.S.C. 632).

(f) REGULATIONS.—The Secretary shall prescribe regulations for the grant program administered under this section.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Department of Commerce for carrying out this section $50,000,000 for fiscal year 2002, and $200,000,000 for each fiscal year thereafter.

ECONOMIC DEVELOPMENT PROPOSALS FOR THE NEW ECONOMY—SUMMARY

In too many parts of America, many of our communities are plagued by low job growth and economic stagnation. These communities, which historically have been the backbone of our nation, are deeply concerned about their economic prospects. This package of incentives focuses on encouraging new technology companies to move to places where they can take advantage of a well-educated workforce and a higher education infrastructure that is often available and underutilized.

Technology Bonds: In order to help states and local governments invest in telecommunications infrastructure, this proposal invests $100 million a year in a new type of tax incentive: Technology Bonds. Localities would be allowed to use Technology Bonds to expand high-speed Internet access in their communities. These bonds would provide a significant incentive to state and local governments because they would not have to pay any interest on them, and, thus, would make no payments until maturity (15 years in the future). Because the program directs its benefits to communities, it will better ensure that higher need communities receive the benefits.

Small Business Jobs Tax Credit: This tax credit for small businesses will promote jobs in smaller communities. This proposal will provide a tax credit for wages, up to $3,000 per employee, for small businesses that locate in communities that are losing population, have low job growth rates and high poverty rates. Specifically, this proposal creates a 20% tax credit for wages of up to $15,000 per year, which is a value of up to $3,000 per employee, companies could receive the credit for up to five years. This initiative will focus on smaller communities by targeting communities with a population over 5,000. The program would designate roughly 100 communities and could subsidize roughly 8,000 jobs for each area.

Broadband Expansion Grant Initiative of 2001: This proposal complements Tech Bonds by creating a $100 million initiative to accelerate private-sector deployment of broadband networks in under-served rural communities. Right now many families have to make long distances calls to connect to Internet. This initiative will support $100 million in grants and loan guarantees to ensure the Internet is more cost-effective and only a local call away. It will connect industrial parks and small business incubators with high-speed links; and encourage trials of innovative deployment of broadband networks to provide cost-effective access to rural areas.

Technology Extension Act of 2001: During the early part of this century, the Federal government helped farmers gain access to new agricultural technologies through the Agriculture Extension Program at the Department of Agriculture. More recently, the Department of Commerce has successfully helped small manufacturers with new technologies through its Manufacturing Extension Program. Now it is time to provide small and medium-sized businesses with a technology extension program that provides the latest technology to improve productivity and promote economic growth. This initiative will build upon the Manufacturing Extension Program to address critical needs in areas such as technology applications, infrastructure upgrades and business practices, insurance and other forms. It would also work with universities and laboratories to transfer technologies to small and medium-sized businesses that will help them move products to markets faster. This program would be funded at $25 million the first year, growing to $125 million in fiscal year 2002.

Broadband Rural Research Investment Act of 2001: This proposal targets $25 million in funding for research to ensure the availability of broadband in rural areas. This proposal supports additional investments at the National Science Foundation for research in new broadband technology to increase the availability of broadband telecommunications services in remote and rural areas.

Regional Skills Alliances: Throughout the nation, high-tech companies often consider recruiting employees from overseas because a shortage of information technology workers remains a significant problem throughout the state. Too many small firms do not have the resources to train the workers they need. This proposals creates Regional Skills Alliances to bring businesses, schools, and community college together to help create effective programs to ensure workers have the training needed to compete in the new economy. Without some kind of support to create alliances, small firms just don't have the time or resources to collaborate with anybody on training. In fact, almost all existing RSA's report that they would not have been able to get off the ground without an independent, staffed entity to operate the alliance.

Entrepreneurial Incubators: This initiative would help entrepreneurs who have good ideas but cannot afford lawyers and consultants to access the help they need with legal complexities such as preparing corporate charters, partnership agreements, contracts, patent and intellectual property rules, and basic marketing strategies. This will especially help areas where universities can be key collaborators in entrepreneurial incubators. This proposal would initially invest $50 million and up to $200 million the following years, to increase business incubators nationally by a third.

[From the Associated Press]

HOW DOES UPSTATE KEEP BEST AND BRIGHTEST?

(By Michael Hill)

ALBANY, NY.—Jaclyn Welcher's college degree turned out to be a one-way ticket out of upstate New York.

After graduating from Siena College near Albany in 1998, Welcher tried to apply her marketing and management degree to a job around her parents' home in Queensbury. It didn't work out.

''I said: 'There's no point in this at all,' '' Welcher recalled, ''I'm outta here!'' Welcher—now 24 and working in Los Angeles—is far from the only twenty-something to leave upstate New York.

Young New Yorkers have long been leaving for bigger paychecks and jazzier lifestyles in places like Boston, Austin and Atlanta. The exodus is considered a serious problem because young people are a vital cog in local economies—they take entry-level jobs, spend money and add vibrancy to an area. Employers and local officials have become concerned enough to try out some new strategies to attract and retain young workers.

Updated U.S. Census figures tracking local population changes by age won't be available until later this year. However, interviews with recent college graduates, employers and local leaders across New York reveal a widespread perception that upstate areas struggle in the competition for young workers.

Part of the problem is higher salaries offered elsewhere for certain jobs. For instance, the mean 1998 salary for a computer engineer in Rochester area was $54,910; it was $62,930 in the Raleigh-Durham-Chapel Hill area of North Carolina, according to federal Bureau of Labor Statistics data.

Lower pay can be mitigated by a relatively inexpensive costs of living—three-bedroom houses in Buffalo or Syracuse areas can be purchased for under $100,000. Albany Molecular Research Inc. Vice President James Grates said when he tells potential recruits in Berkeley that homes in the Albany area can go for $90,000–$110,000—two or three times less than similar houses in the Bay Area of California—''their jaws drop to the table.''

But inexpensive housing is a bigger draw for workers ready to settle down and have a family. People in their 20s have been known to have other priorities—like being around other people in their 20s.

''California, Boston, Texas—they have some glitter to them. Fancy nightclubs, bars, sports bars, restaurants, entertainment . . . the perception is here we don't have as much of that,'' said Rochester Institute of Technology President Albert Simone.

Take Atlanta, where Jonathan Cancro reports that there are so many of his fellow University of Buffalo graduates that he's helping start a local chapter of the college's alumni association. One obvious sign of the Buffalo connection, Cancro said, is the number of bars catering to Bills fans.

''There are tons of people down here from New York,'' said the 30-year-old Long Island native. ''Not just UB.''

The twentysomething exodus has been serious enough to show up on some politicians' radar. Erie County Executive Joel Giambra ran a successful campaign in 1999 on the slogan ''Keep Our Kids.'' Sen. Hilliary Rodham Clinton also lamented the loss of young people from New York while on the campaign trail last year.

Employers have noticed too, and have tried to sweeten the pot for young people. A survey last year by the Business Council of New York State employers bumping up starting pay and hastening first raises.

Companies also are experimenting with benefits that might be attractive to younger, childless workers. Media Logic, a marketing and advertising firm in Albany, includes yoga and stress classes as part of its employees benefits package.

Meanwhile, business groups in several cities are strengthening their links to local colleges in hopes in grabbing graduates to fill job slots.

In Sycrause, the Metropolitan Development Association is spending $550,000 in state grant money for summer internship programs aimed at keeping area college students in the region after graduation.

In Rochester, presidents of a number of area schools—including RIT, the University of Rochester and the state universities at Geneseo and Brockport—have met with local employers to find ways to make it easier for small- and medium-sized businesses to recruit local talent.

In Albany, the Center for Economic Growth plans to bring together business leaders, students and maybe even guidance

counselors to start dialogues on what young graduates look for in an employer.

''To tell a 22-year-old freshly minted college graduate that the reason they should come to work for my company is because I have this incredible 401k plan—it's probably not going to raise their eyebrows and make them go 'Yahoo!' '' said center President Kelly Lovell. Also, there are new signs of nightlife in many old upstate cities, be it brew pubs or couch-crammed coffee houses. Buffalo's Chippewa Street might be the most dramatic transformation—once notorious for its sex trade, it is now a gentrified strip packed with bars, dance clubs and restaurants.

Syracuse also is showing signs of rebirth, said super booster Jeff Brown. The 36-year-old lawyer is helping start a unique program to draw young people back to his hometown. Under the ''Come Home to Sycrause'' program volunteers will work off of alumni lists from local colleges and high schools, contacting young expatriates to see if they want to come back. The volunteers will help returnees network for jobs.

A web site is planned and there's already a toll-free number: 1–866–BAK–2SYR. Brown seems qualified for the job. He was once one of those young people who left, in his case for Washington D.C. Brown said he liked the hubbub but missed his home community. ''At some point in your life,'' he said, ''you realize there's something more to life than 20 different Ethiopian restaurants.''

[From the New York Post, Mar. 1, 2001]

NEW YORK'S JOB GROWTH AGAIN TOPS U.S. RATE

(By Kenneth Lovett)

ALBANY.—Spurred by a surge in New York City, job growth in the state surpassed the nation's average, for the second straight year, in 2000.

The total number of jobs in the state grew by 2.3 percent last year, compared with the national average of 2.1 percent, the state Labor Department reported yesterday. New York's 4.2 percent unemployment rate in January matched the nation's for the first time in nearly a decade.

The city had a 5.6 percent unemployment rate in January, down from 5.9 percent in December and 6.4 percent last January.

Overall, New York had 7.168 million private-sector jobs in January, the highest number on record.

''Our policies have better positioned New York to fend off a national economic slowdown,'' Gov. Pataki said. Mayor Giuliani recently said the city was the ''economic engine'' for the state as a whole. The numbers seem to back him up.

New York City saw a 3.3-percent increase in jobs last year, by far the largest jump in the state.

Upstate saw 1.2 percent growth, significantly lower than the state average.

Large urban regions like Buffalo-Niagara Falls, Syracuse and Rochester saw jobs grow by only .3 percent, .9 percent and 1.1 percent, respectively.

The health of the upstate economy looms as a major issue in next year's gubernatorial race. Republican Rick Lazio drew heavy criticism last year when he downplayed the region's economic woes in his failed Senate bid against Hillary Rodham Clinton.

Democrats have already targeted the upstate economy as one of the primary issues they will use against Pataki next year.

Mr. BAUCUS. Mr. President, I rise today to discuss a growing crisis in America's rural communities. We live in a time of balanced budgets, large surpluses, record unemployment, and average wages rising across the country. However, this wealth is not universal across the United States. Our rural areas are suffering the exact opposite effect with large outmigration and negative job growth. My highest priority is reversing this trend, stimulating economic growth and bringing higher paying jobs to my home State of Montana. I am pleased to join Senator CLINTON in introducing economic development legislation that is targeted to the areas of greatest need, our rural communities.

Our Nation has enjoyed unparalleled economic prosperity during the past decade. However, the boom on Wall Street has not extended to Main Street, MT. The rural areas of America and Montana have endured increased unemployment, the loss of family farms, and the transition from a traditional economy based on natural resources to a new economy where information and technology are highly valued. The effects have been disastrous. Small businesses, which are essential components of community, have been driven under as people have been forced to make the most difficult choice of all and leave their home towns seeking a new and better paying job.

In Montana, the problems are actually worse. Statewide, we are suffering. Comparatively we rank forty-seventh in per-capita personal income and second in the number of people holding more than one job. With such a massive economic down-turn, State and local governments are left unable to assist in this economic transition simply due to a lack of funding. The private sector invests where it can, but there is not a company in existence that could finance the investment necessary to bring essential technology to sparsely populated areas.

Many of our small towns are left without hope because they are faced with no alternative to the current situation. The tools that are necessary to compete in the new economy are just not available to rural communities and the means to attain them do not exist. If rural America is to survive, we are charged with finding a way for these communities to compete on an equal footing with the more populous areas of this country and the world.

That is the intent of the legislative package that we are introducing today. In the same spirit that brought electricity and basic telephone service to our rural communities, we propose a mechanism for bringing broadband capabilities, cutting-edge technology equipment, and incentives for bringing new business to communities and regions that have been left behind.

The issues addressed by this legislation strike to the heart of the most pressing problems in my home State of Montana. Especially in Eastern Montana, the so-called ''Digital Divide'' is very real and presents a significant obstacle to economic growth and prosperity. Specifically, the Broadband Deployment Initiative and the Technology Extension Program will not only provide an incentive to the private sector to bring cutting-edge technology to the most rural areas, they will also provide the technical expertise to allow small and medium businesses to use these new tools to their maximum potential. They will be fully equipped to compete in a global economy.

I look forward to seeing this bipartisan legislation through Congress and enacted into law. I encourage my colleagues to assist us in this endeavor. It is our duty to ensure that all regions of America have a chance to achieve economic prosperity and have access to the necessary instruments of success.

By Mr. DASCHLE (for himself, Mr. JOHNSON and Mr. HAGEL):

S. 434. A bill to provide equitable compensation to the Yankton Sioux Tribe of South Dakota and the Santee Sioux Tribe of Nebraska for the loss of value of certain lands; to the Committee on Indian Affairs.

Mr. DASCHLE. Mr. President, today I am joining with Senators TIM JOHNSON and CHUCK HAGEL to introduce legislation to compensate the Yankton Sioux Tribe of South Dakota and the Santee Sioux Tribe of Nebraska for losses the tribes suffered when the Fort Randall and Gavins Point dams were constructed on the Missouri River over four decades ago.

As a result of the construction of these dams, more than 3,259 acres of land owned by the Yankton Sioux Tribe were flooded or subsequently lost to erosion. Also, approximately 600 acres of land located near the Santee village and 400 acres on the Niobrara Island of the Santee Sioux Tribe Indian Reservation were flooded. The flooding of these fertile lands struck a significant blow to the economies of these tribes, a loss for which they have never been adequately compensated. This legislation attempts to redress that unfortunate reality by providing the tribes resources to rebuild their infrastructure and strengthen their economies.

To appreciate fully the need for this legislation, it is important to understand history. The Fort Randall and Gavins Point dams were constructed in South Dakota pursuant to the Flood Control Act (58 Stat. 887) of 1944. That legislation authorized implementation of the Missouri River Basin Pick-Sloan Plan for water development and flood control for downstream states.

The Fort Randall dam, which was an integral part of the Pick-Sloan project, initially flooded 2,851 acres of tribal

land, forcing the relocation and resettlement of numerous families, including the traditional and self-sustaining community of White Swan, one of the four major settlement areas on the reservation. On other reservations, such as Crow Creek, Lower Brule, Cheyenne River, Standing Rock and Fort Berthold, communities affected by the Pick-Sloan dams were relocated to higher ground. In contract, the White Swan community was completely dissolved and its residents dispersed to whatever areas they could settle and start again.

The bill I am introducing today, the Yankton Sioux Tribe and Santee Sioux Tribe of Nebraska Development Trust Fund Act, follows the precedent established over the last ten years by a series of laws that address similar claims by other tribes in South Dakota for losses caused by the Pick-Sloan dams. In 1992, Congress granted the Three Affiliated Tribes of Fort Berthold Reservation and the Standing Rock Sioux Tribe compensation for direct damages, including lost reservation infrastructure, relocation and resettlement expenses, the general rehabilitation of the tribes and unfulfilled government commitments regarding replacement facilities. In 1996, Congress enacted legislation compensating the Crow Creek tribe for its losses and in 1997 legislation was enacted to compensate the Lower Brule tribe. Last year, the Cheyenne River Sioux Tribe also received compensation.

The Yankton Sioux Tribe and Santee Sioux Tribe have not yet received fair compensation for their losses. Their time has come.

The flooding caused by the Pick-Sloan projects touched every aspect of life on the Yankton and Santee Sioux reservations, as large portions of their communities were forced to relocate wherever they could find shelter. These effects were never fully considered when the federal government was acquiring these lands or designing the Pick-Sloan projects.

The Yankton Sioux Tribe and Santee Sioux Tribe of Nebraska Development Trust Fund Act represents an important element of our continuing effort to compensate fairly the tribes of the Missouri River Basin for the sacrifices they made decades ago for the construction of the dams. Passage of this legislation will not only right a historic wrong, but in doing so it will also improve the lives of Native Americans living on these reservations.

It took decades for Congress to recognize the government's unfulfilled federal obligation to compensate the tribes for the effects of the construction of the Fort Randall and Gavins Point dams. We cannot, of course, reclaim the productive lands lost to those projects which are now covered with water and return them to the tribes. We can, however, help replace the forsaken economic potential of those lands by providing resources to improve the infrastructure on the reservations. This approach, in turn, will enhance opportunities for economic development that will benefit all members of the tribe.

I strongly urge my colleagues to approve the Yankton Sioux Tribe and Santee Sioux Tribe of Nebraska Development Trust Fund Act this year. Providing compensation to the Yankton Sioux Tribe and the Santee Sioux Tribe of Nebraska for past economic harm inflicted by the federal government is long overdue, and further delay only compounds that harm. 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. 434

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Yankton Sioux Tribe and Santee Sioux Tribe Equitable Compensation Act''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) by enacting the Act of December 22, 1944, commonly known as the ''Flood Control Act of 1944'' (58 Stat. 887, chapter 665; 33 U.S.C. 701–1 et seq.) Congress approved the Pick-Sloan Missouri River Basin program (referred to in this section as the ''Pick-Sloan program'')—

(A) to promote the general economic development of the United States;

(B) to provide for irrigation above Sioux City, Iowa;

(C) to protect urban and rural areas from devastating floods of the Missouri River; and

(D) for other purposes;

(2) the waters impounded for the Fort Randall and Gavins Point projects of the Pick-Sloan program have inundated the fertile, wooded bottom lands along the Missouri River that constituted the most productive agricultural and pastoral lands of, and the homeland of, the members of the Yankton Sioux Tribe and the Santee Sioux Tribe;

(3) the Fort Randall project (including the Fort Randall Dam and Reservoir) overlies the western boundary of the Yankton Sioux Tribe Indian Reservation;

(4) the Gavins Point project (including the Gavins Point Dam and Reservoir) overlies the eastern boundary of the Santee Sioux Tribe;

(5) although the Fort Randall and Gavins Point projects are major components of the Pick-Sloan program, and contribute to the economy of the United States by generating a substantial amount of hydropower and impounding a substantial quantity of water, the reservations of the Yankton Sioux Tribe and the Santee Sioux Tribe remain undeveloped;

(6) the United States Army Corps of Engineers took the Indian lands used for the Fort Randall and Gavins Point projects by condemnation proceedings;

(7) the Federal Government did not give Yankton Sioux Tribe and the Santee Sioux Tribe an opportunity to receive compensation for direct damages from the Pick-Sloan program, even though the Federal Government gave 5 Indian reservations upstream from the reservations of those Indian tribes such an opportunity;

(8) the Yankton Sioux Tribe and the Santee Sioux Tribe did not receive just compensation for the taking of productive agricultural Indian lands through the condemnation referred to in paragraph (6);

(9) the settlement agreement that the United States entered into with the Yankton Sioux Tribe and the Santee Sioux Tribe to provide compensation for the taking by condemnation referred to in paragraph (6) did not take into account the increase in property values over the years between the date of taking and the date of settlement; and

(10) in addition to the financial compensation provided under the settlement agreements referred to in paragraph (9)—

(A) the Yankton Sioux Tribe should receive an aggregate amount equal to $23,023,743 for the loss value of 2,851.40 acres of Indian land taken for the Fort Randall Dam and Reservoir of the Pick-Sloan program; and

(B) the Santee Sioux Tribe should receive an aggregate amount equal to $4,789,010 for the loss value of 593.10 acres of Indian land located near the Santee village.

SEC. 3. DEFINITIONS.

In this Act:

(1) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given that term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(2) SANTEE SIOUX TRIBE.—The term ''Santee Sioux Tribe'' means the Santee Sioux Tribe of Nebraska.

(3) YANKTON SIOUX TRIBE.—The term Yankton Sioux Tribe'' means the Yankton Sioux Tribe of South Dakota.

SEC. 4. YANKTON SIOUX TRIBE DEVELOPMENT TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the ''Yankton Sioux Tribe Development Trust Fund'' (referred to in this section as the ''Fund''). The Fund shall consist of any amounts deposited in the Fund under this Act.

(b) FUNDING.—On the first day of the 11th fiscal year that begins after the date of enactment of this Act, the Secretary of the Treasury shall, from the General Fund of the Treasury, deposit into the Fund established under subsection (a)—

(1) $23,023,743; and

(2) an additional amount that equals the amount of interest that would have accrued on the amount described in paragraph (1) if such amount had been invested in interest-bearing obligations of the United States, or in obligations guaranteed as to both principal and interest by the United States, on the first day of the first fiscal year that begins after the date of enactment of this Act and compounded annually thereafter.

(c) INVESTMENT OF TRUST FUND.—It shall be the duty of the Secretary of the Treasury to invest such portion of the Fund as is not, in the Secretary of Treasury's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. The Secretary of the Treasury shall deposit interest resulting from such investments into the Fund.

(d) PAYMENT OF INTEREST TO TRIBE.—

(1) WITHDRAWAL OF INTEREST.—Beginning on the first day of the 11th fiscal year after the date of enactment of this Act and, on the first day of each fiscal year thereafter, the Secretary of the Treasury shall withdraw the

aggregate amount of interest deposited into the Fund for that fiscal year and transfer that amount to the Secretary of the Interior for use in accordance with paragraph (2). Each amount so transferred shall be available without fiscal year limitation.

(2) PAYMENTS TO YANKTON SIOUX TRIBE.—

(A) IN GENERAL.—The Secretary of the Interior shall use the amounts transferred under paragraph (1) only for the purpose of making payments to the Yankton Sioux Tribe, as such payments are requested by that Indian tribe pursuant to tribal resolution.

(B) LIMITATION.—Payments may be made by the Secretary of the Interior under subparagraph (A) only after the Yankton Sioux Tribe has adopted a tribal plan under section 6.

(C) USE OF PAYMENTS BY YANKTON SIOUX TRIBE.—The Yankton Sioux Tribe shall use the payments made under subparagraph (A) only for carrying out projects and programs under the tribal plan prepared under section 6.

(e) TRANSFERS AND WITHDRAWALS.—Except as provided in subsections (c) and (d)(1), the Secretary of the Treasury may not transfer or withdraw any amount deposited under subsection (b).

SEC. 5. SANTEE SIOUX TRIBE DEVELOPMENT TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the ''Santee Sioux Tribe Development Trust Fund'' (referred to in this section as the ''Fund''). The Fund shall consist of any amounts deposited in the Fund under this Act.

(b) FUNDING.—On the first day of the 11th fiscal year that begins after the date of enactment of this Act, the Secretary of the Treasury shall, from the General Fund of the Treasury, deposit into the Fund established under subsection (a)—

(1) $4,789,010; and

(2) an additional amount that equals the amount of interest that would have accrued on the amount described in paragraph (1) if such amount had been invested in interest-bearing obligations of the United States, or in obligations guaranteed as to both principal and interest by the United States, on the first day of the first fiscal year that begins after the date of enactment of this Act and compounded annually thereafter.

(c) INVESTMENT OF TRUST FUND.—It shall be the duty of the Secretary of the Treasury to invest such portion of the Fund as is not, in the Secretary of Treasury's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. The Secretary of the Treasury shall deposit interest resulting from such investments into the Fund.

(d) PAYMENT OF INTEREST TO TRIBE.—

(1) WITHDRAWAL OF INTEREST.—Beginning on the first day of the 11th fiscal year after the date of enactment of this Act and, on the first day of each fiscal year thereafter, the Secretary of the Treasury shall withdraw the aggregate amount of interest deposited into the Fund for that fiscal year and transfer that amount to the Secretary of the Interior for use in accordance with paragraph (2). Each amount so transferred shall be available without fiscal year limitation.

(2) PAYMENTS TO SANTEE SIOUX TRIBE.—

(A) IN GENERAL.—The Secretary of the Interior shall use the amounts transferred under paragraph (1) only for the purpose of making payments to the Santee Sioux Tribe, as such payments are requested by that Indian tribe pursuant to tribal resolution.

(B) LIMITATION.—Payments may be made by the Secretary of the Interior under subparagraph (A) only after the Santee Sioux Tribe has adopted a tribal plan under section 6.

(C) USE OF PAYMENTS BY SANTEE SIOUX TRIBE.—The Santee Sioux Tribe shall use the payments made under subparagraph (A) only for carrying out projects and programs under the tribal plan prepared under section 6.

(e) TRANSFERS AND WITHDRAWALS.—Except as provided in subsections (c) and (d)(1), the Secretary of the Treasury may not transfer or withdraw any amount deposited under subsection (b).

SEC. 6. TRIBAL PLANS.

(a) IN GENERAL.—Not later than 24 months after the date of enactment of this Act, the tribal council of each of the Yankton Sioux and Santee Sioux Tribes shall prepare a plan for the use of the payments to the tribe under section 4(d) or 5(d) (referred to in this subsection as a ''tribal plan'').

(b) CONTENTS OF TRIBAL PLAN.—Each tribal plan shall provide for the manner in which the tribe covered under the tribal plan shall expend payments to the tribe under subsection (d) to promote—

(1) economic development;

(2) infrastructure development;

(3) the educational, health, recreational, and social welfare objectives of the tribe and its members; or

(4) any combination of the activities described in paragraphs (1), (2), and (3).

(c) TRIBAL PLAN REVIEW AND REVISION.—

(1) IN GENERAL.—Each tribal council referred to in subsection (a) shall make available for review and comment by the members of the tribe a copy of the tribal plan for the Indian tribe before the tribal plan becomes final, in accordance with procedures established by the tribal council.

(2) UPDATING OF TRIBAL PLAN.—Each tribal council referred to in subsection (a) may, on an annual basis, revise the tribal plan prepared by that tribal council to update the tribal plan. In revising the tribal plan under this paragraph, the tribal council shall provide the members of the tribe opportunity to review and comment on any proposed revision to the tribal plan.

(3) CONSULTATION.—In preparing the tribal plan and any revisions to update the plan, each tribal council shall consult with the Secretary of the Interior and the Secretary of Health and Human Services.

(4) AUDIT.—

(A) IN GENERAL.—The activities of the tribes in carrying out the tribal plans shall be audited as part of the annual single-agency audit that the tribes are required to prepare pursuant to the Office of Management and Budget circular numbered A–133.

(B) DETERMINATION BY AUDITORS.—The auditors that conduct the audit described in subparagraph (A) shall—

(i) determine whether funds received by each tribe under this section for the period covered by the audits were expended to carry out the respective tribal plans in a manner consistent with this section; and

(ii) include in the written findings of the audits the determinations made under clause (i).

(C) INCLUSION OF FINDINGS WITH PUBLICATION OF PROCEEDINGS OF TRIBAL COUNCIL.—A copy of the written findings of the audits described in subparagraph (A) shall be inserted in the published minutes of each tribal council's proceedings for the session at which the audit is presented to the tribal councils.

(d) PROHIBITION ON PER CAPITA PAYMENTS.—No portion of any payment made under this Act may be distributed to any member of the Yankton Sioux Tribe or the Santee Sioux Tribe of Nebraska on a per capita basis.

SEC. 7. ELIGIBILITY OF TRIBE FOR CERTAIN PROGRAMS AND SERVICES.

(a) IN GENERAL.—No payment made to the Yankton Sioux Tribe or Santee Sioux Tribe pursuant to this Act shall result in the reduction or denial of any service or program to which, pursuant to Federal law—

(1) the Yankton Sioux Tribe or Santee Sioux Tribe is otherwise entitled because of the status of the tribe as a federally recognized Indian tribe; or

(2) any individual who is a member of a tribe under paragraph (1) is entitled because of the status of the individual as a member of the tribe.

(b) EXEMPTIONS FROM TAXATION.—No payment made pursuant to this Act shall be subject to any Federal or State income tax.

(c) POWER RATES.—No payment made pursuant to this Act shall affect Pick-Sloan Missouri River Basin power rates.

SEC. 8. STATUTORY CONSTRUCTION.

Nothing in this Act may be construed as diminishing or affecting any water right of an Indian tribe, except as specifically provided in another provision of this Act, any treaty right that is in effect on the date of enactment of this Act, any authority of the Secretary of the Interior or the head of any other Federal agency under a law in effect on the date of enactment of this Act.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act, including such sums as may be necessary for the administration of the Yankton Sioux Tribe Development Trust Fund under section 4 and the Santee Sioux Tribe of Nebraska Development Trust Fund under section 5.

SEC. 10. EXTINGUISHMENT OF CLAIMS.

Upon the deposit of funds under sections 4(b) and 5(b), all monetary claims that the Yankton Sioux Tribe or the Santee Sioux Tribe of Nebraska has or may have against the United States for loss of value or use of land related to lands described in section 2(a)(10) resulting from the Fort Randall and Gavins Point projects of the Pick-Sloan Missouri River Basin program shall be extinguished.

By Mrs. BOXER (for herself and Mr. GRAMM):

S. 435. A bill to provide that the annual drug certification procedures under the Foreign Assistance Act of 1961 not apply to certain countries with which the United States has bilateral agreements and other plans relating to counterdrug activities, and for other purposes; to the Committee on Foreign Relations.

Mrs. BOXER. Mr. President, over the last several years, Congress has had no good options when it comes to the certification of major drug producing and drug transit countries. This has been most apparent in our annual debate over the certification of Mexico's efforts in combating illicit drugs.

Certifying Mexico has been very difficult to do in light of the upsetting statistics showing that Mexico is a major point of production and transit

for drugs entering the United States. I have also been, and continue to be, concerned about the influence of powerful drug cartels in Mexico. In fact, in 1998, I joined 44 other Senators in voting in favor of decertifying Mexico.

Nevertheless, I join many of my colleagues in the belief that the certification process does not work as it was intended. In some cases, what we have now is the worst of both worlds. The certification process subjects some of our closest allies and trading partners to an annual ritual of finger-pointing and humiliation rather than supporting mutual efforts to control illicit drugs.

Today, Senator GRAMM and I are reintroducing legislation which we hope will lead to a more honest and realistic way of addressing the international drug problem. By replacing confrontation with cooperation, we are encouraging nations to join the United States in fighting drugs while eliminating a process which strains our relations with allies such as Mexico.

Our legislation would exempt from the certification process those countries that have a bilateral agreement with the United States. These agreements would have to address issues relating to the control of illicit drugs—including production, distribution, interdiction, demand reduction, border security, and cooperation among law enforcement agencies.

This alternative will give both countries a way to work together for real goals with real results. Make no mistake, this will not give Mexico or any other country a free pass on fighting illicit drugs. On the contrary, our bill encourages the adoption of tough bilateral agreements. It specifically spells out issues that must be addressed in the agreements.

We specifically require the adoption of ''timetables and objective and measurable standards.'' And we require semi-annual reports assessing the progress of both countries under the bilateral agreement. If progress is not made, the country returns to the annual certification process, which involves the possibility of sanctions.

This issue is particularly important to those of us from border states, which are hit so hard by the traffic in illegal drugs. I look forward to working with my colleagues on a bipartisan and comprehensive solution.

By Mr. KOHL (for himself, Mr. CHAFEE, Mrs. BOXER, Mr. DURBIN, Mr. SCHUMER, Mr. REED, Mr. KERRY, and Mr. CORZINE):

S. 436. A bill to amend chapter 44 of title 18, United States Code, to require the provision of a child safety lock in connection with the transfer of a handgun and provide safety standards for child safety locks; to the Committee on the Judiciary.

Mr. KOHL. Mr. President, today I introduce the Child Safety Lock Act of 2001, along with Senators CHAFEE, DURBIN, SCHUMER, REED, CORZINE, BOXER and KERRY. Our bipartisan measure will save children's lives by reducing the senseless tragedies that result when children get their hands on improperly stored and unlocked handguns.

Each year, teenagers and children are involved in more than 10,000 accidental shootings in which close to 800 people die. In addition, every year 1,300 children use firearms to commit suicide. Safety locks can be effective in deterring some of these incidents and in preventing others.

The sad truth is that we are inviting disaster every time an unlocked gun is stored but is still easily accessible to children. In fact, guns are kept in 43 percent of American households with children. In 23 percent of the gun households, the guns are kept loaded. And, in one out of every eight of those homes the guns are left unlocked.

That is wrong. It is unacceptable. But these cold statistics do not begin to describe in human terms the daily tragedies that could be prevented by the use of a safety lock.

Take, for example, the story of a teenage girl in Milwaukee last year who was killed when the gun her boyfriend found accidentally went off, shooting her in the chest. A lock certainly would have prevented this tragedy. A lock would have also saved both the three-year-old in New Orleans who shot himself in the head with his mother's gun two months ago or the two-year-old boy who shot himself in the forehead with his mother's pistol in Pennsylvania last October. Of course, no one will ever forget the story of six-year-old Kayla Rolland in Michigan killed last year by a classmate who had brought a gun to school. The stories could go on for pages, each more tragic than the last, but the most tragic fact of all is that many of them were entirely preventable.

Our legislation will help address this problem. It is simple, effective and straightforward. It requires that a child safety device, or trigger lock, be sold with every handgun. These devices vary in form, but the most common resemble a padlock that wraps around the gun trigger and immobilizes it. Trigger locks are already used by tens of thousands of responsible gun owners to protect their firearms from unauthorized use, and they can be purchased in virtually any gun store for less than ten dollars.

This year, for the first time, this child safety lock bill includes standards for the safety locks, building on the work of Senator KERRY on this issue. A recent study by the Consumer Product Safety Commission and a recent recall by the safety lock manufacturers conclusively demonstrates that child safety locks are not being made well enough. A lock that is easily picked or one that breaks apart with little force defeats the safety purpose of this bill. We wouldn't use a lock that is less than foolproof to guard our most valuable possessions. We shouldn't use defective locks to protect what is most valuable to us—our children.

A child safety lock provision passed the Senate by an overwhelming vote of 78–20 last session as an amendment during the juvenile justice debate. This proposal is as popular with the rest of the country and the law enforcement community as it was with the last Senate. Polls show that between 75 and 80 percent of the American public, including gun owners, favor the mandatory sale of child safety locks with guns. When I surveyed almost 500 of Wisconsin's police chiefs and sheriffs last summer, approximately 90 percent responded that child safety locks should be sold with each gun.

In addition, according to published reports from last year's campaign, President Bush indicated that he supports the idea of mandatory child safety locks and would sign a bill that required the sale of a child safety lock with all new handguns. Attorney General Ashcroft confirmed that the administration supports the mandatory sale of child safety locks during his confirmation hearings before the Senate Judiciary Committee earlier this year.

This legislation is necessary to ensure that safety locks are provided with all handguns and to keep the pressure on handgun manufacturers to put safety first. We already protect children by requiring that seat belts be installed in all automobiles and that childproof safety caps be provided on medicine bottles. We should be no less vigilant when it comes to gun safety.

I ask unanimous consent that the full 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. 436

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Child Safety Lock Act of 2001''.

SEC. 2. REQUIREMENT OF CHILD HANDGUN SAFETY LOCKS.

