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House of Representatives

The House met at 10 a.m.

The Reverend Willie Davis, Pastor, Second Baptist Church, Las Vegas, Nevada, offered the following prayer:

God, whose aggression is born of love and whose aim is peace, God of revelation and inspiration, from Your Holy Word come instructions about the necessity of vision and statements of encouragement for the entertainment of vision. Help us, O God.

Our world needs a new vision of sovereignty. We need negotiations more than confrontation, cooperation more than conflict, peace rather than war. Help us, Lord.

Our world needs a new vision of freedom. We need no political hostages; free them, Lord. We need no slaves of prejudice; free them Lord. No bond servants of poverty; free them, Lord. No captives of hunger; free them, Lord. No servants of sin; free them, Lord.

Our world needs a new vision of Your redemption. Save us, Lord. Enable us to call on Your name in repentance, to open our hearts to You in commitment, and to bow our knees to You in obedience.

Our prayer is offered in the Name of the One who gives clear visibility and spiritual reality. 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 gentlewoman from Ohio (Mrs. JONES) come forward and lead the House in the Pledge of Allegiance.

Mrs. JONES of Ohio 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. Monahan, one of its clerks, announced that the Senate has passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 40. Concurrent resolution permitting the use of the Rotunda of the Capitol for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust.

The message also announced that the Senate has passed a bill of the following title in which the concurrence of the House is requested:

S. 628. An act to require the construction at Arlington National Cemetery of a memorial to the crew of the Columbia Orbiter.

The message also announced that pursuant to sections 267h–276k of title 22, United States Code, as amended, the Chair, on behalf of the Vice President, appoints the Senator from Connecticut (Mr. DODD) as Vice Chairman of the Senate Delegation to the Mexico-United States Interparliamentary Group conference during the One Hundred Eighth Congress.

WELCOMING REVEREND WILLIE DAVIS

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

Ms. BERKLEY. Mr. Speaker, it is my privilege today to introduce to my House colleagues our guest chaplain, Reverend Willie Davis from the Second Baptist Church in Las Vegas, Nevada. Pastor Davis has served the Second Baptist Church of Las Vegas since 1978.

Under Reverend Davis's leadership, the membership at Second Baptist Church has more than doubled and the church has improved and expanded services offered to the community. Given the unique work schedules of the residents of Las Vegas, Second Baptist was the first African American congregation to begin an early morning worship service, as well as a live broadcast. It has expanded its facilities to incorporate a new sanctuary with seating for 2,000 people, new classrooms, a small chapel, a pastor's study, and administrative offices. From a tent in the desert, Second Baptist has bloomed into the miracle on Madison Avenue.

The glory of Second Baptist's transformation is reflected in the church's awards-winning choir which will be performing at noon today in HC–8 of the Capitol building, as well as other locations.

It gives me great pride and pleasure that they are here, and it is very fitting that as long as Reverend Davis is here in our Nation's Capitol, along with the choir from Second Baptist, that he give the morning prayer.

PRESIDENTIAL REPORT PURSUANT TO USE OF FORCE RESOLUTION

(Mr. HASTERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include therein extraneous material.)

Mr. HASTERT. Mr. Speaker, and for the information of all Members, I am in receipt of a report from the President pursuant to the Use of Force Resolution approved by the Congress last year.

This report summarizes diplomatic and other peaceful means pursued by the United States, cooperating with foreign countries and international organizations to obtain Iraqi compliance with all relevant United Nations Security Council resolutions regarding Iraq.

Pursuant to House Rule XII, I will refer this report to the Committee on

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International Relations. In addition, for the information of the Members, I will submit the document in its entirety for printing into the CONGRESSIONAL RECORD.

Let me remind Members that this document is pursuant to legislation and the statute that we passed last year. This is not a declaration that we are in any specific type of activity at this time. It only is the pursuit of the statute that was passed last year.

Any further announcement will be shared with the Congress.

THE WHITE HOUSE,
Washington, March 18, 2003.

Hon. J. DENNIS HASTERT,
Speaker of the House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Consistent with section 3(b) of the Authorization for Use of Military Force Against Iraq Resolution of 2002 (Public Law 107–243), and based on information available to me, including that in the enclosed document, I determine that:

(1) reliance by the United States on further diplomatic and other peaceful means alone will neither (A) adequately protect the national security of the United States against the continuing threat posed by Iraq nor (B) likely lead to enforcement of all relevant United Nations Security Council resolutions regarding Iraq; and

(2) acting pursuant to the Constitution and Public Law 107–243 is consistent with the United States and other countries continuing to take the necessary actions against international terrorists and terrorist organizations, including those nations, organizations, or persons who planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001.

Sincerely,

GEORGE W. BUSH.

REPORT IN CONNECTION WITH PRESIDENTIAL DETERMINATION UNDER PUBLIC LAW 107–243

This report summarizes diplomatic and other peaceful means pursued by the United States, working for more than a dozen years with cooperating foreign countries and international organizations such as the United Nations, in an intensive effort (1) to protect the national security of the United States, as well as the security of other countries, against the continuing threat posed by Iraqi development and use of weapons of mass destruction, and (2) to obtain Iraqi compliance with all relevant United Nations Security Council (UNSC) resolutions regarding Iraq. Because of the intransigence and defiance of the Iraqi regime, further continuation of these efforts will neither adequately protect the national security of the United States against the continuing threat posed by Iraq nor likely lead to enforcement of all relevant UNSC resolutions regarding Iraq.

This report also explains that a determination to use force against Iraq is fully consistent with the United States and other countries continuing to take the necessary actions against international terrorists and terrorist organizations, including those nations, organizations, or persons who planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001. Indeed, as Congress found when it passed the Authorization for Use of Military Force Against Iraq Resolution of 2002 (Public Law 107–243), Iraq continues to harbor and aid international terrorists and terrorist organizations, including organizations that threaten the safety of United States citizens. The use of military force to remove the Iraqi regime is therefore not only consistent with, but is a vital part of, the international war on terrorism.

This document is summary in form rather than a comprehensive and definitive rendition of actions taken and related factual data that would constitute a complete historical record. This document should be considered in light of the information that has been, and will be, furnished to Congress, including the periodic reports consistent with the Authorization for Use of Military Force Against Iraq Resolution (Public Law 102–1) and the Authorization for Use of Military Force Against Iraq Resolution of 2002 (Public Law 107–243).

1. THE GULF WAR AND CONDITIONS OF THE CEASE-FIRE

On August 2, 1990, President Saddam Hussein of Iraq initiated the brutal and unprovoked invasion and occupation of Kuwait. The United States and many foreign governments, working together and through the UN, sought by diplomatic and other peaceful means to compel Iraq to withdraw from Kuwait and to establish international peace and security in the region.

President George H.W. Bush's letter transmitted to Congress on January 16, 1991, was accompanied by a report that catalogued the extensive diplomatic, economic, and other peaceful means pursued by the United States to achieve U.S. and UNSC objectives. It details adoption by the UNSC of a dozen resolutions, from Resolution 660 of August 2, 1990, demanding that Iraq withdraw from Kuwait, to Resolution 678 on November 29, 1990, authorizing member states to use all necessary means to ''implement Resolution 660,'' to implement ''all subsequent relevant resolutions,'' and ''to restore international peace and security in the area.''

Despite extraordinary and concerted efforts by the United States, other countries, and international organizations through diplomacy, multilateral economic sanctions, and other peaceful means to bring about Iraqi compliance with UNSC resolutions, and even after the UN and the United States explicitly informed Iraq that its failure to comply with UNSC resolutions would result in the use of armed force to eject Iraqi forces from Kuwait, Saddam Hussein's regime remained intransigent. The President ordered the U.S. armed forces, working in a coalition with the armed forces of other cooperating countries, to liberate Kuwait. The coalition forces promptly drove Iraqi forces out of Kuwait, set Kuwait free, and moved into southern Iraq.

On April 3, 1991, the UNSC adopted Resolution 687, which established conditions for a cease-fire to suspend hostilities. Among other requirements, UNSCR 687 required Iraq to (1) destroy its chemical and biological weapons and ballistic missiles with ranges greater than 150 km; (2) not use, develop, construct, or acquire biological, chemical, or nuclear weapons and their delivery systems; (3) submit to international inspections to verify compliance; and (4) not commit or support any act of international terrorism or allow others who commit such acts to operate in Iraqi territory. On April 6, 1991, Iraq communicated to the UNSC its acceptance of the conditions for the cease-fire.

2. IRAQ'S BREACH OF THE CEASE-FIRE CONDITIONS: THREATS TO PEACE AND SECURITY

Since almost the moment it agreed to the conditions of the cease-fire, Iraq has committed repeated and escalating breaches of those conditions. Throughout the first seven years that Iraq accepted inspections, it repeatedly obstructed access to sites designated by the United Nations Special Commission (UNSCOM) and the International Atomic Energy Agency (IAEA). On two occasions, in 1993 and 1998, Iraq's refusal to comply with its international obligations under the cease-fire led military action by coalition forces. In 1998, under threat of ''severest consequences,'' Iraq signed a Memorandum of Understanding pledging full cooperation with UNSCOM and IAEA and ''immediate, unconditional and unrestricted'' access for their inspections. In a matter of months, however, the Iraqi regime suspended cooperation, in part as an effort to condition compliance on the lifting of oil sanctions; it ultimately ceased all cooperation, causing the inspectors to leave the country.

On December 17, 1999, after a year with no inspections in Iraq, the UNSC established the United Nations Monitoring, Verification and Inspection Commission (UNMOVIC) as a successor to UNSCOM, to address unresolved disarmament issues and verify Iraqi compliance with the disarmament required by UNSCR 687 and related resolutions. Iraq refused to allow inspectors to return for yet another three years.

3. RECENT DIPLOMATIC AND OTHER PEACEFUL MEANS REJECTED BY IRAQ

On September 12, 2002, the President addressed the United Nations General Assembly on Iraq. He challenged the United Nations to act decisively to deal with Iraq's systematic twelve-year defiance and to compel Iraq's disarmament of the weapons of mass destruction and delivery systems that continue to threaten international peace and security. The White House background paper, ''A Decade of Deception and Defiance: Saddam Hussein's Defiance of the United Nations'' (September 12, 2002), summarizes Iraq's actions as of the time the President initiated intensified efforts to enforce all relevant UN Resolutions and demonstrates the failure of diplomacy to affect Iraq's conduct: ''For more than a decade, Saddam Hussein has deceived and defied the will and resolutions of the United Nations Security Council by, among other things: continuing to seek and develop chemical, biological, and nuclear weapons, and prohibited long-range missiles; brutalizing the Iraqi people, including committing gross human rights violations and crimes against humanity; supporting international terrorism; refusing to release or account for prisoners of war and other missing individuals from the Gulf War era; refusing to return stolen Kuwaiti property; and working to circumvent the UN's economic sanctions.''

The President also summarized Iraq's response to a decade of diplomatic efforts and its breach of the cease-fire conditions on October 7, 2002, in an address in Cincinnati, Ohio: ''Eleven years ago, as a condition for ending the Persian Gulf War, the Iraqi regime was required to destroy its weapons of mass destruction, to cease all development of such weapons, and to stop all support for terrorist groups. The Iraqi regime has violated all of those obligations. It possesses and produces chemical and biological weapons. It is seeking nuclear weapons. It has given shelter and support to terrorism, and practices terror against its own people. The entire world has witnessed Iraq's eleven-year history of defiance, deception and bad faith.''

In response to the President's challenge of September 12, 2002, and after intensive negotiation and diplomacy, the UNSC unanimously adopted UNSCR 1441 on November 8, 2002. The UNSC declared that Iraq ''has been and remains in material breach'' of its disarmament obligations, but chose to afford Iraq one ''final opportunity'' to comply. The UNSC again placed the burden on Iraq to comply and disarm and not on the inspectors to try to find what Iraq is concealing. The UNSC made clear that any false statements or omissions in declarations and any failure by Iraq to comply with UNSCR 1441 would constitute a further material breach of Iraq's obligations. Rather than seizing this final

opportunity for a peaceful solution by giving full and immediate cooperation, the Hussein regime responded with renewed defiance and deception.

For example, while UNSCR 1441 required that Iraq provide a ''currently accurate, full and complete'' declaration of all aspects of its weapons of mass destruction (''WMD'') and delivery programs, Iraq's Declaration of December 7, 2002, failed to comply with that requirement. The 12,000-page document that Iraq provided was little more than a restatement of old and discredited material. It was incomplete, inaccurate, and composed mostly of recycled information that failed to address any of the outstanding disarmament questions inspectors had previously identified.

In addition, since the passage of UNSCR 1441, Iraq has failed to cooperate fully with inspectors. It delayed until two-and-a-half months after the resumption of inspections UNMOVIC's use of aerial surveillance flights; failed to provide private access to officials for interview by inspectors; intimidated witnesses with threats; undertook massive efforts to deceive and defeat inspectors, including cleanup and transshipment activities at nearly 30 sites; failed to provide numerous documents requested by UNMOVIC; repeatedly provided incomplete or outdated listings of its WMD personnel; and hid documents in homes, including over 2000 pages of Iraqi documents regarding past uranium enrichment programs. In a report dated March 6, 2003, UNMOVIC described over 600 instances in which Iraq had failed to declare fully activities related to its chemical, biological, or missile procurements.

Dr. Hans Blix, Executive Chairman of UNMOVIC, reported to the UNSC on January 27, 2003 that ''Iraq appears not to have come to a genuine acceptance, not even today, of the disarmament which was demanded of it.'' Dr. Mohamed El Baradei, Director General of the IAEA, reported that Iraq's declaration of December 7 ''did not provide any new information relevant to certain questions that have been outstanding since 1998.'' Both demonstrated that there was no evidence that Iraq had decided to comply with disarmament obligations. Diplomatic efforts have not affected Iraq's conduct positively. Any temporary changes in Iraq's approach that have occurred over the years have been in response to the threat of use of force.

On February 5, 2003, the Secretary of State delivered a comprehensive presentation to the UNSC using declassified information, including human intelligence reports, communications intercepts and overhead imagery, which demonstrated Iraq's ongoing efforts to pursue WMD programs and conceal them from UN inspectors. The Secretary of State updated that presentation one month later by detailing intelligence reports on continuing efforts by Iraq to maintain and conceal proscribed materials.

Despite the continued resistance by Iraq, the United States has continued to use diplomatic and other peaceful means to achieve complete and total disarmament that would adequately protect the national security of the United States from the threat posed by Iraq and which is required by all relevant UNSC resolutions. On March 7, 2003, the United States, United Kingdom, and Spain presented a draft resolution that would have established for Iraq a March 17 deadline to cooperate fully with disarmament demands. Since the adoption of UNSCR 1441 in November 2002, there have been numerous calls and meetings by President Bush and the Secretary of State with other world leaders to try to find a diplomatic or other peaceful way to disarm Iraq. On March 13, 2003, the U.S. Ambassador to the UN asked for members of the UNSC to consider seriously a British proposal to establish six benchmarks that would be used to measure whether or not the regime in Iraq is coming into full, immediate, and unconditional compliance with the pertinent UN resolutions. On March 16, 2003, the President traveled to the Azores to meet with Portuguese Prime Minister Jose Manuel Durao Barroso, British Prime Minister Tony Blair, and Spanish Prime Minister Jose Maria Aznar to assess the situation and confirm that diplomatic and other peaceful means have been attempted to achieve Iraqi compliance with all relevant UNSC resolutions. Despite these diplomatic and peaceful efforts, Iraq remains in breach of relevant UNSC resolutions and a threat to the United States and other countries. Further diplomatic efforts were suspended reluctantly after, as the President observed on March 17, ''some permanent members of the Security Council ha[d] publicly announced they will veto any resolution that compels the disarmament of Iraq.''

The lesson learned after twelve years of Iraqi defiance is that the appearance of progress on process is meaningless—what is necessary is immediate, active, and unconditional cooperation in the complete disarmament of Iraq's prohibited weapons. As a result of its repeated failure to cooperate with efforts aimed at actual disarmament, Iraq has retained weapons of mass destruction that it agreed, as an essential condition of the cease-fire in 1991, not to develop or possess. The Secretary of State's February 5, 2003, presentation cited examples, such as Iraq's biological weapons based on anthrax and botulinum toxin, chemical weapons based on mustard and nerve agents, proscribed missiles and unmanned aerial vehicles to deliver weapons of mass destruction, and mobile biological weapons factories. The Secretary of State also discussed with the Security Council Saddam Hussein's efforts to reconstitute Iraq's nuclear weapons program.

The dangers posed by Iraq's weapons of mass destruction and long-range missiles are clear. Saddam Hussein has already used such weapons, repeatedly. He used them against Iranian troops in the 1980s. He used ballistic missiles against civilians during the Gulf War, firing Scud missiles into Israel and Saudi Arabia. He used chemical weapons against the Iraqi people in Northern Iraq. As Congress stated in 1998 in Public Law 105–235, ''Iraq's continuing weapons of mass destruction programs threaten vital United States interests and international peace and security.'' Congress concluded in Public Law 105–338 that ''[i]t should be the policy of the United States to support efforts to remove the regime headed by Saddam Hussein from power in Iraq and to promote the emergence of a democratic government to replace that regime.''

In addition, Congress stated in the Authorization for Use of Military Force Against Iraq Resolution of 2002 (Public Law 107–243), that: ''Iraq both poses a continuing threat to the national security of the United States and international peace and security in the Persian Gulf region and remains in material and unacceptable breach of its international obligations by, among other things, continuing to possess and develop a significant chemical and biological weapons capability, actively seeking a nuclear weapons capability, and supporting and harboring terrorist organizations.''

Nothing that has occurred in the past twelve years, the past twelve months, the past twelve weeks, or the past twelve days provides any basis for concluding that further diplomatic or other peaceful means will adequately protect the national security of the United States from the continuing threat posed by Iraq or are likely to lead to enforcement of all relevant UNSC resolutions regarding Iraq and the restoration of peace and security in the area.

As the President stated on March 17, ''[t]he Iraqi regime has used diplomacy as a ploy to gain time and advantage.'' Further delay in taking action against Iraq will only serve to give Saddam Hussein's regime additional time to further develop WMD to use against the United States, its citizens, and its allies. The United States and the UN have long demanded immediate, active, and unconditional cooperation by Iraq in the disarmament of its weapons of mass destruction. There is no reason to believe that Iraq will disarm, and cooperate with inspections to verify such disarmament, if the U.S. and the UN employ only diplomacy and other peaceful means.

4. USE OF FORCE AGAINST IRAQ IS CONSISTENT WITH THE WAR ON TERROR

In Public Law 107–243, Congress made a number of findings concerning Iraq's support for international terrorism. Among other things, Congress determined that:

Members of al Qaida, an organization bearing responsibility for attacks on the United States, its citizens, and interests, including the attacks that occurred on September 11, 2001, are known to be in Iraq.

Iraq continues to aid and harbor other international terrorist organizations, including organizations that threaten the lives and safety of United States citizens.

It is in the national security interests of the United States and in furtherance of the war on terrorism that all relevant United Nations Security Council resolutions be enforced, including through the use of force if necessary.

In addition, the Secretary of State's address to the UN on February 5, 2003 revealed a terrorist training area in northeastern Iraq with ties to Iraqi intelligence and activities of al Qaida affiliates in Baghdad. Public reports indicate that Iraq is currently harboring senior members of a terrorist network led by Abu Musab al-Zarqawi, a close al Qaida associate. In addition, Iraq has provided training in document forgery and explosives to al Qaida. Other terrorist groups have been supported by Iraq over past years.

Iraq has a long history of supporting terrorism, and continues to be a safe haven, transit point, and operational node for groups and individuals who direct violence against the United States and our allies. These actions violate Iraq's obligations under the UNSCR 687 cease-fire not to commit or support any act of international terrorism or allow others who commit such acts to operate in Iraqi territory. Iraq has also failed to comply with its cease-fire obligations to disarm and submit to international inspections to verify compliance. In light of these Iraqi activities, the use of force by the United States and other countries against the current Iraqi regime is fully consistent with—indeed, it is an integral part of—the war against international terrorists and terrorist organizations.

Both because Iraq harbors terrorists and because Iraq could share weapons of mass destruction with terrorists who seek them for use against the United States, the use of force to bring Iraq into compliance with its obligations under UNSC resolutions would be a significant contribution to the war on terrorists of global reach. A change in the current Iraqi regime would eliminate an important source of support for international terrorist activities. It would likely also assist efforts to disrupt terrorist networks and capture terrorists around the globe. United States Government personnel operating in Iraq may discover information through Iraqi government documents and interviews with

detained Iraqi officials that would identify individuals currently in the United States and abroad who are linked to terrorist organizations.

The use of force against Iraq will directly advance the war on terror, and will be consistent with continuing efforts against international terrorists residing and operating elsewhere in the world. The U.S. armed forces remain engaged in key areas around the world in the prosecution of the war on terrorism. The necessary preparations for and conduct of military operations in Iraq have not diminished the resolve, capability, or activities of the United States to pursue international terrorists to protect our homeland. Nor with the use of military force against Iraq distract civilian departments and agencies of the United States Government from continuing aggressive efforts in combating terrorism, or divert resources from the overall world-wide counter-terrorism effort. Current counter-terrorism investigations and activities will continue during any military conflict, and winning the war on terrorism will remain the top priority for our Government.

Indeed, the United States has made significant progress on other fronts in the war on terror even while Iraq and its threat to the United States and other countries have been a focus of concern. Since November 2002, when deployments of forces to the Gulf were substantially increased, the United States, in cooperation with our allies, has arrested or captured several terrorists and frustrated several terrorist plots. For example, on March 1, 2003, Khalid Shaikh Mohammed was captured in Rawalpindi, Pakistan by Pakistani authorities, with U.S. cooperation. The capture of Sheikh Mohammed, the al Qaida ''mastermind'' of the September 11th attacks and Osama Bin Laden's senior terrorist attack planner, is a severe blow to al Qaida that will destabilize the terrorist network worldwide. This and other successes make clear that the United States Government remains focused on the war on terror, and that use of force in Iraq is fully consistent with continuing to take necessary actions against terrorists and terrorist organizations.

5. CONCLUSION

In the circumstances described above, the President of the United States has the authority—indeed, given the dangers involved, the duty—to use force against Iraq to protect the security of the American people and to compel compliance with UNSC resolutions.

The President has full authority to use the armed forces in Iraq under the U.S. Constitution, including his authority as Commander in Chief of the U.S. armed forces. This authority is supported by explicit statutory authorizations contained in the Authorization for Use of Military Force Against Iraq Resolution (Public Law 102–1) and the Authorization for Use of Military Force Against Iraq Resolution of 2002 (Public Law 107–243).

In addition, U.S. action is consistent with the UN Charter. The UNSC, acting under Chapter VII of the UN Charter, provided that member states, including the United States, have the right to use force in Iraq to maintain or restore international peace and security. The Council authorized the use of force in UNSCR 678 with respect to Iraq in 1990. This resolution—on which the United States has relied continuously and with the full knowledge of the UNSC to use force in 1993, 1996, and 1998 and to enforce the no-fly zones—remains in effect today. In UNSCR 1441, the UNSC unanimously decided again that Iraq has been and remains in material breach of its obligations under relevant resolutions and would face serious consequences if it failed immediately to disarm. And, of course, based on existing facts, including the nature and type of the threat posed by Iraq, the United States may always proceed in the exercise of its inherent right of self defense, recognized in Article 51 of the UN Charter.

Accordingly, the United States has clear authority to use military force against Iraq to assure its national security and to compel Iraq's compliance with applicable UNSC resolutions.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. CULBERSON). The Chair will now entertain 10 one-minute addresses to the House from each side of the Chamber.

SUPPORT OUR PRESIDENT AND OUR TROOPS

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

Mr. SAM JOHNSON of Texas. Mr. Speaker, all eyes are on Iraq. Saddam has failed to provide credible evidence to back his bogus claims that he completely disarmed.

Saddam will not tell us about his 26,000 liters of anthrax; 38,000 liters of dangerous toxins; or 500 tons of sarin gas, mustard gas and VX nerve agents. Enough to kill millions of people.

Saddam repeatedly declares he does not have any chemical or biological weapons. Yet he just released them to his men for use against our troops. And he has not disclosed his mobile biological weapons labs or more than 30,000 munitions, including missiles capable of delivering chemical agents.

President Bush said, ''Responding to enemies only after they have struck first is not self-defense. It is suicide.''

I urge America and this Congress to support our President and our troops. This war is for our freedom and the freedom of the world.

HONORING SUNIL AGHI

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

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I rise today to remember and honor my good friend, Mr. Sunil Aghi, or Sunny, as he was known by most people.

I first met Sunny when I received a phone call one morning during my first campaign for Congress. Sunny introduced himself. He said that he was Indian; and since my campaign was a campaign of the people, he wanted to get his people, the Indian community, to come and help me win.

When he said Indian, I thought he meant headdress and Native American; but what he meant was the Indo-American community, those who were from India.

Sunny had such energy. He was a leading Indo-American in the political arena. He was a one-man show, putting together fund-raisers, hosting dozens of Congresspeople and Senators, spreading the message of democracy. He believed in democracy and teaching many of us about India, the world's largest democracy.

Sunny passed away last week, survived by his wife, Dimple, and his three young children. And he was young. But as someone said, he managed to wrap many of us here in the Congress and at other State and local levels, people who represent people, he managed to wrap us as a sari does, in his Indianness. Thank you, Sunny, for your life and the life you gave to others.

PASS BANKRUPTCY REFORM

(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, our bankruptcy laws are in desperate need of reform. That is why I am a co-sponsor of H.R. 975, the Bankruptcy Reform Bill, up for a vote today.

Last year we had some problems with a similar bill. An unrelated provision was inserted into that bill last year during the conference committee and that provision had nothing to do with protecting consumers or preventing bankruptcy abuse. Instead, it would have sent the right to peaceful protests into bankruptcy. Thanks to the efforts of the gentleman from Wisconsin (Chairman SENSENBRENNER), I am pleased that this year we have a clean bill to consider once again.

I commend the chairman for his tireless efforts to reform our bankruptcy laws, and I urge our colleagues to support this bill to reform the bankruptcy system.

UNDERSTANDING OUR RIGHTS

(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 was pleased to have the opportunity to lead this Congress this morning in the Pledge of Allegiance. And it is a great opportunity for me because as those of us who speak out against the war in Iraq, many times our support for the Nation and support for the Presidency and support for the military are called into question.

On Saturday I had the opportunity to participate in a peace rally at Public Square in the city of Cleveland, and I talked about patriotism and I talked about all those teachers in my high school and college years who said to me, understand the Bill of Rights. Understand you have the right to protest. Understand you have the right to assemble, and understand you have a right to free speech.

□ 1015

My free speech allows me to say to the entire world, to the troops all over

this country and all over the world that I support them. I am patriotic. To the whole world I still like peace, I want peace, and I am opposed to the war in Iraq, but I am a great American and I am a patriot.

I thank the Chair for the opportunity to be heard, Mr. Speaker.

LIBERTY WILL PREVAIL

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

Mr. PENCE. Mr. Speaker, today is a solemn day. History awaits America tonight, and while I would never question the patriotism of anyone who would challenge the wisdom of U.S. policy exercising their first amendment rights on this floor or in this Nation, I will challenge the wisdom of those who say that we are come upon this moment because of diplomatic failure, that we have come upon this moment because of a failure on the part of the President to lead the world toward consensus.

Let us be clear, Mr. Speaker, the President did not fail. Diplomacy did not fail. The United Nations failed in abdicating its historic role, minted in the aftermath of the Second World War, to be a bulwark against tyranny in the world. The United Nations failed, but as the world awaits our leadership and that of 30 other nations in the coalition of the willing, let us be clear, Mr. Speaker. The United Nations failed, but liberty will prevail.

EXPRESSING CONCERN OVER HARASSMENT OF SIKH YOUTH

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

Mr. WILSON of South Carolina. Mr. Speaker, I rise today in concern about a troubling issue. Young Sikh boys are suffering from physical abuse, harassment and verbal taunting in some American schools. This is due to a lack of knowledge of the Sikh faith.

Sikhism is the world's fifth largest religion and has existed in India for more than five centuries. Many Sikhs in India play important roles in both the State and Federal Governments, and Sikhs are an integral part of the Indian American community in this country.

As part of their faith, Sikh men leave their hair uncut and wear turbans. Students see images of the Taliban and mistake Sikh youth for extremists. As a result, many Sikh boys have been harassed. As the Republican cochair of the India Caucus, I ask school administrators to work with members of the Sikh community to educate all young people about the importance of respecting other people's faith. No child should ever fear for their physical safety inside an American school.

In conclusion, may God bless our troops.

CONSUMER BANKRUPTCY FILINGS IN AMERICA

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

Mrs. MILLER of Michigan. Mr. Speaker, since 1980 consumer bankruptcy filings in America have absolutely quadrupled. Think about that. They have quadrupled, and why is that? Because bankruptcy used to be a term that made people shudder in their boots. Nobody wanted that black mark on their record. No one wanted that stigma. But today too many individuals think that filing for bankruptcy will erase their debt with little or no consequence, and it is high time for Americans to take financial responsibility for the debts that they have acquired.

The Bankruptcy Abuse Prevention and Consumer Protection Act of 2003 holds people accountable for their personal spending habits. If a person has debts and dissolves under Chapter 7, but have sufficient funds to pay off their debt, then clearly they should be required to pay it off, not to have their debt whisked painlessly away by just filing bankruptcy.

In my opinion, the Federal Government should not be in the business of bailing people out of their debt. We should instead be encouraging people to spend within their means and make logical and responsible financial choices, and this bill does just that.

This bill is about being held accountable, and it comes at just the right time. This is common-sense legislation. Bankruptcy abuse needs to stop, and this legislation is a step in the right direction.

CONGRESS NEEDS TO CLOSE RANKS

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

Mr. HUNTER. Mr. Speaker, our troops are well-equipped, well-trained and well-led. They are well-led all the way from their noncommissioned officers and officers at the small unit and company and battalion and brigade and division level all the way up to their leader at the top, the Commander in Chief of America's Armed Forces, President George Bush.

They have everything they need for victory except for one ingredient, Mr. Speaker. They need a Congress which quits berating their President, who is their leader, and their mission and closes ranks behind that mission and our President for victory.

RECREATIONAL MARINE EMPLOYMENT ACT

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

Mr. KELLER. Mr. Speaker, I rise today in support of the Recreational Marine Employment Act, which I recently introduced with broad bipartisan support. Through enactment of this legislation, the recreational marine industry will be able to create thousands of new jobs by ensuring that marinas, boat builders and recreational boaters will not have to pay the unnecessary and exorbitant insurance premiums under the Longshore and Harbor Workers Compensation Act.

Congress never intended that recreational marine jobs be covered under the Longshore Act, which applies to commercial ships, not recreational boats, since individuals who work in the recreational marine industry are already covered under State worker's compensation laws. This legislation will simply clarify that the recreational marine industry is exempt from the Longshore Act.

A recent survey indicated that employers in the recreational marine industry would save an average of $99,000 a year if this legislation passes, and 95 percent of those employers would use the savings to create additional jobs.

This bill would provide the common-sense clarification needed under the Longshore Act. I urge my colleagues to call my office today and sign on as a cosponsor of H.R. 1329.

WAR ON IRAQ AND YOUNG CONSTITUENTS

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

Mr. FARR. Mr. Speaker, through all the debate over attacking Iraq, it is important to remember how the threat of the United States attack on Iraq affects our youngest constituents.

Here is a letter that I just received from one such concerned constituent in my district, 7-year-old Nathaniel Smith from Capitola, California.

> Dear Congressman Farr, My name is Nathaniel and I am 7 years old. I just want to say that I do not think the war is a very good idea. War is not a good way to solve problems, and it is a bad thing to happen in the world. It might destroy other people's property like houses and schools. People that are not in the war can die because soldiers might miss.
>
> War is dangerous for nature. The money for war can go to schools. My school, Capitola Elementary, might close because my school does not have enough money. Please do not have a war.
>
> Sincerely, Nathaniel Smith.

This youthful expression of concern eloquently captures the sentiment of so many Americans, young and old.

I would like to add my voice to that of Nathaniel Smith in urging the Commander in Chief who ordered this war to cancel it.

CONSTITUTION AND WAR IN IRAQ

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, this is a very solemn time for this Nation. It is a solemn time for American families whose young men and women are facing danger in faraway shores. I think it is also a time when we grab hold of a document that has given us comfort for so many centuries, and that is the Constitution, and Mr. Speaker, I believe the Constitution demands that this Congress address the question of going to war with Iraq.

It is delineated in the Constitution that the Congress is the institution to declare war, and so I think it is appropriate, Mr. Speaker, for the President to come to this Congress, similarly as was done in a faraway country with Prime Minister Blair, who discussed this with the Parliament on yesterday, a solemn decision, a question of war and peace, a choice of life over death, options other than war.

Many of these issues can be discussed on behalf of the American people. Let us not be afraid to hear both support and opposition. That is what democracy is all about.

My question is, is this Congress going to remain deadly silent on the question of going to war with Iraq?

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. CULBERSON). Pursuant to clause 8 of rule XX, the Chair announces that he will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Any record votes on postponed questions will be taken later today.

CIBOLA WILDLIFE REFUGE BOUNDARY CORRECTION

Mr. POMBO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 417) to revoke a Public Land Order with respect to certain lands erroneously included in the Cibola National Wildlife Refuge, California.

The Clerk read as follows:

H.R. 417

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

SECTION 1. REVOCATION OF PUBLIC LAND ORDER WITH RESPECT TO LANDS ERRONEOUSLY INCLUDED IN CIBOLA NATIONAL WILDLIFE REFUGE, CALIFORNIA.

Public Land Order 3442, dated August 21, 1964, is revoked insofar as it applies to the following described lands: San Bernardino Meridian, T11S, R22E, sec. 6, all of lots 1, 16, and 17, and SE¼ of SW¼ in Imperial County, California, aggregating approximately 140.32 acres.

SEC. 2. RESURVEY AND NOTICE OF MODIFIED BOUNDARIES.

The Secretary of the Interior shall, by not later than 6 months after the date of the enactment of this Act—

(1) resurvey the boundaries of the Cibola National Wildlife Refuge, as modified by the revocation under section 1;

(2) publish notice of, and post conspicuous signs marking, the boundaries of the refuge determined in such resurvey; and

(3) prepare and publish a map showing the boundaries of the refuge.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. POMBO) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. POMBO).

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

I am pleased to strongly support this legislation introduced by the gentleman from California (Mr. HUNTER). He has done a superb job of representing his constituents, who, through no fault of their own, find themselves operating a concession within the National Wildlife Refuge System.

This concession, known as Walters Camp, has existed since 1962, and it has provided recreational opportunities to thousands of Americans. In fact, it is one of the few places along the lower Colorado River that offers such a variety of healthy outdoor activity.

About 3 years ago the concessionaire was advised by the Fish and Wildlife Service that Walters Camp was inadvertently added to the Cibola Refuge and that corrective legislation was necessary. This is the goal of this measure, to correct this mistake, and there is no opposition to returning the title of this property to the Bureau of Land Management.

Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. HUNTER), the author of the bill.

Mr. HUNTER. Mr. Speaker, I thank the gentleman for yielding me the time, and I just wanted to say, Mr. Speaker, first, I wanted to give my thanks to the gentleman from California (Mr. POMBO), the chairman of the Committee on Resources, for his leadership and for understanding how important this bill that deals with a fairly small parcel of land, how important this is to working folks in southern California who need a place to get away from the boss and be with the family and enjoy rock hounding and fishing and canoeing and all the neat things one does on the Colorado River. The chairman, in his usual, very plain-spoken and straightforward style, has explained this very well.

This is 140 acres of land, known as Walters Camp, and that is probably named after a gentleman who was a gold miner on the Colorado River at one time. It was a concession that was operated for average folks who could come in and have a great time and rock hound and canoe and fish.

Unfortunately, in the land withdrawal for the Cibola Refuge in 1964, it was mistakenly added into the withdrawal.

□ 1030

Fish and Wildlife have testified on several occasions that it does not have a significant value in terms of wildlife, and so they have no problem with righting this wrong and correcting this mistake.

Mr. Speaker, once again, I thank the gentleman from California (Mr. POMBO), who is doing a superb job of chairing this committee and allowing me to move this bill, bringing it forward; and hopefully we can get the other body to act on it and restore a good measure of outdoor enjoyment to working families in Southern California. I thank the chairman, and I hope that we can pass this with an overwhelming vote.

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

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

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

Mrs. CHRISTENSEN. Mr. Speaker, before I get to my remarks on H.R. 417, this is the first opportunity I have had to be on the floor with the new chairman of the Committee on Resources, and I wanted to welcome the gentleman from California (Mr. POMBO), the new chairman of the Committee on Resources, and say that I look forward to working with the gentleman.

As stated by the previous speakers, the overall purpose of this legislation is to resolve a long-standing error that included a preexisting concession known as Walters Camp within the original 1964 public land withdrawal that created the Cibola National Wildlife Refuge.

In the 107th Congress, the Committee on Resources determined after a lengthy investigation that the inclusion of this concession was a genuine error in the original withdrawal and agreed that this error should be corrected.

H.R. 417 would make that legal adjustment. But just as important, this legislation will also ensure that all title interests to the 140 acres of land revoked from the Cibola Refuge remain public lands under the jurisdiction of the Bureau of Land Management. Allow me to be clear: nothing is being conveyed to the concession operator as part of this legislation. It is simply a transfer of lands from one Federal agency to another.

This legislation has also retained amendments adopted last year by the Committee on Resources to require the Secretary of the Interior to resurvey and conspicuously mark the new adjusted boundaries. These are prudent actions that should help reduce the likelihood of future encroachment by off-road vehicles onto the Cibola Refuge, which has been a growing management concern for the Fish and Wildlife Service.

In closing, H.R. 417 is commonsense legislation. The bill will correct a technical error that could not be resolved administratively. And furthermore, it will help protect fragile refuge habitats

without compromising opportunities for outdoor recreation in a remote area. I urge Members to support H.R. 417.

Mr. HUNTER. Mr. Speaker, I would like to thank you for allowing a vote on H.R. 417, necessary to right a past error by the Department of Interior in designating the Cibola National Wildlife Refuge. Mr. Frank Dokter, a former constituent whose family business depends on the outcome of this legislation, testified before this panel last year on a similar bill. Although it passed the House, the Senate unfortunately could not act before the end of the 107th Congress.

Mr. Dokter and his family operate Walter's Camp, a Bureau of Land Management (BLM) concession on land near the lower Colorado River in Imperial County, California, near and within the Cibola Refuge. The facility provides visitors with a family-friendly outdoors experience, which includes camping, hiking, canoeing, fishing, birdwatching and rock-hounding. In an increasingly crowded Southern California, Mr. Dokter and his family have provided a welcome diversion from city life to many of the region's outdoors enthusiasts.

Walter's Camp was first authorized in 1962, and in August 1964, Public Land Order 3442 withdrew 16,627 acres along the Colorado River to create the Refuge. The withdrawal erroneously included the 140.32 acre Walter's Camp, but neither the BLM or the Fish and Wildlife Service immediately recognized the mistake. The BLM continued to renew the original permit, allowing the recreational concession use to continue unbroken until the present time. However, given the discovery of the past mistake, the BLM does not have the authority to continue issuing the concession contracts to Walter's Camp.

The Fish and Wildlife Service and the BLM agree that the land has ''insignificant, if any, existing . . . or potential . . . wildlife habitat value,'' as stated in a Department of Interior memo. Therefor, I have introduced H.R. 417 to correct this mistake and allow the BLM to continue to issue contracts to Walter's Camp.

Mr. Speaker, I offer my sincere recommendation that this land to taken out of the Cibola National Wildlife Refuge, and that Mr. Dokter's family be allowed to continue such a valuable and productive service to our region. Respectfully, I urge my colleagues' support on final passage.

Mrs. CHRISTENSEN. Mr. Speaker, I yield back the balance of my time.

Mr. POMBO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from California (Mr. POMBO) that the House suspend the rules and pass the bill, H.R. 417.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. POMBO. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

RATHDRUM PRAIRIE/SPOKANE VALLEY AQUIFER STUDY

Mr. POMBO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 699) to direct the Secretary of the Interior to conduct a comprehensive study of the Rathdrum Prairie/Spokane Valley Aquifer, located in Idaho and Washington.

The Clerk read as follows:

H.R. 699

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

SECTION 1. COMPREHENSIVE STUDY OF THE RATHDRUM PRAIRIE/SPOKANE VALLEY AQUIFER.

(a) IN GENERAL.—The Secretary of the Interior, in consultation with the State of Idaho and the State of Washington, shall conduct a comprehensive study of the Rathdrum Prairie/Spokane Valley Aquifer for the purpose of preparing a model of the aquifer and establishing for those States a mutually acceptable understanding of the aquifer as a ground water resource.

(b) REPORT.—The Secretary shall submit to the Congress a report on the findings and conclusions of the study by not later than 3 years after the date of the enactment of this Act.

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

For conducting the study under this Act there is authorized to be appropriated to the Secretary $3,500,000.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. POMBO) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. POMBO).

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

Mr. Speaker, H.R. 699, authored by the gentleman from Washington (Mr. NETHERCUTT), directs the Secretary of the Interior to work with the State of Idaho and the State of Washington to conduct a comprehensive study for the Rathdrum Prairie/Spokane Valley Aquifer by preparing a groundwater model to help establish a mutually acceptable understanding of the aquifer as a groundwater resource. The tools developed by this legislation will help to better coordinate and understand the various factors that influence the quantity and quality of the aquifer and encourage better cooperation between the two States charged with its maintenance operations. I urge adoption of the measure.

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

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

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

Mrs. CHRISTENSEN. Mr. Speaker, I rise in support of H.R. 699. This bill simply directs the Secretary of the Interior to conduct a study of the groundwater resources in certain areas of the States of Washington and Idaho. We support this legislation, and I urge my colleagues to do so as well.

Mr. Speaker, I yield back the balance of my time.

Mr. POMBO. Mr. Speaker, I urge adoption of the measure, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. POMBO) that the House suspend the rules and pass the bill, H.R. 699.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. POMBO. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

SAN GABRIEL RIVER WATERSHED STUDY ACT

Mr. POMBO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 519) to authorize the Secretary of the Interior to conduct a study of the San Gabriel River Watershed, and for other purposes.

The Clerk read as follows:

H.R. 519

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

SECTION 1. SAN GABRIEL RIVER WATERSHED STUDY.

(a) SHORT TITLE.—This section may be cited as the ''San Gabriel River Watershed Study Act''.

(b) STUDY.—

(1) IN GENERAL.—The Secretary of the Interior (hereafter in this section referred to as the ''Secretary'') shall conduct a special resource study of the following areas:

(A) The San Gabriel River and its tributaries north of and including the city of Santa Fe Springs.

(B) The San Gabriel Mountains within the territory of the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy (as defined in section 32603(c)(1)(C) of the State of California Public Resource Code).

(2) STUDY CONDUCT AND COMPLETION.—Section 8(c) of Public Law 91–383 (16 U.S.C. 1a–5(c)) shall apply to the conduct and completion of the study conducted under this section.

(3) CONSULTATION WITH FEDERAL, STATE, AND LOCAL GOVERNMENTS.—In conducting the study under this section, the Secretary shall consult with the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy and other appropriate Federal, State, and local governmental entities.

(4) CONSIDERATIONS.—In conducting the study under this section, the Secretary shall consider regional flood control and drainage needs and publicly owned infrastructure such as wastewater treatment facilities.

(c) REPORT.—Not later than 3 years after funds are made available for this section, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a report on the findings, conclusions, and recommendations of the study.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from

California (Mr. POMBO) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. POMBO).

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

Mr. Speaker, H.R. 519, introduced by the gentlewoman from California (Ms. SOLIS), would authorize the Secretary of the Interior to conduct a special resource study of the San Gabriel River Watershed in the State of California.

While I will defer to the minority and the bill's sponsor to explain the merits of the legislation, I would express that we greatly appreciate the efforts of the bill's sponsors and the minority to address some early concerns about this bill. These concerns were addressed during the last Congress, and the bill successfully passed the body as part of a larger package, although it ultimately did not become law. This bill now enjoys the broad support of both the majority and the minority, and I urge my colleagues to support it.

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

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

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

Mrs. CHRISTENSEN. Mr. Speaker, H.R. 519, sponsored by the gentlewoman from California (Ms. SOLIS), authorizes the Secretary of the Interior to study the feasibility and suitability of establishing a unit of the National Park System which would include parts of the San Gabriel River, as well as a portion of the San Gabriel Mountains. The study would include parts of Los Angeles County, as well as a part of the City of Los Angeles itself.

During the hearings on this measure held during the previous Congress, the gentlewoman from California (Ms. SOLIS) provided testimony and photographs demonstrating that, although this proposed study area is in the midst of a very urban area, some green space has been preserved and might be appropriate for a park unit.

Clearly, such an urban setting raises conservation and management challenges, and we look forward to the results of this study regarding these issues. I want to take this opportunity to congratulate the gentlewoman from California (Ms. SOLIS) on her legislation and her diligence in moving her bill through the legislative process. She has been extremely patient while working very hard to move the bill forward. I urge Members to approve H.R. 519.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. SOLIS).

Ms. SOLIS. Mr. Speaker, I thank the gentlewoman for working with us. I also thank the ranking member, the gentleman from West Virginia (Mr. RAHALL), and the gentleman from California (Chairman Pombo) and the gentleman from California (Mr. RADANOVICH). When we were discussing the bill last year, we went through different versions of the bill. We did try to accommodate the concerns of all Members who were involved in this effort.

I truly think this is a hallmark because it is a bipartisan bill that was working its way through last year, but unfortunately met some barriers on the Senate side. I know this is something that many people in urban areas are looking for as a model. We hear from Members on both sides of the aisle talking about providing open space in urban areas.

This will hopefully provide some type of relief for over 2 million people that reside along the San Gabriel River. I grew up there as a child and spent many Saturday afternoons and vacations in this area. Something that we like to talk about is the fact that so many people in that area come from largely low-income, underrepresented areas, and do not have the ability or economic means to go to Sequoia, to go to Yosemite, to even go to the beach. Some people in my district have never had the luxury of going to the beach. Their recreation occurs in their particular geographic area.

The San Gabriel Mountains are only 20 minutes away from a lot of the residents that I represent. The gentleman from California (Mr. DREIER) and I have worked on this issue. Many of his constituents feel very strongly about the need to provide open space for all communities. This is a step in the right direction. The Department of the Interior will conduct a study, and hopefully they will come up with some good planning so we can move forward. I thank all of the Members for working with me.

Mrs. CHRISTENSEN. Mr. Speaker, I yield back the balance of my time.

Mr. POMBO. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. CARTER).

(Mr. CARTER asked and was given permission to speak out of order and to revise and extend his remarks.)

GIVE THE AMERICAN PEOPLE FAIR TAXES

Mr. CARTER. Mr. Speaker, over the course of our Presidents' Day work period, I held nine town hall meetings and listened to over 800 of my constituents express their opinions about issues important to them. Time and again they mentioned fair taxes. The American people want an economy that is sound and that can offer them jobs. We can give the people what they want by passing the President's growth plan.

The double taxation of dividends is not only unfair, it is obscene. Every year, nearly 2 million Texans and 35 million Americans are being cheated by their own government. By simply eliminating the second tax, investments will increase, resulting in 2.1 million jobs being created within the next 3 years and could potentially boost the national wealth by nearly $1 trillion.

Instead of giving the American people a $300 payoff, let us give them a real plan, a plan that will result in jobs, a steady economy, and dollars back in the hands of the taxpayers. For those who say we cannot afford the President's growth plan, I say we cannot afford to not pass his plan.

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

Mr. Speaker, I would like to congratulate my California colleague for all of the hard work the gentlewoman put into this legislation over the past couple of years, thank her again for working with the majority and the minority in order to work this bill out. I think it is a good piece of legislation that deserves the support of the House, and I urge an ''aye'' vote.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. POMBO) that the House suspend the rules and pass the bill, H.R. 519.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

□ 1045

GENERAL LEAVE

Mr. POMBO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material in the RECORD on H.R. 417, H.R. 699 and H.R. 519, the three bills just considered.

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

There was no objection.

ARMED FORCES TAX FAIRNESS ACT OF 2003

Mr. THOMAS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1307) to amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services in determining the exclusion of gain from the sale of a principal residence and to restore the tax exempt status of death gratuity payments to members of the uniformed services, and for other purposes.

The Clerk read as follows:

H.R. 1307

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

SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the ''Armed Forces Tax Fairness Act of 2003''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a

section or other provision of the Internal Revenue Code of 1986.

SEC. 2. SPECIAL RULE FOR MEMBERS OF UNIFORMED SERVICES IN DETERMINING EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE.

(a) IN GENERAL.—Subsection (d) of section 121 (relating to exclusion of gain from sale of principal residence) is amended by adding at the end the following new paragraph:

''(10) MEMBERS OF UNIFORMED SERVICES.—

''(A) IN GENERAL.—At the election of an individual with respect to a property, the running of the 5-year period referred to in subsections (a) and (c)(1)(B) and paragraph (7) of this subsection with respect to such property shall be suspended during any period that such individual or such individual's spouse is serving on qualified official extended duty as a member of the uniformed services.

''(B) MAXIMUM PERIOD OF SUSPENSION.—Such 5-year period shall not be extended more than 5 years by reason of subparagraph (A).

''(C) QUALIFIED OFFICIAL EXTENDED DUTY.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'qualified official extended duty' means any extended duty while serving at a duty station which is at least 150 miles from such property or while residing under Government orders in Government quarters.

''(ii) UNIFORMED SERVICES.—The term 'uniformed services' has the meaning given such term by section 101(a)(5) of title 10, United States Code, as in effect on the date of the enactment of this paragraph.

''(iii) EXTENDED DUTY.—The term 'extended duty' means any period of active duty pursuant to a call or order to such duty for a period in excess of 180 days or for an indefinite period.

''(D) SPECIAL RULES RELATING TO ELECTION.—

''(i) ELECTION LIMITED TO 1 PROPERTY AT A TIME.—An election under subparagraph (A) with respect to any property may not be made if such an election is in effect with respect to any other property.

''(ii) REVOCATION OF ELECTION.—An election under subparagraph (A) may be revoked at any time.''.

(b) EFFECTIVE DATE; SPECIAL RULE.—

(1) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 312 of the Taxpayer Relief Act of 1997.

(2) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the amendment made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

SEC. 3. RESTORATION OF FULL EXCLUSION FROM GROSS INCOME OF DEATH GRATUITY PAYMENT.

(a) IN GENERAL.—Paragraph (3) of section 134(b) (relating to qualified military benefit) is amended by adding at the end the following new subparagraph:

''(C) EXCEPTION FOR DEATH GRATUITY ADJUSTMENTS MADE BY LAW.—Subparagraph (A) shall not apply to any adjustment to the amount of death gratuity payable under chapter 75 of title 10, United States Code, which is pursuant to a provision of law enacted before December 31, 1991.''.

(b) CONFORMING AMENDMENT.—Section 134(b)(3)(A) is amended by striking ''subparagraph (B)'' and inserting ''subparagraphs (B) and (C)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to deaths occurring after September 10, 2001.

SEC. 4. EXCLUSION FOR AMOUNTS RECEIVED UNDER DEPARTMENT OF DEFENSE HOMEOWNERS ASSISTANCE PROGRAM.

(a) IN GENERAL.—Subsection (a) of section 132 (relating to certain fringe benefits) is amended by striking ''or'' at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting '', or'' and by adding at the end the following new paragraph:

''(8) qualified military base realignment and closure fringe.''.

(b) QUALIFIED MILITARY BASE REALIGNMENT AND CLOSURE FRINGE.—Section 132 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

''(n) QUALIFIED MILITARY BASE REALIGNMENT AND CLOSURE FRINGE.—

''(1) IN GENERAL.—For purposes of this section, the term 'qualified military base realignment and closure fringe' means 1 or more payments under the authority of section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374) (as in effect on the date of the enactment of this subsection).

''(2) LIMITATION.—With respect to any property, such term shall not include any payment referred to in paragraph (1) to the extent that the sum of all such payments related to such property exceeds the amount described in clause (1) of subsection (c) of such section (as in effect on such date).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made after the date of the enactment of this Act.

SEC. 5. EXPANSION OF COMBAT ZONE FILING RULES TO CONTINGENCY OPERATIONS.

(a) IN GENERAL.—Subsection (a) of section 7508 (relating to time for performing certain acts postponed by reason of service in combat zone) is amended—

(1) by inserting ''or when deployed outside the United States away from the individual's permanent duty station while participating in an operation designated by the Secretary of Defense as a contingency operation (as defined in section 101(a)(13) of title 10, United States Code) or which became such a contingency operation by operation of law'' after ''section 112'',

(2) by inserting in the first sentence ''or at any time during the period of such contingency operation'' after ''for purposes of such section'',

(3) by inserting ''or operation'' after ''such an area'', and

(4) by inserting ''or operation'' after ''such area''.

(b) CONFORMING AMENDMENTS.—

(1) Section 7508(d) is amended by inserting ''or contingency operation'' after ''area''.

(2) The heading for section 7508 is amended by inserting ''**OR CONTINGENCY OPERATION**'' after ''**COMBAT ZONE**''.

(3) The item relating to section 7508 in the table of sections for chapter 77 is amended by inserting ''or contingency operation'' after ''combat zone''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any period for performing an act which has not expired before the date of the enactment of this Act.

SEC. 6. MODIFICATION OF MEMBERSHIP REQUIREMENT FOR EXEMPTION FROM TAX FOR CERTAIN VETERANS' ORGANIZATIONS.

(a) IN GENERAL.—Subparagraph (B) of section 501(c)(19) (relating to list of exempt organizations) is amended by striking ''or widowers'' and inserting '', widowers, ancestors, or lineal descendants''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 7. CLARIFICATION OF THE TREATMENT OF CERTAIN DEPENDENT CARE ASSISTANCE PROGRAMS.

(a) IN GENERAL.—Subsection (b) of section 134 (defining qualified military benefit) is amended by adding at the end the following new paragraph:

''(4) CLARIFICATION OF CERTAIN BENEFITS.—For purposes of paragraph (1), such term includes any dependent care assistance program (as in effect on the date of the enactment of this paragraph) for any individual described in paragraph (1)(A).''.

(b) CONFORMING AMENDMENTS.—

(1) Section 134(b)(3)(A) (as amended by section 102) is further amended by inserting ''and paragraph (4)'' after ''subparagraphs (B) and (C)''.

(2) Section 3121(a)(18) is amended by striking ''or 129'' and inserting '', 129, or 134(b)(4)''.

(3) Section 3306(b)(13) is amended by striking ''or 129'' and inserting '', 129, or 134(b)(4)''.

(4) Section 3401(a)(18) is amended by striking ''or 129'' and inserting '', 129, or 134(b)(4)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 8. CLARIFICATION RELATING TO EXCEPTION FROM ADDITIONAL TAX ON CERTAIN DISTRIBUTIONS FROM QUALIFIED TUITION PROGRAMS, ETC., ON ACCOUNT OF ATTENDANCE AT MILITARY ACADEMY.

(a) IN GENERAL.—Subparagraph (B) of section 530(d)(4) (relating to exceptions from additional tax for distributions not used for educational purposes) is amended by striking ''or'' at the end of clause (iii), by redesignating clause (iv) as clause (v), and by inserting after clause (iii) the following new clause:

''(iv) made on account of the attendance of the designated beneficiary at the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, the United States Coast Guard Academy, or the United States Merchant Marine Academy, to the extent that the amount of the payment or distribution does not exceed the costs of advanced education (as defined by section 2005(e)(3) of title 10, United States Code, as in effect on the date of the enactment of this section) attributable to such attendance, or''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect for taxable years beginning after December 31, 2002.

SEC. 9. ABOVE-THE-LINE DEDUCTION FOR OVERNIGHT TRAVEL EXPENSES OF NATIONAL GUARD AND RESERVE MEMBERS.

(a) DEDUCTION ALLOWED.—Section 162 (relating to certain trade or business expenses) is amended by redesignating subsection (p) as subsection (q) and inserting after subsection (o) the following new subsection:

''(p) TREATMENT OF EXPENSES OF MEMBERS OF RESERVE COMPONENT OF ARMED FORCES OF THE UNITED STATES.—For purposes of subsection (a)(2), in the case of an individual who performs services as a member of a reserve component of the Armed Forces of the United States at any time during the taxable year, such individual shall be deemed to be away from home in the pursuit of a trade or business for any period during which such individual is away from home in connection with such services.''.

(b) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ELECTS TO ITEMIZE.—Paragraph (2) of section 62(a) (relating to certain trade and business deductions of employees) is

amended by adding at the end the following new subparagraph:

''(E) CERTAIN EXPENSES OF MEMBERS OF RESERVE COMPONENTS OF THE ARMED FORCES OF THE UNITED STATES.—The deductions allowed by section 162 which consist of expenses, not in excess of $1,500, paid or incurred by the taxpayer in connection with the performance of services by such taxpayer as a member of a reserve component of the Armed Forces of the United States for any period during which such individual is more than 100 miles away from home in connection with such services.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2002.

SEC. 10. PROTECTION OF SOCIAL SECURITY.

The amounts transferred to any trust fund under title II of the Social Security Act shall be determined as if this Act (other than this section) had not been enacted.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. THOMAS) and the gentleman from New York (Mr. RANGEL) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. THOMAS).

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

This particular provision is called the Armed Forces Tax Fairness Act of 2003, and a couple of examples, I think, will make it quite obvious as to why it is the tax fairness part of the title that we should focus on. As we now know for some years now, you have been able to exclude the capital gain on a home if you lived in that home as your principal residence for 24 months out of a 5-year period. Of course, we all know that the military as to where they live is subject to the exigencies of the world and the need for military personnel to be dispersed sometimes literally around the world. I think it is entirely appropriate to examine this kind of a piece of legislation in the context of where we are vis-a-vis the President's decision to perhaps move militarily against Iraq.

So what this says is that if, in fact, you are not able to meet that 24-months-out-of-5-year period for exclusion from the capital gains, and the reason you are not able to is because you have been transferred away from home on official extended duty during that 5-year period, you would be exempt from that regulation.

There follow a series of other changes in the Tax Code that very much are representative of that kind of approach in treating the military differently because the military does not have the ability at times, the individuals in the military, to control decisions that affect them directly.

That is the purpose of the bill. It is as it was originally introduced. For purposes of determining the above-the-line deduction for overnight travel expenses for military reservists, this bill, as some people know, passed the House twice in the last Congress, and in negotiating with the Senate, the agreement at that time was that the exemption should be up to $1,500 for reservists who serve more than 100 miles away from home. That was an agreement that had been negotiated between the House and the Senate, and this particular bill includes that agreement so that we could reach quick settlement in a conference between the House and the Senate.

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

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

I rise in support of this suspension bill and congratulate the chairman of the committee for taking the bulbs and baubles and whistles off the Christmas tree that they stacked on this bill initially. I am disappointed that we were not able to do more for our reservists, but I am pleased that we are doing more than they had originally thought on the other side of the aisle. And I am glad to see that we are bringing a clean bill to the floor and that is not bogged down with fish tackle boxes and foreign bettors on horse races.

I do hope during these very sober hours and days that the majority will think more and more about how we can be of assistance to those brave men and women who have volunteered or who are in the Reserve to see what we can do to not only give them political support, but legislatively to give them real support for the dedication that they continuously show not only in defense of this great country, but now in following the mandates of the President.

I would like to say that during time of war, we have become historically accustomed to the fact that we share sacrifices. Soon our chairman will be presenting to us an obscene tax bill that is anything but sacrifice, but would reward the wealthy. I do hope that as the House has caused the committee's leadership to change its mind and try to do things fairly, that we will see a change in attitude as this country is on the brink of war where shared sacrifice means exactly what the President said it would mean, and that is that we all be prepared to give support.

I support the Armed Forces tax fairness bill. I do hope we will see more bills of this kind in the future.

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

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield such time as he may consume to the gentleman from North Carolina (Mr. JONES), who has a measure included in this bill, which was a separate bill, which is a significant piece of legislation.

Mr. JONES of North Carolina. Mr. Speaker, as Members know, I represent the Third District of North Carolina, which is the home of Camp Lejeune and Cherry Point and Seymour Johnson Air Force Base. A bill that I introduced, H.R. 693, the Military Death Gratuity Improvement Act, I want to thank the chairman and the ranking member for including that bill, or the language from that bill, into this major bill that I think is of great benefit to our men and women in uniform.

□ 1100

I would like to give very briefly the history of this provision because the death gratuity was reaffirmed as a tax free benefit when the Congress amended the Tax Code in 1986; and about a year ago I happened to be driving back to the Congress, and I was listening to a talk show and they were talking about how the fact that our men and women in uniform who received the death gratuity, should they die while serving this Nation, that the families are taxed; and to the chairman and ranking member, this just really bothered my heart, to be honest about it.

So I called my staff and I asked John Weaver if he would look into this, and I thought there must have been some mistake along the way. And actually there was and when the mistake took place was in 1991 when the Congress actually increased the death gratuity from $3,000 to $6,000; and what happened was the Committee on Armed Services did not send the bill to the Committee on Ways and Means, so therefore there was a tax on the second $3,000. And Mr. Speaker and Members of the Congress, as our wonderful men and women in uniform are ready to go to war and to die for this country, I think this is an excellent bill not just because of this provision but because of the other provisions in this major bill that will help our men and women in uniform. So by the passage of this bill today, we are taking the tax off the death gratuity when the government says to the families of those who have lost loved ones that they are receiving this small amount, but yet important amount, of $6,000, that they will not get a bill from the IRS at the end of the year.

So with that I want to thank the chairman and ranking member for including the language from H.R. 693, the Military Death Gratuity Improvement Act, in this bill to help our men and women in uniform. This is just a small portion of the bill, but I thank them very much.

Let me say in closing, Mr. Speaker, to the chairman and the ranking member that the men and women in my district, and again it is Camp Lejeune, Cherry Point, Seymour Johnson Air Force base, are very appreciative of how we have worked together to bring this bill forward to help our men and women in uniform. So with that I thank the chairman for yielding me this time and God bless America.

Mr. RANGEL. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. CARDIN), an outstanding member of the Committee on Ways and Means.

Mr. CARDIN. Mr. Speaker, let me thank the gentleman from New York (Mr. RANGEL) for yielding me this time.

I want to thank the gentleman from California (Mr. THOMAS), our chairman, and the gentleman from New York (Mr. RANGEL), ranking member, for developing a process where we could act quickly on this bill. I think this is the

first of, I am sure, other actions that we will be able to do as a body to show our support for the men and women that are in harm's way that are ready to answer the call of our Nation. I think all of us want to do everything we can here to support our troops, as today they are ready to act on behalf of our Nation.

I also want to thank the chairman and ranking member for including the provision in here that was brought to our attention from those families of students that are in our military academies. I have the honor of representing Annapolis where the Naval Academy is located. There was a provision in our code that discriminated against families of those that were in the academies in their ability to withdraw moneys from educational savings accounts without penalty. So I want to thank them for including that provision. There are many other provisions in there bill that provide equity for those who serve in our military, and I know all of us are going to show strong support for this legislation. I just really want to express my appreciation to the chairman and ranking member.

Mr. THOMAS. Mr. Speaker, I yield as much time as he may consume to the gentleman from New York (Mr. HOUGHTON), a member of the Committee on Ways and Means.

Mr. HOUGHTON. Mr. Speaker, I would like to just make a few comments on H.R. 1307, and of course ask my colleagues to support it.

Last summer I introduced a bill that contained two of the present provisions, very modest. The bill increased the tax-free death benefit from $3,000 to $6,000 to members of our Armed Forces. Second, the bill made a change to allow members of the Armed Forces to have the 5-year rule, the so-called 5-year rule, deferred during the period they are assigned away from their principal residence. What this does is to allow individuals to take advantage of the law that excludes gain on the sale of a residence up to $250,000 or $500,000 per couple and if they resided in the property for 2 of the 5 years preceding the sale, and that was that. The bill passed the House. Both of these provisions are in and are part of H.R. 1307. The bill also expands the definition of ''member'' to include ancestors and lineal descendants for purposes of certain requirements of tax-exempt veterans organizations. These are all good changes. I recommend them. I support them.

Mr. RANGEL. Mr. Speaker, I yield 4 minutes to the gentleman from Missouri (Mr. SKELTON), the ranking member of the Committee on Armed Services on the Democratic side.

Mr. SKELTON. Mr. Speaker, I appreciate the ranking member recognizing me on this very important bill, the Armed Forces Tax Fairness Act of 2003. So I rise in support of this bill which is much-needed tax relief for our men and women in uniform. And although there was some delay, I am glad that the majority has agreed to remove the extraneous amendments and bring a clean bill to the floor, and we thank them for that. A bill to provide tax relief for brave men and women is not the appropriate vehicle for extraneous amendments.

I hope that this bill will now be able to move forward expeditiously so that our servicemen and women, particularly those in the Guard and Reserve, will be able to receive meaningful and proper tax relief.

Since the end of the Persian Gulf conflict in 1991, our reliance on the Reserve components has steadily increased. In 1993, for example, Reservists and National Guardsmen provided 5.7 million man-days' worth of support to our military. In the wake of the attacks on September 11, 2001, Reservists provided more than 41 million man-days of support to meet military requirements, primarily because of operations Noble Eagle, which of course is protecting the United States, and Enduring Freedom, which was liberating Afghanistan. The demands on our Reservists to participate in military operational missions have more than doubled in recent years.

The global war on terrorism has also increased burden on the Reserves and National Guard. Following the terrorist attacks on September 11, some 85,500 Reserve and National Guardsmen personnel were mobilized for active duty. Thousands were sent to guard our Nation's airports. This provided security for bridges and power plants and water treatment facilities and other important infrastructures that are vital to the American economy. Today, more than 50,000 Reservists still remain mobilized for the global war on terrorism, and almost 20,000 Reservists, and I will say there again, almost 20,000 Reservists face a second year of involuntary active duty.

The last several months have seen the number of mobilized Reservists soar to over 120,000 to meet potential demands for our conflict in Iraq, and these numbers continue to rise daily. Allowing travel expense deductions for Reservists is the least we can do for these brave men and women.

Last year the House and the Senate passed similar tax measures to support the troops. In the waning days of the Congress, the measure was tied up by extraneous provisions, which ultimately led to its demise before adjournment. On the eve of our Nation going to war, and that is what we are going to do, I urge my colleagues to support this measure so that we can move forward in ultimately adopting a bill that will provide significant tax relief for those who wear the uniform of the United States of America.

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

I agree with the gentleman from Missouri that the House and the Senate have indeed acted, but not in concert and let the RECORD note that the House acted in July and again in October. That perhaps was not enough lead time for the Senate; so we are moving in March, and we believe that may be sufficient lead time for the Senate to be able to act.

Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. FOLEY), a member of the Committee on Ways and Means.

Mr. FOLEY. Mr. Speaker, I thank the gentleman from California (Mr. THOMAS) for bringing this very important bill, H.R. 1307, to the floor, the Armed Forces Tax Fairness Act. I am pleased to have played a part in the Committee on Ways and Means and delighted it is here on the floor today.

Our forces will soon be engaging the enemy. We pray for their safety and also for a quick and decisive victory. We have about a quarter of a million of our soldiers, sailors, airmen and Marines poised for combat in the Middle East. In addition, thousands upon thousands of our military personnel are patrolling our skies, protecting key domestic sites, and fighting the war on terror both here at home and abroad. Our military families, active duty, the Reserves, and the National Guard are feeling increased pressure from frequent and longer deployments. This legislation brings tax relief and fairness to those who are protecting our freedoms.

I would like to focus quickly, if I may, on the Reserve component. One of the most important provisions of this bill would provide a $1,500 above-the-line deduction for their nonreimbursable overnight travel expenses. Let me underscore these travel expenses are not just for casual jaunts. These are for them to do their training required of them by this government so that they will be ready in fact to provide the backup needed for our active duty troops. Many give up time from their families, certainly leaving their loved ones, to be ready to combat the evil that may occur in this country or in fact abroad.

For too long our Reservists have incurred significant out-of-pocket costs associated with traveling to and from their Reserve stations. Our men and women in uniform should not be financially punished for serving their country, and thankfully this legislation fixes that problem. Our men and women in uniform deserve nothing less, and again I reiterate our prayers today go out to all families and particularly those who are in harm's way as they lead freedom in Iraq and certainly lead us away from terror in the United States.

Mr. RANGEL. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. MCNULTY), an outstanding member of the Committee on Ways and Means.

Mr. MCNULTY. Mr. Speaker, I thank the gentleman from New York (Mr. RANGEL), my friend and colleague, for yielding me this time.

As I have said many times on this floor, as I get older, I try to keep my

priorities straight. And part of that is to remember that had it not been for all of the men and women who have worn the uniform of the United States military through the years, people like me would not have the privilege of going around bragging about how we live in the freest and most open democracy on the face of the Earth. Freedom is not free. We have paid a tremendous price for it. And I try not to let a day go by without remembering with deepest gratitude all of those who, like my own brother Bill McNulty, made the supreme sacrifice; and all of those who served and put their lives on the line like the gentleman from New York (Mr. RANGEL), like the gentleman from Texas (Mr. SAM JOHNSON), like other people in this Chamber. Thankfully they came back home and rendered outstanding service in the community and raised beautiful families to carry on in their fine traditions. We all should be deeply grateful for that. And that is why when I get up in the morning, my first two priorities are to thank God for my life, and then veterans for my way of life.

Today more than a quarter of a million brave Americans are overseas poised for military action. Let us remember them in our thoughts and prayers every day. This proposal is a very modest proposal; but it is well earned, it is deserved, and I am deeply grateful to the chairman of the committee and the ranking member for bringing it to the floor. I urge all members to support it.

Mr. RANGEL. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. LEVIN), a senior member of the Committee on Ways and Means.

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

□ 1115

Mr. LEVIN. This is an important bill. Many of us regret that it could not have been brought to this floor earlier without provisions that were totally unrelated to its basic purpose. It is important because so many of our Reserve and Guard members today are overseas, along with others, and what this bill says very significantly is that all members of our Armed Forces should be treated with equity and treated with the utmost sensitivity and respect.

The bill is important because we bring it up today at a significant moment. What it says, I think, for all of us, is this: Whatever the disagreements, and there have been and remain such as to the policies and approach of this administration, we here stand fully behind those men and women who are fighting in our armed services.

So I hope that today we will join in support of this bill. It now has a single important purpose, and that is to say to our troops, here and abroad, we stand with you.

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

Mr. Speaker, the gentleman from New York (Mr. MCNULTY) eloquently indicated that freedom is not free, and that his own brother did not return in paying the ultimate price.

Mr. Speaker, it is my pleasure to yield such time as he may consume to the gentleman from Texas (Mr. SAM JOHNSON), who served his country admirably, and did return with an amazing story.

Mr. SAM JOHNSON of Texas. Mr. Speaker, this is for our military, and thank goodness we have got it for them all the way through.

Last spring a constituent of mine, Paul Miesse, was researching college savings plans, including the State education plans. His son Kyle, in Junior ROTC, would like to someday apply to the Naval Academy, as well as other schools.

Currently 529 State plans and Coverdell Education Savings Accounts allow people to save for college, and those savings remain untaxed if spent on education costs. It is a responsible thing for parents to save for their children's education, but if the student is smart enough or athletic enough to get a scholarship, then the parents can get their money back from the 529 plan or Coverdell plan penalty free. However, because of an oversight, which is rectified in this bill, military academies do not qualify for that penalty-free rebate of their savings.

I think that when hard-working, patriotic young Americans are rewarded with an appointment to a service academy, we ought not turn around and impose a 10 percent penalty on their parents who diligently saved for their children's education. We should provide the same penalty-free withdrawals for the Zoomie, the Plebe, the Middy or the Cadet as we provide to those who play sports, earn an academic scholarship or pay for school through ROTC.

This change we are making today will ensure that students who attend our U.S. military academies get the same treatment under college savings plans as their peers.

Given that each of us is eligible to make appointments to the United States service academies, I think all of us in Congress have a direct interest in making sure we solve this problem. In fact, there are 50 students in the Third District, my district, at all of the academies at any given time.

I want to thank constituents Paul, Jeanette and Kyle Miesse of Plano, Texas, who brought this issue to my attention. I think our forefathers envisioned that it is people like the Miesses of Texas who really make a difference, and it is our servicemen overseas and in this country who defend this freedom, and that is who we are trying to protect. I urge support of this bill.

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

Mr. Speaker, again, I would like to say that we should feel very proud that we are making this minor adjustment to improve the quality of life by reducing tax liability on men and women in uniform. It is hard for me to believe that as we talk, it is suggested that we are reducing the money for education for those people who are in uniform around the country, those that are dependent on Federal funds to support the localities where the men and women are stationed here in the United States. In addition to that, we are cutting back on aid for our veterans.

I would hope that in the spirit in which we pass this very modest bill, that all of us, Republicans and Democrats, liberals and conservatives, make some spirited effort to not have patriotism just be a flag on the bumper of a car, but to make some special effort to give priorities to those men and women in uniform by making certain that their kids are not denied an opportunity to get an education, and making certain that those who go in and serve, that their benefits are not being reduced.

Having said that, I would like to close on this and indicate that I think it is worthwhile that we get a record vote on this legislation not so much for political reasons, but so that our men and women would know that they would have a unanimous vote by the House of Representatives not only on this bill, but many bills that I hope will come before us where we can differ with the policy, but we will make it unequivocal support for those who volunteer to salute our great flag and our great country.

Mr. Speaker, I yield back the balance of my time.

Mr. THOMAS. Mr. Speaker, I want to join in the statement of the gentleman from New York.

Mr. REYES. Mr. Speaker, I am proud to support the members of our Nation's armed services and vote for the Armed Forces Tax Fairness Act that recognizes their contributions to our Nation and our freedom. The men and women of the Armed Forces, more than any other group, deserve to be first in line when Congress considers tax cuts and special exemptions from tax obligations. At a time when so much is being asked of our service members, it is only appropriate that we make this effort.

The Armed Forces Tax Fairness Act will make tax free the entire $6,000 death gratuity paid to survivors of service members killed in the line of duty. The bill also makes payments from the Defense Department's Homeowners Assistance Program tax free.

The bill reduces taxes for some service members who sell their home by making changes to capital gains taxes on the sale of residences. The new rules will be helpful to those who have served on multiple deployments and have therefore lived at their residence for less than 2 of the last 5 years.

Recognizing the important role played by members of the National Guard, especially at this time when they are being called upon to serve abroad and here at home in the fight against terror, the Armed Forces Tax Fairness Act allows members of the National Guard to deduct up to $1,500 in travel, lodging, and meal expenses from their taxable income if they have to travel more than 100 miles to attend National Guard and reserve meetings.

One of the most commonsense provisions of this bill recognizes that when a member of our military is deployed, poised for action but not yet in combat, they should not be preoccupied with meeting IRS deadlines. This bill suspends tax filing rules for service members participating in contingency operations. Currently, such a suspension is only made available to service members in combat.

Other measures in the bill salute past and future service members. One provision ensures that veterans organizations will not lose their tax-exempt status when admitting ancestors and direct descendants of veterans as members, and another provision allows students attending any one of our military service academies to withdraw funds from education savings accounts and qualified tuition programs without having to pay any penalties.

All these measures form a combined message and action of support to our troops at a critical time. I am proud to support the Armed Forces Tax Fairness Act and urge all my colleagues to do the same.

Mr. MEEK of Florida. Mr. Speaker:

It is the soldier, not the reporter, Who has given us freedom of the press.
It is the soldier, not the poet, Who has given us freedom of speech.
It is the soldier, not the organizer, Who has given us freedom to demonstrate.
It is the soldier, Who Salutes the flag, Who serves beneath the flag,
And whose coffin is draped by the flag, Who allows the protestor to burn the flag.''
—[Charles M. Province]

Mr. MEEK of Florida. I open my remarks with this quote by Charles M. Province by thanking those men and women who continue to serve in the United States military and provide us with the freedoms that we so frequently take for granted. We don't all have to agree about the conditions and terms and politics of war to agree that we have men and women in uniform who are among the finest human beings on this planet. It is fitting that at a time when our thoughts and prayers are most strongly focused on them, that we in the 108th Congress have this opportunity to offer them this small showing of our commitment to them.

According to the U.S. Department of Defense, more than 188,000 members of the National Guard and Reserve are currently mobilized for active duty on top of the many hundreds of thousands of career active duty soldiers. These friends, neighbors, and family members are putting their everyday lives on hold in order to protect us and provide us with more than a sense, but a knowledge of security.

Our military personnel and their families make enough sacrifices. They should not have to further sacrifice tax fairness just because they wear a uniform of the armed services. We need to provide incentives for our military personnel to continue their service to our country. Moreover, we need to provide adequate and fair compensation for our military personnel by ensuring that those men and women are treated fairly and equally under the provisions of the Internal Revenue Code.

I think this bill does just that.

This bill:

Exempts payment to beneficiary of soldiers killed in the line of duty;

Extends the income tax deadline for soldiers deployed overseas for potential action;

Makes it easier for transferred soldiers to be exempted from capital gains taxes on the sale of their homes; and,

Would provide guardsmen and reservist an above-the-line deduction for unreimbursed travel expenses incurred by members of the reserve components, while going to and from training.

These are simply issues of fairness. The Floridians and other fine Americans that take the stand to fight for our country deserve every fair consideration under our tax laws. The Tax Code is complicated enough, and our military should not be penalized for making decisions required because their official assignments. By passing this legislation, we are helping the members of our armed forces so that they will no longer be burdened by out-of-date tax regulations that penalize them even as they are serving our country.

Finally, I'd like to congratulate leadership for bringing this good bill to the floor clean so that we can focus on an issue on which Republicans and Democrats all agree—equity and fairness for members of the uniformed services.

Everyday, both in peacetime and in wartime, the brave men and women of our military work to preserve our freedoms. With this small token, I hope we can preserve some of theirs. I urge the support of this good bill.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today to express my support of H.R. 878, the Armed Forces Tax Fairness Act of 2003. It has been long overdue that we provide real relief to the men and women who serve in our Armed Forces. Many of the members of the military are minorities, and this bill will help many in my own 18th Congressional District in Houston. More than 200,000 troops are now being employed to the Persian Gulf. In Houston, many soldiers will be called upon to serve on the front lines.

This legislation provides tax relief to the members of our military. Our soldiers are on the frontlines every day, and now as a war with Iraq looms, we are calling upon these men and women to make even greater sacrifices. While I support this legislation, I wanted the bill to focus solely on tax benefits for military personnel and not to be used as a vehicle for special interest tax breaks.

Studies have shown pay rates in the military consistently lag behind comparable jobs in the private sector. I believe that this legislation would help military families as they struggle like so many to pay basic expenses.

The provisions in this legislation would provide tax breaks on home sales, travel expenses, and death benefits. We have ample tax benefits for corporations, it is time to help our officers and enlisted soldiers in the Armed Forces.

Now more than ever, it's important to support America's top-notch Armed Forces. I've always believed that in order for Americans to enjoy the freedom that characterizes our country, and for Texans to be able to fully enjoy the natural beauty and resources of our State, it is crucial for the citizens of the Nation and our State to feel safe.

To achieve this goal, it's vital that we keep America's Armed Forces strong. Throughout the years, I've fought for funding to constantly improve the quality of defense-related activities in my State of Texas.

The importance of national defense is increasing every day, and I will continue to support our Armed Forces—they are the young men and women on the front lines who are called to sacrifice for this great Nation and to preserve our constitutional protections and liberties.

I urge my colleagues to support this bill.

Mr. BEREUTER. Mr. Speaker, this Member rises in strong support of H.R. 1307, the Armed Forces Tax Fairness Act of 2003, as it relates to the members of our armed services—active duty, reserve components, and National Guard personnel serving on active duty. Indeed, this Member would like to commend the Ways and Means Committee Chairman, the distinguished gentleman from California (Mr. THOMAS), for his efforts to craft this very timely legislation which will assist our military personnel.

Across the U.S., men and women serving in active, Reserve, and National Guard units are mobilizing and deploying. Whether for missions at the Nebraska Air National Guard base in Lincoln, in Bosnia, in the Middle East, or elsewhere, these mobilizations and deployments have an immediate impact on families, employers, and communities. Indeed, deployments separate families which have young children. Moms and dads spend their children's birthdays overseas. Husbands and wives miss spending anniversaries together. Men and women leave their places of employment and also their paychecks as they mobilize. In this Member's home state of Nebraska, already 35 percent of the National Guard personnel have been mobilized for active duty.

Today, this body has the opportunity to send these men and women a very much deserved ''thank you'' for their personal and financial sacrifices by adjusting the tax code to reflect the realities which military personnel and their families face, such as frequent moves and increased child care costs associated with deployments.

The Armed Forces Tax Fairness Act of 2003 is a diverse bill; first and foremost it would provide assistance to men and women serving on military frontlines. For example, H.R. 1307 would amend the Internal Revenue Code to allow military personnel, who are transferred, to utilize the capital gains tax relief on the sale of their home by suspending the running of the present law 5-year rule for a total of 5 years during the time they are assigned away from home. The 5-year rule provides that an individual is not subject to the capital gains taxes for the first $250,000, or for a couple, the first $500,000 on a joint return on the sale of a home if it has been the principal residence for 2 out of the last 5 years. Because military personnel move frequently, they often do not meet the residence requirement. This legislation would suspend the residence requirement when the military personnel are stationed 250 miles from their primary house.

Additionally, H.R. 1307 would allow National Guard members to take an above-the-line deduction of overnight travel expenses associated with their service. This is particularly important for, as an example, Nebraska's National Guard members frequently must travel extensive distances to participate in Guard training and drills.

Other provisions within the legislation would clarify how certain child care expenses shall be treated and would exempt military death gratuity payments from taxes. (Currently, survivors of military personnel receive $6,000 of which $3,000 is taxable.)

Mr. Speaker, this Member strongly urges his colleagues to vote for H.R. 1307 for at least

the tax changes aforementioned are quite appropriate.

Mr. THOMAS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LINDER). The question is on the motion offered by the gentleman from California (Mr. THOMAS) that the House suspend the rules and pass the bill, H.R. 1307.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. THOMAS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. THOMAS. 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. 1307.

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

There was no objection.

TAX RELIEF, SIMPLIFICATION, AND EQUITY ACT OF 2003

Mr. THOMAS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1308) to amend the Internal Revenue Code of 1986 to end certain abusive tax practices, to provide tax relief and simplification, and for other purposes.

The Clerk read as follows:

H.R. 1308

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 ''Tax Relief, Simplification, and Equity Act of 2003''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

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

Sec. 1. Short title; references; table of contents.

TITLE I—ENDING ABUSIVE TAX PRACTICES

Sec. 101. Individual expatriation to avoid tax.
Sec. 102. Suspension of tax-exempt status of terrorist organizations.
Sec. 103. Expressing the sense of the Congress that tax reform is needed to address the issue of corporate expatriation.

TITLE II—RELIEF FOR FOREIGN SERVICE AND ASTRONAUTS

Sec. 201. Special rule for members of Foreign Service in determining exclusion of gain from sale of principal residence.
Sec. 202. Tax relief and assistance for families of astronauts who lose their lives on a space mission.

TITLE III—HEALTH PROVISIONS

Sec. 301. Vaccine tax to apply to hepatitis A vaccine.
Sec. 302. Expansion of human clinical trials qualifying for orphan drug credit.

TITLE IV—FOREST CONSERVATION ACTIVITIES

Sec. 401. Pilot project for forest conservation activities.

TITLE V—RELIEF AND EQUITY FOR SMALL BUSINESSES

Sec. 501. Simplification of excise tax imposed on bows and arrows.
Sec. 502. Capital gain treatment under section 631(b) to apply to outright sales by landowners.
Sec. 503. Repeal of excise tax on fishing tackle boxes.
Sec. 504. Treatment under at-risk rules of publicly traded nonrecourse debt.

TITLE VI—EQUITY FOR FARMERS

Sec. 601. Special rules for livestock sold on account of weather-related conditions.
Sec. 602. Income averaging for farmers not to increase alternative minimum tax.
Sec. 603. Payment of dividends on stock of cooperatives without reducing patronage dividends.

TITLE VII—PROTECTION OF SOCIAL SECURITY

Sec. 701. Protection of social security.

TITLE I—ENDING ABUSIVE TAX PRACTICES

SEC. 101. INDIVIDUAL EXPATRIATION TO AVOID TAX.

(a) EXPATRIATION TO AVOID TAX.—

(1) IN GENERAL.—Subsection (a) of section 877 (relating to treatment of expatriates) is amended to read as follows:

''(a) TREATMENT OF EXPATRIATES.—

''(1) IN GENERAL.—Every nonresident alien individual to whom this section applies and who, within the 10-year period immediately preceding the close of the taxable year, lost United States citizenship shall be taxable for such taxable year in the manner provided in subsection (b) if the tax imposed pursuant to such subsection (after any reduction in such tax under the last sentence of such subsection) exceeds the tax which, without regard to this section, is imposed pursuant to section 871.

''(2) INDIVIDUALS SUBJECT TO THIS SECTION.—This section shall apply to any individual if—

''(A) the average annual net income tax (as defined in section 38(c)(1)) of such individual for the period of 5 taxable years ending before the date of the loss of United States citizenship is greater than $122,000,

''(B) the net worth of the individual as of such date is $2,000,000 or more, or

''(C) such individual fails to certify under penalty of perjury that he has met the requirements of this title for the 5 preceding taxable years or fails to submit such evidence of such compliance as the Secretary may require.

In the case of the loss of United States citizenship in any calendar year after 2003, such $122,000 amount shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting '2002' for '1992' in subparagraph (B) thereof. Any increase under the preceding sentence shall be rounded to the nearest multiple of $1,000.''.

(2) REVISION OF EXCEPTIONS FROM ALTERNATIVE TAX.—Subsection (c) of section 877 (relating to tax avoidance not presumed in certain cases) is amended to read as follows:

''(c) EXCEPTIONS.—

''(1) IN GENERAL.—Subparagraphs (A) and (B) of subsection (a)(2) shall not apply to an individual described in paragraph (2) or (3).

''(2) DUAL CITIZENS.—

''(A) IN GENERAL.—An individual is described in this paragraph if—

''(i) the individual became at birth a citizen of the United States and a citizen of another country and continues to be a citizen of such other country, and

''(ii) the individual has had no substantial contacts with the United States.

''(B) SUBSTANTIAL CONTACTS.—An individual shall be treated as having no substantial contacts with the United States only if the individual—

''(i) was never a resident of the United States (as defined in section 7701(b)),

''(ii) has never held a United States passport, and

''(iii) was not present in the United States for more than 30 days during any calendar year which is 1 of the 10 calendar years preceding the individual's loss of United States citizenship.

''(3) CERTAIN MINORS.—An individual is described in this paragraph if—

''(A) the individual became at birth a citizen of the United States,

''(B) neither parent of such individual was a citizen of the United States at the time of such birth,

''(C) the individual's loss of United States citizenship occurs before such individual attains age 18½, and

''(D) the individual was not present in the United States for more than 30 days during any calendar year which is 1 of the 10 calendar years preceding the individual's loss of United States citizenship.''.

(3) CONFORMING AMENDMENT.—Section 2107(a) is amended to read as follows:

''(a) TREATMENT OF EXPATRIATES.—A tax computed in accordance with the table contained in section 2001 is hereby imposed on the transfer of the taxable estate, determined as provided in section 2106, of every decedent nonresident not a citizen of the United States if the date of death occurs during a taxable year with respect to which the decedent is subject to tax under section 877(b).''.

(b) SPECIAL RULES FOR DETERMINING WHEN AN INDIVIDUAL IS NO LONGER A UNITED STATES CITIZEN OR LONG-TERM RESIDENT.—Section 7701 (relating to definitions) is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

''(n) SPECIAL RULES FOR DETERMINING WHEN AN INDIVIDUAL IS NO LONGER A UNITED STATES CITIZEN OR LONG-TERM RESIDENT.—An individual who would not (but for this subsection) be treated as a citizen or resident of the United States shall continue to be treated as a citizen or resident of the United States until such individual—

''(1) gives notice of an expatriating act or termination of residency (with the requisite intent to relinquish citizenship or terminate residency) to the Secretary of State or the Secretary of Homeland Security, and

''(2) provides a statement in accordance with section 6039G.''.

(c) PHYSICAL PRESENCE IN THE UNITED STATES FOR MORE THAN 30 DAYS.—Section

877 (relating to expatriation to avoid tax) is amended by adding at the end the following new subsection:

''(g) PHYSICAL PRESENCE.—This section shall not apply to any individual for any taxable year during the 10-year period referred to in subsection (a) in which such individual is present in the United States for more than 30 days in the calendar year ending in such taxable year, and such individual shall be treated for purposes of this title as a citizen or resident of the United States for such taxable year.''.

(d) TRANSFERS SUBJECT TO GIFT TAX.—Subsection (a) of section 2501 (relating to taxable transfers) is amended by adding at the end the following:

''(6) TRANSFERS OF CERTAIN STOCK.—

''(A) IN GENERAL.—Paragraph (3) shall not apply to the transfer of stock described in subparagraph (B) by any individual to whom section 877(b) applies, and section 2511(a) shall be applied without regard to whether such stock is property which is situated within the United States.

''(B) VALUATION.—For purposes of subparagraph (A), the value of stock shall be determined as provided in section 2103, except that—

''(i) if the donor owned (within the meaning of section 958(a)) at the time of such transfer 10 percent or more of the total combined voting power of all classes of stock entitled to vote of a foreign corporation, and

''(ii) if such donor owned (within the meaning of section 958(a)), or is considered to have owned (by applying the ownership rules of section 958(b)), at the time of such transfer, more than 50 percent of—

''(I) the total combined voting power of all classes of stock entitled to vote of such corporation, or

''(II) the total value of the stock of such corporation,then that proportion of the fair market value of the stock of such foreign corporation owned (within the meaning of section 958(a)) by such donor at the time of such transfer, which the fair market value of any assets owned by such foreign corporation and situated in the United States, at the time of such transfer, bears to the total fair market value of all assets owned by such foreign corporation at the time of such transfer, shall be included in the value of such property.

For purposes of the preceding sentence, a donor shall be treated as owning stock of a foreign corporation at the time of such transfer if, at such time, by trust or otherwise, within the meaning of sections 2035 to 2038, inclusive, he owned such stock.''.

(e) ENHANCED INFORMATION REPORTING FROM INDIVIDUALS LOSING UNITED STATES CITIZENSHIP.—

(1) IN GENERAL.—Subsection (a) of section 6039G is amended to read as follows:

''(a) IN GENERAL.—Notwithstanding any other provision of law, any individual to whom section 877(b) applies for any taxable year shall provide a statement for such taxable year which includes the information described in subsection (b).''.

(2) INFORMATION TO BE PROVIDED.—Subsection (b) of section 6039G is amended to read as follows:

''(b) INFORMATION TO BE PROVIDED.—Information required under subsection (a) shall include—

''(1) the taxpayer's TIN,

''(2) the mailing address of such individual's principal foreign residence,

''(3) the foreign country, in which such individual is residing,

''(4) the foreign country of which such individual is a citizen,

''(5) information detailing the assets and liabilities of such individual,

''(6) the number of days that the individual was present in the United States during the taxable year, and

''(7) such other information as the Secretary may prescribe.''.

(3) INCREASE IN PENALTY.—Subsection (d) of section 6039G is amended to read as follows:

''(d) PENALTY.—If—

''(1) an individual is required to file a statement under subsection (a) for any taxable year, and

''(2) fails to file such a statement with the Secretary on or before the date such statement is required to be filed or fails to include all the information required to be shown on the statement or includes incorrect information,

such individual shall pay a penalty of $5,000 unless it is shown that such failure is due to reasonable cause and not to willful neglect.''.

(4) CONFORMING AMENDMENT.—Section 6039G is amended by striking subsections (c), (f), and (g) and by redesignating subsections (d) and (e) as subsection (c) and (d), respectively.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who expatriate after February 27, 2003.

SEC. 102. SUSPENSION OF TAX-EXEMPT STATUS OF TERRORIST ORGANIZATIONS.

(a) IN GENERAL.—Section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

''(p) SUSPENSION OF TAX-EXEMPT STATUS OF TERRORIST ORGANIZATIONS.—

''(1) IN GENERAL.—The exemption from tax under subsection (a) with respect to any organization described in paragraph (2), and the eligibility of any organization described in paragraph (2) to apply for recognition of exemption under subsection (a), shall be suspended during the period described in paragraph (3).