(a) DEFINITIONS.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

''(35) The term 'locking device' means a device or locking mechanism—

''(A) that—

''(i) if installed on a firearm and secured by means of a key or a mechanically, electronically, or electromechanically operated combination lock, is designed to prevent the firearm from being discharged without first deactivating or removing the device by means of a key or mechanically, electronically, or electromechanically operated combination lock;

''(ii) if incorporated into the design of a firearm, is designed to prevent discharge of

the firearm by any person who does not have access to the key or other device designed to unlock the mechanism and thereby allow discharge of the firearm; or

''(iii) is a safe, gun safe, gun case, lock box, or other device that is designed to store a firearm and that is designed to be unlocked only by means of a key, a combination, or other similar means; and

''(B) that is approved by a licensed firearms manufacturer for use on the handgun with which the device or locking mechanism is sold, delivered, or transferred.''.

(b) UNLAWFUL ACTS.—

(1) IN GENERAL.—Section 922 of title 18, United States Code, is amended by inserting after subsection (y) the following:

''(z) LOCKING DEVICES.—

''(1) IN GENERAL.—Except as provided in paragraph (2), it shall be unlawful for any licensed manufacturer, licensed importer, or licensed dealer to sell, deliver, or transfer any handgun to any person other than a licensed manufacturer, licensed importer, or licensed dealer, unless the transferee is provided with a locking device for that handgun.

''(2) EXCEPTIONS.—Paragraph (1) does not apply to—

''(A) the—

''(i) manufacture for, transfer to, or possession by, the United States or a State or a department or agency of the United States, or a State or a department, agency, or political subdivision of a State, of a firearm; or

''(ii) transfer to, or possession by, a law enforcement officer employed by an entity referred to in clause (i) of a firearm for law enforcement purposes (whether on or off duty); or

''(B) the transfer to, or possession by, a rail police officer employed by a rail carrier and certified or commissioned as a police officer under the laws of a State of a firearm for purposes of law enforcement (whether on or off duty).''.

(2) EFFECTIVE DATE.—Section 922(y) of title 18, United States Code, as added by this subsection, shall take effect 180 days after the date of enactment of this Act.

(c) LIABILITY; EVIDENCE.—

(1) LIABILITY.—Nothing in this section shall be construed to—

(A) create a cause of action against any firearms dealer or any other person for any civil liability; or

(B) establish any standard of care.

(2) EVIDENCE.—Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with the amendments made by this section shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity, except with respect to an action to enforce this section.

(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to bar a governmental action to impose a penalty under section 924(p) of title 18, United States Code, for a failure to comply with section 922(y) of that title.

(d) CIVIL PENALTIES.—Section 924 of title 18, United States Code, is amended—

(1) in subsection (a)(1), by striking ''or (f)'' and inserting ''(f), or (p)''; and

(2) by adding at the end the following:

''(p) PENALTIES RELATING TO LOCKING DEVICES.—

''(1) IN GENERAL.—

''(A) SUSPENSION OR REVOCATION OF LICENSE; CIVIL PENALTIES.—With respect to each violation of section 922(y)(1) by a licensee, the Secretary may, after notice and opportunity for hearing—

''(i) suspend or revoke any license issued to the licensee under this chapter; or

''(ii) subject the licensee to a civil penalty in an amount equal to not more than $10,000.

''(B) REVIEW.—An action of the Secretary under this paragraph may be reviewed only as provided in section 923(f).

''(2) ADMINISTRATIVE REMEDIES.—The suspension or revocation of a license or the imposition of a civil penalty under paragraph (1) does not preclude any administrative remedy that is otherwise available to the Secretary.''.

SEC. 3. AMENDMENT OF CONSUMER PRODUCT SAFETY ACT.

(a) IN GENERAL.—The Consumer Product Safety Act (15 U.S.C. 2051 et seq.) is amended by adding at the end thereof the following:

''SEC. 38. CHILD HANDGUN SAFETY LOCKS.

''(a) ESTABLISHMENT OF STANDARD.—

''(1) IN GENERAL.—

''(A) RULEMAKING REQUIRED.—Notwithstanding section 3(a)(1)(E) of this Act, the Commission shall initiate a rulemaking proceeding under section 553 of title 5, United States Code, within 90 days after the date of enactment of the Child Safety Lock Act of 2001 to establish a consumer product safety standard for locking devices. The Commission may extend the 90-day period for good cause. Notwithstanding any other provision of law, including chapter 5 of title 5, United States Code, the Commission shall promulgate a final consumer product safety standard under this paragraph within 12 months after the date on which it initiated the rulemaking. The Commission may extend that 12-month period for good cause. The consumer product safety standard promulgated under this paragraph shall take effect 6 months after the date on which the final standard is promulgated.

''(B) STANDARD REQUIREMENTS.—The standard promulgated under subparagraph (A) shall require locking devices that—

''(i) are sufficiently difficult for children to de-activate or remove; and

''(ii) prevent the discharge of the handgun unless the locking device has been de-activated or removed.

''(2) CERTAIN PROVISIONS NOT TO APPLY.—

''(A) PROVISIONS OF THIS ACT.—Sections 7, 9, and 30(d) of this Act do not apply to the rulemaking proceeding under paragraph (1). Section 11 of this Act does not apply to any consumer product safety standard promulgated under paragraph (1).

''(B) CHAPTER 5 OF TITLE 5.—Except for section 553, chapter 5 of title 5, United States Code, does not apply to this section.

''(C) CHAPTER 6 OF TITLE 5.—Chapter 6 of title 5, United States Code, does not apply to this section.

''(D) NATIONAL ENVIRONMENTAL POLICY ACT.—The National Environmental Policy Act of 1969 (42 U.S.C. 4321) does not apply to this section.

''(b) NO EFFECT ON STATE LAW.—Notwithstanding section 26 of this Act, this section does not annul, alter, impair, affect, or exempt any person subject to the provisions of this section from complying with any provision of the law of any State or any political subdivision thereof, except to the extent that such provisions of State law are inconsistent with any provision of this section, and then only to the extent of the inconsistency. A provision of State law is not inconsistent with this section if such provision affords greater protection to children in respect of handguns than is afforded by this section.

''(c) ENFORCEMENT.—Notwithstanding subsection (a)(2)(A), the consumer product safety standard promulgated by the Commission under subsection (a) shall be enforced under this Act as if it were a consumer product safety standard described in section 7(a).

''(d) DEFINITIONS.—In this section:

''(1) CHILD.—The term 'child' means an individual who has not attained the age of 13 years.

''(2) LOCKING DEVICE.—The term 'locking device' has the meaning given that term in clauses (i) and (iii) of section 921(a)(35)(A) of title 18, United States Code.''.

(b) CONFORMING AMENDMENT.—Section 1 of the Consumer Product Safety Act is amended by adding at the end of the table of contents the following:

''Sec. 38. Child handgun safety locks.''.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Consumer Product Safety Commission $2,000,000 to carry out the provisions of section 38 of the Consumer Product Safety Act, such sums to remain available until expended.

By Mr. DEWINE (for himself, Mr. DODD, Mrs. MURRAY, and Mr. GRASSLEY):

S. 437. A bill to revise and extend the Safe and Drug-Free Schools and Communities Act of 1994; to the Committee on Health, Education, Labor, and Pensions.

Mr. DEWINE. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 437

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Safe and Drug-Free Schools and Communities Reauthorization Act''.

SEC. 2. AMENDMENT TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.

Title IV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7101 et seq.) is amended to read as follows:

''TITLE IV—SAFE AND DRUG-FREE SCHOOLS AND COMMUNITIES

''SEC. 4001. SHORT TITLE.

''This part may be cited as the 'Safe and Drug-Free Schools and Communities Act of 1994'.

''SEC. 4002. FINDINGS.

''Congress makes the following findings:

''(1) Every student should attend a school in a drug- and violence-free learning environment.

''(2) The widespread illegal use of alcohol and drugs among the Nation's secondary school students, and increasingly by students in elementary schools as well, constitutes a grave threat to such students' physical and mental well-being, and significantly impedes the learning process. For example, data show that students who drink tend to receive lower grades and are more likely to miss school because of illness than students who do not drink.

''(3) Drug and violence prevention programs are essential components of a comprehensive strategy to promote school safety, youth development, positive school outcomes, and to reduce the demand for and illegal use of alcohol, tobacco and drugs throughout the Nation. Schools, local organizations, parents, students, and communities throughout the Nation have a special

responsibility to work together to combat the continuing epidemic of violence and illegal drug use and should measure the success of their programs against clearly defined goals and objectives.

''(4) Drug and violence prevention programs are most effective when implemented within a research-based, drug and violence prevention framework of proven effectiveness.

''(5) Research clearly shows that community contexts contribute to substance abuse and violence.

''(6) Substance abuse and violence are intricately related and must be dealt with in a holistic manner.

''(7) Research has documented that parental behavior and environment directly influence a child's inclination to use alcohol, tobacco or drugs.

''SEC. 4003. PURPOSE.

''The purpose of this part is to support programs that prevent violence in and around schools and prevent the illegal use of alcohol, tobacco, and drugs, involve parents, and are coordinated with related Federal, State, school, and community efforts and resources, through the provision of Federal assistance to—

''(1) States for grants to local educational agencies and educational service agencies and consortia of such agencies to establish, operate, and improve local programs of school drug and violence prevention, early intervention, rehabilitation referral, and education in elementary and secondary schools for the development and implementation of policies that set clear and appropriate standards regarding the illegal use of alcohol, tobacco and drugs, and for violent behavior (including intermediate and junior high schools);

''(2) States for grants to, and contracts with, community-based organizations and other public and private nonprofit agencies and organizations for programs of drug and violence prevention including community mobilization, early intervention, rehabilitation referral, and education;

''(3) States for development, training, technical assistance, and coordination activities; and

''(4) public and private nonprofit organizations to provide technical assistance, conduct training, demonstrations, and evaluation, and to provide supplementary services and community mobilization activities for the prevention of drug use and violence among students and youth.

''SEC. 4004. FUNDING.

''There are authorized to be appropriated—

''(1) $700,000,000 for fiscal year 2002, and such sums as may be necessary for each of the 4 succeeding fiscal years, for State grants under part A;

''(2) $150,000,000 for fiscal year 2002, and such sums as may be necessary for each of the 4 succeeding fiscal years, for national programs under part B; and

''(3) $75,000,000 for fiscal year 2002, and such sums as may be necessary for each of the 4 succeeding fiscal years, for the National Coordinator Initiative under section 4122.

''PART A—STATE GRANTS FOR DRUG AND VIOLENCE PREVENTION PROGRAMS

''SEC. 4111. RESERVATIONS AND ALLOTMENTS.

''(a) RESERVATIONS.—From the amount made available under section 4004(1) to carry out this part for each fiscal year, the Secretary—

''(1) shall reserve 1 percent of such amount for grants under this part to Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands, to be allotted in accordance with the Secretary's determination of their respective needs;

''(2) shall reserve 1 percent of such amount for the Secretary of the Interior to carry out programs under this part for Indian youth;

''(3) may reserve not more than $2,000,000 for the national impact evaluation required by section 4117(a); and

''(4) shall reserve 0.2 percent of such amount for programs for Native Hawaiians under section 4118.

''(b) STATE ALLOTMENTS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall, for each fiscal year, allocate among the States—

''(A) one-half of the remainder not reserved under subsection (a) according to the ratio between the school-aged population of each State and the school-aged population of all the States; and

''(B) one-half of such remainder according to the ratio between the amount each State received under section 1124A for the preceding year and the sum of such amounts received by all the States.

''(2) MINIMUM.—For any fiscal year, no State shall be allotted under this subsection an amount that is less than one-half of 1 percent of the total amount allotted to all the States under this subsection.

''(3) REALLOTMENT.—The Secretary may reallot any amount of any allotment to a State if the Secretary determines that the State will be unable to use such amount within 2 years of such allotment. Such reallotments shall be made on the same basis as allotments are made under paragraph (1).

''(4) DEFINITIONS.—In this subsection:

''(A) STATE.—The term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

''(B) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' includes educational service agencies and consortia of such agencies.

''(c) LIMITATION.—Amounts appropriated under section 4004(2) for a fiscal year may not be increased above the amounts appropriated under such section for the previous fiscal year unless the amounts appropriated under section 4004(1) for the fiscal year involved are at least 10 percent greater that the amounts appropriated under such section 4004(1) for the previous fiscal year.

''SEC. 4112. STATE APPLICATIONS.

''(a) IN GENERAL.—In order to receive an allotment under section 4111 for any fiscal year, a State shall submit to the Secretary, at such time as the Secretary may require, an application that—

''(1) contains a comprehensive plan for the use of funds by the State educational agency and the chief executive officer to provide safe, orderly, and drug-free schools and communities;

''(2) contains the results of the State's needs assessment for drug and violence prevention programs, which shall be based on the results of on-going State evaluation activities, including data on the incidence and prevalence, age of onset, perception of health risk, and perception of social disapproval of drug use and violence by youth in schools and communities and the prevalence of risk or protective factors, buffers or assets or other research-based variables in the school and community;

''(3) contains assurances that the sections of the application concerning the funds provided to the chief executive officer and the State educational agency were developed together, with each such officer or State representative, in consultation and coordination with appropriate State officials and others, including the chief State school officer, the chief executive officer, the head of the State alcohol and drug abuse agency, the heads of the State health and mental health agencies, the head of the State criminal justice planning agency, the head of the State child welfare agency, the head of the State board of education, or their designees, and representatives of parents, students, and community-based organizations;

''(4) contains an assurance that the State will cooperate with, and assist, the Secretary in conducting a national impact evaluation of programs required by section 4117(a);

''(5) contains assurances that the State education agency and the Governor will develop their respective applications in consultation with an advisory council that includes, to the extent practicable, representatives from school districts, businesses, parents, youth, teachers, administrators, pupil services personnel, private schools, appropriate State agencies, community-based organization, the medical profession, law enforcement, the faith-based community and other groups with interest and expertise in alcohol, tobacco, drug, and violence prevention;

''(6) contains assurances that the State education agency and the Governor involve the representatives described in paragraph (5), on an ongoing basis, to review program evaluations and other relevant material and make recommendations to the State education agency and the Governor on how to improve their respective alcohol, tobacco, drug, and violence prevention programs;

''(7) contains a list of the State's results-based performance measures for drug and violence prevention, that shall—

''(A) be focused on student behavior and attitudes and be derived from the needs assessment;

''(B) include targets and due dates for the attainment of such performance measures; and

''(C) include a description of the procedures that the State will use to inform local educational agencies of such performance measures for assessing and publicly reporting progress toward meeting such measures or revising them as needed; and

''(8) includes any other information the Secretary may require.

''(b) STATE EDUCATIONAL AGENCY FUNDS.—A State's application under this section shall also contain a comprehensive plan for the use of funds under section 4113(a) by the State educational agency that includes—

''(1) a plan for monitoring the implementation of, and providing technical assistance regarding, the drug and violence prevention programs conducted by local educational agencies in accordance with section 4116

''(2) a description of how the State educational agency will use funds under section 4113(b), including how the agency will receive input from parents regarding the use of such funds;

''(3) a description of how the State educational agency will coordinate such agency's activities under this part with the chief executive officer's drug and violence prevention programs under this part and with the prevention efforts of other State agencies; and

''(4) a description of the procedures the State educational agency will use to review applications from and allocate funding to local educational agencies under section 4115 and how such review will receive input from parents.

''(c) GOVERNOR'S FUNDS.—A State's application under this section shall also contain a comprehensive plan for the use of funds under section 4114(a) by the chief executive officer that includes, with respect to each activity to be carried out by the State—

''(1) a description of how the chief executive officer will coordinate such officer's activities under this part with the State educational agency and other State agencies and organizations involved with drug and violence prevention efforts;

''(2) a description of how funds reserved under section 4114(a) will be used so as not to duplicate the efforts of the State educational agency and local educational agencies with regard to the provision of school-based prevention efforts and services and how those funds will be used to serve populations not normally served by the State educational agency, such as school dropouts and youth in detention centers;

''(3) a description of how the chief executive officer will award funds under section 4114(a) and a plan for monitoring the performance of, and providing technical assistance to, recipients of such funds;

''(4) a description of the special outreach activities that will be carried out to maximize the participation of community-based nonprofit organizations of demonstrated effectiveness which provide services in low-income communities;

''(5) a description of how funds will be used to support community-wide comprehensive drug and violence prevention planning and community mobilization activities; and

''(6) a specific description of how input from parents will be sought regarding the use of funds under section 4114(a).

''(d) PEER REVIEW.—The Secretary shall use a peer review process in reviewing State applications under this section.

''(e) INTERIM APPLICATION.—Notwithstanding any other provisions of this section, a State may submit for fiscal year 2001 a 1-year interim application and plan for the use of funds under this part that are consistent with the requirements of this section and contain such information as the Secretary may specify in regulations. The purpose of such interim application and plan shall be to afford the State the opportunity to fully develop and review such State's application and comprehensive plan otherwise required by this section. A State may not receive a grant under this part for a fiscal year subsequent to fiscal year 2001 unless the Secretary has approved such State's application and comprehensive plan in accordance with this part.

''SEC. 4113. STATE AND LOCAL EDUCATIONAL AGENCY PROGRAMS.

''(a) USE OF FUNDS.—An amount equal to 80 percent of the total amount allocated to a State under section 4111 for each fiscal year shall be used by the State educational agency and its local educational agencies for drug and violence prevention activities in accordance with this section.

''(b) STATE LEVEL PROGRAMS.—

''(1) IN GENERAL.—A State educational agency shall use not more than 5 percent of the amount available under subsection (a) for activities such as—

''(A) voluntary training and technical assistance concerning drug and violence prevention for local educational agencies and educational service agencies, including teachers, administrators, coaches and athletic directors, other staff, parents, students, community leaders, health service providers, local law enforcement officials, and judicial officials;

''(B) the development, identification, dissemination, and evaluation of the most readily available, accurate, and up-to-date drug and violence prevention curriculum materials (including videotapes, software, and other technology-based learning resources), for consideration by local educational agencies;

''(C) making available to local educational agencies cost effective research-based programs for youth violence and drug abuse prevention;

''(D) demonstration projects in drug and violence prevention, including service-learning projects;

''(E) training, technical assistance, and demonstration projects to address violence associated with prejudice and intolerance;

''(F) financial assistance to enhance resources available for drug and violence prevention in areas serving large numbers of economically disadvantaged children or sparsely populated areas, or to meet other special needs consistent with the purposes of this part; and

''(G) the evaluation of activities carried out within the State under this part.

''(2) SPECIAL RULE.—A State educational agency may carry out activities under this subsection directly, or through grants or contracts.

''(c) STATE ADMINISTRATION.—

''(1) IN GENERAL.—A State educational agency may use not more than 5 percent of the amount reserved under subsection (a) for the administrative costs of carrying out its responsibilities under this part.

''(2) UNIFORM MANAGEMENT INFORMATION AND REPORTING SYSTEM.—In carrying out its responsibilities under this part, a State shall implement a uniform management information and reporting system that includes information on the types of curricula, programs and services provided by the State, Governor, local education agencies, and other recipients of funds under this title.

''(d) LOCAL EDUCATIONAL AGENCY PROGRAMS.—

''(1) IN GENERAL.—A State educational agency shall distribute not less than 91 percent of the amount made available under subsection (a) for each fiscal year to local educational agencies in accordance with this subsection.

''(2) DISTRIBUTION.—A State educational agency shall distribute amounts under paragraph (1) in accordance with any one of the following subparagraphs:

''(A) ENROLLMENT AND COMBINATION APPROACH.—Of the amount distributed under paragraph (1), a State educational agency shall distribute

''(i) at least 70 percent of such amount to local educational agencies, based on the relative enrollments in public and private nonprofit elementary and secondary schools within the boundaries of such agencies; and

''(ii) not to exceed 30 percent of any amounts remaining after amounts are distributed under clause (i)—

''(I) to each local educational agency in an amount determined appropriate by the State education agency; or

''(II) to local educational agencies that the State education agency determines have the greatest need for additional funds to carry out drug and violence prevention programs authorized by this part.

''(B) COMPETITIVE AND NEED APPROACH.—Of the amount distributed under paragraph (1), a State educational agency shall distribute

''(i) not to exceed 70 percent of such amount to local educational agencies that the State agency determines, through a competitive process, have the greatest need for funds to carry out drug and violence prevention programs based on criteria established by the State agency and authorized under this part; and

''(ii) at least 30 percent of any amounts remaining after amounts are distributed under clause (i) to local education agencies that the State agency determines have a need for additional funds to carry out the program authorized under this part.

''(3) CONSIDERATION OF OBJECTIVE DATA.—For purposes of paragraph (2), in determining which local educational agencies have the greatest need for funds, the State educational agency shall consider objective data which may include—

''(A) high or increasing rates of alcohol or drug use among youth;

''(B) high or increasing rates of victimization of youth by violence and crime;

''(C) high or increasing rates of arrests and convictions of youth for violent or drug- or alcohol-related crime;

''(D) the extent of illegal gang activity;

''(E) high or increasing incidence of violence associated with prejudice and intolerance;

''(F) high or increasing rates of referrals of youths to drug and alcohol abuse treatment and rehabilitation programs;

''(G) high or increasing rates of referrals of youths to juvenile court;

''(H) high or increasing rates of expulsions and suspensions of students from schools;

''(I) high or increasing rates of reported cases of child abuse and domestic violence; and

''(J) high or increasing rates of drug related emergencies or deaths.

''(e) REALLOCATION OF FUNDS.—If a local educational agency chooses not to apply to receive the amount allocated to such agency under subsection (d), or if such agency's application under section 4115 is disapproved by the State educational agency, the State educational agency shall reallocate such amount to one or more of its other local educational agencies.

''(f) RETURN OF FUNDS TO STATE EDUCATIONAL AGENCY; REALLOCATION.—

''(1) RETURN.—Except as provided in paragraph (2), upon the expiration of the 1-year period beginning on the date that a local educational agency or educational service agency under this title receives its allocation under this title—

''(A) such agency shall return to the State educational agency any funds from such allocation that remain unobligated; and

''(B) the State educational agency shall reallocate any such amount to local educational agencies or educational service agencies that have plans for using such amount for programs or activities on a timely basis.

''(2) REALLOCATION.—In any fiscal year, a local educational agency, may retain for obligation in the succeeding fiscal year—

''(A) an amount equal to not more than 25 percent of the allocation it receives under this title for such fiscal year; or

''(B) upon a demonstration of good cause by such agency or consortium, a greater amount approved by the State educational agency.

''SEC. 4114. GOVERNOR'S PROGRAMS.

''(a) USE OF FUNDS.—

''(1) IN GENERAL.—An amount equal to 20 percent of the total amount allocated to a State under section 4111(b)(1) for each fiscal year shall be used by the chief executive officer of such State for drug and violence prevention programs and activities in accordance with this section.

''(2) ADMINISTRATIVE COSTS.—A chief executive officer may use not more than 5 percent of the 20 percent described in paragraph (1) for the administrative costs incurred in carrying out the duties of such officer under this section. The chief executive officer of a State may use amounts under this paragraph to award grants to State, county, or local law enforcement agencies, including district attorneys, in consultation with local education agencies or community-based agencies, for the purposes of carrying out drug abuse and violence prevention activities.

''(b) STATE PLAN.—Amounts shall be used under this section in accordance with a State plan submitted by the chief executive office of the State. Such State plan shall contain—

''(1) an objective analysis of the current use (and consequences of such use) of alcohol, tobacco, and controlled, illegal, addictive or harmful substances as well as the violence, safety, and discipline problems among students who attend schools in the State (including private school students who participate in the States's drug and violence prevention programs) that is based on ongoing local assessment or evaluation activities;

''(2) an analysis, based on data reasonably available at the time, of the prevalence of risk or protective factors, buffers or assets or other research-based variables in schools and communities in the State;

''(3) a description of the research-based strategies and programs, which shall be used to prevent or reduce drug use, violence, or disruptive behavior, which shall include—

''(A) a specification of the objectively measurable goals, objectives, and activities for the program;

''(B) a specification for how risk factors, if any, which have been identified will be targeted through research-based programs; and

''(C) a specification for how protective factors, buffers, or assets, if any, will be targeted through research-based programs;

''(4) a specification for the method or methods by which measurements of program goals will be achieved; and

''(5) a specification for how the evaluation of the effectiveness of the prevention program will be assessed and how the results will be used to refine, improve, and strengthen the program.

''(c) PROGRAMS AUTHORIZED.—

''(1) IN GENERAL.—A chief executive officer shall use funds made available under subsection (a)(1) directly for grants to or contracts with parent groups, schools, community action and job training agencies, community-based organizations, community anti-drug coalitions, law enforcement education partnerships, and other public entities and private nonprofit organizations and consortia thereof. In making such grants and contracts, a chief executive officer shall give priority to programs and activities described in subsection (d) for—

''(A) children and youth who are not normally served by State or local educational agencies; or

''(B) populations that need special services or additional resources (such as preschoolers, youth in juvenile detention facilities, runaway or homeless children and youth, pregnant and parenting teenagers, and school dropouts).

''(2) PEER REVIEW.—Grants or contracts awarded under this subsection shall be subject to a peer review process.

''(d) AUTHORIZED ACTIVITIES.—Grants and contracts under subsection (c) shall be used to carry out the comprehensive State plan as required under section 4112(a)(1) through programs and activities such as—

''(1) disseminating information about drug and violence prevention;

''(2) the voluntary training of parents, law enforcement officials, judicial officials, social service providers, health service providers and community leaders about drug and violence prevention, health education (as it relates to drug and violence prevention), early intervention, pupil services, or rehabilitation referral;

''(3) developing and implementing comprehensive, community-based drug and violence prevention programs that link community resources with schools and integrate services involving education, vocational and job skills training and placement, law enforcement, health, mental health, community service, service-learning, mentoring, and other appropriate services;

''(4) planning and implementing drug and violence prevention activities that coordinate the efforts of State agencies with efforts of the State educational agency and its local educational agencies;

''(5) activities to protect students traveling to and from school;

''(6) before-and-after school recreational, instructional, cultural, and artistic programs that encourage drug- and violence-free lifestyles;

''(7) activities that promote the awareness of and sensitivity to alternatives to violence through courses of study that include related issues of intolerance and hatred in history;

''(8) developing and implementing activities to prevent and reduce violence associated with prejudice and intolerance;

''(9) developing and implementing strategies to prevent illegal gang activity;

''(10) coordinating and conducting school and community-wide violence and safety and drug abuse assessments and surveys;

''(11) service-learning projects that encourage drug- and violence-free lifestyles;

''(12) evaluating programs and activities assisted under this section;

''(13) developing and implementing community mobilization activities to undertake environmental change strategies related to substance abuse and violence; and

''(14) partnerships between local law enforcement agencies, including district attorneys, and local education agencies or community-based agencies.

''SEC. 4115. LOCAL APPLICATIONS.

''(a) APPLICATION REQUIRED.—

''(1) IN GENERAL.—In order to be eligible to receive a distribution under section 4113(d) for any fiscal year, a local educational agency shall submit, at such time as the State educational agency requires, an application to the State educational agency for approval. Such an application shall be amended, as necessary, to reflect changes in the local educational agency's program.

''(2) DEVELOPMENT.—

''(A) CONSULTATION.—A local educational agency shall develop its application under subsection (a)(1) in consultation with a local or substate regional advisory council that includes, to the extent possible, representatives of local government, business, parents, students, teachers, pupil services personnel, appropriate State agencies, private schools, the medical profession, law enforcement, community-based organizations, and other groups with interest and expertise in drug and violence prevention.

''(B) DUTIES OF ADVISORY COUNCIL.—In addition to assisting the local educational agency to develop an application under this section, the advisory council established or designated under subparagraph (A) shall, on an ongoing basis—

''(i) disseminate information about research-based drug and violence prevention programs, projects, and activities conducted within the boundaries of the local educational agency;

''(ii) advise the local educational agency regarding how best to coordinate such agency's activities under this part with other related programs, projects, and activities;

''(iii) ensure that a mechanism is in place to enable local educational agencies to have access to up-to-date information concerning the agencies that administer related programs, projects, and activities and any changes in the law that alter the duties of the local educational agencies with respect to activities conducted under this part; and

''(iv) review program evaluations and other relevant material and make recommendations on an active and ongoing basis to the local educational agency on how to improve such agency's drug and violence prevention programs.

''(b) CONTENTS OF APPLICATIONS.—An application under this section shall contain—

''(1) an objective analysis of the current use (and consequences of such use) of alcohol, tobacco, and controlled, illegal, addictive or harmful substances as well as the violence, safety, and discipline problems among students who attend the schools of the applicant (including private school students who participate in the applicant's drug and violence prevention program) that is based on ongoing local assessment or evaluation activities;

''(2) an analysis, based on data reasonably available at the time, of the prevalence of risk or protective factors, buffers or assets or other research-based variables in the school and community;

''(3) a description of the research-based strategies and programs, which shall be used to prevent or reduce drug use, violence, or disruptive behavior, which shall include—

''(A) a specification of the objectively measurable goals, objectives, and activities for the program, which shall include—

''(i) reductions in the use of alcohol, tobacco, and illicit drugs and violence by youth;

''(ii) specific reductions in the prevalence of identified risk factors;

''(iii) specific increases in the prevalence of protective factors, buffers, or assets if any have been identified; or

''(iv) other research-based goals, objectives, and activities that are identified as part of the application that are not otherwise covered under clauses (i) through (iii);

''(B) a specification for how risk factors, if any, which have been identified will be targeted through research-based programs; and

''(C) a specification for how protective factors, buffers, or assets, if any, will be targeted through research-based programs;

''(4) a specification for the method or methods by which measurements of program goals will be achieved;

''(5) a specification for how the evaluation of the effectiveness of the prevention program will be assessed and how the results will be used to refine, improve, and strengthen the program;

''(6) an assurance that the applicant has, or the schools to be served have, a plan for keeping schools safe and drug-free that includes—

''(A) appropriate and effective discipline policies that prohibit disorderly conduct, the possession of firearms and other weapons, and the illegal use, possession, distribution, and sale of tobacco, alcohol, and other drugs by students;

''(B) security procedures at school and while students are on the way to and from school;

''(C) prevention activities that are designed to create and maintain safe, disciplined, and drug-free environments; and

''(D) a crisis management plan for responding to violent or traumatic incidents on school grounds; and

''(7) such other information and assurances as the State educational agency may reasonably require.

''(c) REVIEW OF APPLICATION.—

''(1) IN GENERAL.—In reviewing local applications under this section, a State educational agency shall use a peer review process or other methods of assuring the quality of such applications.

''(2) CONSIDERATIONS.—

''(A) IN GENERAL.—In determining whether to approve the application of a local educational agency under this section, a State educational agency shall consider the quality of the local educational agency's comprehensive plan under subsection (b)(6) and the extent to which the proposed plan provides a thorough assessment of the substance abuse and violence problem, uses objective data and the knowledge of a wide range of community members, develops measurable goals and objectives, and implements research-based programs that have been shown to be effective and meet identified needs.

''(B) DISAPPROVAL.—A State educational agency may disapprove a local educational agency application under this section in whole or in part and may withhold, limit, or place restrictions on the use of funds allotted to such a local educational agency in a manner the State educational agency determines will best promote the purposes of this part, except that a local educational agency shall be afforded an opportunity to appeal any such disapproval.

''SEC. 4116. LOCAL DRUG AND VIOLENCE PREVENTION PROGRAMS.

''(a) PROGRAM REQUIREMENTS.—A local educational agency shall use funds received under this part to adopt and carry out a comprehensive drug and violence prevention program which shall—

''(1) be designed, for all students and school employees, to—

''(A) prevent the use, possession, and distribution of tobacco, alcohol, and illegal drugs by students and to prevent the illegal use, possession, and distribution of such substances by school employees;

''(B) prevent violence and promote school safety; and

''(C) create a disciplined environment conducive to learning;

''(2) include activities to promote the involvement of parents and coordination with community groups and agencies, including the distribution of information about the local educational agency's needs, goals, and programs under this part;

''(3) implement activities which shall only include—

''(A) a thorough assessment of the substance abuse violence problem, using objective data and the knowledge of a wide range of community members;

''(B) the development of measurable goals and objectives;

''(C) the implementation of research-based programs that have been shown to be effective and meet identified goals; and

''(D) an evaluation of program activities; and

''(4) implement prevention programming activities within the context of a research-based prevention framework.

''(b) USE OF FUNDS.—A comprehensive, age-appropriate, developmentally-, and research-based drug and violence prevention program carried out under this part may include—

''(1) drug or violence prevention and education programs for all students, from the preschool level through grade 12, that address the legal, social, personal and health consequences of the use of illegal drugs or violence, promote a sense of individual responsibility, and provide information about effective techniques for resisting peer pressure to use illegal drugs;

''(2) programs of drug or violence prevention, health education (as it relates to drug and violence prevention), early intervention, pupil services, mentoring, or rehabilitation referral, which emphasize students' sense of individual responsibility and which may include—

''(A) the dissemination of information about drug or violence prevention;

''(B) the professional development or voluntary training of school personnel, parents, students, law enforcement officials, judicial officials, health service providers and community leaders in prevention, education, early intervention, pupil services or rehabilitation referral; and

''(C) the implementation of strategies, including strategies to integrate the delivery of services from a variety of providers, to combat illegal alcohol, tobacco and drug use, such as—

''(i) family counseling; and

''(ii) activities, such as community service and service-learning projects, that are designed to increase students' sense of community;

''(3) age-appropriate, developmentally based violence prevention and education programs for all students, from the preschool level through grade 12, that address the legal, health, personal, and social consequences of violent and disruptive behavior, including sexual harassment and abuse, and victimization associated with prejudice and intolerance, and that include activities designed to help students develop a sense of individual responsibility and respect for the rights of others, and to resolve conflicts without violence, or otherwise decrease the prevalence of risk factors or increase the prevalence of protective factors, buffers, or assets in the community;

''(4) violence prevention programs for school-aged youth, which emphasize students' sense of individual responsibility and may include—

''(A) the dissemination of information about school safety and discipline;

''(B) the professional development or voluntary training of school personnel, parents, students, law enforcement officials, judicial officials, and community leaders in designing and implementing strategies to prevent school violence;

''(C) the implementation of strategies, such as conflict resolution and peer mediation, student outreach efforts against violence, anti-crime youth councils (which work with school and community-based organizations to discuss and develop crime prevention strategies), and the use of mentoring programs, to combat school violence and other forms of disruptive behavior, such as sexual harassment and abuse; and

''(D) the development and implementation of character education programs, as a component of a comprehensive drug or violence prevention program, that are tailored by communities, parents and schools; and

''(E) comprehensive, community-wide strategies to prevent or reduce illegal gang activities and drug use;

''(5) supporting 'safe zones of passage' for students between home and school through such measures as Drug- and Weapon-Free School Zones, enhanced law enforcement, and neighborhood patrols;

''(6) the acquisition or hiring of school security equipment, technologies, personnel, or services such as—

''(A) metal detectors;

''(B) electronic locks;

''(C) surveillance cameras; and

''(D) other drug and violence prevention-related equipment and technologies;

''(7) professional development for teachers and other staff and curricula that promote the awareness of and sensitivity to alternatives to violence through courses of study that include related issues of intolerance and hatred in history;

''(8) the promotion of before-and-after school recreational, instructional, cultural, and artistic programs in supervised community settings;

''(9) other research-based prevention programming that is—

''(A) effective in reducing the prevalence of alcohol, tobacco or drug use, and violence in youth;

''(B) effective in reducing the prevalence of risk factors predictive of increased alcohol, tobacco or drug use, and violence; or

''(C) effective in increasing the prevalence of protective factors, buffers, and assets predictive of decreased alcohol, tobacco or drug use and violence among youth;

''(10) the collection of objective data used to assess program needs, program implementation, or program success in achieving program goals and objectives;

''(11) community involvement activities including community mobilization;

''(12) voluntary parental involvement and training;

''(13) the evaluation of any of the activities authorized under this subsection;

''(14) the provision of mental health counseling (by qualified counselors) to students for drug or violence related problems;

''(15) consistent with the fourth amendment to the Constitution of the United States, the testing of a student for illegal drug use or inspecting a student's locker for guns, explosives, other weapons, or illegal drugs, including at the request of or with the consent of a parent or legal guardian of the student, if the local educational agency elects to so test or inspect; and

''(16) the conduct of a nationwide background check of each local educational agency employee (regardless of when hired) and prospective employees for the purpose of determining whether the employee or prospective employee has been convicted of a crime that bears upon the employee's or prospective employee's fitness—

''(A) to have responsibility for the safety or well-being of children;

''(B) to serve in the particular capacity in which the employee or prospective employee is or will be employed; or

''(C) to otherwise be employed at all by the local educational agency.

''(c) LIMITATIONS.—

''(1) IN GENERAL.—Not more than 20 percent of the funds made available to a local educational agency under this part may be used to carry out the activities described in paragraphs (5) and (6) of subsection (b).

''(2) SPECIAL RULE.—A local educational agency shall only be able to use funds received under this part for activities described in paragraphs (5) and (6) of subsection (b) if funding for such activities is not received from other Federal agencies.

''(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit the use of funds under this part by any local educational agency or school for the establishment or implementation of a school uniform policy so long as such policy is part of the overall comprehensive drug and violence prevention plan of the State involved and is supported by the State's needs assessment and other research-based information.

''SEC. 4117. EVALUATION AND REPORTING.

''(a) IMPACT EVALUATION.—

''(1) BIENNIAL EVALUATION.—The Secretary, in consultation with the National Advisory Committee, shall conduct an independent biennial evaluation of the impact of programs assisted under this part and of other recent and new initiatives to combat violence in schools. The evaluation shall report on—

''(A) whether funded community and local education agency programs—

''(i) provided a thorough assessment of the substance abuse and violence problem;

''(ii) used objective data and the knowledge of a wide range of community members;

''(iii) developed measurable goals and objectives; and

''(iv) implemented research-based programs that have been shown to be effective and meet identified needs;

''(v) conducted periodic program evaluations to assess progress made towards achieving program goals and objectives and whether they used evaluations to improve program goals, objectives and activities;

''(B) whether funded community and local education agency programs have been designed and implemented in a manner that specifically targets, if relevant to the program—

''(i) research-based variables that are predictive of drug use or violence;

''(ii) risk factors that are predictive of an increased likelihood that young people will use drugs, alcohol or tobacco or engage in violence or drop out of school; or

''(iii) protective factors, buffers, or assets that are known to protect children and youth from exposure to risk, either by reducing the exposure to risk factors or by changing the way the young person responds to risk, and to increase the likelihood of positive youth development;

''(C) whether funded community and local education agency programs have appreciably reduced the level of drug, alcohol and tobacco use and school violence and the presence of firearms at schools; and

''(D) whether funded community and local educational agency programs have conducted effective parent involvement and voluntary training programs.

''(2) DATA COLLECTION.—The National Center for Education Statistics shall collect data to determine the incidence and prevalence of social disapproval of drug use and violence in elementary and secondary schools in the States.

''(3) BIENNIAL REPORT.—Not later than January 1, 2003, and every 2 years thereafter, the Secretary shall submit to the President and Congress a report on the findings of the evaluation conducted under paragraph (1) together with the data collected under paragraph (2) and data available from other sources on the incidence and prevalence, age of onset, perception of health risk, and perception of social disapproval of drug use in elementary and secondary schools in the States. The Secretary shall include data submitted by the States pursuant to subsection (b)(2)(B).

''(b) STATE REPORT.—

''(1) IN GENERAL.—By December 1, 2002, and every 2 years thereafter, the chief executive officer of the State, in cooperation with the State educational agency, shall submit to the Secretary a report—

''(A) on the implementation and outcomes of State programs under section 4114 and section 4113(b) and local educational agency programs under section 4113(d), as well as an assessment of their effectiveness;

''(B) on the State's progress toward attaining its goals for drug and violence prevention under subsections (b)(1) and (c)(1) of section 4112; and

''(C) on the State's efforts to inform parents of, and include parents in, violence and drug prevention efforts.

''(2) SPECIAL RULE.—The report required by this subsection shall be—

''(A) in the form specified by the Secretary;

''(B) based on the State's ongoing evaluation activities, and shall include data on the incidence and prevalence, age of onset, perception of health risk, and perception of social disapproval of drug use and violence by youth in schools and communities; and

''(C) made readily available to the public.

''(c) LOCAL EDUCATIONAL AGENCY REPORT.—

''(1) IN GENERAL.—Each local educational agency receiving funds under this part shall submit to the State educational agency such information that the State requires to complete the State report required by subsection (b), including a description of how parents were informed of, and participated in, violence and drug prevention efforts.

''(2) AVAILABILITY.—Information under paragraph (1) shall be made readily available to the public.

''(3) PROVISION OF DOCUMENTATION.—Not later than January 1 of each year that a State is required to report under subsection (b), the Secretary shall provide to the State education agency all of the necessary documentation required for compliance with this section.

''SEC. 4118. PROGRAMS FOR NATIVE HAWAIIANS.

''(a) GENERAL AUTHORITY.—From the funds made available pursuant to section 4111(a)(4) to carry out this section, the Secretary shall make grants to or enter into cooperative agreements or contracts with organizations primarily serving and representing Native Hawaiians which are recognized by the Governor of the State of Hawaii to plan, conduct, and administer programs, or portions thereof, which are authorized by and consistent with the provisions of this title for the benefit of Native Hawaiians.

''(b) DEFINITION OF NATIVE HAWAIIAN.—For the purposes of this section, the term 'Native Hawaiian' means any individual any of whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.

''PART B—NATIONAL PROGRAMS

''SEC. 4121. FEDERAL ACTIVITIES.

''(a) PROGRAM AUTHORIZED.—From funds made available to carry out this part under section 4004(2), the Secretary, in consultation with the Secretary of Health and Human Services, the Director of the Office of National Drug Control Policy, and the Attorney General, shall carry out programs to prevent the illegal use of drugs and violence among, and promote safety and discipline for, students at all educational levels from preschool through the post-secondary level. The Secretary shall carry out such programs directly, or through grants, contracts, or cooperative agreements with public and private nonprofit organizations and individuals, or through agreements with other Federal agencies, and shall coordinate such programs with other appropriate Federal activities. Such programs may include—

''(1) the development and demonstration of innovative strategies for the voluntary training of school personnel, parents, and members of the community, including the demonstration of model preservice training programs for prospective school personnel;

''(2) demonstrations and rigorous evaluations of innovative approaches to drug and violence prevention;

''(3) the provision of information on drug abuse education and prevention to the Secretary of Health and Human Services for dissemination by the clearinghouse for alcohol and drug abuse information established under section 501(d)(16) of the Public Health Service Act;

''(4) the development of curricula related to child abuse prevention and education and the training of personnel to teach child abuse education and prevention to elementary and secondary schoolchildren;

''(5) program evaluations in accordance with section 10201 that address issues not addressed under section 4117(a);

''(6) direct services to schools and school systems afflicted with especially severe drug and violence problems or to support crisis situations and appropriate response efforts;

''(7) activities in communities designated as empowerment zones or enterprise communities that will connect schools to community-wide efforts to reduce drug and violence problems;

''(8) developing and disseminating drug and violence prevention materials, including video-based projects and model curricula;

''(9) developing and implementing a comprehensive violence prevention strategy for schools and communities, that may include conflict resolution, peer mediation, the teaching of law and legal concepts, and other activities designed to stop violence;

''(10) the implementation of innovative activities, such as community service and service-learning projects, designed to rebuild safe and healthy neighborhoods and increase students' sense of individual responsibility;

''(11) grants to noncommercial telecommunications entities for the production and distribution of national video-based projects that provide young people with models for conflict resolution and responsible decisionmaking;

''(12) the development of education and training programs, curricula, instructional materials, and professional training and development for preventing and reducing the incidence of crimes and conflicts motivated by hate in localities most directly affected by hate crimes; and

''(13) other activities that meet unmet national needs related to the purposes of this title.

''(b) PEER REVIEW.—The Secretary shall use a peer review process in reviewing applications for funds under this section.

''SEC. 4122. NATIONAL COORDINATOR PROGRAM.

''(a) IN GENERAL.—From amounts available to carry out this section under section 4004(3), the Secretary shall provide for the establishment of a National Coordinator Program under which the Secretary shall award grants to local education agencies for the hiring of drug prevention and school safety program coordinators.

''(b) USE OF FUNDS.—Amounts received under a grant under subsection (a) shall be used by local education agencies to recruit, hire, and train individuals to serve as drug prevention and school safety program coordinators in schools with significant drug and school safety problems. Such coordinators shall be responsible for developing, conducting, and analyzing assessments of drug

and crime problems at their schools, and administering the safe and drug free grant program at such schools.

"SEC. 4123. SAFE AND DRUG FREE SCHOOLS AND COMMUNITIES ADVISORY COMMITTEE.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—There is hereby established an advisory committee to be known as the 'Safe and Drug Free Schools and Communities Advisory Committee' (referred to in this section as the 'Advisory Committee') to—

''(A) consult with the Secretary under subsection (b);

''(B) coordinate Federal school- and community-based substance abuse and violence prevention programs and reduce duplicative research or services;

''(C) develop core data sets and evaluation protocols for safe and drug free school- and community-based programs;

''(D) provide technical assistance and training for safe and drug free school- and community-based programs;

''(E) provide for the diffusion of research-based safe and drug free school- and community-based programs; and

''(F) review other regulations and standards developed under this title.

''(2) COMPOSITION.—The Advisory Committee shall be composed of representatives from—

''(A) the Department of Education,

''(B) the Centers for Disease Control and Prevention;

''(C) the National Institute on Drug Abuse;

''(D) the National Institute on Alcoholism and Alcohol Abuse;

''(E) the Center for Substance Abuse Prevention;

''(F) the Center for Mental Health Services;

''(G) the Office of Juvenile Justice and Delinquency Prevention;

''(H) the Office of National Drug Control Policy; and

''(I) State and local governments, including education agencies.

''(3) CONSULTATION.—In carrying out its duties under this section, the Advisory Committee shall annually consult with interested State and local coordinators of school- and community-based substance abuse and violence prevention programs and other interested groups.

''(b) PROGRAMS.—

''(1) IN GENERAL.—From amounts made available under section 4004(2) to carry out this part, the Secretary, in consultation with the Advisory Committee, shall carry out research-based programs to strengthen the accountability and effectiveness of the State, Governor's, and national programs under this title.

''(2) GRANTS, CONTRACTS OR COOPERATIVE AGREEMENTS.—The Secretary shall carry out paragraph (1) directly or through grants, contracts, or cooperative agreements with public and nonprofit private organizations and individuals or through agreements with other Federal agencies.

''(3) COORDINATION.—The Secretary shall coordinate programs under this section with other appropriate Federal activities.

''(4) ACTIVITIES.—Activities that may be carried out under programs funded under this section may include—

''(A) the provision of technical assistance and training, in collaboration with other Federal agencies utilizing their expertise and national and regional training systems, for Governors, State education agencies and local education agencies to support high quality, effective programs that—

''(i) provide a thorough assessment of the substance abuse and violence problem;

''(ii) utilize objective data and the knowledge of a wide range of community members;

''(iii) develop measurable goals and objectives; and

''(iv) implement research-based activities that have been shown to be effective and that meet identified needs;

''(B) the provision of technical assistance and training to foster program accountability;

''(C) the diffusion and dissemination of best practices and programs;

''(D) the development of core data sets and evaluation tools;

''(E) program evaluations;

''(F) the provision of information on drug abuse education and prevention to the Secretary of Health and Human Services for dissemination by the Clearinghouse for Alcohol and Drug Abuse Information established under section 501(d)(16) of the Public Health Service Act; and

''(G) other activities that meet unmet needs related to the purposes of this title and that are undertaken in consultation with the Advisory Committee.

"SEC. 4124. HATE CRIME PREVENTION.

''(a) GRANT AUTHORIZATION.—From funds made available to carry out this part under section 4004(2) the Secretary may make grants to local educational agencies and community-based organizations for the purpose of providing assistance to localities most directly affected by hate crimes.

''(b) USE OF FUNDS.—

''(1) PROGRAM DEVELOPMENT.—Grants under this section may be used to improve elementary and secondary educational efforts, including—

''(A) development of education and training programs designed to prevent and to reduce the incidence of crimes and conflicts motivated by hate;

''(B) development of curricula for the purpose of improving conflict or dispute resolution skills of students, teachers, and administrators;

''(C) development and acquisition of equipment and instructional materials to meet the needs of, or otherwise be part of, hate crime or conflict programs; and

''(D) professional training and development for teachers and administrators on the causes, effects, and resolutions of hate crimes or hate-based conflicts.

''(2) IN GENERAL.—In order to be eligible to receive a grant under this section for any fiscal year, a local educational agency, or a local educational agency in conjunction with a community-based organization, shall submit an application to the Secretary in such form and containing such information as the office may reasonably require.

''(3) REQUIREMENTS.—Each application under paragraph (2) shall include—

''(A) a request for funds for the purposes described in this section;

''(B) a description of the schools and communities to be served by the grants; and

''(C) assurances that Federal funds received under this section shall be used to supplement, not supplant, non-Federal funds.

''(4) COMPREHENSIVE PLAN.—Each application shall include a comprehensive plan that contains—

''(A) a description of the hate crime or conflict problems within the schools or the community targeted for assistance;

''(B) a description of the program to be developed or augmented by such Federal and matching funds;

''(C) assurances that such program or activity shall be administered by or under the supervision of the applicant;

''(D) proper and efficient administration of such program; and

''(E) fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this section.

''(c) AWARD OF GRANTS.—

''(1) SELECTION OF RECIPIENTS.—The Secretary shall consider the incidence of crimes and conflicts motivated by bias in the targeted schools and communities in awarding grants under this section.

''(2) GEOGRAPHIC DISTRIBUTION.—The Secretary shall attempt, to the extent practicable, to achieve an equitable geographic distribution of grant awards.

''(3) DISSEMINATION OF INFORMATION.—The Secretary shall attempt, to the extent practicable, to make available information regarding successful hate crime prevention programs, including programs established or expanded with grants under this section.

''(d) REPORTS.—The Secretary shall submit to the Congress a report every two years which shall contain a detailed statement regarding grants and awards, activities of grant recipients, and an evaluation of programs established under this section.

"PART C—GENERAL PROVISIONS

"SEC. 4131. DEFINITIONS.

''In this part:

''(1) COMMUNITY-BASED ORGANIZATION.—The term 'community-based organization' means a private nonprofit organization which is representative of a community or significant segments of a community and which provides educational or related services to individuals in the community.

''(2) DRUG AND VIOLENCE PREVENTION.—The term 'drug and violence prevention' means—

''(A) with respect to drugs, prevention, early intervention, rehabilitation referral, or education related to the illegal use of alcohol and the use of controlled, illegal, addictive, or harmful substances, including inhalants and anabolic steroids;

''(B) prevention, early intervention, smoking cessation activities, or education, related to the use of tobacco by children and youth eligible for services under this title; and

''(C) with respect to violence, the promotion of school safety, such that students and school personnel are free from violent and disruptive acts, including sexual harassment and abuse, and victimization associated with prejudice and intolerance, on school premises, going to and from school, and at school-sponsored activities, through the creation and maintenance of a school environment that is free of weapons and fosters individual responsibility and respect for the rights of others.

''(3) HATE CRIME.—The term 'hate crime' means a crime as described in section 1(b) of the Hate Crime Statistics Act of 1990.

''(4) NONPROFIT.—The term 'nonprofit', as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

''(5) OBJECTIVELY MEASURABLE GOALS.—The term 'objectively measurable goals' means prevention programming goals defined through use of quantitative epidemiological data measuring the prevalence of alcohol, tobacco, and other drug use, violence, and the

prevalence of risk and protective factors predictive of these behaviors, collected through a variety of methods and sources known to provide high quality data.

''(6) PROTECTIVE FACTOR, BUFFER, OR ASSET.—The terms 'protective factor', 'buffer', and 'asset' mean any one of a number of the community, school, family, or peer-individual domains that are known, through prospective, longitudinal research efforts, or which are grounded in a well-established theoretical model of prevention, and have been shown to prevent alcohol, tobacco, or illicit drug use, as well as violent behavior, by youth in the community, and which promote positive youth development.

''(7) RISK FACTOR.—The term 'risk factor' means any one of a number of characteristics of the community, school, family, or peer-individual domains that are known, through prospective, longitudinal research efforts, to be predictive of alcohol, tobacco, and illicit drug use, as well as violent behavior, by youth in the school and community.

''(8) SCHOOL-AGED POPULATION.—The term 'school-aged population' means the population aged five through 17, as determined by the Secretary on the basis of the most recent satisfactory data available from the Department of Commerce.

''(9) SCHOOL PERSONNEL.—The term 'school personnel' includes teachers, administrators, counselors, social workers, psychologists, nurses, librarians, and other support staff who are employed by a school or who perform services for the school on a contractual basis.

"SEC. 4132. MATERIALS.

''(a) 'ILLEGAL AND HARMFUL' MESSAGE.—Drug prevention programs supported under this part shall convey a clear and consistent message that the illegal use of alcohol and other drugs is illegal and harmful.

''(b) CURRICULUM.—The Secretary shall not prescribe the use of specific curricula for programs supported under this part, but may evaluate the effectiveness of such curricula and other strategies in drug and violence prevention.

"SEC. 4133. PROHIBITED USES OF FUNDS.

''No funds under this part may be used for—

''(1) construction (except for minor remodeling needed to accomplish the purposes of this part); and

''(2) medical services, drug treatment or rehabilitation, except for pupil services or referral to treatment for students who are victims of or witnesses to crime or who use alcohol, tobacco, or drugs.

"SEC. 4134. QUALITY RATING.

''(a) IN GENERAL.—The chief executive officer of each State, or in the case of a State in which the constitution or law of such State designates another individual, entity, or agency in the State to be responsible for education activities, such individual, entity, or agency, is authorized and encouraged—

''(1) to establish a standard of quality for drug, alcohol, and tobacco prevention programs implemented in public elementary schools and secondary schools in the State in accordance with subsection (b); and

''(2) to identify and designate, upon application by a public elementary school or secondary school, any such school that achieves such standard as a quality program school.

''(b) CRITERIA.—The standard referred to in subsection (a) shall address, at a minimum—

''(1) a comparison of the rate of illegal use of drugs, alcohol, and tobacco by students enrolled in the school for a period of time to be determined by the chief executive officer of the State;

''(2) the rate of suspensions or expulsions of students enrolled in the school for drug, alcohol, or tobacco-related offenses;

''(3) the effectiveness of the drug, alcohol, or tobacco prevention program as proven by research;

''(4) the involvement of parents and community members in the design of the drug, alcohol, and tobacco prevention program; and

''(5) the extent of review of existing community drug, alcohol, and tobacco prevention programs before implementation of the public school program.

''(c) REQUEST FOR QUALITY PROGRAM SCHOOL DESIGNATION.—A school that wishes to receive a quality program school designation shall submit a request and documentation of compliance with this section to the chief executive officer of the State or the individual, entity, or agency described in subsection (a), as the case may be.

''(d) PUBLIC NOTIFICATION.—Not less than once a year, the chief executive officer of each State or the individual, entity, or agency described in subsection (a), as the case may be, shall make available to the public a list of the names of each public school in the State that has received a quality program school designation in accordance with this section.''.

By Mr. DEWINE:

S. 438. A bill to improve the quality of teachers in elementary and secondary schools; to the Committee on Health, Education, Labor, and Pensions.

Mr. DEWINE. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 438

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Teacher Quality Act of 2001''.

TITLE I—EISENHOWER NATIONAL CLEARINGHOUSE IMPROVEMENT

SEC. 101. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress makes the following findings:

(1) The most important education tool in any classroom is a qualified, highly trained teacher.

(2) The collection and effective dissemination of best practices in education is a primary responsibility of the Federal Government.

(3) The Eisenhower National Clearinghouse is the Nation's repository of kindergarten through grade 12 instructional materials in mathematics and science education, and disseminates information about these materials in a user-friendly format for educators.

(4) The Eisenhower National Clearinghouse collaborates with the national network of Eisenhower Regional Mathematics and Science Education Consortia and the collaboration includes twelve demonstration sites throughout the Nation.

(5) Since 1992, the Eisenhower National Clearinghouse has distributed 3,714,807 CD–ROM's and print publications. Products are distributed to every school building in the Nation, colleges of education, and various education groups and professional organizations. The Eisenhower National Clearinghouse has received over 40,000,000 hits to their web site since the creation of the web site in 1994. In addition, the Eisenhower National Clearinghouse has established over 100 access centers across the Nation to expand direct service to more teachers.

(b) PURPOSE.—The purpose of this title is—

(1) to expand the activities of the Eisenhower National Clearinghouse to include collecting and reviewing instructional and professional development materials and programs for language arts and social studies; and

(2) to require the Eisenhower National Clearinghouse to collect and analyze the materials and programs.

SEC. 102. EXPANDED ACTIVITIES.

(a) IN GENERAL.—Section 2102 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6622(b)) is amended—

(1) in subsection (a)(2), by striking ''for Mathematics and Science'';

(2) in subsection (b)—

(A) in paragraph (3)—

(i) in subparagraph (A), by striking ''and science'' each place the term appears and inserting '', science, language arts, and social studies'';

(ii) in subparagraph (B), by striking ''and science'' and inserting '', science, language arts, and social studies'';

(iii) in subparagraph (D), by striking ''and science'' and inserting '', science, language arts, and social studies''; and

(iv) by amending subparagraph (F) to read as follows:

''(F) gather (in consultation with the Department, national teacher associations, professional associations, and other reviewers and developers of education materials and programs) qualitative and evaluative materials and programs for the Clearinghouse, review the evaluation of the materials and programs, rank the effectiveness of the materials and programs on the basis of the evaluations, and distribute the results of the reviews to teachers in an easily accessible manner, except that nothing in this subparagraph shall be construed to permit the Clearinghouse to directly conduct an evaluation of the materials or programs.'';

(B) in paragraph (4), by striking ''or science'' and inserting '', science, language arts, or social studies''; and

(C) by adding at the end the following:

''(9) EFFECTIVE USE OF TECHNOLOGY.—In reviewing evaluations of materials and programs under this subsection the Clearinghouse shall give particular attention to the effective use of education technology in mathematics, science, language arts, and social studies.''.

(b) CONFORMING AMENDMENT.—Section 13302(10) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8672(10)) is amended by striking ''Mathematics and Science''.

TITLE II—TEACHER MENTORING

SEC. 201. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress makes the following findings:

(1) The American teaching force is aging. The average school teacher was 43 years old in academic year 1993–1994, an increase of 3 years over the average age of school teachers in academic year 1987–1998. Nearly a quarter of American teachers are over 50 years old and nearing retirement.

(2) On average public school teachers have slightly more than 15 years teaching experience, and over a third of the public school teachers have 20 or more years of teaching experience.

(3) The experience of America's veteran teachers should be utilized to help introduce beginning teachers to the profession and to their new school.

(4) Retention of beginning teachers is a growing problem, with approximately 25 percent of beginning teachers leaving the teaching profession within their first 3 years in the classroom.

(b) PURPOSE.—The purpose of this title is to increase teacher retention and improve the support and performance of teachers by encouraging and assisting States to develop and operate mentoring programs for beginning teachers.

SEC. 202. DEFINITIONS.

The terms used in this title have the meanings given the terms in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

SEC. 203. GRANT PROGRAM.

(a) IN GENERAL.—The Secretary is authorized to award grants to State educational agencies to enable the State educational agencies to carry out mentoring programs under which public elementary school or secondary school teachers with more than 3 years teaching experience serve as mentor teachers to public elementary school or secondary school teachers with less than 3 years teaching experience.

(b) AMOUNT.—Each State educational agency having an application approved under subsection (d) for a fiscal year shall receive a grant in an amount that bears the same relation to the amount appropriated under subsection (f) for the fiscal year as the number of elementary school and secondary school students in the State for the fiscal year bears to the number of such students in all States for the fiscal year.

(c) REALLOCATION.—The amount of a State educational agency's grant that will not be used by the State educational agency for a fiscal year shall be reallotted to the other State educational agency in the same manner as grants are awarded under subsection (b).

(d) APPLICATION.—Each State educational agency that desires a grant under this section shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may require. Each such application shall—

(1) describe the activities and services for which assistance is sought;

(2) contain an assurance that funds provided under this title will be used to supplement and not supplant State or local public funds available for teacher mentoring programs; and

(3) contain an assurance that the State educational agency consulted with local educational agencies, school superintendents, school boards, parents, and institutions of higher education in the design and implementation of the teacher mentoring program to be assisted.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this title $5,000,000 for each of the fiscal years 2002 and 2003.

TITLE III—ALTERNATIVE CERTIFICATION AND LICENSURE OF TEACHERS

SEC. 301. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the measure of a good teacher is how much and how well the teacher's students learn;

(2) the main teacher quality problem in 1998 was the lack of subject matter knowledge;

(3) knowledgeable and eager individuals of sound character and various professional backgrounds should be encouraged to enter the kindergarten through grade 12 classrooms as teachers;

(4) many talented professionals who have demonstrated a high level of subject area competence outside the education profession may wish to pursue careers in education, but have not fulfilled the traditional requirements to be certified or licensed as teachers;

(5) States should have maximum flexibility and incentives to create alternative teacher certification and licensure programs in order to recruit well-educated people into the teaching profession; and

(6) alternative routes can enable qualified individuals to fulfill State teacher certification or licensure requirements and will allow school systems to utilize the expertise of professionals and improve the pool of qualified individuals available to local educational agencies as teachers.

(b) PURPOSE.—It is the purpose of this title to improve the supply of well-qualified elementary school and secondary school teachers by encouraging and assisting States to develop and implement programs for alternative routes to teacher certification or licensure requirements.

SEC. 302. ALLOTMENTS.

(a) ALLOTMENTS TO STATES.—

(1) IN GENERAL.—From the amount appropriated to carry out this title for each fiscal year, the Secretary shall allot to each State the lesser of—

(A) the amount the State applies for under section 303; or

(B) an amount that bears the same relation to the amount so appropriated as the total population of children ages 5 through 17 in the State bears to the total population of such children in all the States (based on the most recent data available that is satisfactory to the Secretary).

(2) REALLOCATION.—If a State does not apply for the State's allotment, or the full amount of the State's allotment, under paragraph (1), the Secretary may reallocate the excess funds to 1 or more other States that demonstrate, to the satisfaction of the Secretary, a current need for the funds.

(b) SPECIAL RULE.—Notwithstanding section 421(b) of the General Education Provisions Act (20 U.S.C. 1225(b)), funds awarded under this title shall remain available for obligation by a recipient for a period of 2 calendar years from the date of the grant.

SEC. 303. STATE APPLICATIONS.

(a) IN GENERAL.—Any State desiring to receive an allotment under this title shall, through the State educational agency, submit an application at such time, in such manner, and containing such information, as the Secretary may reasonably require.

(b) REQUIREMENTS.—Each application shall—

(1) describe the programs, projects, and activities to be undertaken with assistance provided under this title; and

(2) contain such assurances as the Secretary considers necessary, including assurances that—

(A) assistance provided to the State educational agency under this title will be used to supplement, and not to supplant, any State or local funds available for the development and implementation of programs to provide alternative routes to fulfilling teacher certification or licensure requirements;

(B) the State educational agency has, in developing and designing the application, consulted with—

(i) representatives of local educational agencies, including superintendents and school board members (including representatives of their professional organizations if appropriate);

(ii) elementary school and secondary school teachers, including representatives of their professional organizations;

(iii) schools or departments of education within institutions of higher education;

(iv) parents; and

(v) other interested individuals and organizations; and

(C) the State educational agency will submit to the Secretary, at such time as the Secretary may specify, a final report describing the activities carried out with assistance provided under this title and the results achieved with respect to such activities.

(c) GEPA PROVISIONS INAPPLICABLE.—Sections 441 and 442 of the General Education Provisions Act (20 U.S.C. 1232d and 1232e), except to the extent that such sections relate to fiscal control and fund accounting procedures, shall not apply to this title.

SEC. 304. USE OF FUNDS.

(a) USE OF FUNDS.—

(1) IN GENERAL.—A State educational agency shall use funds provided under this title to support programs, projects, or activities that develop and implement new, or expand and improve existing, programs that enable individuals to move to a teaching career in elementary or secondary education from another occupation through an alternative route to teacher certification or licensure.

(2) TYPES OF ASSISTANCE.—A State educational agency may carry out such programs, projects, or activities directly, through contracts, or through grants to local educational agencies, intermediate educational agencies, institutions of higher education, or consortia of such agencies or institutions.

(b) USES.—Funds received under this title may be used for—

(1) the design, development, implementation, and evaluation of programs that enable qualified professionals who have demonstrated a high level of subject area competence outside the education profession and are interested in entering the education profession to fulfill State teacher certification or licensure requirements;

(2) the establishment of administrative structures necessary for the development and implementation of programs to provide alternative routes to fulfilling State teacher certification or licensure requirements;

(3) training of staff, including the development of appropriate support programs, such as mentor programs, for teachers entering the school system through alternative routes to teacher certification or licensure;

(4) the development of recruitment strategies;

(5) the development of reciprocity agreements between or among States for the certification or licensure of teachers; or

(6) other programs, projects, and activities that—

(A) are designed to meet the purpose of this title; and

(B) the Secretary determines appropriate.

SEC. 305. DEFINITIONS.

In this title:

(1) ELEMENTARY SCHOOL; LOCAL EDUCATIONAL AGENCY; SECONDARY SCHOOL; SECRETARY; AND STATE EDUCATIONAL AGENCY.—The terms ''elementary school'', ''local educational agency'', ''secondary school'', ''Secretary'', and ''State educational agency'' have the meanings given the terms in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(2) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' has the meaning given the term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(3) STATE.—The term ''State'' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

SEC. 306. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title $15,000,000 for fiscal year 2002 and each of the 4 succeeding fiscal years.

TITLE IV—TEACHER QUALITY

SEC. 401. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) individuals entering a classroom should have a sound grasp of the subject the individuals intend to teach, and the individuals should know how to teach;

(2) the quality of teachers impacts student achievement;

(3) people who enter the teaching profession through alternative certification programs can benefit from having the opportunity to attend a teacher training facility;

(4) teachers need to increase their subject matter knowledge;

(5) less than 40 percent of the individuals teaching the core subjects (English, mathematics, science, social studies, and foreign languages) majored or minored in the core subjects; and

(6) according to the Third International Mathematics and Science Study, American high school seniors finished near the bottom of the study in both science and mathematics.

(b) PURPOSE.—The purpose of this title is to strengthen teacher training programs by establishing a private and public partnership to create the best teacher training facilities in the world to ensure that teachers receive unlimited access to the most updated technology and skills training in education, so that students can benefit from the teachers' knowledge and experience.

SEC. 402. DEFINITIONS.

In this title:

(1) LOCAL EDUCATIONAL AGENCY.—The term ''local educational agency'' has the meaning given the term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Education.

SEC. 403. GRANTS.

(a) IN GENERAL.—From amounts appropriated under section 404 for a fiscal year the Secretary shall award grants to local educational agencies to enable the local educational agencies to establish teacher training facilities for elementary and secondary school teachers.

(b) COMPETITIVE BASIS.—The Secretary shall award grants under this title on a competitive basis.

(c) PARTNERSHIP CONTRACT REQUIRED.—In order to receive a grant under this title, a local educational agency shall enter into a contract with a nongovernmental organization to establish a teacher training facility.

(d) APPLICATIONS.—Each local educational agency desiring a grant under this title shall submit to the Secretary an application at such time, in such manner, and accompanied by such information as the Secretary may require. Each such application shall contain an assurance that the local educational agency—

(1) will raise matching funds, from public or private sources, for the support of the teacher training facility in an amount equal to the amount of funds provided under the grant;

(2) will train the teachers employed by the local educational agency at the teacher training facility for a period of 10 years after the date the agency enters into the contract described in subsection (c); and

(3) will spend not less than 0.5 percent of the local educational agency's total school budget for each fiscal year to support the teacher training facility.

(e) AMOUNT.—The Secretary shall award each grant under this section in an amount that is not less than $1,000,000 and not more than $4,000,000.

SEC. 404. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title $8,000,000 for fiscal year 2002, $12,000,000 for fiscal year 2003, $12,000,000 for fiscal year 2004, and $16,000,000 for fiscal year 2005.

By Mr. FRIST (for himself and Mr. THOMPSON):

S. 439. A bill to authorize the establishment of a suboffice of the Immigration and Naturalization Service in Nashville, Tennessee; to the Committee on the Judiciary.

Mr. FRIST. Mr. President, today, I introduce the Nashville INS Sub-office Act along with Senator THOMPSON. This bill addresses important immigration issues facing Tennessee by authorizing funds for a much needed INS suboffice in Nashville.

The Mid-South region is experiencing exceptional population growth from not only other parts of the nation, but also from a significant number of foreign nationals looking to relocate. As a result of this new influx in population, the existing Memphis INS office is overstretched and facing an enormous backlog of cases. As the largest metropolitan area in the state, it only makes sense to open another INS office in Nashville.

The new office would be geographically positioned to better provide the necessary services for individuals living in Middle and East Tennessee. It would also help alleviate the excessive burden facing the Memphis office by transferring a large portion of its workload. The new Nashville sub-office would improve overall services and enables the INS to better address illegal immigration concerns in our area.

I ask unanimous consent that the bill be printed in the RECORD.

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

S. 439

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Nashville INS Suboffice Act''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The Immigration and Naturalization Service field office in Memphis, Tennessee, is designated as a suboffice within the jurisdiction of the district office in New Orleans, Louisiana.

(2) Over the past 10 years, the foreign national population has grown substantially in the jurisdictional area of the Memphis suboffice.

(3) It is estimated that more than 200,000 foreign nationals are residing in the jurisdictional area of the Memphis suboffice.

(4) The Memphis suboffice has pending an equal or greater number of cases, and receives as many new cases, as the New Orleans district office.

(5) Approximately 46 percent of the total number of permanent resident applications received by the Memphis suboffice come from individuals residing in middle and eastern Tennessee.

(6) In many instances, such individuals have to travel 3 to 6 hours each way to Memphis to receive service.

(7) Nashville is a logical location for a new Immigration and Naturalization Service suboffice because its central location will reduce such travel time and allow the Immigration and Naturalization Service to provide better and more efficient service to such individuals.

(8) As the largest metropolitan area in the State of Tennessee, major routes from across the State flow into Nashville and air transportation is readily available there.

(9) Establishment of a Nashville suboffice would make a strong statement about the commitment of the Immigration and Naturalization Service to gaining control over illegal immigration and would facilitate legal immigration and citizenship initiatives in central and eastern Tennessee.