''(2) TERRORIST ORGANIZATIONS.—An organization is described in this paragraph if such organization is designated or otherwise individually identified—

''(A) under section 212(a)(3)(B)(vi)(II) or 219 of the Immigration and Nationality Act as a terrorist organization or foreign terrorist organization,

''(B) in or pursuant to an Executive order which is related to terrorism and issued under the authority of the International Emergency Economic Powers Act or section 5 of the United Nations Participation Act of 1945 for the purpose of imposing on such organization an economic or other sanction, or

''(C) in or pursuant to an Executive order issued under the authority of any Federal law if—

''(i) the organization is designated or otherwise individually identified in or pursuant to such Executive order as supporting or engaging in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act) or supporting terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989); and

''(ii) such Executive order refers to this subsection.

''(3) PERIOD OF SUSPENSION.—With respect to any organization described in paragraph (2), the period of suspension—

''(A) begins on the later of—

''(i) the date of the first publication of a designation or identification described in paragraph (2) with respect to such organization, or

''(ii) the date of the enactment of this subsection, and

''(B) ends on the first date that all designations and identifications described in paragraph (2) with respect to such organization are rescinded pursuant to the law or Executive order under which such designation or identification was made.

''(4) DENIAL OF DEDUCTION.—No deduction shall be allowed under section 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 for any contribution to an organization described in paragraph (2) during the period described in paragraph (3).

''(5) DENIAL OF ADMINISTRATIVE OR JUDICIAL CHALLENGE OF SUSPENSION OR DENIAL OF DEDUCTION.—Notwithstanding section 7428 or any other provision of law, no organization or other person may challenge a suspension under paragraph (1), a designation or identification described in paragraph (2), the period of suspension described in paragraph (3), or a denial of a deduction under paragraph (4) in any administrative or judicial proceeding relating to the Federal tax liability of such organization or other person.

''(6) ERRONEOUS DESIGNATION.—

''(A) IN GENERAL.—If—

''(i) the tax exemption of any organization described in paragraph (2) is suspended under paragraph (1),

''(ii) each designation and identification described in paragraph (2) which has been made with respect to such organization is determined to be erroneous pursuant to the law or Executive order under which such designation or identification was made, and

''(iii) the erroneous designations and identifications result in an overpayment of income tax for any taxable year by such organization,

credit or refund (with interest) with respect to such overpayment shall be made.

''(B) WAIVER OF LIMITATIONS.—If the credit or refund of any overpayment of tax described in subparagraph (A)(iii) is prevented at any time by the operation of any law or rule of law (including res judicata), such credit or refund may nevertheless be allowed or made if the claim therefor is filed before the close of the 1-year period beginning on the date of the last determination described in subparagraph (A)(ii).

''(7) NOTICE OF SUSPENSIONS.—If the tax exemption of any organization is suspended under this subsection, the Internal Revenue Service shall update the listings of tax-exempt organizations and shall publish appropriate notice to taxpayers of such suspension and of the fact that contributions to such organization are not deductible during the period of such suspension.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to designations made before, on, or after the date of the enactment of this Act.

SEC. 103. EXPRESSING THE SENSE OF THE CONGRESS THAT TAX REFORM IS NEEDED TO ADDRESS THE ISSUE OF CORPORATE EXPATRIATION.

(a) FINDINGS.—The Congress finds that—

(1) the tax laws of the United States are overly complex;

(2) the tax laws of the United States are among the most burdensome and uncompetitive in the world;

(3) the tax laws of the United States make it difficult for domestically-owned United States companies to compete abroad and in the United States;

(4) a domestically-owned corporation is disadvantaged compared to a United States subsidiary of a foreign-owned corporation; and

(5) international competitiveness is forcing many United States corporations to make a choice they do not want to make–go out of business, sell the business to a foreign competitor, or become a subsidiary of a foreign corporation (i.e., engage in an inversion transaction).

(b) SENSE OF CONGRESS.—It is the sense of Congress that passage of legislation to fix

the underlying problems with our tax laws is essential and should occur as soon as possible, so United States corporations will not face the current pressures to engage in inversion transactions.

TITLE II—RELIEF FOR FOREIGN SERVICE AND ASTRONAUTS

SEC. 201. SPECIAL RULE FOR MEMBERS OF FOREIGN SERVICE IN DETERMINING EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE.

(a) IN GENERAL.—Subsection (d) of section 121 (relating to exclusion of gain from sale of principal residence) is amended by adding at the end the following new paragraph:

''(10) MEMBERS OF FOREIGN SERVICE.—

''(A) IN GENERAL.—At the election of an individual with respect to a property, the running of the 5-year period referred to in subsections (a) and (c)(1)(B) and paragraph (7) of this subsection with respect to such property shall be suspended during any period that such individual or such individual's spouse is serving on qualified official extended duty as a member of the Foreign Service.

''(B) MAXIMUM PERIOD OF SUSPENSION.—Such 5-year period shall not be extended more than 5 years by reason of subparagraph (A).

''(C) QUALIFIED OFFICIAL EXTENDED DUTY.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'qualified official extended duty' means any extended duty while serving at a duty station which is at least 150 miles from such property or while residing under Government orders in Government quarters.

''(ii) FOREIGN SERVICE.—The term 'member of the Foreign Service' has the meaning given the term 'member of the Service' by paragraph (1), (2), (3), (4), or (5) of section 103 of the Foreign Service Act of 1980, as in effect on the date of the enactment of this paragraph.

''(iii) EXTENDED DUTY.—The term 'extended duty' means any period of active duty pursuant to a call or order to such duty for a period in excess of 180 days or for an indefinite period.

''(D) SPECIAL RULES RELATING TO ELECTION.—

''(i) ELECTION LIMITED TO 1 PROPERTY AT A TIME.—An election under subparagraph (A) with respect to any property may not be made if such an election is in effect with respect to any other property.

''(ii) REVOCATION OF ELECTION.—An election under subparagraph (A) may be revoked at any time.''.

(b) EFFECTIVE DATE; SPECIAL RULE.—

(1) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 312 of the Taxpayer Relief Act of 1997.

(2) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the amendment made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

SEC. 202. TAX RELIEF AND ASSISTANCE FOR FAMILIES OF ASTRONAUTS WHO LOSE THEIR LIVES ON A SPACE MISSION.

(a) INCOME TAX RELIEF.—

(1) IN GENERAL.—Subsection (d) of section 692 (relating to income taxes of members of Armed Forces and victims of certain terrorist attacks on death) is amended by adding at the end the following new paragraph:

''(5) RELIEF WITH RESPECT TO ASTRONAUTS.—The provisions of this subsection shall apply to any astronaut whose death occurs while on a space mission, except that paragraph (3)(B) shall be applied by using the date of the death of the astronaut rather than September 11, 2001.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 5(b)(1) is amended by inserting '', astronauts,'' after ''Forces''.

(B) Section 6013(f)(2)(B) is amended by inserting '', astronauts,'' after ''Forces''.

(3) CLERICAL AMENDMENTS.—

(A) The heading of section 692 is amended by inserting **'', ASTRONAUTS,''** after **''FORCES''**.

(B) The item relating to section 692 in the table of sections for part II of subchapter J of chapter 1 is amended by inserting '', astronauts,'' after ''Forces''.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to any astronaut whose death occurs after December 31, 2002.

(b) DEATH BENEFIT RELIEF.—

(1) IN GENERAL.—Subsection (i) of section 101 (relating to certain death benefits) is amended by adding at the end the following new paragraph:

''(4) RELIEF WITH RESPECT TO ASTRONAUTS.—The provisions of this subsection shall apply to any astronaut whose death occurs while on a space mission.''.

(2) CLERICAL AMENDMENT.—The heading for subsection (i) of section 101 is amended by inserting ''OR ASTRONAUTS'' after ''VICTIMS''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts paid after December 31, 2002, with respect to deaths occurring after such date.

(c) ESTATE TAX RELIEF.—

(1) IN GENERAL.—Subsection (b) of section 2201 (defining qualified decedent) is amended by striking ''and'' at the end of paragraph (1)(B), by striking the period at the end of paragraph (2) and inserting '', and'', and by adding at the end the following new paragraph:

''(3) any astronaut whose death occurs while on a space mission.''.

(2) CLERICAL AMENDMENTS.—

(A) The heading of section 2201 is amended by inserting **'', DEATHS OF ASTRONAUTS,''** after **''FORCES''**.

(B) The item relating to section 2201 in the table of sections for subchapter C of chapter 11 is amended by inserting '', deaths of astronauts,'' after ''Forces''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to estates of decedents dying after December 31, 2002.

TITLE III—HEALTH PROVISIONS

SEC. 301. VACCINE TAX TO APPLY TO HEPATITIS A VACCINE.

(a) IN GENERAL.—Paragraph (1) of section 4132(a) (defining taxable vaccine) is amended by redesignating subparagraphs (I), (J), (K), and (L) as subparagraphs (J), (K), (L), and (M), respectively, and by inserting after subparagraph (H) the following new subparagraph:

''(I) Any vaccine against hepatitis A.''

(b) EFFECTIVE DATE.—

(1) SALES, ETC.—The amendments made by subsection (a) shall apply to sales and uses on or after the first day of the first month which begins more than 4 weeks after the date of the enactment of this Act.

(2) DELIVERIES.—For purposes of paragraph (1) and section 4131 of the Internal Revenue Code of 1986, in the case of sales on or before the effective date described in such paragraph for which delivery is made after such date, the delivery date shall be considered the sale date.

SEC. 302. EXPANSION OF HUMAN CLINICAL TRIALS QUALIFYING FOR ORPHAN DRUG CREDIT.

(a) IN GENERAL.—Paragraph (2) of section 45C(b) (relating to qualified clinical testing expenses) is amended by adding at the end the following new subparagraph:

''(C) TREATMENT OF CERTAIN EXPENSES INCURRED BEFORE DESIGNATION.—For purposes of subparagraph (A)(ii)(I), if a drug is designated under section 526 of the Federal Food, Drug, and Cosmetic Act not later than the due date (including extensions) for filing the return of tax under this subtitle for the taxable year in which the application for such designation of such drug was filed, such drug shall be treated as having been designated on the date that such application was filed. The preceding sentence shall not apply with respect to any expense incurred after December 31, 2010.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to expenses incurred after the date of the enactment of this Act.

TITLE IV—FOREST CONSERVATION ACTIVITIES

SEC. 401. PILOT PROJECT FOR FOREST CONSERVATION ACTIVITIES.

(a) TAX-EXEMPT BOND FINANCING.—

(1) IN GENERAL.—For purposes of the Internal Revenue Code of 1986, any qualified forest conservation bond shall be treated as an exempt facility bond under section 142 of such Code.

(2) QUALIFIED FOREST CONSERVATION BOND.—For purposes of this section, the term ''qualified forest conservation bond'' means any bond issued as part of an issue if—

(A) 95 percent or more of the net proceeds (as defined in section 150(a)(3) of such Code) of such issue are to be used for qualified project costs,

(B) such bond is an obligation of the State of Washington or any political subdivision thereof and is issued for the Evergreen Forest Trust, and

(C) such bond is issued before October 1, 2004.

(3) LIMITATION ON AGGREGATE AMOUNT ISSUED.—The maximum aggregate face amount of bonds which may be issued under this section shall not exceed $250,000,000.

(4) QUALIFIED PROJECT COSTS.—For purposes of this subsection, the term ''qualified project costs'' means the sum of—

(A) the cost of acquisition by the Evergreen Forest Trust from an unrelated person of forests and forest land—

(i) which are located in the State of Washington, and

(ii) which at the time of acquisition or immediately thereafter are subject to a conservation restriction described in subsection (c)(2),

(B) capitalized interest on the qualified forest conservation bonds for the 3-year period beginning on the date of issuance of such bonds, and

(C) credit enhancement fees which constitute qualified guarantee fees (within the meaning of section 148 of such Code).

(5) SPECIAL RULES.—In applying the Internal Revenue Code of 1986 to any qualified forest conservation bond, the following modifications shall apply:

(A) Section 146 of such Code (relating to volume cap) shall not apply.

(B) For purposes of section 147(b) of such Code (relating to maturity may not exceed 120 percent of economic life), the land and standing timber acquired with proceeds of qualified forest conservation bonds shall have an economic life of 35 years.

(C) Subsections (c) and (d) of section 147 of such Code (relating to limitations on acquisition of land and existing property) shall not apply.

(D) Section 57(a)(5) of such Code (relating to tax-exempt interest) shall not apply to interest on qualified forest conservation bonds.

(6) TREATMENT OF CURRENT REFUNDING BONDS.—Paragraphs (2)(C) and (3) shall not apply to any bond (or series of bonds) issued

to refund a qualified forest conservation bond issued before October 1, 2004, if—

(A) the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue,

(B) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond, and

(C) the net proceeds of the refunding bond are used to redeem the refunded bond not later than 90 days after the date of the issuance of the refunding bond.

For purposes of subparagraph (A), average maturity shall be determined in accordance with section 147(b)(2)(A) of such Code.

(7) EFFECTIVE DATE.—This subsection shall apply to obligations issued after the date of the enactment of this Act.

(b) ITEMS FROM QUALIFIED HARVESTING ACTIVITIES NOT SUBJECT TO TAX OR TAKEN INTO ACCOUNT.—

(1) IN GENERAL.—Income, gains, deductions, losses, or credits from a qualified harvesting activity conducted by the Evergreen Forest Trust shall not be subject to tax or taken into account under subtitle A of the Internal Revenue Code of 1986.

(2) QUALIFIED HARVESTING ACTIVITY.—For purposes of paragraph (1)—

(A) IN GENERAL.—The term ''qualified harvesting activity'' means the sale, lease, or harvesting, of standing timber—

(i) on land owned by the Evergreen Forest Trust which was acquired with proceeds of qualified forest conservation bonds, and

(ii) pursuant to a qualified conservation plan adopted by the Evergreen Forest Trust.

(B) EXCEPTIONS.—

(i) CESSATION AS QUALIFIED ORGANIZATION.—The term ''qualified harvesting activity'' shall not include any sale, lease, or harvesting during any period that the Evergreen Forest Trust is not a qualified organization.

(ii) EXCEEDING LIMITS ON HARVESTING.—The term ''qualified harvesting activity'' shall not include any sale, lease, or harvesting of standing timber on land acquired with proceeds of qualified forest conservation bonds to the extent that—

(I) the average annual area of timber harvested from such land exceeds 2.5 percent of the total area of such land, or

(II) the quantity of timber removed from such land exceeds the quantity which can be removed from such land annually in perpetuity on a sustained-yield basis with respect to such land.

The limitations under subclauses (I) and (II) shall not apply to salvage or sanitation harvesting of timber stands which are substantially damaged by fire, windthrow, or other catastrophe, or which are in imminent danger from insect or disease attack.

(3) TERMINATION.—This subsection shall not apply to any qualified harvesting activity occurring after the date on which there is no outstanding qualified forest conservation bond or any such bond ceases to be a tax-exempt bond.

(4) PARTIAL RECAPTURE OF BENEFITS IF HARVESTING LIMIT EXCEEDED.—If, as of the date that this subsection ceases to apply under paragraph (3), the average annual area of timber harvested from the land exceeds the requirement of paragraph (2)(B)(ii)(I), the tax imposed by chapter 1 of the Internal Revenue Code of 1986 shall be increased, under rules prescribed by the Secretary, by the sum of the tax benefit attributable to such excess and interest at the underpayment rate under section 6621 for the period of the underpayment.

(c) DEFINITIONS.—For purposes of this section—

(1) QUALIFIED CONSERVATION PLAN.—The term ''qualified conservation plan'' means a multiple land use program or plan which—

(A) is designed and administered primarily for the purposes of protecting and enhancing wildlife and fish, timber, scenic attributes, recreation, and soil and water quality of the forest and forest land,

(B) mandates that conservation of forest and forest land is the single-most significant use of the forest and forest land,

(C) requires that timber harvesting be consistent with—

(i) restoring and maintaining reference conditions for the Westside Douglas Fir forest type,

(ii) restoring and maintaining a representative sample of young, mid, and late successional forest age classes,

(iii) maintaining or restoring the resources' ecological health for purposes of preventing damage from fire, insect, or disease,

(iv) maintaining or enhancing wildlife or fish habitat,

(v) enhancing research opportunities in sustainable renewable resource uses, or

(vi) preserving or protecting open space.

(2) CONSERVATION RESTRICTION.—The conservation restriction described in this paragraph is a restriction which—

(A) is granted in perpetuity to an unrelated person which is described in section 170(h)(3) of such Code and which, in the case of a nongovernmental unit, is organized and operated for conservation purposes,

(B) meets the requirements of clause (ii) or (iii)(II) of section 170(h)(4)(A) of such Code,

(C) obligates the Evergreen Forest Trust to pay the costs incurred by the holder of the conservation restriction in monitoring compliance with such restriction, and

(D) requires an increasing level of conservation benefits to be provided whenever circumstances allow it.

(3) QUALIFIED ORGANIZATION.—The term ''qualified organization'' means an organization—

(A) which is a nonprofit organization organized and operated exclusively for charitable, scientific, or educational purposes including but not limited to acquiring, protecting, restoring, managing, and developing forest lands and other renewable resources for the long-term charitable, educational, scientific, and public benefit of the State of Washington,

(B) more than half of the value of the property of which consists of forests and forest land acquired with the proceeds from qualified forest conservation bonds,

(C) which periodically conducts educational programs designed to inform the public of environmentally sensitive forestry management and conservation techniques,

(D) which has a board of directors that at all times is comprised of 9 members—

(i) at least 2 of whom represent the holders of the conservation restriction described in paragraph (2), and

(ii) at least 2 of whom are public officials,

(E) of which not more than one-third of the members of the board of directors is comprised of individuals who are or were at any time within 5 years before the beginning of a term of membership on the board, an employee of, independent contractor with respect to, officer of, director of, or held a material financial interest in, a commercial forest products enterprise with which the Evergreen Forest Trust has a contractual or other financial arrangement,

(F) the bylaws of which require at least two-thirds of the members of the board of directors to vote affirmatively to approve the qualified conservation program and any change thereto, and

(G) upon dissolution, is required to dedicate its assets to—

(i) an organization described in section 501(c)(3) of such Code which is organized and operated for conservation purposes, or

(ii) a governmental unit described in section 170(c)(1) of such Code.

(4) EVERGREEN FOREST TRUST.—The term ''Evergreen Forest Trust'' means a nonprofit corporation known as the Evergreen Forest Trust which was incorporated on February 25, 2000, under chapter 24.03 of the Revised Code of Washington and which, on May 11, 2001, was recognized as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986.

(5) UNRELATED PERSON.—The term ''unrelated person'' means a person who is not a related person.

(6) RELATED PERSON.—A person shall be treated as related to another person if—

(A) such person bears a relationship to such other person described in section 267(b) (determined without regard to paragraph (9) thereof), or 707(b)(1), of such Code, determined by substituting ''25 percent'' for ''50 percent'' each place it occurs therein, and

(B) in the case such other person is a nonprofit organization, if such person controls directly or indirectly more than 25 percent of the governing body of such organization.

TITLE V—RELIEF AND EQUITY FOR SMALL BUSINESSES

SEC. 501. SIMPLIFICATION OF EXCISE TAX IMPOSED ON BOWS AND ARROWS.

(a) BOWS.—Paragraph (1) of section 4161(b) (relating to bows) is amended to read as follows:

''(1) BOWS.—

''(A) IN GENERAL.—There is hereby imposed on the sale by the manufacturer, producer, or importer of any bow which has a draw weight of 30 pounds or more, a tax equal to 11 percent of the price for which so sold.

''(B) ARCHERY EQUIPMENT.—There is hereby imposed on the sale by the manufacturer, producer, or importer—

''(i) of any part or accessory suitable for inclusion in or attachment to a bow described in subparagraph (A), and

''(ii) of any quiver or broadhead suitable for use with an arrow described in paragraph (3),

a tax equal to 11 percent of the price for which so sold.''.

(b) ARROWS.—Subsection (b) of section 4161 (relating to bows and arrows, etc.) is amended by redesignating paragraph (3) as paragraph (4) and inserting after paragraph (2) the following:

''(3) ARROWS.—

''(A) IN GENERAL.—There is hereby imposed on the sale by the manufacturer, producer, or importer of any arrow, a tax equal to 12 percent of the price for which so sold.

''(B) EXCEPTION.—The tax imposed by subparagraph (A) on an arrow shall not apply if the arrow contains an arrow shaft subject to the tax imposed by paragraph (2).

''(C) ARROW.—For purposes of this paragraph, the term 'arrow' means any shaft described in paragraph (2) to which additional components are attached.''.

(c) CONFORMING AMENDMENT.—The heading of section 4161(b)(2) is amended by striking ''ARROWS.—'' and inserting ''ARROW COMPONENTS.—''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after the 90th day after the date of the enactment of this Act.

SEC. 502. CAPITAL GAIN TREATMENT UNDER SECTION 631(b) TO APPLY TO OUTRIGHT SALES BY LANDOWNERS.

(a) IN GENERAL.—The first sentence of section 631(b) (relating to disposal of timber with a retained economic interest) is amended by striking ''retains an economic interest

in such timber'' and inserting ''either retains an economic interest in such timber or makes an outright sale of such timber''.

(b) CONFORMING AMENDMENTS.—

(1) The third sentence of section 631(b) is amended by striking ''The date of disposal'' and inserting ''In the case of disposal of timber with a retained economic interest, the date of disposal''.

(2) The heading for section 631(b) is amended by striking ''WITH A RETAINED ECONOMIC INTEREST''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after the date of the enactment of this Act.

SEC. 503. REPEAL OF EXCISE TAX ON FISHING TACKLE BOXES.

(a) REPEAL.—Paragraph (6) of section 4162(a) (defining sport fishing equipment) is amended by striking subparagraph (C) and by redesignating subparagraphs (D) through (J) as subparagraphs (C) through (I), respectively.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect 30 days after the date of the enactment of this Act.

SEC. 504. TREATMENT UNDER AT-RISK RULES OF PUBLICLY TRADED NONRECOURSE DEBT.

(a) IN GENERAL.—Subparagraph (A) of section 465(b)(6) (relating to qualified nonrecourse financing treated as amount at risk) is amended by striking ''share of'' and all that follows and inserting ''share of—

''(i) any qualified nonrecourse financing which is secured by real property used in such activity, and

''(ii) any other financing which—

''(I) would (but for subparagraph (B)(ii)) be qualified nonrecourse financing,

''(II) is qualified publicly traded debt, and

''(III) is not borrowed by the taxpayer from a person described in subclause (I), (II), or (III) of section 49(a)(1)(D)(iv).''.

(b) QUALIFIED PUBLICLY TRADED DEBT.—Paragraph (6) of section 465(b) is amended by adding at the end the following new subparagraph:

''(F) QUALIFIED PUBLICLY TRADED DEBT.—For purposes of subparagraph (A), the term 'qualified publicly traded debt' means any debt instrument which is readily tradable on an established securities market. Such term shall not include any debt instrument which has a yield to maturity which equals or exceeds the limitation in section 163(i)(1)(B).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to debt instruments issued after the date of the enactment of this Act.

TITLE VI—EQUITY FOR FARMERS

SEC. 601. SPECIAL RULES FOR LIVESTOCK SOLD ON ACCOUNT OF WEATHER-RELATED CONDITIONS.

(a) RULES FOR REPLACEMENT OF INVOLUNTARILY CONVERTED LIVESTOCK.—Subsection (e) of section 1033 (relating to involuntary conversions) is amended—

(1) by striking ''CONDITIONS.—For purposes'' and inserting ''CONDITIONS.—

''(1) IN GENERAL.—For purposes'', and

(2) by adding at the end the following new paragraph:

''(2) EXTENSION OF REPLACEMENT PERIOD.—

''(A) IN GENERAL.—In the case of drought, flood, or other weather-related conditions described in paragraph (1) which result in the area being designated as eligible for assistance by the Federal Government, subsection (a)(2)(B) shall be applied with respect to any converted property by substituting '4 years' for '2 years'.

''(B) FURTHER EXTENSION BY SECRETARY.—The Secretary may extend on a regional basis the period for replacement under this section (after the application of subparagraph (A)) for such additional time as the Secretary determines appropriate if the weather-related conditions which resulted in such application continue for more than 3 years.''.

(b) INCOME INCLUSION RULES.—Subsection (e) of section 451 (relating to special rule for proceeds from livestock sold on account of drought, flood, or other weather-related conditions) is amended by adding at the end the following new paragraph:

''(3) SPECIAL ELECTION RULES.—If section 1033(e)(2) applies to a sale or exchange of livestock described in paragraph (1), the election under paragraph (1) shall be deemed valid if made during the replacement period described in such section.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any taxable year with respect to which the due date (without regard to extensions) for the return is after December 31, 2002.

SEC. 602. INCOME AVERAGING FOR FARMERS NOT TO INCREASE ALTERNATIVE MINIMUM TAX.

(a) IN GENERAL.—Subsection (c) of section 55 (defining regular tax) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

''(2) COORDINATION WITH INCOME AVERAGING FOR FARMERS.—Solely for purposes of this section, section 1301 (relating to averaging of farm income) shall not apply in computing the regular tax liability.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2002.

SEC. 603. PAYMENT OF DIVIDENDS ON STOCK OF COOPERATIVES WITHOUT REDUCING PATRONAGE DIVIDENDS.

(a) IN GENERAL.—Subsection (a) of section 1388 (relating to patronage dividend defined) is amended by adding at the end the following: ''For purposes of paragraph (3), net earnings shall not be reduced by amounts paid during the year as dividends on capital stock or other proprietary capital interests of the organization to the extent that the articles of incorporation or bylaws of such organization or other contract with patrons provide that such dividends are in addition to amounts otherwise payable to patrons which are derived from business done with or for patrons during the taxable year.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions in taxable years beginning after the date of the enactment of this Act.

TITLE VII—PROTECTION OF SOCIAL SECURITY

SEC. 701. PROTECTION OF SOCIAL SECURITY.

The amounts transferred to any trust fund under title II of the Social Security Act shall be determined as if this Act (other than title I, section 301, and this section) had not been enacted.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. THOMAS) and the gentleman from New York (Mr. RANGEL) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. THOMAS).

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

Mr. Speaker, this is a modest bill that has come to the light of day by virtue of examining those issues, although modest in nature, that have passed the House or the Senate, or both, one or more times, but somehow have never made it to the President's desk for signature.

Other measures in this bill are those measures that raise revenue in ways that those committees responsible for assisting us in determining ways to change the law indicate an appropriate change of the law.

Lastly, there are items which were approved by the committee, notwithstanding the fact they do not raise revenue or they had been approved previously, which merited the committee's voice voting, that is, no recorded vote, and the bill itself passed by a voice vote. If there was a measure that appeared to elicit controversy, that is, it was a recorded vote in committee, then that measure is not included in this particular provision. For example, there was an amendment offered to extend some provisions of the military bill just passed to astronauts who die on space missions. Obviously, that was a voice vote, and it was unanimously agreed to.

There is a modification on the orphan drug credit provision. This particular measure has passed the Committee on Ways and Means twice, it passed the House three times, and it passed the Senate, but, notwithstanding that stellar legislative career, it has never made it to the President's desk for his signature.

There are other items in here which exemplify the fact that brought to our attention over time are provisions of the Tax Code which make absolutely no sense and should not remain in the Tax Code for 1 day longer than our ability to amend it, and, yet, notwithstanding that, remain on the books.

The gentleman from Wisconsin brought us an example which I think is particularly egregious. It has to do with a very modest subject called bows and arrows. As you might guess, some arrows are produced domestically, and some are produced outside the United States. You would think that if someone was going to import the components to assemble an arrow, that is, use foreign parts and U.S. labor, that you would not tax the foreign parts so that they could come in, so the value added would be U.S. to produce that arrow.

But, ironically, it is exactly the opposite. It is the completed arrow, with the foreign labor added, that comes in free of a tax, and the component parts are taxed, which would make it more expensive if you added U.S. labor. That is in direct competition to a U.S. arrow which carries the tax.

Now, how in the world could the Tax Code get that far on its head? You do not want to pursue that questioning, you only want to change it immediately; not so, as some of the media has reported, that we give a tax break to domestic producers of arrows, but that we create a fair and equitable relationship between those arrows composed of foreign components assembled by foreign labor in competition with American arrows composed of American material. It seems to me that the only fair thing is to treat them equally. The Tax Code does not do that, in part or in whole. That is a typical example of one of the modest measures that are included in this provision.

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

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

Mr. Speaker, I guess I rise in support of the bill. The reason I reluctantly say ''I guess'' is because the Republicans once again have shrewdly put us into a political box by bringing to the floor a provision that provides tax relief for the families of the *Columbia* Shuttle astronauts out of compassion for these families. There is no one in the country, no one in the House, that would not want to support this very, very sensitive provision. But, once again, the Republican leadership has to make things difficult.

I am really amazed and surprised that as we ask for support for this bill, that we have to put tax provisions on this bill to provide relief for those people who make bows and arrows. It is totally unbelievable. If that is not enough, then we have to find out why would we repeal the tax on fishing tackle boxes and provide benefits for livestock sold on account of drought or other weather-related issues?

Why, in God's name, can we not hold sacred just taking care of the families of the shuttle astronauts, and not clobber this bill with stuff that is just nothing more than provisions that people want to provide for their people back home? I have no problem with providing relief for pet projects back home. That is part of our responsibility. But why in the world would we put it on a bill like this?

I will tell you why; so we do not have to debate these things on their merit. There is no one, in my opinion, prepared to explain why they voted against the families of *Columbia* Shuttle astronauts from receiving benefits.

I may have missed something. Thank God they have taken out eliminating taxes on foreign bettors on horse racing. They have taken out repeal of consumer health protection.

But if the Republicans have anything else to say about this bill, and I do hope that they do, please explain to this Member why on this bill they sought to attach unrelated tax benefits for fishing tackle boxes, for removing taxes on bows and arrows, and providing benefits for livestock sold on account of drought or other weather-related conditions.

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It would seem to me that if this relief is important enough for the House of Representatives to consider, then out of respect, it should never, never, never have been put on the Suspension Calendar with the Columbian shuttle astronaut bill which puts the Members of the House in the position of having to support stuff that they never would be able to explain because they support the families of the shuttle victims.

Well, I do hope to hear from the other side soon on these other issues.

Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. LEVIN), a senior member of the Committee on Ways and Means.

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

Mr. LEVIN. Mr. Speaker, the gentleman from New York (Mr. RANGEL) has explained his reluctant support because of the provision in here that needs to be in here. As I understand it, that positive provision was taken from the other bill and placed in this bill, so we are in a situation where, as to the clearly legitimate provision, we either vote ''yes'' and pass this or vote ''no'' because of other provisions and, therefore, bring down what we should be doing.

This is not the way to proceed in a deliberative body where there is also respect for the views of every Member of this institution and the ability of every Member here to be heard, to at least raise the issue of amendments.

So I want to just say a few words about two of the provisions, one relating to individual inversions or those expatriates, people who leave the country to avoid taxes. There is a Senate approach and a House approach. The Senate approach is far superior. What it does essentially is it says to people who leave this country, individuals, we are going to tax you as you leave on all of your unrealized income. The House bill is much weaker. We should have had a chance to present these two alternatives on the floor of the House.

Secondly, let me say a word about the sense of the Congress on the issue of corporate expatriation. The gentleman from Massachusetts (Mr. NEAL) has had a bill here for months that addresses this issue. What this sense of the Congress provision does is essentially to, I think, paper it over and to paper it over incorrectly. Essentially what it says is, to those who engage in corporate expatriation, it is not your fault, it is the fault of the Tax Code. And I do not think we should be giving that kind of, if not approval, a pass to those corporations that escape American taxes by moving a headquarters overseas while often continuing to have a major presence in the U.S.

We can do much better on both individual and corporate inversions expatriations. But what has happened here is we have eliminated our chance to even consider this intelligently and deliberately by putting these provisions in a bill in a way that we cannot vote ''no.''

So those of us who will vote ''yes,'' in many cases, vote with those limitations.

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

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

I am disappointed that we do not have an explanation as to why the fishing tackle boxes and the removal of taxes of bows and arrows and benefits for livestock and an explanation of why those are on this bill, but I guess silence is probably the best explanation that we can possibly come up with, and that is they feel very awkward and embarrassed and ashamed that they would have to resort to a mechanism like this in putting this on the *Columbia* Shuttle victims' bill.

That being what it is, I am not prepared to go home and explain why I voted for these bows and arrows and fishing boxes and livestock. It suffices to say that all of us in our hearts know that the same way the men and women have been heroes for all of us in the Armed Forces, we cannot do enough to pay tribute to the heroes that served the United States and the world by meeting the challenges of outer space, and that forever in our hearts we will remember the families of the *Columbia* Shuttle, and whatever we can ever do in the Congress or anywhere, for that matter, to ease their pain and to show our support, we want the families to know that even if sometimes it means swallowing hard, they can depend on us being there for them as they were there for us.

Mr. Speaker, I yield back the balance of my time.

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

This gentleman from California spent, I believe, 3 minutes explaining the bow and arrow provision and why it was included. It was an amendment that was presented to the committee. It is an unfairness in the Tax Code, and it passed by a voice vote, just as the astronaut provision was an amendment to this measure.

Now, I know that in some situations you are damned if you do and damned if you do not. Had we selectively pulled amendments out and included them in the military bill, we would have been criticized, as we were before, that we were placing items on the military bill that, in fact, were not originally on the bill. That is why we are carrying a separate bill in dealing with all of those amendments that passed by voice vote.

I did say in the opening statement one of the provisions, as compared to all of the other provisions that have passed the House, the Senate, and sometimes both multiple times, the livestock provision did not pass the House before. It is a response to a current problem and circumstance. When you lose livestock, you have an ability to deal with an involuntary conversion. The loss of livestock is over the drought.

Now, it is unfortunate that weather does not follow a taxable calendar year. If that were the case and we have 2 years in which to deal with the involuntary compensation and replace the livestock, if that drought which killed the first cow is still present and will kill the second cow, it does not make a whole lot of sense to provide a time frame which encompasses an ongoing drought. So the gentleman from Colorado offered an amendment, accepted by voice vote, that says, let us extend that involuntary conversion to 4 years and not 2. Hopefully, the drought will

be over in that 4-year period, and they will be able to get an involuntary conversion for a cow that, because there is no longer a drought, will be able to stay alive.

It seems to me that these provisions are worthy and should move forward.

Mr. BEREUTER. Mr. Speaker, this Member rises in support of H.R. 1308, the Tax Reform, Simplification and Equity Act, and in particular the provisions which will assist our nation's farmers and ranchers who are suffering from a devastating drought.

Mr. Speaker, this Member is pleased that H.R. 1308 includes an important provision originally introduced by the distinguished gentleman from Colorado (Mr. MCINNIS) which is designed to assist farmers and ranchers suffering from the drought. This Member is a strong supporter and cosponsor of the Ranchers HELP Act, which is included in H.R. 1308. This provision would provide ''involuntary conversion'' tax relief for producers forced to sell livestock under certain circumstances, such as weather-related conditions. Specifically, the bill would allow producers four years (rather than the current two year limit) after a forced sale to reinvest in livestock without facing capital gains taxes. The Ranchers HELP legislation also would allow the Federal Government the flexibility to extend the amount of time a farmer or rancher can take to restore a herd in certain regions experiencing a drought which lasts more than three years.

It is important for the Federal Government to take actions, where appropriate to help relieve the hardships caused by the severe drought affecting Nebraska and the Great Plains region. The provisions included in this bill are an important step in that direction.

There are two other provisions that should help farmers. Under current law, farmers are allowed to average their income over three years for tax purposes since farm income often fluctuates from year to year. However, farmers who choose this option often fall into the Alternative Minimum Tax (AMT). The provision in H.R. 1308 ensures that farmers are not harmed by the AMT if they elect income averaging. In 1999 and 2000, this provision was included in a tax relief bill passed by the House and the Senate that subsequently was vetoed by then-President Clinton twice.

Another provision will help cooperatives that now face up to three levels of tax penalties. This legislation includes a reduction of one of these levels by providing that patronage dividends of cooperatives will not be reduced by stock dividends to the extent the stock dividends are in addition to amounts otherwise payable.

Mr. Speaker, this Member urges his colleagues to support H.R. 1308, the Tax Reform, Simplification and Equity Act.

Ms. DUNN. Mr. Speaker, I rise today in support of H.R. 1308, the Tax Relief, Simplification, and Equity Act.

Among other items, the bill contains an innovative solution to one of the most difficult challenges we face as policymakers—conserving our land while ensuring that it remains a source of economic activity.

What has been lacking in the Pacific Northwest is cooperation and collaboration between environmentalists, the business community, and local government on how best to solve difficult environmental issues. Until now.

Recently, numerous programs in Washington State have been developed that provide a road map for how everybody can come together to achieve environmental protection.

In particular, numerous conservation groups have been working with large landowners in an attempt to purchase sensitive parcels of land and protect them from development. What they're lacking is access to capital.

This bill will give them tax-exempt bond financing to preserve these lands. In exchange, the land must continue to be used as a productive resource and managed with the input of a diverse group of interests.

In the interest of progress in land conservation, I urge my colleagues to support this bill.

Mr. THOMAS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LINDER). The question is on the motion offered by the gentleman from California (Mr. THOMAS) that the House suspend the rules and pass the bill, H.R. 1308.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. THOMAS. 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 the subject of H.R. 1308, the bill just passed.

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

There was no objection.

SENSE OF HOUSE THAT NEWDOW V. UNITED STATES CONGRESS IS INCONSISTENT WITH THE SUPREME COURT'S INTERPRETATION OF THE FIRST AMENDMENT AND SHOULD BE OVERTURNED

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 132) expressing the sense of the House of Representatives that the Ninth Circuit Court of Appeals ruling in Newdow v. United States Congress is inconsistent with the Supreme Court's interpretation of the first amendment and should be overturned, and for other purposes.

The Clerk read as follows:

H. RES. 132

Whereas on June 26, 2002, the Ninth Circuit Court of Appeals, in Newdow v. United States Congress (292 F.3d 597; 9th Cir. 2002) (Newdow I), held that the Pledge of Allegiance to the Flag as currently written to include the phrase, ''one Nation, under God'', unconstitutionally endorses religion, that such phrase was added to the pledge in 1954 only to advance religion in violation of the establishment clause, and that the recitation of the pledge in public schools at the start of every school day coerces students who choose not to recite the pledge into participating in a religious exercise in violation of the establishment clause of the first amendment;

Whereas on February 28, 2003, the Ninth Circuit Court of Appeals amended its ruling in this case, and held (in Newdow II) that a California public school district's policy of opening each school day with the voluntary recitation of the Pledge of Allegiance to the Flag ''impermissibly coerces a religious act'' on the part of those students who choose not to recite the pledge and thus violates the establishment clause of the first amendment;

Whereas the ninth circuit's ruling in Newdow II contradicts the clear implication of the holdings in various Supreme Court cases, and the spirit of numerous other Supreme Court cases in which members of the Court have explicitly stated, that the voluntary recitation of the Pledge of Allegiance to the Flag is consistent with the first amendment;

Whereas the phrase, ''one Nation, under God'', as included in the Pledge of Allegiance to the Flag, reflects the notion that the Nation's founding was largely motivated by and inspired by the Founding Fathers' religious beliefs;

Whereas the Pledge of Allegiance to the Flag is not a prayer or statement of religious faith, and its recitation is not a religious exercise, but rather, it is a patriotic exercise in which one expresses support for the United States and pledges allegiance to the flag, the principles for which the flag stands, and the Nation;

Whereas the House of Representatives recognizes the right of those who do not share the beliefs expressed in the pledge or who do not wish to pledge allegiance to the flag to refrain from its recitation;

Whereas the effect of the ninth circuit's ruling in Newdow II will prohibit the recitation of the pledge at every public school in 9 states, schooling over 9.6 million students, and could lead to the prohibition of, or severe restrictions on, other voluntary speech containing religious references in these classrooms;

Whereas rather than promoting neutrality on the question of religious belief, this decision requires public school districts to adopt a preference against speech containing religious references;

Whereas the constitutionality of the voluntary recitation by public school students of numerous historical and founding documents, such as the Declaration of Independence, the Constitution, and the Gettysburg Address, has been placed into serious doubt by the ninth circuit's decision in Newdow II;

Whereas the ninth circuit's interpretation of the first amendment in Newdow II is clearly inconsistent with the Founders' vision of the establishment clause and the free exercise clause of the first amendment, Supreme Court precedent interpreting the first amendment, and any reasonable interpretation of the first amendment;

Whereas this decision places the ninth circuit in direct conflict with the Seventh Circuit Court of Appeals which, in Sherman v. Community Consolidated School District (980 F.2d 437; 7th Cir. 1992), held that a school district's policy allowing for the voluntary recitation of the Pledge of Allegiance to the Flag in public schools does not violate the establishment clause of the first amendment;

Whereas Congress has consistently supported the Pledge of Allegiance to the Flag by starting each session with its recitation;

Whereas the House of Representatives reaffirmed support for the Pledge of Allegiance to the Flag in the 107th Congress by adopting House Resolution 459 on June 26, 2002, by a vote of 416–3; and

Whereas the Senate reaffirmed support for the Pledge of Allegiance to the Flag in the 107th Congress by adopting Senate Resolution 292 on June 26, 2002, by a vote of 99–0: Now, therefore, be it

Resolved, that it is the sense of the House of Representatives that—

(1) the phrase ''one Nation, under God,'' in the Pledge of Allegiance to the Flag reflects that religious faith was central to the Founding Fathers and thus to the founding of the Nation;

(2) the recitation of the Pledge of Allegiance to the Flag, including the phrase, ''one Nation, under God,'' is a patriotic act, not an act or statement of religious faith or belief;

(3) the phrase ''one Nation, under God'' should remain in the Pledge of Allegiance to the Flag and the practice of voluntarily reciting the pledge in public school classrooms should not only continue but should be encouraged by the policies of Congress, the various States, municipalities, and public school officials;

(4) despite being the school district where the legal challenge to the pledge originated, the Elk Grove Unified School District in Elk Grove, California, should be recognized and commended for their continued support of the Pledge of Allegiance to the Flag;

(5) the Ninth Circuit Court of Appeals ruling in Newdow v. United States Congress has created a split among the circuit courts, and is inconsistent with the Supreme Court's interpretation of the first amendment, which indicates that the voluntary recitation of the pledge and similar patriotic expressions is consistent with the first amendment;

(6) the Attorney General should appeal the ruling in Newdow v. United States Congress, and the Supreme Court should review this ruling in order to correct this constitutionally infirm and historically incorrect holding; and

(7) the President should nominate and the Senate should confirm Federal circuit court judges who interpret the Constitution consistent with the Constitution's text.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Massachusetts (Mr. DELAHUNT) each will control 20 minutes.

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

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on House Resolution 132.

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

There was no objection.

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

Mr. Speaker, today we will consider House Resolution 132, which expresses the sense of the House of Representatives that the Ninth Circuit Court of Appeals' recent ruling in Newdow v. United States Congress is inconsistent with the Supreme Court's interpretation of the first amendment and urges the Attorney General to appeal its decision.

We are here today because the United States Court of Appeals for the Ninth Circuit continues to get it wrong.

On February 28, 2003, as our country continued preparations for what is now an impending war to defend the values upon which our great Nation is founded, the Ninth Circuit refused to rehear the case of Newdow v. U.S. Congress. In Newdow, a three-judge panel of the Ninth Circuit Court of Appeals ruled that the voluntary, voluntary recitation of the Pledge of Allegiance by public school students violates the first amendment because it includes the phrase ''one Nation under God.'' In addition, on February 28, the three-judge panel amended its June 2002 ruling and held that the Elk Grove, California, school district policy of opening each school day with the voluntary recitation of the Pledge of Allegiance to the Flag ''impermissibly coerces a religious act'' on the part of those students who choose not to recite the Pledge and, thus, violates the Establishment Clause of the first amendment.

This second preposterous ruling by the most-often reversed appellate court in the Nation impels us to come to the House floor again to voice our profound disagreement. House Resolution 132 expresses the sense of the House that the phrase ''one Nation, under God'' should remain in the Pledge of Allegiance and that the Ninth Circuit Court of Appeals ruling in Newdow v. U.S. Congress is inconsistent with the Supreme Court's interpretation of the first amendment.

It also urges the Attorney General of the United States to repeal the Ninth Circuit's ruling and urges the President to nominate and the Senate to confirm Federal circuit court judges who will interpret the Constitution consistent with the Constitution's text. House Resolution 132 also encourages school districts across the Nation to continue reciting the Pledge daily and praises the Elk Grove School District for its defense of the Pledge of Allegiance against this specious constitutional challenge.

Since the Pledge of Allegiance is not a prayer nor a statement of religious faith, the recitation of the Pledge is not a religious exercise. Rather, it is a patriotic exercise in which one expresses support for the United States of America and pledges allegiance to the flag, the principles for which the flag stands, and to the Nation. To conclude otherwise is to ignore clear precedent from the Supreme Court.

If this latest ruling is allowed to stand, schoolchildren at every public school in nine States, a total of 9,600,000 students, will be prohibited from reciting the pledge. Furthermore, the constitutionality of the voluntary recitation by public school students of numerous historical and founding documents such as the Declaration of Independence, the Constitution, and the Gettysburg Address has been placed into serious doubt. When one considers how this decision distorts Establishment Clause jurisprudence, the importance of appointing judges who will interpret the Constitution consistent with its text becomes clear.

Congress has consistently supported the Pledge of Allegiance by starting each session of the House with its recitation. The House reaffirmed its support for the Pledge when, on June 27, 2002, it adopted House Resolution 459, which I introduced, by a vote of 416 to three. The House should do the same with House Resolution 132 today.

I am proud to serve as an original cosponsor of this measure, and I urge my colleagues to support it.

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

□ 1145

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

Mr. Speaker, judges certainly should not be immune from criticism. I mean, healthy debate on the merits of judicial decisions is an important feature of our democracy. But there is a difference between legitimate criticism and overt pressure that threatens judicial independence.

Like all Americans, Members of Congress are free to criticize judicial decisions with which we disagree. Our collective voice should be heard on matters of profound constitutional significance as we, too, are guardians of the Constitution. In fact, I joined most of my colleagues in voting for a resolution during the last Congress that was referenced by the chairman that expressed disapproval of this very decision on the Pledge of Allegiance and urged that it be overturned.

However, I intend to vote present on this current resolution because it does not stop at expressing disapproval; it goes further, in a way that I believe would set an unwise and dangerous precedent.

It is one thing to urge the judicial branch to use the normal process of appellate review to correct an erroneous decision. It is quite another to imply that judges who issue unpopular decisions in particular cases are unfit for office.

Unfortunately, that is what H.R. 132 does. It not only expresses disapproval of the court's reasoning in the Newdow case, but it states that the President should nominate and the Senate should confirm Federal circuit court judges who interpret the Constitution consistent with the Constitution's text.

By linking future nominations to a particular ruling with which the proponents disagree, the resolution sends a not-so-subtle message to sitting judges, and in particular to potential nominees, that they had better tailor their constitutional views to those of the congressional majority if they wish to be confirmed. That, I submit, goes far beyond our appropriate constitutional role.

The Framers of the Constitution recognized that an independent judicial branch is an essential guarantor of liberty in any democracy. To understand this, one need only observe those nations with a weak judiciary that is subservient to the political branches. Invariably such nations are democracies in name only. Those who profess fidelity to the Constitution must take

great care not to chip away at the independence of the judiciary on which our liberty depends. For that reason, this resolution ought to be rejected.

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

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. CARTER).

Mr. CARTER. Mr. Speaker, our Nation was founded on the idea of freedom of religion, the freedom to believe, the freedom to pray, the freedom to worship any time, anywhere. Today more than ever the people of our Nation need to have faith, a religion, a belief.

James Madison stated in 1825 that ''The belief in God All Powerful, wise and good, is so essential to the moral order of the world and to the happiness of man that arguments which enforce it cannot be drawn from too many sources nor adapted with too much solicitude to the different characters and capacities impressed with it.''

I believe Madison's statement is accurate, and we as a people should maintain this strong sense of values. We in Congress should do our part by protecting what our forefathers built this Nation on. We should do that today by passing H.R. 132.

Mr. DELAHUNT. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Speaker, I rise in opposition to this resolution. I rise in opposition because it is wrong in its principles, it is wrong on the stated findings, it is wrong on its facts. Let me just go through them.

First of all, people may very well, everybody has the freedom to disagree with a court decision. All of us have the right to get up and say that. I do not think it is the role of Congress to say that a court decision is wrong. If we disagree as a body with a court decision, then pass a law if it is a question of statutory interpretation, or propose a constitutional amendment if it is a question of constitutional interpretation. That is our role.

The role of the judiciary is, to quote Chief Justice Marshall, to say what the law is. They say what the law is, and we say what the law should be. It is not our role to tell the court it is wrong; it is our role to change the law if we think so. To pass a resolution which has no power except perhaps the power to intimidate judges is wrong and a violation of our constitutional role.

Secondly, this states as fact that recitation of the Pledge of Allegiance to the flag, including the phrase ''one Nation under God,'' is a patriotic act, not an act or statement of religious faith or belief. It certainly is a patriotic act, but it certainly is a statement of religious faith and belief when you say ''one Nation under God.''

The only way you can get around that conclusion is to say, as the dissenting opinion in the court said, that the phrase ''under God'' is minor, it is de minimis, it does not mean anything. But that is a sacrilege. Since when is God minor? Are we really going to say in this Chamber that God is minor; that belief in God is a minor question, so minor as to not to be worthy of notice?

That is the only ground on which we could say that asking schoolchildren, in the context of a group recitation of a pledge in a classroom, is not a prayer and an affirmation of belief and a religious conviction. To say that God is minor and ''under God'' means nothing, I do not think we want to say that. I certainly hope we do not want to say that. Yet, if we say it means something, then the Pledge of Allegiance with that phrase in it is a statement of a religious belief, or at least a statement of a belief in God.

There are religions in this country, Shintoism, Hinduism, that do not believe in one God. There are people who are atheists. It is factually a wrong statement. It says, as a statement of fact, that the court's ruling in this case is inconsistent with the Supreme Court's interpretation of the first amendment. That is demonstrably wrong, and the Supreme Court will say so.

First, the Supreme Court for the last 40 years in its jurisprudence on school prayers has said that we cannot ask schoolchildren to recite a prayer or a belief in God in the classroom setting, even if we allow the dissenters to walk out of the room; but that is exactly what asking them to say the Pledge of Allegiance with that phrase ''under God'' is. It is exactly consistent with the Supreme Court's last 40 years of jurisprudence and rulings on the school prayer cases. It is, in effect, the school prayer, that as long as you ask schoolchildren to say ''one Nation under God.'' It has all the same pros and cons; and many disagree with the Supreme Court's decisions, but those were its decisions.

In the name of religious liberty, in the name of the separation of powers, in the name of religion, to say that God is not minor, we ought not to pass this resolution and let the Supreme Court uphold or overturn the Court of Appeals decision in Newdow. After that we can worry about a constitutional amendment, which I would propose, and some Members may want to propose. But at this point it is not our function to be correcting a court.

Mr. SENSENBRENNER. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio (Mr. CHABOT), the chairman of the Subcommittee on the Constitution.

Mr. CHABOT. Mr. Speaker, I rise in support of House Resolution 132 expressing the sense of the House that the Ninth Circuit Court of Appeals ruling in Newdow v. United States Congress is inconsistent with the Supreme Court's interpretation of the first amendment.

It is clear that the ninth circuit's amended Newdow ruling contradicts any reasonable interpretation of the first amendment. In a long line of cases, the Supreme Court has interpreted the establishment clause as prohibiting not only compelled participation in religious activity in public schools, but even voluntary religious devotional activity if, under the circumstances, children feel coerced to participate.

These cases, however, were based upon the fact that the activity at issue involved compelled participation in prayers and devotional exercises, as in the cases of School District of Abington Township v. Schemp and Engle v. Vitale; or the practice of graduation prayers at issue in Lee v. Weisman.

In fact, the questionable activity in these cases occurred either just before or just after the recitation of the Pledge. In its review of these cases, however, the court not only failed to question the practice of the voluntary recitation of the Pledge by schoolchildren, but instead explicitly limited its holding to the prayer or devotional exercise.

To have applied these cases to the facts in the Newdow case was incorrect because the Pledge is clearly not a religious statement or prayer; thus, its recitation is not a religious exercise. It is a historical fact that our Nation's founding principles were based upon the Founding Fathers' deeply held religious views. The Pledge of Allegiance simply refers to this fact.

The reasoning and holding of the ninth circuit in Newdow turns historical fact, as well as Supreme Court precedent, on its head. Either the judges were incapable or were unwilling to make this distinction.

Those who do not share the beliefs expressed in the Pledge or those who do not wish to pledge allegiance to the flag have a right to refrain from its recitation. This was recognized by the Supreme Court in the 1943 case of West Virginia Board of Education v. Barnett, in which the mandatory recitation of the Pledge of Allegiance was held unconstitutional under the first amendment's free speech clause.

Indeed, it is a cornerstone of the religious faith that the Founding Fathers held dear that no man can force another to say or believe that which their conscience will not allow. I would hope that no court would issue a ruling that tramples upon this right. However, the ninth circuit in Newdow simply ignored Supreme Court precedent and essentially gave those who do not wish to recite the Pledge, and who possess the right to refrain from reciting the Pledge, a heckler's veto over those who do wish to recite the Pledge.

This ruling also places the ninth circuit in direct conflict with the Seventh Circuit Court of Appeals which, in Sherman v. Community Consolidated School District, held that a school district's policy allowing for the voluntary recitation of the Pledge of Allegiance in public schools does not violate the establishment clause of the first amendment.

I believe that this clearly incorrect first amendment interpretation, as well as the split in the circuits created by the Newdow ruling, warrants an appeal by the Attorney General and Supreme Court review.

I urge my colleagues to approve this resolution so, during this time of international conflict in which our young men and women may be hours away from going to war to fight for those values based upon which our Founding Fathers gave birth to this very Nation, our youngest Americans, our children, may pledge their allegiance to those same values.

Mr. DELAHUNT. Mr. Speaker, I yield 5 minutes to the gentleman from Virginia (Mr. SCOTT), a member of the Committee.

Mr. SCOTT of Virginia. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I come from a State that has a long tradition in supporting religious freedom. In fact, it was Thomas Jefferson who wrote the Virginia statute for religious freedom which precedes the first amendment to our Constitution.

House Resolution 132 is totally gratuitous, as it will do nothing to change the underlying law. This is because we are dealing with constitutional issues that cannot be altered by resolution. If the judicial branch ultimately finds the Pledge or the motto to be constitutional, then nothing needs to be done; on the other hand, if the Court ultimately finds it to be unconstitutional, then no law that we pass can change that.

Mr. Speaker, I believe the reasoning of the majority opinion in the case was sound. In the case, the appellate court applied three different tests which have been applied in the last 50 years in Supreme Court jurisprudence in evaluating establishment clause cases. One test was whether the phrase ''under God'' in the Pledge constitutes an endorsement of religion. The majority opinion says that it was an endorsement of one view of religion, monotheism, and therefore was an unconstitutional endorsement.

□ 1200

Another test was whether individuals were coerced into being exposed to a religious message, and the majority concluded that the Pledge was unconstitutional because young children who are compelled to attend school ''may not be placed in the dilemma of either participating in a religious ceremony or protesting.''

Finally, the court applied the Lemon test, part of which holds that a law violates the Establishment Clause if it has no secular or nonreligious purpose. For example, cases involving a moment of public silence in public schools, some of those laws have been upheld if the law allows silent prayer as one of many activities which can be done in silence; but courts have stricken laws in which a moment of silent prayer is added to existing moments of silence because that law has no secular purpose.

The court concluded, if the 1954 law, which added ''under God'' to the existing Pledge, had no secular purpose, it was, therefore, unconstitutional.

It is interesting to note the reasoning of the dissent in the Newdow case. The important operative language in the dissent was the following: ''Legal world abstractions and ruminations aside, when all is said and done, the danger that 'under God' in our Pledge of Allegiance will tend to bring about a theocracy or suppress someone's belief is so minuscule to be de minimis. The danger that the phrase represents to our first amendment's freedoms is picayune at best.''

Unfortunately, Mr. Speaker, our actions in enacting H. Res. 132 may cause the courts to review the sentiments behind ''one Nation, under God'' because, if the courts look at the importance we apparently affix to the phrase by passing yet another resolution before the judicial branch has even entered final judgment, this attention diminishes the argument that the phrase has de minimis meaning and increases the constitutional vulnerability of the use of that phrase in the Pledge. While one Federal appeals court rejected a call to rehear the controversial ruling that struck down the recitation of the Pledge due to its religious content, the fact remains that this issue is still alive and well; and every resolution we pass chips away at the de minimis argument.

Furthermore, Mr. Speaker, the court may look at this very resolution, understand the Lemon test, and find that today's exercise has no secular purpose and, therefore, adds to the constitutional vulnerability of the Pledge.

Finally, Mr. Speaker, to quote from an editorial that appeared in the Christian Century, a nondenominational Protestant weekly, puts this matter in perspective: ''To the extent 'under God' has real religious meaning, then it is unconstitutional. The phrase is constitutional to the extent that it is religiously innocuous. Given that choice, I side with the Ninth Circuit. The government should not link religion and patriotism.''

Mr. Speaker, for those reasons I believe we should reject this resolution.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. OSE), who represents the area that includes the Elk Grove Unified School District, which is the district from which this case arose.

Mr. OSE. Mr. Speaker, I thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for yielding me time.

Mr. Speaker, the U.S. Ninth Circuit Court of Appeals recently declared it is unconstitutional to say the Pledge of Allegiance, our national recitation and proclamation of patriotism. This ruling is an attack on the history of our Nation and on the display of our patriotic pride.

On Friday, February 28, 2003, the Ninth Circuit Court of Appeals upheld its ruling on Newdow v. U.S. Congress. In its decision, the court declared the phrase ''one Nation, under God'' to infringe on the Establishment Clause of the first amendment and is therefore unconstitutional to recite within our public schools. This issue hits especially close to home because Newdow v. U.S. Congress originated in the Elk Grove Unified School District, which is located in my district in California.

I would like to recognize the school district for its participation in defending our right to say the Pledge. As the party named in the lawsuit, they have shouldered the burden and the cost for standing up for our community and our Nation. Elk Grove Unified has not waivered in their support of the Pledge of Allegiance and remains an example of true patriotism.

In response to the court's ruling, I authored this resolution reaffirming that the Pledge of Allegiance in its entirety is appropriate and calling upon the Supreme Court to review this ruling in order to correct this infirm and historically incorrect decision. The Ninth Circuit is quite plainly wrong and has failed to represent the values of the people of California and the United States of America.

The origin of this phrase is rumored to have come from a speech delivered on a cold fall day in the aftermath of the one of the bloodiest battles in American history. On November 19, 1863, President Lincoln delivered his famous Gettysburg Address while overlooking the massive graves of the soldiers who died there during that famous battle and said the following:

''It is rather for us to be here dedicated to the great task remaining before us, that from these honored dead we take increased devotion to that cause for which they gave the last full measure of devotion, that we here highly resolve that these dead shall not have died in vain, that this Nation, under God shall have a new birth of freedom, and that government of the people, by the people, for the people shall not perish from the Earth.''

Mr. Speaker, there is no better time than today, given the circumstances of our efforts to protect our homeland, that we rise to honor the men and women of the military and reaffirm our patriotism to this great Nation across all generations.

I thank the gentleman from Wisconsin (Chairman SENSENBRENNER) and his staff for their assistance on this resolution, for bringing it to the floor in such a timely manner, and I urge Members to support the resolution.

Mr. DELAHUNT. Mr. Speaker, I yield 5 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE), a member of the Committee on the Judiciary.

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentleman from Massachusetts (Mr. DELAHUNT), particularly for the leadership that he has given on a number of

key issues dealing with the distinctive responsibilities of the three branches of government. H. Res. 132 challenges that interrelatedness and the constitutional structure of the judiciary, the executive, and the legislature. But, Mr. Speaker, I am not going to quarrel with that because as Members of Congress we are designated to represent the people of the United States and to come to voice those expressions. We do so in a tool called a resolution, congressional resolutions. This happens to be H. Res. 132.

Just as I am going to enthusiastically vote for the armed services tax relief that was just recently debated on the floor of the House, gratified of course that it has been eliminated from the baggage of gambling extras, benefits that were given to gamblers, I am likewise going to vote for H. Res. 132.

Mr. Speaker, let me share with you I believe an analysis that for some may hold water. The first amendment guarantees freedom of expression and freedom of religion. To date now this Pledge of Allegiance is a voluntary act that Americans choose to do, voluntarily in places of worship, voluntarily in this Congress, voluntarily in schools; and it should remain that. There is language in here to suggest that we encourage schools to do so. I want the CONGRESSIONAL RECORD to reflect that this is voluntary and no one should be forced to say the Pledge.

But if you do say the Pledge, then I believe out of your freedom of expression and freedom of religion you have every right to say ''under God.'' And for those who desire not to say it, they have every right not to say it.

Equally, I would argue with the proponent legislative listing of irrelevant aspects of this resolution, and that is to suggest that there may be, as we discussed in the Committee on the Judiciary, some litmus test for judges. The President should nominate and the Senate should confirm Federal circuit court judges who interpret the Constitution consistent with the Constitution's text. An interesting benign statement maybe, but irrelevant. Because the courts will do as they desire to do because that is an independent, free branch of government that we should reflect.

Interestingly enough, Mr. Speaker, as we are taking up H. Res. 132, I filed the first day H. Con. Res. 2, to repeal the Iraqi resolution, so that this Congress would not be deadly silent on the question of war. I intend to file today a resolution that will restate the constitutional premise that this Congress has the sole authority to debate the question of war.

It is interesting how my colleagues are selective in what resolutions can come to the floor, constitutional questions, commentary on the acts of other branches of governments. And I believe if we are to be fair and honest in this House, if we are to be truly the people's House, just as I can come to the floor and support this resolution because I believe the first amendment protects it, and I proudly pledge allegiance to the Flag with the language ''under God'' even though we have separate branches of government, it seems patently, if you will, disingenuous, and as well hypocritical, for us not to be able to debate questions, constitutional questions that deal with the issue of war. Not that we will be all of one mind. I respect that, Mr. Speaker, because this is a democracy. But certainly as the Prime Minister of England can go to the Parliament on this very somber question, then we can too, Mr. Speaker. We can unshackle ourselves from the fear of disagreeing with each other, and lo and behold we can unshackle ourselves from any commentary that anyone who opposes the particular option that has been chosen, I believe, should be the last option of war is in any way unpatriotic or is in any way not supporting the brave young men and women in the front lines allowing us to be here today.

We know that we are facing troubling times, and we will do it united as a Nation. But it speaks little of what we are fighting for if we cannot come again to the floor of the House and express either our support or our opposition to the question of the option of war being the only option.

I believe, Mr. Speaker, there are many options. There is a third option that we can engage in from putting troops at the front lines, U.N. inspections and indicting Saddam Hussein. But as I rise to support H. Res. 132, let me say, Mr. Speaker, I do it proudly; but I also ask this House to be able to debate a question that will deal with the lives of young men and women and it will be a question of life or death and war or peace.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1½ minutes to the gentleman from Oklahoma (Mr. LUCAS) to get back to debating the Pledge of Allegiance and the Newdow ruling.

Mr. LUCAS of Oklahoma. Mr. Speaker, today I rise in support of this resolution and in support of the Pledge of Allegiance.

I believe children in schools across America should start their day in the same way we do here on the floor of the United States House of Representatives, by reciting the Pledge of Allegiance.

Mr. Speaker, the Ninth Circuit's decision is outrageous and has set a dangerous precedent that we cannot allow to continue nationwide. I know of no better way to educate our children about the beliefs we stand for in this great Nation of ours than with the Pledge of Allegiance. The Pledge is an important way of educating our children about the value of patriotism, democracy, a reminder that we are one Nation under God. That is why I believe we need to keep the Pledge in our schools, and as my constituents in Oklahoma would say, keep the judges who do not value the Pledge out of our courts.

Mr. Speaker, my constituents are dumbfounded and angered by the Ninth Circuit's actions. That is why I have introduced legislation immediately after the court's original ruling last year that would amend the U.S. Constitution to protect the right of schools to lead willing students in the recitation of the Pledge. I have reintroduced my Pledge of Allegiance Protection Amendment in this Congress; and while I know, I believe in my heart that the U.S. Supreme Court will overturn this foolish ruling, I urge my colleagues' support for its passage if the Supreme Court upholds the Ninth Circuit Court's atrocious decision.

Mr. Speaker, again, I support this resolution in support of the Pledge.

Mr. DELAHUNT. Mr. Speaker, I have no additional speakers, and I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1½ minutes to the gentleman from Arkansas (Mr. BOOZMAN).

□ 1215

Mr. BOOZMAN. Mr. Speaker, I rise today in support of House Resolution 132. This legislation expresses that the Ninth Circuit Court of Appeals' ruling against the Pledge of Allegiance is inconsistent with the Supreme Court's interpretation of the first amendment.

The Pledge of Allegiance brings together people of different backgrounds in a shared expression of support for our country. Before the start of business in the House of Representatives, my colleagues and I proudly recite the Pledge of Allegiance, just as I proudly said it before every school board meeting back home in my hometown of Rogers, Arkansas.

Our pledge to support our country and the beliefs on which it was founded is an important part of our everyday life. Every time an American turns to the flag to recite the Pledge of Allegiance, they are reminded of all that has been sacrificed in the name of our country and for our freedom.

The U.S. Court of Appeals for the Ninth Circuit outraged people across the country by ruling the phrase ''one Nation under God'' makes the Pledge of Allegiance unconstitutional. It is unbelievable that a Federal court would rule that the Pledge of Allegiance violates our first amendment.

Mr. Speaker, perhaps now more than ever the need for the unity in America exists. I commend the gentleman from California (Mr. OSE) for bringing this legislation before us, and I urge my colleagues to vote in favor of House Resolution 132.

Mr. STEARNS. Mr. Speaker, unfortunately, in an arrogant stunt, last summer, the Ninth Circuit Court of Appeals held that the Pledge of Allegiance is an unconstitutional endorsement of religion, stating that it ''impermissibly takes a position with respect to the purely religious question of the existence and identity of God,'' and places children in the ''untenable position of choosing between participating in an exercise with religious content or protesting.'' This is an obvious instance of political correctness taken to an absurd extreme.

This court clearly shows that it is out of step with the will of the American people, the U.S. Congress, and traditional American values. Religious expression is the fundamental basis of our freedom in this country. At the earliest moment in this nation's history, the pilgrims signed The Mayflower Compact that declared that the voyage across the Atlantic was taken ''for the Glory of God'' and still today, the Ten Commandments are publicly displayed in the National Archives. In this Nation we have ''In God We Trust'' on our money, and each day the House of Representatives starts its day be reciting the Pledge of Allegiance. We will continue to do so despite the folly of the 9th Circuit Court.

Mr. FEENEY. Mr. Speaker, I thank you for the opportunity to revise and extend my remarks and submit them into the CONGRESSIONAL RECORD.

I rise in support of H. Res. 132. Fellow Members, in this time of war, I think it is more important than ever to be able to express our patriotic and religious views together in unity and solemnity. The Pledge of Allegiance is a beautiful manifest of the feelings of Americans. We are a religious people. We always have been. America has been such since our inception. Granted, we are a people of diverse religious backgrounds, but being able to express our faith in public without fear of government condemnation or censure is without a doubt, the reason why you and I are standing here today. The desire for religious liberty was what brought the first groups of Americans to our country hundreds of years ago to build this shining ''city upon a hill.''

Members, I stand in support of the Pledge of Allegiance as did this great body on Flag Day 1954 when the words ''Under God'' were added. As President Eisenhower, who supported this change, so eloquently stated, ''In this way we are reaffirming the transcendence of religious faith in America's heritage and future; in this way we shall constantly strengthen those spiritual weapons which forever will be our country's most powerful resource in peace and war.'' Eisenhower's words could not be more accurate or more timely. Americans' religious beliefs reach to the core of our being. It is in both times of uncertainty and turmoil, prosperity and blessing that we cling to our beliefs for direction, comfort, guidance and peace. To deny Americans the right to stand together and say the Pledge of Allegiance is to deny the spirit behind the Mayflower Compact, Patrick Henry's great Liberty Speech, the Declaration of Independence, the Gettysburg Address, and all of the other documents that serve as a mission statement of our people.

Members, in this time of war I urge you to support H. Res. 132 to defend the Pledge of Allegiance as a fitting and constitutional written expression for all Americans.

Mr. GOODLATTE. Mr. Speaker, I rise today in strong support of H. Res. 132, a resolution that expresses Congress's disapproval of the recent 9th Circuit Court of Appeals decision that held that a public school's policy of opening each school day with the voluntary recitation of the Pledge of Allegiance impermissibly coerced a religious act.

A State sponsored religion is unconstitutional, but there is nothing in our founding documents that requires the removal of every reference to God from the public square. Most Americans can make this distinction, which explains the public outcry to the 9th Circuit's misguided decisions.

The faith of our founding fathers was central to the establishment of our Nation and there are references to God in countless public forums. The Declaration of Independence declares that ''all men are Created equal, endowed by their creator with certain unalienable rights.'' The Supreme Court begins each session with the blessing ''God save the United States and this honorable court.'' Congress opens each day with a prayer, through which we seek divine guidance for the tasks before us. Our currency bears the slogan ''In God We Trust.''

The Pledge of Allegiance is an important affirmation of both our country's faith and patriotism. With our Nation on the brink of war, we must be vigilant in guarding against efforts to strip away the tradition and powerful public expressions of these key values. Instead, we should emphasize our shared heritage, our commitment to freedom, and our rich tradition of national humility before the ultimate author of our liberty. I urge each of my colleagues to vote in favor of H. Res. 132.

Mr. SENSENBRENNER. Mr. Speaker, I have no further speakers and am prepared to yield back if the gentleman from Massachusetts will do the same.

Mr. DELAHUNT. Mr. Speaker, I yield back the balance of my time.

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

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and agree to the resolution, H. Res. 132.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

PROVIDING FOR CONSIDERATION OF H.R. 975, BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2003

Mr. GOSS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 147 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 147

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. 975) to amend title 11 of the 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. It shall be in order to consider as an original bill for the purpose of amendment under the five minute rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Florida (Mr. GOSS) is recognized for 1 hour.

Mr. GOSS. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the distinguished gentlewoman from New York (Ms. SLAUGHTER), my friend and associate, pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purposes of debate on this matter only.

Mr. Speaker, I am exceedingly pleased that tonight we will consider much-needed bankruptcy reform legislation under the direction of a fair and balanced rule that makes a total of five amendments in order, including an amendment in the nature of a substitute sponsored by the gentleman from Michigan (Mr. CONYERS), the ranking member.

I am proud of the tireless and extensive efforts of many Members, including the gentleman from Texas (Mr. SESSIONS), who will be here to address us shortly in the rule on this, and the staff who have put together countless hours toward the passage of this legislation over several years now.

Their efforts allow us to ensure that our bankruptcy laws operate fairly, efficiently and free of abuse. We must end the days when debtors who were able to repay some portion of their debts are allowed to game the system. This bill is crafted to ensure the debtor's rights to a fresh start while protecting the system from flagrant abuses by those who can pay their bills.

Congress has spoken on this issue many times before. As we all know, the 105th, the 106th, the 107th Congresses passed legislation addressing bankruptcy reform. In the 105th, the conference report passed the House, but time expired before the Senate voted on a final passage. In the 106th, the conference report received overwhelming bipartisan support in both Chambers; however, President Clinton chose to pocket veto the bill. In the 107th Congress, we came extremely close to final passage of a conference report, but in the end could not finally agree.

So, today, due to the outstanding work and leadership of the gentleman from Wisconsin (Mr. SENSENBRENNER), his committee and so many Members, we have the historic opportunity to make modern bankruptcy reform a reality.

As we debate and vote today, we should keep in mind two important tenets of bankruptcy reform. First, the bankruptcy system should provide the amount of debt relief that an individual needs, no more, no less. Bankruptcy should be a last resort and not a first response to a financial crisis.

One important part of this legislation is known as the homestead provision. Protection of one's homestead is something that is very important to me and, of course, to all my constituents, and to any Member and all their constituents. The homestead provision in this legislation maintains the long-held standard that allows the States to decide if homesteads should be protected, yet prohibits those who would purchase a home before filing bankruptcy as a means to evade creditors.

By tightening our current laws and making it more difficult to escape fraud by declaring bankruptcy, we are expressing no tolerance for those who would game the system to make up for their wrongdoing.

Modern bankruptcy reform has been a long and somewhat arduous journey. It makes the most anticipated result of our work today even more rewarding. It has required not only hard work, but also some difficult decisions on the part of Congress as we know. The result is what I believe to be a carefully balanced package that protects the women, children, family farmers, low-income individuals, and provides access to bankruptcy for all Americans who have a legitimate need.

Today's vote I believe will finally make modern bankruptcy reform a reality, and, Mr. Speaker, I urge my colleagues to vote with me to support this fair rule and the underlying legislation which is long overdue.

Mr. Speaker, I yield the balance of my time to the gentleman from Texas (Mr. SESSIONS) for the purposes of control.

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

There was no objection.

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

(Ms. SLAUGHTER asked and was given permission to revise and extend her remarks.)

Ms. SLAUGHTER. Mr. Speaker, I thank the gentleman from Florida for yielding me the customary 30 minutes.

Mr. Speaker, this bill purports to improve the Bankruptcy Code by ensuring fairness for debtors and creditors. Unfortunately, this bill envisions fairness as choosing credit card companies over people in dire financial situations. This bill attempts to solve a complex problem with an oversimplified, one-size-fits-all solution when the problem really requires a sophisticated solution.

The rhetoric around H.R. 975 paints a vivid picture of scheming people running up huge debts, buying extravagant houses and expensive cars just before they run to a local bankruptcy court to avoid paying their bills, but the reality is that only 3 percent of the people who file for bankruptcy are these kinds of cheaters.

In order to stop the 3 percent who abuse the system, the bill takes the dramatic sweeping step of harming the 97 percent of people who are forced to seek protection under the Bankruptcy Code because of illnesses, unemployment or divorce. In fact, nearly half the people who file for bankruptcy protection do so because of medical bills and the financial consequences of illness or injury.

Middle-class families are only one serious illness away from financial collapse, and the impact of medical cost is highest on women, families headed by women and older people.

Mr. Speaker, one of the most forceful and persistent proponents of changing the Federal Bankruptcy Code is the credit card industry. We all know that credit card companies send us solicitations by the boatload. They mailed 5 billion of them in 2001. Each of us get three or four a day. They flood the mailboxes with credit card offers and encourage debt, and it is very hard to sympathize with these companies. They are actively, actively creating the problems that they now want this body to fix for them.

Why does this legislation do nothing to address the culpability of credit card companies in the growing numbers of bankruptcies? Nothing in this legislation requires credit card companies to provide adequate information to consumers about the costs of credit. Nothing in the bill addresses the industry's aggressive marketing of credit to students and to young teenagers. Nothing in this bill deals with predatory mortgage loans or the high costs of so-called payday loans.

Douglas Lustig, a bankruptcy attorney in my hometown of Rochester, New York, says that people are not abusing credit cards for extravagances. Rather, he says, most people use credit cards out of necessity. People are forced to use their credit cards to buy food or pay for rent until they get through difficult economic times, and what really breaks my heart is that as unemployment rates rise, this Congress has failed to extend the unemployment benefits in so many households. This is the only recourse that they have. Then if something awful happens to them, and the wife is laid off or the husband diagnosed with cancer, the family then is totally unable to meet its financial burdens, and this bill chooses to make sure that the credit card companies get paid instead of protecting the families and helping them dig out of financial collapse.

What do bankruptcy judges think about this legislation? Judge A. Thomas Small, who recently served as president of the National Conference of Bankruptcy Judges and now is chairing the Federal Bankruptcy Rules Committee, sees problems. He says this measure will fail to block needless bankruptcy cases while making it a lot harder for people who really need bankruptcy relief to get it.

Despite the many years that bankruptcy reform has been discussed by this body, many serious problems persist in this legislation. The rule before this body gags us and limits our right to speak fully about the significant legislation and its real-world effects. Republicans in the House Committee on Rules blocked the consideration of six substantive amendments to this bill. This body has the right to discuss them, to deliberate and to consider the changes they offer.

One amendment would protect the Active Duty members of the Armed Forces, unemployed people who have exhausted their benefits, and victims of terrorism. Another would have prohibited credit card companies from issuing cards to people under the age of 21. A third amendment would place a $125,000 national cap on the homestead exemption without any of the exceptions allowed in the underlying bill. Still another would place reasonable limits on exorbitant retention bonuses, the severance package and other payments to corporate insiders of companies that are bankrupt or facing bankruptcy. A fifth amendment would crack down on the predatory lending practice known as payday lending.

An amendment offered by the gentleman from Michigan (Mr. CONYERS), the gentlewoman from Texas (Ms. JACKSON-LEE) and myself would give bankruptcy courts the discretion to provide extra protection for people entitled to alimony or child support, a piece of legislation that we put in back in the days when Jack Brooks was chair of the Committee on the Judiciary. Many of us worked very hard at that time to make sure that child support was the first thing that a spouse had to or person who was paying the

support had to discharge. That has changed now.

□ 1230

The reform legislation elevates the credit card companies to the same categories of child support. Mothers and fathers who are trying to get money for food and clothes for their children will have to compete with the major credit card companies with their legions of lawyers and sophisticated collection departments for the same few dollars.

Mr. Speaker, I will enter this list of amendments left on the floor of the room of the Committee on Rules into the RECORD.

Mr. Speaker, H.R. 975 even fails to hold perpetrators of violence against women's health care clinics accountable for their actions. As part of a coordinated strategy, perpetrators of clinic violence have filed for bankruptcy to avoid paying judgments against them for violation of Federal law. This bill will allow them to discharge these judgments and get away with breaking Federal law and trampling the constitutional rights of women.

This rule and this legislation fail the American people. Years of consideration have not produced bankruptcy reform that the American people deserve, reform that fixes the current problems with a system without causing significantly more harm than this prevents.

Mr. Speaker, we should produce legislation that strikes a balance between risk-taking and responsibility and shelters that 97 percent who deserve the Federal protection. I urge Members to vote against this rule and against H.R. 975.

The previously mentioned list of amendments follows:

AMENDMENTS REJECTED BY THE HOUSE RULES COMMITTEE DURING CONSIDERATION OF H. RES. 147, THE RULE GOVERNING DEBATE ON H.R. 975, THE BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2003

Amendment No. 5 Offered by Representative Delahunt—the amendment places a $125,000 national cap on the homestead exemption, without any of the exceptions allowed in the underlying bill.

Amendment No. 6 Offered by Representative Delahunt—the amendment places reasonable limits on exorbitant ''retention bonuses,'' severance packages, and other payments to corporate insiders of companies that are bankrupt or facing bankruptcy.

Amendment No. 8 Offered by Representative Jackson-Lee—the amendment cracks down on the predatory lending practice known as ''payday lending.''

Amendment No. 9 Offered by Representative Waters—the amendment prohibits credit card companies from issuing cards to people under 21 years of age.

Amendment No. 10 Offered by Representative Schakowsky—the amendment excludes unemployed people who have exhausted their benefits, active duty members of the armed forces, and victims of terrorism from the bill's means test provisions.

Amendment No. 11 Offered by Representatives Conyers, Slaughter, and Jackson-Lee—the amendment gives courts the discretion to disapprove an agreement or the discharge of a debt if it would impair a debtor's ability to pay alimony or child support.

Open Rule Motion Offered by Representative Frost—on a party-line vote of 3–9, the Committee rejected Mr. Frost's motion that the House consider H.R. 975 under an open rule, which would have allowed the House to debate all of the amendments Members brought before the Committee.

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

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

Mr. Speaker, we are talking about bankruptcy today again. We have done this four times. This rule will pass because it is a fair rule. The underlying legislation will pass overwhelmingly because it is great legislation that the American people not only asked for but want. It will help streamline and make better the bankruptcy procedures that are necessary as our courts deal with them, and as people who have gotten into financial trouble deal with the old legislation and find out what a problem it is.

I am proud to be here today to talk about good legislation that is good for the American public, it is good for consumers, and I am very proud of what we are doing.

Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia (Mr. LINDER), a member of the Committee on Rules.

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

Mr. Speaker, I rise in support of this fair rule and the underlying legislation, H.R. 975. H. Res. 147 is a fair and responsible rule that will allow the House to work its will on the underlying bankruptcy reform bill. It makes in order two amendments sponsored by Democrats, two bipartisan amendments, and an amendment in the nature of a substitute offered by the ranking minority member of the Committee on the Judiciary, the gentleman from Michigan (Mr. CONYERS). I urge Members on both sides of the aisle to join me in approving this rule so we can move on to H.R. 975, important bankruptcy reform legislation.

I support providing this bankruptcy protection. I believe that American citizens should be able to gain a fresh start after finding themselves incapable of meeting their obligations. In fact, our Nation has historically understood the importance of providing this protection.

As one individual put it during the congressional debate in the late 19th century, ''When an honest man is hopelessly down financially, nothing is gained for the public by keeping him down; but on the contrary, the public good will be promoted by having his assets distributed ratably as far as they will go among his creditors and letting him start anew.''

Today we debate the reform of U.S. bankruptcy law one more time. We should focus on how to ensure that bankruptcy laws follow their intended design, while working to derail the growing trend of using bankruptcy as a means for avoiding the payment of debts, even when those debtors are financially capable of paying off those debts. The question before us is, How can we prevent individuals abusing these protections, while ensuring that bankruptcy relief remains available for those who truly need it?

In 1787, the Founders of this country, some of whom were debtors themselves, recognized the necessity for providing leniency to individuals who are faced with increasing debts. The Founders understood that it was impossible for debtors to work towards paying off their debts while sitting in debtors' prison. I do not, however, believe the Founders would have approved of a system where bankruptcies have increased more than 400 percent in 23 years and represent a cost of $400 to every American family who works hard to meet its own financial responsibilities.

H.R. 975 works both to continue the Founders' vision for bankruptcy protection while curbing the abuses that have plagued the system over the past few decades. Congress should not be in the business of protecting those who wish to use bankruptcy as a financial planning tool, while penalizing hard-working Americans who fall into financial difficulties.

Last year, almost 1.6 million bankruptcy cases were filed in this country. We must ensure that this number is significantly reduced in the future. It is not shameful to file for bankruptcy if one falls on hard times. It is, however, shameful to use bankruptcy as a means of paying one's obligations.

As such, I urge Members to join me in supporting both this rule and the underlying legislation to help restore the legitimacy of this protective tool and to bring commonsense reasoning back to American bankruptcy law. I urge Members to join me in voting for the rule and H.R. 975.

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

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

Mr. Speaker, two amendments rejected by the Committee on Rules which I had hoped to offer illustrate the double standards represented by this bill because wealthy debtors with their lawyers and financial advisors can continue to game the system, and corporate insiders who have managed healthy businesses into bankruptcy can still be awarded with golden parachutes. Meanwhile, people of modest means will be denied a genuine fresh start, and retirees whose pensions and life savings have been wiped out by corporate bankruptcies will get little relief.

My first amendment would have placed reasonable limits on exorbitant retention bonuses, obscene severance

packages, and other outlandish payments to corporate insiders whose companies are bankrupt or insolvent; and the amendment would have reserved those assets for the benefit of employees, retirees, and other creditors.

In the State of Massachusetts, Polaroid executives canceled their retirees' health coverage days before filing for bankruptcy and then terminated workers on long-term disability when the company reorganized. At the same time they awarded themselves more than $5 million in various bonuses and incentive payments shortly before filing for bankruptcy and then another $6 million in so-called retention bonuses afterwards.

Of course, this pales in comparison to Enron, where their CEO, Kenneth Lay, received gross profits of $247 million, or Global Crossing where Gary Winnick, their CEO, grossed $512 million, all the while eliminating thousands of jobs and driving their companies into bankruptcy.

My second amendment would have helped eliminate the most notorious abuse of all, the financial planning strategy whereby debtors purchase expensive homes in States with unlimited homestead exemptions, declare bankruptcy, and continue to enjoy a life of luxury while their creditors get little or nothing, like the convicted Wall Street investment banker who filed bankruptcy while owing some $15 million in debt and fines, but still kept his $5 million mansion complete with 11 bedrooms and 21 bathrooms. Yet while the so-called bankruptcy abuse prevention bill obsesses about whether small debtors can manage to pay $100 a month in Chapter 13, it continues to tolerate this outrageous abuse.

Mr. Speaker, this is not the only exemption that allows the wealthy to shelter their assets. In addition to the million dollar mansion, they can receive a substantial pension, have an IRA up to a million dollars, and own annuities worth additional millions and not worry about it because depending on where they live, these assets are exempt and creditors cannot touch them. This bill does nothing about that.

What message does it send when Congress subjects middle-class debtors to a means test while permitting the wealthy to continue to place their millions out of reach of their creditors? We are creating different classes of debtors, and every fair-minded person should find this unconscionable. This rule should have provided an opportunity to deal with these issues, and I urge my colleagues to oppose the rule and vote down this unfair and one-sided bill.

Mr. DELAHUNT. Mr. Speaker, I rise in opposition to the rule.

The rule fails to allow the House to consider two amendments I had intended to offer to illustrate the double standard represented by this bill: A bill that denies a fresh start to people of modest means while allowing wealthy debtors and corporate insiders to continue to abuse the bankruptcy system.

It was one thing to consider this kind of legislation when our nation was enjoying the prosperity of the 1990s. But this debate takes on a certain surreal quality when we consider the depths of the economic difficulties our country is facing at the moment. With unemployment rising. Growing numbers of working Americans who can't buy health insurance at reasonable rates. Retirees whose pensions and life savings have been wiped out by corporate bankruptcies.

And what are we doing about it? We're helping the credit card companies squeeze a few more pennies out of these same working families. And we're ignoring the massive abuses that have turned the Bankruptcy Code into a bonanza for a handful of unscrupulous executives.

Some months ago, the Financial Times published an analysis of the profits amassed by top officers and directors of the 25 largest companies to declare bankruptcy during the previous 18 months. According to the report, ''in just three years, they grossed about $3.3 billion before their companies went bust, having wiped out hundreds of billions of dollars of shareholder value and nearly 100,000 jobs.''

And so, as Global Crossing was losing $9.2 billion and eliminating over 5,000 jobs, its chairman, Gary Winnick, grossed $512 million. While Enron lost $18.8 billion and eliminated 5,500 jobs, its CEO, Kenneth Lay, and the chairman of its energy services subsidiary, Lou Pai, made gross profits of $247 million and $270 million, respectively.

The sources of these windfalls included such now-familiar devices as retention bonuses. Severance payments. Forgiven loans. And dividends on holdings of company stock.

In my corner of the world, Polaroid executives cancelled their retirees' health and life insurance coverage and terminated workers on long-term disability—all while awarding themselves more than $5 million in various bonuses and ''incentive'' payments before filing for bankruptcy and another $6 million in retention bonuses afterwards. Officers and directors received severance packages while employee severance was terminated. Officers and directors were able to redeem their company stock while employees, forced to put 8 percent of their salaries into the stock option plan, were prohibited from withdrawing the funds and watched their holdings evaporate. No sooner was the sale of the company completed than the new CEO terminated the retiree pension plan.

What happens to people who lose their livelihood, their savings, and their health coverage? Lots of them wind up unable to pay their debts and forced into bankruptcy. So in fact, we have corporate bankruptcies causing personal bankruptcies. And the only response from Congress has been to push an industry-sponsored bill that would make it harder for these people to get a fresh start. A bill that penalizes the very working families that have been victimized by corporate misconduct, while preserving the loopholes and exemptions that allow corporate insiders to shelter their ill-gotten gains when they declare bankruptcy.

I had sought to offer an amendment that would begin to redress the balance. It would have placed reasonable limits on exorbitant ''retention bonuses,'' severance packages, and other payments to corporate insiders of companies that are bankrupt or insolvent. The amendment would not have prohibited such payments to the extent that they are truly necessary to keep key employees in place. But it would have permitted them only when the court finds that, first, the employee has a bona fide job offer from another business at the same or greater rate of compensation; second, the services provided by the person are essential to the survival of the business; and third, the amount of the payment is not excessive when measured against the amounts paid to nonmanagement employees in the ordinary course of business.

The amendment would have empowered the court to return excessive payments to the bankrupt company, so that these funds can be available to help the company reorganize, or, in the alternative, can be distributed to employees, retirees, and other creditors. It would have restored some semblance of fairness to this unbalanced bill.

The second amendment I had hoped to offer would have helped eliminate the biggest loophole in the Bankruptcy Code, by placing a meaningful national cap on the homestead exemption.

I say ''meaningful,'' Mr. Speaker, because the $125,000 cap that is currently in the bill is qualified by a series of exemptions that assure that those who engage in flagrant abuse of the bankruptcy system by sheltering homestead assets can continue to do so.

My amendment would have left the cap at $125,000 while eliminating the exemptions for transactions conducted more than 1,215 days preceding the bankruptcy filing and for interests transferred from a debtor's previous principal residence acquired within the same state prior to that time.

The rationale we have been given for the so-called ''needs-based'' reforms proposed in H.R. 975 is to eliminate abuses of the bankruptcy laws—abuses which proponents of the legislation have characterized as the use of the Bankruptcy Code as a ''financial planning tool.''

Yet while the bill obsesses about whether small debtors can manage to pay $100 a month in chapter 13, it continues to permit—indeed, it endorses—the most notorious abuse of the consumer bankruptcy system of all: The ''financial planning'' strategy whereby debtors purchase expensive homes in states with unlimited homestead exemptions, declare bankruptcy, and continue to enjoy a life of luxury while their creditors get little or nothing.

If we are truly serious about curtailing abuses, it seems to me that this is the place to start. With the owner of the failed Ohio S&L who paid off only a fraction of $300 million in bankruptcy claims while keeping his multi-million-dollar horse ranch in Florida.

Or the convicted Wall Street financier who filed bankruptcy while owing some $50 million in debts and fines, but still kept his $5 million Florida mansion—complete with 11 bedrooms and 21 baths.

Or the Miami physician with no malpractice insurance, who was named in four separate malpractice actions, filed for bankruptcy protection, and kept a $500,000 home—complete with a 100-foot swimming pool.

Or the movie actor, Burt Reynolds, who declared bankruptcy in 1996, claiming more than $10 million in debt. Reynolds kept a $2.5 million home—appropriately named ''Valhalla''—while his creditors received 20 cents on the dollar.

The situation in Florida has become so notorious that one Miami bankruptcy judge told the New York Times, ''You could shelter the Taj Mahal in this state and no one could do anything about it.''

The sponsors of the bill will claim that they have closed the loophole by putting a cap on the exemption. But the provision is riddled with loopholes that ensure that wealthy debtors who are sophisticated enough to plan ahead will still be able to shelter their assets without ever being subject to the cap. Under the bill, they can purchase a homestead to shelter their non-exempt assets and simply wait the 1,215 days before filing their petition. And the bill expressly permits them to transfer their assets from a previous principal residence into a new one at any time prior to their bankruptcy filing without being subject to the cap, provided that the former residence is located in the same state.

What message does it send, Mr. Speaker, when Congress subjects middle-class debtors to a means test while permitting the wealthy to continue to place their millions out of reach of their creditors? What message does it send when we impose tough repayment plans on working families that are barely making ends meet, while allowing corporate insiders to drive their companies into bankruptcy and pocket millions of dollars in bonuses, severance packages, and other ill-gotten gains?

I urge my colleagues to oppose the rule and vote down this bill.

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

The gentleman from Massachusetts has been a very active player in this process for a very long time, and he speaks very forcefully about all these rich people who utilize the schemes within the bankruptcy law, but then the gentleman failed his own test when he spoke about millionaires because he moved the test down to a household of $125,000, not a house that a millionaire or some rich corporate executive that the gentleman speaks about would want to protect, but where the average American lives, where the average American who would have a chance to lose their own house in the event of bankruptcy, and that is the sad part about this, is that this clamoring, this beating of the drum about corporate executives and corporations and how bad they are for America and all these rich fat cats, and then the other party takes it out on the average person, and they want more. They want to make sure that literally any person who would have a bankruptcy could lose their house.

The Republican Party disagrees; I disagree. I think that people who are Americans who get up and go to work and are hard working would find this really despicable, to take a person's home because they got into trouble. But now we say oh, no, down to $125,000, not the millionaire. So once again we learn the Democratic Party philosophy, and that is anybody who has a job or house is not protected. Oh, up to $125,000 is. I wonder who has those kinds of houses? The answer is millions of Americans, and that is what the other side of the aisle is out after on the floor of the House of Representative again today if one engages in bankruptcy.

Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. CHABOT).

Mr. CHABOT. Mr. Speaker, I rise in support of the rule and the bill, H.R. 975, the Bankruptcy Abuse Prevention and Consumer Protection Act.

□ 1245

This legislation reflects many years of effort by both the House and the Senate to enact bankruptcy reform which protects consumers from having to pick up the tab for irresponsible debtors, debtors who are capable of paying off a significant portion of their debts. There are people who truly have a legitimate need to declare bankruptcy. At times hard-working people 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 under our bankruptcy laws. This legislation will protect these individuals.

Too frequently, however, individuals who have the financial ability or earning potential to honor their debts are simply seeking an easy way out of repaying those debts. While this may prove convenient for the debtor, it is not fair to their friends or to their neighbors who are ultimately stuck with the bill. Those who can afford to pay their debts must honor their commitments.

The current economic climate necessitates bankruptcy reform now more than ever. Some individuals and small businesses in this Nation are facing severe financial hardship, hardship that may justify the need to file for bankruptcy. As a result, the bankruptcy system must be reformed to ensure that those with a legitimate need are not adversely affected by those who abuse the system.

Mr. Speaker, the hard-working families in my district in Cincinnati, Ohio, pay far more than they ought to in taxes. They do not need to incur an additional burden created by those who seek to hide from their debts. This bill holds those irresponsible debtors accountable and protects those hard-working families. I urge support of this rule, and I urge support of this bill.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. DELAHUNT).

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

In response to my colleague and dear friend from Texas, it is not the cap. It is not the cap that disturbs us. The question is, is it a genuine cap, or is it a sham? I suggest that this cap is a sham. There are more loopholes in this particular provision than one can even comprehend. This is not about the individual, the average, middle-class American who earns 25-, 30- or $35,000, but it is about the sophisticated investor, it is about the sophisticated individual who has access to the very best in terms of legal talent and financial advice, who knows how to game the system. We are talking about not $125,000, but about the millions, the millions, that are being prevented from going to legitimate creditors because of this particular exception.

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

The gentleman and I have spoken about this often, as a matter of fact, including in the Committee on the Judiciary. We will still hold on this side of the aisle that if you want to aim at millionaires, then make it to a millionaire level instead of to a middle-class issue, and that is $125,000. I do not get it, and I do not think they do, either. But the American public that loses their home does understand it.

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

Mr. CANNON. Mr. Speaker, I thank the gentleman from Texas for yielding me the time to talk about this issue.

I would urge support of our Members for this rule and the underlying bill. Over the last three Congresses, the House has passed this bill on six different occasions. We hope that today we can do it for the seventh time. From about the 105th Congress to the present Congress, the House Committee on the Judiciary has held hearings at which more than 130 witnesses have appeared representing nearly every constituency that is affected in the bankruptcy and business community.

H.R. 975 is virtually identical to the bankruptcy reform legislation that the House passed just 4 months ago, which was essentially the bankruptcy conference report, without the so-called Schumer amendment, so we have eliminated that controversy that we had last year. Last year's bankruptcy conference report was the product of nearly a year of extensive negotiations and compromises that were bipartisan and bicameral.

Let me just point out some of the things that this bill does. H.R. 975 consists of a comprehensive package of reform measures pertaining to both consumer and business bankruptcy cases. It improves bankruptcy law and practice by restoring personal responsibility and integrity in the bankruptcy system and by closing loopholes for abuse. It responds to many of the factors contributing to the increase in consumer bankruptcy filings, such as lack of personal financial accountability and ineffective oversight with respect to deterring abuse in the system. It ensures that consumer debtors repay creditors to the maximum that they can afford. It also includes consumer protection reforms that prioritize the payment of spousal and child support, for instance, making sure that the deadbeat parents cannot use bankruptcy to avoid their support

responsibilities. It also protects a debtor's retirement pension and educational IRAs for the debtor's children from the claims of creditors. And it requires debtors to receive credit counseling before they can be eligible for bankruptcy relief so that they will be able to make an informed choice about bankruptcy, its alternatives and its consequences. We find that many people today are taking out bankruptcy and then finding out how brutal it is to have done so after the fact.

We have also touched on many other issues. We help family farmers and fishermen who are facing financial distress. This is a program we have reauthorized several times independently last year. We authorize the creation of 28 additional bankruptcy judgeships. One of the things we do that is really quite important is we reduce the systemic risk in the financial marketplace in this enactment, which Federal Reserve Chairman Greenspan has described as ''extremely important'' for our system today.

In addition to the base bill, we have in the rule a Cannon-Delahunt amendment. If I can speak to that for just a moment, this amendment is identical to H.R. 5525, a bill that our former colleague George Gekas from Pennsylvania introduced in the 107th Congress. This really deals with some of the issues that our colleague from Massachusetts has been pounding on here recently, where we have had Enron, WorldCom, Global Crossing and other corporations that have shown us how bad a company can actually be. This bill would provide heightened protections for employees by increasing the monetary cap on wage and employee benefit claims that are entitled to priority under the Bankruptcy Code from $4,650 to $10,000. In addition, it would lengthen the reach-back period for wage claims from 90 days to 180 days.

Secondly, the amendment increases the reach-back period during which fraudulent transfers can be rescinded from 1 year to 2 years and provides that outrageous compensation payments and bonuses and other perks given to a corporation's insiders during the reach-back period which we have now doubled can be rescinded and the payments returned to the bankruptcy estate for distribution to its employees and creditors.

Third, it requires the court to reinstate retiree benefits that a corporate debtor modified within 180 days preceding the bankruptcy filing unless the balance of the equities justifies the modification. This amendment reflects sound bankruptcy policy and will effectuate meaningful reforms.

I hope that the Members of this body will support this rule and the underlying bill and amendment. I would like to thank the gentleman from Massachusetts for working with us on this amendment, which I think is going to be very effective in reaching the core problem of companies and insiders who do illegal, wrongful things and then walk away scot-free with a lot of money. Not only should those people be criminalized, they should be put in jail and their assets taken back and put back in the estate so that employees and creditors can have the benefit of that transaction. I thank the gentleman for his work on this issue.

Ms. SLAUGHTER. Mr. Speaker, I yield 5 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, I was very interested in listening to a former speaker cite the concepts of the Founding Fathers. We have been spending a lot of time today utilizing the Constitution, and for this body that is good. Whenever we can attribute part of our debate and reasoning to the Constitution, we are on solid ground. He reminded us of the concept of the debtors' court and the Founding Fathers. Maybe that is all that may be truly accurate in the representation of utilizing the Founding Fathers' purposes.

Yes, they did not want to have a situation where people were victimized by those who did not pay their honest debts. We also know that this country had several States, maybe one in particular, that was founded by exiled or fleeing debtors. Certainly a now prominent member of the United States, meaning the United States family, this State is a thriving, prosperous State today.

All debtors should not be condemned. And the consensus, I believe, that you could interpret the Founding Fathers' concept does not equate to modern times, and that is, the Founding Fathers did not know anything about predatory creditors and usurious rates, interest rates; they did not know that there would be a proliferation of credit cards so that if you were 14 years old, you got a letter; if you were incapacitated in a hospital, they would be soliciting you to get a credit card; or you could be on a college campus barely making ends meet, and they would solicit you for a credit card.

And now this legislation simply puts in documentation individuals who have been preyed upon to get these credit cards now in a situation where we go into the bankruptcy court, we, one, out of this legislation take more discretion away from the judges so that they can ascertain the reasons why you are filing a bankruptcy. You take judicial discretion away from the judges, and you put a means test so that if you have a catastrophic illness, or you are divorced or you are elderly and you lose a loved one, or your spouse and you have fallen upon hard times, there is no way to give discretion to helping you as you file in the bankruptcy court.

Let me assure you that neighbors do not put signs out on the front yard and say, ''I am bankrupt, I have filed bankruptcy, I'm proud of it.'' It is something that we certainly disagree with or are concerned with.

My friends in the credit card industry and the credit union industry have many good points, and to my friends particularly in the credit union industry of which I support enthusiastically and as well, Mr. Speaker, have worked with them and would propose certain aspects to correct their problems, but this legislation fails to protect the parent who needs alimony and child support. It has them grappling and fighting on the ground between high-priced credit card companies, because it dumps all of those particular debts into one pot and has them fighting with each other.

Unfortunately, you can burn up a Planned Parenthood center and hide behind the Bankruptcy Code. I hope that is fixed in the other body.

What we call payday loans, the amendment that I had that we would protect those who, because they have no money, they go to loan sharks on payday, usurious high rates. Their weekly check, they use it, they cannot pay it back, they file bankruptcy, and then those usurious rate people who take advantage of folks who needed an emergency loan at ridiculous rates can go in and press them to pay those ridiculous loans back.

Mr. Speaker, we are not fixing the problem, we are making the problem worse. And how in the world can you expect a single parent, whether it be a mom or dad, to be able to fight equally with the bigshots with a lot of lawyers? When we started this some 4 or 5, 6 years ago, it was noted that the credit card companies paid $40 million in lobbying and campaign contributions to make sure. They are persistent. And here we go again with a big document that does not treat the little guy fairly.

I support the Cannon-Delahunt legislation, and I hope next time we can go even further, because I come from the community where Enron laid off 5,000 employees within 72 hours after they filed bankruptcy and gave out $120 million in bonuses.

What we need to do is to do a step further. I will be offering legislation that makes employees laid off because of the malfeasance of their corporations secured creditors and first in line. And then I will make those who have been laid off, losing their benefits, their health benefits, like a victim in my community who died, because they were getting benefits, they had a catastrophic illness, and because they were laid off by this company, they lost their life.

Mr. Speaker, we can do a better job. Vote down the rule and vote down the bill.

Mr. SESSIONS. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. ROYCE).

Mr. ROYCE. Mr. Speaker, last year my colleagues and I on the conference committee for the Sarbanes-Oxley Act

sent to the President a bill that included tough new criminal penalties for corporate malefactors. I think at that time we took a number of steps that were important. We drastically increased the sentencing guidelines for securities fraud, for document shredding, for mail and wire fraud. I think Congress provided a strong deterrent for many white-collar criminals that would misrepresent the true financial health of their companies.

□ 1300

By passing this legislation, I think we send a serious message to Wall Street and to Main Street that these corporate criminals would be dealt with as harshly as other criminals. I think today Congress has the opportunity to finish the task of preventing corporate malfeasance by agreeing to pass this bill, H.R. 975. This bill may not have everything we want in terms of how it is phrased, but included in this bill I think is a sensible provision that sharply limits to $125,000 the homestead exemption that many CEOs and corporate officers have used to shield their assets from creditors after they plunder their shareholders' wealth. This is in cases where someone has committed securities law violations or other bad acts, and I think by empowering the government to go after the ill gotten gains that corporate officers who break the law and then tie up those assets in offshore mansions at the expense of parishioners who have been swindled, I think this is an important addition to the law.

Also, this bill prohibits people convicted of felonies like securities fraud from claiming an unlimited exemption when filing for bankruptcy, and I think that protects taxpayers from having to bear the cost of corporate collapses like Enron and WorldCom; and I think it also guards against fraud and abuse by requiring that high-income debtors who have the ability to repay a significant portion of their debts do so, preventing them from sticking responsible borrowers with their tab in the long run.

It accomplishes all of this while preserving the ability of people who truly need to discharge their debts to do so. For far too long, Americans who have worked hard and paid their bills have been held accountable for their debts but also by debts incurred by those who irresponsibly file for bankruptcy; and I think this long-overdue legislation will reform the critically flawed bankruptcy process and prevent affluent filers from gaming the system and passing on their bad debts to hard-working families, while preserving the ability of people who truly need to discharge their debt through bankruptcy to do so.

Bankruptcy should be preserved as a last resort for those who truly need the protections that the bankruptcy system has to offer, not a tool for those who could pay their debts, but choose to discharge them instead. By agreeing to this legislation, Congress will make the existing bankruptcy system a needs-based one and correct a flaw in the current system that encourages people to file for bankruptcy and walk away from debts regardless of whether they are able to repay any portion of what they owe, and it does this while protecting those who truly need protection.

So I commend my colleagues for their hard work on this legislation, and I strongly urge my colleagues to vote in favor of this report and help honest taxpayers by closing the loopholes in the current bankruptcy system.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, for centuries American bankruptcy law has had the principle that if a person ever gets over their head in debt, they can cash in all their assets, pay off all the debts that they can, and get a fresh start. For policy reasons, a few assets have been historically exempt and a few debts have been historically nondischargeable, especially those that have been incurred by fraud or through abuse of the bankruptcy system. Yet the principle has always been the same, cash in all one has and get a fresh start.

This bill violates the historic principle. People who incur debts because of illness, unemployment, or business failure and have debts they cannot pay off will be denied an opportunity to get a fresh start. They will be stripped of every penny of income after basic expenses such as food and rent without reasonable allowance for unforeseen emergencies such as auto repairs and so forth, which will inevitably come up. People in these circumstances will be in economic slavery for 5 years and probably be worse off at the end of 5 years than they were before. During this time a person over his head in debt has nothing to lose. This bill will deny relief under the traditional bankruptcy laws for at least 5 years.

The bill has no rational measure for determining a person's ability to pay off their debts. It says if they can pay off $10,000 on their debts over 5 years, that is $167 a month, then they are not entitled to a discharge. A person could co-sign a spouse's business loan only to have the spouse die or disappear and with a $50,000 salary find him or herself owing $1 million, unable to even make interest payments, and that person would be denied relief under this bill. This will cause many Americans who have had unforeseen business failures, health problems, or unemployment to find themselves unable to pay their debts and be trapped with no way out.

If our goal, Mr. Speaker, is to create a situation where people are stressed out with nothing to lose and to maximize the chances that a person will totally lose control and terrorize the community or their co-workers, this is it. Just this week in Washington, D.C. we have seen the impact of financial stress. The North Carolina farmer who drove his tractor into the pond near the National Mall was quoted as saying: ''I'm broke, busted, I'm out.'' No one in the community is safer when we have increased the number of our neighbors who have nothing to lose.

Finally, Mr. Speaker, we need to consider the impact this bill will have on small business entrepreneurs. How many will be willing to take a chance on a new business if any failure will result not just in bankruptcy but no relief for the family for 5 years? No bank in the future will lend a business any cash, especially one in financial distress which actually needs the money, without the personal signature of the owner. Long ago we decided that there would be no debtors prisons in America. This bill represents an effort to take a giant step backwards to this bygone era, and I urge my colleagues to reject this bill and the rule.

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

Mr. Speaker, the Committee on Rules has been the subject of debate today; and the Committee on Rules met last night to talk about this bankruptcy bill, presented a fair, as they always do, rule to be able to discuss and debate this important issue.

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DREIER), the chairman of the Committee on Rules.

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

Mr. DREIER. Mr. Speaker, let me begin by thanking the gentleman from Dallas, Texas (Mr. SESSIONS), my friend, for his spectacular job in so ably handling the management of this rule.

The proverbial ''Ground Hog Day'' is what comes back to mind. We have been dealing with this issue over and over and over again, and we tried desperately in the waning days of the 107th Congress to move ahead with a conference report on this because everyone agrees the problem that exists out there of abuse of the bankruptcy law needs to be fixed, and we know that members of the Committee on the Judiciary have worked long and hard on this issue, and we appreciate the fact that we have worked in a bipartisan way on the legislation.

But, Mr. Speaker, I am particularly proud of the fact that when we looked at this rule, I know that my friends on the other side of the aisle would like to have an open amendment process with every single proposal that was put forth to the Committee on Rules consider, but quite frankly virtually all of these issues were addressed in the Committee on the Judiciary, and they dealt with these questions, and we have the responsibility of trying to manage as well as we possibly can this floor and at the same time, as I said when I was here last week, working hard to ensure

the rights of the minority. I do feel very strongly about that. I feel strongly about it because, as I said when I was here last week, I served for 14 years in the minority and I believe that we need to work as hard as we can to allow as many ideas as there are out there to address these concerns and have a chance to come forward. So that is exactly what we have done.

Mr. Speaker, there were 14 amendments submitted to the Committee on Rules, and I am happy to say that we have two bipartisan amendments that we have made in order and three amendments offered by Democrats, exclusively by Democrats that have been made in order on this issue; and I know yesterday that the gentleman from Texas (Mr. FROST), the ranking minority member, referred to the Gutierrez amendment as a technical amendment. I happen to be very strongly in support of the Gutierrez amendment. I think it is a very important measure. It needs to be addressed, but it is a Democratic amendment.

So, Mr. Speaker, as we try to focus on issues of individual initiative, responsibility for one's actions, while at the same time ensuring that those who are in fact really down and out and need to have as a recourse the filing of bankruptcy, I believe that as we look at those concerns that this legislation, when we pass this rule, will allow for an open discussion of the different alternatives and the proposals that people have, including the gentleman from Michigan's (Mr. CONYERS) substitute, which we have made in order; and then at the end of the day I hope we can pass this and then move ahead and have action taken in the other body and a conference after years and years and years with so much hard work put into this. The gentleman from Illinois (Mr. HYDE), the gentleman from Wisconsin (Mr. SENSENBRENNER), and the others on the Committee on the Judiciary who worked on this finally have a product that the President will be able to sign.

So I thank my friend again for yielding me this time, and I thank him for his superb service on the Committee on Rules; and since I see two other members of the Committee on Rules here, the gentleman from Florida (Mr. HASTINGS) and the gentlewoman from New York (Ms. SLAUGHTER), I also thank them for their fine service on the Committee on Rules as well.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Mr. Speaker, I thank the gentlewoman for yielding me this time.

I strongly urge all Members to oppose this rule. Yesterday, Republicans on the Committee on Rules refused to make in order my amendment that would help three categories of individuals who should be given an opportunity to get back on their feet while still being obligated to take responsibility for their debts. Without my amendment, credit card companies will get more consideration than, one, men and women on active duty in uniform; two, victims of terrorism; and, three, unemployed Americans.

As we stand within hours of war, we owe it to our soldiers in uniform to think about their financial vulnerability. My amendment would have made sure that the brave men and women who serve this country will be able to file chapter 7 exempting them from the rigid means test required by H.R. 975. There is a great possibility that the families of many of the men and women who go to war in Iraq will have economic problems. This past Sunday on ''60 Minutes,'' Mrs. Vicky Wessel, whose husband is a Reservist who was sent overseas, summed it up by saying: ''Emotionally it's been tough not having a husband around, not having a father for the kids; but financially it's been really difficult because a staff sergeant's pay is a 60 percent cut in pay from what my husband's regular job pays.''

There are thousands of families like the Wessels. If we enter war with Iraq, we can expect that some of these families will be forced to file bankruptcy, and they should not be subjected to the means test.

Two, victims of international terrorism. I do not believe anyone would argue that the victims of terrorism should be subject to the means test in the bill. As we all know, many of these families have lost loved ones who were their families' primary breadwinners. After and during all of their grieving, they may find themselves as victims again of economic devastation. Minimally they deserve the protection that chapter 7 bankruptcy affords them.

Third, the unemployed. In today's economy, 10 million unemployed workers want jobs but cannot find them. More than 2 million unemployed workers have run out of their regular State-provided unemployment benefits and the emergency unemployment benefits they received under the temporary Federal program. Many of these workers now have no jobs and no means of support. Two thirds of those filing for bankruptcy report a significant period of unemployment preceding their filing. My amendment would make sure that people who exhaust their unemployment benefits would not be subject to the H.R. 975 means test. We should make sure that people who have lost their jobs through no fault of their own are able to file for chapter 7 bankruptcy. We should make sure they have an opportunity to regain their economic independence.

And finally let me say that we should put the interests of American families, ordinary American families, people in uniform, people who have lost their jobs, people who are victims of terrorism, before the interests of profitable credit card companies.

Oppose this rule. Vote against the underlying bill. It is a bad rule and a worse bill that could not come at a worse time.

□ 1315

Ms. SLAUGHTER. 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.

Mr. Speaker, this has been a vigorous debate. We go through this often. There are some nice things I would like to say about two nice gentlemen also. One of them is the gentleman from Illinois (Chairman HYDE), and the other is the gentleman from Wisconsin (CHAIRMAN SENSENBRENNER).

These gentleman have ably, carefully taken in the views of witnesses, of thoughts and ideas not only about bankruptcy, but have included in that the thought processes of consumers and normal people and bankruptcy judges. These two gentlemen have worked diligently to make sure that this body, the United States Congress, has a chance to have before it not only good legislation, but legislation that is well thought out.

In particular I would like to thank the gentleman from Wisconsin (Chairman SENSENBRENNER) for his patience, guidance and leadership to the gentleman from Illinois (Mr. HASTERT), the Speaker of the House, and also the body of the Committee on Rules, because the gentleman from Wisconsin (Chairman SENSENBRENNER) has done an outstanding job in making sure that today we have a great piece of legislation.

Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to clause 8, rule XX, proceedings will resume on three of the motions to suspend the rules previously postponed.

Votes will be taken in the following order:

H.R. 314, by the yeas and nays;

H.R. 417, by the yeas and nays; and

H.R. 699, by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. The remaining electronic votes will be conducted as 5-minute votes.

MORTGAGE SERVICING CLARIFICATION ACT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 314.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. ROYCE) that the House suspend the

rules and pass the bill, H.R. 314, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 424, nays 0, not voting 10, as follows:

[Roll No. 68]

YEAS—424

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Combest
Conyers
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Inslee
Isakson
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Turner (OH)
Turner (TX)
Udall (NM)
Upton
Van Hollen
Velazquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—10

Buyer
Carson (IN)
Cooper
Gephardt
Hyde
Istook
Pitts
Ros-Lehtinen
Towns
Udall (CO)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD) (during the vote). Members are reminded that there are 2 minutes remaining on this vote.

□ 1338

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the remainder of this series will be conducted as 5-minute votes.

CIBOLA WILDLIFE REFUGE BOUNDARY CORRECTION

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 417.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. POMBO) that the House suspend the rules and pass the bill, H.R. 417, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 424, nays 0, not voting 10, as follows:

[Roll No. 69]

YEAS—424

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Combest
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Inslee
Isakson
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)

McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Turner (OH)
Turner (TX)
Udall (NM)
Upton
Van Hollen
Velazquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—10

Buyer
Carson (IN)
Gephardt
Hyde
Istook
Pitts
Ros-Lehtinen
Slaughter
Towns
Udall (CO)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD) (during the vote). The Chair would remind all Members there are 2 minutes remaining in this vote.

□ 1346

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

RATHDRUM PRAIRIE/SPOKANE VALLEY AQUIFER STUDY

The SPEAKER pro tempore (Mr. QUINN). The pending business is the question of suspending the rules and passing the bill, H.R. 699.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. POMBO) that the House suspend the rules and pass the bill, H.R. 699, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 414, nays 6, not voting 14, as follows:

[Roll No. 70]

YEAS—414

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burns
Burr
Burton (IN)
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Cole
Collins
Combest
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Turner (OH)
Turner (TX)
Udall (NM)
Upton
Van Hollen
Velazquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—6

Burgess
Coble
Cummings
Flake
Miller (FL)
Paul

NOT VOTING—14

Buyer
Carson (IN)
Gephardt
Hyde
Jones (NC)
Kilpatrick
Manzullo
Northup
Pitts
Ros-Lehtinen
Royce
Slaughter
Towns
Udall (CO)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). The Chair would remind the Members that there are 2 minutes remaining in this vote.

□ 1353

So (two-thirds having voted in favor thereof) the rules were suspended and 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:

Mrs. NORTHUP. Mr. Speaker, on rollcall No. 70 I was unavoidably absent. Had I been present, I would have voted "yea."

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 to include extraneous material on the bill, H.R. 975, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2003.

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

There was no objection.

BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2003

The SPEAKER pro tempore. Pursuant to House Resolution 147 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. 975.

□ 1355

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. 975) to amend title 11 of the United States Code, and for other purposes, with Mr. LAHOOD 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 Massachusetts (Mr. DELAHUNT) each will control 30 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, today is a victory for those Americans who work hard, pay their bills, but are forced to shoulder the debts of those who abuse our bankruptcy system. H.R. 975 restores personal responsibility and integrity to our bankruptcy system by offering a fresh start to those who deserve one, while cracking down on those who do not.

All Americans suffer when people who have the ability to pay their bills do not do so. Just yesterday the Spiegel Group, an entity that owns the famous Spiegel Catalogue and the Eddie Bauer stores, filed for bankruptcy. Why? This company, founded in 1871, began offering credit to its customers under the slogan ''We trust the people.''

According to one news report, however, the company trusted too many people, and some did not pay their credit card bills. Analysts estimate that the default rate with respect to Spiegel's credit card receivables ranged from 17 to 20 percent.

When businesses hurt, their employees and investors hurt, and our economy suffers. America's bankruptcy system was established to help provide a fresh start for individuals with demonstrated financial need. H.R. 975 maintains this goal by providing relief to those who truly require financial protection as a result of unexpected medical bills, unemployment, or other legitimate needs.

Our bankruptcy system was also established to encourage the reliable collection of debt owed to creditors. The measure we consider today advances both of these objectives and provides a comprehensive framework to promote the integrity of our bankruptcy system.

Take, for example, homestead exemptions. We have all heard about the former corporate executives acquiring or building multibillion-dollar mansions in the very face of those shareholders who are defrauded by such individuals.

I am particularly pleased that this legislation places reasonable monetary limitations on unlimited homestead exemptions which have often been misused by debtors to unfairly evade their financial obligations. This legislation will keep crooked corporate executives from using bankruptcy to shield their mansions and penthouses from the claims of creditors, defrauded shareholders, and employees.

In addition, H.R. 975 includes numerous proconsumer provisions. The bill includes special protection for individuals with spousal and child support claims. In addition to giving these claims the highest priority in regard to payment, it expands the definition of these claims to include obligations that are accruable before or after a bankruptcy case is filed, and requires deadbeat parents to pay those debts even after filing bankruptcy relief.

H.R. 975 exempts from the claims of creditors certain retirement pension funds and educational IRAs for the debtor's children. It mandates that credit lenders give consumer borrowers more disclosure about the adverse consequences of just paying the minimum monthly payment.

The bill requires debtors to receive credit counseling before they can be eligible for bankruptcy relief, so that they will make an informed choice about bankruptcy, its alternatives, and its consequences.

□ 1400

In several significant respects, H.R. 975 helps our Nation's family farmers in financial distress. It makes Chapter 12, a specialized form of bankruptcy relief, a permanent component of the bankruptcy codes. It ensures that more family farmers will be eligible for Chapter 12 by easing some of the income and debt limitations that currently restrict access to this type of bankruptcy relief; and for the first time family fishermen will be eligible to file for relief under Chapter 12.

H.R. 975 authorizes the increases of 28 additional bankruptcy judgeships. According to the Administrative Office of the United States Courts, the workload of bankruptcy judges has increased 52 percent since 1992, which was the last time additional bankruptcy judges were authorized.

Another major reform of H.R. 975 deals with the economic stability of our Nation's financial marketplace. The bill includes provisions intended to reduce systemic risk with respect to the setoff or netting of various financial transactions. Federal Reserve Board Chairman Alan Greenspan has described the enactment of these provisions as being extremely important. Finally, H.R. 975 addresses problems presented by the inconsistent and unpredictable current state of bankruptcy laws concerning the treatment of bankrupt multinational corporations. It largely codifies the Model Law on Cross-Border Insolvency to ensure greater legal certainties for trade and investment, as well as provide for the fair and efficient administration of these cases.

The time for these reforms is long overdue. This body has on six previous occasions passed similar bankruptcy reform bills. It is my hope that today we will again do the right thing and pass this needed bipartisan bankruptcy reform legislation. Perhaps the seventh attempt will prove to be a charm and finally lead to the enactment of these critically important reforms.

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

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

Mr. Chairman, the American people should not be deceived as to who really benefits from this so-called reform because it is not the American consumer. It is not the American taxpayer or the worker who loses his job or someone facing catastrophic medical expenses or the small business entrepreneur who is also hurt by provisions in this bill. No, the big winner here is the credit card industry because passage is going to mean billions of dollars to their bottom line.

The American consumers should understand that the interest rate on their credit card will not decline because of this bill. Over a 12-year period when the Federal fund rate fell from 13.5 percent to 3.5 percent, a line of some 10 percentage points, the average credit card rate actually rose to nearly 18 percent. Furthermore, it is going to cost the American taxpayer $500 million over 5 years to transform the Federal bankruptcy system into a collection agency for the benefit of the credit card industry.

We are going to hear a lot and we have heard during the course of our hearings about personal responsibility. Well, no one disagrees with that particular principle, but it ought to be a two-way street. Whatever happened to creditor responsibility? The former Chair of the Committee on the Judiciary, Henry Hyde, identified some 75 creditor enhancements in this bill. Passage of this legislation will undoubtedly exacerbate the imbalance between creditor and debtor.

A respected consultant for the credit card industry stated that the principle

factor in increase in bankruptcies has been the dramatic lowering of loan standards, of underwriting. And every single time we attempted to introduce some reasonable measures to ensure appropriate lending practices, we were defeated by the credit card lobby. And meanwhile, they induced consumers to take on an ever-increasing amounts of debt by inundating the American people with some $5 billion of solicitations yearly. They have increased rates and fees on current accounts often with inadequate or misleading disclosure, and they engage in relentless marketing efforts that target children, the deceased, and in one particular case, even a dog.

Some of the major players such as Providian and MBNA have paid healthy penalties to settle claims regarding late fees and other practices. What has happened, Mr. Chairman, is that the credit card industry has created a culture of debt that is overwhelming millions of Americans, and that is particularly frightening in this extremely precarious economy. So let us be responsible and accountable. Let us defeat this bill because it is not bankruptcy reform. It is a bill that simply bankrupts.

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

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

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

Mr. BOUCHER. Mr. Chairman, I thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for yielding me time.

Mr. Chairman, I rise in support of this measure and urge its adoption by the House. This reform proceeds from a sound premise. If someone can afford to repay a substantial part of the debts that he owes after accounting for his living costs, he should do so.

The person who can repay debts should not use the complete discharge provisions of Chapter 7 of the Bankruptcy Code. He should be directed into the supervised debt repayment plans contained in Chapter 13 of the Code.

The bill makes this much needed reform. In doing so, it would also relieve the more than $400 annual hidden tax that the typical family pays on account of the widespread misuse of Chapter 7. That amount represents the increased costs of the credit and the higher prices of goods and services that arise from Chapter 7 misuse.

The reform before us will also benefit consumers by requiring that credit card statements clearly state the consequences of only paying the required monthly minimums, and the spouse of a person taking bankruptcy is much better off under this bill than under current law. Today her claims are fifth in priority for claims against the bankruptcy estate, well behind other creditors. Under the bill she will become number one and her claim will receive clear priority. This measure will make long-needed changes in our Nation's bankruptcy law, and it is my pleasure to urge its passage by the House.

Mr. DELAHUNT. Mr. Chairman, I yield 3 minutes to the gentlewoman from California (Ms. LOFGREN), a member of the Committee on the Judiciary.

Ms. LOFGREN. Mr. Chairman, today thousands of Americans are out of work as a result of the slumping economy and corporate scandals. In my home district in Santa Clara County, unemployment is now over 8½ percent. But rather than help these workers, we are asked to further punish them.

Do not be misled. H.R. 975 is not about preventing spendthrifts from abusing the system. The leading cause of personal bankruptcy is not out-of-control spending. It is unemployment. Two out of three people who file have lost jobs. Half have experienced a serious health problem. Nevertheless, under these so-called reforms, many will be forced into Chapter 13, where more debts will survive and only limited households goods will be protected from repossessions.

Under this bill, seniors, who represent the fastest-growing group of personal bankruptcies, will also suffer. Nearly half of seniors who file bankruptcy do so because of medical expenses. That is not hard to understand. Out-of-pocket health care expenses for seniors increased nearly 50 percent from 1999 to 2001. At the same time, many HMOs have cut prescription drug coverage, and this Congress has still failed to pass a sensible prescription drug plan.

Women who represent the largest group of personal bankruptcies will also suffer. In 1999, over 200,000 women who filed for bankruptcy were owed child support and alimony. While punishing seniors, single mothers, and middle-class Americans, the bill does absolutely nothing to hold big banks and credit card companies accountable for their behavior. It does nothing to protect consumers from predatory lenders. It requires no additional disclosures that make it easier for consumers to understand their debt.

The proponents of this bill say they want to restore personal responsibility and integrity to the bankruptcy system. What their bill really does is punish people who are in financial trouble because they lost a job, have huge medical bills, or cannot get a deadbeat dad to pay child support. These are the people who account for a majority of the personal bankruptcies, not spendthrifts who abuse the system.

No one wants to enter into the bankruptcy court; and most people who do so, do so with a great deal of shame. But I look at those who have a child suffering from cancer, who have been unemployed for a year, and I say to them, there but for the grace of God go you or I.

The bankruptcy system is meant to assist people in that situation, and I think that those in this House who consider themselves to be compassionate conservatives ought to open their hearts to those who file for bankruptcy because of such personally devastating situations. I urge my colleagues to reject this misguided bill.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, if this bill is voted down, we also will have opened up our hearts to corporate crooks who build multimillion dollar mansions on the water in nice places in Florida because the unlimited homestead exemption that is in the current law will be maintained. I do not want to open up my heart to those folks, and that is why this bill ought to pass.

Mr. Chairman, I yield 3 minutes to the gentleman from Utah (Mr. CANNON).

Mr. CANNON. Mr. Chairman, I thank the gentleman from Wisconsin (Chairman SENSENBRENNER) for his infinite work on this bill and hope that we bring it to fruition today.

Let me just comment on the comments just made recently about the source of most bankruptcy. Most people who take up bankruptcy have legitimate reasons. It is either because of loss of employment; or, secondarily, as the gentlewoman from California (Ms. LOFGREN) mentioned, for medical purposes.

I believe that this bill leaves those people with the same recourse they have, but it is intended to bring to bear the law on those who would use and abuse the bankruptcy system.

The House has worked for nearly 6 years perfecting this legislation, and less than 4 months ago passed virtual identical language by a resounding vote of 244 to 116. When this effort first began, America faced a startling rise in bankruptcy filings. The problem has grown only worse as we have labored to confront ever burgeoning filing and increasingly flagrant abuse of the bankruptcy code. Just last month, the Administrative Office of the United States Courts reported that the number of bankruptcy filings in the latest 1-year period again has broken all previous records. During calendar year 2002, nearly 1.6 million bankruptcy cases were filed, reflecting an increase of approximately 6 percent over the prior year.

The gentleman from Wisconsin (Chairman SENSENBRENNER) and 50 original co-sponsors introduced H.R. 975 on February 27. The bill improves bankruptcy law and practice by restoring personal responsibility and integrity to the bankruptcy system and by ensuring that both debtors and creditors are treated fairly. In addition to consumer business and bankruptcy law reforms, H.R. 975 includes an extensive array of provisions ranging from implementing an entirely new form of bankruptcy relief to deal with the complexities of transnational insolvencies to extending special protections to family farmers and fishermen.

The bill has been carefully through three Congresses, by the Committee of

the Judiciary, the House, the other body, three conference committees, and ultimately again in the House. There have been some 18 hearings before the subcommittee which I chair and a full committee, at which more than 130 witnesses have testified.

I challenge any Member of this body to point to another topic which has been so thoroughly and completely examined by Congress.

Everyone here recognizes the problem. No one disputes the severity of the current bankruptcy crisis; but, Mr. Chairman, the time for deliberation is over. The time has come to act. We can no longer expect long-suffering American businesses and consumers to wait for meaningful bankruptcy reform. I urge support for H.R. 975.

□ 1415

Mr. DELAHUNT. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. NADLER), a member of the committee, the former ranking member on the Subcommittee on Commercial and Administrative Law.

Mr. NADLER. Mr. Chairman, although we have been considering bankruptcy legislation since the end of 1997, this bill has gone through many incarnations, but some things have not changed.

Number 1, there is no bankruptcy crisis. The number of bankruptcy filings have gone way up, but not because, as the proponents of this legislation pretend, mores of changes, no social stigma. The rise in bankruptcy tracks directly, year to year, with the rise in the ratio of debt in society to income.

As the credit card companies have churned out more and more credit and have given it to people who are less and less creditworthy, and people have taken on more and more credit, there are more bankruptcies. People cannot pay their debts. Surprise. In fact, in 1983, before the so-called crisis started, the average debt-to-income ratio of a Chapter 7 filer was .74. In other words, a person filed bankruptcy, the average Chapter 7 filer owed 74 percent of his annual income in debt.

Today, the average Chapter 7 filer owes 125 percent of his annual income in debt. People are more reluctant to file for bankruptcy than they were 20 years ago, not less reluctant, but they are doing it because there is more and more debt, because we have not properly regulated the credit card companies, which are issuing more and more debt not because they are losing money on it, but because they are making money hand over fist. It is the biggest profit center they have, and they have the nerve to come to us and say we should bail them out of their profligacy because they are losing a small percentage of the tons of money they are making, a small percentage of it is slipping through their fingers because of the increase in bankruptcies that they have produced and knowingly produced.

In the last 5 years, many things have happened. The economy has worsened. Whatever the reasons, that is a fact. People are hurting, and more than that, businesses are hurting. This bill will make it much harder for businesses to rescue a going concern. It will make it much harder for a Chapter 11 business to reorganize, much more likely it will be liquidated, and thus it will hurt communities, employees, trade creditors and other businesses.

Making a discharge in bankruptcy more elusive will make it harder for consumers to get a fresh start and continue to make consumer purchases, which is one of the mainstreams of our economy. Household debt has reached record levels. With that come more bankruptcies, but no serious economist would argue that a precipitous drop in consumer spending would help our economy.

Bankruptcy is a trade-off. The safety net encourages risk-taking in business, allows distressed families to remain in the economy, and maintains demand for products businesses must fill to survive. Bankruptcy does not cause default any more than a hospital causes people to be sick.

We have been told that bankruptcy is a free ride. The facts are that it is not a walk in the park. A debtor in Chapter 7 must give up all his nonexempt assets in order to obtain a discharge. Secured debts must be paid, or the property is subject to foreclosure. The bankruptcy remains on the debtor's record for 10 years, and the debtor may not refile for 6 years under current law and 8 under the bill, which is 1 more year than is found in Deuteronomy. Apparently the banks who wrote this bill believe they know better than God on this one.

It can be harder to get a job, an apartment or a loan. As a majority witness who had been indebted told the Committee on the Judiciary a few years ago, had she known the consequences of filing, she might not have done so.

No one believes that people should avoid paying their debts if they can afford to do so. The question, rather, is does this bill make sense. Members should ask themselves why the overwhelming majority of bankruptcy professionals, scholars, trustees, creditor lawyers, corporation lawyers and judges are appalled that Congress is even contemplating this bill.

There is a terrible disconnect between people who actually have to make a system function regardless of their role, whether for creditors or debtors or interests who oppose this bill, and here in Congress, the demands of special interests who have a stake in some provision of this bill are generally viewed as a great idea that requires no further consideration.

Over the years we have heard from, among others, Ken Klee, one of the leading bankruptcy scholars and business bankruptcy lawyers in the country, and the former Republican bankruptcy counsel to the Committee on the Judiciary. He has drafted Supreme Court briefs signed by Members of this House. Ralph Maybe, one of the most respected business bankruptcy lawyers in the country, also testified against the bill.

The late Lawrence King of New York University and editor in chief of the authoritative Colliers on Bankruptcy has testified against this bill. Bob Walschmitt, on behalf of the National Association of Bankruptcy Trustees, and Hank Hildebrandt, on behalf of the National Association of Chapter 13 Trustees, have strongly criticized this bill in testimony, notwithstanding the fact that their organizations do not take formal positions on bills.

We have heard from consumer rights organizations, just about every women's group in the country, child advocacy groups, labor unions, civil rights groups and every national bankruptcy organization in the country that this bill will hurt consumers, families, children, yes, children, employees, minorities and the economy. It will raise costs to the system and disrupt the efficient management of bankruptcy proceedings.

Mr. Chairman, despite the votes in this House, opposition to this bill is hardly marginal. In fact, outside the Beltway opposition is mainstream among the Nation's experts. We have had many hearings over the years, but the considered opinion of people in the position to understand this technical subject matter has been ignored.

Mr. Chairman, I know the leadership is intent on moving this bill. I know it is a priority of the President. We have a responsibility to the country to be deliberative, to take a careful look and to get it right, no matter what the politics.

Many of my colleagues have voted for this bill in the past, but times have changed. The economy has changed. Do not ignore reality. Do not ignore what is going on outside the Beltway. Let us take a fresh look at the facts. Even Members of Congress, Mr. Chairman, are entitled to a fresh start.

Mr. SENSENBRENNER. Mr. Chairman, I yield 4 minutes to the gentleman from Ohio (Mr. OXLEY), the Chairman of the Committee on Financial Services.

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

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

Let me first recognize and pay tribute to the gentleman from Wisconsin's (Mr. SENSENBRENNER) tenacity in this area. If indeed the gentleman from New York indicated that this is a fresh start for the Members of the House, this is, I guess, our seventh fresh start as we work our way through reform of the Bankruptcy Code.

I had an opportunity to practice law for 9 years, and part of that practice included bankruptcy law, and I was involved in a number of bankruptcy cases, both business bankruptcies and personal bankruptcies, and all of my

colleagues are well aware that the Bankruptcy Code that we operate under now was passed in the late 1960s, early 1970s, and which we are now acting under. Anybody who says that the status quo regarding the Bankruptcy Code is acceptable to the American people, to practitioners, to petitioners, to the courts, to our system simply does not understand what a critical situation we are in in regard to the Bankruptcy Code.

So I salute the gentleman from Wisconsin (Mr. SENSENBRENNER) and the Committee on the Judiciary for the hard work that they have done. It may be like deja vu all over again, but it is a worthy cause, and I salute my colleagues for what they have done in putting together a balanced approach that recognizes the rights of the consumer, but at the same time recognizes that abuse of the Bankruptcy Code is rampant, and Congress needs to change that.

I want to pay particular attention to the financial netting provisions of the bill which would reduce risk, especially systemic risk associated with activities in the derivatives market. Derivatives, as many of my colleagues know, has become one of the fundamental management tools that protect mortgages, loans and the full range of savings and investment products.

H.R. 975 brings our bankruptcy laws up to date, thereby making sure that these instruments fully protect our markets from systemic risks and in the event that an entity fails. This provision has been recommended by the President's Working Group on Financial Markets and was indeed our committee's addition to this legislation.

Alan Greenspan, the Treasury Department and all of America's financial regulators are unanimous in their support of these provisions. Chairman Greenspan, on numerous occasions, has stressed the importance of the financial contract netting provisions.

Recently, Chairman Greenspan has stated, ''I have repeatedly stated my support for these netting provisions. U.S. businesses have come to rely heavily on derivatives for managing price risk, and netting and collateral agreements are widely used to mitigate the counterparty credit risks that might otherwise limit the effectiveness of derivatives for this purpose. Passage of the netting provisions would address lingering concerns about the enforceability of netting and collateral agreements vis-a-vis an insolvent counterparty.''

I would harken the committee's attention to the Enron situation, for example, or the WorldCom situation in which in many cases we have a lot of these derivative contracts that are now in the bankruptcy courts that will allow the bankruptcy judge to use this netting technique to facilitate not only the carrying out of the bankruptcy laws, but also protecting creditors at the same time. It is critically important that the House adopt this legislation.

I also want to indicate my support for the Toomey amendment that will be offered later when the committee goes into the amending process that provides parity for credit unions on the netting provisions.

Mr. Chairman, this is an important piece of legislation. I would ask that the House pass this as we have so many times before.

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

My friend, the gentleman from Ohio (Mr. OXLEY), the chairman of the Committee on Financial Services, indicated that this was a bill that would benefit the consumer. I would point out to him that this particular proposal, as drafted, has the support of the American Bankers Association, the United States Chamber of Commerce and American Financial Services Association.

I would suggest they are not protecting the interests of the consumer. That is not their role. They have a responsibility to advocate for their memberships, and I would acknowledge that they have been extremely effective, but those that are opposed to this particular proposal do represent the American consumer. Let me just enumerate some of them: The Consumer Federation of America, the Consumers Union, Foundation for Taxpayer and Consumer Rights, the National Consumer Law Center.

Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. SHERMAN).

Mr. SHERMAN. Mr. Chairman, I thank the gentleman for his generous yielding of time and want to focus on the fourth amendment that will come before this House dealing with venue shopping.

Most of this bill and most of the controversy is over individuals going bankrupt, but it is also important to the economy of this country that we have corporate bankruptcies run effectively. What my amendment would do is say that if a group of corporations is going bankrupt, they should file their case where they are located. So if, for example, Enron, a mainstay of the Houston community, goes bankrupt, they should file the case in Houston. That way the many small businesses that do business with that company can go to their local court and hope to collect some of what is owed to them.

Just as importantly, it means that the place where the corporation will file its case is set in advance. They realize we are going to go bankrupt; we are in our hometown. Imagine if in some basketball game, as we have in the upcoming March Madness, they did not have to take the referees that were assigned, but rather, one team was allowed to search the whole country and pick the squad of referees that they preferred. We would not end up with fair basketball games.

That is what we have in the area of corporate bankruptcy. Enron was able to scour the country, looking for a bankruptcy court that met the needs of the lawyers involved, met the needs of the executives in control. They went thousands of miles from Houston. They made it almost impossible for local small businesses to even have their case put before the court. They were able to scour the whole country for a forum, a venue that met their interests.

What was their interest? High retention bonuses, high lawyer fees. So we have a circumstance where Enron can scour the country and pick whichever court they feel is going to approve tens of millions, hundreds of millions of dollars in cash payments to the executives.

□ 1430

Fees of $500 an hour to the lawyers involved and hundreds of dollars to the associate lawyers, hundreds to the paralegals. How does this operate from the court's perspective? We have asked our government agencies to behave more like businesses, and they are. They are looking for market share. They are looking for more business, and every bankruptcy court in this country knows that it can get the cases, the juicy cases, the Enron, if only they are hospitable to the company and its lawyers that are declaring bankruptcy.

Today, it is one Eastern State or two that curry favor with the giant corporations going bankrupt. Tomorrow, it may be a Western State. It might be a Southern State. It may not be an entire State; it may be just one district court within that State, trying to gain market share by currying favor. The result is as crazy as if the referees were selected by one of the basketball teams.

I know that my amendment is going to be opposed more on the basis of what will make a particular Member of the other body happy, rather than what is good public policy. But let me warn this House, the competition for bankruptcy business has just begun; and the retention bonuses and fees approved for the Enron case may be just the beginning. Other districts will offer higher and higher retention bonuses, more and more liberal plans.

If Members voted for this bill in 1999, they voted for a bill that included a provision very much like my amendment. If the Members do not like the bill, and voted against it in 1999, they will probably be voting for the Democratic substitute, which includes a provision identical to my amendment. So virtually every Member will have voted for provisions on forum shopping. It is a good public policy. We have all voted or will vote for a bill that includes the provision. I think it is critical that we look past the politics and provide for efficient corporate bankruptcies.

Mr. SENSENBRENNER. Mr. Chairman, I yield 1 minute to myself.

Mr. Chairman, the remarks of the gentleman from California should not go unanswered. The gentleman gives

the impression that the law that is proposed in this bill is a strait jacket that will prevent the shifting of cases around where there is a justification for it. I draw the attention of Members to title 28 of United States Code 1412 relative to change of venue. It says that a district court may transfer a case or proceeding under title 11, which is the bankrupt title, to a district court for another district in the interest of justice or for the convenience of the parties.

So if there is a need to transfer a case out of the court in Delaware, for example, to a court in Houston, the present bankruptcy code allows for that. There have been some courts that are very plugged up and are not able to process bankruptcies quickly. Business is steered away from those courts simply because they have been so plugged up. I believe there is enough flexibility, and there should not be a poison pill that will destroy the delicate balance; and hopefully we will get this bill passed.

Mr. Chairman, I yield 5 minutes to the gentleman from Virginia (Mr. GOODLATTE), the chairman of the Committee on Agriculture.

Mr. GOODLATTE. Mr. Chairman, I rise in strong support of H.R. 975, the Bankruptcy Abuse Prevention and Consumer Protection Act. This legislation promotes personal responsibility and helps prevent bankruptcy abuse.

Bankruptcy filings are at an all-time high. During the 12-month period ending on March 31, 2002, there were 1.5 million bankruptcy filings. When bankruptcy filings increase, every American must pay more for credit, goods and services through higher rates and charges. It is high time that we provide relief to consumers burdened by paying for the debts of others.

A key aspect of H.R. 975 is the retention of the income-based means test. The means test applies clear and well-defined standards to determine whether a debtor has the financial capability to pay his or her debts. The application of such objective standards will help ensure that the fresh-start provisions of Chapter 7 will be granted to those who need them, while debtors who can afford to repay some of their debts are steered toward filing Chapter 13 bankruptcies.

In addition, H.R. 975 prevents fraud. Under the current system, irresponsible people filing for bankruptcy could run up their credit card debt immediately prior to filing, knowing that their debts will soon be wiped away. What these people may not realize is these debts do not disappear. They are passed along in higher charges and rates to hard-working folks who pay their bills on time. H.R. 975 ends this fraudulent practice by requiring bankruptcy filers to pay back nondischargeable debts made in the period immediately preceding their filing.

H.R. 975 also helps consumers. For example, this legislation helps children by strengthening the protections in the law that prioritize child support and alimony payments. In addition, H.R. 975 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.

Furthermore, H.R. 975 ensures the fair treatment of those that administer our bankruptcy laws. I strongly support the provisions of H.R. 975 that restore fairness and equity to the relationship between the U.S. trustee and private-standing bankruptcy trustees. Specifically, the bill provides that, in certain circumstances after an administrative hearing on the record, private trustees may seek judicial review of U.S. trustee actions related to trustee expenses and trustee removal. This compromise worked out between the U.S. Trustees Office and representatives of the private bankruptcy trustees will ensure fairness for those who dedicate themselves to their duties as private trustees while ensuring that the U.S. trustees is subject to the same checks and balances as other government agencies.

Mr. Chairman, bankruptcy should remain available to folks who truly need it, but those who can afford to repay their debts should repay their debts. H.R. 975 provides bankruptcy relief for those who truly cannot pay, but also clearly demonstrates to those who would abuse our system that the free ride is over. I believe that H.R. 975 strikes the appropriate balance between these two important goals.

I want to commend the gentleman from Wisconsin (Mr. SENSENBRENNER) for his tremendous work on this legislation, and, I might add, for his long-suffering perseverance with this legislation. I urge Members to support this fair and reasonable overhaul of the U.S. bankruptcy system.

Mr. DELAHUNT. Mr. Chairman, I yield 4½ minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

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

Ms. JACKSON-LEE of Texas. Mr. Chairman, I am back on this bill because it is so excruciating to see us deal with this legislative initiative that can be represented to correct the failings in the bankruptcy code, but really should be understood by my colleagues.

I mentioned earlier today that bankruptcy is not a badge of honor. None of our neighbors run to the neighborhood civic meeting and announce that they have declared bankruptcy. Documentation shows that the percentage of individuals declaring bankruptcy are either victims of catastrophic illnesses, elderly persons who have lost their spouses, divorced persons, a huge percentage of women, people who have fallen on hard times.

I have two very wonderful constituents who own the Donald Watkins Clinic in Houston, Texas, who happen to be visiting me today. They work with people who are infected with HIV–AIDS, a devastating disease, fighting for their lives. Just this past week, I visited a shelter for individuals who are indigent with HIV–AIDS. They are in this shelter not because they do not want to work, but because they have lost all of their resources. The Donald Watkins Clinic treats individuals like this. At the shelter I visited with a gentleman who came into the area where I was standing, smiling and excited. Although devastated by HIV–AIDS, he was attempting to seek work so he could support himself. He was not lounging around and being satisfied with the predicament of living in a shelter. He had worked before, he had resources; but because of bad times, he was not able to ensure his livelihood and his support.

This legislation today creates what we call a means test. Interestingly enough, it is mean. What it does is it takes away the discretion of the court to determine whether an individual is legitimate to be in the bankruptcy court. It gives a litmus test, a criteria, a list, so even before someone can get into the court, there is a sign that says no room at the inn. It is an IRS litmus test that indicates for a family of four what they can survive with. Give away the car that gets you back and forth to work. Families cannot have a baby-sitter for 3 hours a week so the wife can go to a second job. That is what this bill does.

I wish my colleagues who support this legislation had not tried to get the cake, the candles, and the birthday party all at once. Why not be considerate of the divorced mother seeking child support or the family-planning clinic bombed, and those who would seek that way to prove their point against choice, being able to hide in the bankruptcy court when people who are seeking damages are maimed and cannot get recovery. That is what this bill is about.

I would love to have a bipartisan legislative initiative that addresses those who are abusive. I happen to believe there should be no cap on the homestead because in Texas, we value our homes as a last resource that anybody will have to protect themselves. We could have worked with this bill if it had been reasonable, or there had been reasonable men and women in this House or body. But, no, we have fallen victim to the special interests, the $40 million, the entreaties by the industry that we have to have it. Now where are we? A $236 deficit, a war that we do not know how much it will cost, a trillion dollars possibly to pay for the war, and a trillion dollar deficit in a decade, and people being laid off by the minute, jobless, and we pass a bankruptcy bill.

The Founding Fathers did not expect that we would make light of a debtors court. They thought we would protect Americans, but here we are. Who knows what may happen to those Reservists who had to leave a job and so now they are down to a single income.

Mr. Chairman, are we going to pass a bill like this that stands in the way of those who are seeking to get themselves in order, business in order, but at the same time there is limited protection to the major companies that file the largest bankruptcies in the Nation, laying off a variety of individuals before they can even get their health benefits and their unemployment benefits?

Mr. Chairman, this is a bad bill. I encourage all Members to vote against it.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I would like to clear the confusion that has just arisen. There are several provisions of H.R. 975 which are crucial to the collection of child support during bankruptcy which will fail if this bill goes down.

First, it prioritizes the collection and payment of spousal and child support. The legislation gives spousal and child support the highest priority under bankruptcy law. Current law give these claimants only a seventh-level payment priority. Spousal and child support will remain at seventh level if this bill goes down.

H.R. 975 requires important guidance and information be supplied to child support payments and a notification to State child support agency of a deadbeat parent's bankruptcy filing. That will not happen if this bill goes down.

H.R. 975 protects the name of the debtor's minor child from public disclosure in a bankruptcy case. That is public record if this bill goes down.

□ 1445

H.R. 975 permits enforcement actions to continue or to be commenced notwithstanding the deadbeat's bankruptcy filing. With the automatic stay under the current law, there cannot be an enforcement action for back child support, and any pending enforcement action is stayed. If this bill goes down, that means enforcement actions will come to a screeching halt.

Finally, H.R. 975 permits child custody and domestic violence proceedings to continue notwithstanding the debtor's filing for bankruptcy protection. Those actions will be stayed if this bill goes down.

This bill does protect women and children and should be passed.

Mr. Chairman, I yield 3 minutes to the gentlewoman from Pennsylvania (Ms. HART).

Ms. HART. Mr. Chairman, I thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for yielding me this time and for his work on the legislation. As a member of the Committee on the Judiciary, this is the second term I have been here and the second term we have worked to pass bankruptcy reform. Unfortunately it has been attempted for quite a while.

Let us not forget why we have a bankruptcy law in the first place. It is there to help people who need it, people who have no assets or ability to pay their debts. It has been all too often abused, however, by those who do not need it, those who can pay their debts, slick con artists who game the system, irresponsible spenders who ignore the consequences of their actions. The purpose of this bill is to make sure that the consumers are not continuing to be harmed by our bankruptcy laws and to make sure that those who really need our bankruptcy laws have them there to access.

As bankruptcy filings rise, our economy suffers. Filings increased by 150 percent in 2002. That amounts to $110 million per day of losses. The average American family pays more than $500 a year in increased prices as a result of unpaid debt. It is unfair to force responsible Americans to pay that premium. Small business owners will close their doors because debtors avoid payment for goods and services through filing bankruptcy. Americans lose jobs.

I support H.R. 975 because it protects consumers. It helps women and children who will be hurt by the filing of a bankruptcy by the person who is supposed to be paying support, making those debts a priority. The collection and payment of spousal support and child support are a priority under this legislation. It expands also other debts that are owed to the spouse and children and puts them in a priority position. It gives them the highest payment priority under bankruptcy laws. Therefore, children and women are protected. It allows child custody and domestic violence proceedings to continue, once again protecting them from a debtor's bankruptcy filing. It also supports and protects education savings accounts and certain retirement accounts, so it protects families.

Mr. Chairman, finally, this bill closes a huge loophole called the homestead loophole. This bill includes this extremely important provision for fairness. By closing this loophole, Congress continues the work we began last year on corporate responsibility. Under current bankruptcy law, debtors can claim all of the equity of their home and exempt it from the bankruptcy. Some debtors move to certain States that allow this just before filing bankruptcy so that they can buy million-dollar estates and protect those millions of dollars from their bankruptcy filing. H.R. 975 closes this loophole, requires debtors to reside in a State for at least 2 years before claiming that kind of a homestead exemption, and, more importantly, it limits that exemption in many cases to $125,000 so that those millions that they are trying to hide can be used to pay their debts.

Mr. Chairman, this is a just bill. I encourage my colleagues to support it.

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

I think it is important to point out that there was an American Bankruptcy Institute study that showed that while the credit industry estimates it may recover some $4 billion under the rigid standards of the means test, the study indicated that the creditors would only receive $450 million in actual collections. The Executive Office of the United States Trustee within the Justice Department conducted a similar study that reached similar results, estimating that the passage of the bill incorporated within the conference report last year, which is almost identical to the bill that is before us now, would have netted creditors no more than 3 percent of the $400 per household they claim to be losing.

Finally, Mr. Chairman, we have received no evidence, no empirical data whatsoever, that the credit card industry would likely pass on any of the potential savings, albeit minimal, from bankruptcy law changes to the consumer. It would go to the bottom line.

Mr. Chairman, I yield such time as he may consume to the gentleman from North Carolina (Mr. WATT), ranking member of the Subcommittee on Administrative Law.

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

Mr. Chairman, this process has been going on for quite a while. I am one of the people who has been involved with the process from the very beginning. Before there was a bankruptcy bill, there was a bipartisan consensus, and I was included as part of that bipartisan consensus, that reforms needed to be made to the bankruptcy law. There was no means test in the bill at that time, and there was no bill. There was just a bipartisan consensus that something needed to be done to address the gaming of the bankruptcy system. A number of us were willing to sit down and roll up our sleeves and try to deal with the fact that people were gaming the bankruptcy system.

I was among the people who was the first to concede that there was a problem in the bankruptcy system. Unfortunately, 2 or 3 months into the process, we started to see that some concessions were starting to be made that made this bill really not address the gaming of the system, the games that were being played within the bankruptcy system, in a way that was going to have a fair impact.

First of all, consumer groups and representatives of poor people said, ''We are not going to let you do a reform of the bankruptcy system unless you make some concessions to us,'' and they were a powerful lobbying group. Unfortunately, the people who wanted this bill said to the consumer groups, ''We'll give you something if you just keep quiet. What we will give you is a means test that allows people who fall under a certain income level, regardless of whether they are gaming the system or not, we'll let them continue to operate business as usual.'' So emerging from that kind of compromise was this whole concept of a means test, which has the terrible public policy impact of setting up two parallel bankruptcy systems in our country, one for the poorest of the poor,

which I call the paupers' bankruptcy court, and one for the not so poor, which are kind of the higher-income people whose incomes fall above the means test.

Unfortunately, that does not address the gaming of the system. There are people who fall above the means test, who need the benefits of bankruptcy, who are not gaming the system, and there are people above the means test who are gaming the system. But there are also people below the means test who are gaming the system as well as people below the means test who are not gaming the system, who really need the benefit of bankruptcy.

And instead of coming up, rolling up our sleeves and addressing the real problem, which is the gaming of the system, we just abdicated and set up a terrible public policy mechanism here, this paupers' bankruptcy court and the not-so-poor bankruptcy court.

The other concession that got made was that despite the fact that, and I cannot blame this on the chairman of the Committee on the Judiciary. He presides over the Committee on the Judiciary. But this bill got a joint referral to the Committee on Financial Services, and part of the gaming of the system is taking place by credit card companies, and everybody can relate to this. You must get 50 solicitations a month at your home: Let me give you $10,000 or $25,000 worth of credit. You get my credit card, no real monitoring of whether you have the ability to pay. Poorest people, students in college, everybody gets these solicitations, and those people, the credit card companies who are into giving easy credit, are gaming the bankruptcy system in the same way that the people who are filing bankruptcies are gaming the system.

The problem is, yes, we have got a bill, but it does not solve the problem that we set out to solve, which was the gaming of the system.

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

Mr. Chairman, this bill is about personal responsibility. It is about plugging loopholes in the Bankruptcy Code that result in the shifting of millions and billions of dollars to people who pay their bills on time. It is going to put more vibrancy in our economy because of the fact that debt that is written off is something that has to be absorbed by corporations and people who hire other people who cannot afford that. I would urge the Members to support this legislation.

Mrs. BLACKBURN. Mr. Chairman, I rise in support of H.R. 975 the Bankruptcy Reform legislation being considered.

I have heard from credit unions and banks in Tennessee and their message is clear: bankruptcy is all too often used as a first resort, rather than as a last resort. This makes it increasing difficult for them to operate.

In 1998, bankruptcy filings exceeded one million for the first time in our Nation's history. And in 2002 that number increased by 150 percent to 1.5 million. And the upward trend is expected to continue.

H.R. 975 is a compassionate bill: People who seek bankruptcy because of job loss, medical problems, divorce or other personal problems—will be unaffected by this legislation. Those who have the means to repay their debts should do so.

I'd like to thank the Chairman of the Judiciary Committee for his hard work in bringing this to the floor today and I urge my colleagues to support this bill.

Mr. UDALL of New Mexico. Mr. Chairman, thank you for allowing me the opportunity to offer my remarks today regarding H.R. 975, the so-called ''Bankruptcy Abuse Prevention and Consumer Protection Act of 2003.'' The issue of bankruptcy reform is extremely important and it is critical that we pass a measure that will both ensure greater personal responsibility of debtors, as well as ensure that credit card companies and other creditors take responsibility for their reckless lending. Unfortunately, this bill does neither. In fact, the bill before us today overly penalizes working families. In fact, the bill before us today takes no action against reckless and predatory lending.

Equally frustrating is the process. In what is becoming a familiar refrain on the House floor when vitally important legislation comes before us, I strongly object to the rule under which this bill is being debated. Once again the majority has passed a rule stifling debate and blocking serious and substantive amendments. While they have made in order a substitute amendment to be offered by Mr. CONYERS, which I will be supporting, as well as amendments offered by Mr. SHERMAN and Mr. GUTIERREZ, there were an additional 6 amendments worthy of consideration by the entire body of the House of Representatives. This continued smothering of the democratic process by the majority is shameful and needs to stop immediately.

As to the substance of the legislation, it is no secret that the number of bankruptcies has risen dramatically over the past twenty years. In 1980, there were 330,000 bankruptcies in the United States. In 2001, the number of personal bankruptcies had risen to 1.28 million. Last year 1.45 million filings, up 19 percent from the year 2000, marked a record in the number of bankruptcies filed. In my home state of New Mexico, there was a 7.1 percent increase over 2001 filings, which marked the second consecutive year in which the state set a record in the number of bankruptcies filed. With those facts in mind, I strongly support the principle of increased personal responsibility of debt. However, I do not believe that H.R. 975 is the correct way to achieve this goal.

While there are many problems with H.R. 975, I'll name just a few of the more egregious provisions to which I strongly object. H.R. 975 imposes a rigid means test, endangers child support, and allows millionaires to continue to shelter their assets in mansions. These provisions result in an unbalanced and punitive measure that will have a devastating effect on the unemployed, women, Hispanic homeowners, and the elderly. Reform in this bill is skewed towards restricting the consumer's access to relief from overwhelming debt, while making it easier on those creditors who encourage additional unwise borrowing.

Mr. Speaker, I recognize that there have been, and likely continue to be, abuses of the bankruptcy law, which was designed to be a safety net. As I've said before, I strongly support increased personal responsibility for debt accrued. However, this should coincide with greater responsibility on the part of the creditors. It is the creditors who often shamelessly target college students and low-income individuals with their credit card applications. It is the creditors who subsequently grant these individuals higher levels of credit at high interest rates. It is the creditors who saddle these individuals with insurmountable levels of debt. In fact, it is estimated that the credit card industry mails out five billion unsolicited credit card offers a year. Taking the 2000 Census figure of 209,128,094 individuals in the United States over the age of 18, that breaks down to 24 unsolicited credit card offers per person per year! I wish this legislation would help break this vicious cycle, but unfortunately it does not.

Mr. Speaker, it is well known that bankruptcies are driven by economic difficulties and I think we would all agree that we find ourselves facing economic difficulties today. Unemployment is higher than it has been in over eight years and we stand on the verge of a war. Today is not the time to pass an extremely harmful bill that will have devastating affects on the most vulnerable individuals in our country.

I would like to reiterate that I strongly support increased responsibility by debtors, but this legislation does more harm than good. I believe we would be better served if we could fully debate the merits of this legislation, as well as substantive amendments that were disallowed from consideration by the full House. Sadly, once again, we cannot, and I urge my colleagues to oppose this legislation.

Mr. CROWLEY. Mr. Chairman, I rise in support of the Bankruptcy Abuse Prevention and Consumer Protection Act. I can give my colleagues one reason to support this legislation—fairness. This bill will restore fairness to our Nation's bankruptcy laws for those Americans who work hard and pay their bills on time.

A few days ago, representatives from a number of credit unions came to my office, including Rob Nemeroff 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. This bill will provide them some fairness—something that my constituents do not often get from this Congress.

This legislation provides fairness to the victims of criminal corporate executives by mandating that these corporate pirates can no longer shield their multi-million dollar homes from defrauded investors seeking to reclaim some of their lost assets. And this bill provides fairness for women and children in their ability to collect child support and alimony obligations. And for those who do file for bankruptcy, this bill includes numerous new protections for them and their families. This bill

permits filers to keep their homes and provide health insurance for themselves and their families before taking their assets into account for repayment plans. This bill states that low income debtors will be exempt from many of the provisions of this bill if their median family income is below the average for their state.

This legislation represents a fair, common sense approach towards tackling the important yet complicated issues surrounding the issue of bankruptcy in a way that will benefit those working Americans who pay their bills while providing for those who cannot.

Mr. BLUMENAUER. Mr. Chairman, I support bankruptcy reform. This legislation has followed a tortured path over the last four Congresses. During this time I have voted for reform and tried to make it more fair. While I have some concerns about this latest bill, H.R. 975, and would have preferred to see improvements for further consumer protections against predatory lending and credit card marketing, the federal bankruptcy code must be reformed. Bankruptcy filings have increased from 330,000 in 1980 to more than 1.5 million last year. The cost of waiving debt through bankruptcy proceedings has resulted in higher costs for all consumers.

I have heard from Oregon's credit unions and small businesses who have made a compelling case that current bankruptcy laws result in significant costs for Oregon's businesses and consumers. Flaws in the current system allow higher-income filers to abuse the system by walking away from debts they are capable of repaying. One of many examples detailed how a credit union customer with income in excess of $100,000 per year financed home remodeling on credit cards, then filed Chapter 13 to discharge the credit card debt without having any major change in income status.

We need a cold dose of reality. People should act responsibly and pay their bills when they have the means. I will support federal and state actions against predatory lending and abusive credit practices, but we cannot dismiss personal responsibility. H.R. 975 protects low- to middle-income families, while requiring those that have the ability to repay some or all of their debt to enter into a payment plan. Our bankruptcy laws need to be overhauled and I believe this is an appropriate step forward.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I rise today in strong support of H.R. 975, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2003. I would also like to thank Chairman SENSENBRENNER and the Judiciary Committee for their persistent efforts to make the reforms in H.R. 975 the law of the land.

In the late 1990's, personal bankruptcy filings were rising at a precipitous rate. With a record 1.4 million filings in 1998, up 500 percent from 1980, it had become evident that bankruptcy had lost the social stigma it once held. Rather than an action of last resort, it had evolved into a convenient vehicle to discharge debts through irresponsible financial practices.

Abuse of the bankruptcy system has a negative impact, not only on banks and financial institutions, but on our economy as a whole. In 1998 alone, bankruptcies were estimated to cost the United States approximately $40 billion. I understand and appreciate that there are valid reasons for individuals to file for bankruptcy protections. However, those who take advantage of the system lower the amount of available credit every citizen and raise the cost of credit, goods, and services to all consumers. Bankruptcy should not be a mere convenience or financial planning tool, but should be a safety net for those who genuinely need it.

The rationale behind this legislation is that those with the ability to pay their debts should do so. I believe Chairman SENSENBRENNER has done a good job of ensuring adequate protections remain for those in financial straights due to illness, divorce, or other legitimate reasons. At the same time, H.R. 975 will provide financial education to those who need it, help prevent corporate criminals from hiding their assets, protect those who rely on alimony and child support for survival, and take a significant step toward preventing the abuse of our Nation's bankruptcy laws.

It is time to finally reform our bankruptcy laws. I urge my colleagues to support H.R. 975.

Mr. CONYERS. Mr. Chairman, this country is a much different place than when omnibus bankruptcy reform was first introduced 6 years ago. Today, we face the longest continuous stretch of job declines in more than 50 years; the economy has lost more than 2.5 million jobs in the last 2 years; the stock market is reeling; and we have more than 40 million individuals with no health insurance. And yet, we are once again considering this special interest bill that massively tilts the playing field in the favor of creditors and against the interests of ordinary consumers and workers who are struggling to overcome financial misfortune.

No one should be surprised when I say that the bill is dangerously and fatally flawed. To those who argue the bill only punishes wealthy debtors, I tell them to read how the bill gives creditors massive new rights to bring threatening 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 very important to the debtor's family. Read how the bill makes it next to impossible for people below the poverty line to keep their house or their car in bankruptcy.

To those who claim the bill protects alimony and child support, I would ask them if they are aware that the bill creates major new categories of nondischargeable debt that complete directly against the collection of child support and alimony payments. Whether they are aware the bill allows landlords to evict battered women without bankruptcy court approval, even if the eviction poses a threat to the woman's physical well being.

To those who assert the bill cracks down on credit card abuse, I would ask if they realize the bill does absolutely nothing to discourage abusive underage lending, nothing to discourage reckless lending to the developmentally disabled, and nothing to regulate the practice of so-called ''subprime'' leading to persons with no means or little ability to repay their debts.

To those who 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 bilking seniors out of billions of dollars of their life savings.

Last year 1.4 million middle-class individuals filed for bankruptcy. Their average income was less than $25,000, and the principal causes for their filings were layoffs, health problems and divorce. In my judgment, it would be a grave mistake to punish these individuals at a time of such great economic uncertainty and reward credit card companies and business lobbyists when corporate greed has already destroyed the lives of millions of American workers.

I urge every member of this body to vote against this special interest bonanza and vote in favor of the interests of ordinary, hard working Americans.

Mr. BEREUTER. Mr. Chairman, this Member rises today to express his support for the Bankruptcy Abuse Prevention and Consumer Protection Act of 2003 (H.R. 975). On February 27, 2003, this Member agreed to be an original cosponsor of this legislation. This bill (H.R. 975) is the same, with one major exception, as the bankruptcy reform conference report which was agreed upon by the conferees in the 107th Congress. Specifically, the provision that addressed the nondischargeability of debts for abortion protesters was not included in H.R. 975. The controversy surrounding this provision resulted in the failure of the rule under which the bankruptcy reform conference report was to be considered by the House in the 107th Congress.

A variation of this conference report language on abortion was included in the original Senate-passed bankruptcy bill in the 107th Congress at the initiative of the gentleman from New York (Mr. SCHUMER). It absolutely amazed and discouraged this Member that a supposed nexus between the subject of abortion and bankruptcy was found by this gentleman from New York which effectively doomed bankruptcy reform legislation in the 107th Congress.

It is important to note that bankruptcy reform bills passed both the House and the Senate in the 105th and 106th Congresses. In the 105th Congress, the House passed a bankruptcy reform conference report, while the Senate failed to pass the conference report. In the 106th Congress, former President Bill Clinton pocket vetoed a bankruptcy reform conference report.

First, this Member would thank the distinguished gentleman from Wisconsin (Mr. SENSENBRENNER), the Chairman of the House Judiciary Committee for both introducing this bankruptcy legislation and for his efforts in bringing H.R. 975 to the House Floor for consideration.

This Member supports H.R. 975 for numerous reasons; however, the most important reasons include the following:

First, this Member supports the provision in H.R. 975 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 hers 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. 975 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. 975, 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 actual expenses for the care and support of an elderly, chronically ill, or disabled member of the debtor's household or immediate family.

Third, this Member supports the permanent extension of Chapter 12 bankruptcy in H.R. 975 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 on June 30, 2003, 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 operational. 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 nations 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.

Lastly, this Member supports the provision in H.R. 975 which requires that people convicted of a felony or who owe a debt from a securities fraud violation in the five years before filing for bankruptcy cannot claim an unlimited homestead exemption. As of last year, there were only six states, including Texas and Florida, which provided unlimited bankruptcy protection for a person's home. (Nebraska is not one of those six states as it has a maximum homestead exemption of $12,500.) This Member believes that this provision in H.R. 975 is imperative in light of the corporate scandals at Enron and WorldCom in year 2002. For example, this provision would apply to the $7 million penthouse in Houston of Kenneth Lay, the former chairman of Enron, if he both files for personal bankruptcy in the future and owes a debt due to any conviction of securities fraud. In addition, this provision may also be relevant to Scott D. Sullivan, the former chief financial officer of WorldCom, who, as of last year, was building a $15 million mansion in Boca Raton, Florida.

In closing, for these aforementioned reasons and many others, this Member urges his colleagues to support H.R. 975.

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

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 975

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 2003''.

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

Subtitle B—Priority Child Support

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

Subtitle C—Other Consumer Protections

Sec. 221. Amendments to discourage abusive bankruptcy filings.
Sec. 222. Sense of Congress.
Sec. 223. Additional amendments to title 11, United States Code.
Sec. 224. Protection of retirement savings in bankruptcy.
Sec. 225. Protection of education savings in bankruptcy.
Sec. 226. Definitions.
Sec. 227. Restrictions on debt relief agencies.
Sec. 228. Disclosures.
Sec. 229. Requirements for debt relief agencies.
Sec. 230. GAO study.
Sec. 231. Protection of personally identifiable information.
Sec. 232. Consumer privacy ombudsman.
Sec. 233. Prohibition on disclosure of name of minor children.

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. Reduction of homestead exemption for fraud.
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. Limitations on homestead exemption.
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.
Sec. 329. Clarification of postpetition wages and benefits.
Sec. 330. Delay of discharge during pendency of certain proceedings.

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.
Sec. 446. Duties with respect to a debtor who is a plan administrator of an employee benefit plan.
Sec. 447. Appointment of committee of retired employees.

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 law amendments.
Sec. 908. Recordkeeping requirements.
Sec. 909. Exemptions from contemporaneous execution requirement.
Sec. 910. Damage measure.
Sec. 911. SIPC stay.

TITLE X—PROTECTION OF FAMILY FARMERS AND FAMILY FISHERMEN

Sec. 1001. Permanent reenactment of chapter 12.
Sec. 1002. Debt limit increase.
Sec. 1003. Certain claims owed to governmental units.
Sec. 1004. Definition of family farmer.
Sec. 1005. Elimination of requirement that family farmer and spouse receive over 50 percent of income from farming operation in year prior to bankruptcy.
Sec. 1006. Prohibition of retroactive assessment of disposable income.
Sec. 1007. Family fishermen.

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. Bankruptcy cases and proceedings.
Sec. 1220. Knowing disregard of bankruptcy law or rule.
Sec. 1221. Transfers made by nonprofit charitable corporations.
Sec. 1222. Protection of valid purchase money security interests.
Sec. 1223. Bankruptcy Judgeships.
Sec. 1224. Compensating trustees.
Sec. 1225. Amendment to section 362 of title 11, United States Code.
Sec. 1226. Judicial education.
Sec. 1227. Reclamation.
Sec. 1228. Providing requested tax documents to the court.
Sec. 1229. Encouraging creditworthiness.
Sec. 1230. Property no longer subject to redemption.
Sec. 1231. Trustees.
Sec. 1232. Bankruptcy forms.
Sec. 1233. Direct appeals of bankruptcy matters to courts of appeals.
Sec. 1234. Involuntary cases.
Sec. 1235. Federal election law fines and penalties as nondischargeable debt.

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.

TITLE XIV—GENERAL EFFECTIVE DATE; APPLICATION OF AMENDMENTS

Sec. 1401. 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 so 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 (or bankruptcy administrator, if any), 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 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, or other applicable Federal law. The expenses included in the debtor's monthly expenses described in the preceding sentence shall be kept confidential by the court. In addition, if it is demonstrated that it is reasonable and necessary, the debtor's monthly expenses may also include an additional allowance for food and clothing of up to 5 percent of the food and clothing categories as specified by the National Standards issued by the Internal Revenue Service.

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

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

''(IV) In addition, the debtor's monthly expenses may include the actual expenses for each dependent child less than 18 years of age, not to exceed $1,500 per year per child, to attend a private or public elementary or secondary school if the debtor provides documentation of such expenses and a detailed explanation of why such expenses are reasonable and necessary, and why such expenses are not already accounted for in the National Standards, Local Standards, or Other Necessary Expenses referred to in subclause (I).

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

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

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

''(II) 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 60.

''(iv) The debtor's expenses for payment of all priority claims (including priority child support and alimony claims) shall be calculated as the total amount of debts entitled to priority, divided by 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 itemize each additional expense or adjustment of income and to provide—

''(I) documentation for such expense or adjustment to income; and

''(II) 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 show 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 arise or is 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, on its own initiative or on the motion of a party in interest, in accordance with the procedures described in rule 9011 of the Federal Rules of Bankruptcy Procedure, may order the attorney for the debtor to reimburse the trustee for all reasonable costs in prosecuting a motion filed under section 707(b), including reasonable attorneys' fees, if—

''(i) a trustee files a motion for dismissal or conversion under this subsection; and

''(ii) the court—

''(I) grants such motion; and

''(II) finds that the action of the attorney 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, the court, on its own initiative or on the motion of a party in interest, in accordance with such procedures, may order—

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

''(ii) the payment of such civil penalty to the trustee, the United States trustee (or the bankruptcy administrator, if any).

''(C) The signature of an attorney on a petition, pleading, or written motion 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, on its own initiative or on the motion of a party in interest, in accordance with the procedures described in rule 9011 of the Federal Rules of Bankruptcy Procedure, may award a debtor all reasonable costs (including reasonable attorneys' fees) in contesting a motion filed by a party in interest (other than a trustee or United States trustee (or bankruptcy administrator, if any)) 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 filed the motion violated rule 9011 of the Federal Rules of Bankruptcy Procedure; or

''(II) the attorney (if any) who filed the motion did not comply with the requirements of clauses (i) and (ii) of paragraph (4)(C), and the motion was made 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 fewer than 25 full-time employees as determined on the date on which 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 or United States trustee (or bankruptcy administrator, if any) may file 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;

''(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; 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, plus $525 per month for each individual in excess of 4.

''(7)(A) No judge, United States trustee (or bankruptcy administrator, if any), trustee, or other party in interest may file 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—

''(i) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

''(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; 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, plus $525 per month for each individual in excess of 4.

''(B) In a case that is not a joint case, current monthly income of the debtor's spouse shall not be considered for purposes of subparagraph (A) if—

''(i)(I) the debtor and the debtor's spouse are separated under applicable nonbankruptcy law; or

''(II) the debtor and the debtor's spouse are living separate and apart, other than for the purpose of evading subparagraph (A); and

''(ii) the debtor files a statement under penalty of perjury—

''(I) specifying that the debtor meets the requirement of subclause (I) or (II) of clause (i); and

''(II) disclosing the aggregate, or best estimate of the aggregate, amount of any cash or money payments received from the debtor's spouse attributed to the debtor's current monthly income.''.

(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 that the debtor receives (or in a joint case the debtor and the debtor's spouse receive) without regard to whether such income is taxable income, derived during the 6-month period ending on—

''(i) the last day of the calendar month immediately preceding the date of the commencement of the case if the debtor files the schedule of current income required by section 521(a)(1)(B)(ii); or

''(ii) the date on which current income is determined by the court for purposes of this title if the debtor does not file the schedule of current income required by section 521(a)(1)(B)(ii); 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 for 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, payments to victims of war crimes or crimes against humanity on account of their status as victims of such crimes, and payments to victims of international terrorism (as defined in section 2331 of title 18) or domestic terrorism (as defined in section 2331 of title 18) on account of their status as victims of such terrorism;''.

(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 a debtor who is an individual in a case under this chapter—

''(A) the United States trustee (or the bankruptcy administrator, if any) 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, if any) 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 the bankruptcy administrator, if any) does not consider such a motion to be appropriate, if the United States trustee (or the bankruptcy administrator, if any) 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; 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.''.

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

''(d) In a case under chapter 7 of this title in which the debtor is an individual and in which the presumption of abuse arises 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 arisen.''.

(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 (or bankruptcy administrator, if any), or trustee.

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

''(c)(1) In this subsection—

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

''(B) the term 'drug trafficking crime' has the meaning given such 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 victim dismiss a voluntary case filed under this chapter by a debtor who is an individual if such individual was convicted of such 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 inserting after paragraph (6) 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)(i) 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

''(ii) 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 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;

''(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; 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, plus $525 per month for each individual in excess of 4.''.

(i) SPECIAL ALLOWANCE FOR HEALTH INSURANCE.—Section 1329(a) of title 11, United States Code, is amended—

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

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

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

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

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

and upon request of any party in interest, files proof that a health insurance policy was purchased.''.

(j) ADJUSTMENT OF DOLLAR AMOUNTS.—Section 104(b) of title 11, United States Code, is amended by striking ''and 523(a)(2)(C)'' each place it appears and inserting ''523(a)(2)(C), 707(b), and 1325(b)(3)''.

(k) DEFINITION OF 'MEDIAN FAMILY INCOME'.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (39) the following:

''(39A) 'median family income' means for any year—

''(A) the median family income both calculated and reported by the Bureau of the Census in the then most recent year; and

''(B) if not so calculated and reported in the then current year, adjusted annually after such most recent year until the next year in which median family income is both calculated and reported by the Bureau of the Census, to reflect the percentage change in the Consumer Price Index for All Urban Consumers during the period of years occurring after such most recent year and before such current year;''.

(k) 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 case under this title shall be subject to fine, imprisonment, or both; and

''(B) all information supplied by a debtor in connection with a case under this title 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 serve in cases 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 debtors who are individuals 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 the enactment of this Act, such curriculum and materials shall be, for the 6 judicial districts selected under paragraph (1), used as the instructional course concerning personal financial management for purposes of section 111 of 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 such individual has, during the 180-day period preceding the date of filing of the petition by such 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 such 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 the bankruptcy administrator, if any) determines that the approved nonprofit budget and credit counseling agencies for such district are not reasonably able to provide adequate services to the additional individuals who would otherwise seek credit counseling from such agencies by reason of the requirements of paragraph (1).

''(B) The United States trustee (or the bankruptcy administrator, if any) who makes a determination described in subparagraph (A) shall review such determination not later than 1 year after the date of such determination, and not less frequently than annually thereafter. Notwithstanding the preceding sentence, a nonprofit budget and credit counseling agency may be disapproved by the United States trustee (or the bankruptcy administrator, if any) 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 filing the petition, the debtor failed to complete an instructional course concerning personal financial management described in section 111, except that this paragraph shall not apply with respect to a debtor who resides in a district for which the United States trustee (or the bankruptcy administrator, if any) determines that the approved instructional courses are not adequate to service the additional individuals who would otherwise be required to complete such instructional courses under this section (The United States trustee (or the bankruptcy administrator, if any) who makes a determination described in this paragraph shall review such determination not later than 1 year after the date of such determination, and not less frequently than annually thereafter.).''.

(c) CHAPTER 13 DISCHARGE.—Section 1328 of title 11, United States Code, is amended by adding at the end the following:

''(g)(1) 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.

''(2) Paragraph (1) shall not apply with respect to a debtor who resides in a district for which the United States trustee (or the bankruptcy administrator, if any) determines that the approved instructional courses are not adequate to service the additional individuals who would otherwise be required to complete such instructional course by reason of the requirements of paragraph (1).

''(3) The United States trustee (or the bankruptcy administrator, if any) who makes a determination described in paragraph (2) shall review such determination not later than 1 year after the date of such determination, and not less frequently than annually 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), a debtor who is an individual 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. Nonprofit budget and credit counseling agencies; financial management instructional courses

''(a) The clerk shall maintain a publicly available list of—

''(1) nonprofit budget and credit counseling agencies that provide 1 or more services described in section 109(h) currently approved by the United States trustee (or the bankruptcy administrator, if any); and

''(2) instructional courses concerning personal financial management currently approved by

the United States trustee (or the bankruptcy administrator, if any), as applicable.

''(b) The United States trustee (or bankruptcy administrator, if any) shall only approve a nonprofit budget and credit counseling agency or an instructional course concerning personal financial management as follows:

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

''(2) The United States trustee (or bankruptcy administrator, if any) shall have determined that such agency or such instructional course fully satisfies the applicable standards set forth in this section.

''(3) If a nonprofit budget and credit counseling agency or instructional course did not appear on the approved list for the district under subsection (a) immediately before approval under this section, approval under this subsection of such agency or such instructional course shall be for a probationary period not to exceed 6 months.

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

''(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), an interested person may seek judicial review of such decision in the appropriate district court of the United States.

''(c)(1) The United States trustee (or the bankruptcy administrator, if any) shall only approve a nonprofit budget and 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 relating to the quality, effectiveness, and financial security of the services it provides.

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

''(A) have a board of directors the majority of which—

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

''(ii) will not directly or indirectly benefit financially from the outcome of the counseling services provided by such agency;

''(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 a client, including funding sources, counselor qualifications, possible impact on credit reports, and any costs of such program that will be paid by such client and how such costs will be paid;

''(E) provide adequate counseling with respect to a client's credit problems that includes an analysis of such client's current financial condition, factors that caused such financial condition, and how such client can develop a plan to respond to the problems without incurring negative amortization of debt;

''(F) provide trained counselors who receive no commissions or bonuses based on the outcome of the counseling services provided by such agency, 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 the bankruptcy administrator, if any) 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 instructional course;

''(C) adequate facilities situated in reasonably convenient locations at which such instructional course is offered, except that such facilities may include the provision of such instructional course by telephone or through the Internet, if such instructional course 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 instructional course, including any evaluation of satisfaction of instructional course requirements for each debtor attending such instructional course, which shall be available for inspection and evaluation by the Executive Office for United States Trustees, the United States trustee (or the bankruptcy administrator, if any), or the chief bankruptcy judge for the district in which such instructional course 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 the debtor's understanding of personal financial management.

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

''(f) The United States trustee (or the bankruptcy administrator, if any) shall notify the clerk that a nonprofit budget and 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 nonprofit budget and credit counseling agency may provide to a credit reporting agency information concerning whether a debtor has received or sought instruction concerning personal financial management from such agency.

''(2) A nonprofit budget and credit counseling agency 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. Nonprofit budget and credit counseling agencies; 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 an unsecured consumer debt 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 on behalf of the debtor by an approved nonprofit budget and credit counseling agency described in section 111;

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

''(i) was made at least 60 days before the date of 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 schedule between the debtor and any creditor of the debtor created by an approved nonprofit budget and 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, unless the order confirming the plan is revoked, the plan is 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 AGREEMENT PRACTICES.

(a) IN GENERAL.—Section 524 of title 11, United States Code, as amended section 202, 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;''; and

(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 specified in subsection (c), statement, declaration, motion and order described, respectively, in paragraphs (4) through (8), and shall be the only disclosures required in connection with entering into such agreement.

''(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 of debt that the debtor agrees to reaffirm by entering into an agreement of the kind specified in subsection (c), and

''(ii) the total of any fees and costs accrued as of the date of the disclosure statement, related to such total amount.

''(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 an extension of credit under an open end credit plan, as the terms 'credit' and 'open end credit plan' are defined in section 103 of the Truth in Lending Act, then—

''(I) the annual percentage rate determined under paragraphs (5) and (6) of section 127(b) of the Truth in Lending Act, as applicable, as disclosed to the debtor in the most recent periodic statement prior to entering into an agreement of the kind specified in subsection (c) or, if no such periodic statement has been given to 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 to 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 an extension of credit other than under an open end credit plan, as the terms 'credit' and 'open end credit plan' are defined in section 103 of the Truth in Lending Act, then—

''(I) the annual percentage rate under section 128(a)(4) of the Truth in Lending Act, as disclosed to the debtor in the most recent disclosure statement given to the debtor prior to the entering into an agreement of the kind specified in subsection (c) with respect to the debt, or, if no such disclosure statement was given to the debtor, the annual percentage rate as it would have been so disclosed at the time the disclosure statement is given to 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 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, 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 debts the debtor is 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 agreement 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 debts 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 reaffirming a debt or what the law requires, consult with the attorney who helped you negotiate this agreement reaffirming a debt. If you don't have an attorney helping you, the judge will explain the effect of your reaffirming a debt when the hearing on the reaffirmation agreement 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 your 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 your 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 your 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 your 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 reaffirmation agreement. The bankruptcy court must approve your reaffirmation agreement as consistent with your best interests, except that no court approval is required if your reaffirmation 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 (cancel) your reaffirmation agreement. You may rescind (cancel) your reaffirmation agreement at any time before the bankruptcy court enters a discharge order, or before the expiration of the 60-day period that begins on the date your reaffirmation agreement is filed with the court, whichever occurs later. To rescind (cancel) your reaffirmation agreement, you must notify the creditor that your reaffirmation agreement is rescinded (or 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 case. That means that if you default on your reaffirmed debt after your bankruptcy case 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 that 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 your reaffirmation agreement, your reaffirmation agreement becomes effective upon filing with the court.'.

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

''''Part B: Reaffirmation Agreement. I (we) agree to reaffirm the debts 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 these debts:

''''Accepted by creditor:

''''Date of creditor acceptance:'.

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

''(A) The following certification:

''''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; (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) If a presumption of undue hardship has been established with respect to such agreement, such 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 such 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 reaffirmation 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 an attorney and is reaffirming a debt owed to a creditor defined in section 19(b)(1)(A)(iv) of the Federal Reserve Act, 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 reaffirmation 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 that may be used if approval of such agreement by the court is required in order for it to be effective, shall be signed and dated by the movant and shall consist of the following:

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

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

''''I believe this reaffirmation agreement is in my best interest based on the income and expenses I have disclosed in my Statement in Support of this reaffirmation agreement, 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 such agreement, shall consist of the following:

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

''(l) Notwithstanding any other provision of this title the following shall apply:

''(1) A creditor may accept payments from a debtor before and after the filing of an agreement of the kind specified in subsection (c) with the court.

''(2) A creditor may accept payments from a debtor under such agreement that 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 an agreement of the kind specified in subsection (c) is filed with the court (or such additional period as the court, after notice and a hearing and for cause, orders before the expiration of such period), it shall be presumed that such 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 such 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 that identifies additional sources of funds to make the payments as agreed upon under the terms of such agreement. If the presumption is not rebutted to the satisfaction of the court, the court may disapprove such agreement. No agreement shall be disapproved without notice and a 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.''.

(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 ATTORNEYS AND AGENTS OF THE FEDERAL BUREAU OF INVESTIGATION.—The individuals referred to in subsection (a) are—

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

''(2) an agent of the Federal Bureau of Investigation 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 that may contain a materially fraudulent statement in a bankruptcy schedule to the individuals designated under this section.''.

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

''158. Designation of United States attorneys and agents of the Federal Bureau of Investigation to address abusive reaffirmations of debt and materially fraudulent statements in bankruptcy schedules.''.

SEC. 204. PRESERVATION OF CLAIMS AND DEFENSES UPON SALE OF PREDATORY LOANS.