(10) Congress has identified Nashville as a region underserved by the Immigration and Naturalization Service.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $5,000,000 for each fiscal year to establish and operate an Immigration and Naturalization Service suboffice in Nashville, Tennessee. Such suboffice shall have jurisdiction over the following counties in the State of Tennessee: Anderson, Bedford, Bledsoe, Blount, Bradley, Campbell, Cannon, Carter, Cheatham, Claiborne, Clay, Cocke, Coffee, Cumberland, Davidson, Dekalb, Dickson, Fentress, Franklin, Giles, Grainger, Greene, Grundy, Hamblen, Hamilton, Hancock, Hardin, Hawkins, Hickman, Houston, Humphries, Jackson, Jefferson, Johnson, Knox, Lawrence, Lewis, Lincoln, Loudon, Macon, Marion, Marshall, Maury, McMinn, Meigs, Moore, Monroe, Montgomery, Morgan, Overton, Perry, Pickett, Polk, Putnam, Rhea, Roane, Robertson, Rutherford, Scott, Sevier, Sequatchie, Smith, Stewart, Sullivan, Sumner, Trousdale, Unicoi, Union, Van Buren, Warren, Washington, Wayne, White, Williamson, and Wilson.

By Mr. CAMPBELL:

S. 440. A bill to establish a matching grant program to help State and local jurisdictions purchase bullet-resistant equipment for use by law enforcement departments; to the Committee on the Judiciary.

Mr. CAMPBELL. Mr. President, today I am introducing a package of four bills that will help improve our nation's justice system and honor those law enforcement officers and firefighters who gave their lives in the line of duty.

The first bill I am introducing is the Officer Dale Claxton Bullet Resistant Police Protective Equipment Act of

2001, an updated version of legislation I introduced during the last Congress.

This bill is named in honor of Officer Dale Claxton of Cortez, CO, a fine law enforcement officer and family man, who was fatally shot through the windshield of his patrol car on May 29, 1998, after stopping a stolen truck. His assailants turned out to be dangerous fugitives and a large-scale man hunt was launched. Officer Claxton was tragically and prematurely taken away from his wife and four children.

The Officer Dale Claxton Act would help law enforcement agencies acquire bullet resistant equipment including bullet resistant glass for law enforcement vehicles, hand-held shields and any other equipment that officers may need when they serve on the front lines of law enforcement. Specifically, this legislation would help our nation's state and local law enforcement officers acquire the bullet resistant equipment they need to protect themselves from would-be killers. This legislation would authorize the Department of Justice's Bureau of Justice Assistance to administer a $40 million matching grant program to assist these agencies purchase bullet resistant equipment.

This legislation is a worthy companion, and similar in many ways, to the Bulletproof Vest Partnership Grant Act, P.L. 105–181, which I introduced and the President signed into law on June 16, 1998. The legislation I am introducing today would help state and local law enforcement agencies acquire a wider array of bullet resistant equipment to supplement bullet proof vests.

As a former deputy sheriff, I am personally aware of the dangers which law enforcement officers face on the front lines every day. One way in which the federal government can improve their safety is to help them acquire bullet resistant glass and other equipment for patrol cars. These partnership grants are especially crucial for officers who serve in small local jurisdictions that often lack the funds to provide their officers with the life saving equipment they may need.

The second component of this legislation would launch an expedited and targeted research and development by authorizing $3 million over 3 years for the Justice Department's National Institute of Justice, NIJ, to conduct research and development of a new bullet resistant technologies, such as bonded acrylic, polymers, polycarbons, aluminized material, and transparent ceramics.

Promising new bullet resistant materials now being developed could be as revolutionary in coming years as the development of Kevlar was in the 1970s for the manufacture of body armor. These exciting new technologies promise to be lighter, more versatile and hopefully less expensive than traditional heavy bulletproof glass.

Our Nation's police officers, sheriffs and deputies regularly put their lives in harm's way as they protect the people and preserve the peace. They deserve to have access to the bullet resistant equipment they need. The Officer Dale Claxton bill will both accelerate the development of new life-saving bullet resistant technologies and then help get them deployed into the field where they are needed. Officers lives will be saved.

I ask unanimous consent that the Officer Dale Claxton Bullet Resistant Police Protective Equipment Act of 2001 be printed in the RECORD.

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

S. 440

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Officer Dale Claxton Bulletproof Police Protective Equipment Act of 2001''.

SEC. 2. FINDINGS; PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) Officer Dale Claxton of the Cortez, Colorado, Police Department was shot and killed by bullets that passed through the windshield of his police car after he stopped a stolen truck, and his life may have been saved if his police car had been equipped with bullet-resistant equipment;

(2) the number of law enforcement officers who are killed in the line of duty would significantly decrease if every law enforcement officer in the United States had access to additional bullet-resistant equipment;

(3) according to studies, between 1990 and 2000, 1,700 law enforcement officers in the United States were shot and killed in the line of duty;

(4) the Federal Bureau of Investigation estimates that the risk of fatality to law enforcement officers while not wearing bullet-resistant equipment, such as an armor vest, is 14 times higher than for officers wearing an armor vest; and

(5) the Executive Committee for Indian Country Law Enforcement Improvements reports that violent crime in Indian country has risen sharply despite a decrease in the national crime rate, and has concluded that there is a ''public safety crisis in Indian country''.

(b) PURPOSE.—The purpose of this Act is to save lives of law enforcement officers by helping State, local, and tribal law enforcement agencies provide officers with bullet-resistant equipment and video cameras.

SEC. 3. MATCHING GRANT PROGRAM FOR LAW ENFORCEMENT BULLET-RESISTANT EQUIPMENT.

(a) IN GENERAL.—Part Y of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) by striking the part designation and part heading and inserting the following:

"PART Y—MATCHING GRANT PROGRAMS FOR LAW ENFORCEMENT

"Subpart A—Grant Program for Armor Vests";

(2) by striking ''this part'' each place that term appears and inserting ''this subpart''; and

(3) by adding at the end the following:

"Subpart B—Grant Program for Bullet-Resistant Equipment

"SEC. 2511. PROGRAM AUTHORIZED.

''(a) IN GENERAL.—The Director of the Bureau of Justice Assistance is authorized to make grants to States, units of local government, and Indian tribes to purchase bullet-resistant equipment for use by State, local, and tribal law enforcement officers.

''(b) USES OF FUNDS.—Grants awarded under this section shall be—

''(1) distributed directly to the State, unit of local government, or Indian tribe; and

''(2) used for the purchase of bullet-resistant equipment for law enforcement officers in the jurisdiction of the grantee.

''(c) PREFERENTIAL CONSIDERATION.—In awarding grants under this subpart, the Director of the Bureau of Justice Assistance may give preferential consideration, if feasible, to an application from a jurisdiction that—

''(1) has the greatest need for bullet-resistant equipment based on the percentage of law enforcement officers in the department who do not have access to a vest;

''(2) has a violent crime rate at or above the national average as determined by the Federal Bureau of Investigation; or

''(3) has not received a block grant under the Local Law Enforcement Block Grant program described under the heading 'State and Local Law Enforcement Assistance' of the Departments of Commerce Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001 (Public Law 106–553).

''(d) MINIMUM AMOUNT.—Unless all eligible applications submitted by any State or unit of local government within such State for a grant under this section have been funded, such State, together with grantees within the State (other than Indian tribes), shall be allocated in each fiscal year under this section not less than 0.50 percent of the total amount appropriated in the fiscal year for grants pursuant to this section except that the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands shall each be allocated 0.25 percent.

''(e) MAXIMUM AMOUNT.—A qualifying State, unit of local government, or Indian tribe may not receive more than 5 percent of the total amount appropriated in each fiscal year for grants under this section, except that a State, together with the grantees within the State may not receive more than 20 percent of the total amount appropriated in each fiscal year for grants under this section.

''(f) MATCHING FUNDS.—The portion of the costs of a program provided by a grant under subsection (a) may not exceed 50 percent. Any funds appropriated by Congress for the activities of any agency of an Indian tribal government or the Bureau of Indian Affairs performing law enforcement functions on any Indian lands may be used to provide the non-Federal share of a matching requirement funded under this subsection.

''(g) ALLOCATION OF FUNDS.—At least half of the funds available under this subpart shall be awarded to units of local government with fewer than 100,000 residents.

"SEC. 2512. APPLICATIONS.

''(a) IN GENERAL.—To request a grant under this subpart, the chief executive of a State, unit of local government, or Indian tribe shall submit an application to the Director of the Bureau of Justice Assistance in such form and containing such information as the Director may reasonably require.

''(b) REGULATIONS.—Not later than 90 days after the date of enactment of this subpart, the Director of the Bureau of Justice Assistance shall promulgate regulations to implement this section (including the information that must be included and the requirements that the States, units of local government,

and Indian tribes must meet) in submitting the applications required under this section.

''(c) ELIGIBILITY.—A unit of local government that receives funding under the Local Law Enforcement Block Grant program, described under the heading 'State and Local Law Enforcement Assistance' of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001 (Public Law 106–553), during a fiscal year in which it submits an application under this subpart shall not be eligible for a grant under this subpart unless the chief executive officer of such unit of local government certifies and provides an explanation to the Director that the unit of local government considered or will consider using funding received under the block grant program for any or all of the costs relating to the purchase of bullet-resistant equipment, but did not, or does not expect to use such funds for such purpose.

''SEC. 2513. DEFINITIONS.

''In this subpart—

''(1) the term 'equipment' means windshield glass, car panels, shields, and protective gear;

''(2) the term 'State' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands;

''(3) the term 'unit of local government' means a county, municipality, town, township, village, parish, borough, or other unit of general government below the State level;

''(4) the term 'Indian tribe' has the same meaning as in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)); and

''(5) the term 'law enforcement officer' means any officer, agent, or employee of a State, unit of local government, or Indian tribe authorized by law or by a government agency to engage in or supervise the prevention, detection, or investigation of any violation of criminal law, or authorized by law to supervise sentenced criminal offenders.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)) is amended by striking paragraph (23) and inserting the following:

''(23) There are authorized to be appropriated to carry out part Y—

''(A) $25,000,000 for each of fiscal years 2002 through 2004 for grants under subpart A of that part; and

''(B) $40,000,000 for each of fiscal years 2002 through 2004 for grants under subpart B of that part.''.

SEC. 4. SENSE OF CONGRESS.

In the case of any equipment or products that may be authorized to be purchased with financial assistance provided using funds appropriated or otherwise made available by this Act, it is the sense of Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products.

SEC. 5. TECHNOLOGY DEVELOPMENT.

Section 202 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3722) is amended by adding at the end the following:

''(e) BULLET-RESISTANT TECHNOLOGY DEVELOPMENT.—

''(1) IN GENERAL.—The Institute is authorized to—

''(A) conduct research and otherwise work to develop new bullet-resistant technologies (i.e., acrylic, polymers, aluminized material, and transparent ceramics) for use in police equipment (including windshield glass, car panels, shields, and protective gear);

''(B) inventory bullet-resistant technologies used in the private sector, in surplus military property, and by foreign countries; and

''(C) promulgate relevant standards for, and conduct technical and operational testing and evaluation of, bullet-resistant technology and equipment, and otherwise facilitate the use of that technology in police equipment.

''(2) PRIORITY.—In carrying out this subsection, the Institute shall give priority in testing and engineering surveys to law enforcement partnerships developed in coordination with high-intensity drug trafficking areas.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $3,000,000 for fiscal years 2002 through 2004.''.

By Mr. CAMPBELL (for himself, Mr. MCCONNELL, Mr. FEINGOLD, Mr. INOUYE, Mr. LEVIN, Mr. DAYTON, Mr. LUGAR, and Mr. STEVENS):

S. 441. A bill to provide Capitol-flown flags to the families of law enforcement officers and firefighters killed in the line of duty; to the Committee on Rules and Administration.

Mr. CAMPBELL. Mr. President, the second bill I am introducing today is the ''Fallen Law Enforcement Officers and Firefighters Flag Memorial Act of 2001.''

I am pleased to be joined today by my colleagues, Senators MCCONNELL, FEINGOLD, INOUYE, LEVIN, DAYTON, STEVENS, and LUGAR who are original cosponsors.

This bill would help honor the sacrifice of the men and women who lost their lives in the line of duty by providing Capitol-flown flags to the families of deceased law enforcement officers and firefighters.

Under this legislation, the family of a deceased law enforcement officer can request from the Attorney General a flag flown over the U.S. Capitol in honor of the slain officer. The Department of Justice shall pay the cost of the flags, including shipping, out of discretionary grant funds, and provide them to the victim's family.

As a former deputy sheriff, I know firsthand the risks which law enforcement officers face everyday on the front lines protecting our communities. I also have great appreciation, as the Co-Chair of the Congressional Fire Caucus, for the service that our nation's firefighters provide, day in and day out, and that all too often, they end up sacrificing their lives while saving others.

I believe providing a Capitol-flown flag is a fitting way to show our appreciation for fallen officers and firefighters who make the ultimate sacrifice. It also lets their families know that Congress and the nation are grateful for their loved ones' service.

I ask unanimous consent that the Fallen Law Enforcement Officers and Firefighters Flag Memorial Act of 2001 be printed in the RECORD.

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

S. 441

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Fallen Law Enforcement Officers and Firefighters Flag Memorial Act of 2001''.

SEC. 2. CAPITOL-FLOWN FLAGS FOR FAMILIES OF DECEASED LAW ENFORCEMENT OFFICERS.

(a) AUTHORITY.—

(1) IN GENERAL.—The family of a deceased law enforcement officer may request, and the Attorney General shall provide to such family, a Capitol-flown flag, which shall be supplied to the Attorney General by the Architect of the Capitol. The Department of Justice shall pay the cost of such flag, including shipping, out of discretionary grant funds.

(2) EFFECTIVE DATE.—Paragraph (1) shall take effect on the date on which the Attorney General establishes the procedure required by subsection (b).

(b) PROCEDURE.—Not later than 180 days after the date of enactment of this Act, the Attorney General shall establish a procedure (including any appropriate forms) by which the family of a deceased law enforcement officer may request, and provide sufficient information to determine such officer's eligibility for, a Capitol-flown flag.

(c) APPLICABILITY.—This Act shall only apply to a deceased law enforcement officer who died on or after the date of enactment of this Act.

(d) DEFINITIONS.—In this Act—

(1) the term ''Capitol-flown flag'' means a United States flag flown over the United States Capitol in honor of the deceased law enforcement officer for whom such flag is requested; and

(2) the term ''deceased law enforcement officer'' means a person who was charged with protecting public safety, who was authorized to make arrests by a Federal, State, Tribal, county, or local law enforcement agency, and who died while acting in the line of duty.

SEC. 3. CAPITOL-FLOWN FLAGS FOR FAMILIES OF DECEASED FIREFIGHTERS.

(a) AUTHORITY.—The family of a paid or volunteer firefighter who dies in the line of duty may request, and the Director of the Federal Emergency Management Agency shall provide to such family, a capitol-flown flag, which shall be supplied to the Director by the Architect of the Capitol. The Federal Emergency Management Agency shall pay the cost of such flag, including shipping, out of discretionary grant funds.

(b) EFFECTIVE DATE.—This section shall take effect on the date on which the Attorney General establishes the procedure required by section 2(b).

By Mr. CAMPBELL (for himself and Mr. HATCH):

S. 442. A bill to exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed firearms and to allow States to enter into compacts to recognize other States' concealed weapons permits; to the Committee on the Judiciary.

Mr. CAMPBELL. Mr. President, the third bill I am introducing today is a bill to authorize states to recognize

each other's concealed weapons laws and exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed firearms. This legislation is designed to support the rights of States and to facilitate the right of law-abiding citizens as well as law enforcement officers to protect themselves, their families, and their property.

The language of this bill is based on S. 727, which I introduced in the 106th Congress. Specifically, this bill allows States to enter into agreements, known as ''compacts,'' to recognize the concealed weapons laws of those States included in the compacts. This is not a Federal mandate; it is strictly voluntary for those States interested in this approach. States would also be allowed to include provisions which best meet their needs, such as special provisions for law enforcement personnel.

Currently, a Federal standard governs the conduct of nonresidents in those States that do not have a right-to-carry statute. Many of us in this body have always worked to protect the interests of States and communities by allowing them to make important decisions on how their affairs should be conducted. We are taking to the floor almost every day to talk about mandating certain things to the States. This bill would allow States to decide for themselves.

I ask unanimous consent that the bill be printed in the CONGRESSIONAL RECORD.

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

S. 442

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Law Enforcement Protection Act of 2001''.

SEC. 2. EXEMPTION OF QUALIFIED CURRENT AND FORMER LAW ENFORCEMENT OFFICERS FROM STATE LAWS PROHIBITING THE CARRYING OF CONCEALED FIREARMS.

(a) IN GENERAL.—Chapter 44 of title 18, United States Code, is amended by inserting after section 926A the following:

''SEC. 926B. CARRYING OF CONCEALED FIREARMS BY QUALIFIED CURRENT AND FORMER LAW ENFORCEMENT OFFICERS.

''(a) IN GENERAL.—Notwithstanding any provision of the law of any State or any political subdivision of a State, an individual may carry a concealed firearm if that individual is—

''(1) a qualified law enforcement officer or a qualified former law enforcement officer; and

''(2) carrying appropriate written identification.

''(b) Effect on Other Laws.—

''(1) COMMON CARRIERS.—Nothing in this section shall be construed to exempt from section 46505(B)(1) of title 49—

''(A) a qualified law enforcement officer who does not meet the requirements of section 46505(D) of title 49; or

''(B) a qualified former law enforcement officer.

''(2) FEDERAL LAWS.—Nothing in this section shall be construed to supersede or limit any Federal law or regulation prohibiting or restricting the possession of a firearm on any Federal property, installation, building, base, or park.

''(3) STATE LAWS.—Nothing in this section shall be construed to supersede or limit the laws of any State that—

''(A) grant rights to carry a concealed firearm that are broader than the rights granted under this section;

''(B) permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property; or

''(C) prohibit or restrict the possession of firearms on any State or local government property, installation, building, base, or park.

''(4) DEFINITIONS.—In this section:

''(A) APPROPRIATE WRITTEN IDENTIFICATION.—The term 'appropriate written identification' means, with respect to an individual, a document that—

''(i) was issued to the individual by the public agency with which the individual serves or served as a qualified law enforcement officer; and

''(ii) identifies the holder of the document as a current or former officer, agent, or employee of the agency.

''(B) FIREARM.—The term 'firearm' means, any firearm that has, or of which any component has, traveled in interstate or foreign commerce.

''(C) QUALIFIED FORMER LAW ENFORCEMENT OFFICER.—The term 'qualified former law enforcement officer' means, an individual who is—

''(i) retired from service with a public agency, other than for reasons of mental disability;

''(ii) immediately before such retirement, was a qualified law enforcement officer with that public agency;

''(iii) has a nonforfeitable right to benefits under the retirement plan of the agency;

''(iv) was not separated from service with a public agency due to a disciplinary action by the agency that prevented the carrying of a firearm;

''(v) meets the requirements established by the State in which the individual resides with respect to—

''(I) training in the use of firearms; and

''(II) carrying a concealed weapon; and

''(vi) is not prohibited by Federal law from receiving a firearm.

''(D) QUALIFIED LAW ENFORCEMENT OFFICER.—The term 'qualified law enforcement officer' means an individual who—

''(i) is presently authorized by law to engage in or supervise the prevention, detection, or investigation of any violation of criminal law;

''(ii) is authorized by the agency to carry a firearm in the course of duty;

''(iii) meets any requirements established by the agency with respect to firearms; and

''(iv) is not the subject of a disciplinary action by the agency that prevents the carrying of a firearm.''.

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 44 of title 18, United States Code, is amended by inserting after the item relating to section 926A the following:

''926B. Carrying of concealed firearms by qualified current and former law enforcement officers.''.

SEC. 3. AUTHORIZATION TO ENTER INTO INTERSTATE COMPACTS.

(a) IN GENERAL.—The consent of Congress is given to any 2 or more States—

(1) to enter into compacts or agreements for cooperative effort in enabling individuals to carry concealed weapons as dictated by laws of the State within which the owner of the weapon resides and is authorized to carry a concealed weapon; and

(2) to establish agencies or guidelines as they may determine to be appropriate for making effective such agreements and compacts.

(b) RESERVATION OF RIGHTS.—The right to alter, amend, or repeal this section is hereby expressly reserved by Congress.

By Mr. CAMPBELL:

S. 443. A bill to amend chapter 44 of title 18, United States Code, to increase the maximum term of imprisonment for offenses involving stolen firearms; to the Committee on the Judiciary.

Mr. CAMPBELL. Mr. President, the fourth bill I am introducing today is the ''Stolen Gun Penalty Enhancement Act of 2001'' which would increase the maximum prison sentences for violating existing stolen gun laws.

Many crimes in our country are being committed with stolen guns. The extent of this problem is reflected in a number of recent studies and news reports which indicate that almost half a million guns are stolen each year.

This problem is especially alarming among young people. A Justice Department study of juvenile inmates in four states shows that over 50 percent of those inmates had stolen a gun. In the same study, gang members and drug sellers were more likely to have stolen a gun.

Specifically, this bill would increase the maximum penalty for violating four provisions of the firearms laws. Under title 18 of the U.S. Code, it is illegal to knowingly transport or ship a stolen firearm or stolen ammunition. It is also illegal to knowingly receive, possess, conceal, store, sell, or otherwise dispose of a stolen firearm or stolen ammunition. The penalty for violating either of these provisions is a fine, a maximum term of imprisonment of 10 years, or both. My bill increases the maximum prison sentence to 15 years.

Mr. President, I am a strong supporter of the rights of law-abiding gun owners. However, I firmly believe we need tough penalties for the illegal use of firearms.

The Stolen Gun Penalty Enhancement Act of 2001 will send a strong signal to criminals who are even thinking about stealing a firearm. I urge my colleagues to join in support of this legislation.

Mr. Preisent, I ask unanimous consent that the Stolen Gun Penalty Enhancement Act of 2001 be printed in the RECORD.

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

S. 443

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STOLEN FIREARMS.

(a) IN GENERAL.—Section 924 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking ''(i), (j),''; and

(B) by adding at the end the following:

''(7) Whoever knowingly violates subsection (i) or (j) of section 922 shall be fined under this title, imprisoned not more than 15 years, or both.'';

(2) in subsection (i)(1), by striking ''10 years'' and inserting ''15 years''; and

(3) in subsection (l), by striking ''10 years'' and inserting ''15 years''.

(b) SENTENCING COMMISSION.—The United States Sentencing Commission shall amend the Federal sentencing guidelines to reflect the amendments made by subsection (a).

By Mr. WELLSTONE (for himself, Mr. KENNEDY, and Mr. SCHUMER):

S. 444. A bill to amend title II of the Elementary and Secondary Education Act of 1965 to support teacher corps programs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. WELLSTONE. Mr. President, if there is one thing we all can agree on in education, it is that quality teachers are absolutely critical to how well children learn. Yet, the nation confronts one of the worst teacher shortages in history. With expanding enrollment, decreasing class size and one third of the nation's teachers nearing retirement age, public schools will need to hire as many as 2.2 million teachers over the next decade.

The need is greatest in specific subject areas such as mathematics, science, special education and bilingual education, all important subjects if the nation is to have an educated work force to keep it competitive in the world marketplace.

Teacher shortages are also greatest in specific geographical areas such as the inner city and rural areas. Ironically, it is the most educationally and socio-economically disadvantaged students that are under-served. If there is one action we can take that is guaranteed to help struggling schools and children, it is to provide states and school districts the means to ensure that there is a highly qualified teacher in every class room.

My bill, Teacher Corps, which I am proud to introduce today with my colleagues, Senators KENNEDY and SCHUMER, who for so long have fought to bring the best possible educational opportunities to all of America's children, is designed to do just that. Its components are based on a definite need and sound research concerning effective mechanisms for meeting that need.

Teacher Corps would fund collaboratives between state education agencies, local education agencies and institutions of higher education. The collaboratives would recruit top ranked college students and qualified mid career individuals, who have not yet been trained as teachers, to teach in the nation's poorest schools in the areas of greatest need—both geographically and academically. Districts and universities would work together to recruit only candidates who have an academic major or extensive and substantive professional experience in the subject in which they will teach.

The collaboratives would provide recruits a tuition free alternative route to certification which includes intensive study and a teaching internship. The internship would include mentoring, co-teaching and advanced course work in pedagogy, state standards, technology and other areas.

After the internship period, the collaboratives would offer individualized follow up training and mentoring in the first two years of full time teaching.

Corps members that become certified will be given priority in hiring within that district in exchange for a commitment to teach in low income schools for 3 years.

A good teacher can mean the world to any child whether it is through caring or through providing children with the skills they need to open their own doors to the future. Every time I enter schools in Minnesota, I am in awe of teachers' work. When a skilled, energetic teacher creates an invigorating learning environment for his or her students it is truly a magical thing. In my travels to schools around Minnesota and the country I see a great deal of that magic happening.

That is why it is so tragic to think that there are so many children that do not have access to qualified teachers, at the same time that many people interested in teaching are either not entering the profession or are not staying there once they have qualified.

Teacher Corps will help meet the growing need for teachers in low income urban and rural schools, and in high need subject areas such as math, science, bilingual and special education.

It will do so because Teacher Corps is rooted in three fundamental parts. Recruitment, retention and innovative, flexible, high quality training programs for college graduates and mid-career professionals who want to teach in high need areas.

The first principle is recruitment. As I mentioned before, we may need to hire as many as 2.2 million new teachers in the next decade to ensure that there are enough teachers in our schools. But, overall quantity is not the only issue. Quality and shortages in specific geographic and curriculum areas are equally critical. While there are teacher surpluses in some areas, certain states and cities are facing acute teacher shortages. In California, 1 out of every 10 teachers lacks proper credentials. Fifty-eight percent of new hires in Los Angeles are not certified.

There are also crucial shortages in some subject areas such as math, science, bilingual and special education. In my home state of Minnesota, 90 percent of principals report a serious shortage of strong candidates in at least one curriculum area. Fifty-four percent of the mathematics teachers in the state of Idaho and 48 percent of the science teachers in Florida and Tennessee did not major in the subject of their primary assignment.

The report recently released by the Commission chaired by our former colleague John Glenn highlights this problem in the area of math and science teaching. The Glenn Commission—in its report ominously, but accurately, titled ''Before It's Too Late''—called on all the decision-makers in our country to establish an ongoing system to improve the quality of mathematics and science teaching in our elementary and secondary schools and to improve the quality of those teachers' preparation for the classroom.

Teacher Corps would meet this need because it would recruit and train thousands of high quality teachers into the field to meet the specific teaching needs of local school districts.

It would recruit and train top college students and mid-career professionals from around the country, who increasingly want to enter the teaching profession.

More college students want to enter teaching today than have wanted to join the profession in the past 30 years. In the surveys of incoming college students that UCLA conducts each fall, in recent years over 10 percent of all freshman consistently have said they want to teach in elementary and secondary schools.

Second, the design of the program ensures that the needs of local school districts will be considered so that only those candidates who meet the specific needs of that district will be recruited and trained. If, for example, there is a shortage of special education, bilingual, math and science teachers in a particular district, Teacher Corps would train people with only those skills. In setting up collaboratives in this way, teacher corps helps avoid the overproduction of candidates in areas where they are not needed.

Finally, Teacher Corps gives priority to high-need rural, inner suburban and urban districts to ensure that new teachers will enter where they are needed most.

However, it does not help to recruit teachers into high-need schools and train them if we cannot retain them in the profession. Teaching is one of the hardest, most important jobs there is. We ask teachers to prepare our children for adulthood. We ask them to educate our children so that they may be productive members of society. We entrust them with our children's minds

and with their future. It is a disgrace how little support we give them in return. It is no surprise that one of the major causes of our teacher shortage is that teachers decide to change professions before retirement. Seventy-three percent of Minnesota teachers who leave the profession, leave for reasons other than retirement. In urban schools, 50 percent of teachers leave the field within five years of when they start teaching.

To retain high quality teachers in the profession, we must give teachers the support they deserve. Teachers, like doctors, need mentoring and support during the first years of their professional life. Teacher Corps offers new teachers the training, mentoring and support they need to meet the profession's many challenges. It includes methods of support that have proven effective in ensuring that teachers stay in schools. The key elements for effective teacher retention were laid out by the National Commission on Teaching and America's Future in 1996. Effective programs organize professional development around standards for teachers and students; provide a year long, preservice internship; include mentoring and strong evaluation of teacher skills; offer stable, high quality professional development.

Each of these criteria are included in the Teacher Corps program.

Further, Teacher Corps supports people who choose teaching by paying for their training. Through this financial and professional support, Teacher Corps will go a long way toward keeping recruits in teaching.

But, it is still not enough to recruit and retain teachers. Quality must be of primary importance. Research shows that the most important predictor of student success is not income, but the quality of the teacher. Despite this need, studies show that as the proportion of students of color and students from low-income families increases in schools, the test scores of teachers decline.

This is wrong. We are denying children from low income areas, children from racial minorities, children with limited English proficiency, access to what we know works. Several studies have shown that if poor and minority students are taught by high quality teachers at the same rate as other students, a large part of the gap between poor and minority students and their more affluent white counterparts would disappear. For example, one Alabama study shows that an increase of one standard deviation in teacher test scores leads to a two-third reduction in the gap between black/white tests scores.

We cannot turn our back on this knowledge. We must act on it. We must give low income, minority and limited English proficiency children the same opportunities that all children have and we must do it now.

The very essence of Teacher Corps is to funnel high quality teachers where they are needed most. Teacher Corps would help ensure quality by using a selective, competitive recruitment process. It would provide high quality training, professional development, mentoring and evaluations of corps member performance, all of which have been proven to increase the quality of the teaching force and the achievement of the students they teach.

Further, by creating strong connections between universities and districts and by implementing effective professional development projects within districts, we are setting up powerful structures to benefit all teachers and students.

We have an opportunity to do what we know works to help children who need our help most. Good teachers have an extraordinary impact on children's lives and learning. We need to be sure that all children have access to such teachers and all children have the opportunity to learn so that all children may take advantage of the many opportunities this country provides.

By Mr. WELLSTONE:

S. 445. A bill to provide for local family information centers, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. WELLSTONE. Mr. President: I rise today to introduce legislation that will go a long way to increase the accountability of our schools and to help parents become more involved in their children's education. We all know that families are crucial to improving our nation's schools. To ensure that schools and students meet challenging educational goals, families must be involved. Parents must insist that their children get the best education. They must understand, shape and support the reforms in their schools; and, they must work with schools to help all children meet their goals.

We know that when families are fully engaged in the educational process, students have: higher grades and test scores; better attendance and more homework done; fewer placements in special education; more positive attitudes and behavior; higher graduation rates; and greater enrollment in post-secondary education.

For school reforms to help all children, we must move to ensure that all parents are involved in their children's education. For many parents, this is not an easy task. Parents, particularly those who have limited English proficiency, those who are homeless, or those who have a troubled history with the school system, often need outside help to get the information, support, and training they need to help their children navigate through the school system.

Parent involvement is more important now than ever before. As we move in the direction of increased accountability, high stakes testing and expanded public school choice, it is critical that parents know everything that is required of them and their children. They need to be sure that they have access to every aspect of their child's schooling, or their child could easily be left behind.

Current provisions in Title I of the Elementary and Secondary Education Act provide for excellent and important ways for parents to get involved in their children's education. However, in some cases, parent involvement of the type envisioned by Title I remains a distant goal. Many Title I schools, though not all, have failed to fully bring parents into the development of parent involvement policies, school-parent compacts, and into planning and improvement for the school as provided for in Title I. Therefore, it is essential for families to have an independent source of information and support that they understand and trust so that they can participate in an informed and effective manner and help move the schools toward the goal of full parental participation.

To achieve this critical end, this legislation would provide competitive grants to community-based organizations to establish Local Family Information Centers. These centers, made up of community members as well as professionals from the Title I schools in the area, should have a track record of effective outreach and work with low income communities. They, in consultation with the school district, would develop a plan to provide parents with the full support that they need to be partners in their children's education. For example, they would help parents understand standards, tests, and accountability systems; support activities that are likely to improve student achievement in Title I schools; understand and analyze data that schools, districts, and states must provide under reporting requirements of ESEA and other laws; understand and participate in the implementation of parent involvement requirements of ESEA, including; understand school choice options; and, communicate effectively with school personnel.

This legislation is essential because it would reach and assist parents most isolated from participation by poverty, race, limited English proficiency and other factors. It is essential because ultimately, it should be parents that are the greatest lever for strong accountability in schools. It is essential because of what we know about how children learn—that children who are the farthest behind make the greatest gains when their parents are part of their school life.

Many schools do a very good job of involving parents in education reform. This bill does nothing but ensure that parents have the option of an independent voice in districts where

schools do not do such a good job. If we are to educate our children, we must also educate and empower their parents. This legislation provides one necessary means to do so.

By Mr. CRAPO (for himself and Mr. CRAIG):

S. 446. A bill to preserve the authority of States over water within their boundaries, to delegate to States the authority of Congress to regulate water, and for other purposes; to the Committee on the Judiciary.

Mr. CRAPO. Mr. President, I rise to introduce the State Water Sovereignty Protection Act, a bill to preserve the authority of the States over waters within their boundaries, to delegate the authority of the Congress to the States to regular water, and for other purposes.

Since 1866, Congress has recognized and deferred to the States the authority to allocate and administer water within their borders. The Supreme Court has confirmed that this is an appropriate role for the States. Additionally, in 1952, the Congress passed the McCarran amendment which provides for the adjudication of State and Federal Water claims in State water courts.

However, despite both judicial and legislative edicts, I am deeply concerned that the administration, Federal agencies, and some in the Congress are setting the stage for ignoring long established statutory provisions concerning State water rights and State water contracts. The Endangered Species Act, the Clean Water Act, the Federal Land Policy Management Act, and wilderness designations have all been vehicles used to erode State sovereignty over its water.

It is imperative that States maintain sovereignty over management and control of their water and water systems. All rights to water or reservations of rights for any purpose in States should be subject to the substantive and procedural laws of that State, not the Federal Government. To protect State water rights, I am introducing the State Water Sovereignty Protection Act.

The State Water Sovereignty Protection Act provide that whenever the United States seeks to appropriate water or acquire a water right, it will be subject to State procedural and substantive water law. The Act further holds that States control the water within their boundaries and that the Federal Government may exercise management or control over water only in compliance with State law. Finally, in any administrative or judicial proceeding in which the United States participates pursuant to the McCarran amendment, the United States is subject to all costs and fees to the same extent as costs and fees may be imposed on a private party.

By Mr. CRAPO (for himself, Mr. CRAIG, and Mr. HELMS):

S. 447. A bill to subject the United States to imposition of fees and costs in proceedings relating to State water rights adjudications; to the Committee on Energy and Natural Resources.

Mr. CRAPO. Mr. President, I rise to introduce the Water Adjudication Fee Fairness Act of 2001. This bill would require the federal government to pay the same filing fees and costs associated with state water rights' adjudications as is currently required of states and private parties.

To establish relative rights to water—water that is the lifeblood of many states, particularly in the west—states must conduct lengthy, complicated, and expensive proceedings in water rights' adjudications. In 1952, Congress recognized the necessity and benefit of requiring federal claims to be adjudicated in these state proceedings by adopting the McCarran amendment. The McCarran amendment waives the sovereign immunity of the United States and requires the federal government to submit to state court jurisdiction and to file water rights' claims in state general adjudication proceedings.