Section 363 of title 11, United States Code, is amended—

(1) by redesignating subsection (o) as subsection (p), and

(2) by inserting after subsection (n) the following:

''(o) Notwithstanding subsection (f), if a person purchases any interest in a consumer credit transaction that is subject to the Truth in Lending Act or any interest in a consumer credit contract (as defined in section 433.1 of title 16 of the Code of Federal Regulations (January 1, 2002), as amended from time to time), and if such interest is purchased through a sale under this section, then such person shall remain subject to all claims and defenses that are related to such consumer credit transaction or such consumer credit contract, to the same extent as such person would be subject to such claims and defenses of the consumer had such interest been purchased at a sale not under this section.''.

SEC. 205. GAO STUDY AND REPORT ON REAFFIRMATION AGREEMENT PROCESS.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of the reaffirmation agreement process that occurs under title 11 of the United States Code, to determine the overall treatment of consumers within the context of such process, and shall include in such study consideration of—

(1) the policies and activities of creditors with respect to reaffirmation agreements; and

(2) whether consumers are fully, fairly, and consistently informed of their rights pursuant to such title.

(b) REPORT TO THE CONGRESS.—Not later than 18 months after the date of the 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 on the results of the study conducted under subsection (a), together with recommendations for legislation (if any) to address any abusive or coercive tactics found in connection with the reaffirmation agreement process that occurs under title 11 of the United States Code.

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 date of the order for relief in a case 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 the date of the order for relief in a case 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 of the debtor, or such child's parent, legal guardian, or responsible relative 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 so redesignated, by striking ''First'' and inserting ''Second'';

(4) in paragraph (3), as so redesignated, by striking ''Second'' and inserting ''Third'';

(5) in paragraph (4), as so 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 so redesignated, by striking ''Fourth'' and inserting ''Fifth'';

(7) in paragraph (6), as so redesignated, by striking ''Fifth'' and inserting ''Sixth'';

(8) in paragraph (7), as so redesignated, by striking ''Sixth'' and inserting ''Seventh''; and

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

''(1) First:

''(A) Allowed unsecured claims for domestic support obligations that, as of the date of the filing of the petition in a case under this title, are owed to or recoverable by a spouse, former spouse, or child of the debtor, or such child's parent, legal guardian, or responsible relative, without regard to whether the claim is filed by such person or is filed by a governmental unit on behalf of such person, on the condition that funds received under this paragraph by a governmental unit under this title after the date of the 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 of the filing of the petition, 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 governmental 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 the filing of the petition be applied and distributed in accordance with applicable nonbankruptcy law.

''(C) If a trustee is appointed or elected under section 701, 702, 703, 1104, 1202, or 1302, the administrative expenses of the trustee allowed under paragraphs (1)(A), (2), and (6) of section 503(b) shall be paid before payment of claims under subparagraphs (A) and (B), to the extent that the trustee administers assets that are otherwise available for the payment of such claims.''.

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 by statute, to pay a domestic support obligation, the debtor has paid all amounts payable under such order or such statute for such obligation that first become payable after the date of the filing of the petition.'';

(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 of the filing of the petition.'';

(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 1228(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) the debtor has paid all amounts that are required to be paid under a domestic support obligation and that first become payable after the date of the filing of the petition if the debtor is required by a judicial or administrative order, or by statute, to pay such domestic support obligation.'';

(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, or by statute, to pay a domestic support obligation, after such debtor certifies that all amounts payable under such order or such 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 by 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 of the filing of the petition.'';

(8) in section 1322(a)—

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

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

(C) by adding at the end the following:

''(4) notwithstanding any other provision of this section, a plan may provide for less than full payment of all amounts owed for a claim entitled to priority under section 507(a)(1)(B) only if the plan provides that all of the debtor's projected disposable income for a 5-year period beginning on the date that the first payment is due under the plan will be applied to make payments under the plan.'';

(9) in section 1322(b)—

(A) in paragraph (9), by striking ''; and'' and inserting a semicolon;

(B) by redesignating paragraph (10) as paragraph (11); and

(C) inserting after paragraph (9) the following:

''(10) provide for the payment of interest accruing after the date of the filing of the petition on unsecured claims that are nondischargeable under section 1328(a), except that such interest may be paid only to the extent that the debtor has disposable income available to pay such interest after making provision for full payment of all allowed claims; and'';

(10) in section 1325(a), as amended by section 102, by inserting after paragraph (7) the following:

''(8) the debtor has paid all amounts that are required to be paid under a domestic support obligation and that first become payable after the date of the filing of the petition if the debtor is required by a judicial or administrative order, or by statute, to pay such domestic support obligation; 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, or by statute, to pay a domestic support obligation, after such debtor certifies that all amounts payable under such order or such 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 by 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) of 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 or a statute;

''(D) of the withholding, suspension, or restriction of a driver's license, a professional or occupational license, or a recreational license, under State law, as specified in section 466(a)(16) of the Social Security Act;

''(E) of 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;

''(F) of the interception of a tax refund, as specified in sections 464 and 466(a)(3) of the Social Security Act or under an analogous State law; or

''(G) of the enforcement of a medical obligation, as specified under title IV of the Social Security Act;''.

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;''; 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.

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.

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 of the filing of the petition'' after ''dependent of the debtor''.

SEC. 219. COLLECTION OF CHILD SUPPORT.

(a) DUTIES OF TRUSTEE UNDER CHAPTER 7.—Section 704 of title 11, United States Code, as amended by section 102, 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 the debtor there is a claim for a domestic support obligation, provide the applicable notice specified in subsection (c); and''; and

(2) by adding at the end the following:

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

''(A)(i) provide written notice to the holder of the claim described in subsection (a)(10) of such claim and of the right of such holder to use the services of the State child support enforcement agency established under sections 464 and 466 of the Social Security Act for the State in which such holder resides, for assistance in collecting child support during and after the case under this title;

''(ii) include in the notice provided under clause (i) the address and telephone number of such State child support enforcement agency; and

''(iii) include in the notice provided under clause (i) an explanation of the rights of such holder to payment of such claim under this chapter;

''(B)(i) provide written notice to such State child support enforcement agency of such claim; and

''(ii) include in the notice provided under clause (i) the name, address, and telephone number of such holder; and

''(C) at such time as the debtor is granted a discharge under section 727, provide written notice to such holder and to such State child support enforcement agency 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) the name of each creditor that holds a claim that—

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

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

''(2)(A) The holder of a claim described in subsection (a)(10) or the State child support enforcement agency of the State in which such holder resides may request from a creditor described in paragraph (1)(C)(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 by reason of making such 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 the debtor there is a claim for a domestic support obligation, provide the applicable notice specified in subsection (c).''; and

(2) by adding at the end the following:

''(c)(1) In a case described in subsection (a)(8) to which subsection (a)(8) applies, the trustee shall—

''(A)(i) provide written notice to the holder of the claim described in subsection (a)(8) of such claim and of the right of such holder to use the services of the State child support enforcement agency established under sections 464 and 466 of the Social Security Act for the State in which such holder resides, for assistance in collecting child support during and after the case under this title; and

''(ii) include in the notice required by clause (i) the address and telephone number of such State child support enforcement agency;

''(B)(i) provide written notice to such State child support enforcement agency of such claim; and

''(ii) include in the notice required by clause (i) the name, address, and telephone number of such holder; and

''(C) at such time as the debtor is granted a discharge under section 1141, provide written notice to such holder and to such State child support enforcement agency 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) the name of each creditor that holds a claim that—

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

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

''(2)(A) The holder of a claim described in subsection (a)(8) or the State child enforcement support agency of the State in which such holder resides may request from a creditor described in paragraph (1)(C)(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 by reason of making such 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 the debtor there is a claim for a domestic support obligation, provide the applicable notice specified in subsection (c).''; and

(2) by adding at the end the following:

''(c)(1) In a case described in subsection (b)(6) to which subsection (b)(6) applies, the trustee shall—

''(A)(i) provide written notice to the holder of the claim described in subsection (b)(6) of such claim and of the right of such holder to use the services of the State child support enforcement agency established under sections 464 and 466 of the Social Security Act for the State in which such holder resides, for assistance in collecting child support during and after the case under this title; and

''(ii) include in the notice provided under clause (i) the address and telephone number of such State child support enforcement agency;

''(B)(i) provide written notice to such State child support enforcement agency of such claim; and

''(ii) include in the notice provided under clause (i) the name, address, and telephone number of such holder; and

''(C) at such time as the debtor is granted a discharge under section 1228, provide written notice to such holder and to such State child support enforcement agency 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) the name of each creditor that holds a claim that—

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

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

''(2)(A) The holder of a claim described in subsection (b)(6) or the State child support enforcement agency of the State in which such holder resides may request from a creditor described in paragraph (1)(C)(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 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 the debtor there is a claim for a domestic support obligation, provide the applicable notice specified in subsection (d).''; and

(2) by adding at the end the following:

''(d)(1) In a case described in subsection (b)(6) to which subsection (b)(6) applies, the trustee shall—

''(A)(i) provide written notice to the holder of the claim described in subsection (b)(6) of such claim and of the right of such holder to use the services of the State child support enforcement agency established under sections 464 and 466 of the Social Security Act for the State in which such holder resides, for assistance in collecting child support during and after the case under this title; and

''(ii) include in the notice provided under clause (i) the address and telephone number of such State child support enforcement agency;

''(B)(i) provide written notice to such State child support enforcement agency of such claim; and

''(ii) include in the notice provided under clause (i) the name, address, and telephone number of such holder; and

''(C) at such time as the debtor is granted a discharge under section 1328, provide written notice to such holder and to such State child support enforcement agency 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) the name of each creditor that holds a claim that—

''(I) is not discharged under paragraph (2) or (4) of section 523(a); or

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

''(2)(A) The holder of a claim described in subsection (b)(6) or the State child support enforcement agency of the State in which such holder resides may request from a creditor described in paragraph (1)(C)(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 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 defined in section 221(d)(1) of the Internal Revenue Code of 1986, incurred by a debtor who is an individual;''.

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 ''or an employee of an attorney'' and inserting ''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 bankruptcy petition 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 which shall be on an official form prescribed by the Judicial Conference of the United States in accordance with rule 9009 of the Federal Rules of Bankruptcy Procedure.

''(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 the debtor and, under penalty of perjury, by the bankruptcy petition preparer; 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 bankruptcy petition 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 discharged in a case under this title;

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

''(iv) concerning—

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

''(II) the dischargeability of tax claims;

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

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

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

(6) in subsection (f)—

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

(B) by striking paragraph (2);

(7) in subsection (g)—

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

(B) by striking paragraph (2);

(8) in subsection (h)—

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

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

''(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 so redesignated—

(i) by striking ''Within 10 days after the date of the filing of 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 so 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 bankruptcy petition preparer during the 12-month period immediately preceding the date of the 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 so redesignated, by striking ''or the United States trustee'' and inserting ''the United States trustee (or the bankruptcy administrator, if any) 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 the motion of the debtor, trustee, United States trustee (or the bankruptcy administrator, if any), and after notice and a hearing, 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 on the motion of the court, the trustee, or the United States trustee (or the bankruptcy administrator, if any).''; 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 bankruptcy petition preparer.

''(3) A debtor, trustee, creditor, or United States trustee (or the bankruptcy administrator, if any) may file a motion for an order imposing a fine on the bankruptcy petition preparer for any 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, as amended by section 212, is amended by inserting after paragraph (9) the following:

''(10) Tenth, allowed claims for death or personal injury 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 filing of the petition in a case under 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 such 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 such 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 such 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; and

(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(c) 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 under 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) a loan from a thrift savings plan permitted under subchapter III of chapter 84 of title 5, that satisfies the requirements of section 8433(g) of such title;

but nothing in this paragraph 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 section 215, is amended by inserting after paragraph (17) 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 a thrift savings plan permitted under subchapter III of chapter 84 of title 5, that satisfies the requirements of section 8433(g) of such title;

but nothing in this paragraph 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; or''.

(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.—

(1) 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 such Code or a simple retirement account under section 408(p) of such 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 in a case filed by a debtor who is an individual, except that such amount may be increased if the interests of justice so require.''.

(2) ADJUSTMENT OF DOLLAR AMOUNTS.—Paragraphs (1) and (2) of section 104(b) of title 11, United States Code, are amended by inserting ''522(n),'' after ''522(d),''.

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 (9); 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 the filing of the petition in a case under this title, but—

''(A) only if the designated beneficiary of such account was a child, stepchild, grandchild, or stepgrandchild 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 the filing of the petition in a case under this title, but—

''(A) only if the designated beneficiary of the amounts paid or contributed to such tuition program was a child, stepchild, grandchild, or stepgrandchild 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 in a case under this title 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 section 106, 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 the value of whose nonexempt property is 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 who is an officer, director, employee, or agent of a person who provides such assistance or of the bankruptcy petition preparer;

''(B) a nonprofit organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986;

''(C) a creditor of such assisted person, to the extent that the creditor is assisting such assisted person to restructure any debt owed by such assisted 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 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) of title 11, United States Code, is amended by inserting ''101(3),'' after ''sections'' each place it appears.

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—

''(A) the services that such agency will provide to such person; or

''(B) 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 a 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 attorneys' fees as determined by the court.

''(4) The district courts of the United States for districts located in the State shall have concurrent jurisdiction of any action under subparagraph (A) or (B) of paragraph (3).

''(5) Notwithstanding any other provision of Federal law and in addition to any other remedy provided under Federal or State law, if the court, on its own motion or on the motion of the United States trustee or the debtor, finds that a person intentionally violated this section, or engaged in a clear and consistent pattern or practice of violating this section, the court may—

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

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

''(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 after the item relating to section 525, the following:

''526. Restrictions on debt relief agencies.''.

SEC. 228. DISCLOSURES.

(a) DISCLOSURES.—Subchapter II of chapter 5 of title 11, United States Code, as amended by section 227, 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); 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 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 of this title, 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 case under this title or other sanction, including a criminal sanction.

''(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) 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 available under 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. 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 should 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.

''(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 section 227, 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 sections 227 and 228, 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 on which 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 use the following statement in such advertisement: '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 section 227 and 228, is amended by inserting after the item relating to section 527, the following:

''528. Requirements for debt relief agencies.''.

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 debtors who are individuals under such title, the names and social security account numbers of such debtors for the purposes of allowing such Office to determine whether such debtors have outstanding obligations for child support (as determined on the basis of information in the Federal Case Registry or other national database).

(b) REPORT.—Not later than 300 days after the date of enactment of this Act, the Comptroller General shall submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report containing the results of the study required by subsection (a).

SEC. 231. PROTECTION OF PERSONALLY IDENTIFIABLE INFORMATION.

(a) LIMITATION.—Section 363(b)(1) of title 11, United States Code, is amended by striking the period at the end and inserting the following:

'', except that if the debtor in connection with offering a product or a service discloses to an individual a policy prohibiting the transfer of personally identifiable information about individuals to persons that are not affiliated with the debtor and if such policy is in effect on the date of the commencement of the case, then the trustee may not sell or lease personally identifiable information to any person unless—

''(A) such sale or such lease is consistent with such policy; or

''(B) after appointment of a consumer privacy ombudsman in accordance with section 332, and after notice and a hearing, the court approves such sale or such lease—

''(i) giving due consideration to the facts, circumstances, and conditions of such sale or such lease; and

''(ii) finding that no showing was made that such sale or such lease would violate applicable nonbankruptcy law.''.

(b) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (41) the following:

''(41A) 'personally identifiable information' means—

''(A) if provided by an individual to the debtor in connection with obtaining a product or a

service from the debtor primarily for personal, family, or household purposes—

''(i) the first name (or initial) and last name of such individual, whether given at birth or time of adoption, or resulting from a lawful change of name;

''(ii) the geographical address of a physical place of residence of such individual;

''(iii) an electronic address (including an e-mail address) of such individual;

''(iv) a telephone number dedicated to contacting such individual at such physical place of residence;

''(v) a social security account number issued to such individual; or

''(vi) the account number of a credit card issued to such individual; or

''(B) if identified in connection with 1 or more of the items of information specified in subparagraph (A)—

''(i) a birth date, the number of a certificate of birth or adoption, or a place of birth; or

''(ii) any other information concerning an identified individual that, if disclosed, will result in contacting or identifying such individual physically or electronically;''.

SEC. 232. CONSUMER PRIVACY OMBUDSMAN.

(a) CONSUMER PRIVACY OMBUDSMAN.—Title 11 of the United States Code is amended by inserting after section 331 the following:

''§ 332. Consumer privacy ombudsman

''(a) If a hearing is required under section 363(b)(1)(B), the court shall order the United States trustee to appoint, not later than 5 days before the commencement of the hearing, 1 disinterested person (other than the United States trustee) to serve as the consumer privacy ombudsman in the case and shall require that notice of such hearing be timely given to such ombudsman.

''(b) The consumer privacy ombudsman may appear and be heard at such hearing and shall provide to the court information to assist the court in its consideration of the facts, circumstances, and conditions of the proposed sale or lease of personally identifiable information under section 363(b)(1)(B). Such information may include presentation of—

''(1) the debtor's privacy policy;

''(2) the potential losses or gains of privacy to consumers if such sale or such lease is approved by the court;

''(3) the potential costs or benefits to consumers if such sale or such lease is approved by the court; and

''(4) the potential alternatives that would mitigate potential privacy losses or potential costs to consumers.

''(c) A consumer privacy ombudsman shall not disclose any personally identifiable information obtained by the ombudsman under this title.''.

(b) COMPENSATION OF CONSUMER PRIVACY OMBUDSMAN.—Section 330(a)(1) of title 11, United States Code, is amended in the matter preceding subparagraph (A), by inserting ''a consumer privacy ombudsman appointed under section 332,'' before ''an examiner''.

(c) CONFORMING AMENDMENT.—The table of sections for subchapter II of chapter 3 of title 11, United States Code, is amended by adding at the end the following:

''332. Consumer privacy ombudsman.''.

SEC. 233. PROHIBITION ON DISCLOSURE OF NAME 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 name of minor children

''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. The debtor may be required to disclose the name of such minor child in a nonpublic record that is maintained by the court and made available by the court for examination by the United States trustee, the trustee, and the auditor (if any) serving under section 586(f) of title 28, in the case. The court, the United States trustee, the trustee, and such auditor shall not disclose the name of such minor child maintained in such nonpublic record.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 1 of title 11, United States Code, as amended by section 106, is amended by inserting after the item relating to section 111 the following:

''112. Prohibition on disclosure of name of minor children.''.

(c) CONFORMING AMENDMENT.—Section 107(a) of title 11, United States Code, is amended by inserting ''and subject to section 112'' after ''section''.

TITLE III —DISCOURAGING BANKRUPTCY ABUSE

SEC. 301. TECHNICAL AMENDMENTS.

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 debtor who is an individual in a case 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) on the motion of 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 chapters 7, 11, and 13 in which the individual was a debtor was pending within the preceding 1-year period;

''(II) a previous case under any of chapters 7, 11, and 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 that 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 a debtor who is an individual 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 a 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 the entry of the order allowing the stay to go into effect; and

''(D) 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) 2 or more previous cases under this title in which the individual was a debtor were pending within the 1-year period;

''(II) a previous case under this title in which the individual was a debtor was dismissed within the time period stated in this paragraph after the debtor failed to file or amend the petition or other documents as required by this title or the court without substantial excuse (but mere inadvertence or negligence shall not be substantial excuse unless the dismissal was caused by the negligence of the debtor's attorney), failed to provide adequate protection as ordered by the court, or failed to perform the terms of a plan confirmed by the court; or

''(III) there has not been a substantial change in the financial or personal affairs of the debtor since the dismissal of the next most previous case under this title, or 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 such 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 property, if the court finds that the filing of

the 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, such real property without the consent of the secured creditor or court approval; or

''(B) multiple bankruptcy filings affecting such real property.

If recorded in compliance with applicable State laws governing notices of interests or liens in real property, an order entered under paragraph (4) shall be binding in any other case under this title purporting to affect such real property filed not later than 2 years after the date of the entry of such order by the court, except that a debtor in a subsequent case under this title 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, as amended by section 224, is amended by inserting after paragraph (19), the following:

''(20) under subsection (a), of any act to enforce any lien against or security interest in real property following entry of the order under subsection (d)(4) as to such real property in any prior case under this title, for a period of 2 years after the date of the entry of such an order, except that the debtor, in a subsequent case under this title, may move 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 case under this title; or

''(B) if the case under this title was filed in violation of a bankruptcy court order in a prior case under this title prohibiting the debtor from being a debtor in another case under this title;''.

SEC. 304. DEBTOR RETENTION OF PERSONAL PROPERTY SECURITY.

Title 11, United States Code, is amended—

(1) in section 521(a), as so designated by section 106—

(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 a case under chapter 7 of this title in which the debtor is an individual, 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 such personal property unless 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) with respect to the claim secured by such property; or

''(B) redeems such property from the security interest pursuant to section 722.

If the debtor fails to so act within the 45-day period referred to in paragraph (6), the stay under section 362(a) 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 filed 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, as amended by section 106—

(A) in subsection (c), by striking ''(e), and (f)'' and inserting ''(e), (f), and (h)'';

(B) by redesignating subsection (h) as subsection (k) and transferring such subsection so as to insert it after subjection (j) as added by section 106; and

(C) by inserting after subsection (g) the following:

''(h)(1) In a case in which the debtor is an individual, 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)—

''(A) to file timely any statement of intention required under section 521(a)(2) with respect to such personal property or to indicate in such statement that the debtor will either surrender such personal property or retain it and, if retaining such personal property, either redeem such personal property pursuant to section 722, enter into an agreement of the kind specified in section 524(c) applicable to the debt secured by such personal property, or assume such unexpired lease pursuant to section 365(p) if the trustee does not do so, as applicable; and

''(B) to take timely the action specified in such statement, as it may be amended before expiration of the period for taking action, unless such statement specifies the debtor's intention to reaffirm such debt on the original contract terms and the creditor refuses to agree to the reaffirmation on such 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 personal 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 hearing on the motion.''; and

(2) in section 521, as amended by sections 106 and 225—

(A) in subsection (a)(2) by striking ''consumer'';

(B) in subsection (a)(2)(B)—

(i) by striking ''forty-five days after the filing of a notice of intent under this section'' and inserting ''30 days after the first date set for the meeting of creditors under section 341(a)''; and

(ii) by striking ''forty-five day'' and inserting ''30-day'';

(C) in subsection (a)(2)(C) by inserting '', except as provided in section 362(h)'' 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), with respect to property which a lessor or bailor owns and has leased, rented, or bailed to the debtor or as to which a creditor holds a security interest not otherwise voidable under section 522(f), 544, 545, 547, 548, or 549, nothing in this title shall prevent or limit the operation of a provision in the underlying lease or agreement that has the effect of placing the debtor in default under 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:

''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 910-day preceding the date of 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, 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 property 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) of title 11, United States Code, as so designated by section 106, is amended—

(1) in subparagraph (A)—

(A) by striking ''180 days'' and inserting ''730 days''; and

(B) 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''; and

(2) by adding at the end the following:

''If the effect of the domiciliary requirement under subparagraph (A) is to render the debtor ineligible for any exemption, the debtor may elect to exempt property that is specified under subsection (d).''.

SEC. 308. REDUCTION OF HOMESTEAD EXEMPTION FOR FRAUD.

Section 522 of title 11, United States Code, as amended by section 224, 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;

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

''(4) real or personal property that the debtor or a dependent of the debtor claims as a homestead;

shall be reduced to the extent that such value is attributable to any portion of any property that the debtor disposed of in the 10-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 case under chapter 13; 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) If the debtor in a case under chapter 7 is an individual, 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, as amended by section 306, 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 $500 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 terms 'consumer', 'credit', and 'open end credit plan' have the same meanings as in section 103 of the Truth in Lending Act; and

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

SEC. 311. AUTOMATIC STAY.

(a) IN GENERAL.—Section 362(b) of title 11, United States Code, as amended by sections 224 and 303, is amended by inserting after paragraph (21), the following:

''(22) subject to subsection (n), under subsection (a)(3), of the continuation of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor involving residential property in which the debtor resides as a tenant under a lease or rental agreement and with respect to which the lessor has obtained before the date of the filing of the bankruptcy petition, a judgment for possession of such property against the debtor;

''(23) subject to subsection (o), under subsection (a)(3), of an eviction action that seeks possession of the residential property in which the debtor resides as a tenant under a lease or rental agreement based on endangerment of such property or the illegal use of controlled substances on such property, but only if the lessor files with the court, and serves upon the debtor, a certification under penalty of perjury that such an eviction action has been filed, or that the debtor, during the 30-day period preceding the date of the filing of the certification, has endangered property or illegally used or allowed to be used a controlled substance on the property;

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

(b) LIMITATIONS.—Section 362 of title 11, United States Code, as amended by sections 106 and 305, is amended by adding at the end the following:

''(l)(1) Except as otherwise provided in this subsection, subsection (b)(22) shall apply on the date that is 30 days after the date on which the bankruptcy petition is filed, if the debtor files with the petition and serves upon the lessor a certification under penalty of perjury that—

''(A) under nonbankruptcy law applicable in the jurisdiction, there are circumstances under which the debtor would be permitted to cure the entire monetary default that gave rise to the judgment for possession, after that judgment for possession was entered; and

''(B) the debtor (or an adult dependent of the debtor) has deposited with the clerk of the court, any rent that would become due during the 30-day period after the filing of the bankruptcy petition.

''(2) If, within the 30-day period after the filing of the bankruptcy petition, the debtor (or an adult dependent of the debtor) complies with paragraph (1) and files with the court and serves upon the lessor a further certification under penalty of perjury that the debtor (or an adult dependent of the debtor) has cured, under nonbankrupcty law applicable in the jurisdiction, the entire monetary default that gave rise to the judgment under which possession is sought by the lessor, subsection (b)(22) shall not apply, unless ordered to apply by the court under paragraph (3).

''(3)(A) If the lessor files an objection to any certification filed by the debtor under paragraph (1) or (2), and serves such objection upon the debtor, the court shall hold a hearing within 10 days after the filing and service of such objection to determine if the certification filed by the debtor under paragraph (1) or (2) is true.

''(B) If the court upholds the objection of the lessor filed under subparagraph (A)—

''(i) subsection (b)(22) shall apply immediately and relief from the stay provided under subsection (a)(3) shall not be required to enable the

lessor to complete the process to recover full possession of the property; and

''(ii) the clerk of the court shall immediately serve upon the lessor and the debtor a certified copy of the court's order upholding the lessor's objection.

''(4) If a debtor, in accordance with paragraph (5), indicates on the petition that there was a judgment for possession of the residential rental property in which the debtor resides and does not file a certification under paragraph (1) or (2)—

''(A) subsection (b)(22) shall apply immediately upon failure to file such certification, and relief from the stay provided under subsection (a)(3) shall not be required to enable the lessor to complete the process to recover full possession of the property; and

''(B) the clerk of the court shall immediately serve upon the lessor and the debtor a certified copy of the docket indicating the absence of a filed certification and the applicability of the exception to the stay under subsection (b)(22).

''(5)(A) Where a judgment for possession of residential property in which the debtor resides as a tenant under a lease or rental agreement has been obtained by the lessor, the debtor shall so indicate on the bankruptcy petition and shall provide the name and address of the lessor that obtained that pre-petition judgment on the petition and on any certification filed under this subsection.

''(B) The form of certification filed with the petition, as specified in this subsection, shall provide for the debtor to certify, and the debtor shall certify—

''(i) whether a judgment for possession of residential rental housing in which the debtor resides has been obtained against the debtor before the date of the filing of the petition; and

''(ii) whether the debtor is claiming under paragraph (1) that under nonbankruptcy law applicable in the jurisdiction, there are circumstances under which the debtor would be permitted to cure the entire monetary default that gave rise to the judgment for possession, after that judgment of possession was entered, and has made the appropriate deposit with the court.

''(C) The standard forms (electronic and otherwise) used in a bankruptcy proceeding shall be amended to reflect the requirements of this subsection.

''(D) The clerk of the court shall arrange for the prompt transmittal of the rent deposited in accordance with paragraph (1)(B) to the lessor.

''(m)(1) Except as otherwise provided in this subsection, subsection (b)(23) shall apply on the date that is 15 days after the date on which the lessor files and serves a certification described in subsection (b)(23).

''(2)(A) If the debtor files with the court an objection to the truth or legal sufficiency of the certification described in subsection (b)(23) and serves such objection upon the lessor, subsection (b)(23) shall not apply, unless ordered to apply by the court under this subsection.

''(B) If the debtor files and serves the objection under subparagraph (A), the court shall hold a hearing within 10 days after the filing and service of such objection to determine if the situation giving rise to the lessor's certification under paragraph (1) existed or has been remedied.

''(C) If the debtor can demonstrate to the satisfaction of the court that the situation giving rise to the lessor's certification under paragraph (1) did not exist or has been remedied, the stay provided under subsection (a)(3) shall remain in effect until the termination of the stay under this section.

''(D) If the debtor cannot demonstrate to the satisfaction of the court that the situation giving rise to the lessor's certification under paragraph (1) did not exist or has been remedied—

''(i) relief from the stay provided under subsection (a)(3) shall not be required to enable the lessor to proceed with the eviction; and

''(ii) the clerk of the court shall immediately serve upon the lessor and the debtor a certified copy of the court's order upholding the lessor's certification.

''(3) If the debtor fails to file, within 15 days, an objection under paragraph (2)(A)—

''(A) subsection (b)(23) shall apply immediately upon such failure and relief from the stay provided under subsection (a)(3) shall not be required to enable the lessor to complete the process to recover full possession of the property; and

''(B) the clerk of the court shall immediately serve upon the lessor and the debtor a certified copy of the docket indicating such failure.''.

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 in the plan or disallowed under section 502, if the debtor has received a discharge—

''(1) in a case filed under chapter 7, 11, or 12 of this title during the 4-year period preceding the date of the order for relief under this chapter, or

''(2) in a case filed under chapter 13 of this title during the 2-year period preceding the date of such order.''.

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;

''(xii) medical equipment and supplies;

''(xiii) furniture exclusively for the use of minor children, or elderly or disabled dependents of the debtor;

''(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; and

''(xv) 1 personal computer and related equipment.

''(B) The term 'household goods' does not include—

''(i) works of art (unless by or of the debtor, or any relative of the debtor);

''(ii) electronic entertainment equipment with a fair market value of more than $500 in the aggregate (except 1 television, 1 radio, and 1 VCR);

''(iii) items acquired as antiques with a fair market value of more than $500 in the aggregate;

''(iv) jewelry with a fair market value of more than $500 in the aggregate (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 subsection (a), 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 such section 522(f)(4) has had on debtors and on the bankruptcy courts. Such report may include recommendations for amendments to such section 522(f)(4) 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 section 102, 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)(A) If, within the 90 days before the commencement of a voluntary case, a creditor supplies the debtor in at least 2 communications sent to the debtor with the current account number of the debtor and the address at which such creditor requests to receive correspondence, then any notice required by this title to be sent by the debtor to such creditor shall be sent to such address and shall include such account number.

''(B) If a creditor would be in violation of applicable nonbankruptcy law by sending any such communication within such 90-day period and if such creditor supplies the debtor in the last 2 communications with the current account number of the debtor and the address at which such creditor requests to receive correspondence, then any notice required by this title to be sent by the debtor to such creditor shall be sent to such address and shall include such account number.''; and

(2) by adding at the end the following:

''(e)(1) In a case under chapter 7 or 13 of this title of a debtor who is an individual, a creditor at any time may both file with the court and serve on the debtor a notice of address to be used to provide notice in such case to such creditor.

''(2) Any notice in such case required to be provided to such creditor by the debtor or the court later than 5 days after the court and the debtor receive such creditor's notice of address, shall be provided to such address.

''(f)(1) An entity may file with any bankruptcy court a notice of address to be used by all the bankruptcy courts or by particular bankruptcy courts, as so specified by such entity at the time such notice is filed, to provide notice to

such entity in all cases under chapters 7 and 13 pending in the courts with respect to which such notice is filed, in which such entity is a creditor.

''(2) In any case filed under chapter 7 or 13, any notice required to be provided by a court with respect to which a notice is filed under paragraph (1), to such entity later than 30 days after the filing of such notice under paragraph (1) shall be provided to such address unless with respect to a particular case a different address is specified in a notice filed and served in accordance with subsection (e).

''(3) A notice filed under paragraph (1) may be withdrawn by such entity.

''(g)(1) Notice provided to a creditor by the debtor or the court other than in accordance with this section (excluding this subsection) shall not be effective notice until such notice is brought to the attention of such creditor. If such creditor designates a person or an organizational subdivision of such creditor to be responsible for receiving notices under this title and establishes reasonable procedures so that such notices receivable by such creditor are to be delivered to such person or such subdivision, then a notice provided to such creditor other than in accordance with this section (excluding this subsection) shall not be considered to have been brought to the attention of such creditor until such notice is received by such person or such subdivision.

''(2) A monetary penalty may not be imposed on a creditor for a violation of a stay in effect under section 362(a) (including a monetary penalty imposed under section 362(k)) or for failure to comply with section 542 or 543 unless the conduct that is the basis of such violation or of such failure occurs after such creditor receives notice effective under this section of the order for relief.''.

(b) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, as amended by sections 106, 225, and 305, is amended—

(1) in subsection (a), as so designated by section 106, by amending paragraph (1) to read as follows:

''(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 section 342(b) applies, a certificate—

''(I) of an attorney whose name is indicated on the petition as the attorney for the debtor, or a bankruptcy petition preparer signing the petition under section 110(b)(1), indicating that such attorney or the bankruptcy petition preparer delivered to the debtor the notice required by section 342(b); or

''(II) if no attorney is so indicated, and no bankruptcy petition preparer signed the petition, of the debtor that such notice was received and read by the debtor;

''(iv) copies of all payment advices or other evidence of payment received within 60 days before the date of the filing of the petition, by the debtor from any employer of the debtor;

''(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 the filing of the petition;''; and

(2) by adding at the end the following:

''(e)(1) If the debtor in a case under chapter 7 or 13 is an individual and if a creditor files with the court at any time a request to receive a copy of the petition, schedules, and statement of financial affairs filed by the debtor, then the court shall make such petition, such schedules, and such statement available to such creditor.

''(2)(A) The debtor shall provide—

''(i) not later than 7 days before the date first set for the first meeting of creditors, to the trustee a copy of the Federal income tax return required under applicable law (or at the election of the debtor, a transcript of such return) for the most recent tax year ending immediately before the commencement of the case and for which a Federal income tax return was filed; and

''(ii) at the same time the debtor complies with clause (i), a copy of such return (or if elected under clause (i), such transcript) to any creditor that timely requests such copy.

''(B) If the debtor fails to comply with clause (i) or (ii) of subparagraph (A), the court shall dismiss the case unless the debtor demonstrates that the failure to so comply is due to circumstances beyond the control of the debtor.

''(C) If a creditor requests a copy of such tax return or such transcript and if the debtor fails to provide a copy of such tax return or such transcript to such creditor at the time the debtor provides such tax return or such transcript to the trustee, then the court shall dismiss the case unless the debtor demonstrates that the failure to provide a copy of such tax return or such transcript is due to circumstances beyond the control of the debtor.

''(3) If a creditor in a case under chapter 13 files with the court at any time a request to receive a copy of the plan filed by the debtor, then the court shall make available to such creditor a copy of the plan—

''(A) at a reasonable cost; and

''(B) not later than 5 days after such request is filed.

''(f) At the request of the court, the United States trustee, or any party in interest in a case under chapter 7, 11, or 13, a debtor who is an individual shall file with the court—

''(1) at the same time filed with the taxing authority, a copy of each Federal income tax return required under applicable law (or at the election of the debtor, a transcript of such tax return) with respect to each tax year of the debtor ending while the case is pending under such chapter;

''(2) at the same time filed with the taxing authority, each Federal income tax return required under applicable law (or at the election of the debtor, a transcript of such tax return) that had not been filed with such authority as of the date of the commencement of the case and that was subsequently filed for any tax year of the debtor ending in the 3-year period ending on the date of the commencement of the case;

''(3) a copy of each amendment to any Federal income tax return or transcript filed with the court under paragraph (1) or (2); and

''(4) in a case under chapter 13—

''(A) on the date that is either 90 days after the end of such tax year or 1 year after the date of the commencement of the case, whichever is later, if a plan is not confirmed before such later date; and

''(B) annually after the plan is confirmed and until the case is closed, not later than the date that is 45 days before the anniversary of the confirmation of the plan;

a statement, under penalty of perjury, of the income and expenditures of the debtor during the tax year of the debtor most recently concluded before such statement is filed under this paragraph, and of the monthly income of the debtor, that shows how income, expenditures, and monthly income are calculated.

''(g)(1) A statement referred to in subsection (f)(4) shall disclose—

''(A) the amount and sources of the 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 subsections (e)(2)(A) and (f) shall be available to the United States trustee (or the bankruptcy administrator, if any), the trustee, and any party in interest for inspection and copying, subject to the requirements of section 315(c) of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2003.

''(h) If requested by the United States trustee or by the trustee, 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; or

''(2) such other personal identifying information relating to the debtor that establishes the identity of the debtor.''.

(c)(1) Not later than 180 days after the date of the enactment of this Act, 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 540 days after the date of enactment of this Act, the Director of the Administrative Office of the United States Courts shall prepare and submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report that—

(A) assesses the effectiveness of the procedures established 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.

SEC. 316. DISMISSAL FOR FAILURE TO TIMELY FILE SCHEDULES OR PROVIDE REQUIRED INFORMATION.

Section 521 of title 11, United States Code, as amended by sections 106, 225, 305, and 315, is amended by adding at the end the following:

''(i)(1) Subject to paragraphs (2) and (4) and notwithstanding section 707(a), 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 date of the filing of the petition, the case shall be automatically dismissed effective on the 46th day after the date of the filing of the petition.

''(2) Subject to paragraph (4) and 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) Subject to paragraph (4) and upon request of the debtor made within 45 days after the date of the filing of the petition 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.

''(4) Notwithstanding any other provision of this subsection, on the motion of the trustee filed before the expiration of the applicable period of time specified in paragraph (1), (2), or (3), and after notice and a hearing, the court may decline to dismiss the case if the court finds that the debtor attempted in good faith to file all the information required by subsection (a)(1)(B)(iv) and that the best interests of creditors would be served by administration of the case.''.

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), unless the court determines that it would be in the best interests of the creditors and the estate to hold such hearing at an earlier date and there is no objection to such earlier date.''.

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;

''(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; 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, 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;

''(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; 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, 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 section 102, 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;

''(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; 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, 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 attorneys be submitted only after the debtors or the debtors' attorneys have 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 a case under chapter 7, 11, or 13 in which the debtor is an individual, 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) such 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 in which the debtor is an individual, 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 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.''.

(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 in which the debtor is an individual, provide for the payment to creditors under 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, as amended by section 213, is amended by adding at the end the following:

''(15) In a case in which the debtor is an individual and in which the holder of an allowed unsecured claim objects to the confirmation of the plan—

''(A) the value, as of the effective date of the plan, of the property to be distributed under the plan on account of such claim is 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 projected disposable income of the debtor (as 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 period for which the plan provides payments, 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 in which the debtor is an individual, the debtor may retain property included in the estate under section 1115, subject to the requirements of subsection (a)(14) of this section''.

(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 who is an individual''; and

(2) by adding at the end the following:

''(5) In a case in which the debtor is an individual—

''(A) unless after notice and a hearing the court orders otherwise for cause, confirmation of the plan does not discharge any debt provided for in the plan until the court grants a discharge on completion of all payments under the plan;

''(B) at any time after the confirmation of the plan, and after notice and a hearing, the court may grant a discharge to the debtor who has not completed payments under the plan if—

''(i) the value, as of the effective date of the plan, of property actually distributed under the plan on account of each allowed unsecured 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 on such date; and

''(ii) modification of the plan under section 1127 is not practicable; and''.

(e) MODIFICATION OF PLAN.—Section 1127 of title 11, United States Code, is amended by adding at the end the following:

''(e) If the debtor is 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 and the requirements of section 1129 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. LIMITATIONS ON HOMESTEAD EXEMPTION.

(a) EXEMPTIONS.—Section 522 of title 11, United States Code, as amended by sections 224 and 308, 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, 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 1215-day period preceding the date of the filing of the petition that exceeds in the aggregate $125,000 in value in—

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

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

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

''(D) real or personal property that the debtor or dependent of the debtor claims as a homestead.

''(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 such 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 such 1215-day period) into the debtor's current principal residence, if the debtor's previous and current residences are located in the same State.

''(q)(1) As a result of electing under subsection (b)(3)(A) to exempt property under State or local law, a debtor may not exempt any amount of an interest in property described in subparagraphs (A), (B), (C), and (D) of subsection (p)(1) which exceeds in the aggregate $125,000 if—

''(A) the court determines, after notice and a hearing, that the debtor has been convicted of a felony (as defined in section 3156 of title 18), which under the circumstances, demonstrates that the filing of the case was an abuse of the provisions of this title; or

''(B) the debtor owes a debt arising from—

''(i) any violation of the Federal securities laws (as defined in section 3(a)(47) of the Securities Exchange Act of 1934), any State securities laws, or any regulation or order issued under Federal securities laws or State securities laws;

''(ii) fraud, deceit, or manipulation in a fiduciary capacity or in connection with the purchase or sale of any security registered under section 12 or 15(d) of the Securities Exchange Act of 1934 or under section 6 of the Securities Act of 1933;

''(iii) any civil remedy under section 1964 of title 18; or

''(iv) any criminal act, intentional tort, or willful or reckless misconduct that caused serious physical injury or death to another individual in the preceding 5 years.

''(2) Paragraph (1) shall not apply to the extent the amount of an interest in property described in subparagraphs (A), (B), (C), and (D) of subsection (p)(1) is reasonably necessary for the support of the debtor and any dependent of the debtor.''.

(b) ADJUSTMENT OF DOLLAR AMOUNTS.—Paragraphs (1) and (2) of section 104(b) of title 11, United States Code, as amended by section 224, are amended by inserting ''522(p), 522(q),'' after ''522(n),''.

SEC. 323. EXCLUDING EMPLOYEE BENEFIT PLAN PARTICIPANT CONTRIBUTIONS AND OTHER PROPERTY FROM THE ESTATE.

Section 541(b) of title 11, United States Code, as amended by section 225, is amended by adding after paragraph (6), as added by section 225(a)(1)(C), the following:

''(7) any amount—

''(A) withheld by an employer from the wages of employees for payment as contributions—

''(i) to—

''(I) an employee benefit plan that is subject to title I of the Employee Retirement Income Security Act of 1974 or under an employee benefit plan which is a governmental plan under section 414(d) of the Internal Revenue Code of 1986;

''(II) a deferred compensation plan under section 457 of the Internal Revenue Code of 1986; or

''(III) a tax-deferred annuity under section 403(b) of the Internal Revenue Code of 1986;

except that such amount under this subparagraph shall not constitute disposable income as defined in section 1325(b)(2); or

''(ii) to a health insurance plan regulated by State law whether or not subject to such title; or

''(B) received by an employer from employees for payment as contributions—

''(i) to—

''(I) an employee benefit plan that is subject to title I of the Employee Retirement Income Security Act of 1974 or under an employee benefit plan which is a governmental plan under section 414(d) of the Internal Revenue Code of 1986;

''(II) a deferred compensation plan under section 457 of the Internal Revenue Code of 1986; or

''(III) a tax-deferred annuity under section 403(b) of the Internal Revenue Code of 1986;

except that such amount under this subparagraph shall not constitute disposable income, as defined in section 1325(b)(2); or

''(ii) to a health insurance plan regulated by State law whether or not subject to such title;''.

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 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 all that follows through ''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) If the debtor is an individual in a case under chapter 7 or 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 the filing of the petition without deduction for costs of sale or marketing. With respect to property acquired for personal, family, or household purposes, 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 this paragraph;''; 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) 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 nonresidential real property lease subject to section 365(b)(1)(A), compensates the holder of such claim or such interest (other than the debtor or an insider) for any actual pecuniary loss incurred by such holder as a result of such failure; and''.

SEC. 329. CLARIFICATION OF POSTPETITION WAGES AND BENEFITS.

Section 503(b)(1)(A) of title 11, United States Code, is amended to read as follows:

''(A) the actual, necessary costs and expenses of preserving the estate including—

''(i) wages, salaries, and commissions for services rendered after the commencement of the case; and

''(ii) wages and benefits awarded pursuant to a judicial proceeding or a proceeding of the National Labor Relations Board as back pay attributable to any period of time occurring after commencement of the case under this title, as a result of a violation of Federal or State law by the debtor, without regard to the time of the occurrence of unlawful conduct on which such award is based or to whether any services were rendered, if the court determines that payment of wages and benefits by reason of the operation of this clause will not substantially increase the probability of layoff or termination of current employees, or of nonpayment of domestic support obligations, during the case under this title;''.

SEC. 330. DELAY OF DISCHARGE DURING PENDENCY OF CERTAIN PROCEEDINGS.

(a) CHAPTER 7.—Section 727(a) of title 11, United States Code, as amended by section 106, is amended—

(1) in paragraph (10), by striking ''or'' at the end;

(2) in paragraph (11) by striking the period at the end and inserting ''; or''; and

(3) by inserting after paragraph (11) the following:

''(12) the court after notice and a hearing held not more than 10 days before the date of the entry of the order granting the discharge finds that there is reasonable cause to believe that—

''(A) section 522(q)(1) may be applicable to the debtor; and

''(B) there is pending any proceeding in which the debtor may be found guilty of a felony of the kind described in section 522(q)(1)(A) or liable for a debt of the kind described in section 522(q)(1)(B).''.

(b) CHAPTER 11.—Section 1141(d) of title 11, United States Code, as amended by section 321, is amended by adding at the end the following:

''(C) unless after notice and a hearing held not more than 10 days before the date of the entry of the order granting the discharge, the court finds that there is no reasonable cause to believe that—

''(i) section 522(q)(1) may be applicable to the debtor; and

''(ii) there is pending any proceeding in which the debtor may be found guilty of a felony of the kind described in section 522(q)(1)(A) or liable for a debt of the kind described in section 522(q)(1)(B).''.

(c) CHAPTER 12.—Section 1228 of title 11, United States Code, is amended—

(1) in subsection (a) by striking ''As'' and inserting ''Subject to subsection (d), as'',

(2) in subsection (b) by striking ''At'' and inserting ''Subject to subsection (d), at'', and

(3) by adding at the end the following:

''(f) The court may not grant a discharge under this chapter unless the court after notice and a hearing held not more than 10 days before the date of the entry of the order granting the discharge finds that there is no reasonable cause to believe that—

''(1) section 522(q)(1) may be applicable to the debtor; and

''(2) there is pending any proceeding in which the debtor may be found guilty of a felony of the kind described in section 522(q)(1)(A) or liable for a debt of the kind described in section 522(q)(1)(B).''.

(d) CHAPTER 13.—Section 1328 of title 11, United States Code, as amended by section 106, is amended—

(1) in subsection (a) by striking ''As'' and inserting ''Subject to subsection (d), as'',

(2) in subsection (b) by striking ''At'' and inserting ''Subject to subsection (d), at'', and

(3) by adding at the end the following:

''(h) The court may not grant a discharge under this chapter unless the court after notice and a hearing held not more than 10 days before the date of the entry of the order granting the discharge finds that there is no reasonable cause to believe that—

''(1) section 522(q)(1) may be applicable to the debtor; and

''(2) there is pending any proceeding in which the debtor may be found guilty of a felony of the kind described in section 522(q)(1)(A) or liable for a debt of the kind described in section 522(q)(1)(B).''.

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, 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 or a national securities exchange registered with the Securities and Exchange Commission under section 6 of the Securities Exchange Act of 1934;''.

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, as amended by sections 224, 303, and 311, is amended by inserting after paragraph (24) the following:

''(25) under subsection (a), of—

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

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

''(C) any act taken by such 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), 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 on the 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), 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 (g) (as added by section 222(a) of Public Law 103–394) as subsection (h);

(2) in subsection (h), as so redesignated, by inserting ''and subject to the prior rights of holders of security interests in such goods or the proceeds of such goods'' after ''consent of a creditor''; and

(3) by adding at the end the following:

''(i)(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 State statute applicable to such lien 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 2003, or any successor to such section 7–209.''.

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.''.

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 debt (excluding a consumer 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, 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) The court shall resolve any dispute arising out of an election described in subparagraph (A).''.

SEC. 417. UTILITY SERVICE.

Section 366 of title 11, United States Code, is amended—

(1) in subsection (a), by striking ''subsection (b)'' and inserting ''subsections (b) and (c)''; and

(2) by adding at the end the following:

''(c)(1)(A) For purposes of this subsection, the term 'assurance of payment' means—

''(i) a cash deposit;

''(ii) a letter of credit;

''(iii) a certificate of deposit;

''(iv) a surety bond;

''(v) a prepayment of utility consumption; or

''(vi) another form of security that is mutually agreed on between the utility and the debtor or the trustee.

''(B) For purposes of this subsection an administrative expense priority shall not constitute an assurance of payment.

''(2) Subject to paragraphs (3) and (4), with respect to a case filed under chapter 11, a utility referred to in subsection (a) may alter, refuse, or discontinue utility service, if during the 30-day period beginning on the date of the 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 the filing of the petition;

''(ii) the payment by the debtor of charges for utility service in a timely manner before the date of the 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 the 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 individual 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 Judicial Conference of the United States, in accordance with section 2075 of title 28 of the United States Code and after consideration of the views of the Director of the Executive Office for United States Trustees, shall propose amended Federal Rules of Bankruptcy Procedure and in accordance with rule 9009 of the Federal Rules of Bankruptcy Procedure shall prescribe official bankruptcy forms directing debtors under chapter 11 of title 11 of 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 25 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, 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 date of the order for relief in an amount not more than $2,000,000 (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 $2,000,000 (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''.

(c) ADJUSTMENT OF DOLLAR AMOUNTS.—Section 104(b) of title 11, United States Code, as amended by section 226, is amended by inserting ''101(51D),'' after ''101(3),'' each place it appears.

SEC. 433. STANDARD FORM DISCLOSURE STATEMENT AND PLAN.

Within a reasonable period of time after the date of enactment of this Act, the Judicial Conference of the United States shall prescribe in accordance with rule 9009 of the Federal Rules of Bankruptcy Procedure official 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 expenses 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 Judicial Conference of the United States shall propose in accordance with section 2073 of title 28 of the United States Code amended Federal Rules of Bankruptcy Procedure, and shall prescribe in accordance with rule 9009 of the Federal Rules of Bankruptcy Procedure official bankruptcy forms, directing 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 expenses 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) a 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 such debtor to understand such debtor's financial condition and plan the such debtor's future.

SEC. 436. DUTIES IN SMALL BUSINESS CASES.

(a) DUTIES IN CHAPTER 11 CASES.—Subchapter I of chapter 11 of title 11, United States Code, as amended by section 321, 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, after notice and a hearing, waives that requirement 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 taxes entitled to administrative expense priority 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, as amended by section 321, is amended by inserting after the item relating to section 1115 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 a hearing; or

''(B) the court, for cause, orders otherwise;

''(2) the plan and a disclosure statement (if any) 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 court shall confirm a plan that complies with the applicable

provisions of this title and that is filed in accordance with section 1121(e) not later than 45 days after the plan is filed unless the time for confirmation is extended in accordance with 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 date of the 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, 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 sections 106, 305, and 311, is amended—

(1) in subsection (k), as so redesignated by section 305—

(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:

''(n)(1) Except as provided in paragraph (2), subsection (a) does 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 acquired substantially all of the assets or business of a small business debtor described in subparagraph (A), (B), or (C), unless such entity establishes by a preponderance of the evidence that such entity acquired substantially all of the assets or business of such small business debtor in good faith and not for the purpose of evading this paragraph.

''(2) Paragraph (1) 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 the 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, absent unusual circumstances specifically identified by the court that establish that the requested conversion or dismissal is not in the best interests of creditors and the estate, 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 interests of creditors and the estate, if the movant establishes cause.

''(2) The relief provided in paragraph (1) shall not be granted absent unusual circumstances specifically identified by the court that establish that such relief is not in the best interests of creditors and the estate, if the debtor or another party in interest objects and establishes that—

''(A) there is a reasonable likelihood that a plan will be confirmed within the timeframes established in sections 1121(e) and 1129(e) of this title, or if such sections do not apply, within a reasonable period of time; and

''(B) the grounds for granting such relief include an act or omission of the debtor other than under paragraph (4)(A)—

''(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 a 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 such 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 and the absence of a reasonable likelihood of rehabilitation;

''(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 substantially harmful to 1 or more creditors;

''(E) failure to comply with an order of the court;

''(F) unexcused failure to satisfy timely 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 without good cause shown by the debtor;

''(H) failure timely to provide information or attend meetings reasonably requested by the United States trustee (or the bankruptcy administrator, if any);

''(I) failure timely to pay taxes owed after the date of the order for relief or to file tax returns due after the date of 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 of the filing of the petition.

''(5) The court shall commence the hearing on a 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 such 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 Executive Office for 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 a penalty provision, 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 an entity other than the debtor, 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);''.

SEC. 446. DUTIES WITH RESPECT TO A DEBTOR WHO IS A PLAN ADMINISTRATOR OF AN EMPLOYEE BENEFIT PLAN.

(a) IN GENERAL.—Section 521(a) of title 11, United States Code, as amended by sections 106 and 304, is amended—

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

(2) in paragraph (6), by striking the period at the end and inserting ''; and''; and

(3) by adding after paragraph (6) the following:

''(7) unless a trustee is serving in the case, continue to perform the obligations required of the administrator (as defined in section 3 of the Employee Retirement Income Security Act of 1974) of an employee benefit plan if at the time of the commencement of the case the debtor (or any entity designated by the debtor) served as such administrator.''.

(b) DUTIES OF TRUSTEES.—Section 704(a) of title 11, United States Code, as amended by sections 102 and 219, is amended—

(1) in paragraph (10), by striking ''and'' at the end; and

(2) by adding at the end the following:

''(11) if, at the time of the commencement of the case, the debtor (or any entity designated by the debtor) served as the administrator (as defined in section 3 of the Employee Retirement Income Security Act of 1974) of an employee benefit plan, continue to perform the obligations required of the administrator; and''.

(c) CONFORMING AMENDMENT.—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 paragraphs (2), (5), (7), (8), (9), (10), and (11) of section 704;''.

SEC. 447. APPOINTMENT OF COMMITTEE OF RETIRED EMPLOYEES.

Section 1114(d) of title 11, United States Code, is amended—

(1) by striking ''appoint'' and inserting ''order the appointment of'', and

(2) by adding at the end the following: ''The United States trustee shall appoint any such committee.''.

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 the district court, or the clerk of the bankruptcy court if one is certified pursuant to section 156(b) of this title, shall collect statistics regarding debtors who are individuals with primarily consumer debts seeking relief under chapters 7, 11, and 13 of title 11. Those statistics shall be in a standardized format 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 July 1, 2006, 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 debtors;

''(B) the current monthly income, average income, and average expenses of 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 cases filed during 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 date of the filing of the petition and the closing of the case for cases closed during the reporting period;

''(E) for cases closed during the reporting period—

''(i) the number of cases in which a reaffirmation agreement was filed; and

''(ii)(I) the total number of reaffirmation agreements filed;

''(II) of those cases in which a reaffirmation agreement 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 agreement was filed, the number of cases in which the reaffirmation agreement 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 entered determining the value of property securing a claim;

''(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 attorney 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 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.—The uniform forms for final reports required under subsection (a) for use 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.—The uniform forms for periodic reports required under subsection (a) for use 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 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 for 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 that the debtor is required to provide under sections 521 and 1322 of title 11, United States Code, and, if applicable, section 111 of such title, in cases filed under chapter 7 or 13 of such title in which the debtor is an individual. 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 of schedules of income and expenses that 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 2003;''; 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 2003.

''(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 district court (or the clerk of the bankruptcy court if one is certified under section 156(b) of this title) 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 section 106, is amended in each of paragraphs (3) and (4) by inserting ''or an auditor serving 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 that arise after the date of the filing of the 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 such 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 (as defined in section 31701 of title 49) 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 shall maintain a list 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 such governmental unit does not designate an address and provide such address to the clerk under subparagraph (A), 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 such 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 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.''.

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 the filing of the petition'' after ''gross receipts'';

(B) in clause (i), by striking ''for a taxable year ending on or before the date of the 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 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 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, 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 sections 321 and 330, 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—

''(A) of a kind specified in paragraph (2)(A) or (2)(B) of section 523(a) that is owed to a domestic governmental unit, or owed to a person as the result of an action filed under subchapter III of chapter 37 of title 31 or any similar State statute; or

''(B) for a tax or customs duty with respect to which the debtor—

''(i) made a fraudulent return; or

''(ii) willfully attempted in any manner to evade or to defeat such tax or such customs 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 the tax liability of a debtor who is an individual for a taxable period ending before the date of 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 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 by 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 under section 554 of title 11, within a reasonable period of time after the lien attaches, by the trustee in a case under 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 sections 215 and 224, 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 section 703, 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 sections 102, 213, and 306, is amended by inserting after paragraph (8) 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) After notice and a 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 for 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.''.

(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 Judicial Conference of the United States should, as soon as practicable after the date of enactment of this Act, propose amended Federal Rules of Bankruptcy Procedure that provide—

(1) notwithstanding the provisions of Rule 3015(f), in cases under chapter 13 of title 11, United States Code, that 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, that no objection to a claim for 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, as amended by sections 224, 303, 311, and 401, is amended by inserting after paragraph (25) the following:

''(26) under subsection (a), of the setoff under applicable nonbankruptcy law of an income tax refund, by a governmental unit, with respect to a taxable period that ended before the date of the order for relief against an income tax liability for a taxable period that also ended before the date of 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, on the motion of the trustee and after notice and a hearing, grants the taxing authority adequate protection (within the meaning of section 361) for the secured claim of such authority in the setoff under section 506(a);''.

SEC. 719. SPECIAL PROVISIONS RELATED TO THE TREATMENT OF STATE AND LOCAL TAXES.

(a) IN GENERAL.—

(1) SPECIAL PROVISIONS.—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 such 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 date of 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.''.

(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.''.

(b) CONFORMING AMENDMENTS.—Title 11 of the United States Code is amended—

(1) by striking section 728;

(2) in the table of sections for chapter 7 by striking the item relating to section 728;

(3) in section 1146—

(A) by striking subsections (a) and (b); and

(B) by redesignating subsections (c) and (d) as subsections (a) and (b), respectively; and

(4) in section 1231—

(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 sections 106, 225, 305, 315, and 316, is amended by adding at the end the following:

''(j)(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) courts of the United States, 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 pending 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 pending 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, pending 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, 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, such notification shall—

''(1) indicate the time period for filing proofs of claim and specify the place for filing such proofs of claim;

''(2) indicate whether secured creditors need to file proofs of claim; and

''(3) contain any other information required to be included in such 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 proof of 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 a 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 such foreign proceeding and appointing the foreign representative;

''(2) a certificate from the foreign court affirming the existence of such 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 such 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 and that the person or body is a foreign representative, 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) such 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; and

''(3) the petition meets the requirements of section 1515.

''(b) Such foreign proceeding shall be recognized—

''(1) as a foreign main proceeding if it is pending 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. A 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 a 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 such foreign proceeding or the status of the foreign representative's appointment; and

''(2) any other foreign proceeding regarding the debtor that becomes known to the foreign representative.

''§ 1519. Relief that may be granted upon filing petition for recognition

''(a) From the time of filing a petition for recognition until the court rules on the petition, the court may, at the request of the foreign representative, where relief is urgently needed to protect the assets of the debtor or the interests of the creditors, grant relief of a provisional nature, including—

''(1) staying execution against the debtor's assets;

''(2) entrusting the administration or realization of all or part of the debtor's assets located in the United States to the foreign representative or another person authorized by the court, including an examiner, in order to protect and preserve the value of assets that, by their nature or because of other circumstances, are perishable, susceptible to devaluation or otherwise in jeopardy; and

''(3) any relief referred to in paragraph (3), (4), or (7) of section 1521(a).

''(b) Unless extended under section 1521(a)(6), the relief granted under this section terminates when the petition for recognition is granted.

''(c) It is a ground for denial of relief under this section that such relief would interfere with the administration of a foreign main proceeding.

''(d) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.

''(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under this section.

''(f) The exercise of rights not subject to the stay arising under section 362(a) pursuant to paragraph (6), (7), (17), or (27) of section 362(b) or pursuant to section 362(n) 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 the property of the debtor that is within the territorial jurisdiction of the United States;

''(2) sections 363, 549, and 552 apply to a transfer of an interest of the debtor in property that is within the territorial jurisdiction of the United States to the same extent that the sections would apply to property of an estate;

''(3) unless the court orders otherwise, the foreign representative may operate the debtor's business and may exercise the rights and powers of a trustee under and to the extent provided by sections 363 and 552; and

''(4) section 552 applies to property of the debtor that is within the territorial jurisdiction of the United States.

''(b) Subsection (a) does not affect the right to commence an individual action or proceeding in a foreign country to the extent necessary to preserve a claim against the debtor.

''(c) Subsection (a) does not affect the right of a foreign representative or an entity to file a petition commencing a case under this title or the right of any party to file claims or take other proper actions in such a case.

''§ 1521. Relief that may be granted upon recognition

''(a) Upon recognition of a foreign proceeding, whether main or nonmain, where necessary to effectuate the purpose of this chapter and to protect the assets of the debtor or the interests of the creditors, the court may, at the request of the foreign representative, grant any appropriate relief, including—

''(1) staying the commencement or continuation of an individual action or proceeding concerning the debtor's assets, rights, obligations or liabilities to the extent they have not been stayed under section 1520(a);

''(2) staying execution against the debtor's assets to the extent it has not been stayed under section 1520(a);

''(3) suspending the right to transfer, encumber or otherwise dispose of any assets of the debtor to the extent this right has not been suspended under section 1520(a);

''(4) providing for the examination of witnesses, the taking of evidence or the delivery of information concerning the debtor's assets, affairs, rights, obligations or liabilities;

''(5) entrusting the administration or realization of all or part of the debtor's assets within the territorial jurisdiction of the United States to the foreign representative or another person, including an examiner, authorized by the court;

''(6) extending relief granted under section 1519(a); and

''(7) granting any additional relief that may be available to a trustee, except for relief available under sections 522, 544, 545, 547, 548, 550, and 724(a).

''(b) Upon recognition of a foreign proceeding, whether main or nonmain, the court may, at the request of the foreign representative, entrust the distribution of all or part of the debtor's assets located in the United States to the foreign representative or another person, including an examiner, authorized by the court, provided that the court is satisfied that the interests of creditors in the United States are sufficiently protected.

''(c) In granting relief under this section to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the law of the United States, should be administered in the foreign nonmain proceeding or concerns information required in that proceeding.

''(d) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.

''(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under paragraphs (1), (2), (3), and (6) of subsection (a).

''(f) The exercise of rights not subject to the stay arising under section 362(a) pursuant to paragraph (6), (7), (17), or (27) of section 362(b) or pursuant to section 362(n) 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), 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 a 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 a foreign court or a foreign representative, either directly or through the trustee.

''(b) The court is entitled to communicate directly with, or to request information or assistance directly from, a foreign court or a foreign representative, subject to the rights of a party 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 a foreign court or a foreign representative.

''(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 a foreign court or a foreign representative.

''§ 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 pending 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 pending at the time the petition for recognition of such foreign proceeding is filed—

''(A) any relief granted under section 1519 or 1521 must be consistent with the relief granted in the case in the United States; and

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

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

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

''(B) if such 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(n), 555 through 557, and 559 through 562 apply in a case under chapter 15''; and

(2) by adding at the end the following:

''(k) 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 such 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 of the United States 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.—Title 11 of the United States Code is amended—

(1) in section 109(b), by striking paragraph (3) and inserting the following:

''(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 in the United States.'';

(2) in section 303, by striking subsection (k);

(3) by striking section 304;

(4) in the table of sections for chapter 3 by striking the item relating to section 304;

(5) in section 306 by striking '', 304,'' each place it appears;

(6) in section 305(a) by striking paragraph (2) and inserting the following:

''(2)(A) a petition under section 1515 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.''; and

(7) in section 508—

(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) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)) is amended—

(1) by striking ''subsection—'' and inserting ''subsection, the following definitions shall apply:''; and

(2) in clause (i), by inserting '', resolution, or order'' after ''any similar agreement that the Corporation determines by regulation''.

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

''(ii) SECURITIES CONTRACT.—The term 'securities contract'—

''(I) means a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan, or any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or any option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

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

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

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

''(V) means any margin loan;

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

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

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

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

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

this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.''.

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

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

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

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

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

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

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

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

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

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

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

''(X) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.''.

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

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

''(I) a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade, or product or byproduct thereof, with a maturity date more than 2 days after the date the contract is entered into, including, a repurchase transaction, reverse repurchase transaction, consignment, lease, swap, hedge transaction, deposit, loan, option, allocated transaction, unallocated transaction, or any other similar agreement;

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

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

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

''(V) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (II), (III), or (IV), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.''.

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

''(v) REPURCHASE AGREEMENT.—The term 'repurchase agreement' (which definition also applies to a reverse repurchase agreement)—

''(I) means an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage-related securities (as such term is defined in the Securities Exchange Act of 1934), mortgage loans, interests in mortgage-related securities or mortgage loans, eligible bankers' acceptances, qualified foreign government securities or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests as described above, at a date certain not later than 1 year after such transfers or on demand, against the transfer of funds, or any other similar agreement;

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

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

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

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

''(VI) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

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

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

''(vi) SWAP AGREEMENT.—The term 'swap agreement' means—

''(I) any agreement, including the terms and conditions incorporated by reference in any such agreement, which is an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap; a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement; a currency swap, option, future, or forward agreement; an equity index or equity swap, option, future, or forward agreement; a debt index or debt swap, option, future, or forward agreement; a total return, credit spread or credit swap, option, future, or forward agreement; a commodity index or commodity swap, option, future, or forward agreement; or a weather swap, weather derivative, or weather option;

''(II) any agreement or transaction that is similar to any other agreement or transaction referred to in this clause and that is of a type that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap markets (including terms and conditions incorporated by reference in such agreement) and that is a forward, swap, future, or option on one or more rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments, quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial risk or value;

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

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

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

''(VI) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in subclause (I), (II), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

Such term is applicable for purposes of this subsection only and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000.''.

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

''(viii) TRANSFER.—The term 'transfer' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest and foreclosure of the depository institution's equity of redemption.''.

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

(1) in subparagraph (A)—

(A) by striking ''paragraph (10)'' and inserting ''paragraphs (9) and (10)'';

(B) in clause (i), by striking ''to cause the termination or liquidation'' and inserting ''such person has to cause the termination, liquidation, or acceleration''; and

(C) by striking clause (ii) and inserting the following:

''(ii) any right under any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts described in clause (i);''; and

(2) in subparagraph (E), by striking clause (ii) and inserting the following:

''(ii) any right under any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts described in clause (i);''.

(i) AVOIDANCE OF TRANSFERS.—Section 11(e)(8)(C)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(C)(i)) is amended by inserting ''section 5242 of the Revised Statutes of the United States or any other Federal or State law relating to the avoidance of preferential or fraudulent transfers,'' before ''the Corporation''.

SEC. 902. AUTHORITY OF THE CORPORATION WITH RESPECT TO FAILED AND FAILING INSTITUTIONS.

(a) IN GENERAL.—Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended—

(1) in subparagraph (E), by striking ''other than paragraph (12) of this subsection, subsection (d)(9)'' and inserting ''other than subsections (d)(9) and (e)(10)''; and

(2) by adding at the end the following new subparagraphs:

''(F) CLARIFICATION.—No provision of law shall be construed as limiting the right or power of the Corporation, or authorizing any court or agency to limit or delay, in any manner, the right or power of the Corporation to transfer any qualified financial contract in accordance with paragraphs (9) and (10) of this subsection or to disaffirm or repudiate any such contract in accordance with subsection (e)(1) of this section.

''(G) WALKAWAY CLAUSES NOT EFFECTIVE.—

''(i) IN GENERAL.—Notwithstanding the provisions of subparagraphs (A) and (E), and sections 403 and 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, no walkaway clause shall be enforceable in a qualified financial contract of an insured depository institution in default.

''(ii) WALKAWAY CLAUSE DEFINED.—For purposes of this subparagraph, the term 'walkaway clause' means a provision in a qualified financial contract that, after calculation of a value of a party's position or an amount due to or from 1 of the parties in accordance with its terms upon termination, liquidation, or acceleration of the qualified financial contract, either does not create a payment obligation of a party or extinguishes a payment obligation of a party in whole or in part solely because of such party's status as a nondefaulting party.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 11(e)(12)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(12)(A)) is amended by inserting ''or the exercise of rights or powers by'' after ''the appointment of''.

SEC. 903. AMENDMENTS RELATING TO TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS.

(a) TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS TO FINANCIAL INSTITUTIONS.—Section 11(e)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(9)) is amended to read as follows:

''(9) TRANSFER OF QUALIFIED FINANCIAL CONTRACTS.—

''(A) IN GENERAL.—In making any transfer of assets or liabilities of a depository institution in default which includes any qualified financial contract, the conservator or receiver for such depository institution shall either—

''(i) transfer to one financial institution, other than a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding—

''(I) all qualified financial contracts between any person or any affiliate of such person and the depository institution in default;

''(II) all claims of such person or any affiliate of such person against such depository institution under any such contract (other than any claim which, under the terms of any such contract, is subordinated to the claims of general unsecured creditors of such institution);

''(III) all claims of such depository institution against such person or any affiliate of such person under any such contract; and

''(IV) all property securing or any other credit enhancement for any contract described in subclause (I) or any claim described in subclause (II) or (III) under any such contract; or

''(ii) transfer none of the qualified financial contracts, claims, property or other credit enhancement referred to in clause (i) (with respect to such person and any affiliate of such person).

''(B) TRANSFER TO FOREIGN BANK, FOREIGN FINANCIAL INSTITUTION, OR BRANCH OR AGENCY OF A FOREIGN BANK OR FINANCIAL INSTITUTION.—In transferring any qualified financial contracts and related claims and property under subparagraph (A)(i), the conservator or receiver for the depository institution shall not make such transfer to a foreign bank, financial institution organized under the laws of a foreign country, or a branch or agency of a foreign bank or financial institution unless, under the law applicable to such bank, financial institution, branch or agency, to the qualified financial contracts, and to any netting contract, any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts, the contractual rights of the parties to such qualified financial contracts, netting contracts, security agreements or arrangements, or other credit enhancements are enforceable substantially to the same extent as permitted under this section.

''(C) TRANSFER OF CONTRACTS SUBJECT TO THE RULES OF A CLEARING ORGANIZATION.—In the event that a conservator or receiver transfers any qualified financial contract and related claims, property, and credit enhancements pursuant to subparagraph (A)(i) and such contract is cleared by or subject to the rules of a clearing organization, the clearing organization shall not be required to accept the transferee as a member by virtue of the transfer.

''(D) DEFINITIONS.—For purposes of this paragraph, the term 'financial institution' means a broker or dealer, a depository institution, a futures commission merchant, or any other institution, as determined by the Corporation by regulation to be a financial institution, and the term 'clearing organization' has the same meaning as in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991.''.

(b) NOTICE TO QUALIFIED FINANCIAL CONTRACT COUNTERPARTIES.—Section 11(e)(10)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(10)(A)) is amended in the material immediately following clause (ii) by striking ''the conservator'' and all that follows through the period and inserting the following: ''the conservator or receiver shall notify any person who is a party to any such contract of such transfer by 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver in the case of a receivership, or the business day following such transfer in the case of a conservatorship.''.

(c) RIGHTS AGAINST RECEIVER AND TREATMENT OF BRIDGE BANKS.—Section 11(e)(10) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(10)) is amended—

(1) by redesignating subparagraph (B) as subparagraph (D); and

(2) by inserting after subparagraph (A) the following new subparagraphs:

''(B) CERTAIN RIGHTS NOT ENFORCEABLE.—

''(i) RECEIVERSHIP.—A person who is a party to a qualified financial contract with an insured depository institution may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(A) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a receiver for the depository institution (or the insolvency or financial condition of the depository institution for which the receiver has been appointed)—

''(I) until 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver; or

''(II) after the person has received notice that the contract has been transferred pursuant to paragraph (9)(A).

''(ii) CONSERVATORSHIP.—A person who is a party to a qualified financial contract with an insured depository institution may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(E) of this subsection or 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 conservator for the depository institution (or the insolvency or financial condition of the depository institution for which the conservator has been appointed).

''(iii) NOTICE.—For purposes of this paragraph, the Corporation as receiver or conservator of an insured depository institution shall be deemed to have notified a person who is a party to a qualified financial contract with such depository institution if the Corporation has taken steps reasonably calculated to provide notice to such person by the time specified in subparagraph (A).

''(C) TREATMENT OF BRIDGE BANKS.—The following institutions shall not be considered to be a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding for purposes of paragraph (9):

''(i) A bridge bank.

''(ii) A depository institution organized by the Corporation, for which a conservator is appointed either—

''(I) immediately upon the organization of the institution; or

''(II) at the time of a purchase and assumption transaction between the depository institution and the Corporation as receiver for a depository institution in default.''.

SEC. 904. AMENDMENTS RELATING TO DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.

Section 11(e) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)) is amended—

(1) by redesignating paragraphs (11) through (15) as paragraphs (12) through (16), respectively;

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

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

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

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

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

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

(3) by adding at the end the following new paragraph:

''(17) SAVINGS CLAUSE.—The meanings of terms used in this subsection are applicable for purposes of this subsection only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any similar terms under any other statute, regulation, or rule, including the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities laws (as that

term is defined in section 3(a)(47) of the Securities Exchange Act of 1934), and the Commodity Exchange Act.''.

SEC. 905. CLARIFYING AMENDMENT RELATING TO MASTER AGREEMENTS.

Section 11(e)(8)(D)(vii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(vii)) is amended to read as follows:

''(vii) TREATMENT OF MASTER AGREEMENT AS ONE AGREEMENT.—Any master agreement for any contract or agreement described in any preceding clause of this subparagraph (or any master agreement for such master agreement or agreements), together with all supplements to such master agreement, shall be treated as a single agreement and a single qualified financial contract. If a master agreement contains provisions relating to agreements or transactions that are not themselves qualified financial contracts, the master agreement shall be deemed to be a qualified financial contract only with respect to those transactions that are themselves qualified financial contracts.''.

SEC. 906. FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991.

(a) DEFINITIONS.—Section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4402) is amended—

(1) in paragraph (2)—

(A) in subparagraph (A)(ii), by inserting before the semicolon '', or is exempt from such registration by order of the Securities and Exchange Commission''; and

(B) in subparagraph (B), by inserting before the period '', that has been granted an exemption under section 4(c)(1) of the Commodity Exchange Act, or that is a multilateral clearing organization (as defined in section 408 of this Act)'';

(2) in paragraph (6)—

(A) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively;

(B) by inserting after subparagraph (A) the following new subparagraph:

''(B) an uninsured national bank or an uninsured State bank that is a member of the Federal Reserve System, if the national bank or State member bank is not eligible to make application to become an insured bank under section 5 of the Federal Deposit Insurance Act;''; and

(C) by amending subparagraph (C), so 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 close out values relating to such obligations or entitlements) among the parties to the agreement; and''; and

(5) by adding at the end the following new paragraph:

''(15) PAYMENT.—The term 'payment' means a payment of United States dollars, another currency, or a composite currency, and a noncash delivery, including a payment or delivery to liquidate an unmatured obligation.''.

(b) ENFORCEABILITY OF BILATERAL NETTING CONTRACTS.—Section 403 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4403) is amended—

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

''(a) GENERAL RULE.—Notwithstanding any other provision of State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act or any order authorized under section 5(b)(2) of the Securities Investor Protection Act of 1970), the covered contractual payment obligations and the covered contractual payment entitlements between any 2 financial institutions shall be netted in accordance with, and subject to the conditions of, the terms of any applicable netting contract (except as provided in section 561(b)(2) of title 11, United States Code).''; and

(2) by adding at the end the following new subsection:

''(f) ENFORCEABILITY OF SECURITY AGREEMENTS.—The provisions of any security agreement or arrangement or other credit enhancement related to one or more netting contracts between any 2 financial institutions shall be enforceable in accordance with their terms (except as provided in section 561(b)(2) of title 11, United States Code), and shall not be stayed, avoided, or otherwise limited by any State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act and section 5(b)(2) of the Securities Investor Protection Act of 1970).''.

(c) ENFORCEABILITY OF CLEARING ORGANIZATION NETTING CONTRACTS.—Section 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4404) is amended—

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

''(a) GENERAL RULE.—Notwithstanding any other provision of State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act and any order authorized under section 5(b)(2) of the Securities Investor Protection Act of 1970), the covered contractual payment obligations and the covered contractual payment entitlements of a member of a clearing organization to and from all other members of a clearing organization shall be netted in accordance with and subject to the conditions of any applicable netting contract (except as provided in section 561(b)(2) of title 11, United States Code).''; and

(2) by adding at the end the following new subsection:

''(h) ENFORCEABILITY OF SECURITY AGREEMENTS.—The provisions of any security agreement or arrangement or other credit enhancement related to one or more netting contracts between any 2 members of a clearing organization shall be enforceable in accordance with their terms (except as provided in section 561(b)(2) of title 11, United States Code), and shall not be stayed, avoided, or otherwise limited by any State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act and section 5(b)(2) of the Securities Investor Protection Act of 1970).''.

(d) ENFORCEABILITY OF CONTRACTS WITH UNINSURED NATIONAL BANKS, UNINSURED FEDERAL BRANCHES AND AGENCIES, CERTAIN UNINSURED STATE MEMBER BANKS, AND EDGE ACT CORPORATIONS.—The Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4401 et seq.) is amended—

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

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

''SEC. 407. TREATMENT OF CONTRACTS WITH UNINSURED NATIONAL BANKS, UNINSURED FEDERAL BRANCHES AND AGENCIES, CERTAIN UNINSURED STATE MEMBER BANKS, AND EDGE ACT CORPORATIONS.

''(a) IN GENERAL.—Notwithstanding any other provision of law, paragraphs (8), (9), (10), and (11) of section 11(e) of the Federal Deposit Insurance Act shall apply to an uninsured national bank or uninsured Federal branch or Federal agency, a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act, except that for such purpose—

''(1) any reference to the 'Corporation as receiver' or 'the receiver or the Corporation' shall refer to the receiver appointed by the Comptroller of the Currency in the case of an uninsured national bank or uninsured Federal branch or agency, or to the receiver appointed by the Board of Governors of the Federal Reserve System in the case of a corporation chartered under section 25A of the Federal Reserve Act or an uninsured State member bank;

''(2) any reference to the 'Corporation' (other than in section 11(e)(8)(D) of such Act), the 'Corporation, whether acting as such or as conservator or receiver', a 'receiver', or a 'conservator' shall refer to the receiver or conservator appointed by the Comptroller of the Currency in the case of an uninsured national bank or uninsured Federal branch or agency, or to the receiver or conservator appointed by the Board of Governors of the Federal Reserve System in the case of a corporation chartered under section 25A of the Federal Reserve Act or an uninsured State member bank; and

''(3) any reference to an 'insured depository institution' or 'depository institution' shall refer to an uninsured national bank, an uninsured Federal branch or Federal agency, a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act.

''(b) LIABILITY.—The liability of a receiver or conservator of an uninsured national bank, uninsured Federal branch or agency, a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act, shall be determined in the same manner and subject to the same limitations that apply to receivers and conservators of insured depository institutions under section 11(e) of the Federal Deposit Insurance Act.

''(c) REGULATORY AUTHORITY.—

''(1) IN GENERAL.—The Comptroller of the Currency in the case of an uninsured national bank or uninsured Federal branch or agency and the Board of Governors of the Federal Reserve System in the case of a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank that operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act, in consultation with the Federal Deposit Insurance Corporation, may each promulgate regulations solely to implement this section.

''(2) SPECIFIC REQUIREMENT.—In promulgating regulations, limited solely to implementing paragraphs (8), (9), (10), and (11) of section 11(e) of the Federal Deposit Insurance Act, the Comptroller of the Currency and the Board of Governors of the Federal Reserve System each shall ensure that 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 LAW AMENDMENTS.

(a) DEFINITIONS OF FORWARD CONTRACT, REPURCHASE AGREEMENT, SECURITIES CLEARING AGENCY, SWAP AGREEMENT, COMMODITY CONTRACT, AND SECURITIES CONTRACT.—Title 11, United States Code, is amended—

(1) in section 101—

(A) in paragraph (25)—

(i) by striking ''means a contract'' and inserting ''means—

''(A) a contract'';

(ii) by striking '', or any combination thereof or option thereon;*'' and inserting ''*, or any other similar agreement;*''; and*

(iii) by adding at the end the following:

''(B) any combination of agreements or transactions referred to in subparagraphs (A) and (C);

''(C) any option to enter into an agreement or transaction referred to in subparagraph (A) or (B);

''(D) a master agreement that provides for an agreement or transaction referred to in subparagraph (A), (B), or (C), together with all supplements to any such master agreement, without regard to whether such master agreement provides for an agreement or transaction that is not a forward contract under this paragraph, except that such master agreement shall be considered to be a forward contract under this paragraph only with respect to each agreement or transaction under such master agreement that is referred to in subparagraph (A), (B), or (C); or

''(E) any security agreement or arrangement, or other credit enhancement related to any agreement or transaction referred to in subparagraph (A), (B), (C), or (D), including any guarantee or reimbursement obligation by or to a forward contract merchant or financial participant in connection with any agreement or transaction referred to in any such subparagraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562;'';

(B) in paragraph (46), by striking ''on any day during the period beginning 90 days before the date of'' and inserting ''at any time before'';

(C) by amending paragraph (47) to read as follows:

''(47) 'repurchase agreement' (which definition also applies to a reverse repurchase agreement)—

''(A) means—

''(i) an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage related securities (as defined in section 3 of the Securities Exchange Act of 1934), mortgage loans, interests in mortgage related securities or mortgage loans, eligible bankers' acceptances, qualified foreign government securities (defined as a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development), or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests, with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptance, securities, mortgage loans, or interests of the kind described in this clause, at a date certain not later than 1 year after such transfer or on demand, against the transfer of funds;

''(ii) any combination of agreements or transactions referred to in clauses (i) and (iii);

''(iii) an option to enter into an agreement or transaction referred to in clause (i) or (ii);

''(iv) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), or (iii), together with all supplements to any such master agreement, without regard to whether such master agreement provides for an agreement or transaction that is not a repurchase agreement under this paragraph, except that such master agreement shall be considered to be a repurchase agreement under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in clause (i), (ii), or (iii); or

''(v) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in clause (i), (ii), (iii), or (iv), including any guarantee or reimbursement obligation by or to a repo participant or financial participant in connection with any agreement or transaction referred to in any such clause, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562 of this title; and

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

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

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

''(53B) 'swap agreement'—

''(A) means—

''(i) any agreement, including the terms and conditions incorporated by reference in such agreement, which is—

''(I) an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap;

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

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

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

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

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

''(VII) a commodity index or a commodity swap, option, future, or forward agreement; or

''(VIII) a weather swap, weather derivative, or weather option;

''(ii) any agreement or transaction that is similar to any other agreement or transaction referred to in this paragraph and that—

''(I) is of a type that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap markets (including terms and conditions incorporated by reference therein); and

''(II) is a forward, swap, future, or option on one or more rates, currencies, commodities, equity securities, or other equity instruments, debt securities or other debt instruments, quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial risk or value;

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

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

''(v) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), (iii), or (iv), together with all supplements to any such master agreement, and without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this paragraph, except that the master agreement shall be considered to be a swap agreement under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in clause (i), (ii), (iii), or (iv); or

''(vi) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in clause (i) through (v), including any guarantee or reimbursement obligation by or to a swap participant or financial participant in connection with any agreement or transaction referred to in any such clause, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562; and

''(B) is applicable for purposes of this title only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000;'';

(2) in section 741(7), by striking paragraph (7) and inserting the following:

''(7) 'securities contract'—

''(A) means—

''(i) a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan or any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including an interest therein or based on the value thereof), or option on any of the foregoing, including an option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

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

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

''(iv) any margin loan;

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

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

''(vii) any option to enter into any agreement or transaction referred to in this subparagraph;

''(viii) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), (iii), (iv), (v), (vi), or (vii), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this subparagraph, except that such master agreement shall be considered to be a securities contract under this subparagraph only with respect to each agreement or transaction under such master agreement that is referred to in clause (i), (ii), (iii), (iv), (v), (vi), or (vii); or

''(ix) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this subparagraph, including any guarantee or reimbursement obligation by or to a stockbroker, securities clearing agency, financial institution, or financial participant in connection with any agreement or transaction referred to in this subparagraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562; and

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

(3) in section 761(4)—

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

(B) by adding at the end the following:

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

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

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

''(I) a master agreement that provides for an agreement or transaction referred to in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H), together with all supplements to such master

agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a commodity contract under this paragraph, except that the master agreement shall be considered to be a commodity contract under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H); or

''(J) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this paragraph, including any guarantee or reimbursement obligation by or to a commodity broker or financial participant in connection with any agreement or transaction referred to in this paragraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562;''.

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

(1) by striking paragraph (22) and inserting the following:

''(22) 'financial institution' means—

''(A) a Federal reserve bank, or an entity (domestic or foreign) that is a commercial or savings bank, industrial savings bank, savings and loan association, trust company, or receiver or conservator for such entity and, when any such Federal reserve bank, receiver, conservator or entity is acting as agent or custodian for a customer in connection with a securities contract (as defined in section 741) such customer; or

''(B) in connection with a securities contract (as defined in section 741) an investment company registered under the Investment Company Act of 1940;'';

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

''(22A) 'financial participant' means—

''(A) an entity that, at the time it enters into a securities contract, commodity contract, swap agreement, repurchase agreement, or forward contract, or at the time of the date of the filing of the petition, has one or more agreements or transactions described in paragraph (1), (2), (3), (4), (5), or (6) of section 561(a) with the debtor or any other entity (other than an affiliate) of a total gross dollar value of not less than $1,000,000,000 in notional or actual principal amount outstanding on any day during the previous 15-month period, or has gross mark-to-market positions of not less than $100,000,000 (aggregated across counterparties) in one or more such agreements or transactions with the debtor or any other entity (other than an affiliate) on any day during the previous 15-month period; or

''(B) a clearing organization (as defined in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991);''; and

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

''(26) 'forward contract merchant' means a Federal reserve bank, or an entity the business of which consists in whole or in part of entering into forward contracts as or with merchants in a commodity (as defined in section 761) or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade;''.

(c) DEFINITION OF MASTER NETTING AGREEMENT AND MASTER NETTING AGREEMENT PARTICIPANT.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (38) the following new paragraphs:

''(38A) 'master netting agreement'—

''(A) means an agreement providing for the exercise of rights, including rights of netting, setoff, liquidation, termination, acceleration, or close out, under or in connection with one or more contracts that are described in any one or more of paragraphs (1) through (5) of section 561(a), or any security agreement or arrangement or other credit enhancement related to one or more of the foregoing, including any guarantee or reimbursement obligation related to 1 or more of the foregoing; and

''(B) if the agreement contains provisions relating to agreements or transactions that are not contracts described in paragraphs (1) through (5) of section 561(a), shall be deemed to be a master netting agreement only with respect to those agreements or transactions that are described in any one or more of paragraphs (1) through (5) of section 561(a);

''(38B) 'master netting agreement participant' means an entity that, at any time before the date of the filing of the petition, is a party to an outstanding master netting agreement with the debtor;''.

(d) SWAP AGREEMENTS, SECURITIES CONTRACTS, COMMODITY CONTRACTS, FORWARD CONTRACTS, REPURCHASE AGREEMENTS, AND MASTER NETTING AGREEMENTS UNDER THE AUTOMATIC-STAY.—

(1) IN GENERAL.—Section 362(b) of title 11, United States Code, as amended by sections 224, 303, 311, 401, and 718, is amended—

(A) in paragraph (6), by inserting '', pledged to, under the control of,'' after ''held by'';

(B) in paragraph (7), by inserting '', pledged to, under the control of,'' after ''held by'';

(C) by striking paragraph (17) and inserting the following:

''(17) under subsection (a), of the setoff by a swap participant or financial participant of a mutual debt and claim under or in connection with one or more swap agreements that constitutes the setoff of a claim against the debtor for any payment or other transfer of property due from the debtor under or in connection with any swap agreement against any payment due to the debtor from the swap participant or financial participant under or in connection with any swap agreement or against cash, securities, or other property held by, pledged to, under the control of, or due from such swap participant or financial participant to margin, guarantee, secure, or settle any swap agreement;''; and

(D) by inserting after paragraph (26) the following:

''(27) under subsection (a), of the setoff by a master netting agreement participant of a mutual debt and claim under or in connection with one or more master netting agreements or any contract or agreement subject to such agreements that constitutes the setoff of a claim against the debtor for any payment or other transfer of property due from the debtor under or in connection with such agreements or any contract or agreement subject to such agreements against any payment due to the debtor from such master netting agreement participant under or in connection with such agreements or any contract or agreement subject to such agreements or against cash, securities, or other property held by, pledged to, 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; and''.

(2) LIMITATION.—Section 362 of title 11, United States Code, as amended by sections 106, 305, 311, and 441, is amended by adding at the end the following:

''(o) The exercise of rights not subject to the stay arising under subsection (a) pursuant to paragraph (6), (7), (17), or (27) of subsection (b) shall not be stayed by any order of a court or administrative agency in any proceeding under this title.''.

(e) LIMITATION OF AVOIDANCE POWERS UNDER MASTER NETTING AGREEMENT.—Section 546 of title 11, United States Code, is amended—

(1) in subsection (g) (as added by section 103 of Public Law 101–311)—

(A) by striking ''under a swap agreement'';

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

(C) by inserting ''or financial participant'' after ''swap participant''; and

(2) by adding at the end the following:

''(j) Notwithstanding sections 544, 545, 547, 548(a)(1)(B), and 548(b) the trustee may not avoid a transfer made by or to a master netting agreement participant under or in connection with any master netting agreement or any individual contract covered thereby that is made before the commencement of the case, except under section 548(a)(1)(A) and except to the extent that the trustee could otherwise avoid such a transfer made under an individual contract covered by such master netting agreement.''.

(f) FRAUDULENT TRANSFERS OF MASTER NETTING AGREEMENTS.—Section 548(d)(2) of title 11, United States Code, is amended—

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

(2) in subparagraph (D), by striking the period and inserting ''; and''; and

(3) by adding at the end the following new subparagraph:

''(E) a master netting agreement participant that receives a transfer in connection with a master netting agreement or any individual contract covered thereby takes for value to the extent of such transfer, except that, with respect to a transfer under any individual contract covered thereby, to the extent that such master netting agreement participant otherwise did not take (or is otherwise not deemed to have taken) such transfer for value.''.

(g) TERMINATION OR ACCELERATION OF SECURITIES CONTRACTS.—Section 555 of title 11, United States Code, is amended—

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

''§ 555. Contractual right to liquidate, terminate, or accelerate a securities contract'';

and

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

(h) TERMINATION OR ACCELERATION OF COMMODITIES OR FORWARD CONTRACTS.—Section 556 of title 11, United States Code, is amended—

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

''§ 556. Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract'';

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

(3) in the second sentence, by striking ''As used'' and all that follows through ''right,'' and inserting ''As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof and a right,''.

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

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

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

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

(3) in the third sentence, by striking ''As used'' and all that follows through ''right,'' and inserting ''As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof and a right,''.

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

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

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

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

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

(4) in the second sentence, by striking ''As used'' and all that follows through ''right,'' and inserting ''As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof and a right,''.

(k) LIQUIDATION, TERMINATION, ACCELERATION, OR OFFSET UNDER A MASTER NETTING AGREEMENT AND ACROSS CONTRACTS.—

(1) IN GENERAL.—Title 11, United States Code, is amended by inserting after section 560 the following:

''§ 561. Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts; proceedings under chapter 15

''(a) 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)(1) A party may exercise a contractual right described in subsection (a) to terminate, liquidate, or accelerate only to the extent that such party could exercise such a right under section 555, 556, 559, or 560 for each individual contract covered by the master netting agreement in issue.

''(2) If a debtor is a commodity broker subject to subchapter IV of chapter 7—

''(A) a party may not net or offset an obligation to the debtor arising under, or in connection with, a commodity contract traded on or subject to the rules of a contract market designated under the Commodity Exchange Act or a derivatives transaction execution facility registered under the Commodity Exchange Act against any claim arising under, or in connection with, other instruments, contracts, or agreements listed in subsection (a) except to the extent that the party has positive net equity in the commodity accounts at the debtor, as calculated under such subchapter; and

''(B) another commodity broker may not net or offset an obligation to the debtor arising under, or in connection with, a commodity contract entered into or held on behalf of a customer of the debtor and traded on or subject to the rules of a contract market designated under the Commodity Exchange Act or a derivatives transaction execution facility registered under the Commodity Exchange Act against any claim arising under, or in connection with, other instruments, contracts, or agreements listed in subsection (a).

''(3) No provision of subparagraph (A) or (B) of paragraph (2) shall prohibit the offset of claims and obligations that arise under—

''(A) a cross-margining agreement or similar arrangement that has been approved by the Commodity Futures Trading Commission or submitted to the Commodity Futures Trading Commission under paragraph (1) or (2) of section 5c(c) of the Commodity Exchange Act and has not been abrogated or rendered ineffective by the Commodity Futures Trading Commission; or

''(B) any other netting agreement between a clearing organization (as defined in section 761) and another entity that has been approved by the Commodity Futures Trading Commission.

''(c) As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof, and a right, whether or not evidenced in writing, arising under common law, under law merchant, or by reason of normal business practice.

''(d) 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, so that enforcement of contractual provisions of such contracts and agreements in accordance with their terms will not be stayed or otherwise limited by operation of any provision of this title or by order of a court in any case under this title, and to limit avoidance powers to the same extent as in a proceeding under chapter 7 or 11 of this title (such enforcement not to be limited based on the presence or absence of assets of the debtor in the United States).''.

(2) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, is amended by inserting after the item relating to section 560 the following:

''561. Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts; proceedings under chapter 15.''.

(l) COMMODITY BROKER LIQUIDATIONS.—Title 11, United States Code, is amended by inserting after section 766 the following:

''§ 767. Commodity broker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants

''Notwithstanding any other provision of this title, the exercise of rights by a forward contract merchant, commodity broker, stockbroker, financial institution, financial participant, securities clearing agency, swap participant, repo participant, or master netting agreement participant under this title shall not affect the priority of any unsecured claim it may have after the exercise of such rights.''.

(m) STOCKBROKER LIQUIDATIONS.—Title 11, United States Code, is amended by inserting after section 752 the following:

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

''Notwithstanding any other provision of this title, the exercise of rights by a forward contract merchant, commodity broker, stockbroker, financial institution, 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.''.

(n) SETOFF.—Section 553 of title 11, United States Code, is amended—

(1) in subsection (a)(2)(B)(ii), by inserting before the semicolon the following: ''(except for a setoff of a kind described in section 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(27), 555, 556, 559, 560, or 561)'';

(2) in subsection (a)(3)(C), by inserting before the period the following: ''(except for a setoff of a kind described in section 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(27), 555, 556, 559, 560, or 561)''; and

(3) in subsection (b)(1), by striking ''362(b)(14),'' and inserting ''362(b)(17), 362(b)(27), 555, 556, 559, 560, 561,''.

(o) SECURITIES CONTRACTS, COMMODITY CONTRACTS, AND FORWARD CONTRACTS.—Title 11, United States Code, is amended—

(1) in section 362(b)(6), by striking ''financial institutions,'' each place such term appears and inserting ''financial institution, financial participant,'';

(2) in sections 362(b)(7) and 546(f), by inserting ''or financial participant'' after ''repo participant'' each place such term appears;

(3) in section 546(e), by inserting ''financial participant,'' after ''financial institution,'';

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

(5) in section 548(d)(2)(C), by inserting ''or financial participant'' after ''repo participant'';

(6) in section 548(d)(2)(D), by inserting ''or financial participant'' after ''swap participant'';

(7) in section 555—

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

(B) by striking the second sentence and inserting the following: ''As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act), or in a resolution of the governing board thereof, and

a right, whether or not in writing, arising under common law, under law merchant, or by reason of normal business practice.'';

(8) in section 556, by inserting '', financial participant,'' after ''commodity broker'';

(9) in section 559, by inserting ''or financial participant'' after ''repo participant'' each place such term appears; and

(10) in section 560, by inserting ''or financial participant'' after ''swap participant''.

(p) CONFORMING AMENDMENTS.—Title 11, United States Code, is amended—

(1) in the table of sections for chapter 5—

(A) by amending the items relating to sections 555 and 556 to read as follows:

''555. Contractual right to liquidate, terminate, or accelerate a securities contract.

''556. Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract.'';

and

(B) by amending the items relating to sections 559 and 560 to read as follows:

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

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

and

(2) in the table of sections for chapter 7—

(A) by inserting after the item relating to section 766 the following:

''767. Commodity broker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.'';

and

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

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

SEC. 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 by any insured depository institution with respect to qualified financial contracts (including market valuations) only if such insured depository institution is in a troubled condition (as such term is defined by the Corporation pursuant to section 32).''.

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 section 907, the following:

''§562. Timing of damage measurement in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, and master netting agreements

''(a) 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 or dates of such liquidation, termination, or acceleration.

''(b) If there are not any commercially reasonable determinants of value as of any date referred to in paragraph (1) or (2) of subsection (a), damages shall be measured as of the earliest subsequent date or dates on which there are commercially reasonable determinants of value.

''(c) For the purposes of subsection (b), if damages are not measured as of the date or dates of rejection, liquidation, termination, or acceleration, and the forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant or the trustee objects to the timing of the measurement of damages—

''(1) the trustee, in the case of an objection by a forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant; or

''(2) the forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant, in the case of an objection by the trustee,

has the burden of proving that there were no commercially reasonable determinants of value as of such date or dates.''; and

(2) in the table of sections for chapter 5, by inserting after the item relating to section 561 (as added by section 907) the following new item:

''562. Timing of 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 shall be allowed under subsection (a), (b), or (c), or disallowed under subsection (d) or (e), as if such claim had arisen before the date of the filing of the petition.''.

SEC. 911. SIPC STAY.

Section 5(b)(2) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78eee(b)(2)) is amended by adding at the end the following new subparagraph:

''(C) EXCEPTION FROM STAY.—

''(i) Notwithstanding section 362 of title 11, United States Code, neither the filing of an application under subsection (a)(3) nor any order or decree obtained by SIPC from the court shall operate as a stay of any contractual rights of a creditor to liquidate, terminate, or accelerate a securities contract, commodity contract, forward contract, repurchase agreement, swap agreement, or master netting agreement, as those terms are defined in sections 101, 741, and 761 of title 11, United States Code, to offset or net termination values, payment amounts, or other transfer obligations arising under or in connection with one or more of such contracts or agreements, or to foreclose on any cash collateral pledged by the debtor, whether or not with respect to one or more of such contracts or agreements.

''(ii) Notwithstanding clause (i), such application, order, or decree may operate as a stay of the foreclosure on, or disposition of, securities collateral pledged by the debtor, whether or not with respect to one or more of such contracts or agreements, securities sold by the debtor under a repurchase agreement, or securities lent under a securities lending agreement.

''(iii) As used in this subparagraph, the term 'contractual right' includes a right set forth in a rule or bylaw of a national securities exchange, a national securities association, or a securities clearing agency, a right set forth in a bylaw of a clearing organization or contract market or in a resolution of the governing board thereof, and a right, whether or not in writing, arising under common law, under law merchant, or by reason of normal business practice.''.

TITLE X—PROTECTION OF FAMILY FARMERS AND FAMILY FISHERMEN

SEC. 1001. PERMANENT REENACTMENT OF CHAPTER 12.

(a) REENACTMENT.—

(1) IN GENERAL.—Chapter 12 of title 11, United States Code, as reenacted by section 149 of division C of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277), is hereby reenacted, and as here reenacted is amended by this Act.

(2) EFFECTIVE DATE.—Subsection (a) shall take effect on the date of the enactment of this Act.

(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, as amended by section 226, is amended by inserting ''101(18),'' after ''101(3),'' each place it appears.

SEC. 1003. CERTAIN CLAIMS OWED TO GOVERNMENTAL UNITS.

(a) CONTENTS OF PLAN.—Section 1222(a)(2) of title 11, United States Code, as amended by section 213, 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 section 719, is amended by striking ''a State or local governmental unit'' and inserting ''any governmental unit''.

(c) EFFECTIVE DATE; APPLICATION OF AMENDMENTS.—This section and the amendments made by this section shall take effect on the date of

the enactment of this Act and shall not apply with respect to cases commenced under title 11 of the United States Code before such date.

SEC. 1004. DEFINITION OF FAMILY FARMER.

Section 101(18) of title 11, United States Code, is amended—

(1) in subparagraph (A)—

(A) by striking ''$1,500,000'' and inserting ''$3,237,000''; and

(B) by striking ''80'' and inserting ''50''; and

(2) in subparagraph (B)(ii)—

(A) by striking ''$1,500,000'' and inserting ''$3,237,000''; and

(B) by striking ''80'' and inserting ''50''.

SEC. 1005. ELIMINATION OF REQUIREMENT THAT FAMILY FARMER AND SPOUSE RECEIVE OVER 50 PERCENT OF INCOME FROM FARMING OPERATION IN YEAR PRIOR TO BANKRUPTCY.

Section 101(18)(A) of title 11, United States Code, is amended by striking ''for the taxable year preceding the taxable year'' and inserting the following:

''for—

''(i) the taxable year preceding; or

''(ii) each of the 2d and 3d taxable years preceding;

the taxable year''.

SEC. 1006. PROHIBITION OF RETROACTIVE ASSESSMENT OF DISPOSABLE INCOME.

(a) CONFIRMATION OF PLAN.—Section 1225(b)(1) 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 value of the property to be distributed under the plan in the 3-year period, or such longer period as the court may approve under section 1222(c), beginning on the date that the first distribution is due under the plan is not less than the debtor's projected disposable income for such period.''.

(b) MODIFICATION OF PLAN.—Section 1229 of title 11, United States Code, is amended by adding at the end the following:

''(d) A plan may not be modified under this section—

''(1) to increase the amount of any payment due before the plan as modified becomes the plan;

''(2) by anyone except the debtor, based on an increase in the debtor's disposable income, to increase the amount of payments to unsecured creditors required for a particular month so that the aggregate of such payments exceeds the debtor's disposable income for such month; or

''(3) in the last year of the plan by anyone except the debtor, to require payments that would leave the debtor with insufficient funds to carry on the farming operation after the plan is completed.''.

SEC. 1007. FAMILY FISHERMEN.

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

(1) by inserting after paragraph (7) the following:

''(7A) 'commercial fishing operation' means—

''(A) the catching or harvesting of fish, shrimp, lobsters, urchins, seaweed, shellfish, or other aquatic species or products of such species; or

''(B) for purposes of section 109 and chapter 12, aquaculture activities consisting of raising for market any species or product described in subparagraph (A);

''(7B) 'commercial fishing vessel' means a vessel used by a family fisherman to carry out a commercial fishing operation;''; and

(2) by inserting after paragraph (19) the following:

''(19A) 'family fisherman' means—

''(A) an individual or individual and spouse engaged in a commercial fishing operation—

''(i) whose aggregate debts do not exceed $1,500,000 and not less than 80 percent of whose aggregate noncontingent, liquidated debts (excluding a debt for the principal residence of such individual or such individual and spouse, unless such debt arises out of a commercial fishing operation), on the date the case is filed, arise out of a commercial fishing operation owned or operated by such individual or such individual and spouse; and

''(ii) who receive from such commercial fishing operation more than 50 percent of such individual's or such individual's and spouse's gross income for the taxable year preceding the taxable year in which the case concerning such individual or such individual and spouse was filed; or

''(B) a corporation or partnership—

''(i) in which more than 50 percent of the outstanding stock or equity is held by—

''(I) 1 family that conducts the commercial fishing operation; or

''(II) 1 family and the relatives of the members of such family, and such family or such relatives conduct the commercial fishing operation; and

''(ii)(I) more than 80 percent of the value of its assets consists of assets related to the commercial fishing operation;

''(II) its aggregate debts do not exceed $1,500,000 and not less than 80 percent of its aggregate noncontingent, liquidated debts (excluding a debt for 1 dwelling which is owned by such corporation or partnership and which a shareholder or partner maintains as a principal residence, unless such debt arises out of a commercial fishing operation), on the date the case is filed, arise out of a commercial fishing operation owned or operated by such corporation or such partnership; and

''(III) if such corporation issues stock, such stock is not publicly traded;

''(19B) 'family fisherman with regular annual income' means a family fisherman whose annual income is sufficiently stable and regular to enable such family fisherman to make payments under a plan under chapter 12 of this title;''.

(b) WHO MAY BE A DEBTOR.—Section 109(f) of title 11, United States Code, is amended by inserting ''or family fisherman'' after ''family farmer''.

(c) CHAPTER 12.—Chapter 12 of title 11, United States Code, is amended—

*(1) in the chapter heading, by inserting ''**OR FISHERMAN**'' after ''**FAMILY FARMER**'';*

(2) in section 1203, by inserting ''or commercial fishing operation'' after ''farm''; and

(3) in section 1206, by striking ''if the property is farmland or farm equipment'' and inserting ''if the property is farmland, farm equipment, or property used to carry out a commercial fishing operation (including a commercial fishing vessel)''.

(d) CLERICAL AMENDMENT.—In the table of chapters for title 11, United States Code, the item relating to chapter 12, is amended to read as follows:

''12. Adjustments of Debts of a Family Farmer or Family Fisherman with Regular Annual Income ..... 1201''.

(e) APPLICABILITY.—Nothing in this section shall change, affect, or amend the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801, et seq.).

TITLE XI—HEALTH CARE AND EMPLOYEE BENEFITS

SEC. 1101. DEFINITIONS.

(a) HEALTH CARE BUSINESS DEFINED.—Section 101 of title 11, United States Code, as amended by section 306, is amended—

(1) by redesignating paragraph (27A) 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 individual 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 most recent 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 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.''.

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 section 445, 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 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; and''.

SEC. 1104. APPOINTMENT OF OMBUDSMAN TO ACT AS PATIENT ADVOCATE.

(a) OMBUDSMAN TO ACT AS PATIENT ADVOCATE.—

(1) APPOINTMENT OF OMBUDSMAN.—Title 11, United States Code, as amended by section 232, is amended by inserting after section 332 the following:

''§ 333. Appointment of patient care ombudsman

''(a)(1) If the debtor in a case under chapter 7, 9, or 11 is a health care business, the court shall order, not later than 30 days after the commencement of the case, the appointment of an ombudsman to monitor the quality of patient care and to represent the interests of the patients of the health care business unless the court finds that the appointment of such ombudsman is not necessary for the protection of patients under the specific facts of the case.

''(2)(A) If the court orders the appointment of an ombudsman under paragraph (1), the United States trustee shall appoint 1 disinterested person (other than the United States trustee) to serve as such ombudsman.

''(B) If the debtor is a health care business that provides long-term care, then the United States trustee may appoint the State Long-Term Care Ombudsman appointed under the Older Americans Act of 1965 for the State in which the case is pending to serve as the ombudsman required by paragraph (1).

''(C) If the United States trustee does not appoint a State Long-Term Care Ombudsman under subparagraph (B), the court shall notify the State Long-Term Care Ombudsman appointed under the Older Americans Act of 1965 for the State in which the case is pending, of the name and address of the person who is appointed under subparagraph (A).

''(b) An ombudsman appointed under subsection (a) shall—

''(1) monitor the quality of patient care provided to patients of the debtor, 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 at 60-day intervals thereafter, report to the court after notice to the parties in interest, at a hearing or in writing, regarding the quality of patient care provided to patients of the debtor; and

''(3) if such ombudsman determines that the quality of patient care provided to patients of the debtor is declining significantly or is otherwise being materially compromised, file with the court a motion or a written report, with notice to the parties in interest immediately upon making such determination.

''(c)(1) An ombudsman appointed under subsection (a) shall maintain any information obtained by such ombudsman under this section that relates to patients (including information relating to patient records) as confidential information. Such ombudsman may not review confidential patient records unless the court approves such review in advance and imposes restrictions on such ombudsman to protect the confidentiality of such records.

''(2) An ombudsman appointed under subsection (a)(2)(B) shall have access to patient records consistent with authority of such ombudsman under the Older Americans Act of 1965 and under non-Federal laws governing the State Long-Term Care Ombudsman program.''.

(2) CLERICAL AMENDMENT.—The table of sections for subchapter II of chapter 3 of title 11, United States Code, as amended by section 232, is amended by adding at the end the following:

''333. Appointment of ombudsman.''.

(b) COMPENSATION OF OMBUDSMAN.—Section 330(a)(1) of title 11, United States Code, is amended—

(1) in the matter preceding subparagraph (A), by inserting ''an ombudsman appointed under section 333, 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 sections 102, 219, and 446, is amended by adding at the end the following:

''(12) 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, as amended by section 446, is amended by striking ''and (11)'' and inserting ''(11), and (12)''.

SEC. 1106. EXCLUSION FROM PROGRAM PARTICIPATION NOT SUBJECT TO AUTOMATIC STAY.

Section 362(b) of title 11, United States Code, is amended by inserting after paragraph (27), as amended by sections 224, 303, 311, 401, 718, and 907, the following:

''(28) under subsection (a), of the exclusion by the Secretary of Health and Human Services of the debtor from participation in the medicare program or any other Federal health care program (as defined in section 1128B(f) of the Social Security Act pursuant to title XI or XVIII of such Act).''.

TITLE XII—TECHNICAL AMENDMENTS

SEC. 1201. DEFINITIONS.

Section 101 of title 11, United States Code, as hereinbefore 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 and inserting a semicolon;

(6) by striking paragraph (54) and inserting the following:

''(54) The term 'transfer' means—

''(A) the creation of a lien;

''(B) the retention of title as a security interest;

''(C) the foreclosure of a debtor's equity of redemption; or

''(D) each mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with—

''(i) property; or

''(ii) an interest in property;'';

(7) by indenting the left margin of paragraph (54A) 2 ems to the right; and

(8) in each of paragraphs (1) through (35), in each of paragraphs (36), (37), (38A), (38B) and (39A), 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, 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 redesignated by section 221, 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 sections 215 and 314, 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)(14A);

(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 section 201, 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, is amended by inserting ''1123(d),'' after ''1123(b),''.

SEC. 1217. ABANDONMENT OF RAILROAD LINE.

Section 1170(e)(1) of title 11, United States Code, is amended by striking ''section 11347'' and inserting ''section 11326(a)''.

SEC. 1218. CONTENTS OF PLAN.

Section 1172(c)(1) of title 11, United States Code, is amended by striking ''section 11347'' and inserting ''section 11326(a)''.

SEC. 1219. BANKRUPTCY CASES AND PROCEEDINGS.

Section 1334(d) of title 28, United States Code, is amended—

(1) by striking ''made under this subsection'' and inserting ''made under subsection (c)''; and

(2) by striking ''This subsection'' and inserting ''Subsection (c) and this subsection''.

SEC. 1220. KNOWING DISREGARD OF BANKRUPTCY LAW OR RULE.

Section 156(a) of title 18, United States Code, is amended—

(1) in the first undesignated paragraph—

(A) by inserting ''(1) the term'' before ''`bankruptcy''; and

(B) by striking the period at the end and inserting ''; and''; and

(2) in the second undesignated paragraph—

(A) by inserting ''(2) the term'' before ''`document''; and

(B) by striking ''this title'' and inserting ''title 11''.

SEC. 1221. TRANSFERS MADE BY NONPROFIT CHARITABLE CORPORATIONS.

(a) SALE OF PROPERTY OF ESTATE.—Section 363(d) of title 11, United States Code, is amended by striking ''only'' and all that follows through the end of the subsection and inserting ''only—

''(1) in accordance with applicable nonbankruptcy law that governs the transfer of property by a corporation or trust that is not a moneyed, business, or commercial corporation or trust; and

''(2) to the extent not inconsistent with any relief granted under subsection (c), (d), (e), or (f) of section 362.''.

(b) CONFIRMATION OF PLAN OF REORGANIZATION.—Section 1129(a) of title 11, United States Code, as amended by sections 213 and 321, 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 section 225, is amended by adding at the end the following:

''(f) Notwithstanding any other provision of this title, property that is held by a debtor that is a corporation described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code may be transferred to an entity that is not such a corporation, but only under the same conditions as would apply if the debtor had not filed a case under this title.''.

(d) APPLICABILITY.—The amendments made by this section shall apply to a case pending under title 11, United States Code, on the date of enactment of this Act, 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 filing of the petition. The parties who may appear and be heard in a proceeding under this section include the attorney general of the State in which the debtor is incorporated, was formed, or does business.

(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require the court in which a case under chapter 11 of title 11, United States Code, is pending to remand or refer any proceeding, issue, or controversy to any other court or to require the approval of any other court for the transfer of property.

SEC. 1222. PROTECTION OF VALID PURCHASE MONEY SECURITY INTERESTS.

Section 547(c)(3)(B) of title 11, United States Code, is amended by striking ''20'' and inserting ''30''.

SEC. 1223. BANKRUPTCY JUDGESHIPS.

(a) SHORT TITLE.—This section may be cited as the ''Bankruptcy Judgeship Act of 2003''.

(b) TEMPORARY JUDGESHIPS.—

(1) APPOINTMENTS.—The following bankruptcy judges shall be appointed 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 judge for the eastern district of California.

(B) Three additional bankruptcy judges for the central district of California.

(C) Four additional bankruptcy judges for the district of Delaware.

(D) Two additional bankruptcy judges for the southern district of Florida.

(E) One additional bankruptcy judge for the southern district of Georgia.

(F) Three additional bankruptcy judges for the district of Maryland.

(G) One additional bankruptcy judge for the eastern district of Michigan.

(H) One additional bankruptcy judge for the southern district of Mississippi.

(I) One additional bankruptcy judge for the district of New Jersey.

(J) One additional bankruptcy judge for the eastern district of New York.

(K) One additional bankruptcy judge for the northern district of New York.

(L) One additional bankruptcy judge for the southern district of New York.

(M) One additional bankruptcy judge for the eastern district of North Carolina.

(N) One additional bankruptcy judge for the eastern district of Pennsylvania.

(O) One additional bankruptcy judge for the middle district of Pennsylvania.

(P) One additional bankruptcy judge for the district of Puerto Rico.

(Q) One additional bankruptcy judge for the western district of Tennessee.

(R) One additional bankruptcy judge for the eastern district of Virginia.

(S) One additional bankruptcy judge for the district of South Carolina.

(T) One additional bankruptcy judge for the district of Nevada.

(2) VACANCIES.—

(A) DISTRICTS WITH SINGLE APPOINTMENTS.—Except as provided in subparagraphs (B), (C), (D), and (E), the first vacancy occurring in the office of bankruptcy judge in each of the judicial districts set forth in paragraph (1)—

(i) occurring 5 years or more after the appointment date of the bankruptcy judge appointed under paragraph (1) to such office; and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge;

shall not be filled.

(B) CENTRAL DISTRICT OF CALIFORNIA.—The 1st, 2d, and 3d vacancies in the office of bankruptcy judge in the central district of California—

(i) occurring 5 years or more after the respective 1st, 2d, and 3d appointment dates of the bankruptcy judges appointed under paragraph (1)(B); and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge;

shall not be filled.

(C) DISTRICT OF DELAWARE.—The 1st, 2d, 3d, and 4th vacancies in the office of bankruptcy judge in the district of Delaware—

(i) occurring 5 years or more after the respective 1st, 2d, 3d, and 4th appointment dates of the bankruptcy judges appointed under paragraph (1)(F); and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge;

shall not be filled.

(D) SOUTHERN DISTRICT OF FLORIDA.—The 1st and 2d vacancies in the office of bankruptcy judge in the southern district of Florida—

(i) occurring 5 years or more after the respective 1st and 2d appointment dates of the bankruptcy judges appointed under paragraph (1)(D); and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge;

shall not be filled.

(E) DISTRICT OF MARYLAND.—The 1st, 2d, and 3d vacancies in the office of bankruptcy judge in the district of Maryland—

(i) occurring 5 years or more after the respective 1st, 2d, and 3d appointment dates of the bankruptcy judges appointed under paragraph (1)(F); and

(ii) resulting from the death, retirement, resignation, or removal of a bankruptcy judge;

shall not be filled.

(c) EXTENSIONS.—

(1) IN GENERAL.—The temporary office of bankruptcy judges authorized for the northern district of Alabama, the district of Delaware, the district of Puerto Rico, and the eastern district of Tennessee under paragraphs (1), (3), (7), and (9) of section 3(a) of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) are extended until the first vacancy occurring in the office of a bankruptcy judge in the applicable district resulting from the death, retirement, resignation, or removal of a bankruptcy judge and occurring 5 years after the date of the enactment of this Act.

(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 the temporary office of bankruptcy judges 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 court of appeals of the United

States for the circuit in which such district is located.''; and

(2) in paragraph (2)—

(A) in the item relating to the middle district of Georgia, by striking ''2'' and inserting ''3''; and

(B) in the collective item relating to the middle and southern districts of Georgia, by striking ''Middle and Southern . . . . . 1''.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 1224. COMPENSATING TRUSTEES.

Section 1326 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking ''and'';

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

(C) by adding at the end the following:

''(3) if a chapter 7 trustee has been allowed compensation due to the conversion or dismissal of the debtor's prior case pursuant to section 707(b), and some portion of that compensation remains unpaid in a case converted to this chapter or in the case dismissed under section 707(b) and refiled under this chapter, the amount of any such unpaid compensation, which shall be paid monthly—

''(A) by prorating such amount over the remaining duration of the plan; and

''(B) by monthly payments not to exceed the greater of—

''(i) $25; or

''(ii) the amount payable to unsecured nonpriority creditors, as provided by the plan, multiplied by 5 percent, and the result divided by the number of months in the plan.''; and

(2) by adding at the end the following:

''(d) Notwithstanding any other provision of this title—

''(1) compensation referred to in subsection (b)(3) is payable and may be collected by the trustee under that paragraph, even if such amount has been discharged in a prior case under this title; and

''(2) such compensation is payable in a case under this chapter only to the extent permitted by subsection (b)(3).''.

SEC. 1225. AMENDMENT TO SECTION 362 OF TITLE 11, UNITED STATES CODE.

Section 362(b)(18) of title 11, United States Code, is amended to read as follows:

''(18) under subsection (a) of the creation or perfection of a statutory lien for an ad valorem property tax, or a special tax or special assessment on real property whether or not ad valorem, imposed by a governmental unit, if such tax or assessment comes due after the date of the filing of the petition;''.

SEC. 1226. JUDICIAL EDUCATION.

The Director of the Federal Judicial Center, in consultation with the Director of the Executive Office for United States Trustees, shall develop materials and conduct such training as may be useful to courts in implementing this Act and the amendments made by this Act, including the requirements relating to the means test under section 707(b), and reaffirmation agreements under section 524, of title 11 of the United States Code, as amended by this Act.

SEC. 1227. RECLAMATION.

(a) RIGHTS AND POWERS OF THE TRUSTEE.—Section 546(c) of title 11, United States Code, is amended to read as follows:

''(c)(1) Except as provided in subsection (d) of this section and in section 507(c), and subject to the prior rights of a holder of a security interest 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, within 45 days before 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)(9).''.

(b) ADMINISTRATIVE EXPENSES.—Section 503(b) of title 11, United States Code, as amended by sections 445 and 1103, is amended by adding at the end the following:

''(9) the value of any goods received by the debtor within 20 days before the date of commencement of a case under this title in which the goods have been sold to the debtor in the ordinary course of such debtor's business.''.

SEC. 1228. PROVIDING REQUESTED TAX DOCUMENTS TO THE COURT.

(a) CHAPTER 7 CASES.—The court shall not grant a discharge in the case of an individual who is a debtor in a case 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 case filed by an individual under chapter 7, 11, or 13 of title 11, United States Code. In the event of a pending audit or enforcement action, the court may extend the time for destruction of such requested tax documents.

SEC. 1229. ENCOURAGING CREDITWORTHINESS.

(a) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) certain lenders may sometimes offer credit to consumers indiscriminately, without taking steps to ensure that consumers are capable of repaying the resulting debt, and in a manner which may encourage certain consumers to accumulate additional debt; and

(2) resulting consumer debt may increasingly be a major contributing factor to consumer insolvency.

(b) STUDY REQUIRED.—The Board of Governors of the Federal Reserve System (hereafter in this section referred to as the ''Board'') shall conduct a study of—

(1) consumer credit industry practices of soliciting and extending credit—

(A) indiscriminately;

(B) without taking steps to ensure that consumers are capable of repaying the resulting debt; and

(C) in a manner that encourages consumers to accumulate additional debt; and

(2) the effects of such practices on consumer debt and insolvency.

(c) REPORT AND REGULATIONS.—Not later than 12 months after the date of enactment of this Act, the Board—

(1) shall make public a report on its findings with respect to the indiscriminate solicitation and extension of credit by the credit industry;

(2) may issue regulations that would require additional disclosures to consumers; and

(3) may take any other actions, consistent with its existing statutory authority, that the Board finds necessary to ensure responsible industrywide practices and to prevent resulting consumer debt and insolvency.

SEC. 1230. PROPERTY NO LONGER SUBJECT TO REDEMPTION.

Section 541(b) of title 11, United States Code, as amended by sections 225 and 323, is amended by adding after paragraph (7), as added by section 323, the following:

''(8) 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); or''.

SEC. 1231. TRUSTEES.

(a) SUSPENSION AND TERMINATION OF PANEL TRUSTEES AND STANDING TRUSTEES.—Section 586(d) of title 28, United States Code, is amended—

(1) by inserting ''(1)'' after ''(d)''; and

(2) by adding at the end the following:

''(2) A trustee whose appointment under subsection (a)(1) or under subsection (b) is terminated or who ceases to be assigned to cases filed under title 11, United States Code, may obtain judicial review of the final agency decision by commencing an action in the district court of the United States for the district for which the panel to which the trustee is appointed under subsection (a)(1), or in the district court of the United States 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 district court of the United States for the district where the individual resides. The decision of the agency shall be affirmed by the district court unless it is unreasonable and without cause based upon the administrative record before the agency.

''(4) The Attorney General shall prescribe procedures to implement this subsection.''.

SEC. 1232. BANKRUPTCY FORMS.

Section 2075 of title 28, United States Code, is amended by adding at the end the following:

''The bankruptcy rules promulgated under this section shall prescribe a form for the statement required under section 707(b)(2)(C) of title 11 and may provide general rules on the content of such statement.''.

SEC. 1233. DIRECT APPEALS OF BANKRUPTCY MATTERS TO COURTS OF APPEALS.

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

(1) in subsection (c)(1), by striking ''Subject to subsection (b),'' and inserting ''Subject to subsections (b) and (d)(2),''; and

(2) in subsection (d)—

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

(B) by adding at the end the following:

''(2)(A) The appropriate court of appeals shall have jurisdiction of appeals described in the

first sentence of subsection (a) if the bankruptcy court, the district court, or the bankruptcy appellate panel involved, acting on its own motion or on the request of a party to the judgment, order, or decree described in such first sentence, or all the appellants and appellees (if any) acting jointly, certify that—

''(i) the judgment, order, or decree involves a question of law as to which there is no controlling decision of the court of appeals for the circuit or of the Supreme Court of the United States, or involves a matter of public importance;

''(ii) the judgment, order, or decree involves a question of law requiring resolution of conflicting decisions; or

''(iii) an immediate appeal from the judgment, order, or decree may materially advance the progress of the case or proceeding in which the appeal is taken;

and if the court of appeals authorizes the direct appeal of the judgment, order, or decree.

''(B) If the bankruptcy court, the district court, or the bankruptcy appellate panel—

''(i) on its own motion or on the request of a party, determines that a circumstance specified in clause (i), (ii), or (iii) of subparagraph (A) exists; or

''(ii) receives a request made by a majority of the appellants and a majority of appellees (if any) to make the certification described in subparagraph (A);

then the bankruptcy court, the district court, or the bankruptcy appellate panel shall make the certification described in subparagraph (A).

''(C) The parties may supplement the certification with a short statement of the basis for the certification.

''(D) An appeal under this paragraph does not stay any proceeding of the bankruptcy court, the district court, or the bankruptcy appellate panel from which the appeal is taken, unless the respective bankruptcy court, district court, or bankruptcy appellate panel, or the court of appeals in which the appeal in pending, issues a stay of such proceeding pending the appeal.

''(E) Any request under subparagraph (B) for certification shall be made not later than 60 days after the entry of the judgment, order, or decree.''.

(b) PROCEDURAL RULES.—

(1) TEMPORARY APPLICATION.—A provision of this subsection shall apply to appeals under section 158(d)(2) of title 28, United States Code, until a rule of practice and procedure relating to such provision and such appeals is promulgated or amended under chapter 131 of such title.

(2) CERTIFICATION.—A district court, a bankruptcy court, or a bankruptcy appellate panel may make a certification under section 158(d)(2) of title 28, United States Code, only with respect to matters pending in the respective bankruptcy court, district court, or bankruptcy appellate panel.

(3) PROCEDURE.—Subject to any other provision of this subsection, an appeal authorized by the court of appeals under section 158(d)(2)(A) of title 28, United States Code, shall be taken in the manner prescribed in subdivisions (a)(1), (b), (c), and (d) of rule 5 of the Federal Rules of Appellate Procedure. For purposes of subdivision (a)(1) of rule 5—

(A) a reference in such subdivision to a district court shall be deemed to include a reference to a bankruptcy court and a bankruptcy appellate panel, as appropriate; and

(B) a reference in such subdivision to the parties requesting permission to appeal to be served with the petition shall be deemed to include a reference to the parties to the judgment, order, or decree from which the appeal is taken.

(4) FILING OF PETITION WITH ATTACHMENT.—A petition requesting permission to appeal, that is based on a certification made under subparagraph (A) or (B) of section 158(d)(2) shall—

(A) be filed with the circuit clerk not later than 10 days after the certification is entered on the docket of the bankruptcy court, the district court, or the bankruptcy appellate panel from which the appeal is taken; and

(B) have attached a copy of such certification.

(5) REFERENCES IN RULE 5.—For purposes of rule 5 of the Federal Rules of Appellate Procedure—

(A) a reference in such rule to a district court shall be deemed to include a reference to a bankruptcy court and to a bankruptcy appellate panel; and

(B) a reference in such rule to a district clerk shall be deemed to include a reference to a clerk of a bankruptcy court and to a clerk of a bankruptcy appellate panel.

(6) APPLICATION OF RULES.—The Federal Rules of Appellate Procedure shall apply in the courts of appeals with respect to appeals authorized under section 158(d)(2)(A), to the extent relevant and as if such appeals were taken from final judgments, orders, or decrees of the district courts or bankruptcy appellate panels exercising appellate jurisdiction under subsection (a) or (b) of section 158 of title 28, United States Code.

SEC. 1234. INVOLUNTARY CASES.

(a) AMENDMENTS.—Section 303 of title 11, United States Code, is amended—

(1) in subsection (b)(1), by—

(A) inserting ''as to liability or amount'' after ''bona fide dispute''; and

(B) striking ''if such claims'' and inserting ''if such noncontingent, undisputed claims''; and

(2) in subsection (h)(1), by inserting ''as to liability or amount'' before the semicolon at the end.

(b) EFFECTIVE DATE; APPLICATION OF AMENDMENTS.—This section and the amendments made by this section shall take effect on the date of the enactment of this Act and shall not apply with respect to cases commenced under title 11 of the United States Code before such date.

SEC. 1235. FEDERAL ELECTION LAW FINES AND PENALTIES AS NONDISCHARGEABLE DEBT.

Section 523(a) of title 11, United States Code, as amended by section 314, is amended by inserting after paragraph (14A) the following:

''(14B) incurred to pay fines or penalties imposed under Federal election law;''.

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 2003, 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), with total assets not exceeding $250,000,000. The toll-free telephone number may connect consumers to an automated device through which consumers may obtain information described in subparagraph (A) or (B), as applicable, by inputting information using a touch-tone telephone or similar device, if consumers whose telephones are not equipped to use such automated device are provided the opportunity to be connected to an individual from

whom the information described in subparagraph (A) or (B), as applicable, may be obtained. A person that receives a request for information described in subparagraph (A) or (B) from an obligor through the toll-free telephone number disclosed under subparagraph (A) or (B), as applicable, shall disclose in response to such request only the information set forth in the table promulgated by the Board under subparagraph (H)(i). The dollar amount contained in this subclause shall be adjusted according to an indexing mechanism established by the Board.

''(II) Not later than 6 months prior to the expiration of the 24-month period referenced in subclause (I), the Board shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the program described in subclause (I).

''(G) The Federal Trade Commission shall establish and maintain a toll-free number for the purpose of providing to consumers the information required to be disclosed under subparagraph (C).

''(H) The Board shall—

''(i) establish a detailed table illustrating the approximate number of months that it would take to repay an outstanding balance if a consumer pays only the required minimum monthly payments and if no other advances are made, which table shall clearly present standardized information to be used to disclose the information required to be disclosed under subparagraph (A), (B), or (C), as applicable;

''(ii) establish the table required under clause (i) by assuming—

''(I) a significant number of different annual percentage rates;

''(II) a significant number of different account balances;

''(III) a significant number of different minimum payment amounts; and

''(IV) that only minimum monthly payments are made and no additional extensions of credit are obtained; and

''(iii) promulgate regulations that provide instructional guidance regarding the manner in which the information contained in the table established under clause (i) should be used in responding to the request of an obligor for any information required to be disclosed under subparagraph (A), (B), or (C).

''(I) The disclosure requirements of this paragraph do not apply to any charge card account, the primary purpose of which is to require payment of charges in full each month.

''(J) A creditor that maintains a toll-free telephone number for the purpose of providing customers with the actual number of months that it will take to repay the customer's outstanding balance is not subject to the requirements of subparagraph (A) or (B).

''(K) A creditor that maintains a toll-free telephone number for the purpose of providing customers with the actual number of months that it will take to repay an outstanding balance shall include the following statement on each billing statement: 'Making only the minimum payment will increase the interest you pay and the time it takes to repay your balance. For more information, call this toll-free number: _____.' (the blank space to be filled in by the creditor).''.

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board of Governors of the Federal Reserve System (hereafter in this title referred to as the ''Board'') shall promulgate regulations implementing the requirements of section 127(b)(11) of the Truth in Lending Act, as added by subsection (a) of this section.

(2) EFFECTIVE DATE.—Section 127(b)(11) of the Truth in Lending Act, as added by subsection (a) of this section, and the regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 18 months after the date of enactment of this Act; or

(B) 12 months after the publication of such final regulations by the Board.

(c) STUDY OF FINANCIAL DISCLOSURES.—

(1) IN GENERAL.—The Board may conduct a study to determine the types of information available to potential borrowers from consumer credit lending institutions regarding factors qualifying potential borrowers for credit, repayment requirements, and the consequences of default.

(2) FACTORS FOR CONSIDERATION.—In conducting a study under paragraph (1), the Board should, in consultation with the other Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), the National Credit Union Administration, and the Federal Trade Commission, consider the extent to which—

(A) consumers, in establishing new credit arrangements, are aware of their existing payment obligations, the need to consider those obligations in deciding to take on new credit, and how taking on excessive credit can result in financial difficulty;

(B) minimum periodic payment features offered in connection with open end credit plans impact consumer default rates;

(C) consumers make only the required minimum payment under open end credit plans;

(D) consumers are aware that making only required minimum payments will increase the cost and repayment period of an open end credit obligation; and

(E) the availability of low minimum payment options is a cause of consumers experiencing financial difficulty.

(3) REPORT TO CONGRESS.—Findings of the Board in connection with any study conducted under this subsection shall be submitted to Congress. Such report shall also include recommendations for legislative initiatives, if any, of the Board, based on its findings.

SEC. 1302. ENHANCED DISCLOSURE FOR CREDIT EXTENSIONS SECURED BY A DWELLING.

(a) OPEN END CREDIT EXTENSIONS.—

(1) CREDIT APPLICATIONS.—Section 127A(a)(13) of the Truth in Lending Act (15 U.S.C. 1637a(a)(13)) is amended—

(A) by striking ''CONSULTATION OF TAX ADVISER.—A statement that the'' and inserting the following: ''TAX DEDUCTIBILITY.—A statement that—

''(A) the''; and

(B) by striking the period at the end and inserting the following: ''; and

''(B) in any case in which the extension of credit exceeds the fair market value (as defined under the Internal Revenue Code of 1986) of the dwelling, the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes.''.

(2) CREDIT ADVERTISEMENTS.—Section 147(b) of the Truth in Lending Act (15 U.S.C. 1665b(b)) is amended—

(A) by striking ''If any'' and inserting the following:

''(1) IN GENERAL.—If any''; and

(B) by adding at the end the following:

''(2) CREDIT IN EXCESS OF FAIR MARKET VALUE.—Each advertisement described in subsection (a) that relates to an extension of credit that may exceed the fair market value of the dwelling, and which advertisement is disseminated in paper form to the public or through the Internet, as opposed to by radio or television, shall include a clear and conspicuous statement that—

''(A) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

''(B) the consumer should consult a tax adviser for further information regarding the deductibility of interest and charges.''.

(b) NON-OPEN END CREDIT EXTENSIONS.—

(1) CREDIT APPLICATIONS.—Section 128 of the Truth in Lending Act (15 U.S.C. 1638) is amended—

(A) in subsection (a), by adding at the end the following:

''(15) In the case of a consumer credit transaction that is secured by the principal dwelling of the consumer, in which the extension of credit may exceed the fair market value of the dwelling, a clear and conspicuous statement that—

''(A) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

''(B) the consumer should consult a tax adviser for further information regarding the deductibility of interest and charges.''; and

(B) in subsection (b), by adding at the end the following:

''(3) In the case of a credit transaction described in paragraph (15) of subsection (a), disclosures required by that paragraph shall be made to the consumer at the time of application for such extension of credit.''.

(2) CREDIT ADVERTISEMENTS.—Section 144 of the Truth in Lending Act (15 U.S.C. 1664) is amended by adding at the end the following:

''(e) Each advertisement to which this section applies that relates to a consumer credit transaction that is secured by the principal dwelling of a consumer in which the extension of credit may exceed the fair market value of the dwelling, and which advertisement is disseminated in paper form to the public or through the Internet, as opposed to by radio or television, shall clearly and conspicuously state that—

''(1) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

''(2) the consumer should consult a tax adviser for further information regarding the deductibility of interest and charges.''.

(c) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the amendments made by this section.

(2) EFFECTIVE DATE.—Regulations issued under paragraph (1) shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1303. DISCLOSURES RELATED TO ''INTRODUCTORY RATES''.

(a) INTRODUCTORY RATE DISCLOSURES.—Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended by adding at the end the following:

''(6) ADDITIONAL NOTICE CONCERNING 'INTRODUCTORY RATES'.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), an application or solicitation to open a credit card account and all promotional materials accompanying such application or solicitation for which a disclosure is required under paragraph (1), and that offers a temporary annual percentage rate of interest, shall—

''(i) use the term 'introductory' in immediate proximity to each listing of the temporary annual percentage rate applicable to such account, which term shall appear clearly and conspicuously;

''(ii) if the annual percentage rate of interest that will apply after the end of the temporary rate period will be a fixed rate, state in a clear and conspicuous manner in a prominent location closely proximate to the first listing of the temporary annual percentage rate (other than a listing of the temporary annual percentage rate in the tabular format described in section 122(c)), the time period in which the introductory period will end and the annual percentage rate that will apply after the end of the introductory period; and

''(iii) if the annual percentage rate that will apply after the end of the temporary rate period will vary in accordance with an index, state in a clear and conspicuous manner in a prominent

location closely proximate to the first listing of the temporary annual percentage rate (other than a listing in the tabular format prescribed by section 122(c)), the time period in which the introductory period will end and the rate that will apply after that, based on an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation.

''(B) EXCEPTION.—Clauses (ii) and (iii) of subparagraph (A) do not apply with respect to any listing of a temporary annual percentage rate on an envelope or other enclosure in which an application or solicitation to open a credit card account is mailed.

''(C) CONDITIONS FOR INTRODUCTORY RATES.—An application or solicitation to open a credit card account for which a disclosure is required under paragraph (1), and that offers a temporary annual percentage rate of interest shall, if that rate of interest is revocable under any circumstance or upon any event, clearly and conspicuously disclose, in a prominent manner on or with such application or solicitation—

''(i) a general description of the circumstances that may result in the revocation of the temporary annual percentage rate; and

''(ii) if the annual percentage rate that will apply upon the revocation of the temporary annual percentage rate—

''(I) will be a fixed rate, the annual percentage rate that will apply upon the revocation of the temporary annual percentage rate; or

''(II) will vary in accordance with an index, the rate that will apply after the temporary rate, based on an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation.

''(D) DEFINITIONS.—In this paragraph—

''(i) the terms 'temporary annual percentage rate of interest' and 'temporary annual percentage rate' mean any rate of interest applicable to a credit card account for an introductory period of less than 1 year, if that rate is less than an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation; and

''(ii) the term 'introductory period' means the maximum time period for which the temporary annual percentage rate may be applicable.

''(E) RELATION TO OTHER DISCLOSURE REQUIREMENTS.—Nothing in this paragraph may be construed to supersede subsection (a) of section 122, or any disclosure required by paragraph (1) or any other provision of this subsection.''.

(b) REGULATORY IMPLEMENTATION.—

(1) IN GENERAL.—The Board shall promulgate regulations implementing the requirements of section 127(c)(6) of the Truth in Lending Act, as added by this section.

(2) EFFECTIVE DATE.—Section 127(c)(6) of the Truth in Lending Act, as added by this section, and regulations issued under paragraph (1) of this subsection shall not take effect until the later of—

(A) 12 months after the date of enactment of this Act; or

(B) 12 months after the date of publication of such final regulations by the Board.

SEC. 1304. INTERNET-BASED CREDIT CARD SOLICITATIONS.

(a) INTERNET-BASED 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 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 cases filed under title 11 of the United States Code.

(2) EXTENSION OF CREDIT.—The extension of credit described in this paragraph is the extension of credit to individuals who are—

(A) claimed as dependents for purposes of the Internal Revenue Code of 1986; and

(B) enrolled within 1 year of successfully completing all required secondary education requirements and on a full-time basis, in postsecondary educational institutions.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Board shall submit to the Senate and the House of Representatives a report summarizing the results of the study conducted under subsection (a).

SEC. 1309. CLARIFICATION OF CLEAR AND CONSPICUOUS.

(a) REGULATIONS.—Not later than 6 months after the date of enactment of this Act, the Board, in consultation with the other Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), the National Credit Union Administration Board, and the Federal Trade Commission, shall promulgate regulations to provide guidance regarding the meaning of the term ''clear and conspicuous'', as used in subparagraphs (A), (B), and (C) of section 127(b)(11) and clauses (ii) and (iii) of section 127(c)(6)(A) of the Truth in Lending Act.

(b) EXAMPLES.—Regulations promulgated under subsection (a) shall include examples of clear and conspicuous model disclosures for the purposes of disclosures required by the provisions of the Truth in Lending Act referred to in subsection (a).

(c) STANDARDS.—In promulgating regulations under this section, the Board shall ensure that the clear and conspicuous standard required for disclosures made under the provisions of the Truth in Lending Act referred to in subsection (a) can be implemented in a manner which results in disclosures which are reasonably understandable and designed to call attention to the nature and significance of the information in the notice.

TITLE XIV—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.—

(1) IN GENERAL.—Except as otherwise provided in this Act and paragraph (2), 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.

(2) CERTAIN LIMITATIONS APPLICABLE TO DEBTORS.—The amendments made by sections 308, 322, and 330 shall apply with respect to cases commenced under title 11, United States Code, on or after the date of the enactment of this Act.

The CHAIRMAN. No amendment to the committee amendment is in order except those printed in House Report 108–42. Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered 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.

It is now in order to consider amendment No. 1 printed in House Report 108–42.

AMENDMENT NO. 1 OFFERED BY MR. TOOMEY

Mr. TOOMEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. TOOMEY:

Strike section 901 of the bill, as reported, and all that follows through section 905 and insert the following new sections:

SEC. 901. TREATMENT OF CERTAIN AGREEMENTS BY CONSERVATORS OR RECEIVERS OF INSURED DEPOSITORY INSTITUTIONS.

(a) DEFINITION OF QUALIFIED FINANCIAL CONTRACT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)) is amended—

(A) by striking ''subsection—'' and inserting ''subsection, the following definitions shall apply:''; and

(B) in clause (i), by inserting '', resolution, or order'' after ''any similar agreement that the Corporation determines by regulation''.

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)) is amended—

(A) by striking ''subsection—'' and inserting ''subsection, the following definitions shall apply:''; and

(B) in clause (i), by inserting '', resolution, or order'' after ''any similar agreement that the Board determines by regulation''.

(b) DEFINITION OF SECURITIES CONTRACT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(ii)) is amended to read as follows:

''(ii) SECURITIES CONTRACT.—The term 'securities contract'—

''(I) means a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan, or any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or any option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

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

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

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

''(V) means any margin loan;

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

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

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

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

''(X) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.''.

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D)(ii) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)(ii)) is amended to read as follows:

''(ii) SECURITIES CONTRACT.—The term 'securities contract'—

''(I) means a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan, or any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or any option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

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

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

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

''(V) means any margin loan;

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

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

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

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

''(X) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.''.

(c) DEFINITION OF COMMODITY CONTRACT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(iii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(iii)) is amended to read as follows:

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

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

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

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

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

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

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

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

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

''(IX) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), (IV), (V), (VI), (VII),

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

''(X) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.''.

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D)(iii) of the Federal Credit Union Act (12 U.S.C. 1787(c)(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 suchclearing organization;

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

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

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

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

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

''(X) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.''.

(d) DEFINITION OF FORWARD CONTRACT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(iv) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(iv)) is amended to read as follows:

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

''(I) a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade, or product or byproduct thereof, with a maturity date more than 2 days after the date the contract is entered into, including, a repurchase transaction, reverse repurchase transaction, consignment, lease, swap, hedge transaction, deposit, loan, option, allocated transaction, unallocated transaction, or any other similar agreement;

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

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

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

''(V) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (II), (III), or (IV), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.''.

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D)(iv) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)(iv)) is amended to read as follows:

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

''(I) a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade, or product or byproduct thereof, with a maturity date more than 2 days after the date the contract is entered into, including, a repurchase transaction, reverse repurchase transaction, consignment, lease, swap, hedge transaction, deposit, loan, option, allocated transaction, unallocated transaction, or any other similar agreement;

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

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

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

''(V) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (II), (III), or (IV), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.''.

(e) DEFINITION OF REPURCHASE AGREEMENT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(v) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(v)) is amended to read as follows:

''(v) REPURCHASE AGREEMENT.—The term 'repurchase agreement' (which definition also applies to a reverse repurchase agreement)—

''(I) means an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage-related securities (as such term is defined in the Securities Exchange Act of 1934), mortgage loans, interests in mortgage-related securities or mortgage loans, eligible bankers' acceptances, qualified foreign government securities or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests as described above, at a date certain not later than 1 year after such transfers or on demand, against the transfer of funds, or any other similar agreement;

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

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

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

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

''(VI) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

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

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D)(v) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)(v)) is amended to read as follows:

''(v) REPURCHASE AGREEMENT.—The term 'repurchase agreement' (which definition also applies to a reverse repurchase agreement)—

''(I) means an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage-related securities (as such term is defined in the Securities Exchange Act of 1934), mortgage loans, interests in mortgage-related securities or mortgage loans, eligible bankers' acceptances, qualified foreign government securities or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the

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

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

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

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

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

''(VI) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

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

(f) DEFINITION OF SWAP AGREEMENT.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(vi) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(vi)) is amended to read as follows:

''(vi) SWAP AGREEMENT.—The term 'swap agreement' means—

''(I) any agreement, including the terms and conditions incorporated by reference in any such agreement, which is an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap; a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement; a currency swap, option, future, or forward agreement; an equity index or equity swap, option, future, or forward agreement; a debt index or debt swap, option, future, or forward agreement; a total return, credit spread or credit swap, option, future, or forward agreement; a commodity index or commodity swap, option, future, or forward agreement; or a weather swap, weather derivative, or weather option;

''(II) any agreement or transaction that is similar to any other agreement or transaction referred to in this clause and that is of a type that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap markets (including terms and conditions incorporated by reference in such agreement) and that is a forward, swap, future, or option on one or more rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments, quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial risk or value;

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

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

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

''(VI) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in subclause (I), (II), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

Such term is applicable for purposes of this subsection only and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000.''.

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)) is amended by adding at the end the following new clause:

''(vi) SWAP AGREEMENT.—The term 'swap agreement' means—

''(I) any agreement, including the terms and conditions incorporated by reference in any such agreement, which is an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap; a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement; a currency swap, option, future, or forward agreement; an equity index or equity swap, option, future, or forward agreement; a debt index or debt swap, option, future, or forward agreement; a total return, credit spread or credit swap, option, future, or forward agreement; a commodity index or commodity swap, option, future, or forward agreement; or a weather swap, weather derivative, or weather option;

''(II) any agreement or transaction that is similar to any other agreement or transaction referred to in this clause and that is of a type that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap markets (including terms and conditions incorporated by reference in such agreement) and that is a forward, swap,future, or option on one or more rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments, quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial risk or value;

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

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

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

''(VI) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in subclause (I), (II), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

Such term is applicable for purposes of this subsection only and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000.''.

(g) DEFINITION OF TRANSFER.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)(D)(viii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)(viii)) is amended to read as follows:

''(viii) TRANSFER.—The term 'transfer' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest and foreclosure of the depository institution's equity of redemption.''.

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(D) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)) (as amended by subsection (f) of this section) is amended by adding at the end the following new clause:

''(viii) TRANSFER.—The term 'transfer' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest and foreclosure of the depository institution's equity of redemption.''.

(h) TREATMENT OF QUALIFIED FINANCIAL CONTRACTS.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended—

(A) in subparagraph (A)—

(i) by striking ''paragraph (10)'' and inserting ''paragraphs (9) and (10)'';

(ii) in clause (i), by striking ''to cause the termination or liquidation'' and inserting

''such person has to cause the termination, liquidation, or acceleration''; and

(iii) by striking clause (ii) and inserting the following new clause:

''(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

(B) 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);''.

(2) INSURED CREDIT UNIONS.—Section 207(c)(8) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)) is amended—

(A) in subparagraph (A)—

(i) by striking ''paragraph (12)'' and inserting ''paragraphs (9) and (10)'';

(ii) in clause (i), by striking ''to cause the termination or liquidation'' and inserting ''such person has to cause the termination, liquidation, or acceleration''; and

(iii) by striking clause (ii) and inserting the following new clause:

''(ii) any right under any security agreement or arrangement or other credit enhancement related to 1 or more qualified financial contracts described in clause (i);''; and

(B) in subparagraph (E), by striking clause (ii) and inserting the following new clause:

''(ii) any right under any security agreement or arrangement or other credit enhancement related to 1 or more qualified financial contracts described in clause (i);''.

(i) AVOIDANCE OF TRANSFERS.—

(1) FDIC-INSURED DEPOSITORY INSTITUTIONS.—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 or any other Federal or State law relating to the avoidance of preferential or fraudulent transfers,'' before ''the Corporation''.

(2) INSURED CREDIT UNIONS.—Section 207(c)(8)(C)(i) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(C)(i)) is amended by inserting ''section 5242 of the Revised Statutes of the United States or any other Federal or State law relating to the avoidance of preferential or fraudulent transfers,'' before ''the Board''.

SEC. 902. AUTHORITY OF THE FDIC AND NCUAB WITH RESPECT TO FAILED AND FAILING INSTITUTIONS.

(a) FEDERAL DEPOSIT INSURANCE CORPORATION.—

(1) IN GENERAL.—Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended—

(A) 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

(B) 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.''.

(2) 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''.

(b) NATIONAL CREDIT UNION ADMINISTRATION BOARD.—

(1) IN GENERAL.—Section 207(c)(8) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)) is amended—

(A) in subparagraph (E) (as amended by section 901(h)), by striking ''other than paragraph (12) of this subsection, subsection (b)(9)'' and inserting ''other than subsections (b)(9) and (c)(10)''; and

(B) 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 Board, or authorizing any court or agency to limit or delay, in any manner, the right or power of the Board 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 (c)(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 credit union 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.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 207(c)(12)(A) of the Federal Credit Union Act (12 U.S.C. 1787(c)(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) FDIC-INSURED DEPOSITORY INSTITUTIONS.—

(1) TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS TO FINANCIAL INSTITUTIONS.—Section 11(e)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(9)) is amended to read as follows:

''(9) TRANSFER OF QUALIFIED FINANCIAL CONTRACTS.—

''(A) IN GENERAL.—In making any transfer of assets or liabilities of a depository institution in default which includes any qualified financial contract, the conservator or receiver for such depository institution shall either—

''(i) transfer to one financial institution, other than a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding—

''(I) all qualified financial contracts between any person or any affiliate of such person and the depository institution in default;

''(II) all claims of such person or any affiliate of such person against such depository institution under any such contract (other than any claim which, under the terms of any such contract, is subordinated to the claims of general unsecured creditors of such institution);

''(III) all claims of such depository institution against such person or any affiliate of such person under any such contract; and

''(IV) all property securing or any other credit enhancement for any contract described in subclause (I) or any claim described in subclause (II) or (III) under any such contract; or

''(ii) transfer none of the qualified financial contracts, claims, property or other credit enhancement referred to in clause (i) (with respect to such person and any affiliate of such person).

''(B) TRANSFER TO FOREIGN BANK, FOREIGN FINANCIAL INSTITUTION, OR BRANCH OR AGENCY OF A FOREIGN BANK OR FINANCIAL INSTITUTION.—In transferring any qualified financial contracts and related claims and property under subparagraph (A)(i), the conservator or receiver for the depository institution shall not make such transfer to a foreign bank, financial institution organized under the laws of a foreign country, or a branch or agency of a foreign bank or financial institution unless, under the law applicable to such bank, financial institution, branch or agency, to the qualified financial contracts, and to any netting contract, any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts, the contractual rights of the parties to such qualified financial contracts, netting contracts, security agreements or arrangements, or other credit enhancements are enforceable substantially to the same extent as permitted under this section.

''(C) TRANSFER OF CONTRACTS SUBJECT TO THE RULES OF A CLEARING ORGANIZATION.—In the event that a conservator or receiver transfers any qualified financial contract and related claims, property, and credit enhancements pursuant to subparagraph (A)(i) and such contract is cleared by or subject to the rules of a clearing organization, the clearing organization shall not be required to accept the transferee as a member by virtue of the transfer.

''(D) DEFINITIONS.—For purposes of this paragraph, the term 'financial institution' means a broker or dealer, a depository institution, a futures commission merchant, or any other institution, as determined by the Corporation by regulation to be a financial institution, and the term 'clearing organization' has the same meaning as in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991.''.

(2) 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.''.

(3) RIGHTS AGAINST RECEIVER AND CONSERVATOR AND TREATMENT OF BRIDGE BANKS.—Section 11(e)(10) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(10)) is amended—

(A) by redesignating subparagraph (B) as subparagraph (D); and

(B) 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 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 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.''.

(b) INSURED CREDIT UNIONS.—

(1) TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS TO FINANCIAL INSTITUTIONS.—Section 207(c)(9) of the Federal Credit Union Act (12 U.S.C. 1787(c)(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 credit union in default which includes any qualified financial contract, the conservator or liquidating agent for such credit union shall either—

''(i) transfer to 1 financial institution, other than a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding—

''(I) all qualified financial contracts between any person or any affiliate of such person and the credit union in default;

''(II) all claims of such person or any affiliate of such person against such credit union 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 credit union);

''(III) all claims of such credit union against such person or any affiliate of such person under any such contract; and

''(IV) all property securing or any other credit enhancement for any contract described in subclause (I) or any claim described in subclause (II) or (III) under any such contract; or

''(ii) transfer none of the qualified financial contracts, claims, property or other credit enhancement referred to in clause (i) (with respect to such person and any affiliate of such person).

''(B) TRANSFER TO FOREIGN BANK, FOREIGN FINANCIAL INSTITUTION, OR BRANCH OR AGENCY OF A FOREIGN BANK OR FINANCIAL INSTITUTION.—In transferring any qualified financial contracts and related claims and property under subparagraph (A)(i), the conservator or liquidating agent for the credit union shall not make such transfer to a foreign bank, financial institution organized under the laws of a foreign country, or a branch or agency of a foreign bank or financial institution unless, under the law applicable to such bank, financial institution, branch or agency, to the qualified financial contracts, and to any netting contract, any security agreement or arrangement or other credit enhancement related to 1 or more qualified financial contracts, the contractual rights of the parties to such qualified financial contracts, netting contracts, security agreements or arrangements, or other credit enhancements are enforceable substantially to the same extent as permitted under this section.

''(C) TRANSFER OF CONTRACTS SUBJECT TO THE RULES OF A CLEARING ORGANIZATION.—In the event that a conservator or liquidating agent transfers any qualified financial contract and related claims, property, and credit enhancements pursuant to subparagraph (A)(i) and such contract is cleared by or subject to the rules of a clearing organization, the clearing organization shall not be required to accept the transferee as a member by virtue of the transfer.

''(D) DEFINITIONS.—For purposes of this paragraph—

''(i) the term 'financial institution' means a broker or dealer, a depository institution, a futures commission merchant, a credit union, or any other institution, as determined by the Board by regulation to be a financial institution; and

''(ii) the term 'clearing organization' has the same meaning as in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991.''.

(2) NOTICE TO QUALIFIED FINANCIAL CONTRACT COUNTERPARTIES.—Section 207(c)(10)(A) of the Federal Credit Union Act (12 U.S.C. 1787(c)(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 liquidating agent 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 liquidating agent in the case of a liquidation, or the business day following such transfer in the case of a conservatorship.''.

(3) RIGHTS AGAINST LIQUIDATING AGENT AND CONSERVATOR AND TREATMENT OF BRIDGE BANKS.—Section 207(c)(10) of the Federal Credit Union Act (12 U.S.C. 1787(c)(10)) is amended—

(A) by redesignating subparagraph (B) as subparagraph (D); and

(B) by inserting after subparagraph (A) the following new subparagraphs:

''(B) CERTAIN RIGHTS NOT ENFORCEABLE.—

''(i) LIQUIDATION.—A person who is a party to a qualified financial contract with an insured credit union 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 liquidating agent for the credit union institution (or the insolvency or financial condition of the credit union for which the liquidating agent has been appointed)—

''(I) until 5:00 p.m. (eastern time) on the business day following the date of the appointment of the liquidating agent; 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 credit union may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(E) 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 conservator for the credit union or the insolvency or financial condition of the credit union for which the conservator has been appointed).

''(iii) NOTICE.—For purposes of this paragraph, the Board as conservator or liquidating agent of an insured credit union shall be deemed to have notified a person who is a party to a qualified financial contract with such credit union if the Board 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 credit union organized by the Board, for which a conservator is appointed either—

''(I) immediately upon the organization of the credit union; or

''(II) at the time of a purchase and assumption transaction between the credit union and the Board as receiver for a credit union in default.''.

SEC. 904. AMENDMENTS RELATING TO DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.

(a) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)) is amended—

(1) by redesignating paragraphs (11) through (15) as paragraphs (12) through (16), respectively;

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

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

party, the conservator or receiver for such institution shall either—

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

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

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

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

(3) by adding at the end the following new paragraph:

''(17) SAVINGS CLAUSE.—The meanings of terms used in this subsection are applicable for purposes of this subsection only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any similar terms under any other statute, regulation, or rule, including the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934), and the Commodity Exchange Act.''.

(b) INSURED CREDIT UNIONS.—Section 207(c) of the Federal Credit Union Act (12 U.S.C. 1787(c)) is amended—

(1) by redesignating paragraphs (11), (12), and (13) as paragraphs (12), (13), and (14), respectively;

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

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

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

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

''(ii) the credit union in default; or

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

(3) by adding at the end the following new paragraph:

''(15) SAVINGS CLAUSE.—The meanings of terms used in this subsection are applicable for purposes of this subsection only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any similar terms under any other statute, regulation, or rule, including the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities laws (as that term is defined in section (a)(47) of the Securities Exchange Act of 1934), and the Commodity Exchange Act.''.

SEC. 905. CLARIFYING AMENDMENT RELATING TO MASTER AGREEMENTS.

(a) FDIC-INSURED DEPOSITORY INSTITUTIONS.—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.''.

(b) INSURED CREDIT UNIONS.—Section 207(c)(8)(D) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)) is amended by inserting after clause (vi) (as added by section 901(f)) the following new clause:

''(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.''.

In the amendment made by section 906(b)(1) of the bill to section 403(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991, insert '', paragraphs (8)(E), (8)(F), and (10)(B) of section 207(c) of the Federal Credit Union Act,'' after ''Deposit Insurance Act''.

In the amendment made by section 906(b)(2) of the bill, adding a new subsection (f) at the end of section 403 of the Federal Deposit Insurance Corporation Improvement Act of 1991, insert '', paragraphs (8)(E), (8)(F), and (10)(B) of section 207(c) of the Federal Credit Union Act,'' after ''Deposit Insurance Act''.

In the amendment made by section 906(c)(1) of the bill to section 404(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991, insert '', paragraphs (8)(E), (8)(F), and (10)(B) of section 207(c) of the Federal Credit Union Act,'' after ''Deposit Insurance Act''.

In the amendment made by section 906(c)(2) of the bill, adding a new subsection (h) at the end of section 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, insert '', paragraphs (8)(E), (8)(F), and (10)(B) of section 207(c) of the Federal Credit Union Act,'' after ''Deposit Insurance Act''.

In the amendment made by section 907(b)(1) of the bill to section 101(22) of title 11, United States Code, strike ''trust company, or receiver'' (where such term appears in subparagraph (A) of the paragraph proposed to be inserted) and insert ''trust company, federally-insured credit union, or receiver, liquidating agent,''.

In the amendment made by section 907(b)(1) of the bill to section 101(22) of title 11, United States Code, insert ''liquidating agent,'' after ''receiver,'' (the 2d place such term appears in subparagraph (A) of the paragraph proposed to be inserted).

In section 908 of the bill, strike ''Section 11(e)(8)'' and insert ''(a) FDIC-INSURED DEPOSITORY INSTITUTIONS.—Section 11(e)(8)''.

Insert the following new subsection at the end of section 908 of the bill:

(b) INSURED CREDIT UNIONS.—Section 207(c)(8) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)) is amended by adding at the end the following new subparagraph:

''(H) RECORDKEEPING REQUIREMENTS.—The Board, in consultation with the appropriate Federal banking agencies, may prescribe regulations requiring more detailed recordkeeping by any insured credit union with respect to qualified financial contracts (including market valuations) only if such insured credit union is in a troubled condition (as such term is defined by the Board pursuant to section 212).''.

The CHAIRMAN. Pursuant to House Resolution 147, the gentleman from Pennsylvania (Mr. TOOMEY) and a Member opposed each will control 5 minutes.

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

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

I want to discuss briefly the derivative transactions which this amendment addresses. I should point out that with the possible exceptions of mutual funds, derivatives contracts, including over-the-counter derivatives, are perhaps the most important, creative and innovative development in finance in the last 30 years. Derivatives are financial contracts used by parties wishing to hedge the risk of fluctuations in the value of some commodity, often a financial commodity such as interest rates.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. TOOMEY. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I thank the gentleman for yielding.

I am happy to support the gentleman's amendment. I think it makes a useful addition to this legislation. Basically it extends the types of protections that are contained in the bill to credit unions. I think that this plugs a loophole. I hope that his amendment is approved.

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

The CHAIRMAN. Does any Member seek the time in opposition to the amendment?

The question is on the amendment offered by the gentleman from Pennsylvania (Mr. TOOMEY).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report 108–42.

Does any Member in the Chamber seek to offer the amendment?

It is now in order to consider amendment No. 3 printed in House Report 108–42.

AMENDMENT NO. 3 OFFERED BY MR. CANNON

Mr. CANNON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. CANNON:

Add at the end the following:

TITLE ___—PREVENTING CORPORATE BANKRUPTCY ABUSE

SEC. ___01. EMPLOYEE WAGE AND BENEFIT PRIORITIES.

Section 507(a) of title 11, United States Code, is amended—

(1) in paragraph (3) by striking ''90'' and inserting ''180'', and

(2) in paragraphs (3) and (4) by striking ''$4,000'' and inserting ''$10,000''.

SEC. ___02. FRAUDULENT TRANSFERS AND OBLIGATIONS.

Section 548 of title 11, United States Code, is amended—

(1) in subsections (a) and (b) by striking ''one year'' and inserting ''2 years'',

(2) in subsection (a)—

(A) by inserting ''(including any transfer to or for the benefit of an insider under an employment contract)'' after ''transfer'' the 1st place it appears, and

(B) by inserting ''(including any obligation to or for the benefit of an insider under an employment contract)'' after ''obligation'' the 1st place it appears, and

(3) in subsection (a)(1)(B)(ii)—

(A) in subclause (II) by striking ''or'' at the end,

(B) in subclause (III) by striking the period at the end and inserting ''; or'', and

(C) by adding at the end the following:

''(IV) made such transfer to or for the benefit of an insider, or incurred such obligation to or for the benefit of an insider, under an employment contract and not in the ordinary course of business.''.

SEC. ___03. PAYMENT OF INSURANCE BENEFITS TO RETIRED EMPLOYEES.

Section 1114 of title 11, United States Code, is amended—

(1) by redesignating subsection (l) as subsection (m), and

(2) by inserting after subsection (k) the following:

''(l) If the debtor, during the 180-day period ending on the date of the filing of the petition—

''(1) modified retiree benefits; and

''(2) was insolvent on the date such benefits were modified; the court, on motion of a party in interest, and after notice and a hearing, shall issue an order reinstating as of the date the modification was made, such benefits as in effect immediately before such date unless the court finds that the balance of the equities clearly favors such modification.''.

SEC. ___04. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this Act shall apply only with respect to cases commenced under title 11 of the United States Code on or after the date of the enactment of this Act.

(2) AVOIDANCE PERIOD.—The amendment made by section 3(1) shall apply only with respect to cases commenced under title 11 of the United States Code more than 1 year after the date of the enactment of this Act.

The CHAIRMAN. Pursuant to House Resolution 147, the gentleman from Utah (Mr. CANNON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Utah (Mr. CANNON).

□ 1500

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

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

Mr. CANNON. Mr. Chairman, this amendment which I jointly propose with my colleague from the Commonwealth of Massachusetts (Mr. DELAHUNT) responds to several significant issues presented by the recent bankruptcies of Enron, WorldCom, Global Crossing, and others. First, it would provide heightened protections for employees by increasing the monetary cap on wage and employee benefits.

Mr. Chairman, I have an amendment made in order by the rule and ask for its immediate consideration.

This amendment, which I jointly propose with my colleague from the Commonwealth of Massachusetts (Mr. DELAHUNT) responds to several significant issues presented by the recent bankruptcies of Enron, WorldCom, and Global Crossing. First, it would provide heightened protections for employees by increasing the monetary cap on wage and employee benefit claims entitled to priority under the Bankruptcy Code from $4,650 to $10,000. In addition, it would lengthen the reachback period for wage claims from 90 days to 180 days.

The second provision of the amendment benefits employees and creditors alike. It increases the reachback period during which fraudulent transfers can be rescinded from one to two years and provides that outrageous compensation payments, bonuses and other perks given to a corporation's insiders during the reachback period can be rescinded and the payments returned to the bankruptcy estate for distribution to its employees and creditors.

The third component of this amendment requires the court to reinstate retiree benefits that a corporate debtor modified within the 180-day period preceding the bankruptcy filing, unless the balance of the equities justifies the modification.

These provisions reflect sound bankruptcy policy and effectuate meaningful reforms. I urge my colleagues on both sides of the aisle to support this amendment.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. CANNON. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I thank the gentleman for yielding.

I believe this is also a constructive amendment and would hope that the committee would approve it. It increases a wage priority. It strengthens the law to make voidable fraudulent transfers and excessive compensation and also provides better protection for employee health care benefits. All three of these I believe are very good ideas, and I would urge that the amendment be approved.

The CHAIRMAN. Does any Member seek the time in opposition to the amendment offered by the gentleman from Utah?

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

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

I want to commend him and congratulate him for his leadership on this issue. I believe this is a very sound amendment. It is a good initial step, and I would seek the time for the purpose of engaging in a colloquy with my friend, the gentleman from Utah.

Mr. Chairman, by increasing the monetary cap on wage and employee benefit claims and lengthening the reach-back period for wage claims, the amendment increases the likelihood that lower-wage workers would get back some of the money they are owed. That is an excellent start. But at some later point, I hope in time for the House-Senate conference on this bill, I would like us to focus on the treatment of severance payments under current bankruptcy law. Some Courts have held that these payments should be prorated over the entire course of the individual's employment. As a result, only the small fraction of the severance payment that is attributed to the reach-back period may be treated as a priority claim, which unfortunately means that the employees receive much less than the monetary cap. This is a concern I hope we can address.

Would the gentleman be prepared to continue to work together so that this problem might be addressed when the bill goes to conference?

Mr. CANNON. Mr. Chairman, will the gentleman yield?

Mr. DELAHUNT. I yield to the gentleman from Utah.

Mr. CANNON. Mr. Chairman, I thank the gentleman for his work on the amendment, and I would like to continue to work with him. In particular, I would like to consider how this issue, while it might be clarified, given the complexity of the issue, I would recommend that our subcommittee consider possible solutions either formally perhaps through a hearing process or informally, and I would certainly hope that we could do so in time to fine-tune our amendment while the bill is in conference.

Mr. DELAHUNT. Mr. Chairman, as the gentleman knows, I authored legislation in the last Congress that would address in a more thorough and comprehensive way the effects of corporate bankruptcies on workers and retirees. At our markup on H.R. 975, the gentleman indicated a willingness to explore these questions, and I would ask the gentleman whether he would be willing to schedule hearings beginning in the spring in which we could begin to talk about this overall issue.

Mr. CANNON. Mr. Chairman, I think we have made a good start with this amendment, and it is my intention to schedule hearings as early as possible this year on issues presented by corporate bankruptcies and their impact on workers and retirees and to consider measures that could begin to address the problem in a more systematic way.

Mr. DELAHUNT. Mr. Chairman, again I thank the gentleman for his answers and for his genuine commitment to providing relief for workers and retirees, and possibly we could have a field hearing on this particular initiative on Cape Cod either in May or June sometime.

Mr. Chairman, I am pleased to join with the gentleman from Utah (Mr. CANNON) in offering this amendment. It would restore a modicum of balance to this unfair, unbalanced bill.

The sponsors of the bill say they advocate personal responsibility. Yet the bill does nothing to curb the corporate abuses that have turned the Bankruptcy Code into a bonanza for a handful of unscrupulous executives.

It does nothing to stop corporate insiders from stripping their companies of their assets,

paying themselves exorbitant salaries and bonuses and leaving little or nothing for their workers.

It does nothing to compensate workers whose jobs, pensions, health insurance and life savings have been wiped out by corporate bankruptcies.

The amendment represents a first, modest, effort to restore some balance. To recognize the obligations that an enterprise owes to the working people who have labored to build and sustain it.

The amendment will increase the chances that employees and retirees whose companies collapse into bankruptcy are able to retrieve some portion of what they are owed for back wages and benefits. And it will provide the courts with additional tools to recapture excessive compensation paid to corporate insiders. And I commend the gentleman from Utah for his willingness to offer it.

As the gentleman has explained, this amendment consists of three components. The first increases the monetary cap on wage and employee benefit claims entitled to priority under the Bankruptcy Code from $4,650 to $10,000, and lengthens the reachback period for wage claims from 90 to 180 days. This change increases the likelihood that workers—particularly those at the lower end of the wage scale—would actually see some of the money they are owed.

The second component lengthens the reachback period during which fraudulent transfers can be rescinded, from one year to two years, and provides that certain bonuses and other payments to corporate insiders can be rescinded during this period if they meet certain criteria. This provision gives the bankruptcy courts an additional tool for recapturing excessive compensation paid to officers and directors so that these can be available to help the company reorganize, or, in the alternative, can be distributed to employees, retirees, and other creditors.

The third component requires the court to reinstate retiree benefits—including health and pension plans—which the company modified within the 180-day period preceding the bankruptcy filing, unless the court finds that the balance of the equities justifies the modification. This provision prevents corporate debtors from evading the requirements of current law by terminating retiree benefit plans on the eve of bankruptcy.

These are good, sensible changes that will help people who lose their livelihood, their savings, and their health coverage. I sincerely appreciate the willingness of the gentleman from Utah to join in this effort. But as I'm sure he would agree, these changes are only a modest step—a baby step—and I hope we can continue to work together to address this issue in a more serious and comprehensive way.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from Utah (Mr. CANNON).

The amendment was agreed to.

The CHAIRMAN pro tempore (Mr. SIMPSON). It is now in order to consider amendment No. 4 printed in House Report 108–42.

AMENDMENT NO. 4 OFFERED BY MR. SHERMAN

Mr. SHERMAN. 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. 4 offered by Mr. SHERMAN: Add at the end the following:

TITLE ___—

SEC. ___. LOCAL FILING OF BANKRUPTCY CASES.

(a) VENUE OF CASES UNDER TITLE 11.—Section 1408 of title 28, United States Code, is amended—

(1) by striking ''Except'' and inserting the following:

''(a) Except'';

(2) in paragraph (2), by inserting ''as defined in section 101(2)(A) of title 11'' after ''affiliate''; and

(3) by adding at the end the following:

''(b) For purposes of subsection (a)—

''(1) if the debtor is a corporation, the domicile and residence of the debtor are conclusively presumed to be where the debtor's principal place of business in the United States is located; and

''(2) if an affiliate, as defined in section 101(2)(A) of title 11, is not a debtor in a case under title 11, but the debtor is an affiliate as defined in subparagraph (B), (C), or (D) of that section, then the bankruptcy case may be filed in the district in which the principal place of business of the affiliate with the greatest assets in the United States is located.''.

(b) CHANGE OF VENUE.—Section 1412 of title 28, United States Code, is amended—

(1) by striking ''A'' and inserting the following:

''(a) A''; and

(2) by adding at the end the following:

''(b) The district court of a district in which is filed a case laying venue in the wrong division or district shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought.

''(c) Nothing in this chapter shall impair the jurisdiction of a district court of any matter involving a party who does not interpose timely and sufficient objection to the venue.

''(d) As used in this section—

''(1) the term ''district court'' includes—

''(A) the bankruptcy judges of each such court as defined in section 151 of this title; and

''(B) the District Court of Guam, the District Court for the Northern Mariana Islands, and the District Court of the Virgin Islands, including any bankruptcy judge of each such court; and

''(2) the term ''district'' includes the territorial jurisdiction of each such court.''.

The CHAIRMAN pro tempore. Pursuant to House Resolution 147, the gentleman from California (Mr. SHERMAN) and a Member opposed each will control 5 minutes.

Mr. SENSENBRENNER. Mr. Chairman, I rise in opposition to the amendment and claim the time.

The CHAIRMAN pro tempore. The gentleman from Wisconsin will control 5 minutes.

The Chair recognizes the gentleman from California (Mr. SHERMAN).

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

I had a chance to address the House earlier thanks to the generous time allotment from the gentleman from Massachusetts.

This amendment really puts before us a question. Should we stick with a present system that is favorable to one or two jurisdictions because they have particularly demanding Members both perhaps in this House and certainly in the other House, or should we vote for our own States, for our own districts, and for the greater public interest? The question is where, when a corporation goes bankrupt, should they file their case. One would say, as this amendment says, file where the corporation is located, where the majority of its assets are located and if it is a group of corporations, where the largest of them is located. The present system has a different approach. That approach says that, with some careful planning, the corporation can file anywhere it wants to. If it happens to form a little shell subsidiary in this or that State, then they can file anywhere in that State.

What is the effect of that? It means that when Enron goes bankrupt, owing local businesses in Houston, they have to go to an east coast State to try to present their case. But worse than the inconvenience, this is a situation where referees are selected by one of the teams, and Enron is able to select the jurisdiction that provides for the largest attorney fees and the largest retention bonuses.

Of course the Court could decline to take the case, transfer it back to Houston. But instead, these bankruptcy courts are fighting for business. They are behaving like businesses. They are welcoming additional cases, providing additional fees to their particular courts, and they are not about to send a juicy case back to its legitimate at-home jurisdiction. I ask all Members to vote for this amendment when they come to the floor.

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

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I rise in opposition to this amendment. This amendment undoes a carefully crafted compromise that was done during conference with the other body. I want to see a bill passed. Most of the people in this House who voted on this issue want to see a bill passed. I will say very practically that the adoption of the Sherman amendment will make it more difficult for a bill to be passed and signed into law by the President of the United States.

On the merits, there are two reasons why we do not have need to have a change in the venue laws. First of all, title XXVIII, which I referred to during the general debate, gives the district court the opportunity to approve a change of venue to another jurisdiction for the convenience of the parties and the people who have business before the court. This is not a bankruptcy judge that is interested in fees. This is a Federal district judge who is able to order a change in venue. So it is out of the bankruptcy court, and it is into the district court.

The second reason why this amendment is not good policy on the merits

is the fact that there are certain jurisdictions where the bankruptcy courts are overloaded. One of the things that people who file for Chapter 11 or Chapter 13 want to see happen is they want to see their reorganizations to be approved quickly so that they could get out of bankruptcy and thus continue on with their business; and if there is a huge backlog in the court, that is going to be delayed and perhaps delayed an inordinate amount of time before the court can get to approving reorganization plans to get the corporation out of bankruptcy. So I think from a practical standpoint, corporations that want to get to Chapter 11 quickly will not go to the overloaded courts. The current venue statute gives them the flexibility of choosing where they are going to file. It ought to be maintained.

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

Mr. SHERMAN. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts (Mr. DELAHUNT).

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

Talking about the practical impact of the gentleman's amendment, it would end the practice of forum shopping; but even more meaningful, it would provide in very real terms an opportunity for small creditors, for retirees, for shareholders and others to participate in the process itself. Why should a court, with all due respect, in Delaware adjudicate a corporate bankruptcy that wipes out thousands of jobs in Ohio? Why should a judge in New York decide how to divide the spoils of an insolvent corporation in Massachusetts? The bankruptcy business, and it truly is a business, has been a windfall for certain jurisdictions; and they understandably resist any effort to reform the venue rules, but the rest of us ought to protect our constituents from this particular abuse, and I urge support for the amendment.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Delaware (Mr. CASTLE).

Mr. CASTLE. Mr. Chairman, I thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for yielding me this time.

I am pleased to rise to oppose this legislation for a variety of reasons. First of all, Congress should not discriminate against bankruptcy cases. Virtually all of our laws allow cases to be filed either where the company is headquartered, where their assets are, or where it is incorporated. Why would we want to single out bankruptcy cases for discriminatory treatment?

A second point, one made by the gentleman from Wisconsin (Mr. SENSENBRENNER), is our current law is already fair. The law already allows debtors to change the location of where bankruptcy cases are heard by filing a motion to transfer venue. Therefore, this amendment is not necessary to give debtors a fair forum to argue their case. A third point is that 63 percent of bankruptcy judges disagree with the amendment. When surveyed by the Judicial Conference, 63 percent of those surveyed, the bankruptcy judges, oppose changing the rules on where corporations can file bankruptcy. We need to listen to the experts who have to hear these cases every day.

And then there is another fact, Mr. Chairman, and that is that in 1973 Congress voted to restrict options for where bankruptcies could be filed. It was such a failure that Congress repealed the change in 1978. Why would we want to repeal that mistake?

In addition to all of those absolutely valid legal reasons before us today with respect to the bankruptcy laws, there is another reason that the gentleman from Wisconsin (Mr. SENSENBRENNER) has already explained and that is that this whole bankruptcy bill, and we have learned in these debates here today that it has been a long time, has been very carefully negotiated with a compromise. Various new bankruptcy judges have been added where they are needed in order for the courts to be able to keep up their pace in a variety of States across the United States of America.

For all of these absolutely valid reasons in terms of the integrity of the Federal laws of the United States with respect to all of our courts, all of our laws and particularly bankruptcy laws, I would urge everyone in this Chamber to oppose the Sherman amendment when it comes up for a vote.

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

I would like to respond to the arguments but remind my colleagues when they come for a vote that they should vote for the interests of their own State and for their own constituents, and we should not send a bill to the other body just because we have created it so that one particular Senator will not object, one particular State will not be concerned. We need to pass the best public policy product we can from this House.

□ 1515

Now, what has happened under the present law is the beginning of an abomination. Right now, only 30 percent of the large corporations that have gone bankrupt have filed locally. Virtually none that filed thousands of miles away have been sent back to their locality, and for 70 percent of the large business bankruptcies, you have to go thousands of miles from where the company is headquartered.

Not only is this inconvenient, but it causes a race to the bottom. Today it may be Delaware allowing hundreds of millions of dollars of retention bonuses. Tomorrow it may be California outbidding Delaware for the bankruptcy business by providing more hundreds of millions of dollars of retention bonuses; not $500 per hour fees, but $1,000 fees. And to say that a district court can send the business back is like saying, I am going to walk into a McDonald's, and they are going to tell me that, in the interest of justice, I should go get a salad around the corner from another provider.

Once a court gets the business, they are not going to give it up, and that is why if we are going to have business bankruptcies proceed in a way that is fair to local creditors, fair to local employees and avoid a spiral to the bottom of larger and larger law fees, larger and larger retention bonuses, we need to tell the corporation that they must go to the bankruptcy court in their own local area. It is not a situation where one of the teams gets to pick the referees. That is not a fair system.

So far we have had only minor abominations, only $100 million, $200 million retention bonus packages approved. In the future, as my State fights with the State of the gentleman from Delaware (Mr. CASTLE) for business, maybe my State will approve larger bonuses.

Mr. Chairman, I would say to Members, come to the floor, vote for a sound policy that distributes the bankruptcy work to the place in which the large corporation goes bankrupt. Vote for the interests of your own home constituents. Vote for this amendment.

The CHAIRMAN pro tempore (Mr. SIMPSON). The time of the gentleman from California has expired.

Mr. SENSENBRENNER. Mr. Chairman, I yield 30 seconds to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Chairman, as I think is known, I disagree on just about every other aspect of this bill, including whether it is desirable at all, with the distinguished chairman, but on this amendment I have to join him in opposition.

There is no good reason to go away in bankruptcy from the normal venue laws, number one, and make bankruptcy an exception to the venue laws in general.

Two, the debtor now can choose several different places; the principal place of incorporation where he has the principal place of business, et cetera.

Three, he can always ask the court to change it.

Four, courts are not businesses. They are not looking for business. They are not looking for volume. In fact, courts in Delaware are sending cases elsewhere because they are overcrowded.

Mr. Chairman, there is no good reason and a lot of harm that will come from adopting this amendment. I urge my colleagues to vote against it.

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

Mr. Chairman, I am going to quit while I am ahead. The gentleman from New York agrees with me that this amendment is a bad one. There is no more that I can say but to urge the membership once again to vote against it.

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 California (Mr. SHERMAN).

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

Mr. SHERMAN. 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 California (Mr. SHERMAN) will be postponed.

The point of no quorum is considered withdrawn.

Mr. GUTIERREZ. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. CASTLE) having assumed the chair, Mr. SIMPSON, 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. 975) to amend title 11 of the United States Code, and for other purposes, had come to no resolution thereon.

MAKING IN ORDER CONSIDERATION OF AMENDMENT NO. 2 DURING FURTHER CONSIDERATION OF H.R. 975, BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2003

Mr. GUTIERREZ. Mr. Speaker, I ask unanimous consent that when the Committee of the Whole resumes its consideration of H.R. 975, that I be permitted to offer amendment No. 2 printed in House Report 107–42.

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

There was no objection.

BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2003

The SPEAKER pro tempore. Pursuant to House Resolution 147 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 975.

□ 1520

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 975) to amend title 11 of the United States Code, and for other purposes, with Mr. SIMPSON (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole House rose earlier today, a request for a recorded vote on amendment No. 4 printed in the House Report 108–42 offered by the gentleman from California (Mr. SHERMAN) had been postponed.

Under the order of the House of today, it is now in order to consider amendment No. 2 printed in House Report 108–42.

AMENDMENT NO. 2 OFFERED BY MR. GUTIERREZ

Mr. GUTIERREZ. 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 Mr. GUTIERREZ:

Subsection (b) of section 1234 (Involuntary Cases) of H.R. 975 is amended by striking ''shall not apply with respect to cases commenced under title 11 of the United States Code before such date'' and inserting ''shall apply with respect to cases commenced under title 11 of the United States Code before, on, and after such date''.

The CHAIRMAN pro tempore. Pursuant to House Resolution 147, the gentleman from Illinois (Mr. GUTIERREZ) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Illinois (Mr. GUTIERREZ).

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

Mr. Chairman, this noncontroversial amendment changes the effective date on the involuntary bankruptcy provision of H.R. 975, also known as section 1234. My amendment is identical to language that was included in the corresponding provision, section 1233, of H.R. 5745.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. GUTIERREZ. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, this is a constructive amendment. I urge the committee to adopt it.

Mr. GUTIERREZ. Mr. Chairman, reclaiming my time, if there is no objection, I yield back the balance of my time.

The CHAIRMAN pro tempore. Does anyone claim the time in opposition?

If not, the question is on the amendment offered by the gentleman from Illinois (Mr. GUTIERREZ).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 5 printed in House Report 108–42.

AMENDMENT NO. 5 IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. NADLER

Mr. NADLER. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment No. 5 in the nature of a substitute offered by Mr. NADLER:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Bankruptcy Abuse Prevention and Consumer Protection Act of 2003''.

TITLE I—NEEDS-BASED BANKRUPTCY

SEC. 101. CONVERSION.

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

SEC. 102. DISMISSAL OR CONVERSION.

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

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

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

and

(2) in subsection (b)—

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

(B) in paragraph (1), as redesignated by subparagraph (A) of this paragraph—

(i) in the first sentence—

(I) by striking ''but not'' and inserting ''or'';

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

(III) by striking ''substantial abuse'' and inserting ''abuse''; and

(ii) by striking the last sentence and inserting the following:

''(2) In considering under paragraph (1) whether the granting of relief would be an abuse of the provisions of this chapter, the court shall consider whether—

''(A) under section 1325(b)(1), on the basis of the current income of the debtor, the debtor could pay an amount greater than or equal to 30 percent of unsecured claims that are not considered to be priority claims (as determined under subchapter I of chapter 5); or

''(B) the debtor filed a petition for the relief in bad faith.

''(6) Only the judge or United States trustee (or bankruptcy administrator, if any) may file 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;

''(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; 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, plus $525 per month for each individual in excess of 4.

''(7)(A) No judge, United States trustee (or bankruptcy administrator, if any), trustee, or other party in interest may file 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—

''(i) in the case of a debtor in a household of 1 person, the median family income of the applicable State for 1 earner;

''(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; 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, plus $525 per month for each individual in excess of 4.

''(B) In a case that is not a joint case, current monthly income of the debtor's spouse shall not be considered for purposes of subparagraph (A) if—

''(i)(I) the debtor and the debtor's spouse are separated under applicable nonbankruptcy law; or

''(II) the debtor and the debtor's spouse are living separate and apart, other than for the purpose of evading subparagraph (A); and

''(ii) the debtor files a statement under penalty of perjury—

''(I) specifying that the debtor meets the requirement of subclause (I) or (II) of clause (i); and

''(II) disclosing the aggregate, or best estimate of the aggregate, amount of any cash or money payments received from the debtor's spouse attributed to the debtor's current monthly income.''.

(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 that the debtor receives (or in a joint case the debtor and the debtor's spouse receive) without regard to whether such income is taxable income, derived during the 60-day period ending on—

''(i) the last day of the calendar month immediately preceding the date of the commencement of the case if the debtor files the schedule of current income required by section 521(a)(1)(B)(ii); or

''(ii) the date on which current income is determined by the court for purposes of this title if the debtor does not file the schedule of current income required by section 521(a)(1)(B)(ii); 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 for 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, payments to victims of war crimes or crimes against humanity on account of their status as victims of such crimes, and payments to victims of international terrorism (as defined in section 2331 of title 18) or domestic terrorism (as defined in section 2331 of title 18) on account of their status as victims of such terrorism;''.