These federal claims are typically among the most complicated and largest of claims in state adjudications, and federal agencies are often the primary beneficiary of adjudication proceedings where states officially quantify and record their water rights. However, in 1992, the United States Supreme Court held that, under existing law, the U.S. need not pay fees for processing federal claims.

When the United States does not pay a proportionate share of the costs associated with adjudications, the burden of funding the proceedings unfairly shifts to other water users and often delays completion of the adjudications by diminishing the resources necessary to complete them. Delays in completing adjudications result in the inability to protect private and public property interests or determine how much unappropriated water may remain to satisfy important environmental and economic development priorities.

Additionally, because they are not subject to fees and costs like other water users in the adjudication, federal agencies can file questionable claims without facing court costs, inflating the number of their claims for future negotiation purposes. This creates an unlevel playing field favoring the federal agencies and places a further financial and resources burden on the system.

For example, in the Snake River Basin adjudication, which is in Idaho and is probably the largest water adjudication proceeding in the country, the United States Forest Service filed more than 3,700 federal claims. The Idaho Department of Water Resources expended thousands of dollars giving notice to all other claimants, additionally the State of Idaho and private claimants spent over $800,000 preparing objections to the Federal Service's claims. On the eve of the objection deadline, the US withdrew all but 71 of the claims—the Department of Justice's explanation: litigation strategy.

This example is not an isolated incident. At best, the taxpayers and states should not be forced to incur these costs simply because the agency does not take the time to seriously evaluate its claims. At worst, the taxpayers should not bear the brunt of the federal government's Machiavellian tactics.

I recognize that the federal government has a legitimate right to some reserved water rights; however, the federal government should play by the same rules as the states and other private users. The Water Adjudication Fee Fairness Act is legislation that remedies this situation by subjecting the United States, when party to a general adjudication, to the same fees and costs as state and private users in water rights adjudications.

This measure has the full support of the Western States Water Council and the Western Governor's Association. I ask my colleagues to join me in supporting water users, taxpayers, the states, and welcome their co-sponsorship.

I ask unanimous consent that a copy of this legislation be printed in the RECORD.

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

S. 447

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Water Adjudication Fee Fairness Act of 2001''.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Generally, water allocation in the western United States is based upon the doctrine of prior appropriation, under which water users' rights are quantified under State law. Appropriative rights carry designated priority dates that establish the relative right of priority to use water from a source. Most States in the West have developed judicial and administrative proceedings, often called general adjudications, to quantify and document these relative rights, including the rights to water claimed by the United States Government under either State or Federal law.

(2) State general adjudications are typically complicated, expensive civil court and administrative actions that can involve hundreds or even thousands of claimants. Such adjudications give certainty to water rights, provide direction for water administration, and reduce conflict over water allocation and water usage. Those claiming and establishing rights to water are the primary beneficiaries of State general adjudication proceedings.

(3) The Congress has recognized the benefits of the State general adjudication system, and by enactment of section 208 of the

Department of Justice Appropriation Act, 1953 (43 U.S.C. 666; popularly known as the ''McCarran Amendment''), required the United States to submit to State court jurisdiction and to file claims in State general adjudication proceedings.

(4) Water rights claims by Federal agencies under either State or Federal law are often the largest or most complex claims in State general adjudications. However, the United States Supreme Court, in the case United States v. Idaho, 508 U.S. 1 (1992), determined that the McCarran Amendment does not require the United States to pay some filing fees simply because they were misconstrued or perceived to be the same as costs taxed against all parties.

(5) Since Federal agency water rights claims are among the most difficult to adjudicate, and since the United States is not required to pay some fees and costs paid by non-Federal claimants, the burden of funding adjudication proceedings unfairly shifts to private water users and State taxpayers.

(6) The lack of Federal Government funding to support State water rights adjudications in relation to the complexity of the claims involved has produced significant delays in completion of many State general adjudications. These delays inhibit the ability of both the States and Federal agencies to protect private and public property interests. Also, failure to complete the final adjudication of claims to water restricts the ability of resource managers to determine how much unappropriated water is available to satisfy environmental and economic development demands.

SEC. 3. LIABILITY OF UNITED STATES FOR FEES AND COSTS IN WATER USE RIGHTS PROCEEDINGS.

(a) IN GENERAL.—In any State administrative or judicial proceeding for the adjudication or administration of rights to the use of water in which the United States is a party, the United States shall be subject to the imposition of fees and costs on its claims to water rights under either State or Federal law to the same extent as a private party to the proceeding.

(b) APPLICATION.—Subsection (a) shall apply to proceedings pending on or initiated after the date of enactment of this Act, including with respect to fees and costs imposed in such a proceeding before the date of the enactment of this Act.

(c) REPORT TO CONGRESS.—The head of any Federal agency that files or has pending any water rights claim shall prepare and submit to the Congress, within 90 days after the end of each fiscal year, a report that identifies—

(1) each such claim filed by the agency that has not yet been decreed;

(2) all fees and costs imposed on the United States for each claim identified under paragraph (1);

(3) any portion of such fees and costs that has not been paid; and

(4) the source of funds used to pay such fees and costs.

(d) FEES AND COSTS DEFINED.—In this section, the term ''fees and costs'' means any administrative fee, administrative cost, claim fee, judicial fee, or judicial cost imposed by a State on a party claiming a right to the use of water under either State or Federal law in a State proceeding referred to in subsection (a).

By Mr. DOMENICI (for himself and Mr. HATCH):

S. 448. A bill to provide permanent appropriations to the Radiation Exposure Compensation Trust Fund to make payments under the Radiation Exposure Compensation Act (42 U.S.C. 2210 note); to the Committee on Appropriations.

S. 449. A bill to ensure the timely payment of benefits to eligible persons under the Radiation Exposure Compensation Act (42 U.S.C. 2210); to the Committee on Appropriations.

Mr. DOMENICI. Mr. President, I rise today to introduce two bills that will provide full funding for the Radiation Exposure Compensation Trust Fund.

One of the unfortunate consequences of our country's rapid development of its nuclear weapons programs was that many of those who worked in the early uranium mines became afflicted with debilitating and too often deadly diseases, including various cancers and respiratory illnesses.

These miners and their families lived under tough conditions. Some lived in one-room houses located as close as 200 feet from the mine shafts. Their children played near the mines and their families drank underground water that exposed them to radiation. The miners endured long, uncomfortable days many feet underground.

One such miner was Paul Hicks, for whom this bill is named. Mr. Hicks of Grants, NM was a uranium miner for twelve years in New Mexico. He later worked as lead miner, a shift boss, and ended his career as a mine foreman. Paul was the President of the New Mexico Uranium Miners Council and he championed the fight on behalf of miners of the Najavo Nation, Acoma Pueblo, Grants, NM, Dove Creek, and Grand Junction, CO. Unfortunately, Paul passed away from bone cancer last year.

Although Paul is no longer with us, his voice on behalf of uranium miners will forever be heard. As long as I'm in the United States Senate I will carry his torch until justice for all uranium miners is realized.

Paul was not alone in his suffering. Other New Mexico uranium miners have been stricken by radiation-related diseases. Indeed, many of these miners were Native Americans—primarily from the Najavo Nation. As many as 1,500 Navajos worked in the uranium mines from 1947–1971.

To these Americans, the Federal government owes a special duty of care. The government has a longstanding trust relationship with Native Americans based on treaties and agreements. I regret to say that as for the Najavo miners our government has failed miserably in protecting this trust relationship.

After all, these Native American miners and all uranium miners helped build our nuclear arsenal—the arsenal that is, at least in part, responsible for ending the Cold War. Our nation owes them a debt of gratitude. Yet, despite their enormous sacrifice, the federal government failed to protect their health. The government had adequate warning about the radiation hazards associated with uranium mining. Nonetheless, prior to federal regulations in 1971, the miners were sent into poorly ventilated mines with almost no warnings about the dangers of radiation.

After a 13-year fight we finally passed legislation to rectify this injustice in 1990. The Radiation Exposure Compensation Act was intended to provide fair and swift compensation for those miners, federal workers, and downwinders who had contracted certain radiation-related illnesses.

Since 1990, more than 3500 claims have been paid by the federal government under RECA. However, by mid-2000 the fund had run dry.

The bottom line is that there is not enough money for the RECA trust fund. In fact, the Justice Department, who administers this program, has been sending IOU's to individuals who have already been approved for benefits.

Frankly, this is unconscionable. Those who helped protect our nation's security through their work on our nuclear programs must be compensated for the enormous price they paid. Anything less is unacceptable.

Senator HATCH and I propose a bill seeking $84 million in emergency supplemental appropriations to pay those claims that have already been approved as well as the projected number of approved claims for FY 2001. We are also introducing legislation to make all future payments for approved claims mandatory.

With this legislation, we will ensure that those who gave so much for our nation will at least receive their deserved benefits. We must never again let their sacrifice go unanswered.

Mr. President, I ask unanimous consent that a Department of Justice IOU letter be printed in the RECORD.

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

DEPARTMENT OF JUSTICE,
CIVIL DIVISION,
Washington, DC.

Re RECA Claim No. 201
Claimant: ——— ———

DEAR MR. ——— ———. I am pleased to inform you that your claim for compensation under the Radiation Exposure Compensation Act has been approved. Regretfully, because the money available to pay claims has been exhausted, we are unable to send a compensation payment to you at this time. When Congress provides additional funds, we will contact you to commence the payment process.

Thank you for your understanding.

Sincerely,

GERARD W. FISCHER,
Assistant Director,
Torts Branch, Civil Division.

Mr. HATCH. Mr. President, today I am joining with my esteemed colleague and chairman of the Budget Committee, Senator DOMENICI, in introducing two pieces of legislation that

will ensure the full funding of the Radiation Exposure Compensation Act, RECA, Trust Fund.

As the original sponsor of the Radiation Exposure Compensation Act of 1990 and the subsequent amendments to the Act, S. 1515 which was enacted last year, I am pleased that this program has provided much needed compassionate compensation to thousands of individuals. And, although many RECA eligible individuals have received compensation, it is now apparent that a funding shortfall exists within the program resulting in hundreds of individuals not receiving their payments.

The legislation Senator DOMENICI and I are introducing today is designed to meet the funding shortfall so that all eligible individuals who are approved for compensation will receive their payment and not an ''IOU'' from the Justice Department.

The first bill ensures the timely payment of benefits to eligible persons by providing $84 million to the RECA Trust Fund for fiscal year 2001. The money will be available to the Justice Department to fund the existing claims that have already been processed as well as anticipated claims of the remainder of this fiscal year.

The second bill provides for a permanent appropriation to the RECA Trust Fund beginning in fiscal year 2002, and thereafter, such sums as may be necessary to meet the financial obligations of approved claims.

Both of these bills are needed in order to pay those individuals who have qualified under the original 1990 Act and the RECA 2000 amendments, as signed into law last July 10, 2000, but who have not received their payment because the fund is currently depleted. Moreover, as a result of the passage of RECA 2000, we have extended compensation to additional deserving citizens who have suffered mightily as a result of the cold war atomic testing programs.

In addition, the legislation we are introducing today provides that funding for the RECA trust fund be made through a permanent appropriation. This provision will provide certainty and stability in financing the trust fund and, thereby, ensure eligible individuals receive their compensation.

I want to thank my colleague, Senator DOMENICI, for his commitment to resolving this very difficult problem that many individuals are now facing. It is simply unfair for the federal government to promise compensation to harmed individuals and then tell these same people that there are no federal dollars to pay their claims. This situation is completely unacceptable.

I would also like to add, in this context, that within the next few weeks I will be introducing additional legislation that will not only complement the bills introduced today but also provide for necessary refinements and technical changes to improve the administration of the RECA program. I will have more to say about this legislation when it is introduced within the next several weeks.

I urge my colleagues to join me in supporting these important measures.

By Mr. NELSON of Florida:

S. 450. A bill to amend the Gramm-Leach-Bliley Act to provide for enhanced protection of nonpublic personal information, including health information, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

S. 451. A bill to establish civil and criminal penalties for the sale or purchase of a social security number; to the Committee on Finance.

Mr. NELSON of Florida. Mr. President, I rise today to express my grave concern about the administration's decision that apparently favors the interests of big insurance companies over the health privacy rights of Americans.

I was dismayed to learn on Tuesday that the Secretary of Health and Human Services prevented new medical privacy rules from coming into effect. In essence, these rules would have prevented doctors and insurers from sharing private medical information about their patients.

The delay ostensibly is to allow further discussion. But it makes no sense. The rules have been debated in Washington for nearly 10 years. The Secretary's decision was unfortunate. There are no acceptable excuses for their delay. Consumers deserve to have their personally identifiable information protected from prying eyes.

I promised the people of my State in the course of the last 6 to 8 months of the discussion in the course of the campaign that I would make protecting their privacy one of my top priorities, because too often these days, personally identifiable medical and financial information is being shared, bought, or sold, and it is being done without the consent of the consumer. This practice must stop. It is our job to pass legislation that will stop it.

Today, I am going to be introducing two bills that begin to address aspects of the privacy crisis. Both bills build upon the undeniable principle that information gathered for one purpose should never be disclosed, made available, or otherwise used for another purpose without the consumer's consent.

Clearly, we should be able to share information with our doctor that we don't want revealed to other people, particularly an employer or a money lender. I am going to work hard to try to pass these privacy protections for every American.

The first bill prohibits banks and financial institutions from selling or sharing private customer information. I strongly believe that financial institutions should not be allowed to pass along confidential customer, financial, or medical information to affiliates, business partners, or others who wish to turn a profit from an individual's personal data.

I have a little bit of background in this because 6 years ago, when I had the privilege of being the elected insurance commissioner of the State of Florida, there was a case in front of the U.S. Supreme Court entitled Barnett Banks v. Bill Nelson, in my capacity as insurance commissioner. The issue was on a technical question of a 1916 Federal law as to whether or not banks could sell insurance. The Court ruled, on the basis of that law, that it pertained to the business of insurance, the upshot of which was that banks could sell insurance. In our argument, we noted that if that occurred, there was always the possibility that you had to protect against coercion and protect against privacy rights being invaded.

As a result of that unanimous Supreme Court decision, Congress then, in 1999, enacted the Financial Services Modernization Act. In the 11th hour of the closing of the session in October, the promise was made that, if you can pass this bill now, we will come back next year—the year 2000—and enact the privacy protections. That promise was not fulfilled in the year 2000.

For under the present condition of the law, there is a gaping loophole on privacy protection. In an era of mergers, under the new law, banks can now join with insurance companies and then evaluate the medical information of their affiliates' policyholders before deciding whether or not to issue a loan.

What my legislation will do is require the express written consent of the consumer before any personally identifiable medical information can be shared or sold, and the express consent of the consumer before any personally identifiable financial information can be shared or sold.

For the consumer, privacy should always be the assumption. To prevent coercion, this legislation I am introducing prohibits banks and financial companies from denying service to customers who refuse to consent to the sale of their personally identifiable financial and medical information. To make sure financial institutions take this law seriously, under the legislation, officers of the company can incur personal liability for failing to comply.

This is a serious problem: the invasion of our privacy under the current condition of the law. It demands a serious remedy. I am going to be encouraging all of our colleagues to join with me and fulfill the promise that the Congress made in 1999 in the enactment of the Financial Services Modernization Act by plugging this gaping loophole where there is no privacy protection.

There is a second bill that I am introducing today. It makes the selling or

purchasing of an individual's Social Security number a Federal crime. Social Security numbers are often the key to unlocking vast stores of personal information, both in the private sector and the Federal Government. If there is any personal identification number, it is the Social Security number. We look all around us and we see that identity theft has grown at an alarming rate during the past decade—in many cases, through the Social Security number abuse.

My goodness, we have heard of credit cards being established in somebody else's name by the theft of their Social Security number and running up huge bills. We have heard these stories over and over, and even the confusion caused by identity theft, where crimes are reported to be attributed to an individual who does not have anything to do with it.

When a Social Security number falls into the wrong hands, tremendous financial and personal damage can be incurred. To tackle this terrible problem, this legislation that I am introducing today establishes criminal and monetary penalties. The bill creates both prison terms and fines of up to $100,000 for buying or selling Social Security numbers.

I hope in this field of privacy protection that the Senate is going to ultimately fulfill the promise that it made 2 years ago and move quickly in this session to protect the privacy of our American citizens.

I ask unanimous consent that the text of both bills be printed in the RECORD.

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

S. 450

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Financial Institution Privacy Protection Act of 2001''.

SEC. 2. PROTECTION OF PRIVATE HEALTH INFORMATION.

Section 509(4) of the Gramm-Leach-Bliley Act (15 U.S.C. 6809(4)) is amended by adding at the end the following:

''(D) The term 'nonpublic personal information' includes health information, defined as any information, including genetic information, demographic information, and tissue samples collected from an individual, whether oral or recorded in any form or medium—

''(i) that is created or received by a health care provider, health researcher, health plan, health oversight agency, public health authority, employer, health or life insurer, school or university; and

''(ii) that —

''(I) relates to the past, present, or future physical or mental health or condition of an individual (including individual cells and their components), the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual; and

''(II) that identifies an individual, or with respect to which there is a reasonable basis to believe that the information can be used to identify an individual.''.

SEC. 3. OPT-IN FOR SHARING OF INFORMATION.

Section 502 of the Gramm-Leach-Bliley Act (15 U.S.C. 6802) is amended—

(1) in subsection (a)—

(A) by inserting ''any affiliate or'' before ''a nonaffiliated'';

(B) by striking ''unless such'' and inserting the following: ''unless—

''(1) the institution provides''; and

(C) by striking the period at the end and inserting the following: ''; and

''(2) the consumer to whom the information pertains—

''(A) has affirmatively consented (in writing, in the case of health information, as defined in section 509(4)(D)), in accordance with rules prescribed under section 504, to the disclosure of such information; and

''(B) has not withdrawn such consent.''; and

(2) by striking subsection (b) and inserting the following:

''(b) DENIAL OF SERVICE PROHIBITED.—A financial institution may not deny a financial product or a financial service to any consumer based on the refusal by the consumer to grant the consent required by this section.''.

SEC. 4. COMPLIANCE OFFICERS.

Section 503 of the Gramm-Leach-Bliley Act (15 U.S.C. 6803) is amended by adding at the end the following:

''(c) COMPLIANCE OFFICERS.—Each financial institution shall designate a privacy compliance officer, who shall be responsible for ensuring compliance by the institution with the requirements of this title and the privacy policies of the institution.''.

SEC. 5. LIABILITY.

Section 505 of the Gramm-Leach-Bliley Act (15 U.S.C. 6805) is amended by adding at the end the following:

''(e) CIVIL PENALTIES.—The Attorney General of the United States may bring a civil action in the appropriate district court of the United States against any financial institution that engages in conduct constituting a violation of this title, and, upon proof of such violation—

''(1) the financial institution shall be subject to a civil penalty of not more than $100,000 for each such violation; and

''(2) the officers and directors of the financial institution shall be subject to, and shall be personally liable for, a civil penalty of not more than $10,000 for each such violation.''.

S. 451

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1 SHORT TITLE.

This Act may be cited as the ''Social Security Number Protection Act of 2001''.

SEC. 2. PROHIBITION OF THE SALE OR PURCHASE OF A SOCIAL SECURITY NUMBER.

(a) DEFINITIONS.—In this section:

(1) PURCHASE.—The term ''purchase'' means providing directly or indirectly, anything of value in exchange for a social security number.

(2) SALE.—The term ''sale'' means obtaining, directly or indirectly, anything of value in exchange for a social security number.

(3) SOCIAL SECURITY NUMBER.—The term ''social security number'' has the meaning given that term in section 208(c) of the Social Security Act (42 U.S.C. 408(c)), and includes a social security account number (as defined in such section) and any identifying portion or derivative of such a number.

(b) PROHIBITION OF THE SALE OR PURCHASE OF A SOCIAL SECURITY NUMBER.—No person may sell or purchase a social security number.

(c) CIVIL MONEY PENALTIES.—

(1) IN GENERAL.—Any person who the Attorney General determines has violated subsection (b) shall be subject, in addition to any other penalties that may be prescribed by law, to a civil money penalty of not more than—

(A) in the case of an individual, $10,000 for each such violation; and

(B) in the case of any other person, $100,000 for each such violation.

(2) ENFORCEMENT PROCEDURES.—The provisions of section 1128A of the Social Security Act (42 U.S.C. 1320a–7a) (other than subsections (a), (b), (f), (h), (i), (j), and (m), and the first sentence of subsection (c)), and the provisions of subsections (d) and (e) of section 205 of the Social Security Act (42 U.S.C. 405), shall apply to a civil money penalty imposed under this subsection in the same manner as such provisions apply, respectively, to a penalty or proceeding under section 1128A(a) of that Act or to a hearing, investigation, or other proceeding authorized or directed under title II of that Act, except that, for purposes of this paragraph, any reference in section 1128A of that Act to ''the Secretary'' and any reference in section 205 of that Act to ''the Commissioner of Social Security'' shall be deemed to be a reference to the ''Attorney General''.

(d) CRIMINAL SANCTIONS.—Section 208(a) of the Social Security Act (42 U.S.C. 408(a)) is amended—

(1) in paragraph (8), by inserting ''or'' after the semicolon; and

(2) by inserting after paragraph (8) the following new paragraph:

''(9) knowingly and willfully sells or purchases (as such terms are defined in section 2(a) of the Social Security Number Protection Act of 2001) a social security number (as defined in subsection (c));''.

By Mr. NICKLES (for himself, Mr. ENZI, Mr. BOND, and Mr. HUTCHINSON):

S.J. Res. 6. A joint resolution providing for congressional disapproval of the rule submitted by the Department of Labor under chapter 8 of title 5, United States Code, relating to ergonomics; to the Committee on Health, Education, Labor, and Pensions.

S.J. RES. 6

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress disapproves the rule submitted by the Department of Labor relating to ergonomics (published at 65 Fed. Reg. 68261 (2000)), and such rule shall have no force or effect.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 40—AUTHORIZING EXPENDITURES BY THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. GRAMM submitted the following resolution; from the Committee on Banking, Housing, and Urban Affairs; which was referred to the Committee on Rules and Administration.

S. RES. 40

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Banking, Housing, and Urban Affairs is authorized from March 1, 2001 through September 30, 2001; October 1, 2001, through September 30, 2002; and October 1, 2002, through February 28, 2003, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or nonreimbursable basis the services of personnel of any such department or agency.

SEC. 2(a). The expenses of the committee for the period March 1, 2001, through September 30, 2001, under this resolution shall not exceed $2,741,526 of which amount (1) not to exceed $11,667 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 201(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $496 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period of October 1, 2001, through September 30, 2002, expenses of the committee under this resolution shall not exceed $4,862,013 of which amount (1) not to exceed $20,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $850 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(c) For the period of October 1, 2002, through February 28, 2003, expenses of the committee under this resolution shall not exceed $2,079,076 of which amount (1) not to exceed $8,333 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $354 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 2003.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services, or (7) for payment of franked and mass mail costs by the Sergeant at Arms and Doorkeeper, United States Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 2001, through September 30, 2001; October 1, 2001, through September 30, 2002; and October 1, 2002, through February 28, 2003, to be paid from the Appropriations account for ''Expenses of Inquiries and Investigations.''

SENATE RESOLUTION 41—DESIGNATING APRIL 4, 2001, AS ''NATIONAL MURDER AWARENESS DAY''

Mr. SHELBY (for himself and Mr. SESSIONS) submitted the following resolution; which was referred to the Committee on the Judiciary.

S. RES. 41

Whereas murder needlessly claims the lives of thousands of Americans each year;

Whereas murder has a devastating effect on the families of victims throughout the United States; and

Whereas local community awareness and involvement can help eliminate the incidences of murder: Now, therefore, be it

Resolved, That the Senate—

(1) designates April 4, 2001 as ''National Murder Awareness Day''; and

(2) requests that the President issue a proclamation urging local communities throughout the United States to remember the victims of murder and carry out programs and activities to help eliminate the incidences of murder.

NOTICE OF HEARING

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LUGAR. Mr. President, I would like to announce that the Committee on Agriculture, Nutrition, and Forestry will meet on March 6, 2001, in SH–216 at 9 a.m. The purpose of this hearing will be to review nutrition and school lunch programs.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. THOMAS. Mr. President I ask unanimous consent that the Senate Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Thursday, March 1, 2001. The purpose of this hearing will be to review the statutes of conservation programs in the current farm bill.

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

COMMITTEE ON ARMED SERVICES

Mr. THOMAS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, March 1, 2001, at 2:30 p.m., in open session to receive testimony on current and future worldwide threats to the national security of the United States.

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

COMMITTEE ON ARMED SERVICES

Mr. THOMAS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, March 1, 2001, at 2:30 p.m., in closed session to receive a briefing from the Joint Chiefs of Staff on current military operations.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. THOMAS. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, March 1, 2001, to conduct a markup of S. 143, the Competitive Market Supervision Act of 2001; the Banking Committee funding resolution for the 107th Congress; and other committee organizational matters.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. THOMAS. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, March 1, 2001, at 9:30 a.m. on digital TV.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. THOMAS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday March 1, 2001, at 10 a.m. and 2:30 p.m., to hold two hearings.

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

COMMITTEE ON SMALL BUSINESS

Mr. THOMAS. Mr. President, I ask unanimous consent that the Committee on Small Business be authorized to meet during the session of the Senate on Thursday, March 1, 2001, beginning at 10 a.m., in room 428A of the Russell Senate Office Building, to hold a forum entitled ''Encouraging and Expanding Entrepreneurship: Examining the Federal Role.''

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

COMMITTEE ON VETERANS AFFAIRS

Mr. THOMAS. Mr. President, I ask unanimous consent that the Committee on Veteran's Affairs be authorized to meet to conduct a joint hearing with the House Committee on Veteran's Affairs to receive the legislative presentations of the Retired Enlisted

Association, Gold Star Wives of America, the Fleet Reserve Association, and the Air Force Sergeants Association. The hearing will be held on Thursday, March 1, 2001, at 9:30 a.m., in room 345 of the Cannon House Office Building.

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

SUBCOMMITTEE ON INVESTIGATIONS

Mr. THOMAS. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Governmental Affairs Committee be authorized to meet during the session of the Senate on Thursday, March 1, 2001, 9:30 a.m., for a hearing entitled ''The Role of U.S. Correspondent Banking In International Money Laundering.''

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

PRIVILEGES OF THE FLOOR

Mr. WELLSTONE. Mr. President, I ask unanimous consent that Jake Jagdfeld and Marge Baker be granted the privilege of the floor today.

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

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that Reg Leichty of my staff be granted floor privileges for the duration of my statement.

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

EXECUTIVE SESSION

NOMINATION OF SEAN O'KEEFE TO BE DEPUTY DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET

Mr. BENNETT. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of the nomination of Sean O'Keefe to be Deputy Director of the Office of Management and Budget. Further, I ask consent that the Senate proceed immediately to its consideration, the nomination be confirmed, the motion to reconsider be laid upon the table, any statements relating to the nomination be printed in the RECORD, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The nomination was considered and confirmed.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 104–191, reappoints Dr. Richard K. Harding of South Carolina to the National Committee on Vital and Health Statistics for a four-year term.

The Chair, on behalf of the President pro tempore, on the recommendation of the Democratic Leader, pursuant to P.L. 106–398, appoints C. Richard D'Amato of Maryland, Patrick A. Mulloy of Virginia, and William A. Reinsch of Maryland to the United States-China Security Review Commission.

APPOINTMENT OF WALTER E. MASSEY AS A CITIZEN REGENT OF THE BOARD OF REGENTS OF THE SMITHSONIAN INSTITUTION

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of H.J. Res. 19, which is at the desk.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 19) providing for the appointment of Walter E. Massey as a citizen regent of the Board of Regents of the Smithsonian Institution.

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. BENNETT. Mr. President, I ask unanimous consent that the joint resolution be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to this resolution be printed in the RECORD.

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

The joint resolution (H.J. Res. 19) was read the third time and passed.

HONORING THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 27 just received from the House.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 27) honoring the National Institute of Standards and Technology and its employees for 100 years of service to the Nation.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. BENNETT. Mr. President, I ask unanimous consent that the concurrent resolution and the preamble be agreed to en bloc, the motion to reconsider be laid upon the table, with no intervening action.

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

The concurrent resolution (H. Con. Res. 27) was agreed to.

The preamble was agreed to.

ORDERS FOR MONDAY, MARCH 5, 2001

Mr. BENNETT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 2 p.m. on Monday, March 5. I further ask unanimous consent that on Monday, immediately following the prayer, 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, and the Senate then begin consideration of the bankruptcy bill as under the previous order.

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

PROGRAM

Mr. BENNETT. For the information of all Senators, the Senate will begin consideration of the bankruptcy bill starting at 2 p.m. Monday afternoon. The bill will be open for debate only during Monday's session. However, amendments are in order beginning Tuesday. Therefore, Senators can expect the first votes of the week on Tuesday.

ADJOURNMENT UNTIL MONDAY, MARCH 5, 2001, AT 2 P.M.

Mr. BENNETT. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 5:20 p.m., adjourned until Monday, March 5, 2001, at 2 p.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 1, 2001:

DEPARTMENT OF THE TREASURY

MARK A. WEINBERGER, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF THE TREASURY.

EXECUTIVE OFFICE OF THE PRESIDENT

SEAN O'KEEFE, OF NEW YORK, TO BE DEPUTY DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

EXTENSIONS OF REMARKS

CONGRATULATING THE PEACE CORPS ON THEIR 40TH ANNIVERSARY

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2001

Mr. LANTOS. Mr. Speaker, I rise today to congratulate the Peace Corps on its 40th anniversary, and commend the agency and its volunteers on the invaluable contribution they have made in promoting America's interests and values around the world since its founding in 1961.

Forty years ago, President Kennedy challenged Americans to ''ask not what your country can do for you, ask what you can do for your country.'' His inspiring words launched the Peace Corps, which President Kennedy officially established by Executive Order on March 1, 1961. The response to the President's call for this bold experiment was swift and enthusiastic, with the first volunteers accepting the challenge and leaving for their overseas assignments less than six months later.

Each successive generation has answered President Kennedy's call, expanding the Peace Corps' ranks and extending its reach every year. This year, more than 7,000 Peace Corps volunteers live and work alongside people in 76 countries. Over the course of the last four decades, a total of 162,000 volunteers in 134 countries have participated in this bold experiment. President Kennedy would be proud—and so should we.

The Peace Corps has met with such extraordinary success because its mission resonates with Americans and with the millions of people across the globe whom it has served. By immersing themselves in local cultures and working side-by-side with everyday people in the countries they serve, Peace Corps volunteers have made a positive impact in a very personal way. They work with teachers and parents to improve access to education. They work with community groups and local governments to stop the spread of HIV/AIDS and other infectious diseases. They work with entrepreneurs to develop better business practices; with farmers to develop better farming methods; with communities to protect their local environment. And they are harnessing the information revolution to train students in computer use and to establish local Internet resource centers around the globe.

The Peace Corps' work has made a critical contribution to America's national security. Born in the crucible of the Cold War as a means of preventing the false promise of Communism from taking hold in the developing world, it has adapted its mission for our global age to embrace all people struggling to survive and take advantage of the new opportunities of our times. Such work is critical to strengthen new democracies, encourage free markets, and promote human rights—all pillars of American foreign policy. Through the Peace Corps, people of foreign nations learn that America is a force for peace, justice and prosperity in the world.

The Peace Corps has also come to symbolize for millions across the globe the boundless hope, practical ingenuity, and noble vision our Nation embodies. As such, it represents one of the most enduring legacies of President Kennedy, and one of the shining stars in the constellation of initiatives that constitute America's foreign policy.

The Peace Corps is celebrating its milestone anniversary throughout the year with events that commemorate the agency's forty-year history and that raise awareness of its good work. I ask my colleagues, Mr. Speaker, to join me in celebrating the Peace Corps' success and wishing it success well into the future.

TRIBUTE TO SENIOR MASTER SERGEANT GEORGE C. FINCH, JR.

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2001

Mr. WALSH. Mr. Speaker, on February 28, 2001 Senior Master Sergeant George C. Finch, Jr. will retire as the Assistant Superintendent for the 174th Logistics Support Flight, New York Air National Guard in Syracuse, New York after 10 years at the position and 35 years of dedicated service in the United States Armed Forces.

A native of Central New York, Sergeant Finch's long and distinguished career in the United States Armed Forces began after graduating from Whitesboro High School when he entered the United States Air Force in June of 1966 as an Administrative Specialist. Since then, Sergeant Finch has honorably served in United States military operations around the world including Operation Desert Shield in Saudi Arabia, where Sergeant Finch acted as the Noncommissioned Officer in Charge of Plans, Scheduling and Documentation. After his return from Saudi Arabia, Sergeant Finch was reassigned as the Noncommissioned Officer in Charge of Plans, Scheduling, and Documentation, of the 174th Consolidated Aircraft Maintenance Squadron, and subsequently the 174th Logistics Support Flight. Since then, Sergeant Finch has served in Operation Provide Comfort in Turkey and Operation Northern Watch, also in Turkey, before finally being deployed to Prince Sultan Air Base, Kingdom of Saudi Arabia in March of 2000.

Sergeant Finch's military decorations include the Meritorious Service Medal, the Air Force Commendation Medal and the Air Force Achievement Medal. His military unit awards include the Joint Meritorious Service Award with one oak leaf cluster and the Air Force Outstanding Unit Award with Combat ''V'' Device and five oak leaf clusters. He also holds the Air Force Good Conduct Medal, the Air Reserve Forces Meritorious Service Medal with six oak leaf clusters, the National Defense Service Medal with one bronze service star, the Southwest Asia Service Medal with three campaign stars, and the Armed Forces Expeditionary Medal. Other service awards include the Air Force Overseas Service Long Tour Ribbon, the Air Force Longevity Service Award with seven oak leaf clusters, the Armed Forces Service Medal with Silver hourglass device, Mobilization ''M'' device and numeral four. His Foreign Service awards include the Kuwait Liberation Medal from Saudi Arabia and the Kuwait Liberation Medal from Kuwait.

On behalf of the 26th Congressional District, it is my honor to congratulate Sergeant Finch on his well deserved retirement and to thank him for 35 years of service to our Nation. We wish him and his family the very best.

INTRODUCTION OF ROCKY FLATS NATIONAL WILDLIFE REFUGE ACT

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2001

Mr. UDALL of Colorado. Mr. Speaker, I am today reintroducing a bill to designate Rocky Flats as a National Wildlife Refuge once that former nuclear-weapons site in Colorado is cleaned up and closed.

This bill, the Rocky Flats National Wildlife Refuge Act of 2001, is essentially identical to one I introduced last year on which action was not completed before the end of the 106th Congress.

It will convert Rocky Flats into a National Wildlife Refuge, but only AFTER the site has been cleaned up and closed and a final Onsite Record of Decision has been submitted by EPA under the Superfund rules. And it includes specific provisions to make sure that the bill will not result in a less thorough cleanup.

The bill has been developed through a process of collaboration with Senator WAYNE ALLARD, who is introducing corresponding legislation in the Senate, and is cosponsored by Representatives DEGETTE, TANCREDO, SCHAFFER, and HEFLEY.