(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 a debtor who is an individual in a case under this chapter—

''(A) the United States trustee (or the bankruptcy administrator, if any) 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, if any) 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 the bankruptcy administrator, if any) does not consider such a motion to be appropriate, if the United States trustee (or the bankruptcy administrator, if any) 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; 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.''.

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

''(d) In a case under chapter 7 of this title in which the debtor is an individual and in which the presumption of abuse arises 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 arisen.''.

(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 (or bankruptcy administrator, if any), or trustee.

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

''(c)(1) In this subsection—

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

''(B) the term 'drug trafficking crime' has the meaning given such 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 victim dismiss a voluntary case filed under this chapter by a debtor who is an individual if such individual was convicted of such 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 inserting after paragraph (6) the following:

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

(i) SPECIAL ALLOWANCE FOR HEALTH INSURANCE.—Section 1329(a) 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) reduce amounts to be paid under the plan by the actual amount expended by the debtor to purchase health insurance for the debtor (and for any dependent of the debtor if such dependent does not otherwise have health insurance coverage) if the debtor documents the cost of such insurance and demonstrates that—

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

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

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

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

and upon request of any party in interest, files proof that a health insurance policy was purchased.''.

(j) ADJUSTMENT OF DOLLAR AMOUNTS.—Section 104(b) of title 11, United States Code, is amended by striking ''and 523(a)(2)(C)'' each place it appears and inserting ''523(a)(2)(C), 707(b), and 1325(b)(3)''.

(k) DEFINITION OF 'MEDIAN FAMILY INCOME'.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (39) the following:

''(39A) 'median family income' means for any year—

''(A) the median family income both calculated and reported by the Bureau of the Census in the then most recent year; and

''(B) if not so calculated and reported in the then current year, adjusted annually after such most recent year until the next year in which median family income is both calculated and reported by the Bureau of the Census, to reflect the percentage change in the Consumer Price Index for All Urban Consumers during the period of years occurring after such most recent year and before such current year;''.

(k) 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. 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 case under this title shall be subject to fine, imprisonment, or both; and

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

SEC. 104. DEBTOR FINANCIAL MANAGEMENT TRAINING TEST PROGRAM.

(a) DEVELOPMENT OF FINANCIAL MANAGEMENT AND TRAINING CURRICULUM AND MATERIALS.—The Director of the Executive Office for United States Trustees (in this section referred to as the ''Director'') shall consult with a wide range of individuals who are experts in the field of debtor education, including trustees who serve in cases 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 debtors who are individuals 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 the enactment of this Act, such curriculum and materials shall be, for the 6 judicial districts selected under paragraph (1), used as the instructional course concerning personal financial management for purposes of section 111 of 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. 105. CREDIT COUNSELING.

(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), a debtor who is an individual 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. Nonprofit budget and credit counseling agencies; financial management instructional courses

''(a) The clerk shall maintain a publicly available list of—

''(1) nonprofit budget and credit counseling agencies that provide 1 or more services described in section 109(h) currently approved by the United States trustee (or the bankruptcy administrator, if any); and

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

''(b) The United States trustee (or bankruptcy administrator, if any) shall only approve a nonprofit budget and credit counseling agency or an instructional course concerning personal financial management as follows:

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

''(2) The United States trustee (or bankruptcy administrator, if any) shall have determined that such agency or such instructional course fully satisfies the applicable standards set forth in this section.

''(3) If a nonprofit budget and credit counseling agency or instructional course did not appear on the approved list for the district under subsection (a) immediately before approval under this section, approval under this subsection of such agency or such instructional course shall be for a probationary period not to exceed 6 months.

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

''(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), an interested person may seek judicial review of such decision in the appropriate district court of the United States.

''(c)(1) The United States trustee (or the bankruptcy administrator, if any) shall only approve a nonprofit budget and 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 relating to the quality, effectiveness, and financial security of the services it provides.

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

''(A) have a board of directors the majority of which—

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

''(ii) will not directly or indirectly benefit financially from the outcome of the counseling services provided by such agency;

''(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 a client, including funding sources, counselor qualifications, possible impact on credit reports, and any costs of such program that will be paid by such client and how such costs will be paid;

''(E) provide adequate counseling with respect to a client's credit problems that includes an analysis of such client's current financial condition, factors that caused such financial condition, and how such client can develop a plan to respond to the problems without incurring negative amortization of debt;

''(F) provide trained counselors who receive no commissions or bonuses based on the outcome of the counseling services provided by such agency, 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 the bankruptcy administrator, if any) 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 instructional course;

''(C) adequate facilities situated in reasonably convenient locations at which such instructional course is offered, except that such facilities may include the provision of such instructional course by telephone or through the Internet, if such instructional course 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 instructional course, including any evaluation of satisfaction of instructional course requirements for each debtor attending such instructional course, which shall be available for inspection and evaluation by the Executive Office for United States Trustees, the United States trustee (or the bankruptcy administrator, if any), or the chief bankruptcy judge for the district in which such instructional course 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 the debtor's understanding of personal financial management.

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

''(f) The United States trustee (or the bankruptcy administrator, if any) shall notify the clerk that a nonprofit budget and 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 nonprofit budget and credit counseling agency may provide to a credit reporting agency information concerning whether a debtor has received or sought instruction concerning personal financial management from such agency.

''(2) A nonprofit budget and credit counseling agency 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. Nonprofit budget and credit counseling agencies; 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. 106. 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. PRESERVATION OF CLAIMS AND DEFENSES UPON SALE OF PREDATORY LOANS.

Section 363 of title 11, United States Code, is amended—

(1) by redesignating subsection (o) as subsection (p), and

(2) by inserting after subsection (n) the following:

''(o) Notwithstanding subsection (f), if a person purchases any interest in a consumer credit transaction that is subject to the Truth in Lending Act or any interest in a consumer credit contract (as defined in section 433.1 of title 16 of the Code of Federal Regulations (January 1, 2002), as amended from time to time), and if such interest is purchased through a sale under this section, then such person shall remain subject to all claims and defenses that are related to such consumer credit transaction or such consumer credit contract, to the same extent as such person would be subject to such claims and defenses of the consumer had such interest been purchased at a sale not under this section.''.

SEC. 202. GAO STUDY AND REPORT ON REAFFIRMATION AGREEMENT PROCESS.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of the reaffirmation agreement process that occurs under title 11 of the United States Code, to determine the overall treatment of consumers within the context of such process, and shall include in such study consideration of—

(1) the policies and activities of creditors with respect to reaffirmation agreements; and

(2) whether consumers are fully, fairly, and consistently informed of their rights pursuant to such title.

(b) REPORT TO THE CONGRESS.—Not later than 18 months after the date of the 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 on the results of the study conducted under subsection (a), together with recommendations for legislation (if any) to address any abusive or coercive tactics found in connection with the reaffirmation agreement process that occurs under title 11 of the United States Code.

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 date of the order for relief in a case 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 the date of the order for relief in a case 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 of the debtor, or such child's parent, legal guardian, or responsible relative 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 so redesignated, by striking ''First'' and inserting ''Second'';

(4) in paragraph (3), as so redesignated, by striking ''Second'' and inserting ''Third'';

(5) in paragraph (4), as so 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 so redesignated, by striking ''Fourth'' and inserting ''Fifth'';

(7) in paragraph (6), as so redesignated, by striking ''Fifth'' and inserting ''Sixth'';

(8) in paragraph (7), as so redesignated, by striking ''Sixth'' and inserting ''Seventh''; and

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

''(1) First:

''(A) Allowed unsecured claims for domestic support obligations that, as of the date of the filing of the petition in a case under this title, are owed to or recoverable by a spouse, former spouse, or child of the debtor, or such child's parent, legal guardian, or responsible relative, without regard to whether the claim is filed by such person or is filed by a governmental unit on behalf of such person, on the condition that funds received under this paragraph by a governmental unit under this title after the date of the 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 of the filing of the petition, 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 governmental 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 the filing of the petition be applied and distributed in accordance with applicable nonbankruptcy law.

''(C) If a trustee is appointed or elected under section 701, 702, 703, 1104, 1202, or 1302, the administrative expenses of the trustee allowed under paragraphs (1)(A), (2), and (6) of section 503(b) shall be paid before payment of claims under subparagraphs (A) and (B), to the extent that the trustee administers assets that are otherwise available for the payment of such claims.''.

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 by statute, to pay a domestic support obligation, the debtor has paid all amounts payable under such order or such statute for such obligation that first become payable after the date of the filing of the petition.'';

(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 of the filing of the petition.'';

(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 1228(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) the debtor has paid all amounts that are required to be paid under a domestic support obligation and that first become payable after the date of the filing of the petition if the debtor is required by a judicial or administrative order, or by statute, to pay such domestic support obligation.'';

(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, or by statute, to pay a domestic support obligation, after such debtor certifies that all amounts payable under such order or such 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 by 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 of the filing of the petition.'';

(8) in section 1322(a)—

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

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

(C) by adding at the end the following:

''(4) notwithstanding any other provision of this section, a plan may provide for less than full payment of all amounts owed for a claim entitled to priority under section 507(a)(1)(B) only if the plan provides that all of the debtor's projected disposable income for a 5-year period beginning on the date that the first payment is due under the plan will be applied to make payments under the plan.'';

(9) in section 1322(b)—

(A) in paragraph (9), by striking ''; and'' and inserting a semicolon;

(B) by redesignating paragraph (10) as paragraph (11); and

(C) inserting after paragraph (9) the following:

''(10) provide for the payment of interest accruing after the date of the filing of the petition on unsecured claims that are nondischargeable under section 1328(a), except that such interest may be paid only to the extent that the debtor has disposable income available to pay such interest after making provision for full payment of all allowed claims; and'';

(10) in section 1325(a), as amended by section 102, by inserting after paragraph (7) the following:

''(8) the debtor has paid all amounts that are required to be paid under a domestic support obligation and that first become payable after the date of the filing of the petition if the debtor is required by a judicial or administrative order, or by statute, to pay such domestic support obligation; 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, or by statute, to pay a domestic support obligation, after such debtor certifies that all amounts payable under such order or such 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 by 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) of 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 or a statute;

''(D) of the withholding, suspension, or restriction of a driver's license, a professional or occupational license, or a recreational license, under State law, as specified in section 466(a)(16) of the Social Security Act;

''(E) of 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;

''(F) of the interception of a tax refund, as specified in sections 464 and 466(a)(3) of the Social Security Act or under an analogous State law; or

''(G) of the enforcement of a medical obligation, as specified under title IV of the Social Security Act;''.

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;''; 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.

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.

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 of the filing of the petition'' after ''dependent of the debtor''.

SEC. 219. COLLECTION OF CHILD SUPPORT.

(a) DUTIES OF TRUSTEE UNDER CHAPTER 7.—Section 704 of title 11, United States Code, as amended by section 102, 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 the debtor there is a claim for a domestic support obligation, provide the applicable notice specified in subsection (c); and''; and

(2) by adding at the end the following:

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

''(A)(i) provide written notice to the holder of the claim described in subsection (a)(10) of such claim and of the right of such holder to use the services of the State child support enforcement agency established under sections 464 and 466 of the Social Security Act for the State in which such holder resides, for assistance in collecting child support during and after the case under this title;

''(ii) include in the notice provided under clause (i) the address and telephone number of such State child support enforcement agency; and

''(iii) include in the notice provided under clause (i) an explanation of the rights of such holder to payment of such claim under this chapter;

''(B)(i) provide written notice to such State child support enforcement agency of such claim; and

''(ii) include in the notice provided under clause (i) the name, address, and telephone number of such holder; and

''(C) at such time as the debtor is granted a discharge under section 727, provide written notice to such holder and to such State child support enforcement agency 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) the name of each creditor that holds a claim that—

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

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

''(2)(A) The holder of a claim described in subsection (a)(10) or the State child support enforcement agency of the State in which such holder resides may request from a creditor described in paragraph (1)(C)(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 by reason of making such 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 the debtor there is a claim for a domestic support obligation, provide the applicable notice specified in subsection (c).''; and

(2) by adding at the end the following:

''(c)(1) In a case described in subsection (a)(8) to which subsection (a)(8) applies, the trustee shall—

''(A)(i) provide written notice to the holder of the claim described in subsection (a)(8) of such claim and of the right of such holder to use the services of the State child support enforcement agency established under sections 464 and 466 of the Social Security Act for the State in which such holder resides, for assistance in collecting child support during and after the case under this title; and

''(ii) include in the notice required by clause (i) the address and telephone number of such State child support enforcement agency;

''(B)(i) provide written notice to such State child support enforcement agency of such claim; and

''(ii) include in the notice required by clause (i) the name, address, and telephone number of such holder; and

''(C) at such time as the debtor is granted a discharge under section 1141, provide written notice to such holder and to such State child support enforcement agency 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) the name of each creditor that holds a claim that—

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

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

''(2)(A) The holder of a claim described in subsection (a)(8) or the State child enforcement support agency of the State in which such holder resides may request from a creditor described in paragraph (1)(C)(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 by reason of making such 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 the debtor there is a claim for a domestic support obligation, provide the applicable notice specified in subsection (c).''; and

(2) by adding at the end the following:

''(c)(1) In a case described in subsection (b)(6) to which subsection (b)(6) applies, the trustee shall—

''(A)(i) provide written notice to the holder of the claim described in subsection (b)(6) of such claim and of the right of such holder to use the services of the State child support enforcement agency established under sections 464 and 466 of the Social Security Act for the State in which such holder resides, for assistance in collecting child support during and after the case under this title; and

''(ii) include in the notice provided under clause (i) the address and telephone number of such State child support enforcement agency;

''(B)(i) provide written notice to such State child support enforcement agency of such claim; and

''(ii) include in the notice provided under clause (i) the name, address, and telephone number of such holder; and

''(C) at such time as the debtor is granted a discharge under section 1228, provide written notice to such holder and to such State child support enforcement agency 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) the name of each creditor that holds a claim that—

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

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

''(2)(A) The holder of a claim described in subsection (b)(6) or the State child support enforcement agency of the State in which such holder resides may request from a creditor described in paragraph (1)(C)(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 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 the debtor there is a claim for a domestic support obligation, provide the applicable notice specified in subsection (d).''; and

(2) by adding at the end the following:

''(d)(1) In a case described in subsection (b)(6) to which subsection (b)(6) applies, the trustee shall—

''(A)(i) provide written notice to the holder of the claim described in subsection (b)(6) of such claim and of the right of such holder to use the services of the State child support enforcement agency established under sections 464 and 466 of the Social Security Act for the State in which such holder resides, for assistance in collecting child support during and after the case under this title; and

''(ii) include in the notice provided under clause (i) the address and telephone number of such State child support enforcement agency;

''(B)(i) provide written notice to such State child support enforcement agency of such claim; and

''(ii) include in the notice provided under clause (i) the name, address, and telephone number of such holder; and

''(C) at such time as the debtor is granted a discharge under section 1328, provide written notice to such holder and to such State child support enforcement agency 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) the name of each creditor that holds a claim that—

''(I) is not discharged under paragraph (2) or (4) of section 523(a); or

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

''(2)(A) The holder of a claim described in subsection (b)(6) or the State child support enforcement agency of the State in which such holder resides may request from a creditor described in paragraph (1)(C)(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 by reason of making that disclosure.''.

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 (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 bankruptcy petition 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 which shall be on an official form prescribed by the Judicial Conference of the United States in accordance with rule 9009 of the Federal Rules of Bankruptcy Procedure.

''(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 the debtor and, under penalty of perjury, by the bankruptcy petition preparer; and

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

(2) 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 bankruptcy petition preparer.''; and

(B) by striking paragraph (3);

(3) in subsection (d)—

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

(B) by striking paragraph (2);

(4) 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 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.'';

(5) in subsection (f)—

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

(B) by striking paragraph (2);

(6) in subsection (g)—

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

(B) by striking paragraph (2);

(7) in subsection (h)—

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

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

''(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 so redesignated—

(i) by striking ''Within 10 days after the date of the filing of 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 so 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 bankruptcy petition preparer during the 12-month period immediately preceding the date of the 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 so redesignated, by striking ''or the United States trustee'' and inserting ''the United States trustee (or the bankruptcy administrator, if any) or the court, on the initiative of the court,'';

(8) 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 the motion of the debtor, trustee, United States trustee (or the bankruptcy administrator, if any), and after notice and a hearing, the court shall order the bankruptcy petition preparer to pay to the debtor—'';

(9) 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 on the motion of the court, the trustee, or the United States trustee (or the bankruptcy administrator, if any).''; and

(10) 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 bankruptcy petition preparer.

''(3) A debtor, trustee, creditor, or United States trustee (or the bankruptcy administrator, if any) may file a motion for an order imposing a fine on the bankruptcy petition preparer for any 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, as amended by section 212, is amended by inserting after paragraph (9) the following:

''(10) Tenth, allowed claims for death or personal injury 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 filing of the petition in a case under 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 such 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 such 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 such 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; and

(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(c) 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 under 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) a loan from a thrift savings plan permitted under subchapter III of chapter 84 of title 5, that satisfies the requirements of section 8433(g) of such title;

but nothing in this paragraph 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 section 215, is amended by inserting after paragraph (17) 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 a thrift savings plan permitted under subchapter III of chapter 84 of title 5, that satisfies the requirements of section 8433(g) of such title;

but nothing in this paragraph 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; or''.

(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.—

(1) 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 such Code or a simple retirement account under section 408(p) of such 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 in a case filed by a debtor who is an individual, except that such amount may be increased if the interests of justice so require.''.

(2) ADJUSTMENT OF DOLLAR AMOUNTS.—Paragraphs (1) and (2) of section 104(b) of title 11, United States Code, are amended by inserting ''522(n),'' after ''522(d),''.

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 (9); 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 the filing of the petition in a case under this title, but—

''(A) only if the designated beneficiary of such account was a child, stepchild, grandchild, or stepgrandchild 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 the filing of the petition in a case under this title, but—

''(A) only if the designated beneficiary of the amounts paid or contributed to such tuition program was a child, stepchild, grandchild, or stepgrandchild 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 in a case under this title 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 section 106, 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 the value of whose nonexempt property is 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 who is an officer, director, employee, or agent of a person who provides such assistance or of the bankruptcy petition preparer;

''(B) a nonprofit organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986;

''(C) a creditor of such assisted person, to the extent that the creditor is assisting such assisted person to restructure any debt owed by such assisted 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 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) of title 11, United States Code, is

amended by inserting ''101(3),'' after ''sections'' each place it appears.

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—

''(A) the services that such agency will provide to such person; or

''(B) 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 a 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 attorneys' fees as determined by the court.

''(4) The district courts of the United States for districts located in the State shall have concurrent jurisdiction of any action under subparagraph (A) or (B) of paragraph (3).

''(5) Notwithstanding any other provision of Federal law and in addition to any other remedy provided under Federal or State law, if the court, on its own motion or on the motion of the United States trustee or the debtor, finds that a person intentionally violated this section, or engaged in a clear and consistent pattern or practice of violating this section, the court may—

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

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

''(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 after the item relating to section 525, the following:

''526. Restrictions on debt relief agencies.''.

SEC. 228. DISCLOSURES.

(a) DISCLOSURES.—Subchapter II of chapter 5 of title 11, United States Code, as amended by section 227, 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); 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 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 of this title, 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 case under this title or other sanction, including a criminal sanction.

''(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) 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 available under 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. 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 should 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.

''(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 section 227, 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 sections 227 and 228, 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 on which 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 use the following statement in such advertisement: '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 section 227 and 228, is amended by inserting after the item relating to section 527, the following:

''528. Requirements for debt relief agencies.''.

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 debtors who are individuals under such title, the names and social security account numbers of such debtors for the purposes of allowing such Office to determine whether such debtors have outstanding obligations for child support (as determined on the basis of information in the Federal Case Registry or other national database).

(b) REPORT.—Not later than 300 days after the date of enactment of this Act, the Comptroller General shall submit to the President pro tempore of the Senate and the Speaker of the House of Representatives a report containing the results of the study required by subsection (a).

SEC. 231. PROTECTION OF PERSONALLY IDENTIFIABLE INFORMATION.

(a) LIMITATION.—Section 363(b)(1) of title 11, United States Code, is amended by striking the period at the end and inserting the following:

'', except that if the debtor in connection with offering a product or a service discloses to an individual a policy prohibiting the transfer of personally identifiable information about individuals to persons that are not affiliated with the debtor and if such policy is in effect on the date of the commencement of the case, then the trustee may not sell or lease personally identifiable information to any person unless—

''(A) such sale or such lease is consistent with such policy; or

''(B) after appointment of a consumer privacy ombudsman in accordance with section 332, and after notice and a hearing, the court approves such sale or such lease—

''(i) giving due consideration to the facts, circumstances, and conditions of such sale or such lease; and

''(ii) finding that no showing was made that such sale or such lease would violate applicable nonbankruptcy law.''.

(b) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (41) the following:

''(41A) 'personally identifiable information' means—

''(A) if provided by an individual to the debtor in connection with obtaining a product or a service from the debtor primarily for personal, family, or household purposes—

''(i) the first name (or initial) and last name of such individual, whether given at birth or time of adoption, or resulting from a lawful change of name;

''(ii) the geographical address of a physical place of residence of such individual;

''(iii) an electronic address (including an e-mail address) of such individual;

''(iv) a telephone number dedicated to contacting such individual at such physical place of residence;

''(v) a social security account number issued to such individual; or

''(vi) the account number of a credit card issued to such individual; or

''(B) if identified in connection with 1 or more of the items of information specified in subparagraph (A)—

''(i) a birth date, the number of a certificate of birth or adoption, or a place of birth; or

''(ii) any other information concerning an identified individual that, if disclosed, will result in contacting or identifying such individual physically or electronically;''.

SEC. 232. CONSUMER PRIVACY OMBUDSMAN.

(a) CONSUMER PRIVACY OMBUDSMAN.—Title 11 of the United States Code is amended by inserting after section 331 the following:

''§ 332. Consumer privacy ombudsman

''(a) If a hearing is required under section 363(b)(1)(B), the court shall order the United States trustee to appoint, not later than 5 days before the commencement of the hearing, 1 disinterested person (other than the United States trustee) to serve as the consumer privacy ombudsman in the case and shall require that notice of such hearing be timely given to such ombudsman.

''(b) The consumer privacy ombudsman may appear and be heard at such hearing and shall provide to the court information to assist the court in its consideration of the facts, circumstances, and conditions of the proposed sale or lease of personally identifiable information under section 363(b)(1)(B). Such information may include presentation of—

''(1) the debtor's privacy policy;

''(2) the potential losses or gains of privacy to consumers if such sale or such lease is approved by the court;

''(3) the potential costs or benefits to consumers if such sale or such lease is approved by the court; and

''(4) the potential alternatives that would mitigate potential privacy losses or potential costs to consumers.

''(c) A consumer privacy ombudsman shall not disclose any personally identifiable information obtained by the ombudsman under this title.''.

(b) COMPENSATION OF CONSUMER PRIVACY OMBUDSMAN.—Section 330(a)(1) of title 11, United States Code, is amended in the matter preceding subparagraph (A), by inserting ''a consumer privacy ombudsman appointed under section 332,'' before ''an examiner''.

(c) CONFORMING AMENDMENT.—The table of sections for subchapter II of chapter 3 of title 11, United States Code, is amended by adding at the end the following:

''332. Consumer privacy ombudsman.''.

SEC. 233. PROHIBITION ON DISCLOSURE OF NAME 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 name of minor children

''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. The debtor may be required to disclose the name of such minor child in a nonpublic record that is maintained by the court and made available by the court for examination by the United States trustee, the trustee, and the auditor (if any) serving under section 586(f) of title 28, in the case. The court, the United States trustee, the trustee, and such

auditor shall not disclose the name of such minor child maintained in such nonpublic record.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 1 of title 11, United States Code, as amended by section 106, is amended by inserting after the item relating to section 111 the following:

''112. Prohibition on disclosure of name of minor children.''.

(c) CONFORMING AMENDMENT.—Section 107(a) of title 11, United States Code, is amended by inserting ''and subject to section 112'' after ''section''.

TITLE III —DISCOURAGING BANKRUPTCY ABUSE

SEC. 301. TECHNICAL AMENDMENTS.

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. 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 property, if the court finds that the filing of the 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, such real property without the consent of the secured creditor or court approval; or

''(B) multiple bankruptcy filings affecting such real property.

If recorded in compliance with applicable State laws governing notices of interests or liens in real property, an order entered under paragraph (4) shall be binding in any other case under this title purporting to affect such real property filed not later than 2 years after the date of the entry of such order by the court, except that a debtor in a subsequent case under this title 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, as amended by section 224, is amended by inserting after paragraph (19), the following:

''(20) under subsection (a), of any act to enforce any lien against or security interest in real property following entry of the order under subsection (d)(4) as to such real property in any prior case under this title, for a period of 2 years after the date of the entry of such an order, except that the debtor, in a subsequent case under this title, may move 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 case under this title; or

''(B) if the case under this title was filed in violation of a bankruptcy court order in a prior case under this title prohibiting the debtor from being a debtor in another case under this title;''.

SEC. 303. GIVING SECURED CREDITORS FAIR TREATMENT IN CHAPTER 13.

(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:

''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 365-day preceding the date of 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 180-day period preceding that filing.''.

SEC. 304. DOMICILIARY REQUIREMENTS FOR EXEMPTIONS.

Section 522(b)(3) of title 11, United States Code, as so designated by section 106, is amended—

(1) in subparagraph (A)—

(A) by striking ''180 days'' and inserting ''730 days''; and

(B) 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''; and

(2) by adding at the end the following:

''If the effect of the domiciliary requirement under subparagraph (A) is to render the debtor ineligible for any exemption, the debtor may elect to exempt property that is specified under subsection (d).''.

SEC. 305. REDUCTION OF HOMESTEAD EXEMPTION FOR FRAUD.

Section 522 of title 11, United States Code, as amended by section 224, 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;

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

''(4) real or personal property that the debtor or a dependent of the debtor claims as a homestead;

shall be reduced to the extent that such value is attributable to any portion of any property that the debtor disposed of in the 10-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. 306. LIMITATIONS ON HOMESTEAD EXEMPTION.

(a) EXEMPTIONS.—Section 522 of title 11, United States Code, as amended by sections 224 and 308, 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, 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 1215-day period preceding the date of the filing of the petition that exceeds in the aggregate $125,000 in value in—

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

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

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

''(D) real or personal property that the debtor or dependent of the debtor claims as a homestead.

''(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 such 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 such 1215-day period) into the debtor's current principal residence, if the debtor's previous and current residences are located in the same State.

''(q)(1) As a result of electing under subsection (b)(3)(A) to exempt property under State or local law, a debtor may not exempt any amount of an interest in property described in subparagraphs (A), (B), (C), and (D) of subsection (p)(1) which exceeds in the aggregate $125,000 if—

''(A) the court determines, after notice and a hearing, that the debtor has been convicted of a felony (as defined in section 3156 of title 18), which under the circumstances, demonstrates that the filing of the case was an abuse of the provisions of this title; or

''(B) the debtor owes a debt arising from—

''(i) any violation of the Federal securities laws (as defined in section 3(a)(47) of the Securities Exchange Act of 1934), any State securities laws, or any regulation or order issued under Federal securities laws or State securities laws;

''(ii) fraud, deceit, or manipulation in a fiduciary capacity or in connection with the purchase or sale of any security registered under section 12 or 15(d) of the Securities Exchange Act of 1934 or under section 6 of the Securities Act of 1933;

''(iii) any civil remedy under section 1964 of title 18; or

''(iv) any criminal act, intentional tort, or willful or reckless misconduct that caused serious physical injury or death to another individual in the preceding 5 years.

''(2) Paragraph (1) shall not apply to the extent the amount of an interest in property described in subparagraphs (A), (B), (C), and (D) of subsection (p)(1) is reasonably necessary for the support of the debtor and any dependent of the debtor.''.

(b) ADJUSTMENT OF DOLLAR AMOUNTS.—Paragraphs (1) and (2) of section 104(b) of title 11, United States Code, as amended by section 224, are amended by inserting ''522(p), 522(q),'' after ''522(n),''.

SEC. 307. EXCLUDING EMPLOYEE BENEFIT PLAN PARTICIPANT CONTRIBUTIONS AND OTHER PROPERTY FROM THE ESTATE.

Section 541(b) of title 11, United States Code, as amended by section 225, is amended by adding after paragraph (6), as added by section 225(a)(1)(C), the following:

''(7) any amount—

''(A) withheld by an employer from the wages of employees for payment as contributions—

''(i) to—

''(I) an employee benefit plan that is subject to title I of the Employee Retirement

Income Security Act of 1974 or under an employee benefit plan which is a governmental plan under section 414(d) of the Internal Revenue Code of 1986;

''(II) a deferred compensation plan under section 457 of the Internal Revenue Code of 1986; or

''(III) a tax-deferred annuity under section 403(b) of the Internal Revenue Code of 1986;

except that such amount under this subparagraph shall not constitute disposable income as defined in section 1325(b)(2); or

''(ii) to a health insurance plan regulated by State law whether or not subject to such title; or

''(B) received by an employer from employees for payment as contributions—

''(i) to—

''(I) an employee benefit plan that is subject to title I of the Employee Retirement Income Security Act of 1974 or under an employee benefit plan which is a governmental plan under section 414(d) of the Internal Revenue Code of 1986;

''(II) a deferred compensation plan under section 457 of the Internal Revenue Code of 1986; or

''(III) a tax-deferred annuity under section 403(b) of the Internal Revenue Code of 1986;

except that such amount under this subparagraph shall not constitute disposable income, as defined in section 1325(b)(2); or

''(ii) to a health insurance plan regulated by State law whether or not subject to such title;''.

SEC. 308. 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 all that follows through ''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. 309. 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. 310. 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 this paragraph;''; 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) 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 nonresidential real property lease subject to section 365(b)(1)(A), compensates the holder of such claim or such interest (other than the debtor or an insider) for any actual pecuniary loss incurred by such holder as a result of such failure; and''.

SEC. 311. 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—

''(i) wages, salaries, and commissions for services rendered after the commencement of the case; and

''(ii) wages and benefits awarded pursuant to a judicial proceeding or a proceeding of the National Labor Relations Board as back pay attributable to any period of time occurring after commencement of the case under this title, as a result of a violation of Federal or State law by the debtor, without regard to the time of the occurrence of unlawful conduct on which such award is based or to whether any services were rendered, if the court determines that payment of wages and benefits by reason of the operation of this clause will not substantially increase the probability of layoff or termination of current employees, or of nonpayment of domestic support obligations, during the case under this title;''.

SEC. 312. DELAY OF DISCHARGE DURING PENDENCY OF CERTAIN PROCEEDINGS.

(a) CHAPTER 7.—Section 727(a) of title 11, United States Code, as amended by section 106, is amended—

(1) in paragraph (10), by striking ''or'' at the end;

(2) in paragraph (11) by striking the period at the end and inserting ''; or''; and

(3) by inserting after paragraph (11) the following:

''(12) the court after notice and a hearing held not more than 10 days before the date of the entry of the order granting the discharge finds that there is reasonable cause to believe that—

''(A) section 522(q)(1) may be applicable to the debtor; and

''(B) there is pending any proceeding in which the debtor may be found guilty of a felony of the kind described in section 522(q)(1)(A) or liable for a debt of the kind described in section 522(q)(1)(B).''.

(b) CHAPTER 11.—Section 1141(d) of title 11, United States Code, as amended by section 321, is amended by adding at the end the following:

''(C) unless after notice and a hearing held not more than 10 days before the date of the entry of the order granting the discharge, the court finds that there is no reasonable cause to believe that—

''(i) section 522(q)(1) may be applicable to the debtor; and

''(ii) there is pending any proceeding in which the debtor may be found guilty of a felony of the kind described in section 522(q)(1)(A) or liable for a debt of the kind described in section 522(q)(1)(B).''.

(c) CHAPTER 12.—Section 1228 of title 11, United States Code, is amended—

(1) in subsection (a) by striking ''As'' and inserting ''Subject to subsection (d), as'',

(2) in subsection (b) by striking ''At'' and inserting ''Subject to subsection (d), at'', and

(3) by adding at the end the following:

''(f) The court may not grant a discharge under this chapter unless the court after notice and a hearing held not more than 10 days before the date of the entry of the order granting the discharge finds that there is no reasonable cause to believe that—

''(1) section 522(q)(1) may be applicable to the debtor; and

''(2) there is pending any proceeding in which the debtor may be found guilty of a felony of the kind described in section 522(q)(1)(A) or liable for a debt of the kind described in section 522(q)(1)(B).''.

(d) CHAPTER 13.—Section 1328 of title 11, United States Code, as amended by section 106, is amended—

(1) in subsection (a) by striking ''As'' and inserting ''Subject to subsection (d), as'',

(2) in subsection (b) by striking ''At'' and inserting ''Subject to subsection (d), at'', and

(3) by adding at the end the following:

''(h) The court may not grant a discharge under this chapter unless the court after notice and a hearing held not more than 10 days before the date of the entry of the order granting the discharge finds that there is no reasonable cause to believe that—

''(1) section 522(q)(1) may be applicable to the debtor; and

''(2) there is pending any proceeding in which the debtor may be found guilty of a felony of the kind described in section 522(q)(1)(A) or liable for a debt of the kind described in section 522(q)(1)(B).''.

SEC. 313. NONDISCHARGEABILITY OF DEBTS INCURRED THROUGH VIOLATIONS OF CIVIL RIGHTS LAWS.

(a) DEBTS INCURRED THROUGH VIOLATIONS OF CIVIL RIGHTS LAWS.—Section 523(a) of title 11, United States Code, as amended by section 224, is amended—

(1) in paragraph (18) by striking ''or'' at the end;

(2) in paragraph (19) by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(20) that results from any judgment, order, consent order, or decree entered in any Federal or State court, or contained in any settlement agreement entered into by the debtor (including any court-ordered damages, fine, penalty, or attorney fee or cost owed by the debtor), that arises from—

''(A) the violation by the debtor of any offense described in section 244 (relating to discrimination against a person wearing the uniform of the Armed Forces), section 245 (relating to federally protected rights), section 247 (relating to damage to religious property; obstruction of persons in the free exercise of religious beliefs), or section 248 (relating to the freedom of access to clinic entrances), of title 18, United States Code;

''(B) an offense under State law that consists of conduct that would be a civil rights crime described in subparagraph (A) of this paragraph; or

''(C) a valid court order enforcing a civil rights law described in subparagraphs (A) or (B) of this paragraph.''.

(b) RESTITUTION.—Section 523(a)(13) of title 11, United States Code, is amended by inserting ''or under the criminal law of a State'' after ''title 18''.

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, 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 or a national securities exchange registered with the Securities and Exchange Commission under section 6 of the Securities Exchange Act of 1934;''.

(b) AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, as amended by sections 224, 303, and 311, is amended by inserting after paragraph (24) the following:

''(25) under subsection (a), of—

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

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

''(C) any act taken by such 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. 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), 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 on the 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.

''(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.''.

(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. 404. 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), 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. 405. 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.''.

SEC. 406. 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. 407. VENUE OF CERTAIN PROCEEDINGS.

Section 1409(b) of title 28, United States Code, is amended by inserting '', or a debt (excluding a consumer debt) against a noninsider of less than $10,000,'' after ''$5,000''.

SEC. 408. 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) 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 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) 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 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. 409. 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. 410. FACTORS FOR COMPENSATION OF PROFESSIONAL PERSONS.

Section 330(a)(3) of title 11, United States Code, 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. 411. 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) The court shall resolve any dispute arising out of an election described in subparagraph (A).''.

SEC. 412. UTILITY SERVICE.

Section 366 of title 11, United States Code, is amended—

(1) in subsection (a), by striking ''subsection (b)'' and inserting ''subsections (b) and (c)''; and

(2) by adding at the end the following:

''(c)(1)(A) For purposes of this subsection, the term 'assurance of payment' means—

''(i) a cash deposit;

''(ii) a letter of credit;

''(iii) a certificate of deposit;

''(iv) a surety bond;

''(v) a prepayment of utility consumption; or

''(vi) another form of security that is mutually agreed on between the utility and the debtor or the trustee.

''(B) For purposes of this subsection an administrative expense priority shall not constitute an assurance of payment.

''(2) Subject to paragraphs (3) and (4), with respect to a case filed under chapter 11, a utility referred to in subsection (a) may alter, refuse, or discontinue utility service, if during the 30-day period beginning on the date of the 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 the filing of the petition;

''(ii) the payment by the debtor of charges for utility service in a timely manner before the date of the 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 the filing of the petition without notice or order of the court.

''(5) 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.''.

SEC. 413. 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 individual 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. 414. EFFECT OF SALE OF ASSETS ON EMPLOYEE BENEFITS.

Section 363(b) of title 11, United States Code, is amended by adding at the end the following:

''(3) The court shall not approve the sale of all or substantially all the assets of a debtor with 50 or more employees until the debtor has reported to the court on the potential adverse impact that such sale is likely to have on employee benefits, including any pension and health care plans sponsored by the debtor.''.

SEC. 415. ADMINISTRATIVE EXPENSES.

Section 503 of title 11, United States Code, is amended by adding at the end the following:

''(c)(1) Notwithstanding subsection (b), there shall neither be allowed, nor paid—

''(A) a transfer made to, or an obligation incurred for the benefit of, an insider of the debtor for the purpose of inducing such person to remain with the debtor's business, absent a finding by the court based on evidence in the record that—

''(i) the transfer or obligation is essential to retention of the person because the individual has a bona fide job offer from another business at the same or greater rate of compensation;

''(ii) the services provided by the person are essential to the survival of the business; and

''(iii) either—

''(I) the amount of the transfer made to, or obligation incurred for the benefit of, the person is not greater than an amount equal to 10 times the amount of the mean transfer or obligation of a similar kind given to nonmanagement employees for any purpose during the calendar year in which the transfer is made or the obligation is incurred; or

''(II) if no such similar transfers were made to, or obligations were incurred for the benefit of, such nonmanagement employees during such calendar year, the amount of the transfer or obligation is not greater than an amount equal to 25 percent of the amount of any similar transfer or obligation made to or incurred for the benefit of such insider for any purpose during the calendar year before the year in which such transfer is made or obligation is incurred;

''(B) a severance payment to an insider of the debtor, unless—

''(i) the payment is part of a program that is generally applicable to all full-time employees; and

''(ii) the amount of the payment is not greater than 10 times the amount of the mean severance pay given to nonmanagement employees during the calendar year in which the payment is made; or

''(C) other transfers or obligations that are outside the ordinary course of business and not justified by the facts and circumstances of the case.

''(2) For purposes of paragraph (1)(C), transfers made to, or obligations incurred for the benefit of, officers, managers, or consultants hired after the date of the filing of the petition shall be considered outside the ordinary course of business.''.

SEC. 416. PRIORITIES

Section 507(a) of title 11, United States Code, is amended—

(1) in paragraph (3), by striking ''$4,000'' and inserting ''$13,500'';

(2) in paragraph (3), striking ''90 days'' and inserting ''180 days'';

(3) in paragraph (4)(A), striking ''180 days'' and inserting ''360 days''; and

(4) in paragraph (4)(B)(i), by striking ''$4,000'' and inserting ''$13,500''.

SEC. 417. LOCAL FILING OF BANKRUPTCY CASES.

(a) VENUE OF CASES UNDER TITLE 11.—Section 1408 of title 28, United States Code, is amended—

(1) by striking ''Except'' and inserting the following:

''(a) Except'';

(2) in paragraph (2), by inserting ''as defined in section 101(2)(A) of title 11'' after ''affiliate''; and

(3) by adding at the end the following:

''(b) For purposes of subsection (a)—

''(1) if the debtor is a corporation, the domicile and residence of the debtor are conclusively presumed to be where the debtor's principal place of business in the United States is located; and

''(2) if an affiliate, as defined in section 101(2)(A) of title 11, is not a debtor in a case under title 11, but the debtor is an affiliate as defined in subparagraph (B), (C), or (D) of that section, then the bankruptcy case may be filed in the district in which the principal place of business of the affiliate with the greatest assets in the United States is located.''.

(b) CHANGE OF VENUE.—Section 1412 of title 28, United States Code, is amended—

(1) by striking ''A'' and inserting the following:

''(a) A''; and

(2) by adding at the end the following:

''(b) The district court of a district in which is filed a case laying venue in the wrong division or district shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought.

''(c) Nothing in this chapter shall impair the jurisdiction of a district court of any matter involving a party who does not interpose timely and sufficient objection to the venue.

''(d) As used in this section—

''(1) the term ''district court'' includes—

''(A) the bankruptcy judges of each such court as defined in section 151 of this title; and

''(B) the District Court of Guam, the District Court for the Northern Mariana Islands, and the District Court of the Virgin Islands, including any bankruptcy judge of each such court; and

''(2) the term ''district'' includes the territorial jurisdiction of each such court.''.

SEC. 418. ASSUMPTION AND TERMINATION OF CERTAIN CONTRACTS AND LEASES

(a) ASSUMPTION.—Section 365(c) of title 11, United States Code, is amended—

(1) by inserting ''(1) after ''(c)'';

(2) by redesignating existing paragraphs (1) through (4) as subparagraphs (A) through (D) respectively;

(3) by redesignating subparagraphs (A) and (B) of paragraph (1) as clauses (i) and (ii), respectively; and

(4) by adding at the end the following:

''(2) A debtor in possession may assume, but may not assign, an executory contract or unexpired lease in the circumstances described in paragraph (1)(A).''.

(b) TERMINATION.—Clause (i) of section 365(e)(2)(A) of title 11, United States Code, is amended by inserting ''the trustee seeks to assign such contract or lease and'' before ''applicable law''.

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 25 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, 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 date of the order for relief in an amount not more than $2,000,000 (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 $2,000,000 (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''.

(c) ADJUSTMENT OF DOLLAR AMOUNTS.—Section 104(b) of title 11, United States Code, as amended by section 226, is amended by inserting ''101(51D),'' after ''101(3),'' each place it appears.

SEC. 433. STANDARD FORM DISCLOSURE STATEMENT AND PLAN.

Within a reasonable period of time after the date of enactment of this Act, the Judicial Conference of the United States shall prescribe in accordance with rule 9009 of the Federal Rules of Bankruptcy Procedure official 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 expenses 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 Judicial Conference of the United States shall propose in accordance with section 2073 of title 28 of the United States Code amended Federal Rules of Bankruptcy Procedure, and shall prescribe in accordance with rule 9009 of the Federal Rules of Bankruptcy Procedure official bankruptcy forms, directing 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 expenses 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) a 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 such debtor to understand such debtor's financial condition and plan the such debtor's future.

SEC. 436. DUTIES IN SMALL BUSINESS CASES.

(a) DUTIES IN CHAPTER 11 CASES.—Subchapter I of chapter 11 of title 11, United States Code, as amended by section 321, 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, after notice and a hearing, waives that requirement 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 taxes entitled to administrative expense priority 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) 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.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 11 of title 11, United States Code, as amended by section 321, is amended by inserting after the item relating to section 1115 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 a hearing; or

''(B) the court, for cause, orders otherwise;

''(2) the plan and a disclosure statement (if any) 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;

''(C) 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; and

''(D) 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 court shall confirm a plan that complies with the applicable provisions of this title and that is filed in accordance with section 1121(e) not later than 45 days after the plan is filed unless the time for confirmation is extended in accordance with section 1121(e)(3) 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.''.

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 date of the 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, 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 sections 106, 305, and 311, is amended—

(1) in subsection (k), as so redesignated by section 305—

(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:

''(n)(1) Except as provided in paragraph (2), subsection (a) does 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 acquired substantially all of the assets or business of a small business debtor described in subparagraph (A), (B), or (C), unless such entity establishes by a preponderance of the evidence that such entity acquired substantially all of the assets or business of such small business debtor in good faith and not for the purpose of evading this paragraph.

''(2) Paragraph (1) 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 the 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 A 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 interests of the creditors and the estate, if the movement establishes cause.

''(2) The relief provided in paragraph (1) shall not be granted if—

''(A) the granting of such relief is not in the best interests of the creditors or the estate; or

''(B) the debtor, or another party in interest, objects and establishes that—

''(i) there is reasonable likelihood that a plan will be confirmed within the time frames established in section 1121(e) and 1129(e) of this title, or if such sections do not apply, within such a reasonable period of time; and

''(ii) the grounds for granting such relief include an act or omission of the debtor other than under paragraph (4)(A)—

''(I) for which there exists a reasonable justification for the act or omissions;

''(II) 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; and

''(III) that will be cured within a reasonable period of time fixed by the court.

''(3) The court shall commence the hearing on a 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 such 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 and the absence of a reasonable likelihood of rehabilitation;

''(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 substantially harmful to 1 or more creditors;

''(E) failure to comply with an order of the court;

''(F) unexcused failure to satisfy timely 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 without good cause shown by the debtor;

''(H) failure timely to provide information or attend meetings reasonably requested by the United States trustee (or the bankruptcy administrator, if any);

''(I) failure timely to pay taxes owed after the date of the order for relief or to file tax returns due after the date of 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 of the filing of the petition.

''(5) The court shall commence the hearing on a 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 such 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 Executive Office for 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. DUTIES WITH RESPECT TO A DEBTOR WHO IS A PLAN ADMINISTRATOR OF AN EMPLOYEE BENEFIT PLAN.

(a) IN GENERAL.—Section 521(a) of title 11, United States Code, as amended by sections 106 and 304, is amended—

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

(2) in paragraph (6), by striking the period at the end and inserting ''; and''; and

(3) by adding after paragraph (6) the following:

''(7) unless a trustee is serving in the case, continue to perform the obligations required of the administrator (as defined in section 3 of the Employee Retirement Income Security Act of 1974) of an employee benefit plan if at the time of the commencement of the case the debtor (or any entity designated by the debtor) served as such administrator.''.

(b) DUTIES OF TRUSTEES.—Section 704(a) of title 11, United States Code, as amended by sections 102 and 219, is amended—

(1) in paragraph (10), by striking ''and'' at the end; and

(2) by adding at the end the following:

''(11) if, at the time of the commencement of the case, the debtor (or any entity designated by the debtor) served as the administrator (as defined in section 3 of the Employee Retirement Income Security Act of 1974) of an employee benefit plan, continue to perform the obligations required of the administrator; and''.

(c) CONFORMING AMENDMENT.—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 paragraphs (2), (5), (7), (8), (9), (10), and (11) of section 704;''.

SEC. 445. APPOINTMENT OF COMMITTEE OF RETIRED EMPLOYEES.

Section 1114(d) of title 11, United States Code, is amended—

(1) by striking ''appoint'' and inserting ''order the appointment of'', and

(2) by adding at the end the following: ''The United States trustee shall appoint any such committee.''.

SEC. 446. EFFECT OF SALE OF ASSETS ON EMPLOYEE BENEFITS.

Section 363(b) of title 11, United States Code, is amended by adding at the end the following:

''(3) The court shall not approve the sale of all or substantially all the assets of a debtor with 50 or more employees until the debtor has reported to the court on the potential adverse impact that such sale is likely to have on employee benefits, including any pension and health care plans sponsored by the debtor.''.

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 the district court, or the clerk of the bankruptcy court if one is certified pursuant to section 156(b) of this title, shall collect statistics regarding debtors who are individuals with primarily consumer debts seeking relief under chapters 7, 11, and 13 of title 11. Those statistics shall be in a standardized format 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 July 1, 2006, 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 debtors;

''(B) the current monthly income, average income, and average expenses of 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 cases filed during 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 date of the filing of the petition and the closing of the case for cases closed during the reporting period;

''(E) for cases closed during the reporting period—

''(i) the number of cases in which a reaffirmation agreement was filed; and

''(ii)(I) the total number of reaffirmation agreements filed;

''(II) of those cases in which a reaffirmation agreement 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 agreement was filed, the number of cases in which the reaffirmation agreement 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 entered determining the value of property securing a claim;

''(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 attorney 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 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.—The uniform forms for final reports required under subsection (a) for use 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.—The uniform forms for periodic reports required under subsection (a) for use 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 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 for 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 that the debtor is required to provide under sections 521 and 1322 of title 11, United States Code, and, if applicable, section 111 of such title, in cases filed under chapter 7 or 13 of such title in which the debtor is an individual. 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 of schedules of income and expenses that 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 2003;''; 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 2003.

''(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 district court (or the clerk of the bankruptcy court if one is certified under section 156(b) of this title) 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 section 106, is amended in each of paragraphs (3) and (4) by inserting ''or an auditor serving 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—ANCILLARY AND OTHER CROSS-BORDER CASES

SEC. 701. 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) courts of the United States, 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 pending 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 pending 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, pending 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, 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, such notification shall—

''(1) indicate the time period for filing proofs of claim and specify the place for filing such proofs of claim;

''(2) indicate whether secured creditors need to file proofs of claim; and

''(3) contain any other information required to be included in such 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 proof of 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 a 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 such foreign proceeding and appointing the foreign representative;

''(2) a certificate from the foreign court affirming the existence of such 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 such 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 and that the person or body is a foreign representative, 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) such 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; and

''(3) the petition meets the requirements of section 1515.

''(b) Such foreign proceeding shall be recognized—

''(1) as a foreign main proceeding if it is pending 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. A 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 a 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 such foreign proceeding or the status of the foreign representative's appointment; and

''(2) any other foreign proceeding regarding the debtor that becomes known to the foreign representative.

''§ 1519. Relief that may be granted upon filing petition for recognition

''(a) From the time of filing a petition for recognition until the court rules on the petition, the court may, at the request of the foreign representative, where relief is urgently needed to protect the assets of the debtor or the interests of the creditors, grant relief of a provisional nature, including—

''(1) staying execution against the debtor's assets;

''(2) entrusting the administration or realization of all or part of the debtor's assets located in the United States to the foreign representative or another person authorized by the court, including an examiner, in order to protect and preserve the value of assets that, by their nature or because of other circumstances, are perishable, susceptible to devaluation or otherwise in jeopardy; and

''(3) any relief referred to in paragraph (3), (4), or (7) of section 1521(a).

''(b) Unless extended under section 1521(a)(6), the relief granted under this section terminates when the petition for recognition is granted.

''(c) It is a ground for denial of relief under this section that such relief would interfere with the administration of a foreign main proceeding.

''(d) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.

''(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under this section.

''(f) The exercise of rights not subject to the stay arising under section 362(a) pursuant to paragraph (6), (7), (17), or (27) of section 362(b) or pursuant to section 362(n) 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 the property of the debtor that is within the territorial jurisdiction of the United States;

''(2) sections 363, 549, and 552 apply to a transfer of an interest of the debtor in property that is within the territorial jurisdiction of the United States to the same extent that the sections would apply to property of an estate;

''(3) unless the court orders otherwise, the foreign representative may operate the debtor's business and may exercise the rights and powers of a trustee under and to the extent provided by sections 363 and 552; and

''(4) section 552 applies to property of the debtor that is within the territorial jurisdiction of the United States.

''(b) Subsection (a) does not affect the right to commence an individual action or proceeding in a foreign country to the extent necessary to preserve a claim against the debtor.

''(c) Subsection (a) does not affect the right of a foreign representative or an entity to file a petition commencing a case under this title or the right of any party to file claims or take other proper actions in such a case.

''§ 1521. Relief that may be granted upon recognition

''(a) Upon recognition of a foreign proceeding, whether main or nonmain, where necessary to effectuate the purpose of this chapter and to protect the assets of the debtor or the interests of the creditors, the court may, at the request of the foreign representative, grant any appropriate relief, including—

''(1) staying the commencement or continuation of an individual action or proceeding concerning the debtor's assets, rights, obligations or liabilities to the extent they have not been stayed under section 1520(a);

''(2) staying execution against the debtor's assets to the extent it has not been stayed under section 1520(a);

''(3) suspending the right to transfer, encumber or otherwise dispose of any assets of the debtor to the extent this right has not been suspended under section 1520(a);

''(4) providing for the examination of witnesses, the taking of evidence or the delivery of information concerning the debtor's assets, affairs, rights, obligations or liabilities;

''(5) entrusting the administration or realization of all or part of the debtor's assets within the territorial jurisdiction of the United States to the foreign representative or another person, including an examiner, authorized by the court;

''(6) extending relief granted under section 1519(a); and

''(7) granting any additional relief that may be available to a trustee, except for relief available under sections 522, 544, 545, 547, 548, 550, and 724(a).

''(b) Upon recognition of a foreign proceeding, whether main or nonmain, the court may, at the request of the foreign representative, entrust the distribution of all or part of the debtor's assets located in the United States to the foreign representative or another person, including an examiner, authorized by the court, provided that the court is satisfied that the interests of creditors in the United States are sufficiently protected.

''(c) In granting relief under this section to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the law of the United States, should be administered in the foreign nonmain proceeding or concerns information required in that proceeding.

''(d) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.

''(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under paragraphs (1), (2), (3), and (6) of subsection (a).

''(f) The exercise of rights not subject to the stay arising under section 362(a) pursuant to paragraph (6), (7), (17), or (27) of section 362(b) or pursuant to section 362(n) 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), 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 a 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 a foreign court or a foreign representative, either directly or through the trustee.

''(b) The court is entitled to communicate directly with, or to request information or assistance directly from, a foreign court or a foreign representative, subject to the rights of a party 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 a foreign court or a foreign representative.

''(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 a foreign court or a foreign representative.

''§ 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 pending 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 pending at the time the petition for recognition of such foreign proceeding is filed—

''(A) any relief granted under section 1519 or 1521 must be consistent with the relief granted in the case in the United States; and

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

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

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

''(B) if such 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. 702. 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(n), 555 through 557, and 559 through 562 apply in a case under chapter 15''; and

(2) by adding at the end the following:

''(k) 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 such 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 of the United States 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.—Title 11 of the United States Code is amended—

(1) in section 109(b), by striking paragraph (3) and inserting the following:

''(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 in the United States.'';

(2) in section 303, by striking subsection (k);

(3) by striking section 304;

(4) in the table of sections for chapter 3 by striking the item relating to section 304;

(5) in section 306 by striking '', 304,'' each place it appears;

(6) in section 305(a) by striking paragraph (2) and inserting the following:

''(2)(A) a petition under section 1515 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.''; and

(7) in section 508—

(A) by striking subsection (a); and

(B) in subsection (b), by striking ''(b)''.

TITLE VII—FINANCIAL CONTRACT PROVISIONS

SEC. 801. TREATMENT OF CERTAIN AGREEMENTS BY CONSERVATORS OR RECEIVERS OF INSURED DEPOSITORY INSTITUTIONS.

(a) DEFINITION OF QUALIFIED FINANCIAL CONTRACT.—Section 11(e)(8)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)) is amended—

(1) by striking ''subsection—'' and inserting ''subsection, the following definitions shall apply:''; and

(2) in clause (i), by inserting '', resolution, or order'' after ''any similar agreement that the Corporation determines by regulation''.

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

''(ii) SECURITIES CONTRACT.—The term 'securities contract'—

''(I) means a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan, or any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or any option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

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

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

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

''(V) means any margin loan;

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

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

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

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

''(X) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.''.

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

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

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

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

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

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

board of trade that is cleared by such clearing organization;

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

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

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

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

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

''(X) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.''.

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

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

''(I) a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade, or product or byproduct thereof, with a maturity date more than 2 days after the date the contract is entered into, including, a repurchase transaction, reverse repurchase transaction, consignment, lease, swap, hedge transaction, deposit, loan, option, allocated transaction, unallocated transaction, or any other similar agreement;

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

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

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

''(V) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (II), (III), or (IV), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.''.

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

''(v) REPURCHASE AGREEMENT.—The term 'repurchase agreement' (which definition also applies to a reverse repurchase agreement)—

''(I) means an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage-related securities (as such term is defined in the Securities Exchange Act of 1934), mortgage loans, interests in mortgage-related securities or mortgage loans, eligible bankers' acceptances, qualified foreign government securities or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests as described above, at a date certain not later than 1 year after such transfers or on demand, against the transfer of funds, or any other similar agreement;

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

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

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

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

''(VI) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

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

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

''(vi) SWAP AGREEMENT.—The term 'swap agreement' means—

''(I) any agreement, including the terms and conditions incorporated by reference in any such agreement, which is an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap; a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement; a currency swap, option, future, or forward agreement; an equity index or equity swap, option, future, or forward agreement; a debt index or debt swap, option, future, or forward agreement; a total return, credit spread or credit swap, option, future, or forward agreement; a commodity index or commodity swap, option, future, or forward agreement; or a weather swap, weather derivative, or weather option;

''(II) any agreement or transaction that is similar to any other agreement or transaction referred to in this clause and that is of a type that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap markets (including terms and conditions incorporated by reference in such agreement) and that is a forward, swap, future, or option on one or more rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments, quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial risk or value;

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

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

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

''(VI) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in subclause (I), (II), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

Such term is applicable for purposes of this subsection only and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000.''.

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

''(viii) TRANSFER.—The term 'transfer' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest and foreclosure of the depository institution's equity of redemption.''.

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

(1) in subparagraph (A)—

(A) by striking ''paragraph (10)'' and inserting ''paragraphs (9) and (10)'';

(B) in clause (i), by striking ''to cause the termination or liquidation'' and inserting ''such person has to cause the termination, liquidation, or acceleration''; and

(C) by striking clause (ii) and inserting the following:

''(ii) any right under any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts described in clause (i);''; and

(2) in subparagraph (E), by striking clause (ii) and inserting the following:

''(ii) any right under any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts described in clause (i);''.

(i) AVOIDANCE OF TRANSFERS.—Section 11(e)(8)(C)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(C)(i)) is amended by inserting ''section 5242 of the Revised Statutes of the United States or any other Federal or State law relating to the avoidance of preferential or fraudulent transfers,'' before ''the Corporation''.

SEC. 802. 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. 803. AMENDMENTS RELATING TO TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS.

(a) TRANSFERS OF QUALIFIED FINANCIAL CONTRACTS TO FINANCIAL INSTITUTIONS.—Section 11(e)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(9)) is amended to read as follows:

''(9) TRANSFER OF QUALIFIED FINANCIAL CONTRACTS.—

''(A) IN GENERAL.—In making any transfer of assets or liabilities of a depository institution in default which includes any qualified financial contract, the conservator or receiver for such depository institution shall either—

''(i) transfer to one financial institution, other than a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding—

''(I) all qualified financial contracts between any person or any affiliate of such person and the depository institution in default;

''(II) all claims of such person or any affiliate of such person against such depository institution under any such contract (other than any claim which, under the terms of any such contract, is subordinated to the claims of general unsecured creditors of such institution);

''(III) all claims of such depository institution against such person or any affiliate of such person under any such contract; and

''(IV) all property securing or any other credit enhancement for any contract described in subclause (I) or any claim described in subclause (II) or (III) under any such contract; or

''(ii) transfer none of the qualified financial contracts, claims, property or other credit enhancement referred to in clause (i) (with respect to such person and any affiliate of such person).

''(B) TRANSFER TO FOREIGN BANK, FOREIGN FINANCIAL INSTITUTION, OR BRANCH OR AGENCY OF A FOREIGN BANK OR FINANCIAL INSTITUTION.—In transferring any qualified financial contracts and related claims and property under subparagraph (A)(i), the conservator or receiver for the depository institution shall not make such transfer to a foreign bank, financial institution organized under the laws of a foreign country, or a branch or agency of a foreign bank or financial institution unless, under the law applicable to such bank, financial institution, branch or agency, to the qualified financial contracts, and to any netting contract, any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts, the contractual rights of the parties to such qualified financial contracts, netting contracts, security agreements or arrangements, or other credit enhancements are enforceable substantially to the same extent as permitted under this section.

''(C) TRANSFER OF CONTRACTS SUBJECT TO THE RULES OF A CLEARING ORGANIZATION.—In the event that a conservator or receiver transfers any qualified financial contract and related claims, property, and credit enhancements pursuant to subparagraph (A)(i) and such contract is cleared by or subject to the rules of a clearing organization, the clearing organization shall not be required to accept the transferee as a member by virtue of the transfer.

''(D) DEFINITIONS.—For purposes of this paragraph, the term 'financial institution' means a broker or dealer, a depository institution, a futures commission merchant, or any other institution, as determined by the Corporation by regulation to be a financial institution, and the term 'clearing organization' has the same meaning as in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991.''.

(b) NOTICE TO QUALIFIED FINANCIAL CONTRACT COUNTERPARTIES.—Section 11(e)(10)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(10)(A)) is amended in the material immediately following clause (ii) by striking ''the conservator'' and all that follows through the period and inserting the following: ''the conservator or receiver shall notify any person who is a party to any such contract of such transfer by 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver in the case of a receivership, or the business day following such transfer in the case of a conservatorship.''.

(c) RIGHTS AGAINST RECEIVER AND TREATMENT OF BRIDGE BANKS.—Section 11(e)(10) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(10)) is amended—

(1) by redesignating subparagraph (B) as subparagraph (D); and

(2) by inserting after subparagraph (A) the following new subparagraphs:

''(B) CERTAIN RIGHTS NOT ENFORCEABLE.—

''(i) RECEIVERSHIP.—A person who is a party to a qualified financial contract with an insured depository institution may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(A) of this subsection or section 403 or 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, solely by reason of or incidental to the appointment of a receiver for the depository institution (or the insolvency or financial condition of the depository institution for which the receiver has been appointed)—

''(I) until 5:00 p.m. (eastern time) on the business day following the date of the appointment of the receiver; or

''(II) after the person has received notice that the contract has been transferred pursuant to paragraph (9)(A).

''(ii) CONSERVATORSHIP.—A person who is a party to a qualified financial contract with an insured depository institution may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(E) of this subsection or 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 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. 804. AMENDMENTS RELATING TO DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.

Section 11(e) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)) is amended—

(1) by redesignating paragraphs (11) through (15) as paragraphs (12) through (16), respectively;

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

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

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

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

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

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

(3) by adding at the end the following new paragraph:

''(17) SAVINGS CLAUSE.—The meanings of terms used in this subsection are applicable for purposes of this subsection only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any similar terms under any other statute, regulation, or rule, including the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934), and the Commodity Exchange Act.''.

SEC. 805. 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. 806. FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991.

(a) DEFINITIONS.—Section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4402) is amended—

(1) in paragraph (2)—

(A) in subparagraph (A)(ii), by inserting before the semicolon '', or is exempt from such registration by order of the Securities and Exchange Commission''; and

(B) in subparagraph (B), by inserting before the period '', that has been granted an exemption under section 4(c)(1) of the Commodity Exchange Act, or that is a multilateral clearing organization (as defined in section 408 of this Act)'';

(2) in paragraph (6)—

(A) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively;

(B) by inserting after subparagraph (A) the following new subparagraph:

''(B) an uninsured national bank or an uninsured State bank that is a member of the Federal Reserve System, if the national bank or State member bank is not eligible to make application to become an insured bank under section 5 of the Federal Deposit Insurance Act;''; and

(C) by amending subparagraph (C), so 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 close out values relating to such obligations or entitlements) among the parties to the agreement; and''; and

(5) by adding at the end the following new paragraph:

''(15) PAYMENT.—The term 'payment' means a payment of United States dollars, another currency, or a composite currency, and a noncash delivery, including a payment or delivery to liquidate an unmatured obligation.''.

(b) ENFORCEABILITY OF BILATERAL NETTING CONTRACTS.—Section 403 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4403) is amended—

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

''(a) GENERAL RULE.—Notwithstanding any other provision of State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act or any order authorized under section 5(b)(2) of the Securities Investor Protection Act of 1970), the covered contractual payment obligations and the covered contractual payment entitlements between any 2 financial institutions shall be netted in accordance with, and subject to the conditions of, the terms of any applicable netting contract (except as provided in section 561(b)(2) of title 11, United States Code).''; and

(2) by adding at the end the following new subsection:

''(f) ENFORCEABILITY OF SECURITY AGREEMENTS.—The provisions of any security agreement or arrangement or other credit enhancement related to one or more netting contracts between any 2 financial institutions shall be enforceable in accordance with their terms (except as provided in section 561(b)(2) of title 11, United States Code), and shall not be stayed, avoided, or otherwise limited by any State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act and section 5(b)(2) of the Securities Investor Protection Act of 1970).''.

(c) ENFORCEABILITY OF CLEARING ORGANIZATION NETTING CONTRACTS.—Section 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4404) is amended—

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

''(a) GENERAL RULE.—Notwithstanding any other provision of State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act and any order authorized under section 5(b)(2) of the Securities Investor Protection Act of 1970), the covered contractual payment obligations and the covered contractual payment entitlements of a member of a clearing organization to and from all other members of a clearing organization shall be netted in accordance with and subject to the conditions of any applicable netting contract (except as provided in section 561(b)(2) of title 11, United States Code).''; and

(2) by adding at the end the following new subsection:

''(h) ENFORCEABILITY OF SECURITY AGREEMENTS.—The provisions of any security agreement or arrangement or other credit enhancement related to one or more netting contracts between any 2 members of a clearing organization shall be enforceable in accordance with their terms (except as provided in section 561(b)(2) of title 11, United States Code), and shall not be stayed, avoided, or otherwise limited by any State or Federal law (other than paragraphs (8)(E), (8)(F), and (10)(B) of section 11(e) of the Federal Deposit Insurance Act and section 5(b)(2) of the Securities Investor Protection Act of 1970).''.

(d) ENFORCEABILITY OF CONTRACTS WITH UNINSURED NATIONAL BANKS, UNINSURED FEDERAL BRANCHES AND AGENCIES, CERTAIN UNINSURED STATE MEMBER BANKS, AND EDGE ACT CORPORATIONS.—The Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4401 et seq.) is amended—

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

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

''SEC. 407. TREATMENT OF CONTRACTS WITH UNINSURED NATIONAL BANKS, UNINSURED FEDERAL BRANCHES AND AGENCIES, CERTAIN UNINSURED STATE MEMBER BANKS, AND EDGE ACT CORPORATIONS.

''(a) IN GENERAL.—Notwithstanding any other provision of law, paragraphs (8), (9), (10), and (11) of section 11(e) of the Federal Deposit Insurance Act shall apply to an uninsured national bank or uninsured Federal branch or Federal agency, a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act, except that for such purpose—

''(1) any reference to the 'Corporation as receiver' or 'the receiver or the Corporation' shall refer to the receiver appointed by the Comptroller of the Currency in the case of an uninsured national bank or uninsured Federal branch or agency, or to the receiver appointed by the Board of Governors of the Federal Reserve System in the case of a corporation chartered under section 25A of the Federal Reserve Act or an uninsured State member bank;

''(2) any reference to the 'Corporation' (other than in section 11(e)(8)(D) of such Act), the 'Corporation, whether acting as such or as conservator or receiver', a 'receiver', or a 'conservator' shall refer to the receiver or conservator appointed by the Comptroller of the Currency in the case of an uninsured national bank or uninsured Federal branch or agency, or to the receiver or conservator appointed by the Board of Governors of the Federal Reserve System in the case of a corporation chartered under section 25A of the Federal Reserve Act or an uninsured State member bank; and

''(3) any reference to an 'insured depository institution' or 'depository institution' shall refer to an uninsured national bank, an uninsured Federal branch or Federal agency, a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act.

''(b) LIABILITY.—The liability of a receiver or conservator of an uninsured national bank, uninsured Federal branch or agency, a corporation chartered under section 25A of the Federal Reserve Act, or an uninsured State member bank which operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act, shall be determined in the same manner and subject to the same limitations that apply to receivers and conservators of insured depository institutions under section 11(e) of the Federal Deposit Insurance Act.

''(c) REGULATORY AUTHORITY.—

''(1) IN GENERAL.—The Comptroller of the Currency in the case of an uninsured national bank or uninsured Federal branch or agency and the Board of Governors of the Federal Reserve System in the case of a corporation chartered under section 25A of the

Federal Reserve Act, or an uninsured State member bank that operates, or operates as, a multilateral clearing organization pursuant to section 409 of this Act, in consultation with the Federal Deposit Insurance Corporation, may each promulgate regulations solely to implement this section.

''(2) SPECIFIC REQUIREMENT.—In promulgating regulations, limited solely to implementing paragraphs (8), (9), (10), and (11) of section 11(e) of the Federal Deposit Insurance Act, the Comptroller of the Currency and the Board of Governors of the Federal Reserve System each shall ensure that 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. 807. BANKRUPTCY LAW AMENDMENTS.

(a) DEFINITIONS OF FORWARD CONTRACT, REPURCHASE AGREEMENT, SECURITIES CLEARING AGENCY, SWAP AGREEMENT, COMMODITY CONTRACT, AND SECURITIES CONTRACT.—Title 11, United States Code, is amended—

(1) in section 101—

(A) in paragraph (25)—

(i) by striking ''means a contract'' and inserting ''means—

''(A) a contract'';

(ii) by striking '', or any combination thereof or option thereon;'' and inserting '', or any other similar agreement;''; and

(iii) by adding at the end the following:

''(B) any combination of agreements or transactions referred to in subparagraphs (A) and (C);

''(C) any option to enter into an agreement or transaction referred to in subparagraph (A) or (B);

''(D) a master agreement that provides for an agreement or transaction referred to in subparagraph (A), (B), or (C), together with all supplements to any such master agreement, without regard to whether such master agreement provides for an agreement or transaction that is not a forward contract under this paragraph, except that such master agreement shall be considered to be a forward contract under this paragraph only with respect to each agreement or transaction under such master agreement that is referred to in subparagraph (A), (B), or (C); or

''(E) any security agreement or arrangement, or other credit enhancement related to any agreement or transaction referred to in subparagraph (A), (B), (C), or (D), including any guarantee or reimbursement obligation by or to a forward contract merchant or financial participant in connection with any agreement or transaction referred to in any such subparagraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562;'';

(B) in paragraph (46), by striking ''on any day during the period beginning 90 days before the date of'' and inserting ''at any time before'';

(C) by amending paragraph (47) to read as follows:

''(47) 'repurchase agreement' (which definition also applies to a reverse repurchase agreement)—

''(A) means—

''(i) an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage related securities (as defined in section 3 of the Securities Exchange Act of 1934), mortgage loans, interests in mortgage related securities or mortgage loans, eligible bankers' acceptances, qualified foreign government securities (defined as a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development), or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests, with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptance, securities, mortgage loans, or interests of the kind described in this clause, at a date certain not later than 1 year after such transfer or on demand, against the transfer of funds;

''(ii) any combination of agreements or transactions referred to in clauses (i) and (iii);

''(iii) an option to enter into an agreement or transaction referred to in clause (i) or (ii);

''(iv) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), or (iii), together with all supplements to any such master agreement, without regard to whether such master agreement provides for an agreement or transaction that is not a repurchase agreement under this paragraph, except that such master agreement shall be considered to be a repurchase agreement under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in clause (i), (ii), or (iii); or

''(v) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in clause (i), (ii), (iii), or (iv), including any guarantee or reimbursement obligation by or to a repo participant or financial participant in connection with any agreement or transaction referred to in any such clause, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562 of this title; and

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

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

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

''(53B) 'swap agreement'—

''(A) means—

''(i) any agreement, including the terms and conditions incorporated by reference in such agreement, which is—

''(I) an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap;

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

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

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

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

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

''(VII) a commodity index or a commodity swap, option, future, or forward agreement; or

''(VIII) a weather swap, weather derivative, or weather option;

''(ii) any agreement or transaction that is similar to any other agreement or transaction referred to in this paragraph and that—

''(I) is of a type that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap markets (including terms and conditions incorporated by reference therein); and

''(II) is a forward, swap, future, or option on one or more rates, currencies, commodities, equity securities, or other equity instruments, debt securities or other debt instruments, quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial risk or value;

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

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

''(v) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), (iii), or (iv), together with all supplements to any such master agreement, and without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this paragraph, except that the master agreement shall be considered to be a swap agreement under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in clause (i), (ii), (iii), or (iv); or

''(vi) any security agreement or arrangement or other credit enhancement related to any agreements or transactions referred to in clause (i) through (v), including any guarantee or reimbursement obligation by or to a swap participant or financial participant in connection with any agreement or transaction referred to in any such clause, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562; and

''(B) is applicable for purposes of this title only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any swap agreement under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, the Gramm-Leach-Bliley Act, and the Legal Certainty for Bank Products Act of 2000;'';

(2) in section 741(7), by striking paragraph (7) and inserting the following:

''(7) 'securities contract'—

''(A) means—

''(i) a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan or any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including an interest therein or based on the value thereof), or option on any of the foregoing, including an option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

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

''(iii) the guarantee by or to any securities clearing agency of a settlement of cash, securities, certificates of deposit, mortgage loans or interests therein, group or index of

securities, or mortgage loans or interests therein (including any interest therein or based on the value thereof), or option on any of the foregoing, including an option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option;

''(iv) any margin loan;

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

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

''(vii) any option to enter into any agreement or transaction referred to in this subparagraph;

''(viii) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), (iii), (iv), (v), (vi), or (vii), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this subparagraph, except that such master agreement shall be considered to be a securities contract under this subparagraph only with respect to each agreement or transaction under such master agreement that is referred to in clause (i), (ii), (iii), (iv), (v), (vi), or (vii); or

''(ix) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this subparagraph, including any guarantee or reimbursement obligation by or to a stockbroker, securities clearing agency, financial institution, or financial participant in connection with any agreement or transaction referred to in this subparagraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562; and

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

(3) in section 761(4)—

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

(B) by adding at the end the following:

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

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

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

''(I) a master agreement that provides for an agreement or transaction referred to in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H), together with all supplements to such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a commodity contract under this paragraph, except that the master agreement shall be considered to be a commodity contract under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H); or

''(J) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this paragraph, including any guarantee or reimbursement obligation by or to a commodity broker or financial participant in connection with any agreement or transaction referred to in this paragraph, but not to exceed the damages in connection with any such agreement or transaction, measured in accordance with section 562;''.

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

(1) by striking paragraph (22) and inserting the following:

''(22) 'financial institution' means—

''(A) a Federal reserve bank, or an entity (domestic or foreign) that is a commercial or savings bank, industrial savings bank, savings and loan association, trust company, or receiver or conservator for such entity and, when any such Federal reserve bank, receiver, conservator or entity is acting as agent or custodian for a customer in connection with a securities contract (as defined in section 741) such customer; or

''(B) in connection with a securities contract (as defined in section 741) an investment company registered under the Investment Company Act of 1940;'';

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

''(22A) 'financial participant' means—

''(A) an entity that, at the time it enters into a securities contract, commodity contract, swap agreement, repurchase agreement, or forward contract, or at the time of the date of the filing of the petition, has one or more agreements or transactions described in paragraph (1), (2), (3), (4), (5), or (6) of section 561(a) with the debtor or any other entity (other than an affiliate) of a total gross dollar value of not less than $1,000,000,000 in notional or actual principal amount outstanding on any day during the previous 15-month period, or has gross mark-to-market positions of not less than $100,000,000 (aggregated across counterparties) in one or more such agreements or transactions with the debtor or any other entity (other than an affiliate) on any day during the previous 15-month period; or

''(B) a clearing organization (as defined in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991);''; and

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

''(26) 'forward contract merchant' means a Federal reserve bank, or an entity the business of which consists in whole or in part of entering into forward contracts as or with merchants in a commodity (as defined in section 761) or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade;''.

(c) DEFINITION OF MASTER NETTING AGREEMENT AND MASTER NETTING AGREEMENT PARTICIPANT.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (38) the following new paragraphs:

''(38A) 'master netting agreement'—

''(A) means an agreement providing for the exercise of rights, including rights of netting, setoff, liquidation, termination, acceleration, or close out, under or in connection with one or more contracts that are described in any one or more of paragraphs (1) through (5) of section 561(a), or any security agreement or arrangement or other credit enhancement related to one or more of the foregoing, including any guarantee or reimbursement obligation related to 1 or more of the foregoing; and

''(B) if the agreement contains provisions relating to agreements or transactions that are not contracts described in paragraphs (1) through (5) of section 561(a), shall be deemed to be a master netting agreement only with respect to those agreements or transactions that are described in any one or more of paragraphs (1) through (5) of section 561(a);

''(38B) 'master netting agreement participant' means an entity that, at any time before the date of the filing of the petition, is a party to an outstanding master netting agreement with the debtor;''.

(d) SWAP AGREEMENTS, SECURITIES CONTRACTS, COMMODITY CONTRACTS, FORWARD CONTRACTS, REPURCHASE AGREEMENTS, AND MASTER NETTING AGREEMENTS UNDER THE AUTOMATIC-STAY.—

(1) IN GENERAL.—Section 362(b) of title 11, United States Code, as amended by sections 224, 303, 311, 401, and 718, is amended—

(A) in paragraph (6), by inserting '', pledged to, under the control of,'' after ''held by'';

(B) in paragraph (7), by inserting '', pledged to, under the control of,'' after ''held by'';

(C) by striking paragraph (17) and inserting the following:

''(17) under subsection (a), of the setoff by a swap participant or financial participant of a mutual debt and claim under or in connection with one or more swap agreements that constitutes the setoff of a claim against the debtor for any payment or other transfer of property due from the debtor under or in connection with any swap agreement against any payment due to the debtor from the swap participant or financial participant under or in connection with any swap agreement or against cash, securities, or other property held by, pledged to, under the control of, or due from such swap participant or financial participant to margin, guarantee, secure, or settle any swap agreement;''; and

(D) by inserting after paragraph (26) the following:

''(27) under subsection (a), of the setoff by a master netting agreement participant of a mutual debt and claim under or in connection with one or more master netting agreements or any contract or agreement subject to such agreements that constitutes the setoff of a claim against the debtor for any payment or other transfer of property due from the debtor under or in connection with such agreements or any contract or agreement subject to such agreements against any payment due to the debtor from such master netting agreement participant under or in connection with such agreements or any contract or agreement subject to such agreements or against cash, securities, or other property held by, pledged to, 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; and''.

(2) LIMITATION.—Section 362 of title 11, United States Code, as amended by sections 106, 305, 311, and 441, is amended by adding at the end the following:

''(o) The exercise of rights not subject to the stay arising under subsection (a) pursuant to paragraph (6), (7), (17), or (27) of subsection (b) shall not be stayed by any order of a court or administrative agency in any proceeding under this title.''.

(e) LIMITATION OF AVOIDANCE POWERS UNDER MASTER NETTING AGREEMENT.—Section 546 of title 11, United States Code, is amended—

(1) in subsection (g) (as added by section 103 of Public Law 101–311)—

(A) by striking ''under a swap agreement'';

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

(C) by inserting ''or financial participant'' after ''swap participant''; and

(2) by adding at the end the following:

''(j) Notwithstanding sections 544, 545, 547, 548(a)(1)(B), and 548(b) the trustee may not avoid a transfer made by or to a master netting agreement participant under or in connection with any master netting agreement or any individual contract covered thereby that is made before the commencement of the case, except under section 548(a)(1)(A) and except to the extent that the trustee could otherwise avoid such a transfer made

under an individual contract covered by such master netting agreement.''.

(f) FRAUDULENT TRANSFERS OF MASTER NETTING AGREEMENTS.—Section 548(d)(2) of title 11, United States Code, is amended—

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

(2) in subparagraph (D), by striking the period and inserting ''; and''; and

(3) by adding at the end the following new subparagraph:

''(E) a master netting agreement participant that receives a transfer in connection with a master netting agreement or any individual contract covered thereby takes for value to the extent of such transfer, except that, with respect to a transfer under any individual contract covered thereby, to the extent that such master netting agreement participant otherwise did not take (or is otherwise not deemed to have taken) such transfer for value.''.

(g) TERMINATION OR ACCELERATION OF SECURITIES CONTRACTS.—Section 555 of title 11, United States Code, is amended—

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

''§ 555. Contractual right to liquidate, terminate, or accelerate a securities contract'';

and

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

(h) TERMINATION OR ACCELERATION OF COMMODITIES OR FORWARD CONTRACTS.—Section 556 of title 11, United States Code, is amended—

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

''§ 556. Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract'';

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

(3) in the second sentence, by striking ''As used'' and all that follows through ''right,'' and inserting ''As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof and a right,''.

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

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

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

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

(3) in the third sentence, by striking ''As used'' and all that follows through ''right,'' and inserting ''As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof and a right,''.

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

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

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

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

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

(4) in the second sentence, by striking ''As used'' and all that follows through ''right,'' and inserting ''As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof and a right,''.

(k) LIQUIDATION, TERMINATION, ACCELERATION, OR OFFSET UNDER A MASTER NETTING AGREEMENT AND ACROSS CONTRACTS.—

(1) IN GENERAL.—Title 11, United States Code, is amended by inserting after section 560 the following:

''§ 561. Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts; proceedings under chapter 15

''(a) 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)(1) A party may exercise a contractual right described in subsection (a) to terminate, liquidate, or accelerate only to the extent that such party could exercise such a right under section 555, 556, 559, or 560 for each individual contract covered by the master netting agreement in issue.

''(2) If a debtor is a commodity broker subject to subchapter IV of chapter 7—

''(A) a party may not net or offset an obligation to the debtor arising under, or in connection with, a commodity contract traded on or subject to the rules of a contract market designated under the Commodity Exchange Act or a derivatives transaction execution facility registered under the Commodity Exchange Act against any claim arising under, or in connection with, other instruments, contracts, or agreements listed in subsection (a) except to the extent that the party has positive net equity in the commodity accounts at the debtor, as calculated under such subchapter; and

''(B) another commodity broker may not net or offset an obligation to the debtor arising under, or in connection with, a commodity contract entered into or held on behalf of a customer of the debtor and traded on or subject to the rules of a contract market designated under the Commodity Exchange Act or a derivatives transaction execution facility registered under the Commodity Exchange Act against any claim arising under, or in connection with, other instruments, contracts, or agreements listed in subsection (a).

''(3) No provision of subparagraph (A) or (B) of paragraph (2) shall prohibit the offset of claims and obligations that arise under—

''(A) a cross-margining agreement or similar arrangement that has been approved by the Commodity Futures Trading Commission or submitted to the Commodity Futures Trading Commission under paragraph (1) or (2) of section 5c(c) of the Commodity Exchange Act and has not been abrogated or rendered ineffective by the Commodity Futures Trading Commission; or

''(B) any other netting agreement between a clearing organization (as defined in section 761) and another entity that has been approved by the Commodity Futures Trading Commission.

''(c) As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act) or in a resolution of the governing board thereof, and a right, whether or not evidenced in writing, arising under common law, under law merchant, or by reason of normal business practice.

''(d) 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, so that enforcement of contractual provisions of such contracts and agreements in accordance with their terms will not be stayed or otherwise limited by operation of any provision of this title or by order of a court in any case under this title, and to limit avoidance powers to the same extent as in a proceeding under chapter 7 or 11 of this title (such enforcement not to be limited based on the presence or absence of assets of the debtor in the United States).''.

(2) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, is amended by inserting after the item relating to section 560 the following:

''561. Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts; proceedings under chapter 15.''.

(l) COMMODITY BROKER LIQUIDATIONS.—Title 11, United States Code, is amended by inserting after section 766 the following:

"§ 767. Commodity broker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants

''Notwithstanding any other provision of this title, the exercise of rights by a forward contract merchant, commodity broker, stockbroker, financial institution, financial participant, securities clearing agency, swap participant, repo participant, or master netting agreement participant under this title shall not affect the priority of any unsecured claim it may have after the exercise of such rights.''.

(m) STOCKBROKER LIQUIDATIONS.—Title 11, United States Code, is amended by inserting after section 752 the following:

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

''Notwithstanding any other provision of this title, the exercise of rights by a forward contract merchant, commodity broker, stockbroker, financial institution, 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.''.

(n) SETOFF.—Section 553 of title 11, United States Code, is amended—

(1) in subsection (a)(2)(B)(ii), by inserting before the semicolon the following: ''(except for a setoff of a kind described in section 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(27), 555, 556, 559, 560, or 561)'';

(2) in subsection (a)(3)(C), by inserting before the period the following: ''(except for a setoff of a kind described in section 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(27), 555, 556, 559, 560, or 561)''; and

(3) in subsection (b)(1), by striking ''362(b)(14),'' and inserting ''362(b)(17), 362(b)(27), 555, 556, 559, 560, 561,''.

(o) SECURITIES CONTRACTS, COMMODITY CONTRACTS, AND FORWARD CONTRACTS.—Title 11, United States Code, is amended—

(1) in section 362(b)(6), by striking ''financial institutions,'' each place such term appears and inserting ''financial institution, financial participant,'';

(2) in sections 362(b)(7) and 546(f), by inserting ''or financial participant'' after ''repo participant'' each place such term appears;

(3) in section 546(e), by inserting ''financial participant,'' after ''financial institution,'';

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

(5) in section 548(d)(2)(C), by inserting ''or financial participant'' after ''repo participant'';

(6) in section 548(d)(2)(D), by inserting ''or financial participant'' after ''swap participant'';

(7) in section 555—

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

(B) by striking the second sentence and inserting the following: ''As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a derivatives clearing organization (as defined in the Commodity Exchange Act), a multilateral clearing organization (as defined in the Federal Deposit Insurance Corporation Improvement Act of 1991), a national securities exchange, a national securities association, a securities clearing agency, a contract market designated under the Commodity Exchange Act, a derivatives transaction execution facility registered under the Commodity Exchange Act, or a board of trade (as defined in the Commodity Exchange Act), or in a resolution of the governing board thereof, and a right, whether or not in writing, arising under common law, under law merchant, or by reason of normal business practice.'';

(8) in section 556, by inserting '', financial participant,'' after ''commodity broker'';

(9) in section 559, by inserting ''or financial participant'' after ''repo participant'' each place such term appears; and

(10) in section 560, by inserting ''or financial participant'' after ''swap participant''.

(p) CONFORMING AMENDMENTS.—Title 11, United States Code, is amended—

(1) in the table of sections for chapter 5—

(A) by amending the items relating to sections 555 and 556 to read as follows:

''555. Contractual right to liquidate, terminate, or accelerate a securities contract.

''556. Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract.'';

and

(B) by amending the items relating to sections 559 and 560 to read as follows:

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

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

and

(2) in the table of sections for chapter 7—

(A) by inserting after the item relating to section 766 the following:

''767. Commodity broker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, financial participants, securities clearing agencies, swap participants, repo participants, and master netting agreement participants.'';

and

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

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

SEC. 808. 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 by any insured depository institution with respect to qualified financial contracts (including market valuations) only if such insured depository institution is in a troubled condition (as such term is defined by the Corporation pursuant to section 32).''.

SEC. 809. 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. 810. DAMAGE MEASURE.

(a) IN GENERAL.—Title 11, United States Code, is amended—

(1) by inserting after section 561, as added by section 907, the following:

"§ 562. Timing of damage measurement in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, and master netting agreements

''(a) 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 or dates of such liquidation, termination, or acceleration.

''(b) If there are not any commercially reasonable determinants of value as of any date referred to in paragraph (1) or (2) of subsection (a), damages shall be measured as of the earliest subsequent date or dates on which there are commercially reasonable determinants of value.

''(c) For the purposes of subsection (b), if damages are not measured as of the date or dates of rejection, liquidation, termination, or acceleration, and the forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant or the trustee objects to the timing of the measurement of damages—

''(1) the trustee, in the case of an objection by a forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant; or

''(2) the forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant, in the case of an objection by the trustee,

has the burden of proving that there were no commercially reasonable determinants of value as of such date or dates.''; and

(2) in the table of sections for chapter 5, by inserting after the item relating to section 561 (as added by section 907) the following new item:

''562. Timing of 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 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. 811. SIPC STAY.

Section 5(b)(2) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78eee(b)(2)) is amended by adding at the end the following new subparagraph:

''(C) EXCEPTION FROM STAY.—

''(i) Notwithstanding section 362 of title 11, United States Code, neither the filing of an application under subsection (a)(3) nor any order or decree obtained by SIPC from the court shall operate as a stay of any contractual rights of a creditor to liquidate, terminate, or accelerate a securities contract, commodity contract, forward contract, repurchase agreement, swap agreement, or master netting agreement, as those terms are defined in sections 101, 741, and 761 of title 11, United States Code, to offset or net termination values, payment amounts, or other transfer obligations arising under or in connection with one or more of such contracts or agreements, or to foreclose on any cash collateral pledged by the debtor, whether or not with respect to one or more of such contracts or agreements.

''(ii) Notwithstanding clause (i), such application, order, or decree may operate as a stay of the foreclosure on, or disposition of, securities collateral pledged by the debtor, whether or not with respect to one or more of such contracts or agreements, securities sold by the debtor under a repurchase agreement, or securities lent under a securities lending agreement.

''(iii) As used in this subparagraph, the term 'contractual right' includes a right set forth in a rule or bylaw of a national securities exchange, a national securities association, or a securities clearing agency, a right set forth in a bylaw of a clearing organization or contract market or in a resolution of the governing board thereof, and a right, whether or not in writing, arising under common law, under law merchant, or by reason of normal business practice.''.

TITLE IX—PROTECTION OF FAMILY FARMERS AND FAMILY FISHERMEN

SEC. 901. 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 the date of the enactment of this Act.

(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. 902. DEBT LIMIT INCREASE.

Section 104(b) of title 11, United States Code, as amended by section 226, is amended by inserting ''101(18),'' after ''101(3),'' each place it appears.

SEC. 903. CERTAIN CLAIMS OWED TO GOVERNMENTAL UNITS.

(a) CONTENTS OF PLAN.—Section 1222(a)(2) of title 11, United States Code, as amended by section 213, 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 section 719, is amended by striking ''a State or local governmental unit'' and inserting ''any governmental unit''.

(c) EFFECTIVE DATE; APPLICATION OF AMENDMENTS.—This section and the amendments made by this section shall take effect on the date of the enactment of this Act and shall not apply with respect to cases commenced under title 11 of the United States Code before such date.

SEC. 904. 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 ''$3,237,000''; and

(B) by striking ''80'' and inserting ''50''; and

(2) in subparagraph (B)(ii)—

(A) by striking ''$1,500,000'' and inserting ''$3,237,000''; and

(B) by striking ''80'' and inserting ''50''.

SEC. 905. ELIMINATION OF REQUIREMENT THAT FAMILY FARMER AND SPOUSE RECEIVE OVER 50 PERCENT OF INCOME FROM FARMING OPERATION IN YEAR PRIOR TO BANKRUPTCY.

Section 101(18)(A) of title 11, United States Code, is amended by striking ''for the taxable year preceding the taxable year'' and inserting the following:

''for—

''(i) the taxable year preceding; or

''(ii) each of the 2d and 3d taxable years preceding;

the taxable year''.

SEC. 906. PROHIBITION OF RETROACTIVE ASSESSMENT OF DISPOSABLE INCOME.

(a) CONFIRMATION OF PLAN.—Section 1225(b)(1) 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 value of the property to be distributed under the plan in the 3-year period, or such longer period as the court may approve under section 1222(c), beginning on the date that the first distribution is due under the plan is not less than the debtor's projected disposable income for such period.''.

(b) MODIFICATION OF PLAN.—Section 1229 of title 11, United States Code, is amended by adding at the end the following:

''(d) A plan may not be modified under this section—

''(1) to increase the amount of any payment due before the plan as modified becomes the plan;

''(2) by anyone except the debtor, based on an increase in the debtor's disposable income, to increase the amount of payments to unsecured creditors required for a particular month so that the aggregate of such payments exceeds the debtor's disposable income for such month; or

''(3) in the last year of the plan by anyone except the debtor, to require payments that would leave the debtor with insufficient funds to carry on the farming operation after the plan is completed.''.

SEC. 907. FAMILY FISHERMEN.

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

(1) by inserting after paragraph (7) the following:

''(7A) 'commercial fishing operation' means—

''(A) the catching or harvesting of fish, shrimp, lobsters, urchins, seaweed, shellfish, or other aquatic species or products of such species; or

''(B) for purposes of section 109 and chapter 12, aquaculture activities consisting of raising for market any species or product described in subparagraph (A);

''(7B) 'commercial fishing vessel' means a vessel used by a family fisherman to carry out a commercial fishing operation;''; and

(2) by inserting after paragraph (19) the following:

''(19A) 'family fisherman' means—

''(A) an individual or individual and spouse engaged in a commercial fishing operation—

''(i) whose aggregate debts do not exceed $1,500,000 and not less than 80 percent of whose aggregate noncontingent, liquidated debts (excluding a debt for the principal residence of such individual or such individual and spouse, unless such debt arises out of a commercial fishing operation), on the date the case is filed, arise out of a commercial fishing operation owned or operated by such individual or such individual and spouse; and

''(ii) who receive from such commercial fishing operation more than 50 percent of such individual's or such individual's and spouse's gross income for the taxable year preceding the taxable year in which the case concerning such individual or such individual and spouse was filed; or

''(B) a corporation or partnership—

''(i) in which more than 50 percent of the outstanding stock or equity is held by—

''(I) 1 family that conducts the commercial fishing operation; or

''(II) 1 family and the relatives of the members of such family, and such family or such relatives conduct the commercial fishing operation; and

''(ii)(I) more than 80 percent of the value of its assets consists of assets related to the commercial fishing operation;

''(II) its aggregate debts do not exceed $1,500,000 and not less than 80 percent of its aggregate noncontingent, liquidated debts (excluding a debt for 1 dwelling which is owned by such corporation or partnership and which a shareholder or partner maintains as a principal residence, unless such debt arises out of a commercial fishing operation), on the date the case is filed, arise out of a commercial fishing operation owned or operated by such corporation or such partnership; and

''(III) if such corporation issues stock, such stock is not publicly traded;

''(19B) 'family fisherman with regular annual income' means a family fisherman whose annual income is sufficiently stable and regular to enable such family fisherman to make payments under a plan under chapter 12 of this title;''.

(b) WHO MAY BE A DEBTOR.—Section 109(f) of title 11, United States Code, is amended by inserting ''or family fisherman'' after ''family farmer''.

(c) CHAPTER 12.—Chapter 12 of title 11, United States Code, is amended—

(1) in the chapter heading, by inserting ''**OR FISHERMAN**'' after ''**FAMILY FARMER**'';

(2) in section 1203, by inserting ''or commercial fishing operation'' after ''farm''; and

(3) in section 1206, by striking ''if the property is farmland or farm equipment'' and inserting ''if the property is farmland, farm equipment, or property used to carry out a commercial fishing operation (including a commercial fishing vessel)''.

(d) CLERICAL AMENDMENT.—In the table of chapters for title 11, United States Code, the item relating to chapter 12, is amended to read as follows:

''12. Adjustments of Debts of a Family Farmer or Family Fisherman with Regular Annual Income ..... 1201''.

(e) APPLICABILITY.—Nothing in this section shall change, affect, or amend the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801, et seq.).

TITLE X—HEALTH CARE AND EMPLOYEE BENEFITS

SEC. 1001. DEFINITIONS.

(a) HEALTH CARE BUSINESS DEFINED.—Section 101 of title 11, United States Code, as amended by section 306, is amended—

(1) by redesignating paragraph (27A) 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 individual 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. 1002. 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 most recent 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 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.''.

SEC. 1003. 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 section 445, 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 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; and''.

SEC. 1004. APPOINTMENT OF OMBUDSMAN TO ACT AS PATIENT ADVOCATE.

(a) OMBUDSMAN TO ACT AS PATIENT ADVOCATE.—

(1) APPOINTMENT OF OMBUDSMAN.—Title 11, United States Code, as amended by section 232, is amended by inserting after section 332 the following:

''§ 333. Appointment of patient care ombudsman

''(a)(1) If the debtor in a case under chapter 7, 9, or 11 is a health care business, the court shall order, not later than 30 days after the commencement of the case, the appointment of an ombudsman to monitor the quality of patient care and to represent the interests of the patients of the health care business unless the court finds that the appointment of such ombudsman is not necessary for the protection of patients under the specific facts of the case.

''(2)(A) If the court orders the appointment of an ombudsman under paragraph (1), the United States trustee shall appoint 1 disinterested person (other than the United States trustee) to serve as such ombudsman.

''(B) If the debtor is a health care business that provides long-term care, then the United States trustee may appoint the State Long-Term Care Ombudsman appointed under the Older Americans Act of 1965 for the State in which the case is pending to serve as the ombudsman required by paragraph (1).

''(C) If the United States trustee does not appoint a State Long-Term Care Ombudsman under subparagraph (B), the court shall notify the State Long-Term Care Ombudsman appointed under the Older Americans Act of 1965 for the State in which the case is pending, of the name and address of the person who is appointed under subparagraph (A).

''(b) An ombudsman appointed under subsection (a) shall—

''(1) monitor the quality of patient care provided to patients of the debtor, 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 at 60-day intervals thereafter, report to the court after notice to the parties in interest, at a hearing or in writing, regarding the quality of patient care provided to patients of the debtor; and

''(3) if such ombudsman determines that the quality of patient care provided to patients of the debtor is declining significantly or is otherwise being materially compromised, file with the court a motion or a written report, with notice to the parties in interest immediately upon making such determination.

''(c)(1) An ombudsman appointed under subsection (a) shall maintain any information obtained by such ombudsman under this section that relates to patients (including information relating to patient records) as confidential information. Such ombudsman may not review confidential patient records unless the court approves such review in advance and imposes restrictions on such ombudsman to protect the confidentiality of such records.

''(2) An ombudsman appointed under subsection (a)(2)(B) shall have access to patient records consistent with authority of such ombudsman under the Older Americans Act of 1965 and under non-Federal laws governing the State Long-Term Care Ombudsman program.''.

(2) CLERICAL AMENDMENT.—The table of sections for subchapter II of chapter 3 of title 11, United States Code, as amended by section 232, is amended by adding at the end the following:

''333. Appointment of ombudsman.''.

(b) COMPENSATION OF OMBUDSMAN.—Section 330(a)(1) of title 11, United States Code, is amended—

(1) in the matter preceding subparagraph (A), by inserting ''an ombudsman appointed under section 333, or'' before ''a professional person''; and

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

SEC. 1005. DEBTOR IN POSSESSION; DUTY OF TRUSTEE TO TRANSFER PATIENTS.

(a) IN GENERAL.—Section 704(a) of title 11, United States Code, as amended by sections

102, 219, and 446, is amended by adding at the end the following:

''(12) 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, as amended by section 446, is amended by striking ''and (11)'' and inserting ''(11), and (12)''.

SEC. 1006. EXCLUSION FROM PROGRAM PARTICIPATION NOT SUBJECT TO AUTOMATIC STAY.

Section 362(b) of title 11, United States Code, is amended by inserting after paragraph (27), as amended by sections 224, 303, 311, 401, 718, and 907, the following:

''(28) under subsection (a), of the exclusion by the Secretary of Health and Human Services of the debtor from participation in the medicare program or any other Federal health care program (as defined in section 1128B(f) of the Social Security Act pursuant to title XI or XVIII of such Act).''.

TITLE XI—TECHNICAL AMENDMENTS

SEC. 1101. DEFINITIONS.

Section 101 of title 11, United States Code, as hereinbefore 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) by inserting ''who is not a family farmer'' after ''debtor'' the first place it appears; and

(6) by striking paragraph (54) and inserting the following:

''(54) The term 'transfer' means—

''(A) the creation of a lien;

''(B) the retention of title as a security interest;

''(C) the foreclosure of a debtor's equity of redemption; or

''(D) each mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with—

''(i) property; or

''(ii) an interest in property;'';

(7) by indenting the left margin of paragraph (54A) 2 ems to the right; and

(8) in each of paragraphs (1) through (35), in each of paragraphs (36), (37), (38A), (38B) and (39A), and in each of paragraphs (40) through (55), by striking the semicolon at the end and inserting a period.

SEC. 1102. ADJUSTMENT OF DOLLAR AMOUNTS.

Section 104 of title 11, United States Code, is amended by inserting ''522(f)(3),'' after ''522(d),'' each place it appears.

SEC. 1103. EXTENSION OF TIME.

Section 108(c)(2) of title 11, United States Code, is amended by striking ''922'' and all that follows through ''or'', and inserting ''922, 1201, or''.

SEC. 1104. TECHNICAL AMENDMENTS.

Title 11, United States Code, is amended—

(1) in section 109(b)(2), by striking ''subsection (c) or (d) of''; and

(2) in section 552(b)(1), by striking ''product'' each place it appears and inserting ''products''.

SEC. 1105. PENALTY FOR PERSONS WHO NEGLIGENTLY OR FRAUDULENTLY PREPARE BANKRUPTCY PETITIONS.

Section 110(j)(4) of title 11, United States Code, as so redesignated by section 221, is amended by striking ''attorney's'' and inserting ''attorneys' ''.

SEC. 1106. LIMITATION ON COMPENSATION OF PROFESSIONAL PERSONS.

Section 328(a) of title 11, United States Code, is amended by inserting ''on a fixed or percentage fee basis,'' after ''hourly basis,''.

SEC. 1107. 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. 1108. 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. 1109. EXCEPTIONS TO DISCHARGE.

Section 523 of title 11, United States Code, as amended by sections 215 and 314, 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)(14A);

(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. 1110. 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. 1111. 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. 1112. 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. 1113. PREFERENCES.

(a) IN GENERAL.—Section 547 of title 11, United States Code, as amended by section 201, 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. 1114. 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. 1115. DISPOSITION OF PROPERTY OF THE ESTATE.

Section 726(b) of title 11, United States Code, is amended by striking ''1009,''.

SEC. 1116. GENERAL PROVISIONS.

Section 901(a) of title 11, United States Code, is amended by inserting ''1123(d),'' after ''1123(b),''.

SEC. 1117. 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. 1118. 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. 1119. 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. 1120. 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. 1121. 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 OF REORGANIZATION.—Section 1129(a) of title 11, United States Code, as amended by sections 213 and 321, 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 section 225, is amended by adding at the end the following:

''(f) Notwithstanding any other provision of this title, property that is held by a debtor that is a corporation described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code may be transferred to an entity that is not such a corporation, but only under the same conditions as would apply if the debtor had not filed a case under this title.''.

(d) APPLICABILITY.—The amendments made by this section shall apply to a case pending under title 11, United States Code, on the date of enactment of this Act, 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 filing 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. 1122. AUTHORIZATION FOR ADDITIONAL BANKRUPTCY JUDGSHIPS.

The following judgeships 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:

(1) Two additional bankruptcy judgeships for the southern district of New York.

(2) Four additional bankruptcy judgeships for the district of Delaware.

(3) One additional bankruptcy judgeship for the district of New Jersey.

(4) One additional bankruptcy judgeship for the eastern district of Pennsylvania.

(5) Three additional bankruptcy judgeships for the district of Maryland.

(6) One additional bankruptcy judgeship for the eastern district of North Carolina.

(7) One additional bankruptcy judgeship for the district of South Carolina.

(8) One additional bankruptcy judgeship for the eastern district of Virginia.

(9) Two additional bankruptcy judgeships for the eastern district of Michigan.

(10) Two additional bankruptcy judgeships for the western district of Tennessee.

(11) One additional bankruptcy judgeship for the eastern and western districts of Arkansas.

(12) Two additional bankruptcy judgeships for the district of Nevada.

(13) One additional bankruptcy judgeship for the district of Utah.

(14) Two additional bankruptcy judgeships for the middle district of Florida.

(15) Two additional bankruptcy judgeships for the southern district of Florida.

(16) Two additional bankruptcy judgeships for the northern district of Georgia.

(17) One additional bankruptcy judgeship for the southern district of Georgia.

SEC. 1123. TEMPORARY BANKRUPTCY JUDGESHIPS.

(a) AUTHORIZATION FOR ADDITIONAL TEMPORARY BANKRUPTCY JUDGESHIPS.—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:

(1) One additional bankruptcy judgeship for the district of Puerto Rico.

(2) One additional bankruptcy judgeship for the northern district of New York.

(3) One additional bankruptcy judgeship for the middle district of Pennsylvania.

(4) One additional bankruptcy judgeship for the district of Maryland.

(5) One additional bankruptcy judgeship for the northern district of Mississippi.

(6) One additional bankruptcy judgeship for the southern district of Mississippi.

(7) One additional bankruptcy judgeship for the southern district of Georgia.

(b) VACANCIES.—

(1) IN GENERAL.—The first vacancy occurring in the office of bankruptcy judge in each of the judicial districts set forth in subsection (a)—

(A) occurring 5 years or more after the appointment date of the bankruptcy judge appointed under subsection (a) to such office; and

(B) resulting from the death, retirement, resignation, or removal of a bankruptcy judge;

shall not be filled.

(2) TERM EXPIRATION.—In the case of a vacancy resulting from the expiration of the term of a bankruptcy judge not described in paragraph (1), that judge shall be eligible for reappointment as a bankruptcy judge in that district.

(c) EXTENSION OF EXISTING TEMPORARY BANKRUPTCY JUDGESHIPS.—

(1) IN GENERAL.—The temporary bankruptcy judgeships authorized for the northern district of Alabama and the eastern district of Tennessee under paragraphs (1) 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 5 years or more after the date of enactment of this Act.

(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 the temporary bankruptcy judgeships referred to in this subsection.

SEC. 1124. TRANSFER OF BANKRUPTCY JUDGESHIP SHARED BY THE MIDDLE DISTRICT OF GEORGIA AND THE SOUTHERN DISTRICT OF GEORGIA.

The bankruptcy judgeship presently shared by the southern district of Georgia and the middle district of Georgia shall be converted to a bankruptcy judgeship for the middle district of Georgia.

SEC. 1125. CONVERSION OF EXISTING TEMPORARY BANKRUPTCY JUDGESHIPS.

(a) DISTRICT OF DELAWARE.—The temporary bankruptcy judgeship authorized for the district of Delaware pursuant to section 3 of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note), shall be converted to a permanent bankruptcy judgeship.

(b) DISTRICT OF PUERTO RICO.—The temporary bankruptcy judgeship authorized for the district of Puerto Rico pursuant to section 3 of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note), shall be converted to a permanent bankruptcy judgeship.

SEC. 1126. TECHNICAL AMENDMENTS.

Section 152(a)(2) of title 28, United States Code, is amended—

(1) in the item relating to the eastern and western districts of Arkansas, by striking ''3'' and inserting ''4'';

(2) in the item relating to the district of Delaware, by striking ''1'' and inserting ''6'';

(3) in the item relating to the middle district of Florida, by striking ''8'' and inserting ''10'';

(4) in the item relating to the southern district of Florida, by striking ''5'' and inserting ''7'';

(5) in the item relating to the northern district of Georgia, by striking ''8'' and inserting ''10'';

(6) in the item relating to the middle district of Georgia, by striking ''2'' and inserting ''3'';

(7) in the item relating to the southern district of Georgia, by striking ''2'' and inserting ''3'';

(8) in the collective item relating to the middle and southern districts of Georgia, by striking ''Middle and Southern . . . . . 1'';

(9) in the item relating to the district of Maryland, by striking ''4'' and inserting ''7'';

(10) in the item relating to the eastern district of Michigan, by striking ''4'' and inserting ''6'';

(11) in the item relating to the district of Nevada, by striking ''3'' and inserting 5'';

(12) in the item relating to the district of New Jersey, by striking ''8'' and inserting ''9'';

(13) in the item relating to the southern district of New York, by striking ''9'' and inserting ''11'';

(14) in the item relating to the eastern district of North Carolina, by striking ''2'' and inserting ''3'';

(15) in the item relating to the eastern district of Pennsylvania, by striking ''5'' and inserting ''6'';

(16) in the item relating to the district of Puerto Rico, by striking ''2 and inserting ''3'';

(17) in the item relating to the district of South Carolina, by striking ''2'' and inserting ''3'';

(18) in the item relating to the western district of Tennessee, by striking ''4'' and inserting ''6'';

(19) in the item relating to the district of Utah, by striking ''3'' and inserting ''4''; and

(20) in the item relating to the eastern district of Virginia, by striking ''5'' and inserting ''6''.

SEC. 1126. 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 case 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. 1126. 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 date of the filing of the petition;''.

SEC. 1127. 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 under section 707(b), and reaffirmation agreements under section 524, of title 11 of the United States Code, as amended by this Act.

SEC. 1128. 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 in section 507(c), and subject to the prior rights of a holder of a security interest 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, within 45 days before 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)(9).''.

(b) ADMINISTRATIVE EXPENSES.—Section 503(b) of title 11, United States Code, as amended by sections 445 and 1103, is amended by adding at the end the following:

''(9) the value of any goods received by the debtor within 20 days before 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. 1127. PROVIDING REQUESTED TAX DOCUMENTS TO THE COURT.

(a) CHAPTER 7 CASES.—The court shall not grant a discharge in the case of an individual who is a debtor in a case 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 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.

(d) The prohibition against the granting of a discharge in subsection (a) and the prohibition against the confirmation of a plan of reorganization in subsection (b) shall not apply if the debtor is unable to provide such tax documents due to circumstance beyond the debtor s control including the failure of the taxing authority to provide such documents.

SEC. 1128. 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. 1129. TRUSTEES.

(a) SUSPENSION AND TERMINATION OF PANEL TRUSTEES AND STANDING TRUSTEES.—Section 586(d) of title 28, United States Code, is amended—

(1) by inserting ''(1)'' after ''(d)''; and

(2) by adding at the end the following:

''(2) A trustee whose appointment under subsection (a)(1) or under subsection (b) is terminated or who ceases to be assigned to cases filed under title 11, United States Code, may obtain judicial review of the final agency decision by commencing an action in the district court of the United States for the district for which the panel to which the trustee is appointed under subsection (a)(1), or in the district court of the United States 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 district court of the United States for 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. 1131. 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. 1133. DIRECT APPEALS OF BANKRUPTCY MATTERS TO COURTS OF APPEALS.

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

(1) in subsection (c)(1), by striking ''Subject to subsection (b),'' and inserting ''Subject to subsections (b) and (d)(2),''; and

(2) in subsection (d)—

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

(B) by adding at the end the following:

''(2)(A) The appropriate court of appeals shall have jurisdiction of appeals described in the first sentence of subsection (a) if the bankruptcy court, the district court, or the bankruptcy appellate panel involved, acting on its own motion or on the request of a party to the judgment, order, or decree described in such first sentence, or all the appellants and appellees (if any) acting jointly, certify that—

''(i) the judgment, order, or decree involves a question of law as to which there is no controlling decision of the court of appeals for the circuit or of the Supreme Court of the United States, or involves a matter of public importance;

''(ii) the judgment, order, or decree involves a question of law requiring resolution of conflicting decisions; or

''(iii) an immediate appeal from the judgment, order, or decree may materially advance the progress of the case or proceeding in which the appeal is taken;

and if the court of appeals authorizes the direct appeal of the judgment, order, or decree.

''(B) If the bankruptcy court, the district court, or the bankruptcy appellate panel—

''(i) on its own motion or on the request of a party, determines that a circumstance specified in clause (i), (ii), or (iii) of subparagraph (A) exists; or

''(ii) receives a request made by a majority of the appellants and a majority of appellees (if any) to make the certification described in subparagraph (A);

then the bankruptcy court, the district court, or the bankruptcy appellate panel shall make the certification described in subparagraph (A).

''(C) The parties may supplement the certification with a short statement of the basis for the certification.

''(D) An appeal under this paragraph does not stay any proceeding of the bankruptcy court, the district court, or the bankruptcy appellate panel from which the appeal is taken, unless the respective bankruptcy court, district court, or bankruptcy appellate panel, or the court of appeals in which the appeal in pending, issues a stay of such proceeding pending the appeal.

''(E) Any request under subparagraph (B) for certification shall be made not later than 60 days after the entry of the judgment, order, or decree.''.

(b) PROCEDURAL RULES.—

(1) TEMPORARY APPLICATION.—A provision of this subsection shall apply to appeals under section 158(d)(2) of title 28, United States Code, until a rule of practice and procedure relating to such provision and such appeals is promulgated or amended under chapter 131 of such title.

(2) CERTIFICATION.—A district court, a bankruptcy court, or a bankruptcy appellate panel may make a certification under section 158(d)(2) of title 28, United States Code, only with respect to matters pending in the respective bankruptcy court, district court, or bankruptcy appellate panel.

(3) PROCEDURE.—Subject to any other provision of this subsection, an appeal authorized by the court of appeals under section 158(d)(2)(A) of title 28, United States Code, shall be taken in the manner prescribed in subdivisions (a)(1), (b), (c), and (d) of rule 5 of the Federal Rules of Appellate Procedure. For purposes of subdivision (a)(1) of rule 5—

(A) a reference in such subdivision to a district court shall be deemed to include a reference to a bankruptcy court and a bankruptcy appellate panel, as appropriate; and

(B) a reference in such subdivision to the parties requesting permission to appeal to be served with the petition shall be deemed to include a reference to the parties to the judgment, order, or decree from which the appeal is taken.

(4) FILING OF PETITION WITH ATTACHMENT.—A petition requesting permission to appeal, that is based on a certification made under subparagraph (A) or (B) of section 158(d)(2) shall—

(A) be filed with the circuit clerk not later than 10 days after the certification is entered on the docket of the bankruptcy court, the district court, or the bankruptcy appellate panel from which the appeal is taken; and

(B) have attached a copy of such certification.

(5) REFERENCES IN RULE 5.—For purposes of rule 5 of the Federal Rules of Appellate Procedure—

(A) a reference in such rule to a district court shall be deemed to include a reference to a bankruptcy court and to a bankruptcy appellate panel; and

(B) a reference in such rule to a district clerk shall be deemed to include a reference to a clerk of a bankruptcy court and to a clerk of a bankruptcy appellate panel.

(6) APPLICATION OF RULES.—The Federal Rules of Appellate Procedure shall apply in the courts of appeals with respect to appeals authorized under section 158(d)(2)(A), to the extent relevant and as if such appeals were taken from final judgments, orders, or decrees of the district courts or bankruptcy appellate panels exercising appellate jurisdiction under subsection (a) or (b) of section 158 of title 28, United States Code.

SEC. 1134. INVOLUNTARY CASES.

(a) AMENDMENTS.—Section 303 of title 11, United States Code, is amended—

(1) in subsection (b)(1), by—

(A) inserting ''as to liability or amount'' after ''bona fide dispute''; and

(B) striking ''if such claims'' and inserting ''if such noncontingent, undisputed claims''; and

(2) in subsection (h)(1), by inserting ''as to liability or amount'' before the semicolon at the end.

(b) EFFECTIVE DATE; APPLICATION OF AMENDMENTS.—This section and the amendments made by this section shall take effect on the date of the enactment of this Act and shall not apply with respect to cases commenced under title 11 of the United States Code before such date.

SEC. 1135. FEDERAL ELECTION LAW FINES AND PENALTIES AS NONDISCHARGEABLE DEBT.

Section 523(a) of title 11, United States Code, as amended by section 314, is amended by inserting after paragraph (14A) the following:

''(14B) incurred to pay fines or penalties imposed under Federal election law;''.

TITLE XIII—CONSUMER CREDIT DISCLOSURE

SEC. 1301. ENHANCED DISCLOSURES UNDER AN OPEN END CREDIT PLAN.

(a) AMENDMENTS TO THE TRUTH IN LENDING ACT.—

(1) ENHANCED DISCLOSURE OF REPAYMENT TERMS.—

(A) IN GENERAL.—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 a clear and conspicuous manner, repayment information that would apply to the outstanding balance of the consumer under the credit plan, including—

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

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

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

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

''(B) In making the disclosures under subparagraph (A) the creditor shall apply the annual interest rate that applies to that balance with respect to the current billing cycle for that consumer in effect on the date on which the disclosure is made.''.

(B) PUBLICATION OF MODEL FORMS.—Not later than 180 days after the date of enactment of this Act, the Board of Governors of the Federal Reserve System shall publish model disclosure forms in accordance with section 195 of the Truth in Lending Act for the purpose of compliance with section 127(b)(11) of the Truth in Lending Act, as added by this paragraph.

(C) CIVIL LIABILITY.—Section 130(a) of the Truth in Lending Act (15 U.S.C. 1640(a)) is amended, in the undesignated paragraph following paragraph (4), by striking the second sentence and inserting the following: ''In connection with the disclosures referred to in subsections (a) and (b) of section 1637 of this title, a creditor shall have a liability determined under paragraph (2) only for failing to comply with the requirements of section 1635, 1637(a), or of paragraph (4), (5), (6), (7), (8), (9), (10), or (11) of section 1637(b) or for failing to comply with disclosure requirements under State law for any term or item that the Board has determined to be substantially the same in meaning under section 1610(a)(2) as any of the terms or items referred to in section 1637(a), paragraph (4), (5), (6), (7), (8), (9), (10), or (11) of section 1637(b) of this title.''.

(2) DISCLOSURES IN CONNECTION WITH SOLICITATIONS.—

(A) IN GENERAL.—Section 127(c)(1)(B) of the Truth in Lending Act (15 U.S.C. 1637(c)(1)(B)) is amended by adding the following:

''(iv) CREDIT WORKSHEET.—An easily understandable credit worksheet designed to aid consumers in determining their ability to assume more debt, including consideration of the personal expenses of the consumer and a simple formula for the consumer to determine whether the assumption of additional debt is advisable.

''(v) BASIS OF PREAPPROVAL.—In any case in which the application or solicitation states that the consumer has been preapproved for an account under an open end consumer credit plan, the following statement must appear in a clear and conspicuous manner: 'Your preapproval for this credit card does not mean that we have reviewed your individual financial circumstances. You should review your own budget before accepting this offer of credit.'.

''(vi) AVAILABILITY OF CREDIT REPORT.—That the consumer is entitled to a copy of his or her credit report in accordance with the Fair Credit Reporting Act.''.

(B) PUBLICATION OF MODEL FORMS.—Not later than 180 days after the date of enactment of this Act, the Board of Governors of the Federal Reserve System shall publish model disclosure forms in accordance with section 195 of the Truth in Lending Act for the purpose of compliance with section 127(c)(1)(B) of the Truth in Lending Act, as amended by this paragraph.

(b) EFFECTIVE DATE.—The provisions of this section shall apply with respect to cases commenced under title 11, United States Code, on or after the date of the enactment of this Act.

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 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 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 cases filed under title 11 of the 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. 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.''.

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.—

(1) IN GENERAL.—Except as otherwise provided in this Act and paragraph (2), 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.

(2) CERTAIN LIMITATIONS APPLICABLE TO DEBTORS.—The amendments made by sections 308, 322, and 330 shall apply with respect to cases commenced under title 11, United States Code, on or after the date of the enactment of this Act.

The CHAIRMAN pro tempore. Pursuant to House Resolution 147, the gentleman from New York (Mr. NADLER) and a Member opposed each will control 20 minutes.

Mr. SENSENBRENNER. Mr. Chairman, I rise in opposition to the amendment and claim the time.

The CHAIRMAN pro tempore. The gentleman from Wisconsin (Mr. SENSENBRENNER) will be recognized for 20 minutes in opposition.

The Chair recognizes the gentleman from New York (Mr. NADLER).

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

Mr. Chairman, I am offering this substitute amendment on behalf of the gentleman from Michigan (Mr. CONYERS) to make the bill a truly balanced reform measure by promoting responsibility for both debtors and lenders alike.

Unfortunately, the bill being brought to the floor today is little more than a package of special interest amendments that will distort the bankruptcy system, hurting the most financially desperate families, shut down distressed businesses and do nothing to stop predatory lending or collection practices.

The substitute will make a number of changes to the bill to ensure responsibility, without encouraging abuse of the system by debtors or by creditors.

The substitute replaces the one-size-fits-all means test with a clear standard that takes into account the debtor's real income and real expenses. That is not what the bill does now. The bill before us would calculate a family's ability to repay its debts by looking at income they no longer have and costs of living that some IRS bureaucrat thinks their expenses should be, rather than what their expenses really are.

Since when did the IRS bill collectors become the gold standard for accountability and fairness? This Congress ordered the IRS as part of IRS reform a few years ago to exercise more lenience and flexibility in the use of these collection standards. But in this bill these old standards which we discarded for tax cheats are sacrosanct for debtors.

So what happens if the IRS gets it wrong? What happens if rents in your town or other costs of living do not resemble what the IRS thinks they are? Under this bill you would have to get a lawyer and prove that the IRS is wrong and the cost of living in your town is what it is. You would have to go to court and prove that you will not be receiving the income from the job you lost 6 months ago. If not, you will be presumed to be an abuser of the bankruptcy system.

Who is hardest hit by this? Honest debtors who are in real trouble because they were laid off or for whatever other reason they cannot afford a lawyer. Do you know why? Because people who file for bankruptcy are generally broke.

Our substitute has a sensible test that passed the Senate overwhelmingly in the 105th Congress. This substitute will also provide true protection for children by limiting the ability of creditors to preserve their claims after discharge when, without the bankruptcy court's protection, they will be able to capture funds that should go for support of the debtor's children. Making child support the first priority, as the bill does, will do nothing for children if credit card debt survives bankruptcy to compete with child support obligations. Because the priority does not survive the bankruptcy, Mom has to go to the State court where there are no priorities and compete with the banks' lawyer, which she does not have to do now.

The substitute will also undo changes to Chapter 13 to ensure that debtors who want to enter into a repayment plan will be able to succeed. Changes to Chapter 13, which incorporates the same calculations and IRS standards from the means test, even if you are below the median income, even if you file for Chapter 13 voluntarily, would guarantee that these plans will fail even more often than the 60 percent failure rate that we have now with completely volunteer plans.

The substitute also ensures that unsecured creditors will not be able to use new legal tricks to jump ahead of other creditors.

It also prevents debtors from using bankruptcy court to evade lawful debts

for criminal civil rights violations, including discrimination against members of the Armed Forces, discrimination to deprive a person of a federally protected right, threats to religious institutions or individuals on the basis of religion, or using force or the threats of force to deprive women of their right to see a doctor.

That is right; we are still suggesting that people that violate the Freedom of Access to Clinic Entrances Act should not be able to use the bankruptcy courts to discharge their debts or to use the courts to evade payments and force people who already have been awarded a judgment to chase them through the bankruptcy system at great expense. That is the rule of law, and that is what this bill should contain.

We should not subordinate the rights of women, of the members of our Armed Forces, of houses of worship or people suffering discrimination just because some banks want to tilt the system in their favor.

Allowing the bankruptcy courts to become a safe haven for people who violate our civil rights laws is inexcusable, even in the cause of providing special benefits to the special interests, which is the chief purpose of this bill.

The substitute also provides enhanced protection for employee benefits in Chapter 11 and salaries, and remedies for corporate wrongdoing in Chapter 11. It is the original version of the amendment offered by the gentleman from Utah (Mr. CANNON) and the gentleman from Massachusetts (Mr. DELAHUNT). Their compromise is an important start, and I was pleased to support it a few minutes ago. Our substitute finishes the job.

The substitute provides bankruptcy courts with flexibility to protect small businesses from premature or unnecessary liquidation so that they can reorganize and continue in business and not lay off their employees. It also closes a loophole in current law by preventing debtors from taking cases to courts far away from where the business is actually conducted. It also protects the rights of debtors to uphold contracts in bankruptcy.

The substitute provides for additional bankruptcy judges according to the most recent needs assessment by the Judicial Conference. We have a crisis in the bankruptcy courts that will only be made worse by the litigation explosion this bill will cause, yet the sponsors of this bill have refused to update it to reflect current needs for judges. That will only result in delay and increased costs for everyone who has a stake in the bankruptcy system, debtors, creditors, everyone.

It also strikes pro-IRS amendments that would elevate the rights of taxing authorities over that of other creditors and debtors. Many of you have probably not taken the time to read title VII of the bill. You should show it to a tax lawyer at home, to someone you trust, and ask them what it does. Is there any rational reason to give taxing authorities more rights than other creditors in bankruptcy?

Is there any reason to shortchange businesses and individuals to pay off the government? Since when did this House become a bunch of cheerleaders for the tax collectors?

The substitute will prevent bankruptcy by providing real disclosure of the borrower's actual credit card debt and the cost of borrowing. A similar amendment was adopted by the Senate in the 105th Congress. The current bill provides only an 800 number and deceptive ''examples'' of repayment costs, rather than the actual costs of credit to inform the debtor. Is it too much to ask that people should be given the information they need on the costs of interest and fees so they can plan their finances responsibly and avoid bankruptcy? The substitute, unlike the bill, will require that.

□ 1530

The substitute also protects against corruption of bankruptcy proceedings by deleting amendments that would allow for abusive motions, that would allow for conflicts of interest on the part of investment bankers, that would allow bankruptcy professionals to delay accountability in court for their wrongdoing.

Bankruptcy reform is an important and laudable goal; but it must be balanced and everyone, debtors and creditors alike, must be held accountable. The current bill would encourage abuse of genuinely distressed families and allow credit card companies to continue their abusive practices.

I urge everyone to support the Democratic substitute so that we can have real reform in the bankruptcy system rather than the sham bill before us that simply reaches into the pockets of low- and middle-income people in situations of distress and in 60 or 70 different ways, takes the money out of their pockets and gives it to the big banks and the credit card companies, which is the entire purpose of the bill before us, without the substitute.

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 strong opposition to the Nadler substitute. The Nadler substitute not only makes significant and controversial revisions to H.R. 975, but deletes crucial provisions from the bill, including various provisions intended to provide important consumer protections.

Here are just a few examples of the more than 30 provisions that the Nadler substitute deletes from H.R. 975:

Section 201, which is intended to protect debtors and to promote alternative dispute resolutions with creditors;

section 202, which penalizes creditors who materially violate the discharge injunction;

section 203, which requires heightened disclosures in connection with, and scrutiny of, reaffirmation agreements. This provision, by the way, was added at the insistence of Senator TORRICELLI during the 106th Congress and was fully endorsed by the Clinton administration;

section 311, which attempts to strike a balance between the needs of residential landlords dealing with deadbeat tenants who use bankruptcy to avoid paying rent and giving a financial fresh start to tenants who are willing to cure their rent arrears and to be current on their rental payments. This provision, I should note, was thoroughly negotiated during the 107th Congress by Senator FEINGOLD;

and, all of title VII, which strengthens the ability of State and local taxing authorities to collect taxes. At a time when the States and localities are in such bad shape financially, I do not think we would want to give a bigger pass to bankrupts to avoid paying the taxes that they had accrued and owed.

Worse yet, the Nadler substitute guts the various provisions that were hallmarks of last year's conference report. It replaces H.R. 975's needs-based income expense formula with a completely new, but ill conceived, test that could easily lend itself to manipulation.

The Nadler substitute also essentially eliminates the bill's credit counseling provisions and reduces the reach-back period with respect to the cramdown of claims secured by automobiles, a provision that was extensively negotiated with Senate Democrats during the 107th Congress.

Finally, the Nadler substitute essentially reinstates the so-called Schumer amendment, which will effectively penalize protestors who engage in civil disobedience. This is an extraneous and controversial provision that makes debts arising from the violation of the Freedom of Access to Clinic Entrances Act nondischargeable. Inclusion of this provision will likely kill bankruptcy reform, a fact proven just 4 months ago in the last Congress when a vote on the rule that would have allowed consideration of the bankruptcy conference report which contained a similar provision failed on the floor of the House.

Simply put, a vote for the Nadler substitute is a vote to kill bankruptcy reform legislation, and I urge Members to vote against it.

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

Mr. NADLER. Mr. Chairman, I yield 4 minutes to the distinguished gentlewoman from California (Ms. LINDA T. SÁNCHEZ), a member of the committee.

Ms. LINDA T. SÁNCHEZ of California. Mr. Chairman, I thank the gentleman from New York for yielding me this time.

I rise in opposition to H.R. 975 because it is a harsh, one-sided bill. As we all know, our country is in the midst of a very difficult economic period. According to the Department of

Labor's figures, the unemployment rate for February 2003 was 5.8 percent. Mr. Chairman, 308,000 people lost jobs in the last month alone.

In addition, we have larger and larger numbers of military personnel being sent overseas in anticipation of a possible war with Iraq. They sacrifice their time and energy and put their lives at risk for the sake of our country. Many also sacrifice their salaries. Often, Reservists who are called up take a substantial cut in pay. Despite efforts to adjust their finances, some families will not be able to cover all of their costs. Those families may need to turn to the bankruptcy system.

Ninety percent of all bankruptcies are triggered by one of the following three events: job loss, unforeseen medical expenses, or divorce. Yet the rules of this Draconian bill in H.R. 975 are so restrictive that people who really need the system are lumped together with people who have possibly abused the system in the past.

Large numbers of groups oppose H.R. 975, including the AFL-CIO and the United Auto Workers. They are concerned that the harsh changes to Chapter 11 bankruptcies will cost jobs by forcing more businesses into liquidation. In addition, these groups are concerned that the bill's consumer bankruptcy provisions will hurt people because it squeezes families so hard in favor of credit card companies.

Opposition also comes from a whole host of groups concerned about women and children, while supporters of this bill argue that it has a series of provisions to assist women and children. If this were the case, then organizations such as the National Organization for Women, the California Women's Law Center, and the Association for Children for Enforcement of Support would all support the bill. In fact, they all oppose the bill.

Mr. Chairman, H.R. 975 does much more harm than it does good for women and children. One of the worst aspects of this bill is the fact that it places women and children in direct competition with more aggressive creditors such as credit card companies.

H.R. 975 is also opposed by groups concerned about minorities, senior citizens, and victims of crimes. The Leadership Conference on Civil Rights, the National Council of Senior Citizens, and the National Center for Victims of Crime are just a few of the organizations that have spoken out against this piece of legislation.

Minorities are often subjected to discrimination in home mortgage lending and in hiring and firing decisions and are more highly targeted by predatory lending. As a result, minorities will more often be forced to consider the bankruptcy system as a means to stabilize their financial circumstances.

The elderly face increased risk of job loss and catastrophic health care costs, again meaning that more of them will have to explore bankruptcy as a possible option.

As for victims of crimes and torts, the National Organization for Victim Assistance has noted, ''More exempted creditors with rights to the same finite amount of resources means lower payments to all. Inevitably, for victim creditors, that means either a smaller return on the restitution owed, or a longer period of repayment, or both.''

Most troubling is the fact that this bill, which makes such severe change to debtors' rights under the bankruptcy system, makes almost no changes whatsoever to creditors' rights and responsibilities.

This bill fails to address the fact that credit card companies solicit people who are not creditworthy in the first place. We should be instituting measures to ensure that the credit card companies do their homework before extending credit. We should require parental consent before students under the age of 21 can obtain credit cards, unless there is evidence to show that the student is financially solvent. In fact, the gentlewoman from California (Ms. WATERS) sought to offer an amendment with a very similar goal, but her amendment was rejected by the Committee on Rules.

It is time for Congress to recognize that this bill is too flawed to serve the American people. We must look carefully at the long-term consequences and at the current economic conditions, and then craft any bankruptcy reform legislation in a way that is fair to consumers and creditors. I urge a ''no'' vote on this bill.

Mr. SENSENBRENNER. Mr. Chairman, I yield 5 minutes to the gentleman from Utah (Mr. CANNON).

Mr. CANNON. Mr. Chairman, I rise in opposition to the amendment in the nature of a substitute offered by the gentleman from New York (Mr. NADLER), the distinguished member of the Committee on the Judiciary.

As I emphasized in my statement earlier today during the general debate on this legislation, the Congress has extensively debated and carefully considered bankruptcy reform legislation over the past 6 years. H.R. 975 represents a consensus, which has sustained overwhelming majorities in both bodies.

The substitute has not been subjected to the same kind of careful consideration from the House that characterizes H.R. 975. It injects an uncertainty into the means test which undercuts the major purpose of the bill, which is to promote uniformity and predictability in the bankruptcy process. Rather than strengthening the integrity of the bankruptcy system and restoring personal responsibility, the substitute endangers these goals. In addition, the substitute contains provisions relating to abortion which are extraneous to bankruptcy, which the House has rejected, and which compromise the objectives of true bankruptcy reform.

Mr. Chairman, we have come too far to turn back now. I appreciate the gentleman's engagement on this issue. However, the substitute truly does take us back. Rather than seizing a historic opportunity to confront a growing problem and restore confidence in a failing system, the substitute merely rearranges the flaws that have drawn us to this point.

Mr. Chairman, I urge a ''no'' vote on the substitute.

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

Mr. Chairman, it is true, as the distinguished gentleman said a moment ago, that this bill has been before us for a long time. It is not true that it has gotten a consensus. Well, actually it is true that it has gotten a consensus: a consensus of opposition from just about every professional group, every consumer group, every labor group, every women's group, every minority group, every children's welfare group, every professional bankruptcy group, every trustees' group, every Chapter 13 trustees' group, all the judicial groups. They all oppose the bill.

Now, it is true that it has gotten a majority of this House in the past. That is unfortunate. Hopefully we will reconsider that.

For example, the Committee on the Judiciary has received testimony from many sources, most recently from the Commercial Law League of America, the Nation's oldest creditors' rights organization, to the effect that the business provisions in this bill will destroy businesses, especially small businesses. The substitute would correct this problem by giving distressed companies the needed flexibility to reorganize successfully.

Organized labor has also spoken out against the business provisions of this bill because they recognize that a failed reorganization hits workers the hardest. They are the ones who lose their jobs, they are the ones who lose their benefits, they are the ones who see their pensions evaporate.

If you had a large or small business bankruptcy in your district, you know what happens when a company goes under. Preserving value in a company through successful rehabilitation where it is possible benefits everyone: the employees, the creditors, the communities.

This bill, however, imposes rigid and inflexible deadlines on small businesses, especially those dealing with the time in which a company may propose a plan of reorganization. It also places absolute limits on the time in which a business must decide whether to assume or reject a commercial lease, even if they are current in their rent payments. So you cannot wait for the Christmas season to see how you are doing and whether you can survive or not or whether you should throw in the towel. That limit could prove disastrous in cases involving businesses with hundreds of stores. Does anyone know about the K-Mart bankruptcy or the cinema multiplex bankruptcies? How would arbitrary deadlines have affected those cases?

Other arbitrary rules that would force a conversion of a case from reorganization to liquidation are dangerous to our economy and to American small business.

When this bill first appeared in 1997, everyone was singing ''Happy Days Are Here Again.'' There were few fears that massive bankruptcies in our airline industry, the collapse of much of our high-tech industry, the implosion of such market bellweathers as Enron and WorldCom were just over the horizon.

It would be foolhardy for the Members of this House to ignore what is going on in the real world just because this House has adopted this bill in the past. In the case of these business provisions, it could mean the loss of thousands of jobs, the unnecessary liquidation of valuable and still-potentially viable businesses, and the loss of business and value for trade creditors and communities.

Let us take an example from the financial pages. Recently, The New York Times reported that United Airlines was seeking extension on its April 8 deadline for filing a plan of reorganization. They are seeking extension until October 6.

Why are they seeking this extension? According to the report, ''The extra time would give United the chance to gauge the consequences of any war with Iraq on the airline industry.''

Is there anyone here, other than one of United's competitors, who does not think that that makes sense? Do we want to insist that United file a claim without getting a handle on what is about to happen? Would the Members of this House prefer to just liquidate the whole thing?

According to The Times again, ''The Air Transport Association said in a report that a long conflict could prompt the industry to cut 70,000 more jobs on top of the 100,000 lost since the September 11 attacks in 2001. It said several carriers could be forced into bankruptcy along with United and US Airways which have filed for Chapter XI protection last summer.''

In fact, an ATA spokesperson was quoted in the London Financial Times just this morning as stating that the war could add another $4 billion to airline losses on top of the $5.7 billion forecast and cut a further 2,200 flights daily. The same spokesperson warned that further deterioration in the industry could make the prospect of ''forced nationalization of the industry not unrealistic.''

□ 1545

In court papers, United requested an extension of time until October ''to avoid premature formulation of a Chapter 11 plan, and to ensure that the formulated plan takes into account the interests of the company, its employees, and its creditors.''

Should not the law allow courts to review the facts and decide whether or not such flexibility is, as the Bankruptcy Code has long required, ''in the best interests of the creditors and the estate''?

This problem is not confined to United. This morning the Financial Times reported that Standard and Poors has placed 11 other airlines on the credit watch. As a result of the 1991 Gulf War, three major airlines were forced into bankruptcy. Our job is to make the system work better, not to wreck it.

Chapter 11 is a model that other countries, most recently Estonia, are trying to emulate. They look to our system of rehabilitating going concern value where possible as preferable to the emphasis on liquidation and other systems.

Just as the rest of the world is realizing that our system encourages risk-taking, entrepreneurship, and promotes the rehabilitation of distressed businesses, this bill takes our system back in the other direction to force liquidation instead of permitting the flexibility that encourages reorganization and the survival of these businesses.

The substitute that I am offering solves that problem and keeps the current system for these businesses. Perhaps this House could pause long enough to listen to the sound of the market forces before acting to force thousands more companies into liquidation and destroy tens of thousands of jobs. Keep the flexibility in the current system by passing this substitute.

Mr. Chairman, in summary, the alleged reason for this bill, that lots of debtors are taking advantage of the credit card companies and are costing an average consumer $400 a year in higher interest, is sheer nonsense. The reason there are more bankruptcies, studies have shown, is because there is so much credit and too easy credit being given to people who are already head over heels in debt, and people are having too much debt in relation to their income.

If we want to cut down the number of bankruptcies, we should do something about irresponsible extension of credit to people already head over heels in debt. The bill does not do that.

The evidence is that people are more reluctant now to file bankruptcy than they were years ago. The bill ignores that. The bill would force many people into Chapter 13 when they are better served in Chapter 7.

Recently, Professor Staten, whose work for the credit industry provided much of the empirical fodder for this legislation, observed that this legislation would move only about 5 percent of Chapter 7 cases into Chapter 13, and that the legislation would have no effect on the number of bankruptcies. Similarly, according to James Blaine, CEO of the North Carolina State Credit Union, ''Charge-offs are well under control at 46/100 of a percent of total loans,'' less than a half of 1 percent. In other words, 99.5 percent of credit union loans are repaid as promised, and 41.1 percent of charge-offs are related to bankruptcy. Or said another way, just .19 percent, less than 2/10ths of 1 percent, of total credit union loans result in a bankruptcy loss. So taking the high estimate of a 15 percent rate of abuse, the calculation reveals that total losses on loan portfolios are less than 3/100ths of 1 percent.

That should not lead to a draconian bill such as this, a bill that, in addition, cracks down on small businesses and will force many of them into liquidation as opposed to being reorganized.

The substitute keeps some flexibility in the system, enables human judgment to see, on the part of bankruptcy judges, to determine when there is an abuse of the system and a bankruptcy filing must be disallowed and when it should go forward.

Perhaps the worst thing about this bill is the adoption of the IRS rigid guidelines, the adoption of the rigid guidelines that allow no room for any discretion. That is not the way we should write legislation.

Finally, let me simply say that notwithstanding the claims by the consumer credit industry to the contrary, consumer lending is the most profitable enterprise. According to Bloomberg News, CitiGroup, Inc., said ''Fourth quarter profit fell 37 percent because of higher loan costs, and the costs of settling claims at the world's biggest financial services company misled customers with biased stock research.'' But the biggest profit center was the credit cards.

Finally, anyone who thinks that credit card companies, by being able to take more money, to squeeze more money from middle- and low-income people who, because of a job loss or a medical emergency, are in extreme situation and bankruptcy, anyone who thinks they are going to lower the interest rates and save consumers $400 ignores the history of the last 20 years, and ought to purchase the Brooklyn Bridge from people who do not own it.

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

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

Mr. Chairman, I appreciate the summary of the summary from the gentleman from New York (Mr. NADLER). I do not think anybody who supports this bill is in the mood to buy the Brooklyn Bridge. The city of New York has that as a tremendous asset and ought to keep it that way.

Seriously, if we look at the list of groups that support this legislation, practically every State retailer federation is in support of changing the bankruptcy laws. These are not banks, these are not credit card companies, these are the people who represent the mom-and-pop stores on the Main Streets in the cities and towns and villages of the United States of America. They are the ones that have to absorb a lot of the debt that is written off in bankruptcy. That means fewer jobs, it

means higher prices, and it means a burden on the people who pay their bills as they have agreed to pay their bills.

What this bill does very simply is that for someone who is genuinely down and out and has no chance whatsoever of repaying their debt, it does not change the law at all. They are allowed to go through a Chapter 7 liquidation, get a discharge, and start out afresh. They do get some credit counseling that they do not have under the existing law, and this is counseling that would advise them of the consequences of bankruptcy, as well as advice on how to avoid getting into this pickle again. That credit counseling would go down if the bill goes down.

However, where there is a change in the law for personal bankruptcies are for the people who have the potential of repaying at least some of their debt during the next 5 years. I do not see anything wrong with that. If they can repay some of their debt during the next 5 years, that is their obligation. Why should they pass that debt on to people who pay 100 percent of their bills all the time?

So this is what the issue is. The substitute should be defeated, the bill should pass, and we should provide the essential reforms that have been negotiated out for the last 6 years on this issue.

I urge defeat of the substitute amendment.

Mr. CONYERS. Mr. Chairman, I rise in strong support of the Democratic substitute. This amendment retains the vast majority of the provisions in the underlying bill, while responding to the most egregious and one-sided provisions in the legislation. There are a number of significant differences between our substitute and the underlying bill:

1. Means Test: First and foremost, we fix the rigid one-size-fits-all means test used to determine an individual's eligibility for bankruptcy proceedings. Rather than relying on the debtor's actual cost of living, the bill relies upon IRS collection standards which lay out no specific standards for the deduction of living expenses.

By contrast, the Democratic substitute would modify the means test and require the court to take into account the debtor's actual income and expenses and income. This is based on the same language that passed the Senate overwhelmingly in the 105th Congress.

2. Alimony and Child Support: As the bill presently stands, it is a disaster for single mothers and their children and it will have a particularly harsh impact on the payment of alimony and child support. The basic problem arises from the fact that bankruptcy and insolvency are by definition a zero-sum game. By design, the bill will increase the amount of funds being paid to unsecured creditors, and it therefore should come as no surprise that such payments will often come at the expense of other, less-aggressive creditors, such as women and children owed alimony and child support. This problem is by no means insignificant given that an estimated 300,000 bankruptcy cases per year involve child support and alimony orders.

The Democratic substitute mitigates this problem by eliminating provisions in the bill concerning luxury good purchases, cash advances, and credit card debt used to pay taxes which place credit card companies on equal footing with alimony and child support payments.

3. Small Business: The Republican bill also imposes a whole host of arbitrary deadlines in small business cases designed to speed up the bankruptcy process. The effect of these changes would be to make it much harder for small businesses to reorganize and stay afloat. That is the last thing our economy needs.

These provisions have drawn the strong opposition of organized labor. For example, the AFL–CIO has earned that the small business provisions will ''threaten jobs by placing substantial procedural and substantive barriers in the way of small businesses' access to the protections of Chapter 11 . . . threaten[ing] their overall ability to successfully reorganize.''

The substitute allows for the extension of the arbitrary deadlines where it can be shown that the reason for the delay is due to circumstances beyond the control of the small business. Thus, if the reason a deadline cannot be met is because a regulatory process—such as a hearing on an environmental claim—must take place before a plan can be developed, we would give the court discretion to waive the deadline.

4. Credit Card Abuse:

Perhaps the bill's most glaring omission is its failure to address the problem of abusive lending practices. At the same time the legislation responds to every conceivable debtor excess—whether real or imagined—it gives a pass to the transgressions of the credit industry. This despite the fact that we now have 3.5 billion credit card solicitations per year and $1.3 trillion in consumer debt now outstanding.

Our substitute cracks down on the very worst of these abuses, such as soliciting minors who have little ability to pay their debts and failing to disclose clearly on their account statements the total amount and total time it would take to pay off balances if only the minimum amount due was paid each month.

5. Protecting Employee Wages and Benefits in Bankruptcy: The Democratic substitute makes several significant changes to protect employee wages and other benefits in bankruptcy. First, it increases the dollar amount of employee wages and other benefits to $13,500 from $4,650 to take full account of inflation over the last 30 years. Second, it increases the period of time a court may avoid fraudulent transfers to corporate insiders from 1 to 4 years. Given the complexity of these transfers, this is needed to help us protect against future Enron situations.

The Democratic substitute also requires that before business assets are sold in bankruptcy, we learn about the potential adverse impact on employees and retirees health care and pension benefits. All too often corporate bankruptcies become an excuse to void promises of pension and health care benefits, and the Democratic substitute responds to that problem.

6. Use of Bankruptcy to Evade Lawful Debts for Civil Rights Violations: Finally, the Democratic substitute prevents debtors from using the bankruptcy court to evade lawful debts for civil rights violations, including discrimination against members of the Armed Forces, discrimination to deprive a person of a federally protected right, threats to religious institutions, or individuals on the basis of religion, or using force or threats to deprive a woman of a right to see a doctor.

Of particular note is the fact that this year's bill drops a provision from the conference report dealing with a very serious problem facing woman as a result of the Bankruptcy Code—the fear that violent and reckless individuals will be able to terrorize and blockade abortion clinics and eliminate their liability from that violence through the bankruptcy process. The Democratic substitute closes that loophole.

For those of the Members who want to support real and balanced bankruptcy reform—without unnecessarily piling on the middle class, single mothers and their children, harming employees, and without giving the credit card industry a complete pass—I urge a ''yes'' vote on the Democratic substitute.

The CHAIRMAN pro tempore (Mr. SIMPSON). The question is on the amendment in the nature of a substitute offered by the gentleman from New York (Mr. NADLER).

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

Mr. NADLER. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on amendment No. 5 in the nature of a substitute offered by the gentleman from New York (Mr. NADLER) will be postponed.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: amendment No. 4 offered by the gentleman from California (Mr. SHERMAN); and amendment No. 5 in the nature of a substitute offered by the gentleman from New York (Mr. NADLER).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. 4 OFFERED BY MR. SHERMAN

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on amendment No. 4 offered by the gentleman from California (Mr. SHERMAN) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 155, noes 269, answered ''present'' 1, not voting 9, as follows:

[Roll No. 71]

AYES—155

Abercrombie	Baldwin	Bereuter
Allen	Ballance	Berkley
Baca	Becerra	Berman
Baird	Bell	Bishop (GA)

Blumenauer
Bono
Boswell
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Case
Clay
Clyburn
Conyers
Costello
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lynch
Majette
Markey
Marshall
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
Meehan
Meek (FL)
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Moore
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Rush
Ryan (OH)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Schakowsky
Schiff
Scott (VA)
Serrano
Sherman
Skelton
Solis
Spratt
Strickland
Stupak
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Udall (NM)
Van Hollen
Visclosky
Waters
Watson
Watt
Waxman
Wexler
Woolsey
Wu
Wynn

NOES—269

Ackerman
Aderholt
Akin
Alexander
Andrews
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Berry
Biggert
Bilirakis
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Boozman
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Combest
Cooper
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (AL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Ehlers
Emerson
Engel
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Inslee
Isakson
Israel
Issa
Istook
Janklow
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lowey
Lucas (KY)
Lucas (OK)
Maloney
Manzullo
Matheson
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
McNulty
Meeks (NY)
Menendez
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Rangel
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Royce
Ryan (WI)
Ryun (KS)
Sanders
Sandlin
Saxton
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Simmons
Simpson
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Tanner
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Towns
Turner (OH)
Turner (TX)
Upton
Velazquez
Vitter
Walden (OR)
Walsh
Wamp
Weiner
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

ANSWERED ''PRESENT''—1

Ruppersberger

NOT VOTING—9

Buyer
Carson (IN)
Dunn
Gephardt
Hyde
Ros-Lehtinen
Shuster
Stark
Udall (CO)

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. SIMPSON) (during the vote). The Chair will remind Members that there are 2 minutes remaining in this vote.

□ 1617

Messrs. BARTLETT of Maryland, BARRETT of South Carolina, SHAYS, INSLEE, PICKERING, BONILLA, ENGLISH, FRANKS of Arizona, NEY, PORTMAN, DAVIS of Tennessee, HALL, CRAMER and BISHOP of New York and Mrs. JO ANN DAVIS of Virginia, Mr. LUCAS of Kentucky, Mr. DEUTSCH, Ms. SLAUGHTER, Mr. GARRETT of New Jersey, and Mr. TOWNS changed their vote from ''aye'' to ''no.''

Mrs. MCCARTHY of Missouri, Ms. CORRINE BROWN of Florida, Mrs. BONO and Mr. GUTIERREZ changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. SIMPSON). Pursuant to clause 6 of rule XVIII, the remaining question will be conducted as a 5-minute vote.

AMENDMENT NO. 5 IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. NADLER

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on amendment No. 5 in the nature of a substitute offered by the gentleman from New York (Mr. NADLER) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 128, noes 296, answered ''present'' 1, not voting 9, as follows:

[Roll No. 72]

AYES—128

Abercrombie
Ackerman
Allen
Baldwin
Ballance
Becerra
Berkley
Berman
Bishop (GA)
Bishop (NY)
Blumenauer
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Clay
Clyburn
Conyers
Cummings
Davis (CA)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dingell
Doggett
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Frank (MA)
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hinchey
Hoeffel
Holt
Honda
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kennedy (RI)
Kilpatrick
Kleczka
Kucinich
Lantos
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Majette
Maloney
Markey
Marshall
Matsui
McCarthy (MO)
McCollum
McDermott
McGovern
McNulty
Meehan
Meek (FL)
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Nadler
Napolitano
Neal (MA)
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Portman
Price (NC)
Rahall
Rangel
Rodriguez
Roybal-Allard
Rush
Ryan (OH)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (VA)
Serrano
Sherman
Slaughter
Solis
Strickland
Thompson (MS)
Tierney
Towns
Udall (NM)
Van Hollen
Velazquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu

NOES—296

Aderholt
Akin
Alexander
Andrews
Baca
Bachus
Baird
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Bereuter
Berry
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Coble
Cole
Collins
Combest
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (AL)
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)

DeLay	Kelly	Putnam
DeMint	Kennedy (MN)	Quinn
Diaz-Balart, L.	Kildee	Radanovich
Diaz-Balart, M.	Kind	Ramstad
Dicks	King (IA)	Regula
Dooley (CA)	King (NY)	Rehberg
Doolittle	Kingston	Renzi
Doyle	Kirk	Reyes
Dreier	Kline	Reynolds
Duncan	Knollenberg	Rogers (AL)
Ehlers	Kolbe	Rogers (KY)
Emerson	LaHood	Rogers (MI)
English	Lampson	Rohrabacher
Everett	Langevin	Ross
Feeney	Larsen (WA)	Rothman
Ferguson	Larson (CT)	Royce
Flake	Latham	Ryan (WI)
Fletcher	LaTourette	Ryun (KS)
Foley	Leach	Saxton
Forbes	Lewis (CA)	Schrock
Ford	Lewis (KY)	Scott (GA)
Fossella	Linder	Sensenbrenner
Franks (AZ)	Lipinski	Sessions
Frelinghuysen	LoBiondo	Shadegg
Frost	Lucas (KY)	Shaw
Gallegly	Lucas (OK)	Shays
Garrett (NJ)	Lynch	Sherwood
Gerlach	Manzullo	Shimkus
Gibbons	Matheson	Shuster
Gilchrest	McCarthy (NY)	Simmons
Gillmor	McCotter	Simpson
Gingrey	McCrery	Skelton
Gonzalez	McHugh	Smith (MI)
Goode	McInnis	Smith (NJ)
Goodlatte	McIntyre	Smith (TX)
Gordon	McKeon	Smith (WA)
Goss	Meeks (NY)	Snyder
Granger	Menendez	Souder
Graves	Mica	Spratt
Green (WI)	Miller (FL)	Stearns
Greenwood	Miller (MI)	Stenholm
Gutknecht	Miller, Gary	Stupak
Hall	Mollohan	Sullivan
Harris	Moore	Sweeney
Hart	Moran (KS)	Tancredo
Hastings (WA)	Moran (VA)	Tanner
Hayes	Murphy	Tauscher
Hayworth	Murtha	Tauzin
Hefley	Musgrave	Taylor (MS)
Hensarling	Myrick	Taylor (NC)
Herger	Nethercutt	Terry
Hill	Ney	Thomas
Hinojosa	Northup	Thompson (CA)
Hobson	Norwood	Thornberry
Hoekstra	Nunes	Tiahrt
Holden	Nussle	Tiberi
Hooley (OR)	Oberstar	Toomey
Hostettler	Ortiz	Turner (OH)
Houghton	Osborne	Turner (TX)
Hoyer	Ose	Upton
Hulshof	Otter	Vitter
Hunter	Oxley	Walden (OR)
Isakson	Paul	Walsh
Israel	Pearce	Wamp
Issa	Pence	Weldon (FL)
Istook	Peterson (MN)	Weldon (PA)
Janklow	Peterson (PA)	Weller
Jenkins	Petri	Whitfield
John	Pickering	Wicker
Johnson (CT)	Pitts	Wilson (NM)
Johnson (IL)	Platts	Wilson (SC)
Johnson, Sam	Pombo	Wolf
Jones (NC)	Pomeroy	Wynn
Kanjorski	Porter	Young (AK)
Keller	Pryce (OH)	Young (FL)

ANSWERED ''PRESENT''—1

Ruppersberger

NOT VOTING—9

Buyer	Gephardt	Ros-Lehtinen
Carson (IN)	Hyde	Stark
Dunn	Kaptur	Udall (CO)

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (during the vote). Members are advised that 2 minutes remain in this vote, 2 minutes remain in this vote.

□ 1625

Mr. WELLER changed his vote from ''aye'' to ''no.''

Mr. INSLEE changed his vote from ''no'' to ''aye.''

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore. There being no further amendment in order, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. LATOURETTE) having assumed the chair, Mr. SIMPSON, 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. 975) to amend title 11 of the United States Code, and for other purposes, pursuant to House Resolution 147, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentlewoman opposed to the bill?

Ms. JACKSON-LEE of Texas. I am, Mr. Speaker, in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Ms. JACKSON-LEE of Texas moves to recommit the bill H.R. 975 to the Committee on the Judiciary with instructions to report the same back to the House forthwith with the following amendment:

Insert after section 220 the following:

SEC. 220A. PROTECTING ALIMONY AND CHILD SUPPORT PAYMENTS FROM COMPETITION WITH NEW CREDITOR ENTITLEMENTS.

The amendments made by section 306(b) (limiting cramdowns), by section 310 (presumption of non-discharge status for luxury goods and cash advances), and by section 314 (non-discharge status for credit cards used to pay taxes) of this Act may be waived by the court in any case in which the court determines the amendment involved would impair the ability of the debtor to pay any domestic support obligations (as defined in section 101 of title 11 of the United States Code).

Mr. SENSENBRENNER (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

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

There was no objection.

□ 1630

The SPEAKER pro tempore (Mr. LATOURETTE). Pursuant to the rule, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes in support of her motion to recommit.

Ms. JACKSON-LEE of Texas. Mr. Speaker, this is an amendment, whether or not Members are for or against the bill in its present form, I hope Members will consider very closely and very seriously. Interestingly enough, with the economy in the backdrop of the passing of this legislation, more and more citizens being laid off, and more and more individual parents seeking both alimony and child support, this legislation today does not fix the problem.

My amendment provides that a creditor should not receive any greater protections under the bill, with regard to cramdown on car loans, luxury goods purchases, cash advances or credit card debt used to pay taxes if it would impair the debtor's ability to pay alimony or child support. There are 180,000 individuals who are owing either child support or alimony as we speak, and the number grows, whether it be male or female.

The amendment does nothing to impair the current legal position of the creditors. It merely states that before we give them greater protection than they now enjoy, we need to ensure that alimony and child care are protected. Surely this is something that this body could agree on in fairness and equity, and it makes good sense.

What is the rush to judgment to pass this bankruptcy bill in light of the fact that 300,000 people are laid off, a huge growing deficit, and the people of America crying out for some relief, that provides them with opportunities for jobs and survival? This bill needs to be fixed, and it needs to help those who are supporting children on their own, who have experienced a divorce, catastrophic illnesses, whatever causes them to be in need of these monies that they are not able to fight for.

As currently written, the bill massively increases the amount of funds being paid to unsecured creditors. The problem is such payments will often come at the expense of other less aggressive creditors, such as women and children owed alimony and child support. This problem is by no means insignificant given that an estimated 300,000 men and women owing child or spousal support file for bankruptcy each year.

The other side of the aisle will say this is not a problem because they have made child support and alimony the first priority. But the problem still exists. The debtor emerges from bankruptcy. He will be burdened by the

massive credit card debts and unsecured car loans, and they cannot be discharged under this bill. Guess who will be left in the dump, and that is those needing alimony and child support with no resources.

Mr. Speaker, I cannot imagine that we would not support repairing this bill. I ask my colleagues to support the motion to recommit.

Mr. Speaker, I offer this amendment to address the bill's adverse impact on the payment of domestic support obligations.

My amendment provides that a creditor should not receive any greater protections under the bill with regard to cramdowns on car loans, luxury good purchases, cash advances, or credit card debt used to pay taxes if it would impair the debtor's ability to pay alimony or child support. The amendment does nothing to impair the current legal position of the creditors. It merely states that before we give them greater protection than they now enjoy, we need to make sure that alimony and child care are protected. Surely this is something that we can all agree is fair and makes good sense.

As currently written, the bill massively increases the amount of funds being paid to unsecured creditors. The problem is such payments will often come at the expense of other, less-aggressive creditors, such as women and children owed alimony and child support. This problem is by no means insignificant given that an estimated 300,000 men owing child or spousal support file for bankruptcy each year.

Now, my colleagues on the other side of the aisle will no doubt claim this is not a problem, because they have made child support and alimony the first priority in bankruptcy. But the problem is that after the debtor emerges from bankruptcy, he will still be burdened by massive credit card debts and unsecured car loans—they can't be discharged any more under the bill. And who do you think the debtor will pay—his credit card company, with high paid lawyers filing all sorts of motions or threats, or his ex-spouse?

Mr. Speaker, I yield to the gentlewoman from New York (Ms. SLAUGHTER) who has historical knowledge about the devastation of leaving language out of the legislation that is in the motion to recommit.

Ms. SLAUGHTER. Mr. Speaker, I would like to give a little history, if I may. I have worked through three legislatures trying to do something about children under the poverty line, the vast majority of them there because alimony was not paid. Indeed, we had a whole phraseology, the deadbeat dad, concerning ourselves with children who had no recourse. We tried a lot of remedies on the county and State levels, and some worked pretty well. But the best thing we did was 9 years ago, we went to the Committee on the Judiciary under Jack Brooks and asked him to make certain that child support took precedence over other debts, including credit cards.

Mr. Speaker, it has made a massive difference in the economic status of children who are the sorrowful price of divorce. For 9 years it has worked well, and I want to say that 9 years ago it was bipartisan, and I think there was not a voice spoken against this raised in the House of Representatives. But suddenly now 9 years later, we decide that credit card companies are more important than our children and where they are going to be able to eat and wear clothes and have a roof over their head.

Mr. Speaker, this matters to a lot of us. Children are going to suffer if credit cards takes precedence over all other debts. I doubt there was a deadbeat dad. I used to think there was someone struggling out there who had to pay his credit card first before he could help out his children. For heaven's sake, let us not go back to that. It has worked for 9 years. It will not hurt the bill. Do not give credit cards the last word in the United States as to who gets to eat. It is outrageous when it comes to children and people who are totally dependent that may have to be sitting about waiting until after the credit card companies, which make enormous amounts of money with their large interest, get taken care of.

Ms. JACKSON-LEE of Texas. Mr. Speaker, do not leave women and children out in the cold. That is why many women's groups oppose this legislation, such as the National Women's Law Center and the Family Law Section of the American Bar Association. We can reform the bankruptcy laws without leaving spouses and children out in the cold. That is what my amendment does. I ask my colleagues to vote ''yes'' on the motion to recommit, joined by the gentleman from Michigan (Mr. CONYERS), the gentlewoman from New York (Ms. SLAUGHTER), and the gentlewoman from California (Ms. LOFGREN).

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, this motion is offered by people who have historically been in opposition to bankruptcy reform. What this bill does is it increases the priority for unpaid child support from seventh priority to first priority, and if the other side of the aisle gets their way and this bill goes down, unpaid child support stays at seventh priority, and that ought to be one reason and one reason alone to vote down this motion to recommit.

The National Child Support Enforcement Association says that these reforms are crucial to the collection of child support during bankruptcy. The motion to recommit creates a major loophole with respect to antifraud provisions. Section 310, which this motion modifies, deals with debtors who are on the eve of filing for bankruptcy who acquire luxury goods and cash advances.

Under this proposal, a debtor could avoid section 310 by asserting that it would impair the debtor's ability to pay a domestic support obligation. The President of the National Child Support Enforcement Association, in dealing with an identical provision in last year's bankruptcy bill, said, ''H.R. 333 would provide these children with first priority in the collection of support debt, allow the enforcement of medical support obligations, prevent any interruption in the otherwise efficient process of withholding earnings in the payment of child support, and ensure that during the course of a consumer bankruptcy, all support owed to the family would be paid and would be paid timely, and would allow State court actions involving custody and visitation, dissolution of marriage and domestic violence to proceed without interference from bankruptcy court litigation.''

Vote ''no'' on this motion to recommit. A ''no'' vote is for the protection of children. A ''no'' vote is for better enforcement of support obligations, and vote ''yes'' on the bill which increases the priority for unpaid support in bankruptcy to go from seventh priority to first priority.

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

Ms. JACKSON-LEE of Texas. 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 period of time within which a vote by electronic device will be taken on the question of passage of the bill.

The vote was taken by electronic device, and there were—ayes 150, noes 276, answered ''present'' 1, not voting 7, as follows:

[Roll No. 73]

AYES—150

Abercrombie	Emanuel	Kleczka
Ackerman	Engel	Kucinich
Allen	Eshoo	Lampson
Andrews	Etheridge	Langevin
Baca	Evans	Lantos
Baldwin	Farr	Larson (CT)
Ballance	Fattah	Lee
Becerra	Filner	Levin
Berkley	Frank (MA)	Lewis (GA)
Berman	Gephardt	Lofgren
Bishop (GA)	Gonzalez	Lowey
Bishop (NY)	Gordon	Lynch
Blumenauer	Green (TX)	Majette
Brady (PA)	Grijalva	Maloney
Brown (OH)	Gutierrez	Markey
Capps	Harman	Marshall
Capuano	Hastings (FL)	Matsui
Cardin	Hill	McCarthy (MO)
Clay	Hinchey	McCollum
Clyburn	Hoeffel	McDermott
Conyers	Holden	McGovern
Cooper	Holt	McNulty
Costello	Honda	Meehan
Davis (CA)	Hooley (OR)	Meek (FL)
Davis (IL)	Hoyer	Meeks (NY)
DeFazio	Inslee	Michaud
DeGette	Jackson (IL)	Millender-McDonald
Delahunt	Jackson-Lee (TX)	Miller (NC)
DeLauro	Jefferson	Miller, George
Deutsch	Johnson, E. B.	Moran (VA)
Dicks	Jones (OH)	Nadler
Dingell	Kennedy (RI)	Napolitano
Doggett	Kildee	Neal (MA)
Doyle	Kilpatrick	Oberstar
Edwards		

Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Rangel
Rodriguez
Roybal-Allard
Rush
Ryan (OH)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (VA)
Serrano
Sherman
Slaughter
Solis
Spratt
Stark
Strickland
Stupak
Thompson (MS)
Tierney
Towns
Udall (NM)
Van Hollen
Velazquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu

NOES—276

Aderholt
Akin
Alexander
Bachus
Baird
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Bereuter
Berry
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Coble
Cole
Collins
Combest
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hinojosa
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Isakson
Israel
Issa
Istook
Janklow
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Larsen (WA)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
Matheson
McCarthy (NY)
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
Menendez
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moore
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (AK)
Young (FL)

ANSWERED ''PRESENT''—1

Ruppersberger

NOT VOTING—7

Buyer
Carson (IN)
Hyde
Kaptur
Ros-Lehtinen
Royce
Udall (CO)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LATOURETTE) (during the vote). The Chair would advise all Members that there are 2 minutes remaining in this vote.

□ 1657

Mr. FORD changed his vote from ''aye'' to ''no.''

Mr. MORAN of Virginia and Mr. COSTELLO changed their vote from ''no'' to ''aye.''

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

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

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 315, nays 113, answered ''present'' 1, not voting 5, as follows:

[Roll No. 74]

YEAS—315

Aderholt
Akin
Alexander
Andrews
Baca
Bachus
Baird
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Bereuter
Berkley
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clyburn
Coble
Cole
Collins
Combest
Cooper
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (AL)
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Etheridge
Everett
Feeney
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinojosa
Hobson
Hoekstra
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Inslee
Isakson
Israel
Issa
Istook
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Lampson
Larsen (WA)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
Matheson
McCarthy (NY)
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nethercutt
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Ose
Otter
Oxley
Pallone
Pascrell
Pastor
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Royce
Rush
Ryan (WI)
Ryun (KS)
Sandlin
Saxton
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spratt
Stearns
Stenholm
Strickland
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Toomey
Towns
Turner (OH)
Turner (TX)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NAYS—113

Abercrombie
Ackerman
Allen
Baldwin
Ballance
Becerra
Berman
Brady (PA)
Brown (OH)
Capps
Capuano
Cardin
Clay
Conyers
Costello
Cummings
Davis (CA)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dingell
Doggett
Doyle
Emanuel
Engel
Eshoo
Evans
Farr
Fattah
Filner
Frank (MA)
Gephardt
Grijalva
Gutierrez
Hastings (FL)
Hinchey
Hoeffel
Holden
Holt
Honda
Jackson (IL)
Jackson-Lee (TX)
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kleczka
Kucinich
Langevin
Lantos
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Marshall
Matsui
McCarthy (MO)
McCollum
McDermott
McGovern
McNulty
Meehan
Miller (NC)
Miller, George
Nadler
Napolitano

Neal (MA)
Oberstar
Obey
Olver
Owens
Payne
Pelosi
Rangel
Rodriguez
Roybal-Allard
Ryan (OH)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Scott (VA)
Serrano
Sherman
Slaughter
Solis
Stark
Stupak
Tierney
Udall (NM)
Van Hollen
Velazquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey

ANSWERED ''PRESENT''—1

Ruppersberger

NOT VOTING—5

Buyer
Carson (IN)
Hyde
Ros-Lehtinen
Udall (CO)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LATOURETTE) (during the vote). The Chair reminds Members that there are less than 2 minutes remaining in this vote.

□ 1705

Mrs. JONES of Ohio changed her vote from ''yea'' to ''nay.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Ms. Wanda Evans, one of his secretaries.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 975, BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2003

Mr. HOSTETTLER. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 975, the Clerk be authorized to make technical corrections and conforming changes to the bill.

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

There was no objection.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Williams, one of his secretaries.

PERSONAL EXPLANATION

Mr. DOYLE. Mr. Speaker, due to a personal family commitment on Thursday, March 13, I was not present for rollcall votes 63 and 64. Had I been present, I would have voted ''yes'' on rollcall number 63 and ''no'' on rollcall number 64.

PERIODIC REPORT ON NATIONAL EMERGENCY WITH RESPECT TO NATIONAL UNION FOR TOTAL INDEPENDENCE OF ANGOLA (UNITA)—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations:

To the Congress of the United States:

As required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), I am providing a 6-month report prepared by my Administration on the national emergency with respect to the National Union for the Total Independence of Angola (UNITA) that was declared in Executive Order 12865 of September 26, 1993.

GEORGE W. BUSH.

THE WHITE HOUSE, *March 19, 2003.*

FEDERAL OCEAN AND COASTAL ACTIVITIES REPORT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Resources, the Committee on Science, and the Committee on Transportation and Infrastructure:

To the Congress of the United States:

In accordance with section 5 of the Oceans Act of 2000 (33 U.S.C. 857–19), I transmit herewith the first biennial Federal Ocean and Coastal Activities Report as prepared by my Administration.

GEORGE W. BUSH.

THE WHITE HOUSE, *March 19, 2003.*

NATIONAL AMBER ALERT LEGISLATION

(Mr. FROST asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include therein extraneous material.)

Mr. FROST. Mr. Speaker, I would like to read to the House an open letter directed to the House of Representatives signed by Elizabeth Smart, Lois Smart and Ed Smart.

Today, Elizabeth was introduced to the Amber Alert when she asked about a videotape in my office. After watching the coverage, Elizabeth asked why the legislation has not passed when it saved so many children's lives. I could not give her an answer!

After a lengthy conversation about how the Amber Alert has been politicized, she asked me if there was anything she could do to help pass it. We decided to draft this letter.

As you know, I can't express enough how our children can't wait another day for the National Amber Alert to be signed into law by President Bush. Please, please, please pass the stand-alone Amber Alert legislation NOW. As soon as you do, I will be there to celebrate and then go to work with you on lobbying the Senate to pass other pending issues for our children.

I will submit the remainder of the letter for the RECORD, signed by Elizabeth Smart, Ed Smart and Lois Smart.

MARCH 18, 2003.

House of Representatives,
Washington, DC 20515.

AN OPEN LETTER TO THE HOUSE OF REPRESENTATIVES: Thank you very much for your continued support and warm wishes over the past nine months. We especially appreciate all of the representatives who are working together so diligently to pass the National Amber Alert Legislation.

Today, Elizabeth was introduced to the Amber Alert when she asked about a video tape in my office. After watching the coverage, Elizabeth asked why the legislation has not passed when it saves so many children's lives. I could not give her an answer!

After a lengthy conversation about how the Amber Alert has been politicized, she asked me if there was anything she could do to help it pass. We decided to draft this letter.

As you know, I can't express enough how our children can't wait another day for the National Amber Alert to be signed into law by President Bush. Please, please, please pass the stand alone Amber Alert legislation NOW. As soon as you do, I will be there to celebrate and then will go to work with you on lobbying the Senate to pass other pending issues for our children.

I wish to apologize to anyone who was offended by my excitement last week. You cannot comprehend the joy and adulation of having your child return. The Amber Alert will make this a reality for countless families. Please don't underestimate the immediacy and power of this legislation!

This is your opportunity to show your leadership for our children. We look forward to seeing you soon.

Sincerely,

EDWARD SMART.
LOIS SMART.
ELIZABETH SMART.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. BONNER). Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

(Mr. DEFAZIO addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

VACCINE INJURY COMPENSATION FUND

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

Mr. BURTON of Indiana. Mr. Speaker and my colleagues, these are the faces of children who have been vaccinated with childhood vaccines that contain a

substance called thimerosal. Thousands and thousands and thousands, probably millions of children, but thousands of children have been adversely affected by the thimerosal, which is 50 percent mercury; and these are the faces of children who were normal one day, and after receiving several shots in one day that contained mercury, they very rapidly deteriorated to where they could not talk, they could not look one in the eye, they would flap their arms and run around screaming, and they had chronic constipation and diarrhea alternatively.

These parents of these children and thousands more like them have had a similar experience to my daughter and my grandson. He received nine shots in one day, seven of which contained mercury. He got 40 times the amount of mercury that is tolerable in an adult in 1 day, and within 2 days he was autistic. A very normal child like these were normal children. He was a very happy child, a very talkative child, and he went into silence. When we started getting him out of it finally, he could not talk clearly. He had to have all kinds of speech therapy. He ran around on his toes, flapping his arms, banging his head against the wall like all of these children did. And scientists that we have had before our committee and doctors from throughout the world who are very competent have said that in large part that was caused because by the mercury that was injected into these children from the preservative called thimerasol which was in almost all of the children's vaccinations until just the last 2 or 3 years when we had hearings on this, and, thankfully, most of those vaccines no longer have mercury in them except maybe one which is the flu vaccine for children.

So, Mr. Speaker, if any parents would be watching this, I would like for them to remember to very quickly and very thoroughly look at the insert in the vaccination case when their children are vaccinated and make sure that they do not have an adverse reaction.

The reason I am bringing this up and I am coming down here every night is because there is an attempt by the pharmaceutical companies through Members of Congress to eliminate any possibility of lawsuits against them caused by these vaccinations which had mercury in them.

We have what is called the Vaccine Injury Compensation Fund, which was supposed to be a nonadversarial procedure to compensate these people for damage to their children caused by vaccines; but it has become very adversarial, and it was only a 3-year period within which people had to file. That 3-year period passed before many of these people knew that they could try to get compensation for their child's damage; and as a result, they were left out in the cold. So they filed a class action lawsuit, and there has been an attempt last fall and again this year they are going to attempt to stop those class action lawsuits which would leave these parents out in the cold with no recourse. They are mortgaging their homes. They are going bankrupt. They have no place to go. There is a fund set up to help them, but they cannot get into the fund because that statute has run out and they cannot even go to court to file a class action lawsuit if this language that is in the Senate bill right now is passed into law; and that simply is wrong. We created that fund so those people, those children, could be compensated.

I want to read a letter of a former colleague of ours, Dick Chrysler, who was a Member of this Chamber who has a grandson who is 6 years old that is autistic. He received several vaccinations in the 1997–1999 period, many of which contained the mercury, and here is what his mother said: ''He then continued to regress from being alert and happy and beginning to talk to total regression and not talking until after age 3 with speech therapy. He also became a very aggressive child who did not know how to play or interact properly with others.'' That is what happened to my grandson as well.

''These and many other much more severe behaviors such as seizures with severe breakdowns and explosive behaviors which have caused injury to our other children from broken bones to stitches have become a part of our life due to autism. This has made our life incredibly difficult as one can imagine. As we have taken this past year and a half focusing on whatever treatments we can do to help our son's autism improve and therefore our family's life as well, it has cost us more than we could ever have imagined. Treatments, which have helped but are not covered by any insurance, have amounted to thousands of dollars, and this expense has no end in sight.''

□ 1715

Remember, there is a fund out there that they cannot get into. They cannot go to court, and yet the vaccines, they believe, and thousands like them believe, and I believe, and scientists and doctors believe it was caused by the mercury in these vaccines.

Autism does not just affect the poor thousands of children inflicted with this dreadful disease. It affects every person in the world, since ultimately this epidemic is like a chain reaction.

They go on to say 10 to 20 years from now when these are not just little children, who is going to take care of them, especially when we die? This is something that my colleagues and I have to deal with, and we have to deal with it quickly.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. FILNER) is recognized for 5 minutes.

(Mr. FILNER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

EXPRESSING STRONG OPPOSITION TO THE HOUSE REPUBLICAN BUDGET RESOLUTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. HONDA) is recognized for 5 minutes.

Mr. HONDA. Mr. Speaker, I rise today to express my strong opposition to the House Republican budget resolution. I believe our national budget should be a statement of our country's values. It should reflect the priorities of the American people for good jobs and safe communities, quality education and access to health care.

Unfortunately, the Republican budget fails to fund these national priorities. The Republican budget has only one clear priority: To fund the President's $1.6 trillion tax cut, and the Republicans fund this tax cut at the expense of the social and economic interests of the American people.

The Republican budget provides $1.6 trillion for the President's tax cut, but only provides $28 billion for a prescription drug plan. This will only cover 1.5 percent of our country's seniors' prescription drug costs over the next 10 years. Any additional funds spent to provide a prescription drug plan would have to come at the expense of other Medicare benefits. So Republicans are essentially offering our seniors the following choice: Prescription drug coverage or benefits. Pick one or the other, but you cannot have both.

The Republican budget cuts $9.7 billion from the mandatory education programs. These include student loan programs and child nutrition programs. In 2004 alone, these cuts could push nearly ½ million poor children out of child nutrition programs. Republicans are eager to fund the President's $1.6 trillion tax cut, but cannot seem to find the funds necessary to provide a school breakfast or lunch for our Nation's low-income children. For many of these children, access to school meals may be the only one assured source of good nutrition each day.

Mr. Speaker, there are millions of Americans today whose parents cannot afford prescription drugs, whose children attend classes in bungalows, because their schools are run down and old. There are millions of Americans who are struggling to find work and provide for their families in the midst of our struggling economy. Yet Republicans are offering us a budget this week that cuts funding for every single domestic priority in order to fund a $1.6 trillion tax cut that will only help a small percentage of Americans. These tax cuts are even more inappropriate when you consider the fact that our country is about to embark on a war that will strain our already weakened financial resources.

Our national budget should be a reflection of our priorities and values. It should be a budget based on making the right choices. Do we make room for

more expensive tax cuts, or provide affordable prescription drugs for our Nation's seniors? Do we fund a $1.6 trillion tax cut, or provide school lunches for our Nation's children? Do we focus on modernizing our Nation's schools and providing assistance for unemployed workers, or do we provide tax breaks for the few?

Mr. Speaker, it is clear that the Republicans have chosen the interests of the elite few over the needs of the many. It is clear where their priorities lie.

I urge my colleagues to align their priorities with those of the American people and vote against the Republican budget resolution.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

(Ms. WOOLSEY addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

A PLEA FOR PEACE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. LEWIS) is recognized for 5 minutes.

Mr. LEWIS of Georgia. Mr. Speaker, I rise today to speak for peace one more time, to speak against a rush to war.

Our courageous sons and daughters have been placed in harm's way, and I will continue to support our young men and our young women, but I cannot in good conscience betray the nonviolent principles on which I have worked all my life. I cannot sit in silence when I believe there is still time. It is late, it is very late, it is midnight, but it is not too late for diplomacy, Mr. Speaker.

War with Iraq will not bring peace to the Middle East. It will not make the world a safer or better place, a more loving place. It will not end the strife and hatred that breeds terror. War does not end strife, it sows it. War does not end hatred, it feeds it. War is bloody, war is vicious, it is evil, and it is messy. War destroys the dreams, the hopes, the aspirations and the longings of a people. I believe that war is obsolete.

As a great Nation and a blessed people, we must heed the words of the spiritual, ''I am going to lay down my burden, down by the riverside. I ain't going to study war no more.''

For those who argue that war is a necessary evil, I say you are half right. War is evil, but it is not necessary. War cannot be a necessary evil, because nonviolence is a necessary good. The two cannot coexist. As Americans, as human beings, as citizens of the world, as moral actors, we must embrace the good and reject the evil.

If we want to create a beloved community, create a beloved world, a world that is at peace with itself, if that is our end, if that is our goal, our means, our way, it must be one of love, one of peace, one of nonviolence.

Gandhi said, ''The choice is nonviolence or nonexistence.''

America's strength is not in its military might, but in our ideas. American ingenuity, freedom and democracy have conquered the world. It is a battle we did not win with guns or tanks or missiles, but with ideas, with principles, this whole idea of justice and freedom and liberty.

We must use our resources not to make bombs and guns, but to solve the problems that affect humankind. We must feed the stomach, clothe the naked body, educate and stimulate the mind. We must use our resources to build and not to tear down, to reconcile and not to divide, to love and not to hate, to heal and not to kill.

Reverend Dr. Martin Luther King Jr.'s words, many years ago, said, ''Take offensive action in behalf of justice to remove the conditions which breed resentment, terror and violence against our great Nation.''

This is the direction in which a great Nation and a proud people should move.

War is easy, but peace, peace is hard. When we hurt, when we fear, when we feel vulnerable or hopeless, it is easy to listen to what is most debase within us. It is easy to divide the words into us and them, to fear them, to hate them, to fight them, to kill them.

War is easy, but peace is hard. Peace is right, it is just and it is true, but it is not easy to love thy enemy. No, peace is hard.

Again, Martin Luther King said when he spoke out against the Vietnam War, he said, ''War is not the answer. Let us not join those who shout war. These are days which demand wise restraint and calm reasonableness.''

He was right then, and the wisdom of those words hold true today. War was not the answer then, and it is not the answer today. It is not the answer in this hour. War is never, never the answer. War is obsolete.

It is my belief, Mr. Speaker, that humankind would rise to a much higher level if we would lay down the tools and instruments of war and violence. It is not too late to stop our rush to war. Let us give peace a chance.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. KENNEDY) is recognized for 5 minutes.

(Mr. KENNEDY of Minnesota addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

EXCHANGE OF SPECIAL ORDER TIME

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent to take the time of the gentleman from Minnesota (Mr. KENNEDY).

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

There was no objection.

WASTE, FRAUD, ABUSE AND INEFFICIENCY IN THE FEDERAL GOVERNMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. DUNCAN) is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, I find it hard to understand how anybody could be in favor of big government when we see, day in and day out, so much waste, fraud, abuse and simple inefficiency in the Federal Government.

I realize that the government keeps growing, despite the horrendous waste, because so many big businesses are making huge profits from Federal contracts, and so many bureaucrats are drawing salaries and benefits on average far higher than in the private sector. So while I have read and heard about so much waste and exorbitant spending by the Federal Government that it is hard to surprise me anymore, even I have been shocked and amazed by the spending of the new Transportation Security Administration.

Apparently I am not the only one shocked by this new agency. Michelle Malkin, a nationally syndicated columnist, wrote in a column carried in yesterday's Washington Times and papers across the country, ''The Transportation Security Administration is a fiscal black hole and fiscal conservatives ought to be enraged.'' She said the TSA ''is sucking down tax dollars like a bagless Dyson Cyclone vacuum gone berserk.''

Ms. Malkin reports that ''already the 1-year-old agency has amassed a $3.3 billion budget deficit, and is demanding upward of $6 billion for the current fiscal year.''

She wrote in this column, ''Never has a single government entity spent so much for so little in such a short time.''

It is almost unbelievable to me, Mr. Speaker, that any Federal agency could lose $3.3 billion in its first year in operation. This has to be one for the record books.

A few weeks ago I read in the Washington Post a report of testimony by Kenneth Mead, inspector general of the Transportation Department. He said the TSA had budgeted $107 million to hire airport screeners, but they ended up paying over $700 million to the contractor.

The only contact I had with this contractor was when they ran an ad saying they would take applications at a mall in my district, and then no one from the company showed up. I received several calls from angry constituents who showed up at 7 a.m. as the ad had directed and had driven long distances to get there, only to find no one from the company there.

If the TSA had budgeted $107 million, they should have told this company

that that was what they would get, instead of allowing a $600 million cost overrun. Hiring screeners may have been an administrative headache, but it is not rocket science. Thousands of companies around the country could have done a better job at much less cost to our taxpayers. Most Federal contracts are sweetheart insider deals in one way or the other, but this one is the most ridiculous I have ever heard of.

Then they hired far too many people. One aviation official told me that TSA now stands for ''thousands standing around.'' I am sure that almost all of the people who have been hired are good, honest, patriotic people, but the TSA has simply hired many thousands more than they need.

I know it is impossible to ever convince any government agency that they have hired even enough people, much less too many. Yet before 9/11, we had about 28,000 or 29,000 screeners. We were told beforehand, before the legislation passed, that we would need to hire about 33,000.

□ 1730

Right after passage, they said they would need about 40,000. Then, a few months later, they went to the staff of an appropriations subcommittee requesting 72,000 employees. There was such an outcry they quickly backed off to 67,000, and then the Committee on Appropriations put a cap on them of 45,000 that they have arrogantly ignored by hiring thousands of temporary employees. So I am told they now have about 66,000 screeners.

I had a screener come to see me at Constituent Day in my district a few weeks ago, and he will have to remain unnamed because I do not want to get him in trouble; but he told me that they have so many screeners at the Knoxville Airport and so many radios that when I walk in the airport, they radio ahead and say Congressman DUNCAN is in the airport, stand up, look busy. It was on the front page of the Knoxville News Sentinel that they were going from about 70 screeners to about 160. I am told one major airport went from about 170 screeners to over 700.

Then two members of the other body have uncovered the worst abuse of all. Apparently, 20 TSA recruiters spent nearly 2 months at a luxury resort in Colorado, a 7-week junket, that resulted in the hiring of just 50 screeners. Rates at this hotel run from a low in the high $200s to well over $300 a night for just an average room. The company that ripped the taxpayers off on the screeners' contract, NCS Pearson, has been replaced by the TSA after the obscene cost overrun, but according to Ms. Malkin, the firm still holds several lucrative Federal contracts.

Mr. Speaker, I find it hard to understand how anyone could be in favor of big government when we see, day in and day out, so much waste, fraud, abuse, and simple inefficiency in the Federal Government.

I realize that the government keeps growing, despite the horrendous waste, because so many big businesses are making huge profits from federal contracts and so many bureaucrats are drawing salaries and benefits on average far higher than in the private sector.

So while I have read and heard about so much waste and exorbitant spending by the Federal Government that it is hard to surprise me anymore, even I have been shocked and amazed by the spending of the new Transportation Security Administration.

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She wrote in this column: ''Never has a single government entity spent so much for so little in such a short time.''

It is almost unbelievable to me that any federal agency could lose three billion, three hundred million in its first year in operation.

This has to be one for the record books.

A few weeks ago, I read in the Washington Post a report of the testimony by Kenneth Mead, Inspector General of the Transportation Department.

He said the TSA had budgeted $107 million to hire airport screeners, but they ended up paying over $700 million to the contractor.

The only contact I had with this contractor was when they ran an ad saying that they would take applications at a mall in my District, and then no one from the company showed up.

I received several calls from angry constituents who showed up at 7 a.m., as the ad had directed, and had driven long distances to get there.