In shaping this legislation, Senator ALLARD and I have worked closely with local communities, State and Federal agencies, and interested members of the public. We received a great deal of very helpful input, including many detailed reactions to and comments on related legislation that I introduced in 1999 and discussion drafts that Senator ALLARD and I circulated earlier last year.

Both Senator ALLARD and I recognize that introduction of legislation is only the initial step in the formal legislative process. We welcome and will consider any further comments that anyone may have regarding the bills we are introducing today. However, we believe that these bills address the points raised by the many parties in Colorado who are interested in this important matter.

Here is a brief outline of the main provisions of the bills Senator ALLARD and I are introducing today, and the few points on which it differs from the earlier version of last year:

Here's what the bill would do, with changes from last year's bill noted in italics:

Maintain federal ownership of the property

Preserve the Lindsay Ranch Homestead facilities

Prohibit annexation of the site by any local government

Prohibit through roads

Allows up to *300 feet of land along Indiana Street* to be used in the future for transportation improvements (conditional on support of local communities, conformance with DRCOG's Regional Transportation Plan, and *minimization of any adverse impacts to the refuge*)

Require DOE to continue to cleanup and close the site

Continue the federal government's long-term obligation for cleanup

Require the DOE and the U.S. Fish and Wildlife Service to develop an agreement document on how the land and natural resources will be managed during cleanup

Requires the DOE to retain ownership of any long-term cleanup and pollution control facility (with consultation with federal and state agencies)

Require DOE to cleanup the site under the levels established by the regulators, the public *and interested state and federal agencies* based on science, law and agreements reached with the public on appropriate cleanup levels (directs that the National Wildlife Refuge cannot be used to affect the level of cleanup)

Direct that the refuge's management will be consistent with refuge-system laws, while allowing *wildlife-dependent* public use where appropriate and consistent with wildlife protection

Create a public involvement process to advise the U.S. Fish and Wildlife Service on how the refuge should be managed and to address other issues such as use of the site for wind power research, perimeter fencing, and a visitor center

Protect existing property rights, such as existing mineral rights, water rights and rights-of way for utilities—subject to reasonable conditions to protect cleanup actions and refuge resources

Require the DOE to attempt to purchase mineral rights at Rocky Flats

Allow the owners of any water-related easements on the site to do any needed surveys.

Authorize the creation of a Rocky Flats Museum to commemorate the work done at this site in helping to win the cold war and its challenging cleanup legacy

Require DOE and the U.S. Fish and Wildlife Service to identify funding needs

The bill will not:

Affect ongoing cleanup activities

Allow for the reduction of the extent of cleanup based on the creation of a refuge

Reduce the levels of funds allocated for cleanup work (cleanup and closure are to remain priorities)

Transfer any existing land from the site for other purposes (except for the possibility of some land along the eastern boundary for transportation improvements along Indiana Street, possible leasing on the site for wind power research, and utility rights-of-way)

Direct that a practice shooting range now on site remain when the site is converted to a wildlife refuge

Let me take a moment to address a few of the more important issues that were raised by the local communities and other parties and how they are addressed in this bill.

First, transportation issues. Rocky Flats is located in the midst of a growing area of the Denver metropolitan region. As this area continues to grow, pressure is being put on the existing transportation facilities just outside the boarders of the site. In addition, the Denver-metropolitan region has been constructing a beltway around the city. The last segment of this beltway yet to be completed or approved for construction is to be in the northwest section of Denver, the same general areas where Rocky Flats is located. The communities that surround the site have been considering transportation improvements in this area for a number of years—including the potential completion of the beltway, However, we are willing to continue to listen and to work with the local governments and the public on this issue.

So, one of the questions on which Senator ALLARD and I sought comments was whether our bills should allow some use of Rocky Flats land to assist in addressing the transportation needs and future demands. We asked for and received the views of the public and the local communities. That input, along with the recent decision by the local communities to forego for now the construction of the beltway in the northwest region of Denver, overwhelmingly indicated that the bill should allow for possible availability of some land along Indiana Street along the eastern

Second, the Rocky Flats Cold War Museum. This section of the bill authorizes the establishment of a museum to commemorate the cold-war history of the work done at Rocky Flats. Rocky Flats has been a major facility of interest to the Denver area and the communities that surround it. Even though this facility will be cleaned up and closed down, we should not forget the hard work done here, what role it played in our national security and the mixed record of its economic, environmental and social impacts. The city of Arvada has been particularly interested in this idea, and took the lead in proposing inclusion of such a provision in the bill. However, a number of other communities have expressed interest in also being considered as a possible site for the museum. Accordingly, the bills being introduced today provide that Arvada will be the location for the museum unless the Secretary of Energy, after consultation with relevant communities, decides to select a different location after consideration of all appropriate factors such as cost, potential visitorship, and proximity to the Rocky Flats site.

Third, private property rights. Most of the land at Rocky Flats is owned by the federal government, but within its boundaries there are a number of pre-existing private property rights, including mineral rights, water rights, and utility rights-of-way. In response to comments from many of their owners, the bills acknowledge the existence of these rights, preserve the rights of their owners, including rights of access, and allow the Secretaries of Energy and Interior to address access issues to continue necessary activities related to cleanup and closure of the site and proper management of its resources.

With regard to water rights, the bills protect existing easements and allow water rights holders access to perfect and maintain their rights. With regard to mineral rights, the bills urge the Secretaries of Energy and Interior to seek to acquire these rights from existing owners—but ensure that no funds from cleanup and closure can be used to accomplish this goal. Finally, with regard to power lines and the proposal to extend a line from a high-tension line that currently crosses the site, the bills preserve the existing rights-of-way for these lines and allows the construction of one power line from an existing line to serve the growing region northeast of Rocky Flats.

Fourth, the National Renewable Energy Laboratory's (NREL) National Wind Technology Center. This research facility, which is located northwest of the site, has been conducting important research on wind energy technology. As many in the region know, this area of the Front Range is subjected to strong winds that spill out over the mountains and onto the plains. This creates ideal wind conditions to test new wind power turbines. I support this research and believe that the work done at this facility can help us be more energy secure as we find ways to make wind power more productive and economical. The bills we are introducing today preserve this facility. It is outside the boundaries of the new wildlife refuge that the bill would create and thus would be allowed to continue at its present location. In addition, NREL has been considering expanding this facility onto the open lands of Rocky Flats. The bill allows NREL to pursue this proposal through the public involvement process.

Fifth, the bill does not include language to retain the existing shooting range on the site. This range—constructed by the DOE to train the site's security forces—has been used for local law enforcement training, and some have suggested that the bill should require it to remain available. However, under current cleanup plans the range is to be eliminated, and we are aware that both the public and local governments have concerns about the desirability of having such a range in a wildlife refuge. So, given the fact that the local governments are willing to work to locate an alternative facility, we have not included language in the bill to require that it remain.

Finally, cleanup levels. As this legislation has been developed, some concerns have been expressed that the establishment of Rocky Flats as a wildlife refuge could result in a less extensive or thorough cleanup of contamination that has resulted from its prior mission. Of course, that was not the intention of the bill I introduced in 1999 and it is definitely

not the intention of the bills being introduced today. The language in these bills has been drafted to ensure that the cleanup is based on sound science, compliance with federal and state environmental laws and regulations, and public acceptability. The bills now tie the cleanup levels to the levels that will be established in the Rocky Flats Cleanup Agreement (RFCA) for soil, water and other media following a public process to review and reconsider the cleanup levels in the RFCA. In this way, the public will be involved in establishing cleanup levels and the Secretary of Energy will be required to conduct a thorough cleanup based on that input. In addition, the bills require that the establishment of the site as a wildlife refuge cannot be used to affect the cleanup levels—removing any possibility of arriving at a lesser cleanup due to this ultimate land use.

Mr. Speaker, I want to express my thanks to Senator ALLARD for his outstanding cooperation in drafting this important legislation. I am very appreciative of his contributions and look forward to continuing to work closely with him and the other members of the Colorado delegation in both the House and Senate to achieve enactment of this legislation.

In the past, Rocky Flats has been off-limits to development because it was a weapons plant. That era is over—and its legacy at Rocky Flats has been very mixed, to say the least. But it has left us with the opportunity to protect and maintain the outstanding natural, cultural, and open-space resources and value of this key part of Colorado's Front Range area. This bill would accomplish that end, would provide for appropriate future management of the lands, and would benefit not just the immediate area but all of Colorado and the nation as well.

PERSONAL EXPLANATION

HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2001

Mr. BECERRA. Mr. Speaker, on February 27 and 28, 1 was unable to cast my votes on rollcall votes: No. 16 on motion to suspend the rules and agree on H. Con. Res. 39; No. 17 on motion to suspend the rules and pass H.R. 256; No. 18 on motion to suspend the rules and pass H.R. 558; No. 19 on motion to suspend the rules and pass H.R. 621; No. 20 on motion to suspend the rules and agree on H. Con. Res. 27; and No. 21 on motion to suspend the rules and agree on H. Res. 54. Had I been present for the votes, I would have voted "aye" on rollcall votes 16, 17, 18, 19, 20, and 21.

HONORING STEVE CASELDINE, 2000 RECIPIENT OF THE YMCA DISTINGUISHED SERVICE AWARD

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2001

Mr. CALVERT. Mr. Speaker, my congressional district in Riverside, California is extremely fortunate to have a dynamic and dedicated group of community leaders who willingly and unselfishly give of their time and talents to ensure the well-being of our city and county. These individuals work tirelessly to develop voluntary community action to improve the community's economy, its education, its environment and its overall quality of life. One individual, who is a member of this group, is Steve Caseldine.

On the 3rd of March, Mr. Caseldine will be honored with the Ira. D. "Cal" Calvert Distinguished Service Award by the Corona-Norco Family YMCA. The award is given in memory of my father, "Cal" Calvert, and his enumerable philanthropic gifts to the community and his efforts to encourage others to serve their community in a similar fashion. The award recognizes Steve for his exceptional devotion to developing community volunteerism.

A senior vice president and manager of the Corona office of Citizens Business Bank, Steve credits his employer's emphasis on community service for his own history of volunteerism. However, it is his love for fishing and membership with the Inland Empire Bassmasters, not employer, that has motivated Steve for the past three years to help area youth experience the traditional American hobby of fishing. To date, the Inland Empire Bassmasters have introduced more than 250 boys and girls to the joys of fishing. Many of these youth have come from the Corona Boys and Girls Club, Alternatives in Domestic Violence and the YMCA.

Since Joining Citizens Business Bank (then Chino Valley Bank) in 1981, Steve has also been an active participant in the community through the Corona Chamber of Commerce and Corona Rotary Club.

Mr. Caseldine met his wife Docia, while attending a small Christian college. In 1974, he earned a Business Administration degree and began his career in banking at Wells Fargo, in Orange County, before Joining Citizens. Steve and Docia have one son and daughter.

Mr. Speaker, I take this opportunity to thank Steve Caseldine for his dedication, influence and involvement in our community. He has aided in developing and maintaining community volunteerism in the Corona-Norco area and the Inland Empire. I know that we will continue to benefit from his experience in the 43rd Congressional District and deep commitment to the region. It is a great pleasure for me to congratulate Steve on his outstanding career and lifelong devotion to community volunteerism.

HONORING THE PEACE CORPS ON ITS 40TH ANNIVERSARY

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2001

Ms. LEE. Mr. Speaker, when John F. Kennedy challenged Americans to put aside self-interest and go out and make the world a better place, he launched a crusade of service that continues today. Over the last four decades, thousands of Peace Corps volunteers have built bridges as well as friendships.

Peace Corps volunteers have helped children learn to read, helped villages obtain clean water, helped educate people about HIV/AIDS and other health threats, and helped farmers grow more food. In the process of these and countless other undertakings, what is most striking for many returned volunteers is not how much they taught, but rather how much they learned.

The Peace Corps embodies the highest principles of international and intercultural exchange. Peace Corps volunteers truly do think globally by acting locally. This grassroots program has made many lasting contributions to the world. John F. Kennedy called on Americans to ask what they could do for their country, but in fact, the Peace Corps mandate is much broader: it asks volunteers what they can do for their planet and its people.

I am proud to join my colleagues in congratulating the Peace Corps on its forty years of achievement and in reaffirming our national commitment to international service.

HONORING LUTHER F. (GUS) BLIVEN

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2001

Mr. WALSH. Mr. Speaker, the people of Central New York lost their personal reporter last Sunday in Syracuse. Let me emphasize the word *their* because Luther F. (Gus) Bliven was that person for every day of his 71 year career with the Syracuse Post Standard.

For someone to work for the same employer over a 71 year span is remarkable in itself. But to have earned both the respect and trust of the people who read your work over that same time frame is the trademark of greatness. Gus Bliven covered the state legislature in Albany for almost 50 years. During that time frame he reported on seven governors, hundreds of state legislators, countless hearings and more all night sessions then he ever wished. He was a "reporter's reporter" as he developed the earned reputation of a no-nonsense but fair writer. He expected honest answers to his questions and when he got them the story reflected it. If he felt the response was less than truthful the story reflected that as well. You didn't want to ever be in that category.

Gus covered my father when he was mayor of Syracuse. They didn't always agree but they respected one another as strait-shooters. My father paid him a high compliment when he said that Gus Bliven was the best but toughest reporter he had ever known.

On Wednesday, February 28, 2001, this fine newspaperman was laid to rest. I won't be at his funeral because the House is in session requiring me to be here in Washington, but many people will join to say farewell to this news legend from Central New York. It almost seems fitting that as Christians begin the season of Lent, known as a time of getting closer to the Lord, Gus Bliven starts his journey home to God. He would have enjoyed this parallel.

INTRODUCTION OF THE COLORADO WILDERNESS ACT OF 2001

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2001

Mr. UDALL of Colorado. Mr. Speaker, I am pleased to join as an original cosponsor of this legislation being introduced today by my colleague, Representative DEGETTE.

Representative DEGETTE has been a leader in the Colorado delegation in connection with the issue of wilderness designations of lands in our State managed by the Bureau of Land Management, and I am hopeful that the bill will serve to advance the debate on that issue. Conclusion of that debate is long overdue, and I am hopeful that we can get on with it.

I am sure some will object to this bill and find reasons, both philosophical and technical, to oppose it. I am also sure others will argue for its intact passage without change or amendment. I expect that the legislative process will produce results that are not completely satisfactory to either of those groups.

In my view, the bill outlines a good way to make progress—that is, through comprehensive legislation to address the majority of the BLM areas that have been proposed for wilderness. Of course, members of the delegation may also want to explore legislation dealing just with one or more of these areas, and I am ready to work with them on that approach as well.

All wilderness bills eventually are about compromise and map-drawing. Introduction of this bill obviously is not the end of the wilderness discussions in Colorado, and I look forward to working with the rest of my colleagues in the delegation to seek the maximum feasible degree of consensus that can result in wilderness designations for BLM lands in our State.

HONORING THE SYRACUSE SYMPHONY ORCHESTRA

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2001

Mr. WALSH. Mr. Speaker, this year marks the 40th Anniversary Season of the Syracuse Symphony Orchestra, a fully professional residential orchestra of national acclaim, which serves the entire central and northern New York State region. The Orchestra includes 6 professional musicians and a conducting staff of international caliber and performs over 100 full-orchestra concerts throughout Central and Northern New York, reaching more than 200,000 audience members during its 38-week season.

Now the 45th largest orchestra in the United States, the Syracuse Symphony Orchestra performs a vast array of programs including classics, pops, family, chamber orchestra, educational youth programs and free summer parks concerts. In addition, the Syracuse Symphony Orchestra presents The Nutcracker with a visiting ballet company each December and also plays for Syracuse Opera performances. Syracuse Symphony concerts are broadcast twice weekly on WCNYFM and the Orchestra proudly operates two youth ensembles—the Syracuse Symphony Youth Orchestra and Syracuse Symphony Youth String Orchestra.

Beyond its Syracuse-based activities, the Orchestra performs a heavy schedule of concerts in under-served regional communities. In addition to subscription series in Watertown, Rome and Cortland, the Orchestra frequently tours New York State and, in recent years, Pennsylvania, New Hampshire, and Connecticut. The Orchestra has made four trips to Carnegie Hall and produced several recordings, including the most recent compact disc release under the direction of Daniel Hege. The Orchestra collaborates with dozens of local organizations each year, including the Syracuse Stage, Syracuse University Oratorio Society, Syracuse Children's Chorus, Syracuse School of Dance, and the Center of Ballet and Dance Arts. In 1999, their excellence in the arts was recognized when The Orchestra received the prestigious New York State Governor's Arts Award.

I would like to take this opportunity to commend the Syracuse Symphony Orchestra for its many accomplishments throughout the past forty years and recognize its service to Central New York and surrounding communities. We wish its members and patrons every success in all future endeavors.

HONORING CARROLL BEACH

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2001

Mr. UDALL of Colorado. Mr. Speaker, I salute my friend Carroll Beach, President of the Colorado and Wyoming Credit Union Leagues, on receiving the 2001 Herb Wegner Memorial Award for Lifetime Achievement from the National Credit Union Foundation, the philanthropic arm of the Credit Union National Association.

I feel that Credit Unions exemplify the great American ethic of pulling together with our neighbors to accomplish worthy goals that we could not hope to achieve individually. Credit unions help to foster a much-needed sense of community. They are member-owned cooperatives, where members typically receive their dividends in the form of more favorable interest rates and lower fees.

Since Carroll assumed control of Colorado's credit unions in 1973, the Colorado Credit Union system has grown from a handful of employees to 180 employees serving 1.4 million members. Nearly one out of three adults in Colorado belongs to a credit union. Credit union membership in Colorado has risen from 350,000 to 1.4 million under Carroll's leadership.

Over the last three decades, Carroll has worked to improve access to credit unions, striving towards his stated goal of seeing a day when every American can access a credit union and own the financial institution that serves them. I commend Mr. Beach on his innovative and creative leadership of the Colorado and Wyoming Credit Union Leagues, and congratulate him on receiving this much-deserved honor.

MINORITY COLLEGE STUDENTS

HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2001

Mr. BECERRA. Mr. Speaker, today I join my colleagues to express my grave concern over the way minority students are treated by this Congress. On February 2, 2001, Republican Education and the Workforce Committee members voted to change the manner in which minority higher education issues are considered by the committee. Under these changes, consideration of issues affecting Historically Black Colleges and Hispanic Serving Institutions will take place in a new Select Education Subcommittee, while all other higher education issues will be handled by a newly formed Subcommittee on 21st Century Competitiveness.

Minority higher education institutions are an important part of our nation's educational system. Established under the Higher Education Act, these institutions continue to expand educational opportunities for financially needy and minority students. However, these new rule changes imposed by the Education and the Workforce Committee set minority education back at least 50 years, to a time when minorities were "separate but equal". When the 21st Century Competitiveness Subcommittee meets to discuss improving higher education and increasing the competitiveness of our college students, they will make crucial decisions that affect all students in higher education institutions, except those that are served at minority serving institutions.

These recent changes are unacceptable, and send a dangerous message to minority students throughout the nation. Congress must not support this blatant inequality, and I call upon the Majority to correct this injustice.

HONORING JOHN CLEGHORN, 2000 RECIPIENT OF THE YMCA DISTINGUISHED SERVICE AWARD

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2001

Mr. CALVERT. Mr. Speaker, my congressional district in Riverside, California is extremely fortunate to have a dynamic and dedicated group of community leaders who willingly and unselfishly give of their time and talents to ensure the well-being of our city and county. These individuals work tirelessly to develop voluntary community action to improve the community's economy, its education, its environment and its overall quality of life. One individual, who is a member of this group, is John Cleghorn. He has been active in so many community groups and activities that it is hard to imagine how he found the time to become a career law enforcement officer with

the Los Angeles Police Department (LAPD) and the City of Corona, a husband and a father of three children.

On the 3rd of March, Mr. Cleghorn will be honored with the Ira. D. ''Cal'' Calvert Distinguished Service Award by the Corona-Norco Family YMCA. The award is given in memory of my father, ''Cal'' Calvert, and his enumerable philanthropic gifts to the community and his efforts to encourage others to serve their community in a similar fashion. The award recognizes Mr. Cleghorn for his exceptional devotion to developing community volunteerism.

Born in Pasadena, California, John Cleghorn developed an inherent love for law enforcement, according to his mother, from numerous ''ride-a-longs'' with the Pasadena Police Department—a result of his youthful desire for adventure in the neighborhoods, where he promptly got lost. He met his wife, Janet Everett, at University High, and married her following his graduation from Los Angeles City College. Intent on a career in law enforcement, John then entered the Los Angeles Police Academy, after which he was inducted in the Army and served for two years.

John's career with the LAPD lasted for an impressive 27 years where he commanded many divisions. During those years, he also worked to obtain a Bachelor of Science in Police Administration from California State University, Los Angeles and a Masters in Public Communications from Pepperdine University. After retiring from LAPD in 1985, John was named the interim police chief of Corona, and short time later officially appointed as police chief. Mr. Cleghorn and his wife have a son, two daughters and six grandchildren.

With all of these career and family commitments, John's unselfish giving of time and energy to volunteerism is all the more impressive and serves as a model to his community, neighbors and own children and grandchildren. His strong commitment to the Inland Empire has displayed in his participation in the United Way, Corona Library Foundation, Corona Regional Medical Center Foundation, Alternatives to Domestic Violence and, of course, the Corona-Norco YMCA. He has also served as president of the Rotary Club and the Navy League.

Mr. Speaker, I take this opportunity to thank John Cleghorn for his dedication, influence and involvement in our community. He has aided In developing and maintaining community volunteerism in the Corona-Norco area and the Inland Empire. I know that we will continue to benefit from his longtime experience in the 43rd congressional district and deep commitment to the region. It is a great pleasure for me to congratulate John on his outstanding career with the LAPD and his lifelong devotion to community volunteerism.

TRIBUTE TO AHLERMAN VAN LEWIS, SR., PRESIDENT OF OAKLAND AFRICA SISTER CITIES INTERNATIONAL

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2001

Ms. LEE. Mr. Speaker, today I pay tribute to Mr. Ahlerman Van Lewis, Sr. Mr. Lewis served as the President of Oakland Africa Sister Cities International for many years and was an active member of the Ninth Congressional District. Sadly Mr. Lewis passed away on January 25, 2001 after a brief illness.

Ahlerman was the youngest son born to Fred and Mercie Lee Williams Lewis on September 11, 1931 in Diboll, Texas. He graduated from Henry G. Temple High School and attended Texas Southern University on a basketball scholarship. He was a member of the United States Air Force, where he served as a Morning Report Clerk.

After leaving the military, he joined his brothers, Raymond Rish and Henman ''Lefty'' Lewis, in the Oakland—Bay Area where he worked in the field of administrative services both at Fort Mason and the Presidio, in San Francisco, California.

Ahlerman married FranCione Newellene Johnson, on June 16, 1962. From this union came the two sons he cherished, Ahlerman ''Ahlee'' Van Lewis, II and Frederic Paul Lewis.

As the United States became vibrantly alive with civil rights activity, during the early 1960s, Ahlerman was inspired by the Black self-determination message of Malcom X and The Honorable Elijah Muharnmed, An ardent member of the Fruit Of Islam, Brother Akbar Ali, as he was known in the Muslim community, dedicated himself to working with the local community to improve the conditions of African Americans in the city of Oakland and its surrounding environs. He was a member of Muhammed's Mosque # 26 for 40 years.

Fascinated with the thrust for Black business ownership and management, Ahlerman was first drawn to the catering business. This motivated him to obtain an Associate Arts Degree in Food Management from Laney College before he matriculated to San Francisco State University.

Turning his attention to inspiring African American youth, Ablerman began his teaching career with the Pittsburg School District before joining the Oakland Unified School District (OUSD). While teaching in Oakland, Ahlerman participated in the OUSD and Stanford University—Global Education Curriculum Development Project. This activity sparked a deep interest in West Africa. It was this interest that led Ahlerman to form Oakland Africa Sister Cities International, which was set up to foster a close relationship with Secondi-Takarodi, Ghana. As President of the Sister Cities project , Ahlermnan led the organization to host many special events. One such event was a collaboration with Rev. FranCione and the Pan Oaks Center for the Creative Arts to sponsor an exhibit of the work of more than ninety Oakland High School students' artistic impression of Jeff Stetson's play The Meeting.

Ahlerman worked with the OUSD's School to Careers Program to secure internships for students to work with the Sister Cities organization. One of the major projects the students were able to work on under Ahlerman's leadership was the George Washington Carver Exhibit. This exhibit was initiated by Tuskegee Institute. The exhibit was such a resounding success that Ahlermnan was later invited to Tuskegee, to receive a special honor for his work commemorating Dr. George Washington Carver.

Ahlerman Van Lewis, Sr. will be deeply missed by all who were blessed to have known and worked with him. He leaves behind a rich legacy of leadership and service to the African American community in Oakland, as well as the Ghanaian community in Sekondi-Takarodi, Ghana. We in the Ninth Congressional District can pay tribute to Ahlerman's memory by carrying on his work-of fostering a deeper interest and relationship with the continent of Africa, while at the same time continuing to commemorate the life of our own African American heroes, such as George Washington Carver.

RECOGNIZING THE WORK OF SUSAN B. ANTHONY ON HER 181ST BIRTHDAY

HON. ANNE M. NORTHUP

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2001

Mrs. NORTHUP. Mr. Speaker, today I pay tribute to Susan B. Anthony and her work in promoting the life of the unborn.

As you may be aware, February 15, 2001 marked the 181st birthday of Susan B. Anthony, one of our nation's greatest champions of not just of the rights of women, but of all Americans.

However, Susan B. Anthony's work to secure women's rights took place on many fronts, from opposing prostitution to demanding the right to vote. And she considered her efforts in turning women away from abortion as some of the most important work of her life. She declared that amongst her greatest joys was to have helped ''bring about a better state of things for mothers generally, so that their unborn little ones could not be willed away from them.''

Today, we celebrate the spirit of Susan B. Anthony and continue her work in protecting the lives of the unborn. Her labors to provide more opportunities and choices for women leaves us with many alternatives to abortion. For example, the joy of motherhood and the act of responsible parenting can be extended to millions of women today through adoption. Adoption fills a vital role, ensuring that worthy options are available for women of all social segments, races, and backgrounds. Just like Susan B. Anthony, we can devote our energies toward making women independent of, and not dependent on, abortion as a recourse.

Susan B. Anthony fought to lift the unjust burdens oppressing women, including the burden of abortion. As we celebrate her birthday and Women's History Month, let us also recommit ourselves to her goal of promoting motherhood and the unborn life.

TRIBUTE TO THE LATE MARGARET AZEVEDO

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2001

Ms. WOOLSEY. Mr. Speaker, today I honor Ms. Margaret Azevedo. Margaret Azevedo, a long-time progressive in Marin County, exemplified the very best in public service to our community. During her 45 years of activism, Margaret was known for her thorough and balanced approach to preserving our environment. Her tireless efforts on behalf of the people of Marin and their quality of life earned her the respect and admiration of all who knew her.

As a member of many organizations including the Marin County Planning Commission, the North Central Regional Coastal Commission, the Coastal Conservancy, the Bay Area Transportation Study Commission, the Association of Bay Area Government's Housing Task Force, the League of Women Voters, the Marin Council for Civic Affairs and the Point Reyes National Seashore Foundation Margaret worked endlessly to enhance the long-term health of the Northbay community. She was known for her breadth of knowledge as well as a keen sense of humor.

Margaret Azevedo is credited with preserving 240,200 acres of open space as well as playing a major role in the establishment of the Golden Gate National Recreation Area and the Richardson Bay Audubon Sanctuary. Her numerous awards—such as the San Francisco Examiner's 10 most distinguished women of the Bay Area, Marin Women's Hall of Fame and the League of Women Voters' Bunny Lucheta Award for Outstanding Public Service in Marin County—are a testament to the success of her efforts.

Mr. Speaker, Margaret's death in December 2000, leaves a void in Marin that will be impossible to fill as well as a legacy that demonstrates the value of an individual's dedication to preserving and bettering our environment and our world.

INTRODUCTION OF THE ABEL AND MARY NICHOLSON HOUSE NATIONAL HISTORIC SITE STUDY ACT

HON. FRANK A. LoBIONDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2001

Mr. LoBIONDO. Mr. Speaker, I am pleased to introduce H.R. 793, the Abel and Mary Nicholson House Historic Site Study Act. This bill would require the Secretary of the Interior to study the suitability and feasibility of designating the Abel and Mary Nicholson House, located in Elsinboro Township, Salem County, New Jersey, in my congressional district, as a unit of the National Park System. As part of the study the Secretary would also be required to consider management alternatives to create an administrative association with the New Jersey Coastal Heritage Trail Route. This study is the required first step in designating the site as a national park.

The Abel and Mary Nicholson House was built in 1722 and is a rare surviving example of an unaltered early 18th century patterned brick building. The original portion of the house has existed for 280 years with only routine maintenance. This house is a unique resource which can provide significant opportunities for studying our nation's history and development.

I was pleased to announce the designation of this house as a National Historic Landmark on March 1, 2000, which made it the first National Historic Landmark site in Salem or Gloucester Counties, in New Jersey. The U.S. Department of the Interior designated the Nicholson House as a National Historic Landmark because of its historical importance to the entire nation and listed it in the National Register of Historic Places.

As one of the most significant ''first period'' houses surviving in the Delaware Valley, the Nicholson House represents a piece of history from both Southern New Jersey and early American life, and should remain protected and preserved to continue as a valuable teaching tool for generations to come.

SAINT ISIDORE SCHOOL CELEBRATES 100 YEARS

HON. VERNON J. EHLERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2001

Mr. EHLERS. Mr. Speaker, today I give recognition to St. Isidore School in Grand Rapids, Michigan for its 100 years of service to the Grand Rapids community. Founded by Polish immigrants, the school opened its doors to 144 students on January 2, 1901, in a northeastside building that served as a combination school, church, and convent. Since the ringing of the first bell in 1901, the school has served as an excellent example of families committed to providing their children with a positive Catholic school experience.

St. Isidore School, originally the city's East Side Polish parish school, has been through many changes over the years and has grown into a cosmopolitan school. The current facility on Spring Avenue was built in 1926 and in recent years has housed an average of 140 students in grades K–8. The record year was 1927 when the pupil count swelled to 920 students. During a 20 year period from 1927 thru 1947 St. Isidore's also opened its doors to ninth grade students.

During its 100 year existence, St. Isidore's has served as the starting point for numerous young men and women who have gone on to very challenging and successful careers. Graduates of the school have become priests, sisters, doctors, nurses, attorneys, engineers, accountants, teachers, administrators, elected officials, and good loyal employees of the many industries in the West Michigan area.

Mr. Speaker, I am extremely delighted to take this time to pay tribute to this superb school that has played a vital role in our city's history. I ask my colleagues to join me in saluting the efforts and commitment of the staff and students who have called St. Isidore home over the past 100 years. Their dedication to learning and excellence is a model for others to follow. Congratulations! May God also bless you for your next 100 years!

HONORING THE 50TH ANNIVERSARY OF SCOTT VFW POST 4183

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2001

Mr. COSTELLO. Mr. Speaker, today I ask my colleagues to join me in honoring the 50th anniversary of the Scott Veterans of Foreign Wars Post 4183 in Belleville, Illinois.

The Veteran's of Foreign Wars (VFW) of the United States traces it's roots back to 1899. That year, veterans of both the Spanish-American War and the Philippine Insurrection founded local organizations to secure rights and benefits for their veterans. In Columbus, Ohio, Spanish-American War veterans founded the American Veterans of Foreign Service and in Denver, Colorado, Philippine veterans organized the Colorado Society, Army of the Philippines. In 1913, both organizations merged to form the present Veterans of Foreign Wars organization.

The VFW is known the world over for their service not only to veterans, but to all people. They are considered to be one of the most influential forces in the halls of Congress. The efforts of the VFW resulted in the creation of the House Veteran's Committee, the WW 1 bonus, the national Veteran's Day holiday, various GI bills, the creation of a cabinet level office of Veteran's Affairs and support on many veteran's health issues. The VFW is active in disaster relief and also provides information to citizens about our national flag. You cannot also mention the VFW without mentioning their ''buddy poppy'' program which raises funds for veteran's homes.

The Scott VFW Post 4183 was chartered in 1951 with 88 members and was named the Loren Howerth VFW Post. Their first meetings were held in the basement of the P–3 Building at Scott Air Force base. In 1970, the post was renamed for Frederick M. Kocher, the commander largely responsible for re-energizing the post's efforts in reaching membership goals. Commander Kocher was also responsible for providing a commitment to service to those veterans who served their country. In the 80's, the Post took on it's present designation as the Scott VFW Post 4183.

The Post's present location on 3½ acres used to be a farmhouse that still remains as part of the Post complex. Additions to the farmhouse over the years were the inclusion of a bingo and meeting hall in 1954 and a building addition in 1986. Located just outside the Belleville Gate of Scott Air Force Base, VFW Post 4183 relies on base personnel for the majority of its membership. Currently, the Post has 446 members, residing in 35 different states and five foreign countries. Two hundred and forty of these Post members are considered life members and the membership roll includes a Pearl Harbor Veteran and a WW II Flying Sergeant. The majority of the

membership are veterans from Korea, Vietnam and Desert Storm.

Post 4183 was the first VFW post in the United States to sponsor a perpetual scholarship for the VFW National Voice of Democracy program. This program allows high school students to participate in patriotic programs and the opportunity to earn awards and scholarships. The Post actively supports area veterans, as well as the Scott Air Force Base Elementary School, the Scott Chief's Group, the Family Support Center and the Scott Officer's Wives Club. The Post also works with local Cub Scouts, high schools, Special Olympics, the St. Clair County Sheriff's Department, East St. Louis Christmas Food Drives and area VA hospitals and the VFW National Home in Michigan. Post 4183 has the distinct honor of being named an "All State Post" nine times.

Mr. Speaker, I ask my colleagues to join me in congratulating the men and women of Scott VFW Post 4183 both past and present on fifty years of serving veterans and the people of Southwestern Illinois.

IMPROVE THE QUALITY OF AND COST EFFICIENCY OF MEDICARE SYSTEM: SUPPORT REIMBURSEMENT FOR CERTIFIED REGISTERED NURSE FIRST ASSISTANTS

HON. MAC COLLINS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2001

Mr. COLLINS. Mr. Speaker, today, I am pleased to introduce the Medicare Certified Registered Nurse First Assistant (CRNFA) Direct Reimbursement Act of 2001, which will provide equity in reimbursement for certified registered nurse first assistants who provide surgical first assisting services to Medicare patients. I introduced this legislation in the 106th Congress and am grateful that, last year, the Congress asked the General Accounting Office to study the issue and report within a year on the quality of care and cost effectiveness provided by CRNFAs. While I deeply appreciate this support, I also believe it is important to continue this effort on behalf of CRNFAs and am grateful for the fifteen colleagues that have agreed to rejoin me in this effort as original cosponsors of this legislation.

Having received more advanced education and training in first assisting than any other nonphysician provider, CRNFAs serve a vital role, directly assisting physicians with surgical procedures. Additionally, CRNFAs and RNFAs are the only providers—aside from the rare physician making house calls—who sometimes provide post-operative care by actually visiting patients at home following surgery. Thus, not only do CRNFAs have more clinical experience and education than other non-physician providers, but they also provide continuity of care to patients enabling higher quality and better patient outcomes.

CRNFAs also provide the additional benefit of cost efficiency. Health claims data from the Health Care Financing Administration (HCFA) reveal that physicians file more than 90% of the first assistant at surgery claims for Medicare reimbursement. Physicians receive 16 percent of the surgeon's fee for serving as a surgical first assistant. Under this legislation, CRNFAs will receive only 13.6 percent of the surgeon's fee for providing first assistant services. Furthermore, CRNFAs are equally as cost-effective as other non-physician first assisting providers who currently are reimbursed at 13.6 percent of the surgeon's fee for first assisting. Use of CRNFAs would, therefore, be a high quality yet cost-effective alternative for the nation's health care delivery system, affording additional flexibility to surgeons, hospitals and ambulatory surgery centers.

In closing, I would like to express my appreciation for the hard work of the Association of periOperative Registered Nurses (AORN) and its president, Brenda C. Ulmer, RN, MN, CNOR, in bringing this issue forward. I also thank the nurses of AORN for contacting their Representatives regarding this important bill; their help has been indispensable. As a provider of health care, the CRNFA is a viable solution for controlling rising health care costs. Working in collaborative practice with surgeons, CRNFAs are cost-effective to the patient and to the health care delivery system. I urge my colleagues to join me in supporting equity for certified registered nurse first assistants by cosponsoring the Medicare Certified Registered Nurse First Assistant Direct Reimbursement Act of 2001.

TRIBUTE TO RABBI HILLEL COHN, ON THE EVENT OF HIS RETIREMENT

HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2001

Mr. BACA. Mr. Speaker, this June, Rabbi Hillel Cohn will be retiring from Congregation Emanu El, in San Bernardino, after 38 years of service, having served the Congregation since 1963.

Rabbi Cohn is one of the leading citizens of the San Bernardino area. He is known throughout the nation for his outstanding sermons and his work as a fine educator, counselor and community leader.

He is known for inspiring and creative sermons, including ones that reference Bob Dylan and the Genetic Code.

I have been privileged to know Rabbi Cohn, and have found him to be a mentor, a scholar, and an inspirational man.

I have been pleased to know his family, including his nephew, Mike Steinman, who served the people of the State of California as a Legislative Aide on my staff in Sacramento.

I have had the pleasure of working with Rabbi Cohn on religious issues, and keeping him advised on the progress of legislation, including the Religious Freedom Protection Act, which I authored in California.

Rabbi Cohn is part of a remarkable history of wise and gifted rabbis who have presided over Congregation Emanu El. The Congregation and the San Bernardino Jewish Community trace their history back to the early 1850's, when the first Jewish Settlers came to Southern California. The first Jewish community established in Southern California was in San Bernardino, and services began to be held in the 1850's, with the congregation formally being chartered in 1891.

Under Rabbi Cohn, the congregation has risen to great levels of prominence, winning national awards for the excellence of its Jewish Education program. The Congregation also operates a nationally-recognized pre-school and elementary school.

I am very pleased to have worked with Rabbi Cohn over the years, and wish him many years of blessed retirement. I am sure he will continue to grace the San Bernardino community with his scholarship and learning for many years to come. I offer my best wishes to him and his family on this occasion.

IN HONOR OF EDWIN J. KORCZYNSKI

HON. ROD R. BLAGOJEVICH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2001

Mr. BLAGOJEVICH. Mr. Speaker, a decade ago, the people of the United States asked the brave men and women of our armed forces to take up an important cause in the Persian Gulf. Today, I rise to salute the achievements of a resident of my congressional district, Mr. Edwin J. "Ski" Korczynski, and to commemorate his important contributions.

Edwin was an America West Airline pilot when he served as a volunteer in Operations Desert Shield and Desert Storm, completing numerous missions in the Civil Reserve Air Fleet and Military Airlift Command operation, where civilian airliners were used for lift capability. As a pilot and flight engineer attached to the Military Airlift Command located at Scott Air Force Base, Korczynski helped transport military personnel and supplies vital to the Kuwaiti liberation effort. For his efforts, Pilot Korczynski was awarded the Civilian Desert Shield and Desert Storm medal for Outstanding Achievement as a Pilot/Flight Engineer flying CRAF/MAC missions. Although he is an honorably discharged United States Marine, Korczynski was not an activated reservist during this conflict, but was instead a volunteer committed to the cause.

The five daughters of what is known as the "Korczynski Krew"; Ediane M. Ayers, Kimberly A. Boersma, Elizabeth A. Haak, Bethany A. Korczynski, and Megan M. Korczynski, are understandably proud of their father, as he is of them. As they go about their daily lives in this great nation, they are thankful for the service of their father and his colleagues and comrades who have served in the uniform of this nation's armed services. It is particularly their father's willingness to volunteer which they know is so important to the fabric of our neighborhoods and is an example which is important whether in military service or community service.

Though it has been a decade since those operations in the Persian Gulf, Edwin Korczynski continues to volunteer his time and energy, first as Squadron Commander, United States Air Force/Civil Air Patrol/Lake in the Hills Composite Squadron/IL #482. He is also

attached to the U.S. Naval Sea Cadet Corps/Division 911 as Personnel Officer at Naval Training Command, Great Lakes, Scout Leader with the Berwyn Air Explorer Post #777, an Emergency Service Disaster Agency volunteer and American Red Cross Disaster Assist Team volunteer serving the citizens of the greater Chicago area. His wife, Diane, and his daughters have come to expect and appreciate this kind of commitment. These efforts are important not only in the organizations which benefit directly from his participation but in the example which is set for his friends, family and colleagues.

Mr. Speaker, even though the sands of the Persian Gulf have passed through the hourglass, it is important that we remember that time in our history. I am thankful for Ed Korczynski's participation in that important mission, and I appreciate his continued involvement in the betterment of our lives.

PROVISION TO HELP PRESERVE VETERANS' FAMILY FARMS INCLUDED IN VETERANS' OPPORTUNITIES ACT OF 2001

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2001

Mr. EVANS. Mr. Speaker, in the 106th Congress, I introduced H.R. 5271, the Veterans' Family Farm Preservation Act, to make it possible for more wartime veterans and their survivors to qualify for pension benefits from the Department of Veterans Affairs (VA) without being forced to sell their family farms and ranches. I am pleased that the provisions of this legislation have been included in the Veterans' Opportunities Act of 2001, H.R. 801, a bipartisan bill introduced on February 28, 2001. This legislation will also benefit low-income veterans who seek to obtain health care from VA.

The productivity of America's family farms is undisputed. Family farms and ranches feed our Nation. Family members and unpaid workers account for 70% of farm labor in the United States. While America's family farmers and ranchers are unmatched in their productivity, they have little or no control over many factors which determine the economic results of their labor.

Veterans who have gone in harm's way and placed their lives on the line by serving our nation in the Armed Forces should not be asked to relinquish their family farm in order to qualify for veterans' benefits. Unfortunately, that is what is occurring today. H.R. 801, which House Veterans Affairs Committee Chairman Chris Smith and I introduced together with J.D. Hayworth, Benefits Subcommittee Chairman and Ranking Democratic Subcommittee Member Silvestre Reyes, includes provisions to address this problem. I urge Members to support this bipartisan effort.

Pension benefits administered by the Department of Veterans Affairs (VA) are payable to wartime veterans who are totally and permanently disabled due to a non-service connected medical condition. A small, but important number of these disabled wartime veterans own family farms or ranches, which provide the livelihood for their families. Most family farms in the United States are very small. Over 75% of family farms have less than $50,000 in gross annual sales. After deductions for costs of operating the farm or ranch, the net income of the family farmer is much lower. Farmers receive an average of 20 cents for every dollar of produce sold. In 1995, the average net farm income for very small farms was $510. The average net farm income for small farms with gross sales between $50,000 and $250,000 averaged $14,335. Clearly most family farmers have modest annual income.

In determining eligibility for pension benefits, VA is required to consider not only the family income, but also the family's "net worth." Currently, unless VA determines that the land can be sold at "no substantial sacrifice", the value of farm and ranch land is included in determining net worth. Some veteran farmers are "land rich." While having little or no liquid assets, the value of their land makes their "net worth" appear larger on paper.

Family farms are important not only for the food and fiber they produce, but also for the values they represent. Family farms should not be considered as simply substitutes for liquid bank accounts or other liquid assets. In good years, family farms and ranches provide an adequate income. In bad times, adverse crop conditions or illness, the income and liquid resources of family farmers and ranchers are quickly depleted. Wartime veterans have made a substantial sacrifice on behalf of our Nation by serving in the Armed Forces. We should not ask them to sacrifice their family farms in order to receive the assistance they have earned by their wartime service.

I believe that an operating family farm can never be liquidated without substantial sacrifice on the part of the veteran. It is never reasonable to require a veteran to sell his or her means of future livelihood in order to obtain pension benefits or VA health care. If the farm is sold, the assets which in future years can be expected to generate income for the veteran and the veteran's dependents, are permanently lost.

Under H.R. 801, farm and ranch land owned by the veteran and the veteran's dependents would be excluded in determining net worth. The bill would also exclude land used for similar agricultural purposes, such as timberland, Christmas tree farms, or horticultural purposes.

During the past century, the number of family farms in our country has declined dramatically. When a veteran is required to sell his or her farm in order to receive necessary VA assistance, another family farm may be lost forever. No veteran should be called on to make this additional sacrifice. I urge my colleagues to support H.R. 801. America's family farmers and ranchers deserve the relief which this legislation will provide.

TRIBUTE TO THE REVEREND DOCTOR BENNETT WALKER SMITH, SR.—ST. JOHN BAPTIST CHURCH

HON. JACK QUINN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2001

Mr. QUINN. Mr. Speaker, I am honored today to pay tribute to my friend, Rev. Dr. Bennett Walker Smith, Sr. for his forty years of service in the ministry.

As Pastor of Saint John Baptist Church on Goodell in the City of Buffalo, Rev. Smith leads one of the largest and most vibrant congregations in all of Western New York. His steady message of service to God and community has inspired us all.

Throughout his remarkable life, Rev. Smith has been actively engaged in social and political change which has served to enhance the lives of all people, and African Americans in particular. His early years in the civil rights movement were shared with the late Reverend Dr. Martin Luther King, Jr., the late Reverend Ralph Abernathy, and the Reverend Jessie Jackson.

Within our Western New York community, Rev. Smith has taken a truly active role in the enhancement of the City of Buffalo. Under his leadership, St. John Baptist Church has built McCarley Gardens and the St. John Senior Citizens Tower, over 300 units in all, which provide housing for our community's seniors. It has also constructed the St. John Christian Academy that provides outstanding educational opportunity to over 250 students. I am honored to be working with him and St. John Baptist Church toward the completion of the next project, a Family Life Center that will provide a host of educational, health, and social services to our community.

In recognition of his service Rev. B.W. Smith has been honored as a member of "Who's Who in Religion," Ebony's "100 Most Influential Black Americans," and by the NCCJ, and has received the prestigious Evans-Young Award from the Buffalo Urban League.

Mr. Speaker, today I would like to join with the congregation of St. John Baptist Church and our entire Western New York community in recognition of the commitment to God, dedicated service, and leadership of Rev. Dr. B.W. Smith. I am honored to bring his great work to the attention of my colleagues and to this honorable body.

GUN VIOLENCE

HON. CAROLYN McCARTHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2001

Mrs. McCARTHY of New York. Mr. Speaker, one year ago another special life was taken by gun violence in this country. Kayla Rollins was killed in her first grade classroom by a six year old boy who brought a loaded gun to school. The time has come and gone to end these senseless acts of gun violence by passing meaningful gun safety legislation.

The political pandering over this issue must end. How many children should we allow to become victims to gun violence? It's time for Congress to do the responsible thing and pass commonsense gun safety legislation. Kayla Rollins' family, as well as all families who lost a loved one to gun violence, deserve action.

Mr. Speaker, I submit for the RECORD a statement from Kayla Rollins's mother pleading for the Congress to pass immediate gun safety legislation.

Statement By Mrs. Rollins—March 1, 2001

Hello. I am Veronica McQueen. I am Kayla's mother. These are hard times for me and Kayla's brothers, sisters and her father, and for the rest of my family. Kayla's death was devastating. There is not a day that goes by I do not cry as I go on with my life without my daughter. A part of my heart went with her. It is so hard for me to think that I will never see her smile, laugh or play again. I can never hold her and kiss her again, or see her grow up, get married and have a happy life. The gun that killed my daughter in her first grade class room was a gun that could be loaded by a six year old child, concealed by a six year old child, and held and fired by a six year old child. Please, don't ever forget that. This is proof that there is need for gun safety devices and gun control. I come here today, two days after what would have been her seventh birthday. I am a mom with a terrible tragedy, and I hope it never, ever happens again. Thank you.

HBCUs DESERVE PARITY

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2001

Mr. TOWNS. Mr. Speaker, as a graduate of North Carolina A&T University, one of the Historically Black Colleges and Universities (HBCU), I cannot help but rise to express my shock over the outrageous decision by the majority members of the Committee on Education and the Workforce to exclude HBCUs from the new 2lst Century Competitiveness Subcommittee. I know that my friends across the aisle have no intention of riding on the media coattails of what some people perceive as this past fall's denial of minority voting rights; nevertheless, the misguided decision to separate HBCUs as well as Hispanic Serving Institutions (HSIs) and Tribally Controlled Colleges (TCCs) from non-minority higher education institutions on this subcommittee seems to play right into the hands of those who suggest that last fall's events were part of a concerted effort to deprive minorities of our right to vote.

Furthermore, placing these institutions of higher education into a new select education subcommittee which shares jurisdiction with juvenile delinquency, welfare, and child abuse seems to suggest that minority education is more social experiment than higher education program. I cannot tell you how disappointed I am to find out in the 107th Congress that my education is now considered second rate by those in the majority. I join with my fellow Democratic Caucus members in urging the Speaker of the House and the Majority in the House to restore HBCUs, HSIs, and TCCs to their appropriate status as equal institutions of higher education.

REMARKS HONORING THE 40TH ANNIVERSARY OF THE PEACE CORPS

HON. STEVEN R. ROTHMAN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2001

Mr. ROTHMAN. Mr. Speaker, I rise today to pay tribute to the Peace Corps and to join in the celebration of this wonderful organization's 40th anniversary.

Since its founding in 1961, few government initiatives have captured the imagination of the American people like the Peace Corps. Born out of President John F. Kennedy's bold vision for the future, the Peace Corps has served to promote world peace and friendship for four decades.

Remarkably, since 1961 over 160,000 Americans have joined the Peace Corps, serving in 134 countries and bringing hope to millions of people around the world. By working to bring clean water to villages and towns, teaching children, helping start new small businesses and stopping the spread of dangerous diseases, Peace Corps volunteers have served as our nation's ambassadors of ''good will'' to the rest of the world.

I am pleased to have Philip Peredo, a former Peace Corps volunteer, serve on my staff in my District Office in Hackensack, New Jersey. As a Peace Corps volunteer from 1998 until just last year, Phil taught English language classes at Neijiang Teacher's University in the Sichuan Province of the People's Republic of China. The lessons Phil taught his students about America will long endure, just as the lessons he learned from his students will stay with Phil for the rest of his life.

Whether they are in Africa, Asia and the Pacific, Central Asia, Eastern and Central Europe, or Central and South America, Peace Corps volunteers continue to make our world a better place.

For their idealism, for their commitment to achieving real progress for the less fortunate, I salute all Peace Corps volunteers, past and present. I wish the Peace Corps continued success in sharing America's promise with people around the world.

THE SOCIAL SECURITY BENEFIT RESTORATION ACT

HON. MAX SANDLIN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2001

Mr. SANDLIN. Mr. Speaker, I rise today to introduce legislation addressing a serious issue for retired teachers and government employees across America. These public servants, after a lifetime of educating our youth and working for the taxpayers of America, find that their reward is a significant reduction in their Social Security benefits. It is time to end this penalty and give these retirees the benefits they are due.

Retirees drawing a benefit from a private pension fund do not have their Social Security benefits reduced. Why should we do this to civil servants? We should be encouraging able and intelligent people to teach our children and work for the government, not discouraging them by slashing their retirement benefits. We must bring equity to the Social Security benefits of private sector and public sector retirees.

This legislation, the Social Security Benefit Restoration Act, will bring this equity to retirement benefits. This bill will simply eliminate the public sector benefit penalty enacted in 1983 and allow all civil servants to draw full Social Security benefits.

I urge my colleagues to join me in cosponsoring this legislation. For every retired government employee and retired teacher in your district experiencing reduced Social Security benefits, I urge your support for this bill.

HONORING THE 40TH ANNIVERSARY OF THE PEACE CORPS

HON. TAMMY BALDWIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2001

Ms. BALDWIN. Mr. Speaker, I rise today to pay tribute to the 40th anniversary of the Peace Corps. Since 1961, over 161,000 Americans have offered their energy to improving conditions in over 134 nations around the world.

Reflecting the rich diversity of the United States, Peace Corps volunteers share a common spirit of service, dedication, and idealism. Peace Corps volunteers must participate in intensive language and cross-cultural training to help them better adapt to their new communities. In addition to learning the local language and adapting to new cultures, volunteers also help improve their surroundings. Corps volunteers work to bring clean water to underdeveloped communities, teach children, start new small businesses, and stop the spread of AIDS. The Peace Corps always goes about its mission with the knowledge that, with assistance, developing nations can take control of their own destiny.

Because the University of Wisconsin-Madison has been a leading producer of Peace Corps volunteers for over a decade, the Peace Corps has chosen to commemorate their 40th Anniversary at the University of Wisconsin-Madison. Many of the first to serve in the Peace Corps were alumni of the UW-Madison. Since 1961, more than 2,500 alumni have dedicated a minimum of two years of their lives to help developing countries around the world. Almost 200 current graduate students, faculty, and staff have served in the Peace Corps. The Returned Peace Corps Volunteers (RPCVS) are an extremely active group in the 2nd Congressional District and a vital force in the Peace Corps community.

Forty years later, the Peace Corps continues to fulfill its promise by sharing one of our most precious resources: its citizens. The work of these volunteers has helped engender positive changes around the world. We, as

citizens of the world, should honor the commitment of such an important organization.

VETERANS HOSPITALS EMERGENCY REPAIR ACT

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2001

Mr. SMITH of New Jersey. Mr. Speaker, on behalf of myself, Mr. EVANS of Illinois, Mr. MORAN of Kansas and Mr. FILNER of California, and other members of the Veteran's Affairs Committee, I am introducing a new measure, the ''Veterans Hospitals Emergency Repair Act,'' that my colleagues and I hope will begin to address what has become a troubling and lingering problem in some of our Nation's veterans hospitals: a crumbling and substandard patient-care infrastructure. The problems even include buildings that could collapse in earthquakes. In fact, Mr. Speaker, just yesterday in Tacoma, Washington, a temblor of 6.8 magnitude damaged patient care buildings 6 and 81 on the campus of the American Lake VA Medical Center.

Mr. Speaker, for the past several years, we have noted that the President's annual budget for VA health care has requested little or no funding for major medical facility construction projects for America's veterans. As we indicated last year in our report to the Committee on the Budget on the Administration's budget request for fiscal year 2001, VA has engaged in an effort through market-based research by independent organizations to determine whether present VA facility infrastructures are meeting needs in the most appropriate manner, and whether services to veterans can be enhanced with alternative approaches. This process, called ''Capital Assets Realignment for Enhanced Services,'' or ''CARES,'' has commenced within the Department of Veterans Affairs, but will require several years before bearing fruit. In the interim, Mr. Speaker, some VA hospitals need additional maintenance, repair and improvements to address immediate dangers and hazards, to promote safety and to sustain a reasonable standard of care for the nation's veterans. Recent reports by outside consultants and VA have revealed that dozens of VA health care buildings are still seriously at risk from seismic damage. The buildings at American Lake damaged in yesterday's earthquake were among those identified as being at the highest levels of risk.

Also, Mr. Speaker, a report by VA identified $57 million in improvements were needed to address women's health care; another report, by the Price Waterhouse firm, concluded that VA should be spending from 2 percent to 4 percent of its ''plant replacement value'' (PRV) on upkeep and replacement of its health care facilities. This PRV value in VA is about $35 billion; thus, using the Price Waterhouse index on maintenance and replacement, VA should be spending from $700 million to $1.4 billion each year. In fact, in fiscal year 2001, VA will spend only $170.2 million for these purposes.

While Congress authorized a number of major medical construction projects in the past three fiscal years, these have received no funding through the appropriations process. I understand that some of the more recent deferrals of major VA construction funding were intended to permit the CARES process to proceed in an orderly fashion, avoiding unnecessary spending on VA hospital facilities that might, in the future, not be needed for veterans. I agree with this general policy, especially for those larger hospital projects, ones that ordinarily would be considered under our regular annual construction authorization authority. We need to resist wasteful spending, especially when overall funds are so precious. But I believe that I have a better plan.

Mr. Speaker, when I assumed the Chairmanship of the Veterans Committee earlier this year, I asked what steps my colleagues and I might take immediately that could help our veterans. The legislation that I am introducing today is part of the answer. This bill, which I am pleased is cosponsored by my friend and the Ranking Member of the Committee, LANE EVANS of Illinois, Mr. JERRY MORAN of Kansas, our new Chairman of the Health Subcommittee, as well as the Subcommittee's Ranking Member, Mr. BOB FILNER of Califomia, as well as other members of the Veteran's Affairs Committee, sets up a temporary, 2-year program of delegated authorizations of smaller construction projects (each limited to a cost of less than $25 million) that would update, improve and restore VA health care facilities in a defined number of sites each of these years. The Secretary would be given this power to approve individual facility projects, generally based on recommendations of an independent capital investments board and on criteria detailed in our bill that place a premium on projects to protect patient safety and privacy, improve seismic protection, provide barrier-free accommodation, and improve VA patient care facilities in several specialized areas of concern, such as privacy needs for women veterans, in order to meet the contemporary standard of care for our veterans.

The bill would require the Secretary, at the end of the process, to report his actions to the VA Committee and to the Appropriations Committee as well. The bill also would mandate a review of this delegated-project approach by the General Accounting Office, to ensure this is an effective mechanism to advance some VA medical construction during the pendency of CARES.

Mr. Speaker, our bill would authorize appropriations of $250 million in fiscal year 2002, and $300 million in fiscal year 2003, to accomplish these projects under the authority provided. Thus, I believe we can make the case for this interim approach and gain support for moving a specific list of relatively small but critical projects forward with independent review. I believe we soon can be doing something urgently needed for veterans, in the best traditions of our continuing commitment to them. Then we can await the development and conclusion of the CARES process, more comfortable in the knowledge that at least for many VA hospitals, their emergency maintenance needs for small-scale construction projects will not go unnoticed, unauthorized—and unfunded.

It should be noted that nothing in this bill prevents the Committee or the Congress from still considering the merits of large-scale, VA major medical facility construction project authorizations in these two fiscal years, should we decide to take such decisions, now or in the future. By its nature, the bill is intended as a stopgap measure to give the VA Secretary limited authority to keep its health care system viable while the CARES process proceeds.

Mr. Speaker, I believe, and I hope that my colleagues will agree with me, that this is a worthy bill. On very short notice, when VA was informally advised about the prospect of this kind of bill being introduced and considered by this House, 25 projects that would be appropriate under its terms were immediately identified. I am certain that there are many more, in all sectors of the VA health care system, that the Secretary will have an opportunity to consider and approve under this authority. Many VA facilities need funds right now for small projects on an emergency basis. In good conscience, we cannot continue to ignore them. In my judgment, we cannot afford to wait several years before deciding to provide ftinds when these projects confront the VA system, the veterans, and us today.

I strongly urge my colleagues to support this bill and help enact it as a high priority early this year.

IN HONOR OF JOHN JUSTIN, JR.

HON. KAY GRANGER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2001

Ms. GRANGER. Mr. Speaker, I rise today to honor and remember the life of a great Texan, John Justin, Jr. Mr. Justin passed away Monday at his home in Fort Worth, Texas. He was 84 years old. Mr. Justin was a boot maker and civic leader who was a tireless promoter of Fort Worth's western heritage. Our thoughts and prayers go out to his wife, Jane, his daughter Mary, son David, and to all of his family at this difficult time in their lives.

Mr. Justin was born in Nocona, Texas on January 17th, 1917 to John and Ruby Justin. He attended high school in Fort Worth but left as a teenager to come to Washington, DC, where he took a job as a messenger and graduated from night high school. He attended Oklahoma A&M and then returned to Texas to attend Texas Christian University. Mr. Justin served as a member of the TCU board of trustees since 1979, and was a longstanding booster. The athletic center at the university is named in his honor.

He started the Justin Barton Belt Company with a partner and produced fashionable belts. The company continued to thrive during Mr. Justin's service in the Merchant Marines during World War 11. In 1950, he took the reigns of the family business. Mr. Justin was the third generation to run Justin Industries, the family boot business that he expanded to include Acme Brick. John Justin, Jr. oversaw the introduction of several popular boot styles, and, under his direction, Justin Industries was regularly the boot market leader. Its motto, ''The Standard of the West'' says it all.

Mr. Justin was very active in the community. He was a member of the Fort Worth City Council from 1959 to 1961 and was mayor

from 1961 to 1963. He was longtime chairman of the Fort Worth Stock Show and Rodeo. In the 1980s he led the drive to build the equestrian center at the Will Rogers complex that is now named in his honor. John Justin, Jr's most lasting contribution to Fort Worth will undoubtably be his drive to promote the city's western heritage. There is no question that he will be deeply missed within the Texas civic community.

Again, my heart goes out to Mr. Justin's family and to all those who are grieving his passing. He gave unselfishly to the city he loved so much. John Justin, Jr. was a Texas icon and his contributions to our community will never be forgotten.

SOCIAL SECURITY GUARANTEE ACT

HON. WALTER B. JONES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2001

Mr. JONES of North Carolina. Mr. Speaker, I rise today to introduce legislation to protect the Social Security benefits of our senior citizens. With the prospect of Social Security reform looming in the not so distant future, it is important that we assure seniors that their benefits will not be cut to expedite Social Security reform. Seniors have worked too hard for a secure retirement, to see it jeopardized by a short-sighted effort to ensure future Social Security solvency.

Under current law, Americans have no property right to their Social Security benefits. Many Americans have paid Social Security taxes over their working lifetimes and are planning for retirement with the expectation that they will receive these Social Security benefits. However, at any time, Congress could eliminate or reduce these benefits in the name of Social Security reform.

The Social Security Guarantee Act would eliminate concerns over benefit reduction by seeking to give seniors a property right to their retirement benefits. Specifically, it would require the Secretary of the Treasury to issue to each recipient of Social Security retirement benefits a certificate that includes a written guarantee of a fixed monthly benefit, plus a guaranteed annual cost-of-living increase. By doing so, we hope to eliminate the use of senior scare tactics that have doomed Social Security reform prospects in the past.

I believe this is an important first step toward meaningful Social Security reform. We as members of Congress have a duty to our seniors to ensure their retirement security will not be jeopardized. At the same time, we cannot lose sight of the overall goal of reforming the Social Security program so that today's workers will have the retirement that they deserve as well.

Please join me in supporting this legislation as the beginning of meaningful discourse on Social Security reform.

HONORING ARCHBISHOP EDWARD M. EGAN

HON. FELIX J. GRUCCI, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2001

Mr. GRUCCI. Mr. Speaker, it is with great pleasure that I rise today to congratulate the Most Reverend Edward M. Egan, Archbishop of New York upon his elevation to the dignity of Cardinal.

The Most Reverend Edward Egan is only the seventh Archbishop of New York to be named a Cardinal in the last one hundred and twenty five years. He was born on April 2, 1932, in Oak Park, Illinois. Having earned his Bachelor's in Philosophy from Saint Mary of the Lake Seminary in Mundelein, Illinois, he was sent to Rome to complete his seminary studies at Pontifical North American College in Vatican City. In 1958, he received a Licentiate in Sacred Theology from the Pontifical Gregorian University.

After ordination in Rome, he returned to the United States where he was assigned to the staff of Holy Name Cathedral in Chicago and the following year was named Secretary and Master of Ceremonies to Cardinal Albert Meyer. He was also named Assistant Chancellor.

From 1960 to 1965, Cardinal Archbishop Egan was Assistant Vice Rector of the North American College in Rome.

In 1972 he was appointed an auditor of the Sacred Roman Rota, which is the ordinary court of appeals for canonical cases appealed to the Vatican, particularly regarding the validity of marriage. He served as a judge of the Tribunal of the Rota from 1973 to 1985.

He was named Auxiliary Bishop of New York on April 4, 1985, and served as Vicar of Education for the New York archdiocese. He was appointed Bishop of Bridgeport on November 8, 1988. Since coming to the Diocese of Bridgeport, Bishop Egan has overseen the regionalization of diocesan elementary schools, established active Hispanic and Haitian Apostolates, founded the Saint John Fisher Seminary Residence for young men considering the priesthood, reorganized diocesan healthcare facilities, and initiated the inner-city Foundation for Charity and Education.

It's most fitting that Cardinal Egan is the successor of the late John Cardinal O'Connor. New York's new Cardinal is well aware of the legacy left by his predecessor and he is well prepared to continue and strengthen that legacy. He too is dedicated to the dignity of all peoples and to caring for those who are most scorned or ignored by society. Cardinal Egan has the wonderful ability to nurture and develop a sense of social justice among his fellow Catholics. As was the case with Cardinal O'Connor, he understands and deeply respects the values inherent in a multi-cultural and multi-religious community. He has a deep and abiding respect for and dedication to education.

As he assumes his leadership role in the great Archdiocese of New York, it is right for us to wish him success in making this great community a more human, more caring and more believing community of Brothers and Sisters.

Colleagues, please join me and all the members of the Archdiocese of New York in congratulating the Most Reverend Edward M. Egan upon his elevation to the dignity of Cardinal.

IN COMMEMORATION OF HELEN STIRLING GILL

HON. PETER DEUTSCH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2001

Mr. DEUTSCH. Mr. Speaker, I rise to honor the lifetime achievements of one of Davie, Florida's most active and charitable volunteers. Helen Stirling Gill, daughter of Davie's first mayor Frank Stirling, died Saturday, February 17, 2001, at the age of 78. Mrs. Gill was an active philanthropist for several decades, giving countless hours of service to her community. She will be dearly missed by the city's residents.

Born on July 10, 1922, in Gainesville, Mrs. Gill moved to Davie with her family in 1924, where her father was elected the town's first mayor. She married William ''Billie'' Gill in 1945, and the couple settled in Davie where they established their family business, Gill Realty.

Charming and attractive, Mrs. Gill was chosen as a Davie Orange Blossom Queen in the early 1940's. Devoted to the joy which local pageantry brought to her community, Mrs. Gill continued to help with the Orange Blossom festivities throughout her life by organizing Orange Blossom bake sales and events for children. In recognition of Mrs. Gill's contribution to the town of Davie, the Davie Chamber of Commerce dedicated the 64th Orange Blossom Festival Parade held February 24, 2001 to Mrs. Gill.

Mrs. Gill was also a devoted member of the Davie United Methodist Church where she taught Sunday School and played the piano during church services. Always a generous caretaker of her community, she visited the sick and prepared many meals for church community dinners.

In a collaborative effort with her husband and other Davie citizens, Mrs. Gill donated four acres for the creation of the Sheridan House for Girls in Southwest Ranches. The Sheridan House is a group home for girls and young women whose parents are unable to care for them. Mrs. Gill's generous contribution and care for those young women is testament to her kind spirit and love for her community. Indeed, Mr. Speaker, Helen Stirling Gill has left a lasting legacy for the people of Davie, Florida. She will be fondly remembered and dearly missed.

CELEBRATING PEACE CORPS 40TH ANNIVERSARY

HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2001

Mr. HONDA. Mr. Speaker, today I speak in recognition of the dedication and commitment

of Peace Corps volunteers for the past four decades. Since its inception on March 1, 1961 the Peace Corps has become a powerful symbol of America's commitment to encouraging progress and developing opportunity across the world.

Today marks the 40th anniversary of the Executive Order signed by president John F. Kennedy that established the Peace Corps. Over 162,000 Americans, including seven current members of Congress, have served as Peace Corps volunteers. They have made significant and lasting contributions in agriculture, health care, science, human rights, and the environment, serving in over 134 nations worldwide. At the same time, they have been enriched by their experience and strengthened the ties of friendship between the people of the United States and the citizens of other nations.

The Peace Corps also serves as a model for countless other programs and continues to foster a spirit of cooperation and volunteerism worldwide. Its volunteers come from all races and all walks of life and embody the core values that we as Americans treasure.

I served in the Peace Corps from 1965 to 1967 in El Salvador. Like many returning volunteers, I have carried the ideals of the Peace Corps and the concept of public service my entire life—into my own community and into my career in the United States Congress.

Mr. Speaker I ask that the Members of Congress honor the men and women of the Peace Corps on the occasion of its 40th anniversary and continue to promote the spirit of service and volunteerism that they embody.

PERSONAL EXPLANATION

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2001

Mr. MOORE. Mr. Speaker, on February 28, 2001, 1 was unavoidably detained away from the House floor; as a result I missed two recorded votes.

Had I been present, I would have voted aye on rollcall #17, passage of H.R. 256, legislation that would extend Chapter 12 federal bankruptcy protection for farmers retroactive to July 1, 2000, and through June 1, 2001. 1 also would have voted aye on rollcall #18, a bill that would designate a U.S. courthouse in Allentown, Pennsylvania, as the "Edwin N. Cahn Federal Building and U.S. Courthouse."

TRIBUTE TO THE ALABAMA GRAND CHAPTER, ORDER OF THE EASTERN STAR

HON. ROBERT E. (BUD) CRAMER, JR.

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2001

Mr. CRAMER. Mr. Speaker, today I recognize the Alabama Grand Chapter of the Order of the Eastern Star on their One Hundredth Birthday. I congratulate them for one hundred extraordinary years of charity and human outreach. I also send my best wishes to the group for their birthday celebration to be held this Saturday, March 3, 2001 at the York Rite Temple in Birmingham.

Internationally, the Alabama Grand Chapter of the Order of the Eastern Star is the largest fraternal organization in the world that both men and women can belong. The Order was established in Alabama in 1901 in Montgomery. Thousands of members in the 200 chapters support countless numbers of charities and humanitarian projects such as cancer research and scholarships that enhance and enrich the lives of all of our citizens.

Each member has devoted themselves to their community, their state and their nation providing not only financial assistance but personal time when their community needs them.

This is a special day for the Chapter and for everyone who has benefited from their many, many programs. On behalf of the United States House of Representatives and the people of the 5th district of Alabama, I share my congratulations with the Alabama Grand Chapter for one hundred outstanding years of service and I wish them several hundred more.

HONORING THE 86TH BIRTHDAY OF THE UNITED STATES NAVAL RESERVE

HON. BOB BARR

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2001

Mr. BARR of Georgia. Mr. Speaker, today I commend the men and women who serve in the United States Naval Reserve. On March 3, 2001, the Naval Reserve will celebrate its 86th Birthday. Today almost 90,000 Naval Reservists stand alongside their active duty colleagues in defense of our nation in the preservation of our freedoms both here and abroad.

The Naval Reserve is an essential asset in assisting the United States Navy meet the challenges of an unpredictable and dangerous world. As the last remaining superpower, the United States has been, and will be, called on to protect our interest throughout every region of the World. The Naval Reserve stands ready to meet that challenge.

This year, our country will mark the 60th anniversary of the attack on Pearl Harbor and the entrance of the United States in World War II. In Hawaii, the USS *Arizona* and the USS *Missouri* serve as a symbol to both the beginning and the ending of one of America's finest hours. For these two ships serve as a vivid reminder of the sacrifices, including their very lives, that were given by active and duty reserve sailors.

Mr. Speaker, I ask my colleagues to recognize the contribution Naval Reservists make each and every day on behalf of this nation.

IN HONOR OF BROOKS COUNTY AND ITS 90TH ANNIVERSARY

HON. RUBÉN HINOJOSA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2001

Mr. HINOJOSA. Mr. Speaker, today I honor the 90th Anniversary of Brooks County, Texas. Brooks County was created in 1911 and will commemorate its 90th anniversary at a celebration on Saturday, March 3, 2001.

Led by County Judge Homer Mora and County Commissioners Gloria Garza, Ramon Navarro, Raul M. Ramirez, and Salvador Gonzalez, Brooks County is entering an era of new beginnings. The county is currently working on several projects to stimulate economic development, improve its infrastructure, and preserve its heritage and culture.

Compromising more than 900 square miles, Brooks County is between the Nueces and Rio Grande Rivers in South Texas. Brooks County is a ranching area famous for its cattle breeding and meat production, including gaming grounds for deer, turkey, javelina, and a variety of birds. The area is also known for its agricultural industry, including products such as cotton, peanuts, vegetables, and melons. Brooks County's most valuable resource is its 9,000 residents, whose active participation in their community is evident through their commitment to historic preservation and volunteer spirit.

Some of the points of interest in historic Brooks County include the Heritage Museum of Falfurrias, a shrine to Don Pedrito Jaramillo, and the first highway in Texas, a 20-mile section completed in 1920.

BILL TO DESIGNATE FEDERAL BUILDING IN MEDINA, OHIO AS THE DONALD J. PEASE FEDERAL BUILDING

HON. SHERROD BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2001

Mr. BROWN of Ohio. Mr. Speaker, Don Pease began his long and distinguished congressional career in 1976, a time when Gerald Ford was President of the United States and Ohio's 13th District was characterized by growing industrialization and rural communities. Upon his retirement in 1992, Don Pease could look back and see a fundamentally changed landscape he helped shape on both a local and national level.

A native of Oberlin, Ohio, Pease is a graduate of Ohio University and served on the Oberlin City Council, in the Ohio House and Senate, and as editor of the Oberlin News-Tribune. In 1976, he won election to the U.S. House of Representatives.

Pease spearheaded the fight for human rights protections with his standing on the International Relations Committee. Five years later, he secured a seat on the House Ways and Means Committee and further dedicated himself to tax policy.

Don's numerous legislative victories were marked by an ability to reach consensus. His

efforts to work with both sides of the aisle include service on the conference committee for the hotly debated tax reform bill of 1986, and mediation between congressional leaders and the Bush administration on tax policy and China's most-favored nation status.

Since leaving Congress, Pease has returned to Ohio. He has served on the Board of Amtrak, and currently serves as Visiting Distinguished Professor in Oberlin College's Department of Politics.

Don Pease was, and still is, committed to Ohio's working families. His efforts to improve education, expand access to health care, and support workers have made a difference in our lives. By renaming the Medina Federal Building at 143 West Liberty Street in Medina, Ohio, as the ''Donald J. Pease Federal Building,'' this bill honors his hard work in the district he loves so much.

Don Pease was held in high regard as both an ethical and able legislator. He devoted 16 years of service to the 13th District, the state of Ohio, and the nation. I am pleased to join eleven bipartisan colleagues in Ohio in recognizing his dedication to improving people's lives. Thank you.

A TRIBUTE TO RETIRING COL. TONY J. BUCKLES

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2001

Mr. GILMAN. Mr. Speaker, today, I am pleased to recognize the outstanding service to our Nation by Colonel Tony J. Buckles, who will be retiring from the Army on April 1, 2001 after a distinguished career that has spanned over 30 years of dedicated service. Tony Buckles distinguished himself as a leader who epitomized the modern American professional soldier.

Tony Buckles' illustrious career as an Armor Officer embodied all of the Army's values of Loyalty, Duty, Respect, Selfless Service, Honor, Integrity, and Personal Courage.

Colonel Buckles demonstrated his outstanding tactical and operational expertise in numerous command and staff positions overseas and in the continental United States. Continually serving in positions of ever-increasing responsibility, the highlights of his career include serving as an Armor Company Commander three times and the youngest Armor Battalion Commander in the Army. Tony served as the Chief of Plans and Operations at the Combat Maneuver Training Center in Hohenfels, Germany at the peak of the Cold War. He was responsible for the development and evaluation of warfighting skills for all armor and mechanized forces in the European Theater.

Tony's talent for solving complex management problems complemented his proven operational skill. During Operation DESERT STORM, Colonel Buckles spearheaded the $2.6 billion dollar total package fielding of the Light Armored Vehicle to the Saudi Arabian National Guard. His subsequent assignment was Chief, Combat Arms Division, US Total Army Personnel Command, where he was responsible for the career management of 28,000 combat arms officers from accession through retirement. He also served as the Garrison Commander of the Army's largest installation at Fort Hood, Texas. This facility covered an area of 340 square miles and supported all aspects of life and training for 195,000 soldiers and families.

As evidence of the quality of Colonel Buckles' leadership, management, and interpersonal skills, he was specially selected to serve as the Chief of the Army's Congressional Liaison Office in the United States House of Representatives. He was responsible for maintaining liaison with 435 Members of Congress, their personal staffs, and twenty permanent or select legislative committees. During that period, Tony personally escorted more than 200 Members of Congress on fact-finding missions to over 75 foreign countries. His dedication, candor and professionalism while serving in that capacity earned him the reputation as the best source on Capitol Hill to resolve issues pertaining to the Army.

Accordingly, I invite my colleagues to join in offering our heartfelt congratulations to Colonel Tony J. Buckles on a career of selfless service marked by his resolute dedication and unwavering integrity. He represents the very best that our great Nation has to offer. We wish Tony and his wife, Nancy, continued success and happiness in all of their future endeavors.

BLACK HISTORY MONTH 2001

HON. MIKE McINTYRE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2001

Mr. MCINTYRE. Mr. Speaker, each year during the month of February, we as a nation come together to honor the history of African Americans. We do so by celebrating this nation's greatest legacy: the legacy of liberation.

Dr. Martin Luther King, one of this nation's greatest liberators, once said, ''Let's make America what it ought to be . . . Let's make America a better nation.'' Dr. King fought tirelessly to fulfill the legacy of liberation and make America a better nation—a nation of liberty and justice for all. Dr. King knew, as Frederick Douglass once said, ''Liberty given is never so precious as liberty sought for and fought for.'' Thanks to the efforts of freedom fighters such as Dr. King and Frederick Douglass, we have come a long way toward fulfilling the legacy of liberation. However, we still have a long way to go before all citizens-no matter their skin color—will be able to share in this legacy and truly know what it is to be free.

Today, I want to share with you the three ingredients necessary to fulfill the legacy of liberation: listening, learning, and leading. We must listen to the voices of the past who fought for freedom for all African Americans. We must learn from the accomplishments and achievements of African Americans who helped build this nation. And we must lead the way to liberty by following in the footsteps of our greatest African-American leaders.

First, we must begin by listening to the voices of liberty. We must listen to these pioneers of freedom and equality who had the vision to see through the injustice of slavery and recognize the value of respect of all individuals no matter what the color of their skin. If we listen closely, we will hear the voices of those who articulated the hope and promise of our nation. These are the voices of those who spoke up, stood up, and fought for the true significance of ''one Nation, under God, indivisible, with liberty and justice for all.'' And whose voices do we hear? We hear the voices of Frederick Douglass, Harriet Tubman, Abraham Lincoln, Carter Woodson, Rosa Parks, and Martin Luther King, Jr. Their voices are the voices of liberation. And while many have listened, some have not heard their message. But we cannot give up—we must keep listening until each and every voice of liberty is heard!

In addition to listening to the voices of liberty, we must also learn from their legacy. This legacy of liberation includes the great contributions that African Americans have made to society. These are achievements that build upon the foundation of liberty and strengthen our nation's freedom. John F. Kennedy, one of this nation's greatest Presidents, once said, ''In a time of turbulence and change, it is more true than ever that knowledge is power.'' The turbulence of the Civil War and the Civil Rights Movement brought about some of the greatest changes that we have ever seen in the history of this nation. We, as a nation, were forced to address and acknowledge our total history. In doing so, we finally began to recognize the accomplishments of all our citizens. This knowledge of our past has served to strengthen the legacy of liberation and bring hope to the future.

Indeed there is so much we can learn from our African-American brothers and sisters if we will only take the time to do so. The list of accomplishments is long and distinguished. I would like to share just a few with you today. For example, a black slave by the name of Onesius experimented with smallpox vaccines in the 1720s. Elijah McCoy's perfection of the locomotive engine led people to say they wanted his product, not some cheap imitation. They wanted the real McCoy! George Washington Carver, an agricultural revolutionary, concentrated his research on industrial uses of cotton, peanuts, pecans, and sweet potatoes. Dr. Charles Dew is responsible for engineering blood transfusions. Langston Hughes, who was known as the ''Poet Laureate of Black America,'' helped bring vision and scope to African-American literature through his poetry. Duke Ellington brought jazz to the forefront of the global music scene. It is without a doubt that America would not be the same without the contributions of these pioneers. They helped to make America what it is today and further the legacy of liberation. If Dr. King were here today, he would be pleased with the progress that has been made in recognizing African Americans for their contributions to society. But he would also tell us to roll up our sleeves because the cause is not yet finished. Much remains to be done! Much remains to be learned!

We must not only listen and learn from liberty's legacy, but we must also lead the way toward greater freedom for all. We can do so by following in the footsteps of some of this

nation's greatest leaders—the leaders of liberation. When jailed in Birmingham, Alabama, Dr. Martin Luther King, Jr., composed a letter in the margins of a newspaper and continued writing on scraps of paper some of the most powerful words ever written. He eloquently described many injustices suffered by so many African Americans. Near the end of that letter, he noted that, ''One day the South will recognize its real heroes.'' Those heroes are the leaders of liberation—leaders like Martin Luther King, Jr., Rosa Parks, and the Little Rock Nine. These leaders stood up and sat down for what they believed in: equality and freedom for all. Their actions changed our nation forever, and for that we are grateful.

I had the distinct privilege to recognize the efforts of Rosa Parks and the Little Rock Nine when we in Congress presented them with the Congressional Gold Medal for their efforts to break down racial barriers and fulfill the legacy of liberation. I am also pleased to have supported legislation to construct the Martin Luther King, Jr. Memorial in our nation's capital. This memorial, which is to be built along the Tidal Basin in Washington, DC., will honor Dr. King's dream of freedom and equality for all.

I also ask you to consider the impact African Americans have had in politics and civil rights right here in southeastern North Carolina. We should call attention to the African-American leaders who served our nation and our communities in ways unimaginable 100 years ago or even 50 years ago. African Americans now serve in unprecedented numbers in elected and appointed positions at all levels of government. These advances would not have been possible without those pioneers who opened doors of opportunity for all. I'm speaking of local leaders from southeastern North Carolina, such as Hiram Rhoades Revels, the first African-American member of Congress; Minnie Evans, an artist from this area whose work hangs in the White House; Meadowlark Lemon, the clown prince of basketball who led the Harlem Globetrotters to world prominence; and Michael Jordan, the greatest athlete in the history of basketball. By listening to and learning from these African-American leaders of the past and present, we can honor their legacies and strengthen our own liberty.

On the night before his assassination, Dr. King prophetically said, ''Like anybody, I would like to live a long life. Longevity has its place. But I'm not concerned about that now. I just want to do God's will. And he's allowed me to go to the mountain. And I've seen the Promised Land. I may not get there with you, but I want you to know tonight that we as a people will get to the Promised Land.'' Together, we will fulfill the legacy of liberation through listening, learning, and leading, so that we might one day reach the Promised Land that Dr. King dreamed of for all Americans—a land of equality, freedom and justice for all. It begins now. It begins with us. We have listened! We have learned! We must lead!

CONGRATULATING THE PEACE CORPS ON ITS 40TH ANNIVERSARY

HON. CHRISTOPHER SHAYS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2001

Mr. SHAYS. Mr. Speaker, It is a great pleasure to congratulate the Peace Corps as it celebrates the 40th anniversary of its founding. This truly is a milestone.

Founded in 1961, the Peace Corps has sought to meet its legislative mandate of promoting world peace and friendship by sending American volunteers to serve at the grassroots level in villages and towns in all corners of the globe. Living and working with ordinary people, volunteers contributed in a variety of capacities—such as teachers, foresters, farmers, small business advisors—to improving the lives of those they serve. They also seek to share their understanding of other countries with Americans back home.

As a returned volunteer, I can attest to the positive impact Peace Corps volunteers have on the lives of people around the world and here in the United States. Volunteers are not high-priced consultants but hands-on workers in the trenches who live in the communities they serve. In many cases, they speak the native language and become a part of the local culture.

To date, more than 151,000 volunteers have served in 132 countries. Currently, 7,300 Peace Corps volunteers serve in 76 countries, helping improve the lives of children, their families and their communities.

Volunteers also come back to the United States with a commitment to service, as well as the skills and interest in world affairs needed to be leaders in the global community. Many successful Americans served in the Peace Corps; their Peace Corps skills and perspectives shaped their lives and their careers back home. A few of the many notable alumni include Senator CHRISTOPHER DODD of Connecticut, who served in the Dominican Republic from 1966 until 1968, Donna Shalala, former Secretary of Health and Human Services, who served in Iran from 1962 until 1964, and Richard Holbrooke, former U.S. Ambassador to the United Nations, who served as Country Director in Morocco from 1970 until 1972.

I believe I would not be a Member of Congress today were it not for my experience in the Peace Corps and know I am a better person for my service.

The Peace Corps has played an important role overseas and here at home. And my prayer is that it will do so for many years to come.

TO HONOR DELEGATE HARRY J. PARISH FOR 50 YEARS OF PUBLIC SERVICE

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2001

Mr. WOLF. Mr. Speaker, I speak today after reading in a local paper that Delegate Harry J. Parrish, of Manassas, Virginia, has recently been recognized by the Virginia General Assembly for 50 years of public service. I want to bring to my colleagues' attention some highlights of this gentleman's exemplary career of service to the people of Manassas, the Commonwealth of Virginia and the United States of America.

Delegate Harry Parrish was born on February 19, 1922, on a farm in Fairfax County, Virginia. Shortly after his birth, his family moved to Manassas where his father bought a coal and ice company and renamed it the Manassas Ice and Fuel Company, Inc., which is still in existence today. As he was growing up, his father encouraged him to pursue flying, an interest that led him to fly for the U.S. Air Force. Mr. Parrish graduated from Osbourn High School in 1940 where he was a member of Prince William County's first high school football team. He then attended Virginia Polytechnic Institute to seek a degree in business administration. His courses were accelerated at the onset of the American involvement in World War 11, and in 1942, Mr. Parrish enlisted in the U.S. Army Air Corps, which later became the U.S. Air Force.

Mr. Parrish had a remarkable and distinguished military career. He was one of only 17 Americans hand selected to attend the Royal Air Force Flight School, No. 5 where he graduated as a pilot, navigator, bombardier, radio operator and armaments man. Through his extensive training, Mr. Parrish became one of the legendary pilots who served in the China-Burma-India Theater where he ''flew the hump'' and delivered vital war supplies to our troops. Of all his accomplishments, his experiences in World War 11 are the moments in his life of which he is the most proud.

While on active duty, Mr. Parrish was a flight commander, squadron commander, wing operations officer and base operations officer. Following the war, Mr. Parrish went into the Air Force Reserves and served active tours of duty in the Korean and Vietnam wars. Mr. Parrish retired from the Air Force in 1971 with the rank of full colonel and with multiple awards and decorations including the Air Medal with Two Oak Leaf Clusters and the Distinguished Flying Cross.

After the war, Mr. Parrish returned home to work for his father in his ice and fuel business. Mr. Parrish again followed in his father's footsteps when he began serving the Town of Manassas in 1951 as town councilman. He served as councilman until being elected mayor of Manassas in 1963. Mr. Parrish served as mayor for 18 years during which time the town became a city. His service as mayor had such a positive impact on Manassas that in 1973 he was named the ''Town of Manassas Man of the Century.'' He left his position as mayor and ran successfully for a seat in the Virginia House of Delegates in 1981, a post which he holds to this day.

Mr. Parrish is currently the co-chairman of the House Finance Committee and a member of the House Committees on Conservation and Natural Resources, Commerce and Labor, Corporations, Insurance and Banking, Rules and Joint Rules.

Mr. Parrish also serves on numerous state and local legislative and civic boards including

the joint Legislative Audit and Review Commission, the Virginia Coal and Energy Commission, and Virginia Veterans Cemetery Board. He is now the chairman of the board of the company his father began in 1922, the Manassas Ice and Fuel Company, Inc., and his son, Hal, is the president. He has served as president of the Virginia Municipal League and on the boards of United Virginia Bank and Crestar Bank. Mr. Parrish is one of the founders of the Prince William Hospital where he has served on the board of directors.

Mr. Parrish has been involved in far too many community clubs and groups to mention all of them at this time. Mr. Parrish is a member of Grace United Methodist Church in Manassas, the Kiwanis Club of Manassas, the American Red Cross, the Society for Preservation of Black Heritage, and Boy Scouts of America. He has also been a member of the Manassas Volunteer Fire Company since 1948.

In addition to the honors and credit to his name that I have already mentioned, he has also received the Distinguished Service Award from the Virginia Oil Men's Association and in 1998 was recognized by his peers by being named Virginia Oil Man of the Year. Also, in 1995 he served, along with his wife Mattie, as the grand marshal of the Manassas Christmas Parade.

He met Mattie during his years at Osbourn High School in Manassas where they have been sweethearts since eighth grade. Mattie has been an incredible source of support and devotion ever since. They have two children and three grandchildren.

The most amazing thing about Mr. Parrish is that despite his long and distinguished career, he remains without a doubt one of the most humble public servants that can be found anywhere. Throughout his 50 years of public service and during his time in the military, he has shown extraordinary and tireless dedication to his country, state, city, church and family.

Mr. Speaker, I know that my colleagues join me in commending Delegate Harry Parrish for achieving 50 years of remarkable public service.

PEACE CORPS ANNIVERSARY

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2001

Mr. HALL of Ohio. Mr. Speaker, it is with great pleasure that I join our colleagues and the tens of thousands of Americans who have served with the Peace Corps in celebrating its 40th anniversary.

I had the honor of working as a Peace Corps volunteer in Thailand, in what was then a small town where I taught English. When I returned to my ''village'' a few years ago, I was astonished to see not only how much had changed—but also to see how many of the students and former colleagues I knew three decades ago still remembered the work done so long ago.

There are few initiatives as successful as this one, and it is with tremendous pride that I count myself as one of the people lucky enough to have had this experience. In the years since 1967, I have visited dozens of countries where Americans are performing Peace Corps service—and dozens more where their work is desperately needed.

I have met countless leaders in business, in charitable organizations, in government, in academia, in every walk of life whose service in the Peace Corps launched careers that have contributed in innumerable ways to the betterment of our country and the countries where they worked.

The Peace Corps does tremendous good overseas. It does wonders for the Americans who serve, and the millions more who benefit from the goodwill they instill in those who know them. And it does America proud. I salute it for its successful first 40 years, and hope it will continue a tradition unmatched by any other American initiative.

TRIBUTE TO VIRGIL SCHEIDT

HON. MIKE PENCE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2001

Mr. PENCE. Mr. Speaker, I rise today to honor Virgil Scheidt, an outstanding citizen and dedicated community leader in Bartholomew County, Indiana. He recently retired as the Republican Party County Chairman and intends to spend more time with his lovely wife, Bettie, and eleven energetic grandchildren.

In addition to his service as County Chairman, Mr. Scheidt is a former State Chairman, a 30-year District Chairman, and a former County Treasurer. He has served as a delegate to the Republican State Convention each session since 1958 and as a delegate to the National Convention on seven separate occasions. Indiana Governors Edgar Whitcomb, Otis Bowen and Bob Orr have all recognized Mr. Scheidt's devotion by awarding him the Sagamore of the Wabash.

Privately, he farms 300 acres of land in Bartholomew County. As a pioneer in real estate, he developed both the Highland Ridge Subdivision and Woodridge Retail Center near Columbus, Indiana. Such achievements earned him the title Realtor of the Year in 1987 by the Columbus Board of Realtors.

Mr. Scheidt's passion for public service has made him an inspiration to all the residents of Bartholomew County. He is not only deeply regarded, but also deeply loved.

Mr. Speaker, I respectfully ask my colleagues to join me in paying tribute to this respected man who has helped make selected communities of south central Indiana the pleasant places they are today.

PERSONAL EXPLANATION

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2001

Mr. NEY. Mr. Speaker, on February 28, 2001 I had an urgent family medical issue. As a result I missed rollcall votes Nos. 17, 18, 19, 20, and 21. Please excuse my absence from this vote. If I were present, I would have voted ''yea'' on each vote.

40TH ANNIVERSARY OF PEACE CORPS

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2001

Mr. PETRI. Mr. Speaker, as a former Peace Corps volunteer, I am pleased to rise to speak in celebration of the 40th anniversary of the Peace Corps.

When President John F. Kennedy signed the Executive Order establishing the Peace Corps on March 1, 1961, the response to this bold initiative was both swift and enthusiastic. Less than six months later, the first volunteers had accepted the challenge and left for their two year assignments overseas.

In 1966 and 1967, I myself served as a volunteer in Somalia. It was a meaningful experience for me, and it allowed me to see that Peace Corps volunteers are the best grassroots ambassadors the United States can have. The Peace Corps provides direct aid to ordinary people, and it is probably one of the most cost-effective forms of foreign aid that there is.

I am also pleased to say that the state of Wisconsin leads the Peace Corps' legacy of service. The University of Wisconsin-Madison is the nation's top producer of volunteers, with other 2,300 graduates having joined the Peace Corps and bringing their skills and talents to dozens of countries.

Now, as we observe the Peace Corps' 40th anniversary, it continues to capture the imagination of the American people. It has emerged as an international model of citizen service and of practical, grassroots assistance to people in developing countries.

Additionally, Peace Corps volunteers also make a difference at home by continuing their community service, and strengthening Americans' appreciation of other cultures. By visiting classrooms, working with community groups, and speaking with friends and family members, Peace Corps volunteers are helping others learn more about the world in which we live, and helping to build a legacy of service for the next generation.

Today's 7000 volunteers are somewhat different than the volunteers of the early years. The average age has risen from 22 to 28, the percentage of women has increased from 35 to 60, the number of volunteers with graduate degrees is growing.

But having said that, I believe today's volunteers still share a characteristic with their predecessors that is a cornerstone of Peace Corps service—a commitment to the spirit of volunteerism and service that President Kennedy first envisioned 40 years ago.

I salute the Peace Corps and the thousands of volunteers who have served, and I look forward to many more years for this organization which has truly made a difference around the world.

A TRIBUTE TO JOE FRANCIS

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2001

Mr. FILNER. Mr. Speaker, today I recognize Joseph S. Francis, a man named by the San Diego Business Journal as ''San Diego's Top Labor Leader''. On March 2, 2001, Joe is retiring from the position of Executive Director of Labor's Community Service Agency, an agency he founded in 1985.

Labor's Community Service Agency is a non-profit organization, committed to serving workers, their families and the larger community. It develops partnerships with government, business, and labor—so these sectors can cooperate in making our city a better place to work and live. As Executive Director of labor's Community Service Agency, Joe has developed many programs that address the needs of workers in San Diego.

He is also currently the editor of the Messenger, Vice President of Job Training Associates, Board Member of the San Diego Carrier Museum, and a member of the San Diego County Board of Economic Advisors. His past positions include Executive Secretary of the San Diego-Imperial Counties Labor Council and Director of the Committee on Political Education (COPE). Joe was honored with a Distinguished Service Award by the San Diego-Imperial Counties Labor Council in 1996.

Raised in New Bedford, MA, Joe moved to San Diego in 1953. He first worked at Convair, followed by the San Diego Fire Department where he was involved in the local Firefighters Union. He was elected director of the Union Board in 1965—and later served as Secretary and then President of Local 145. In 1980, he was elected Executive-Director of the San Diego-Imperial Counties Labor Council with an overwhelming two-thirds of the vote.

Although organizing workers is his primary focus, Joe has also contributed to the community through his service on the Boards of the following organizations: United Way, the San Diego Technology Council, the Salvation Army, the Regional Employment Training Consortium, and as President of the San Diego Convention Center Corporation.

On the occasion of Joe's retirement from service as Executive Director of Labor's Community Service Agency, I want to sincerely thank him for his far-reaching vision, his relentless passion, and his tireless service to the working men and women in San Diego and throughout the nation.

Joe, you serve as a model of dedication and energy which we will follow as we strive to carry on the work that you have begun.

CASARELLA RETIRES AFTER 37 YEARS IN EDUCATION

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2001

Mr. KANJORSKI. Mr. Speaker, I rise today to pay tribute to Joe Casarella, who has retired after 37 years in education, culminating in four years as superintendent of the Wyoming Area School District in Luzerne County, Pennsylvania.

Raised in Wyoming, Pennsylvania, Joe worked and lived in New York, then in Berwick, Pennsylvania, finally returning home to lead the Wyoming Area schools. He has a long and distinguished career that includes service as a teacher, elementary school principal, junior high school principal, curriculum director, director of special education and federal funds, and as an assistant superintendent.

Mr. Speaker, it is a tribute to just how well liked Joe is at Wyoming Area and the job he has done that when he submitted a letter of resignation last year, students and teachers alike urged him to stay. The one word heard again and again from those who know him is ''gentleman.''

His accomplishments include successful staff contract negotiations and increasing access to technology for students and teachers, but his most prized accomplishment is the district's community program. In this initiative, representatives from Luzerne County Human Resources and Catholic Social Services work with administrators, teachers and students to identify at-risk students and families and connect them with the social services they need to help them succeed. About 30 families have been helped.

Mr. Speaker, I am pleased to call Joe Casarella's long service to the attention of the House of Representatives, and I wish him all the best in his retirement.

IN RECOGNITION OF FELIPE REINOSO, HONOREE OF NOSOTROS MAGAZINE'S 33RD ANNIVERSARY GALA AWARD BANQUET

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2001

Mr. MENENDEZ. Mr. Speaker, today I recognize Felipe Reinoso, who will be honored at the 33rd Anniversary Gala Award Banquet of Nosotros Magazine on Saturday, February 21, 2001. The Banquet is an annual event that honors distinguished Hispanic leaders for their important contributions to society. This is an opportune time for today's Hispanic leaders to reflect on the economic, political, and cultural contributions that Hispanics have made to American society.

In 1984, Felipe Reinoso received his Bachelor's Degree in Spanish Education from Sacred Heart University and his Master's Degree in Bilingual Special Education from Fairfield University in 1987. Before co-founding the Bridge Academy High School in 1998, where he was Principal, he taught bilingual Social Studies at Warren Harding High School for 14 years.

For his excellence in bilingual education, Mr. Reinoso has received numerous awards and honors, including a citation from the Connecticut General Assembly for Excelling in Education; Teacher of the Year, Warren Harding H.S.; Connecticut Bilingual Teacher of the Year; an Award for Outstanding Achievement as Bilingual Teacher from Hispanic Society, Inc.; and the National Education Association Human Civil Rights Award. In addition, he has received the Points of Light Foundation President's Service Award from President Clinton.

On November 7, 2000, Felipe Reinoso became the first Peruvian-American in United States history to be elected as a legislator. Today, he proudly represents the 130th District of Bridgeport, Connecticut. Mr. Reinoso's victory resonates with historic significance, and gives a greater voice to the concerns of the Hispanic community.

In honoring Felipe Reinoso, Nosotros Magazine is promoting the most important values in American society today: hard work, dedication, and compassion. Mr. Reinoso embodies these American ideals; and, throughout his career, he has worked tirelessly to provide others with the opportunity to meet the standard of excellence he has set. As an educator, he has worked hard to empower Hispanic Americans, and I am confident that he will continue his valuable service to the Hispanic community as State Representative.

Because of community leaders like Mr. Reinoso, the Hispanic community is not only experiencing economic empowerment, but also political strength. Today, we prepare for a future that reflects our years of hard work, and our commitment to each other.

Today, I ask my colleagues to join me in recognizing Felipe Reinoso for his many contributions to the Hispanic community and to the State of Connecticut.

CELEBRATING THE ANNIVERSARY OF THE PEACE CORPS

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2001

Mr. FARR of California. Mr. Speaker, it has been many years since I joined the Peace Corps, and I rise today to celebrate the 40th anniversary of the Peace Corps.

It was started on March 1, 1961, when President Kennedy signed the legislation launching the Peace Corps—establishing a bold and hopeful experiment to all Volunteers to bring practical grassroots assistance to the people of developing nations to help them build a better life for themselves and their children.

Forty years later, the Peace Corps has succeeded beyond everyone's expectations.

Today there are more than 162,000 returned volunteers in the United States, six of whom serve in the House of Representatives and two in the United States Senate. They have served in 134 different nations, making significant and lasting contributions from Armenia and Bangladesh to Uzbekistan and Zimbabwe.

There are more than 7,000 volunteers that are now living and working overseas. They are addressing critical development needs on a person-to-person basis: working with teachers and parents to teach English, math and

science; helping spread and gain access to clear water; to grow more food; to help prevent the spread of AIDS; to help entrepreneurs start new businesses; to train students to use computers; and to work with nongovernmental organizations to protect our environment. Above all, Volunteers leave behind skills that allow individuals and communities to take charge of their own futures.

In our increasing interconnected global community, Peace Corps volunteers also promote greater cross-cultural awareness, both in the countries in which they serve and when they return home. As they work shoulder to shoulder with their host communities, Volunteers embody and share some of America's most enduring values; freedom, opportunity, hope, progress. It is these bonds of friendship and understanding that they create and that can build the foundations for peace among nations.

And I can personally testify that the best service that is given to the Peace Corps is the continuation of service to our communities when we all come home. Today, because of the anniversary of the Peace Corps, thousands of returned volunteers are visiting schools and local communities throughout the United States, sharing the knowledge and insights gained from their experiences abroad and passing along the value of service to others.

As we have learned around the world, the best way to support a democracy is to help development at the local level. Meanwhile, America's, young and old, single and married, would like to serve their country, humanity and democracy. The Peace Corps is one of the most effective mechanisms for uniting these two ideals. This is an asset we should not let go to waste.

On this 40th anniversary of the Peace Corps, please join me in honoring all Volunteers, past, present, and future, and in celebrating four decades of service to the world. The Peace Corps has served its country well, and we should all be proud.

HONORING RABBI ISRAEL ZOBERMAN

HON. EDWARD SCHROCK

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 1, 2001

Mr. SCHROCK. Mr. Speaker, it is with great pleasure that I honor today Rabbi Israel Zoberman, spiritual leader of Congregation Beth Chaverim in Virginia Beach. He is also the President of the Hampton Roads Board of Rabbis, and Chairman of the Community Relations Council of the United Jewish Federation of Tidewater. I submit the following article that was written by Rabbi Zoberman into the CONGRESSONAL RECORD.

The evolving scenario in the State of Israel, ill-boding to its very security, erupting when Chairman Arafat chose to respond with violence to Prime Minister Barak's far-reaching concessions on the verge of concluding peace, has resurrected fundamental issues of a bitter conflict. Paradoxically, while the sole sovereign Jewish entity is stronger than ever, militarily and economically, it remains vulnerable. The profound division in Israeli society concerning the Peace Process or lack thereof, is a critical factor. In addition, its laudable democracy, the only such progressive manifestation in that part of the world, is a source of vibrant exchange and growth as well as a dangerously fragmented reality.

As a member of a recent JCPA (the Jewish Council for Public Affairs) national solidarity mission to Israel, I was exposed to the unique variety of the Israeli experience unlike no other. What other capital in the world besides Jerusalem is subject to hostile gunfire without a powerful response to attacks on traumatized civilians? Touring the Gilo suburb now famous for drawing gunfire from the neighboring Palestinian village of Beit Jala, we saw the installed protection walls and the encamped unit of Israel Defense Forces which returns fire. Appreciatively greeted in the local elementary school, we learned first-hand of the adverse impact upon young and old. The complex, ironic and surrealistic nature of the situation was highlighted by remarkable Orthodox Adina Shapira, a law student who co-created with a fellow Palestinian a United Nations award-winning project for volunteering Israeli teachers, including herself, to instruct Arab children in the West Bank. All that while her two brothers who are combat soldiers have quite a different perspective. The professional briefing by General Yaalon, IDF's Deputy Chief of Staff, made clear that restraint is exercised in face of planned assault irresponsibly using children as pawns.

In the midst of rising concerns, Israel remains a welcoming home and safe haven for endangered Jews and those yearning for the Jewish context and fulfillment that only Israel can offer. How touching it was in the town of Katzir near the Israeli Arab community of Um-El-Fachem where disturbances occurred, introducing myself to the amazement of a young boy from Kazakhstan, as sharing the same background.

A highlight was the night rally we were fortunate to attend in Ramat Gan for the three kidnapped Israeli soldiers, including Benny Avraham from Pardes Katz, Tidewater's twin city. Ephraim Sneh, Deputy Minister of Defense, addressed the emotionally charged gathering which included the soldiers' families. We urgently continue to call for their release distributing blue ribbons.

In the heated political debate, the message to our delegation by Ariel Sharon, leader of the opposition Likkud party, and now Prime Minister-Elect, included empathy for the condition of the Palestinians. I dared ask him if he would have visited the Temple Mount had he known that it would be exploited by the Palestinians. Responding with a wry smile, he retorted, ''They always have excuses.'' What is certain is that we are entering an uncertain period of great risks in which both Sharon and Arafat will be severely tested, affecting their long enduring peoples, the entire region and beyond. There is a dire need to overcome a most dangerous impasse. If Sharon proves to be a faithful disciple of Menachem Begin, another hardliner turned peacemaker, and intransigent Arafat learns from the equally inspiring example of Egypt's President Anwar Sadat's transformation with admittedly facing now a more complex scenario, that would enshrine them too in a history yet to be written.

The heartfelt presentation of the American Ambassador to Israel, Martin Indyk, focused on the U.S.'s abiding friendship with Israel which facilitates the arduous attempt to bringing closer both sides. While asserting that the warring leaders have a stake in resolution for their own interests, he stated, ''violence will not stop altogether in my estimate,'' with the grave danger of spreading.

Our group's visit to Neve Shalom's unique setting of Jews and Arabs, midway between Jerusalem and Tel Aviv, reminded us of the possibility and necessity for co-existence in a troubled Middle East. Witnessing the shared kindergarten in which the very young learn about each other's traditions was a moving experience, particularly since I was raised in Israel of the 50's and could not even imagine then this kind of joint endeavor which is still an exception. At this fateful juncture may both sides to the tragic historical conflict allow for an emerging new reality of shalom's essential blessings of life, replacing violence with vision and pain with promise.