If the TSA had budgeted $107 million, they should have told this company that was what they would get instead of allowing a $600 million cost overrun.

Hiring screeners may have been an administrative headache, but it is not rocket science. Thousands of companies around the country could have done a better job at much less cost to our taxpayers.

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I know it is impossible to ever convince any government agency that they have hired even though people much less too many.

Yet, before 9/11 we had about 28,000 or 29,000 screeners. We were told beforehand we would need to have about 33,000. After passage, they said they would need about 40,000—then a couple of months later, they went to the staff of an appropriations subcommittee requesting 72,000.

There was such an outcry, they quickly backed off to 67,000. Then the appropriations Committee put a cap on them of 45,000 that they have arrogantly ignored by hiring thousands of temporary employees, so I am told they now have about 65,000 screeners.

I am told one major airport went from about 170 screeners to over 700.

Then two members of the other body have uncovered the worst abuse of all. Apparently twenty TSA recruiters spent nearly two months at a luxury resort in Colorado—a seven-week junket that resulted in the hiring of just 50 screeners. Rates at this hotel run from a low in the high $200s to well over $300 a night for just an average room.

The company that ripped the taxpayers off on the screeners contract, NCS Pearson, has been replaced by TSA, after the obscene cost overrun, but according to Ms. Malkin, ''the firm still holds several lucrative federal contracts. These contracts total more than $500 million—including a $140 million deal to manage and operate three national customer-service call centers for federal immigration services.''

As Ms. Malkin said: ''Deeper into the homeland security money pit we go. Where the traditional watchdogs for limited government are, nobody knows.''

EXCHANGE OF SPECIAL ORDER TIME

Ms. JACKSON-LEE of Texas. Mr. Speaker, I ask unanimous consent to take the time of the gentlewoman from Ohio (Ms. KAPTUR).

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

There was no objection.

ALTERNATIVES TO WAR SHOULD BE DEBATED

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, many times, many of us are not aware of the very special talents and the very diverse backgrounds Members have in this House. I was moved to listen more than I ever have to the words of the gentleman from Georgia (Mr. LEWIS). For those Members who need to be refreshed in their memories, of course, the gentleman from Georgia (Mr. LEWIS) is one of the valiant soldiers of the civil rights movement, one of the leaders of the civil rights movement, and one of those very privileged persons who had the opportunity to work directly with Dr. Martin Luther King. His words were particularly potent this evening, because he has just led a pilgrimage to Selma, Alabama, to reacknowledge the Selma-to-Montgomery march. The march of March 7, 2003, was to acknowledge the march of March 7, 1965, when Congressman LEWIS's attempt to walk across the bridge for civil rights and the right to vote was stopped by the bloody actions of those in Selma, Alabama. Today we are seeking healing, and he is proudly one that leads a

group of Members and others back every year.

So when he speaks about peace, he knows from which he speaks. I believe it might be well for this Congress to pause and this Nation to pause for a moment just to think about the issues of nonviolence and whether or not it shames us or diminishes us to find another option to the option now posed of a war against Iraq.

Mr. Speaker, I frankly believe that we have not consented to a war against Iraq; and I believe this Congress has yet to fully debate this question, a simple question of declaring war against Iraq under article I, section 8. I am asking the Speaker to bring this legislation up.

I believe that we have another option, Mr. Speaker; and it does not again diminish our respect and admiration and acknowledgment of the hundreds of thousands of young men and women already deployed, willing to offer their lives so that we might live free. It respects their choices. It also acknowledges the different strains, stresses, and tribulations that these young people are under. The story of two Marines, male and female, parents of a 2-year-old son who have to leave now, one already gone, one about to leave and writing their will to determine where that child might go.

I believe we have another option because we are united around the fact that Saddam Hussein is a bad actor, a bad leader, a horrific and a heinous actor upon people. So I believe we can find a way to win this effort against the acts that he has perpetrated by using international law. We can, through the United Nations Security Council, convene an international war crimes tribunal and indict him so that the credibility of his government and Mr. Saddam Hussein is diminished. We can leave a coalition of 50,000 troops on the border to ensure that the U.N. inspection process goes forward. We can begin humanitarian aid. We can as well regain or rebegin, regain the prominence of fighting the war against terrorism, and we can reignite the Mideast peace process.

Mr. Speaker, there are options other than war. I would ask this Congress to do its job and not be silenced, debate this question; but I ask the President to review the options in light of the courage of our young men and women and the United States military. We salute them; we praise them. That is why we are owed the duty to render the right decision on their behalf and the people of the United States of America. There is another option. I argue for peace over war. Listen to the words of the gentleman from Georgia (Mr. JOHN LEWIS.) He knows from whence he speaks.

HONORING EDDY ARNOLD

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Tennessee (Mrs. BLACKBURN) is recognized for 5 minutes.

Mrs. BLACKBURN. Mr. Speaker, today I rise to honor a true Tennessee legend and a national treasure. Eddy Arnold is the most successful country music singer of the 20th century. His body of work, including 28 number one singles, spent more weeks at the top of the country music charts than any other artist in the field.

This March, the Country Music Hall of Fame and Museum in Nashville honored the Ambassador of Country Music for donating his personal effects and memorabilia. This selfless donation constituted the largest collection dedicated to a single individual ever received by the museum. The ''Tennessee Plowboy'' generously offered more than 2,000 photographs, 5,000 radio recordings, tuxedos, guitars, and his coveted Entertainer of the Year Award from 1967.

In a brilliant career that spans 7 decades as a guitarist, songwriter and singer, Eddy Arnold has made immeasurable contributions to the popularity of country music with such hits as ''I Hold You in My Heart'' and, my favorite, ''Make the World Go Away.'' Now he has made an immeasurable contribution to the Country Music Hall of Fame and Museum. For that, Tennesseans and, no doubt, country music fans across the country, are deeply grateful.

Eddy Arnold, a living country music legend and my constituent, has enhanced his genre and the culture of America. I want to thank him for his dedication to the arts and for his invaluable gifts to the Country Music Hall of Fame and Museum.

H.R. 1322, A BILL TO PROTECT RETIREE HEALTH BENEFITS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. TIERNEY) is recognized for 5 minutes.

Mr. TIERNEY. Mr. Speaker, I rise today in the face of mounting evidence of a national crisis in retiree health care, and I want to announce the reintroduction yesterday of the Emergency Retiree Health Benefits Protection Act, known as H.R. 1322.

Mr. Speaker, H.R. 1322 will stem the tide of post-retirement cutbacks or elimination of health care benefits that have victimized millions of American retirees.

Now, Mr. Speaker, one would think that businesses and business values and basic fairness and, in fact, the law would ensure that retirees could rely on health benefits promised to them by employers. But the case is that increasingly, large profitable employers, even those who enticed employees into early retirement, have now changed and are reneging on their commitment.

These corporate cutbacks in retiree health care have reached intolerable proportions. For too long, working people have been denied health care benefits that were promised upon retirement to the lack of strong laws in this area. The retirees lived up to their end of the bargain, Mr. Speaker, and now the companies must live up to their end.

To renege on these promises jeopardizes the life savings of people who are forced to absorb the precipitous decline in their standard of living and dip into their savings in order to make up for a cut or a cancellation in health benefits. Even worse, retirees with preexisting medical conditions may not be able to obtain or afford any new health coverage at all. As a result, their health declines rapidly and, in some cases, needlessly.

A recent study by the Employment Benefit Research Institute found that a 65-year-old retiree without employment-based insurance may require up to nearly $1.5 million to fund lifetime medical expenses. That is assuming death at the age of 100 and medical inflation of 14 percent annually.

All of this is happening against a precipitous drop in personal savings. According to the AARP, which published ''How Americans Save,'' the United States savings rate has been steadily declining over the last 25 years. The Economic Policy Institute reports that in September and October of 1998, personal savings rates for Americans consisting of contributions to individual savings accounts, as well as employer and personal contributions to 401(k)s and IRAs and similar pension plans, dipped below zero for the first time since the Great Depression. The United States Department of Commerce reports that at the beginning of the 1990s, households saved on average about 8 percent of their disposable income. By 2001, the proportion of income set aside for savings had fallen below 2 percent.

Mr. Speaker, H.R. 1322, the Emergency Retiree Health Benefits Protection Act, would reverse these recent trends and bring common sense and fairness back to retiree health. With certain limited exceptions, the bill would prohibit employers from making post-retirement cancellations or reductions of health benefits that retirees were entitled to when they retired.

In addition, the bill would obligate employers to restore benefits taken away after retirement, unless the employer can demonstrate substantial business hardship if compelled to restore the benefits.

Boosting a profitable bottom line would not qualify as a substantial hardship. While many employers are crying hardship today, Mr. Speaker, the hard truth is that many were aggressively cutting employee benefits in the midst of the economic boom of the 1990s when profits were high.

Basic fairness dictates that we ensure that the promises that have been made to those whose life's efforts have contributed to the great economic prosperity of our Nation are kept. We can ill afford the collapse of private

sector retiree health initiatives because retirees no longer have faith in their employers' promises.

Last Congress, this bill garnered national support from retirees across the country. My office received hundreds of testimonials from people affected by these cutbacks, and tonight I want to share three.

From my own district in Massachusetts: Leo Murphy of Ipswich, who is the regional Vice President of the National Association of Retired Sears Employees, which represents 154,000 retirees nationally, has this to say: ''H.R. 1322 will ensure that companies don't sell out their retirees whose hard work grew the companies in the first place. We all made plans anticipating our retirement years, and those plans have all been torn apart. Enactment of H.R. 1322 will restore credibility to private sector health care plans and assure that retirees and their families continue to have the health coverage they were promised and worked for all their lives.''

From a retiree in Morristown, New Jersey: ''What a hardship it has been to see the health coverage I retired with, and fully expected to continue as is, be constantly whittled away. It just isn't fair. Not only is it eating into my pension every year, but my pension has not received a cost of living increase for the past 10 years. Please help us; we are counting on you. And thank you again for caring about us.''

And from Wellington, Florida:

''I am writing you concerning retiree benefits. I retired in 1991. Since that time, the company has reneged on promised retiree life insurance. The company has also made the retiree medical plan almost unaffordable by raising premiums far beyond the normal type increase. They have cut averages and cut coverages, they have raised deductibles, and made it pretty obvious that retirees are a liability, and please go away is the preferred method of handling retirees. Legislation is needed to protect retirees from vigilante actions of companies and protect retirees from unscrupulous company executives. Since many companies can no longer act in a trustworthy manner towards retirees, it will take Federal legislation to protect retirees when those retirees are the most vulnerable and least able to provide replacement benefits.''

Mr. Speaker, I thank my colleagues for their courtesy, because I have received hundreds of testimonials from these people. Congress should act, and I hope my colleagues will join me in supporting H.R. 1322.

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WHAT COULD AMERICA DO DIFFERENTLY TO PREPARE FOR ANOTHER SEPTEMBER 11?

The SPEAKER pro tempore (Mr. BONNER). Under a previous order of the House, the gentleman from Georgia (Mr. KINGSTON) is recognized for 5 minutes.

Mr. KINGSTON. Mr. Speaker, imagine if we could rewind the tape, we could rewind it back to September 10, 2001. We are sitting around looking at the world. We know that in 1993, the World Trade Center was bombed. We know that 17 Americans were killed when the USS *Cole* was bombed in Yemen. We know that two embassies in Africa have been bombed. We have withdrawn from Somalia.

If it was September 10, 2001, and we were taking a sober assessment of the world, what would we do differently? Particularly what would we do differently as respects the events of September 11?

Mr. Speaker, obviously we cannot rewind the tape ever, but the reality is we are sitting potentially on another September 10 date right now. We have been in this world for a long time. We are looking at a world where Saddam Hussein had 90 days from April, 1991, to disarm after withdrawing from Kuwait and after the U.N. action that we know of as Desert Storm.

We know that in the 12 years that followed April 19, 1991, he flaunted the weapons inspection process. We know that weapons inspectors such as Scott Ritter quit in disgust. We know that it was criticized. We know that he went 4 years without having U.N. weapons inspectors. We know that indeed 17 U.N. resolutions have gone by.

Our President has been very patient with the U.N. diplomatic process. It is too bad that it failed. It is too bad that maybe the U.N. could have stepped forward a little bit stronger during any of the time in the last 12 years, but that did not happen. Maybe the future of the U.N. should be debated in another Chamber at another date.

The reality is Saddam Hussein has chemical and biological weapons, and has tried to get nuclear weapons. We know that he has murdered hundreds of his fellow men. We know that Amnesty International and Human Rights Watch estimates that there is something like 70,000 to 150,000 people who have disappeared in Iraq, which is more than any other country in the world.

We know that in the year 2000 they implemented tongue amputations as a way of dealing with their enemies. We know that he uses torture. We know that he drills people. We know that he rapes people. He films things like this and shows it to family members. We know that, indeed, he has killed some of his own family members.

The message from the United States of America to the people of Iraq is that the enemy of Iraq is not the United States of America; rather, the enemy of Iraq is their own government; very specifically, Saddam Hussein.

We in America stand against oppression. We in America stand for the liberation of the people of Iraq. We in America stand for our own homeland and national security, and we in America stand for our own troops, who at this moment are abroad and ready for action.

I hope that in the 11th hour of this long process Saddam Hussein decides to step forward and save his country as he knows it and to help support another regime. I hope we do not have to pull the trigger; but should we need to do that, we will be successful. We will liberate the people of Iraq. We will do the right thing.

Mr. Speaker, let me close with just saying that on this very critical hour in our history, we all say a prayer for our troops, and we all stand behind our troops. God bless America.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. FOLEY) is recognized for 5 minutes.

(Mr. FOLEY addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

THE BUDGET RESOLUTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. RUPPERSBERGER) is recognized for 5 minutes.

Mr. RUPPERSBERGER. Mr. Speaker, the last few weeks have been a time of solemn reflection and debate in this country. It has been an impassioned and peaceful process with many voices heard, which have again reinforced the United States as the world's greatest democracy.

We owe our system of democracy and self-concern to America's veterans, who have given so much to ensure its legacy. Today our military is once again on the brink of a great sacrifice in the name of security and freedom for America and the rest of the world. Without reservation, it is time for all Americans to come together to support our men and women in uniform and their families back home. Our country's focus must now be on the success of their mission.

I urge every American to join with the Congress and our President to wish our Armed Forces Godspeed and safe return from abroad. However, we must not lose sight of our mission at home, the mission of our police officers, firefighters, and emergency personnel, our first-line responders, in the event of a terrorist attack that might occur.

While our Armed Forces have our full support, the front lines of our homeland and hometown security are our cities, counties, and towns. We must equip our first-line responders the same as we equip our military abroad.

Since the fall of 2001, local governments all over America have had to bear the burden of equipping and training all of our first responders against an unknown threat. My district, which is the Second Congressional District in Maryland, is home to two Army bases, the Port of Baltimore, Baltimore-Washington International Airport, and

the 17th largest city in the country. This lack of funding directly affects every community in our metropolitan area.

Last year the Baltimore region alone spent more than $14 million to protect itself. Cities, counties, and towns cannot do it by themselves; they need Federal funding to equip our first-line responders. We must train our first-line responders. We must give them the equipment to protect themselves so that they can protect us in the event that there is a terrorist attack.

Put against a tax cut that equals $117 billion, $3.5 billion is not asking for too much to protect and to give the resources to our front-line responders. I urge my colleagues across the aisle to reconsider their budget priorities so that they better reflect the priorities of the American people as it relates to our protection and our security. We must provide the tools necessary to our first responders that would protect our citizens.

In today's Washington Post, the Secretary of Homeland Security, Tom Ridge, said that the President plans to propose a supplemental Federal budget to pay for more counterterrorism measures. I applaud that; however, for the sake of our country, our citizens, our hometown, our homeland, I hope these counterterrorism measures include more resources for local governments and first responders.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Mrs. MCCARTHY) is recognized for 5 minutes.

(Mrs. MCCARTHY of New York addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. LYNCH) is recognized for 5 minutes.

(Mr. LYNCH addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the District of Columbia (Ms. NORTON) is recognized for 5 minutes.

(Ms. NORTON addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) is recognized for 5 minutes.

(Ms. EDDIE BERNICE JOHNSON of Texas addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. LEE) is recognized for 5 minutes.

(Ms. LEE addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. KUCINICH) is recognized for 5 minutes.

(Mr. KUCINICH addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

PROPOSED BUDGET FAILS TO PROVIDE FOR HOMELAND SECURITY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentlewoman from Oregon (Ms. HOOLEY) is recognized for 60 minutes as the designee of the minority leader.

Ms. HOOLEY of Oregon. Mr. Speaker, I want to talk about the budget we are going to have tomorrow. A budget needs to reflect what our national priorities are. That is what a budget is all about, making choices.

I want to tell the Members, although I made several attempts, as well as many members of our committee, to make changes in the budget, all of those were defeated. I am going to talk just a minute about one of those issues, and that is homeland defense.

This is a time, Mr. Speaker, when more than ever we need to make sure that our counties and cities and States are well-equipped for our national security. This budget fails to adequately provide for our homeland security. The President said we were $2.2 billion short in homeland security. The Secretary said we were short $2.2 billion for homeland security. Yet this budget leaves that shortfall.

Let me just talk a minute about what is happening in our State. Our State has high unemployment. We are laying off our police and our firefighters. Our young men and women who are in law enforcement are being called up for the National Guard and being sent to the Middle East, and many are already in the Middle East. Our local communities frequently do not have equipment that talks to one another, communicates with one another.

What we are trying to do in this budget and what the Republican budget lacks is the money to make sure that our local police and our local fire departments and our local emergency workers, not only that we have adequate personnel, but that we have the equipment so they can respond if there is a terrorist attack in the United States and in our communities.

I cannot believe that we are going to do a budget at a time like this that does not respond to our local communities and our local States for those people that are going to be the first line of defense.

Mr. Speaker, I yield to the gentleman from Illinois (Mr. EMANUEL).

Mr. EMANUEL. Mr. Speaker, I thank my colleague for yielding to me.

Mr. Speaker, this Republican budget resolution is a failed economic plan that proposes $1 trillion in tax cuts in search of an economic purpose. This budget follows President Bush's $1.3 trillion tax cut 14 months ago to get this economy moving and produce jobs. That was the argument behind the original tax cut.

The net result is 2.5 million Americans today are without work who had work prior to that tax cut, and there are 4 million more Americans without health care who prior to that tax cut had health care, 2 million more Americans who have moved from the middle class to poverty prior to that tax cut, and $1 trillion worth of corporate assets have been foreclosed on and hit Chapter 11. That has been the net effect of this tax cut.

Now, what are we about to do? We are about to put our foot on the accelerator 14 months later for another $1 trillion plus tax cut that will have the same effect of lost jobs, lost health care, lost corporations and family dreams, and more and more Americans moving from middle class to poverty.

We need to move the trend the other way. We need an economic plan, not just a tax cut. While we consider this budget, we as a Nation, as one Nation, as one country, are moving closer to war. We also have a plan now for that war and for after that war to rebuild Iraq; in the range of $100 billion they are talking about rebuilding Iraq. The administration's postwar request would build more housing, more schools, and go further in providing health care for pregnant woman in Iraq than this budget provides Americans. The Wall Street journal wrote on Monday that the postwar reconstruction of Iraq is ambitious in scope and speed.

I want to read some of the juxtapositions that are playing here, so as Members on the other side think about their vote, it just does not get glossed over by one fix or two in what we here in this Chamber call the manager's amendment.

Let me read under health care. Medicaid provides insurance coverage for over one-third of the live births nationally here in this country, yet Medicaid is scheduled for a $95 billion cut. In Iraq after the war, maternity care will be guaranteed for 100 percent of the population.

The U.S. budget we are about to vote on does not provide a single dollar of health insurance for the uninsured in this country, where we have 42 million Americans who work full time without health care. In Iraq after the war, 13 million people, half the population, will be guaranteed health care coverage.

Under education, the U.S. budget cuts Head Start for 28,000 children, cuts education spending by 8 percent, zeroes out 40 new programs, like technology, like Star Schools. In Iraq, there will be guaranteed books and supplies and 100

percent enrollment for 4 million schoolchildren in Iraq, with U.S. dollars.

Teacher quality programs in America are cut by $9.3 billion, more than 10 percent, and 25,000 schools in Iraq will be rebuilt and renovated at standard level of quality.

Housing, we only have in this budget enough dollars for 5,000 new affordable housing units; yet in Iraq the plan is for 20,000 new units of housing.

The Army Corps of Engineers is scheduled for a 10 percent cut in this country; yet our plan for Iraq calls for total reconstruction of the Umm Qasr port so it is fully opened for cargo traffic.

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That is the plan for Iraq. That is also the plan for America.

Under Transportation, highway funding in America is cut by $6 billion over the next 10 years. In Iraq 3,000 miles of new roads will be rebuilt.

Now, after that juxtaposition, I am not against the reconstruction budget for Iraq. If you want to build democracy, that should be the commitment of our country. The plan for Iraq is robust. The plan for America must be robust.

The plan for Iraq has been thought through in an economic strategy. The plan for America must have the same strategy, the same care for its health care, for its pregnant women. The same care for its schools. The same care for its housing. The same care for its infrastructure.

This budget that we are going to vote on leaves too many Americans behind. Because of the impact of the 2001 tax cut, 2.5 million Americans without jobs, 4 more million Americans without health care, a trillion corporate assets foreclosed on, and 2 more million Americans who have gone from middle class to poverty. One could be cynical enough to think that what I just read about Iraq versus America could be distilled down to 30 seconds.

I want Members to think about this before they vote on this budget. Just papering over the differences on Medicare will not erase the differences between America and Iraq when it comes to our investment in education, health care, housing, our infrastructure. We need a robust plan for America. And this budget falls woefully short as it pertains to our future, our families' future and their children.

Now, I am committed to working, if we win this war, which we will win this war, to the reconstruction of Iraq. I want the same emphasis, the same desire, the same dreams, the same hopes that our President talks passionately about for Iraq for here at home. Because we cannot guarantee 100 percent of pregnant women in Iraq with basic health care for their pregnancy and yet cut $95 billion of Medicaid where one out of every three Americans get their health care as it relates to their child birth. We cannot cut 40 programs, zero them out, Head Start schools, technology schools, teacher quality, and yet guarantee 25,000 new schools will be built in Iraq.

We cannot talk about 25,000 new housing in Iraq and yet only provide the funding for 5,000 new affordable housing in America. That is not a dream for America. That is foreclosing on America's dream.

And I know there are good people with good values on the other side who think hard about what they are doing, and I want them to think hard about the vote that they are going to cast on that budget because they have to go back home and explain how Iraq got moved to the front and their families, their neighbors got moved back. That is not right. We can do better.

It need not be a Democrat-Republican issue. Let us make America first not only around the world but here at home.

Ms. HOOLEY of Oregon. Mr. Speaker, I yield to the gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. Mr. Speaker, I thank my friend and colleague from Oregon (Ms. HOOLEY) for her distinguished service in the House, and I thank her for putting together this Special Order.

Mr. Speaker, I rise this evening to talk about what will be coming before the House of Representatives, the House of the people, and that is our Nation's budget. We know that the Federal budget is a very, very thick book of many, many pages with fine print and many, as we say, line items. But at the end of the day what a budget is about is not only a compilation of numbers but it is a statement of the values of the American people.

I have done much budgeting in my day from local government, the county of San Mateo, where we were required, obviously, to balance our budget. I still adhere to that because I think being fiscally responsible is not only necessary but it is the prudent thing to do.

So what is this budget debate going to be about? Both sides of the aisle are really challenged to come up with their best ideas for their vision of our country, of where we are going and what we need in order to get there.

Tonight on the Feast of Saint Joseph, the worker, our country is on the brink of war. And yet the President's budget does not include one dime for that. There is something wrong with that picture. There is something very wrong with that picture.

Let me give you a picture of my congressional district. It is a very distinguished place in our country. It is the home of Stanford University. It is the home of Silicon Valley. In 2 short years everything that was up is now down. We have one of the highest unemployment rates in our Nation. Our State is facing up to a $35 billion deficit. Keep in mind that our State and our local governments represent 12 percent of our national economy.

Now, what are the President and this House proposing in their budget? The same old same old. How many months ago? 18 months ago the President said as the economy was sputtering. We need massive tax cuts. Tax cuts that would go to the wealthiest, the best off in our Nation. It is a legitimate argument that was pitched then about whether that was the best prescription for our Nation's circumstances. I voted against it because I thought at the time that when the sun is shining, that is when you fix the roof. We did not do it. Squandered the surplus.

We now have a different economic condition in our country. Indeed, our country faces even more challenges than we could have ever dreamed of as the first roll of tax cuts went out. So what is contained in this new budget that the President has brought to us and your Republican friends are going to bring to the floor? More tax cuts. I believed it was wrong then; it is certainly wrong now.

Imagine if Winston Churchill, when he was rallying his countrymen to go to war said, And in addition to my rallying you, my countrymen, I am calling for a massive tax cut.

This is a sober time in the life of our Nation and in the families of our Nation. Many have committed their children, their treasury and our Nation's treasury to this war in Iraq. Veterans benefits should not, therefore, be cut. Our Nation's defense needs to be paid for. But the education of those that are serving in Iraq, their children's education should not be cut at home. We do them a disservice. We dishonor them, and we dishonor the future of our country by doing this.

This is not about throwing money at things. This is the responsibility of a great democracy. That is why the Democrats have held the line on education here at home. It is why Democrats recognize that we will not have homeland security unless we fund hometown security. There is something wrong when the firefighters from my district who came in to meet with me just this morning said, because hometown security is not being funded, our positions, our jobs are being eliminated. Now that does not make sense. It is not right.

I keep thinking of what my father used to say when something really got mucked up. He would say, You have made a real mess of this. This is a harsh judgment of my Republican colleagues, but you have made a mess of the economic life of this country, a real mess. We are now back to you have produced a deficit and it is over $300 billion. You will drive the national debt up to at least 5 trillion. The cost of this very tax cut that you are going to bring to the floor in your budget, the cost, the price tag of that alone is $1.6 trillion.

This is not pitting those that have more against those that are average, against those that have even less. This is about the United States of America. We are all in this together. And so the fairness and the responsibility and the

fiscal responsibility need to be exercised. It is a budget that leaves the American people wanting. If we cannot fund properly our national defense, our hometown security, education for our children, and the health care of our veterans and those amongst us, then what have we come to? What have we come to?

We have a responsibility not to place these burdens on our children, our grandchildren, and our great-grandchildren. The Democratic budget recognizes that. That is why I am proud to stand next to it. The Republican budget does not.

It is no wonder that those in Republican seats on the other side of the aisle are rising up and saying, This is not fair and we are not going to vote for it. I salute their guts and their courage to do that. Why? Because our Nation's treasures are putting their lives, their courage, their lives on the line some place else on the globe; and we need to stand next to them by honoring their families here at home. That is what this is about.

So, Mr. Speaker, as we come to the floor and speak about what is going to come to us on the floor, there may not be that many people in the country listening, unfortunately. Why? Because legitimately we are preoccupied with the moment when America is going to strike. But whether people notice it or not, whether they notice it or not in terms of our words in this debate, make no mistake about it, it will be felt. It will come home to each individual, each mother, each child, each health clinic, each classroom, each senior center, each lunch program in your grammar schools and our elementary schools.

It will be felt in communities across this country. Why? Because that is what our Nation's budget is about. It is about our democracy. It is about what we value. It is about where we place our priorities. I hope that it is a budget that reflects the best of us and not some bumper sticker. I hope it is a budget that funds what is going to collectively take us into the future. I hope it is a budget that does not shortchange what children eat in their lunch programs, whether they have a classroom that is the right size, whether their teacher is trained and educated the right way, whether those that have served in other wars are honored with the benefits that they receive. I hope it is not a slap in the face to America. That is not what this should be about.

I am proud that the Democratic alternative will take us back to a balanced budget by 2010. I do not think our friends on the other side of the aisle can boast that. It covers the priorities that we believe not only have made our Nation great in the past, what has been given to us, but what we can do for the future of our country.

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I thank my colleagues, especially the New Democrats, for taking time this evening to demonstrate the differences, because there is a difference, Mr. Speaker, and, Mr. and Mrs. America, between the two major parties. It is our responsibility to bring our ideas forward and have them be part of the debate in this country about which way is the best way to go. I thank my colleagues, and I especially thank the gentlewoman from Oregon who has brought such leadership to this.

Ms. HOOLEY of Oregon. I yield to the gentlewoman from New York (Mrs. MCCARTHY).

Mrs. MCCARTHY of New York. Mr. Speaker, I want to stand by the words of my colleague from California. There are many of us here, especially among the New Democrats, that did vote for the tax cuts going back almost 18 months ago. I come from New York. In New York, we love tax cuts, mainly because we pay so many taxes on the island. But I have some real problems with the budget that we are looking at.

We are supposed to debate this tomorrow, and I hope that we do, but I understand that many of my colleagues on the Republican side are having a real problem with the budget that they saw, and I hope they stand together, because we as a Nation are going through some very, very tough times. America, as I said, is going through some very trying times. The economy is struggling, unemployment unfortunately is up, consumer confidence is down, and our Armed Forces are gearing up to go to war.

Tomorrow possibly, if they can come to an agreement, this body will debate an overall budget for this country that hopefully will address all of these concerns. And I hope it is a good debate. I hope they allow us at least to even put our budget forward. That is what this great place is about, the debates. Then we have the vote. We either win or we lose. But unfortunately around here lately, we are not even allowed to put a substitute up. I am always hopeful.

The two proposals that I have seen, one from the administration and the other from the House Budget Committee, do not come close to addressing our concerns. I am going to have a very hard time going home and telling my constituents that I might be cutting after-school programs, student loans, teacher quality programs, COPS funding.

COPS funding. That should be part of our homeland security. I know in New York City, they are spending an extra $5 million a week. COPS programs, that is helping my community work with my schoolchildren to make sure that the areas are safe, and to get the kids to know them so that they have someone to go to when they need it.

A highway fund. We all know that when we put money into the highways, those are jobs, not only making our infrastructure better, but also it helps the mom-and-pop stores because our construction workers have to eat. Our construction workers, by the way, pay our school bills.

But I have to say, when you try to make room for a back-loaded tax cut plan proposed by the administration that provides a very, very minimal stimulus, I think we have a problem. I cannot go home and tell my constituents that I slashed funding for our veterans. We are on the brink of going to war. We have young men and women overseas getting ready to protect this country, and we are showing our older veterans the compassion by cutting their funding for health care. There is something very, very wrong with that.

I spent my life as a nurse before I came here. I know firsthand that our hospitals across this Nation are struggling to keep their doors open. Yet in the Republican budget we see more slashes for Medicare and Medicaid. There is something very, very wrong with that.

I am one of these people that do not believe in kicking someone when they are down. If this budget passes tomorrow or Friday, we are going to be hurting an awful lot of people.

Again, are we going to have a decent prescription drug plan? Out on Long Island, I have my seniors that cannot even afford to be able to buy their medications. That is wrong. No one should have to go without their medications. I look at things holistically. If you are not giving medications to the patient, they are going to end up in the hospital, and it is going to end up costing more money. Yet in the wisdom of my colleagues on the other side of the floor, they want to cut Medicare reimbursements, they want to make our hospitals have to even cut back more, which means, by the way, they are not going to be able to hire nurses to take care of the patients.

We have to look at things, in my opinion, on how we would run our house. We all have to make sacrifices. We all have mortgages. We all have bills to be paid. We sit down and we look to see what has to be done. But this budget, the Republican budget that is coming out tomorrow, is totally unacceptable.

I think the shame of it is that we are making these cuts so we can make room for a $1.4 trillion tax cut. I do not know. I think the American people, if anybody is watching, would kind of sit around and say, wait a minute. My mother, maybe my grandmother, maybe she needs to go to a nursing home. She needs her prescription drugs. Those are going to be slashed? I do not know. That is not the way you cut a budget.

Then we have the war. We all know most likely that we will be going soon, but there is not one penny in either proposal of the budgets that I have seen for the war or even the cost of rebuilding the economy. Some argue we can address these costs in a supplemental. I understand supplementals. However, these supplementals are becoming like second budgets. If we have any kind of an idea of what something is going to cost, we should budget for it, and we should budget for it now.

I know we are going to go into some debt because of the war, and that to me is good debt. It is good debt mainly because we are protecting this Nation, and we are going to be protecting other nations so that they can have democracy and freedom and freedom from terrorism. We have to look to see what our priorities are.

This body, and I happen to think the Democratic budget substitute is the one that we should be looking at, it puts us back in balance, and that is what we all want. It provides a stimulus package that actually will stimulate the economy. We should have been doing this in January. We should have been stimulating the economy so that we would not have unemployment going up and up and up.

Homeland security. I talk to my schools, I talk to my firemen, I talk to our police officers, I talk to my county executive. They are trying to put plans together, but there is no money there. Most of our States, as I have mentioned before, are already in debt, so they cannot even spend the money. My county is in debt, and we have worked very hard to try and get out of debt, but unfortunately sales are down, so tax revenues coming in are not there.

The Democratic plan also offers a sensible prescription drug proposal.

The other thing is we are going to make sure that the funds are there for our military. This can be achieved by providing a stimulus that is reasonable and targeted to the people who need it the most.

The American people are looking to Congress to pass sensible policies that not only encourage investment, but also increase goods and services. Again, we have to be able to do a number of things here. We have to make sure that we are there to protect our armed services, but we also have to make sure that the country is economically sound. The Democratic proposal can do that. The Republican budget will not.

Unfortunately, the choices before this body suggest policies that do more harm than good. For example, half of the costs associated with President Bush's tax cut involve an elimination of the tax on dividends. To be honest with you, I do not have a problem with that. In better times, I probably would vote for it. I happen to think that in the long term it might be good for this country. It is not good right now. It is not the best bang that we can get for our dollar. I am hoping that we might be able to take this out and address it next year when things are better. This particular provision should be included in a long-term tax reform bill, as I had said. We should debate this at a later time when we can afford it.

A true stimulus plan provides immediate capital to assist an ailing economy. I believe that eliminating the tax on dividends does not provide us with the bang for the buck as we need it, as I said before. And though I understand the need to make sacrifices, and I know the American people understand what sacrifices are, if we want to jump-start the economy, it should not be done by passing bad policy. I want to support a budget that actually stimulates while taking into consideration long-term budget implications. There is no room for political gamesmanship when people lose their retirement savings or their jobs.

Again, I am just going to say, what I saw on the Republican budget, large cuts to education. It cuts my veterans' benefits and health care. My hospital on Long Island for my veterans can barely keep its doors open now. It fails to protect the environment. It fails to make the adequate investment in health care.

I know that we have tough decisions to make, but again, the Democratic plan covers all these issues, makes them fair, and certainly brings hopefully a little bit of sunshine down the road when we can go back into a balanced budget.

I hope the American people get involved in this debate. I hope that they call their Representatives, because the pain that we are going to be feeling not just from the war, but from the cuts on educating our children, taking care of those in the hospital, taking care of those at home, taking care of our seniors, that is not where we should be making cuts.

Ms. HOOLEY of Oregon. I thank the gentlewoman for her thoughts today and for advocating a fiscally responsible budget.

I yield to the gentleman from Washington (Mr. SMITH).

Mr. SMITH of Washington. Mr. Speaker, first I want to thank the gentlewoman from Oregon for organizing this hour to talk about a very important subject, the budget. Of the many things that are disturbing about the budget that the President has proposed and the Republicans have proposed here in the House of Representatives, I think perhaps the most disturbing, is the chatter that is coming out of the Republican side of the aisle that deficits do not matter. It used to be that a balanced budget amendment seemed to be required, and now we have sort of decided because it is inconvenient to have to balance the budget that deficits no longer matter.

They have come up with all kinds of fascinating arguments as to why that is. I think the biggest one they focus on is to say that deficits do not really affect interest rates, because that is typically one of the arguments against running deficits is that if the government is gobbling up all the money out there, it is going to drive up interest rates and hurt the overall economy. They point to various points in our history and say that, well, in the 1970s we did not have much in the way of deficits, and we had very high interest rates. In the 1980s we had high deficits and lower interest rates. That is debatable. It seems to me just as an economic matter, if you run deficits over a long period of time, eventually that is going to have a negative effect on interest rates. But even ignoring that point, it is simply true that you cannot run a deficit forever.

The biggest reason that deficits are, in fact, a problem is that they suck up all the money for the future and get us to the point as a country where all we can do is pay the monthly payment, just like someone with a credit card debt that is out of control, where they are simply trying to pay the monthly payment, and the interest keeps racking up. The amount of money that we will spend on interest will accelerate. The amount of deficits we run up on a year-by-year basis will accelerate under the President's budget. Ten, twenty, thirty years from now, we are going to have no money for any priorities, be they Republican, Democrat or whoever.

So if we can at least eliminate one notion, during the debate tomorrow I would hope that someone on the Republican side of the aisle would stand up and say that deficits matter. They are something we should be concerned about, and just because they are inconvenient, we should not turn logic on its head and suddenly say we do not care about them anymore.

The other thing that is truly disturbing about this budget is never in the history of this country have we cut taxes while at the same time going to war. The unrealism of that puts us in huge fiscal jeopardy and puts us in a position where we will not be able to meet our obligations in that war. Keep in mind, we are really about to enter our second war. Al Qaeda declared war on us years before September 11. That war was crystal clear after September 11. So dealing with that challenge was number one. Now we are about to launch a second war in Iraq and we, the Republicans, are telling the American people that we can still cut taxes by hundreds of billions, trillions of dollars.

That is hopelessly unrealistic. We have already seen the impact of it, the lack of funding for homeland security, and we are very concerned about it, the lack of funding for the war in Iraq for that matter. It has not been put on the table as part of this budget, and we know there is going to be a cost. That is very, very unrealistic.

The last thing that is troubling about this budget is it in no way stimulates the short-term economy. The tax cut that is being proposed, only 10 percent of that tax cut will come into being in the first year, right now, when the economy is in trouble. If it were truly stimulative, that is where the money would be. Ninety percent of this tax cut is at least 1 year away, which means it is going to have no impact whatsoever on our economic problems today. Presumably in 2, 3, 4 years, the business cycle will return, and we will have a strong economy, and what is the purpose of the tax cuts then? Certainly it is not stimulative.

That is the overarching problem with this budget. This budget reflects a philosophy that says fundamentally we need to cut the Federal Government dramatically. The tax cut that was passed 18 months ago, or almost 2 years ago now, was bad enough. It set us on a path when fully implemented to dramatically see that reduction. Now to pile on another trillion dollars will put us in a position where we will not be able to fund many priorities.

Again, the Republican majority is being very disingenuous about this. They come before you and they talk about the no child left behind bill, their commitment to education. They talk about a prescription drug benefit. They talk about the need to deal with health care. If you are going to cut taxes by trillions of dollars, you are not going to be able to address those issues. The no child left behind bill is already on pace to be underfunded by $12 billion from what the President said he would do as a starting point. What this shows us is we cannot meet those priorities. The rhetoric talking about them is simply empty.

So one final thing I would ask of the majority in the debate tomorrow is to make that clear to the American people, that this is the choice. Do you want simply to have the largest tax cuts possible, primarily for what they like to refer to as the investor class, which primarily means not most of the people in America? Do you want to have that, or do you want to fund these priorities? Because when the Republicans get up here and talk about a prescription drug benefit and talk about education, understand they have no plan whatsoever to fund it. To the extent it is in there, it is only in there rhetorically. We simply cannot have the tax cuts that they are talking about and fund the priorities that they are talking about.

Let us have an honest choice. Let us honestly assess what our choices are, be fiscally responsible, fund our priorities as they lay out there and not pretend that we can have it all; not pretend that in essence we can spend the same dollar three or four times.

Again, I want to thank the gentlewoman from Oregon for bringing this debate out. Tomorrow I think we will have the opportunity to talk about it further. I would urge us to reject the Republican budget plan.

Ms. HOOLEY of Oregon. I yield to the gentleman from New York (Mr. BISHOP).

Mr. BISHOP of New York. Mr. Speaker, I rise this evening to talk about the budget resolution we will be asked to consider tomorrow, a budget that I believe is one of misplaced priorities. Just a few hours ago, the gentlewoman from Oregon and I went before the Committee on Rules to urge support for what I believe must be one of our foremost priorities. The gentlewoman from Oregon and I asked that an amendment be declared in order that would provide $2.2 billion in funding to first responders not next year, but immediately, in fiscal year 2003.

I believe that we can and must agree to put aside our differences and fund first responders. It is my sincere hope that we will be able to consider this important amendment on the floor tomorrow. We say first responders are a priority, but as happens all too often in Washington, it is one thing to call an initiative a priority, and it is an entirely different matter to devote the funding required to validate that priority. In this particular case, there is no question that the need is real, immediate and essential.

I represent the First District of New York, the western boundary of which is no more than 40 miles from the border of New York City, clearly one of the most prominent targets for terrorists, and I have spoken with our firefighters throughout our district, our police officers throughout our district, and they recognize that they are ill-equipped to respond. They need training, they need equipment, and the Federal Government must provide the support that they require.

I also come to the floor today to discuss our priorities as a Nation and to talk about how I believe the Republican budget that we will consider tomorrow is a budget of misplaced priorities. As we consider this budget, we have an opportunity to make the right choices for our Nation, choices that will strengthen our families, secure our communities and send us back down the road to economic security. Instead, my colleagues on the other side of the aisle are forcing a vote on a budget that is the antithesis of fiscal responsibility and sends our Nation back to deficits. These deficits stretch out as far as the eye can see, and they squander desperately needed programs for working families.

If the goal of the Republican budget is to provide a shot of adrenalin to our economy, in my opinion this plan falls far short of that goal. The Republican budget puts forth a costly economic growth package with less than 3 percent of the proposed tax cuts occurring this year when it is most needed. On the other hand, the Democratic proposal would provide four times the amount of stimulus provided by the House Republican proposal with $136 billion in targeted tax breaks applicable immediately. These tax breaks will encourage investments by business and help those who are in the greatest need of relief.

Both the Democratic and the Republican budgets would balance by the year 2010. The difference is that the Republican budget would do so by forcing what I believe are unconscionable cuts to key mandatory and discretionary funding programs. The Republican budget would cut important programs such as student loans, veterans' benefits, and school lunch programs by as much as $98 billion over 10 years. Today when so many families are sacrificing and struggling, it is not the time to crack down on veterans, students trying to earn a college diploma and schoolchildren from low-income families who deserve to eat a nutritious meal.

Why do we not try this? If we are going to crack down on anyone, why do we not crack down on corporations that relocate offshore exclusively for the purposes of evading their United States tax obligations?

Further, the Republican budget would undermine domestic appropriations by $244 billion below the amount needed to continue programs at today's level. Passing this budget will hurt working families, children, the elderly, veterans, seniors, and so many others. These types of cuts are difficult to justify under any circumstance. They are impossible to justify when one considers that they result from an irresponsibly large, massive package of tax cuts geared to the very wealthy. Why should we give an additional tax cut to the top 2 to 5 percent of wage earners in this country when doing so requires us to seriously undermine so many important programs, and doing so also imperils the long-term security of Social Security and Medicare?

□ 1830

We need to do the right thing tomorrow and pass a real stimulus package, one that stabilizes our communities by delivering results for small businesses and working families now rather than later. Now is not the time to be forcing damaging budget cuts that undermine the social fabric of our communities just so that we can provide additional tax breaks to those who make the most. Now is the time to act with fiscal responsibility in mind to jump start the economy and to provide lasting investments in our families.

I believe that we know what our priorities should be, and I urge my colleagues to vote for the Democratic budget substitute tomorrow.

Ms. HOOLEY of Oregon. Mr. Speaker, I thank my colleague from New York.

I yield to the gentleman from Florida (Mr. DAVIS) who has been working on budgets since we both got here.

Mr. DAVIS of Florida. Mr. Speaker, I thank the gentlewoman from Oregon (Ms. HOOLEY) for yielding.

Tonight the Congress starts its debate as to the budget resolution, which represents a statement by the Nation as to our priorities as a country. On the eve of war, this is a more solemn event than ever, and I think it is fair to say that the United States citizens expected their Congress more so than ever to come together, Democrats and Republicans, the House and Senate, the Congress and the President, on a realistic plan, not politics, not gestures, not symbolism, something that truly represents a plan to keep our country secure and strong and to plan for the future, as we are expected to do as leaders.

What I would like to do tonight is to highlight in what I hope is the most accurate fashion possible the Republican

budget resolution and the Democratic budget resolution and along the way to express my opinions in terms of how I think we bring this all together. First of all, I think it is fair to say that the Republican budget resolution has as its centerpiece a tax cut over 10 years in the amount of about $1.3 trillion. This is truly a very significant tax cut. I think it is also fair to say that virtually every Member of Congress serving here today has promised the people that we represent that we intend to enact Medicare coverage of prescription drugs in order to deal with a growing crisis in our country as far as seniors and disabled and other people lacking access to critical prescription drugs. And so both budget resolutions must be measured against that standard.

The Republican budget resolution, it is fair to say, sets aside $28 billion, $28 billion to cover the cost of Medicare coverage for prescription drugs, I might add a very minimal fraction of what the President proposed as that cost. In addition, it is fair to say that the current version of the Republican budget resolution calls for significant cuts in spending, some of which have already been referred to here tonight. These cuts are going to be very difficult to defend to the people at home. They are significant cuts in veterans benefits. They are cuts in student loans. They are cuts in the Medicaid program that States that are struggling to meet their budgets right now are relying upon to furnish a safety net there. They are cuts in funding for the environment. These are significant cuts. Particularly like a State like mine, Florida, these cuts will have real impact on people at home.

Finally, the Republican budget resolution calls for a deficit of $319 billion in the next year, a staggering deficit, one that will bring with it a significant interest cost that every man, woman, and child will be paying in this country as the Federal Government goes deeper into debt. It is also important to point out on the eve of war that the Republican budget resolution provides not a single penny for what we all know will be a very expensive war in Iraq, not to mention perhaps an even more expensive cost of dealing with Iraq after Saddam Hussein has been disarmed, after Saddam Hussein is gone.

I think the weaknesses, the limitations in the Republican budget resolution are terribly self-evident. At a time where I expect the President will surely call upon the Nation to sacrifice, to participate in the commitment our men and women abroad are making and their families are making without them here at home, it is not the priority of our country to call for a $1.3 trillion tax cut. Taking that tax cut is not the type of commitment, not the kind of sacrifice people have in mind in supporting our troops and supporting our President and supporting our Nation. Cutting veterans programs, depriving students who have worked so hard to get through high school the opportunity to go to college, losing students loans, these are not the things that made our country great. This is not what we stand for. This is not what we are fighting about. These are not our priorities.

Let me talk about the Democratic budget resolution and start by saying in fairness to the Republicans, we clearly are in a challenging situation here in terms of how to juggle our competing priorities. The Democratic budget resolution, which I strongly support, represents an attempt to build on the more constructive features of the Republican budget resolution and the more constructive features of the President's budget and then attempts to improve upon them and not to simply criticize them.

So let me highlight some of those points. The first is that the Democratic budget resolution calls for a tax cut of approximately $136 billion compared to $1.3 trillion in the Republican tax cut.

□ 1845

The centerpiece of the Republican tax cut is the elimination of a tax on dividends for some corporations through a very complicated process that will not take effect for some time. That has been presented as a stimulus. I think it is fair to say that is at best a fundamental change in tax policy, and because it has no effect any time soon, it is not really going to stimulate the economy at a time when we need the economy to be stimulated.

In contrast to that, the proposed Democratic budget alternative calls for immediately putting into effect a more accelerated type of depreciation for businesses, an attempt by the Federal Government to say to small businesses, medium-sized businesses across the country, we want to encourage you to invest in your company, buy the equipment you need, make the purchases you need to keep your business going, and you are going to pay less taxes on that as part of our attempt to help stimulate the economy.

The Democratic budget alternative also makes permanent the child care tax credit and the marriage penalty elimination, which benefits a huge number of Americans and will put money in their pockets, which will help stimulate spending and the economy.

On the spending side, the Democratic budget alternative does not make the cuts in veterans' benefits, in student loans, in environmental programs. It keeps those programs continuing. It funds them to take into account growth and inflation. I cannot think of a worse statement of our priorities than to be cutting veteran benefits in the days ahead. The Democratic budget alternative does not do that.

With respect to prescription drug coverage under Medicare, the Republican budget alternative calls for $28 billion. The Democratic budget alternative calls for $528 billion. This is a realistic sum. This is a number that Democrats and Republicans ought to be able to work with. It is not dramatically different than where the President started. It is a higher number. This is an attempt to find common ground to finally do what the politicians have promised people at home for far too long, to begin to cover prescription drugs.

Now, I have to say, this is not the ideal plan. If you are serious about attacking deficits, if you are serious about funding security at home and abroad, this is not the most elaborate, the most generous Medicare prescription drug plan Democrats might offer or this Congress might pass. But it is an attempt to juggle competing priorities. It is an attempt to start a modest Medicare prescription drug plan that, over time, as our country regains peace and prosperity, we can truly fund at the level our seniors deserve.

Another important difference between the Democratic and Republican budget alternatives is homeland security. The Democratic alternative provides 34 billion additional dollars above and beyond the Republican budget alternative for homeland security; $10 billion of that is to the States. In the last couple of days, the Secretary of Homeland Security, Tom Ridge, has ordered Governors throughout the country to go on a heightened state of alert. Security is not free. This will cost money.

Virtually every State in this country, including Florida, is struggling because of the economy, because of deficits in their own budgets. The Federal Government needs to step in as a partner and help provide security. The Federal Government, in my judgment, has been derelict in its duty in not stepping up to the plate and doing this sooner.

This Congress recently missed another opportunity to provide funding for first responders, for equipment and training for police and fire. We cannot make the same mistake again on the eve of war. The Democratic budget alternative provides $34 billion additional above and beyond the Republican budget alternative. This is something Democrats and Republicans should agree on. This is something that every citizen in this country expects.

Finally, let me make two other points. One is that the Democratic budget alternative proposes to bring the country back into a balanced Federal budget by 2010. Deficits do matter. They affect interest rates in the long term. They have a lot to do with the ability of our country to plan for the future, the retirement of the baby-boomers, to keep Social Security and Medicare solvent.

Now, if the Democratic budget alternative sounds too good to be true, it is because there are some difficult choices there. Let me close by mentioning a couple of the difficult choices.

The Democratic budget alternative revisits President Bush's last tax cut,

which was based on an assumption the economy was going to be growing at a dramatically positive rate, and that we would be enjoying peace and prosperity for years to come.

Well, we know, painfully so, that is not the case. What the Democratic budget alternative does is to freeze the Bush tax cut, President Bush's tax cut, with respect to the highest income earners, in order to generate revenue to pay for homeland security, to pay for the cost of the war in Iraq, to pay for what this country is going to have to do after we successfully disarm Saddam Hussein. These are the priorities of the country. This is what is expected of us.

The other way that the Democratic budget alternative funds security, funds a meaningful prescription drug benefit and achieves a balanced budget by 2010 is to eliminate the repeal of the estate tax. It would say instead what Democrats and Republicans should have agreed upon a long time ago, as proposed by the gentleman from North Dakota (Mr. POMEROY): We will establish immediately a $6 million credit from the estate tax for couples, $3 million per individual, that will result in 98 to 99 percent of American citizens avoiding the estate tax.

The effect of that is, again, to generate the revenue that allows us to keep this country secure and strong and back to a balanced budget so that we can achieve what we have been challenged to face tonight, to support our men and women abroad, to keep our promise to our veterans, and this next generation of veterans serving our country so bravely, and serve our people and get our economy back to the strength it deserves so we can be strong not just abroad, but at home as well.

Mr. Speaker, I thank the gentlewoman for yielding me time.

Ms. HOOLEY. Mr. Speaker, I yield to the gentlewoman from California (Mrs. DAVIS).

(Mrs. DAVIS of California asked and was given permission to revise and extend her remarks.)

Mrs. DAVIS of California. Mr. Speaker, I am here today because I am deeply concerned about the devastating impact the President's budget could have on working families across this country, particularly at a time when our Nation stands at the very brink of war.

The cuts that are proposed in this budget stand to hurt the very families whose loved ones are overseas preparing to fight this war. Last weekend I had an opportunity to meet with a number of military families whose husbands, whose brothers, sisters and wives are courageously serving our Nation in Afghanistan and the Middle East. They shared with me their thoughts and fears while their loved ones were deployed so many miles away from home.

In addition to expressing the uncertainties that they face, they are also concerned about their children's future. That is why education is a major concern to them. They know that the quality of their children's education is dependent upon some significant Federal support.

Mr. Speaker, the President's budget proposal seeks to cut education funding by more than $10 billion in the next year alone. In my home State of California, where the State budget deficit is expected to exceed $25 billion in 2004, as many as 30,000 teachers, counselors, nurses and administrators are already receiving notices to leave their posts in our children's schools. School districts are slashing a number of positions, and the President's budget provides no direct Federal aid to States to help with this great concern that we have.

At a time when we are sending more servicemen and women to Iraq each day, the very least we can do for them is to ensure that their children are receiving the very best services we can offer, but this budget is failing to meet this promise. While these same families are expressing their concerns as their loved ones are being sent abroad indefinitely to potentially face the perils of war, the very least of their concerns are costly tax cuts.

Mr. Speaker, we have larger priorities at hand. While we are still attempting to assess the costs of the war, our focus should remain on providing for our Nation's military, their families and our national security. It is simply irresponsible to neglect these priorities in favor of sweeping tax cuts, tax cuts that largely fail to benefit the brave men and women we are sending overseas at this very moment.

We understand that at a time of war we may, in fact, face large deficits, but we should not make them greater by supporting a tax package that has at its very heart helping those that at this time need it the least. This is simply the wrong message to be sending not only to working families, but to military families carrying out their commitment to America.

Ms. HOOLEY of Oregon. Mr. Speaker, reclaiming my time, again, the Democratic budget is a fiscally responsible budget that does not cut funds for veterans, that stimulates the economy, that makes sure that our children can go to college, have after-school programs, and the Republican budget does not do that.

GOING FROM BAD TO WORSE ON THE BUDGET RESOLUTION

The SPEAKER pro tempore (Mr. BONNER). Under a previous order of the House, the gentleman from New Jersey (Mr. HOLT) is recognized for 5 minutes.

Mr. HOLT. Mr. Speaker, I would like to talk further about the budget. Much has been said, and I will not go over it, that this budget, as we now have our thoughts and prayers with our troops overseas, does not even include any mention of the war, of the cost of the war. It does not include funding for first responders adequately. It does not adequately fund education and special education. It would force cuts to VA benefits.

But let me just address two matters that I think really should be underscored that are failings in this budget. One has to do with Medicare.

I have heard Members on both sides of the aisle speak passionately about the need for prescription medicine coverage, yet the majority's budget resolution contains only $28 billion in new spending, when the lowest estimates for this kind of funding are about $400 billion. In other words, if this is going to happen, it would pull money not out of thin air, but it would pull money out of Medicare, other Medicare programs and out of Medicaid spending. That will not work.

In the area of research and development, our investment in science, research and development is a necessary investment to provide the growth in productivity that is required, that is really postulated for this budget resolution. That growth will not come unless we invest in research and development.

NIH funding, which was previously on a doubling path, the majority seems to think little of the achievements of the NIH researchers in hemophilia, muscular dystrophy, Alzheimer's and all of these other areas. Their budget reduces appropriated health programs by almost 5 percent in 2004.

With the looming war in Iraq, with the continued instability in the Middle East, with the threat of global climate change, you would think we would be increasing our funding for research in carbon reduction in fuels, but the funding for the Department of Energy's Office of Science remains flat. So, these are major shortcomings in the budget.

I see my friend from New York on his feet, and I would be pleased to yield to the gentleman.

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

Mr. ISRAEL. Mr. Speaker, I thank the gentleman for yielding, and let me thank the gentleman from the other side for accommodating us.

Mr. Speaker, I supported tax cuts in 2001. That was before 9/11. That was before our war on terrorism. That was before a potential war in Iraq. That was before we had new homeland needs. But today the world is different. We have new challenges. We have to make sure that our budgets keep pace with those challenges and are responsible in adapting to those challenges.

We cannot send young people into an unfunded battle in Iraq tonight and slash their veterans benefits when they come home tomorrow by $15 billion. We cannot offer the deepest tax cuts to the very richest and balance budgets on the backs of those who are fighting on our fronts.

I represent some constituents who would benefit greatly by a tax cut at the top brackets. I cannot think of a single one who would come up to me at

a Support Our Troops rally or a reservist center and say, ''Congressman, I will take my $90,000 tax cut now, and I don't care if veterans have to stand in longer lines, have shortages of beds or can't get into VA hospitals tomorrow.''

We all want to engage in shared sacrifice. We are at a critical time in our Nation's history. Our first obligation has to be to our seniors and those fighting for our freedom in Iraq and other dangerous places in the world. We cannot cut their beds, their budgets; we cannot balance tax cuts on their backs.

So I am hopeful that the Members of this body on both sides of the aisle will review these budgets and get back to the real priorities of America, taking care of our senior citizens, taking care of our veterans, making sure that we are meeting our obligations to them, taking care of our children, and making sure that their future is not laced with deficits and that we are not balancing budgets on their backs as well.

□ 1900

FINDING SOLUTIONS FOR REDUCING DEBT

The SPEAKER pro tempore (Mr. BONNER). Under the Speaker's announced policy of January 7, 2003, the gentleman from Michigan (Mr. SMITH) is recognized for 60 minutes as the designee of the majority leader.

Mr. SMITH of Michigan. Mr. Speaker, tonight I would like to follow up the previous Special Order by starting out with some comments on the budget, on spending, on the tremendous deficit that we are leaving to our kids. Then also, I want to, on this eve of the war, finish up with some concerns that I have with such countries as France and Germany and Russia, I think putting our kids at a little greater risk. But first let me react to some of the comments that we have been listening to, that we need to increase spending on some of these important items.

Let me start with the tax cut. When the gentleman from Maryland (Mr. BARTLETT) and I first came to this Congress in 1993, one of the first events was a Democratically controlled House and Senate; and with a new Democrat President, we increased taxes more than taxes have ever been increased in the history of this country. The tax cuts that are being suggested now do not commence to negate that huge tax increase that we had in 1993. But let me talk about trying to attract more voters by suggesting that Congress should spend more money.

For a moment, look at what has happened over the last 10 years of spending history. This is how much we have been increasing spending. As my colleagues can see, fairly level, and it started to go up more and more in 1995, 1996, and 1997, and started taking off in 1998. Discretionary spending of the United States has increased an average of 6.3 percent each year since 1996 and 7.7 percent each year since budget balance was reached in 1998, showing a tremendous increase in the growth of government. And one can just project, if we continue to spend two and three and sometimes four times the rate of inflation, then government takes over; and instead of empowering people in the United States, instead of empowering businesses to encourage them to expand and develop and offer better and more jobs, government has been at the feeding trough to use more of those dollars by increasing taxes across the country.

How do we deal with a situation where we have made our taxes so progressive that the lower-paying 50 percent of income tax payers in this country only pay 1 percent of the total income tax revenues. So we can see, it is easy to suggest that any tax cut is a tax cut for the rich, since the upper 50 percent pay 99 percent. In fact, the upper 10 percent pay almost 84 percent of the total income taxes. So we have put more and more taxes on higher incomes to discourage that kind of effort, and we have put more and more taxes on business. Really, business taxes are a tax that that business, in order to survive, has got to pass on to consumers in the fashion of increased prices for their particular product. So the increased price we pay for any product we buy, part of that is really a hidden tax, because you pay it to business to pay their tax, and they have to charge a price that is going to allow them to survive.

Mr. Speaker, the gentleman from Maryland (Mr. BARTLETT) and I have been trying to convince Congress on both sides ever since we have been here of the unfairness of the increased spending that has resulted in increased borrowing that is going to end up leaving our kids a mortgage. I am a farmer. The gentleman from Maryland (Mr. BARTLETT) is a farmer, plus a scientist; and in the farming community, you try to pay off some of that mortgage so that your kids will have a better chance. Well, right now, we are sort of pretending that our problems today are so great that somehow it justifies going into the huge debt that we are going to leave our kids and our grandkids.

Mr. Speaker, I yield to the gentleman from Maryland (Mr. BARTLETT).

Mr. BARTLETT of Maryland. Mr. Speaker, for the next few moments I would like to continue to direct attention to the spending curve that the gentleman from Michigan (Mr. SMITH) was just talking about. If we look at that curve, we will see that it goes up ever and ever steeper. Now, the gentleman from Michigan (Mr. SMITH) talked about a pretty steady 7.5 percent increase.

Now, one would think with a steady increase that we ought to have a curve that is going up at the same rate, but it does not do that. This is a phenomenon called the ''exponential curve.'' Every time we have an interest rate like this or a growth rate like that, the curve will go up ever steeper and steeper. Now, it is obvious when we look at that curve, it cannot continue because pretty soon it will go right through the ceiling. So it is obvious that sooner or later, and I hope sooner for the sake of our children and our grandchildren, that we have to bring our spending into line so that this curve does not continue to keep going up and up and up and soak up more and more of our gross domestic product.

Now, I would like to for a few moments turn our attention to another curve, another set of curves, and these curves are just some detail-building on the curve that the gentleman showed us. What we have here are three curves. One of them is the gross Federal debt. Now, that is the total amount of money which the Federal Government owes, and we will note a line here in the middle, and that is where we are now. We will notice that that goes through this debt line at about $6.4 trillion. That is the amount of money we owe.

Now, as a matter of fact, we owe more than that now, but that is the amount of money that we owed on the 20th of last month. This debt keeps growing and growing; and right now the Treasury Department is having to move monies around so that they can pay their obligations, because we have already exceeded our debt limit ceiling. So we need to pass a budget resolution soon, because buried in that is a mechanism which will automatically increase the debt limit ceiling to whatever monies the budget would have us spend for the next year.

We will notice that all of the expenditures beyond our current date are extrapolations. They are just guesses of what we are going to be spending in the future. But everything to the left of that are the monies that we have spent, and so those are real numbers.

Now, this gross Federal debt, which more often is referred to as the national debt, that debt is made up of two subparts. One of those is called the debt held by the public, and that is sometimes referred to simply as the public debt or sometimes it is the Wall Street debt. Now, that is the debt that the Federal Government owes because it has bought securities and bonds; and because it has sold these securities and bonds and so forth, it has gotten money from those. But that is not the only debt that we owe, because we owe another debt which we see started out fairly low and has now been increasing more and more; and this also, as we see, is an exponential kind of a curve, and we will understand why in a moment. This is a debt held by government accounts, it says here. A simpler way to understand that debt is that that is the trust fund surplus debt. That is the debt we owe to trust funds which have accumulated surpluses.

Now, how do we have trust funds that are accumulating surpluses? That is because we are taking monies from the paychecks of people and putting it in trust for them, presumably putting it

in trust for them, so that the money will be there later on when they need it and they are retired, like Social Security, like Medicare, like civil service retirement, like railroad retirement. There are about 50-some of these trust funds, and this year we will have about $191 billion surpluses in these trust funds.

Now, more than three-fourths of all of that surplus is in the Social Security trust fund, and it is good there is such a big surplus there, because during the retirement of the baby boomers, we are going to run enormous deficits in Social Security if we do not do something to fix that problem. But that is a discussion for another evening.

Mr. SMITH of Michigan. Mr. Speaker, on the definition of surplus, we say the trust funds have surplus; but actually, what they have is IOUs, so when programs like Medicare become insolvent or have less money coming in than enough to pay promised benefits in 2012, or when the money coming in from Social Security taxes is less than what is adequate to pay promised benefits for Social Security in 2017, all we have when we go to that box is a bunch of IOUs.

So what is government going to do to pay back those IOUs? They are going to increase taxes again, or they are going to cut benefits, or they are going to probably, most likely, increase borrowing again. So they go again and bid up the available money and borrow that money to pay back to make sure we pay Social Security benefits. But even then, by the mid-2030s, the trust funds are going to be gone and the insolvency of many of these programs is going to be devastating in terms of the burden that it puts on our kids.

Mr. BARTLETT of Maryland. Mr. Speaker, that is exactly right. And that is why these are shown as debt. Because although there are surpluses in the trust funds, as the gentleman from Michigan (Mr. SMITH) points out, there are no monies in the trust funds. Because we have a computer in Washington which, when we take some money from your paycheck, presumably put in trust for you, it only momentarily goes in trust for you, and then we almost immediately take that money out; and in its place we put a nonnegotiable bond in there. It is a nonnegotiable security; that is, we cannot negotiate it. It is only a security that can be redeemed by the Federal Government. When the time comes to redeem that, as the gentleman from Michigan points out, our children are then going to have to either increase taxes to get the money or borrow the money and pass that debt on to their children. I hope they do not do that, because I am ashamed that we are passing this debt on to our children.

As we can see, in a few years, in a few years, the debt owed to these trust funds is going to exceed the debt that we owe to what we generally call the Wall Street debt or the public debt.

Now, for about 4 or 5 years, Washington is telling us that we had surpluses and we were balancing the budget. But I want my colleagues to take a look at this gross Federal debt, or the national debt, and notice there never was a moment in time when that debt went down. It kind of flattened out here, we notice; and now it has really picked up the last couple of years. But there never was a time when it went down.

Now, the budget that was balanced is what Washington calls the ''unified budget.'' That is all the money that comes into Washington and all of the money that Washington checks out. But about 10 percent of the money that comes into Washington is money that they have taken from our citizens, presumably to put in trust for our citizens, but instead of putting it in trust for our citizens, we print IOUs and put that in what should be the trust fund, and then we spend that money. So that now it accumulates a debt here.

Now, for every dollar that we took out of the trust fund debt to pay down the public debt, and that is when they say we had a surplus and the debt was going down, that debt did go down. We can see it here.

Mr. SMITH of Michigan. But maybe an analogy, sort of like using one credit card to pay off another credit card. So we borrow money from the trust funds to pay down the public debt, and then a lot of politicians in Washington brag that we are paying down the public debt of the United States, and with muscle-flexing and suggesting that we are going to put the Social Security money in a lockbox, and that lockbox was again nothing but IOUs where the government took the money and used it for a couple of years to pay down the debt or the Wall Street debt or the debt held by the public. That kind of hoodwinking I think has brought about a lot of suspicion of the American people with their Congress and with the White House and with Washington.

Again, if we look at the tremendous growth, how fast we have increased spending of the Federal Government, if we simply went back to where we were 7 years ago, we would have a huge surplus on both the Social Security as well as the extra money coming in from taxes.

So it is a situation I think where we have to ask ourselves the question, Do we want to reduce the debt that we are leaving to our kids? Do we want to do that by increasing taxes? And that is what the Democrat substitute proposal for the budget does; they increase taxes.

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They say, we will go along with the tax breaks for the lower-income; which, as I mentioned before, does not represent very much of the tax revenue coming into the government. But they say, we are not going to go along with the legislation that we passed 2 years ago that gives tax breaks across the board. In effect, it encourages savings, encourages investment, encourages businesses to expand.

So we have to end up making that decision: Are we going to borrow money to pay our way, or are we going to increase taxes to pay our way? I suggest that there are a lot of expenditures of government, and, in fact, this budget, the budget that the Committee on the Budget turned out, says, let us look for waste and fraud and abuse, and figure that we are going to put the responsibility on the different departments of government to seek out that waste and fraud and abuse.

Already we have identified more than enough to accommodate that 1 percent; to say, look, across the board we are at least going to have a 1 percent reduction in this time of war, so we can adequately make sure that we can adequately fund the military budget, the homeland defense budget. Those have been increased at the President's request, suggestion, in both of those areas. Where we have cut back is in other areas.

If we are in a time of war, is it not reasonable to start prioritizing our spending, especially since that kind of traditional increased spending as if there is no problem, do more for this group, more for that group, do more for the old, do more for the young, have midnight basketball games so kids do not get in trouble, that is the kind of spending rampage that we have been on.

What I am suggesting and what the gentleman from Maryland is suggesting is that that kind of spending that ends up having a deficit, let me define my definition for deficit, deficit is the annual overspending. Debt is when you take that annual overspending and add it up to the debt that we have for our kids and our grandkids.

Mr. Speaker, I yield to the gentleman from Maryland (Mr. BARTLETT).

Mr. BARTLETT of Maryland. The gentleman mentioned lockboxes, Mr. Speaker. It might be wise to spend a few moments talking about lockboxes. We have not heard lockboxes mentioned in the last several months. That is because we now have no surpluses.

In terms of the national debt, we never had any surpluses. We had surpluses in terms of the unified budget; but when the unified budget was balanced, the national debt was still going up almost $200 billion a year. That is because it was about $200 billion a year of trust fund monies that we were taking and spending.

What were the lockboxes? They were talked about a whole lot and were very popular. What were they, and what did they do?

The first lockbox was the Social Security lockbox. What that legislation said was that if there is a surplus in Social Security, and of course there is a surplus, and will be for 10 or 12 years in Social Security, if there is a surplus in Social Security, we cannot use that for ordinary spending; we have to use it

to pay down the debt. The only debt we could pay down with that is this public debt, so what they did was to take the monies out of the trust fund and to pay down the public debt, but for every $1 of public debt they paid down, they incurred another $1 of trust fund debt. Notice what is happening to these curves. As this one went down, that is the public debt we are paying down, the trust fund debt went up, so the net effect on the debt was zero.

There was another smaller trust fund that was included in the lockbox, and that is the Medicare Trust Fund. We did the same thing with that. But there were 40 or 50 other trust funds that we did not have a lockbox for. They did not amount to a whole lot, but we happily took them and spent them. When we did that, of course, even though we were advertising a balanced budget on the unified budget, the total debt that we owed, the national debt, here called the gross Federal debt, kept going up and up. Obviously, we should not continue to do this forever.

By the way, the gentleman from Michigan (Mr. SMITH) mentioned spending. The question is always asked, if we spend more money for this group or more money on that program, will it help more people? Of course, the answer is always, yes. If we spend more money, it will help more people. But I would submit, Mr. Speaker, that that is the wrong question. The question that needs to be asked is, will spending more money on that program help more people than if we left that money in the private sector?

Money left in the private sector also helps people because it creates capital for creating new businesses and new jobs. In those, government revenues will grow. The question we really need to be asking, whenever there is a suggestion that we increase a current program, is will increasing that program do people more good than saving that money and leaving it in the private sector, where it will create jobs for people who will then have an increased standard of living and who will pay more income tax, and Federal revenues will go up, and our economy will grow?

But we never in this Chamber ask the right question. The question we always ask is, will more money help more people? Of course it will.

Mr. SMITH of Michigan. Mr. Speaker, when we say leave it in the private sector, we say leave it in the pockets of the individuals that earned it. Do not have the kind of taxes on businesses that put our businesses at a competitive disadvantage to businesses that they are competing with in other countries.

That is what we do. Right now we are charging our businesses about 18 percent more tax than the businesses in the other G–7 countries, in the other industrialized countries. So when we talk about this, the tax changes that the President is suggesting that are incorporated in this budget, what can we do to strengthen the economy? What can we do to encourage our businesses to invest and expand and have more and better jobs in this country?

The other tax cuts, some of the other tax cuts, potential tax cuts, maybe should not be considered now; but let us at least look at the kind of tax incentives that can encourage savings and investment and business expansion.

Mr. BARTLETT of Maryland. The gentleman mentioned business taxes, and the fact that businesses really pass that tax on. I would just like to concentrate on that for a moment.

In a very real sense, we cannot tax a business, because that simply becomes part of the cost of doing business. If the business is going to remain in business, if that company is going to remain in business, they have to pass that tax on or they cannot remain in business.

I would like to make the argument, which I think is pretty hard to refute, that business taxes are probably the most regressive tax we have. I know my liberal friends are very fond of business tax, and they would like to increase it. I am not sure they have thought through what happens when we increase business taxes.

Whenever we tax a business, it has to add the cost of that to their goods and services. Now, there is no deduction for that and no exemption from it. So the poorest of the poor, when they go to buy the services or the products of a business, have to pay more for that service or product because we tax the business.

There is another way in which business taxes are very regressive and hurt people, particularly poor people. Another thing that happens when we tax a business is that we have increased their cost of doing business; so now that makes them less competitive with firms in other countries, and they may, in fact, not be able to continue doing business here, and those jobs may end up somewhere else in the world, more and more frequently on the Pacific Rim.

There are some companies today, I say to the gentleman from Maryland (Mr. SMITH), that are doing something that we call inversions. A company, when they look at the regulations that govern them here, when they look at the taxes here, they say, we just cannot stay in business in this climate, so what we are going to do is move our headquarters overseas to some island offshore or something like that. We are going to continue our major operations here, but for tax and regulatory purposes, we are going to move our headquarters overseas somewhere.

The question we are asking ourselves is, how can we punish those people? I think that is exactly the wrong question. The question we ought to be asking is, why are they leaving this country? What is there about our regulatory climate, what is there about our tax structure that is forcing these businesses out of this country? What do we need to do so that we not only keep these businesses in this country, but we attract other businesses to this country?

Do Members not think that that is the question we really ought to be asking here?

Mr. SMITH of Michigan. Mr. Speaker, a survey was done of the businesses that inverted or moved to another country to pay their lower tax rate, but kept their jobs and their operations in this country.

A survey was taken, and for over half of those companies it was a question of going out of business or reducing their expenses and taxes, one of the expenses, reducing that expense by roughly 17 percent that we overcharge compared to other countries, by moving their business overseas.

So absolutely, rather than the suggestion in the Democratic budget that says let us punish those businesses that move their headquarters and their taxing location outside of this country by saying that they cannot move or else they lose a lot of the benefits, and we are not going to buy from them for military use, and we are going to punish them anyway in some form of additional taxes to discourage their moving out of this country, absolutely, I say to the gentleman from Maryland, the right decision is that we cannot put our businesses at a competitive disadvantage because of our gluttony to somehow raise more money through what I call a hidden tax, a very regressive tax like the gentleman suggests; because it says that the lower-income person that has to buy these goods has to pay a tax on this, they have to pay the extra price on the goods to accommodate the high taxes that we have imposed on business.

It is not so, what is the good word, identifiable because it is not so obvious that people are paying another tax to government when they buy this product. It is sort of a hidden tax that has been politically an advantage, some people felt; but in the long run it discourages business expansion, and it discourages the kind of economy and the kind of strongest economy in the world that we have developed in our first 226 years.

So absolutely, it is the wrong way to go. What we should be doing is making our taxes competitive with the taxes in other States, and part of the way to do that is to hold the line on spending.

When the complaint is of cutting spending by 1 percent, the previous special order suggested that Republicans are suggesting a 1 percent cut, no cut. What it is is a slowdown in the increase in spending. Where I come from down on the farm, a cut is when there is less money spent one year than the previous year.

Mr. BARTLETT of Maryland. Mr. Speaker, I say to the gentleman from Maryland (Mr. SMITH), there is a good analogy of this that helps us understand what these Washington cuts are that are really not cuts. We have big

cuts, and we are spending more money next year than we did last year in spite of a cut.

It is like our son comes to us, and we are giving him a $5 allowance, and he comes and says, I would like a $10 allowance. But we say, gee, $10 is a little much. Suppose we give you a $7 allowance? So now the son goes and tells his friend, I just had my allowance cut by $3. Obviously the allowance went from $5 up to $7, it went up $2; but relative to his anticipation, his hope that it might be $10, he now has a cut.

Most of Washington's cuts are those kinds of cuts. They are simply a cut in the increase in the rate of spending, increased rate of spending; they are not a cut, or are almost never. Just look at these curves. Almost never do we spend less money this year than we spent last year. So be careful that people define very carefully what they mean by a cut in Washington, because most of the time it is, in fact, not a cut; it is simply not as big a rate of increase as they would like to have seen.

All of the cuts we hear my friends on the other side of the aisle talking about in our budget are that kind of cut. As far as I know, essentially nothing is being cut in the budget. We hope to cut the rate of increase of some of these programs, but as far as I know, essentially nothing is being cut.

Mr. SMITH of Michigan. Mr. Speaker, let us discuss just a little what the imposition that this increased debt that we are leaving our future generations has on the potential of those generations to have a strong economy or strong incomes that they are going to be able to keep and raise their families with.

Right now, servicing the debt, and $6.4 trillion is our current debt, servicing that debt costs approximately $300 billion a year; but interest rates are at record lows right now. So with interest rates, with the government able to borrow some of their money for about 2.7 percent, what if that interest rate goes up? What about when we have economic recovery and there is a greater demand for money?

That interest rate, the interest rate in the early 1980s, was as high as 17 percent; so what if that $300 billion a year paying interest were to quadruple because of higher interest rates in the future? It would devastate those people that are trying to service that huge debt in the next generation, or years from now.

□ 1930

Mr. SMITH of Michigan. Also, sometime, someplace, somehow future Congresses are going to start thinking that we have to operate more like a family, more like a business, that someplace down the roads we have to start paying this debt down. Nobody is talking about paying the debt down. All they are talking about is, well, maybe the debt right now is manageable and let us put the war on terrorism or whatever happens in Iraq aside for a moment because we are funding that. And I think it is reasonable to borrow more money to fund that effort to make sure our military are well equipped to the best possible degree because we certainly are going to support them. And I think everybody is going to do that. But for the other spending, let us not do business as usual. Let us start looking at the budget. Let us start prioritizing. Let us start slowing down the growth of a lot of government and let us start paying attention to a lot of fraud and abuse.

In fact, just in Medicare alone, GAO estimates that in 1 year there is probably fraud that amounts to between $17 and $19 billion. And when you are spending somebody else's money, it is easy to waste some of that money. So there needs to be the kind of pressure that this body can put on the different bureaucracies to make them look very carefully at how they are spending that money and reduce some of that wasteful spending.

Mr. BARTLETT of Maryland. Mr. Speaker, the gentleman talked about hidden taxes. I would like to talk about the biggest hidden tax of all that most Americans are completely oblivious to.

Now, if this year is like last year, May 10 will be a very special day because that will be Tax Freedom Day. That will be the day that you have finished working so that you can pay all of our Federal, State and local taxes. Now that is quite some weeks for now so you are still working to pay Federal, State and local taxes and will until May 10 of this year, if this year is like last year.

But on May 11 you are not going to be able to work for your family to buy that car or pay something on that tuition bill or to make a mortgage payments on your home. Because for the next 7 weeks, right at 7 weeks, until July 6 every American is going to have to work to pay the cruelest tax of all. It is a hidden tax which is a very regressive tax, and by the way it is a favorite tax of my liberal friends. But it is the most regressive tax we have because the poorest of the poor have to pay that tax. They get no exemption from the tax. They can get no deductions from it. And what is this tax, this big hidden tax that consumes 7 weeks of the working time of every American? It is unfunded Federal mandates.

Now, that is a mouthful, but let us point out what that is. It is a law which we passed in this Congress and, boy, are we fond of doing this, a law which we pass in this Congress which causes a State government or a county government or a city government or a business or your family to spend money that we do not provide. In other words, it is a mandate; but we do not provide any money for the mandate so it is an unfunded Federal mandate. And that consumes the working time of every American for just about 7 weeks out of the year. So you spend about 52 percent of your time working to support government.

If you are in the average community, go out on the street and walk around and look at every fourth person you meet. They work for government at some level.

Now, I would submit that the average American thinks that is just too much government. And if we could resurrect our Founding Fathers and have them see where we are, they would be appalled at what we have done to the dream that they had for this country, where they envisioned a very limited Federal Government, where essentially all of the rights and all of the responsibilities stayed with the citizens in the private sector. We have come an awful long way from that dream, have we not?

Mr. SMITH of Michigan. Mr. Speaker, let me give you an example of a young married couple that have two kids in my congressional district in Michigan. And they were working. They had one job. The husband decided to provide more money for the family. He would go and take at least a half shift for a second job. And so he was upset when he learned that not only does he have to pay more taxes, but under our Tax Code, he was shoved for that additional earning into a higher tax bracket. So we said, look, if you are going to go out and get a second job and earn more money, not only do you have to pay the taxes, the increased taxes because of increased earnings, but we are going to tax you more because you went out and worked harder to do that second job to have more income.

So we have a Tax Code that in many ways discourages what made this country great. And, of course, our Founding Fathers, I agree with the gentleman, would be very upset because we have a Constitution and a Bill of Rights that in effect says that those people that use that learning, that try, that work hard, that save and invest end up better off than those that do not.

And what we have been slipping into for the last 30 years is a more socialistic system where we say if you go out and work harder and save and invest and try and earn more money, we are going to really hit you with high taxes because after all, we need to give, we need to give some of this money to people that need it more, that maybe are unlucky, that maybe did not save and invest. But our system has worked very well not because we are stronger or smarter. It is because we have had the incentive that those that really make the effort and try and invest and save and learn and use that education end off better than those that do not.

And so to change that around and say, look, if you are going to be successful, we are going to punish you more, is not what is going to keep us the strongest economy in the world.

Mr. BARTLETT of Maryland. Mr. Speaker, I would like to come back for a moment to look a little bit more at these trust fund surpluses and the debt that we owe to this trust fund which is

big and going to get bigger and bigger. One observation is that our law requires that we accumulate this. I say that because the only thing we can do with these surpluses by law is to invest them in nonnegotiable U.S. securities.

I cannot imagine money laying around Washington that we do not spend. And so if it is invested in nonnegotiable U.S. securities, we are going to spend it.

Now, the fact that we took monies from these trust funds and paid down for a little while some of the publicly held debt, that did a very nice thing for us today. What it did was to reduce our demand for money in the marketplace, and that competition dropped interest rates probably by about 2 percent. So the home you are buying costs you less per month. The car you are buying costs you less per month. The tuition payments you are making for the debt for your children or your debt if you went to school and you are now paying it off that cost you have is less.

But the flip side of that is that what we are accumulating here is the largest intergenerational debt transfer in the history of the world. And although we are living better today because we are taking these trust fund surpluses and spending them and, therefore, we are not borrowing as much in the marketplace, our kids and our grandkids are really going to have to pay for this. Because when it comes their time to run this government, we cannot run it on current revenues. So what we are doing is borrowing from their generation. When it comes their time to run the government, not only are they going to have to run the government on current revenues, but they are going to have to pay back all of the money that we borrowed from their generation.

Now, when I first ran for Congress 11 years ago, I promised I was going to conduct myself so that my kids and my grandkids would not come and spit on my grave because of what I had done to their country. I say to the gentleman, I am trying to do that; but I am not getting as much help here as I hoped I would get when I came here 11 years ago.

Mr. SMITH of Michigan. Because, Mr. Speaker, it is tempting for politicians to come up with more programs, to have more pork barrel projects because the news media puts them on the front page, the television covers them cutting the ribbon for the new jogging trail. So what has happened is you increase the probability that you are going to get reelected if you come up with new programs to help someone with their problems. And once you start spending, if you spend that money for a certain project or a certain arena for a couple of years, it almost becomes an entitlement because they develop the interest and they hire a lobbyist that starts saying, boy, we are really going to scold you if you decide not to continue our funding.

Mr. Speaker, I would like to thank the gentleman from Maryland (Mr. BARTLETT) for joining me tonight in this Special Order. And I would like to begin with some of my particular concerns on the war on Iraq and, of course, the 48 hours are up now; and that means in the next several days I presume there is going to be a more military aggressive insistence that Saddam Hussein gives up those weapons of mass destruction.

Let me start out by saying that Bonnie, my wife, and I will be remembering our troops every night in our prayers and I hope, Mr. Speaker, that everybody in America does the same. These are the best soldiers in the world. They are courageous defenders of our freedom and worthy representatives of the United States of America. I think it has been regrettable that some countries that have traditionally been U.S. allies have not been able to join our coalition to rid Saddam Hussein of devastating weapons.

I am told that I cannot swear on the floor of the House, but I am as mad as Hades about France's actions. France, which the U.S. liberated in World War II, has gone as far as to use its veto to block any U.N. approval of any resolution to support the coalition that would have insisted on the disarmament of Iraq. I think this is unfortunate because they have resulted in putting our young men and women soldiers at risk. We should not be under any illusion that France is acting on its, at least in part, narrow self-interest. The French want a prominent role on the world stage, and they seem to delight in cutting down the United States. But even more importantly, they want to defend some of their profitable extensive contracts and trade relationships that they have bargained with Saddam Hussein and Iraq.

Let me list a few of those interests. According to the CIA World Fact Book, France produces over 22.5 percent of Iraq's imports. In 2001 France became Iraq's largest European trading partner. Roughly 60 French companies do an estimated $1.5 billion in trade with Bagdad annually under the U.N. Oil for Food Program. France's largest oil company, Total Fina Elf, has negotiated a deal to develop one of the world's major oil fields, the Majnoon field, in western Iraq. The Majnoon field purportedly contains up to 30 billion barrels of oil.

Total Fina Elf also negotiated a deal for future oil explorations in Iraq's Nahr Umar field. Both the Majnoon and Nahr Umar fields are estimated to contain as much as 25 percent of Iraq's oil reserves. France's Alcatel Company, a major telecom firm, is negotiating a $76 million contract to rehabilitate Iraq's telephone system.

From 1981 to the year 2001, according to the Stockholm International Peace Research Institute, France was responsible for over 13 percent of Iraq's arms imports. Selling military equipment and arms to Iraq. And this is not a new position for France. It has consistently blocked attempts to bring Iraq into account since the Gulf War in 1991.

□ 1945

In 1995, when there was an effort in the U.N. Security Council finding Saddam in material breach, France opposed it. In 1996, when there was an effort to pass a resolution condemning Saddam Hussein for his slaughter of the Kurds, France opposed it. In 1997, when there was an effort to block travel by Saddam's intelligence and military officials, France opposed it. In 1998, France announced that Iraq was free of all weapons of mass destruction, something that nobody believed and France does not believe today. In 1999, of course, they opposed the creation of UNMOVIC, the existing inspection regime that they now want to say is where we should go and just let them keep going and keep looking. Of course last month, they vowed to veto any resolution authorizing force to disarm Iraq of weapons of mass destruction.

Let me say again. France's opposition to the U.N. resolution sought by the President and Prime Minister Tony Blair appears to have been based somewhat on business considerations. Saddam Hussein, no matter what he has done to his own people, no matter what threat he poses to his neighbors or the world, has been someone France has been able to do business with, and France has certainly not been the only country. But one of our dignitaries suggested that France has sort of acted over the last dozen of so years like the legal counsel for Saddam Hussein. So I am concerned about their motivation.

Here again, there are other countries. We can see that both Germany and Russia have extensive dealings with Iraq that call their motives into question, as far as I am concerned. In Germany's case, direct trade between Germany and Iraq amounts to about $350 million every year, and another $1 billion is reportedly sold through third parties.

It has recently been reported that Saddam Hussein has ordered Iraqi domestic businesses to show preference to German companies as a reward for Germany's firm positive stand in rejecting the launching of a military attack against Iraq. It was also reported that over 101 German companies were present at the Baghdad annual exposition. During the 35th annual Baghdad International Fair just 4 months ago, a German company signed a contract for $80 million for 5,000 cars and spare parts. In 2002, DaimlerChrysler was awarded over $13 million in contracts for German trucks and also spare parts.

German officials are investigating a German corporation accused of illegally channeling weapons to Iraq via Jordan. The equipment in question is used for boring the barrels of large cannons and is allegedly intended for Saddam Hussein's Al Fao supercannon project.

Russia, too, has extensive dealings with Iraq that it wants to protect. For example, according to the CIA World Factbook, Russia controls roughly 5.8

percent of Iraq's annual imports. Under the U.N. oil for food program, Russia's total trade with Iraq was somewhere between $530 million and $1 billion for the 6 months ending in December 2001. According to the Russian Ambassador to Iraq, Vladimir Titorenko, new contracts worth another $200 million under the U.N. oil for food program are to be signed over in the next 3 months. Soviet-era debt, someplace between $7- and $9-billion was generated by arms sales to Iraq during the 1980 to 1988 Iran-Iraq war. Our soldiers will have to face many of these weapons on the battlefield in the coming days.

Russia's LUKoil negotiated a $4 billion, 23-year contract in 1997 to rehabilitate the 15-billion-barrel West Qurna field in southern Iraq. Work on the oilfield was expected to commence upon cancellation of U.N. sanctions on Iraq. The deal is currently on hold, obviously.

In October of 2001, Salvneft, a Russian-Belarus company, negotiated a $52 million service contract to drill at the Tuba field in southern Iraq. In April of 2001, a Russian company received a service contract to drill in the Saddam, Kirkuk, and Bai Hassan fields to rehabilitate the fields and reduce water incursion.

A future $40 billion Iraqi-Russian economic agreement, reportedly signed in 2002, would allow for extensive oil exploration opportunities throughout western Iraq. The proposal calls for 67 new projects over a 10-year time frame to explore and further develop fields in southern Iraq and the Western Desert, including the Suba, Luhais and the West Qurna and Rumaila projects. Additional projects added to the deal include second phase construction of a pipeline running from southern to northern Iraq, and extensive drilling and gas projects. Work on these projects would commence on cancellation of sanctions.

One Russian company over the past few years has signed contracts worth $18 million to repair gas stations in Iraq. The former Soviet Union was the premier supplier of Iraqi arms. From 1981 to 2001, Russia supplied Iraq with 50 percent of its arms.

It is important, Mr. Speaker, for us to understand who our friends are in the world and how they make their decisions. The negotiations over this U.N. resolution has been, I think, a certain lesson on this topic. It is one that will not easily or not quickly, I hope, be forgotten. The challenges ahead of us are great, but make no mistake. If Saddam Hussein were to succeed in developing, in keeping these weapons of mass destruction, the chemical weapons, the biologic catastrophes that could come from the biological weapons and certainly his efforts over the years to try to develop atomic weapons, if that were to be let go undone, it would be tremendously difficult to deal with the other problems that the free world is facing in Iran, in North Korea, let alone the rogue nations with tyrants as dictators that might decide, well, Iraq got away with it and they were able to do great bargaining for themselves. If we develop these weapons, then we are going to be in better shape to threaten, coerce, blackmail, if you will, for better deals for our country.

The challenge ahead is great. The technology and the ability of many of these countries to develop these kind of devastating weapons is now available, almost on the Internet. So I think today it is so important that we strongly support our military troops, that we thank the 30 to 50 countries that have decided, according to Secretary Powell, to support us in this effort. Maybe this is the beginning, but the United States has taken on this responsibility. In past actions through World War I, World War II, all of our wars, the Korean War, even Vietnam, they were all for good humanitarian reasons, to make sure that freedom and justice and the rights of people were helped throughout the world. That is part of what we are going to be going after in the next few days, to try to make sure that not only these weapons in Iraq are disassembled and destroyed, but that we keep other countries from making the same effort and having the same threat on our liberty and freedom.

REPORT ON UNITED STATES PARTICIPATION IN THE UNITED NATIONS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mr. SMITH of Michigan) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations:

To the Congress of the United States:

I am pleased to transmit herewith a report prepared by my Administration on the participation of the United States in the United Nations and its affiliated agencies during the calendar year 2001. The report is required by the United Nations Participation Act (Public Law 264, 79th Congress).

GEORGE W. BUSH.

THE WHITE HOUSE, *March 19, 2003.*

CONGRESSIONAL DUTIES IN CONNECTION WITH CIRCUMSTANCES SURROUNDING IRAQ

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Michigan (Mr. CONYERS) is recognized for 60 minutes.

Mr. CONYERS. Mr. Speaker, I am delighted to come to the floor this evening to continue a very important discussion that deals with our duties and responsibilities in connection with the circumstances surrounding Iraq.

I begin with a review of the duties that we have. First I pray for our soldiers whose roles are pretty well defined, and I would like to point out that we in the Congress have a duty as well, a constitutional duty, that requires under the Constitution that we alone can decide war. And why is that? Because of Article I, section 8. It is important for us to note that this duty is nondelegable. We cannot pass it off. We cannot turn it back. It can only be done by us. So the question of who decides becomes very important.

On this past Monday, the President of the United States said he has decided that he will begin this war, and that this is a matter that did not require him to consult with Congress, that there was no debate in the Congress, that it was a matter that he has been telling us in innumerable ways on innumerable occasions precisely what he was going to do, and that Saddam Hussein's time has run out, and there are no more options, and that negotiations are futile, and that the United Nations can do what they want, that everybody has to decide in the family of nations, that they are either with us or against us, and that it does not matter whether the inspection regime required by the United Nations has been concluded or not.

□ 2000

It does not matter whether the United Nations approves or disapproves. He has decided what he will do, and he is going to do it. Why war? And why now? A war could be justified only if our national security is threatened. There has not been the case made that that is the present circumstance, and it of course has to be weighed very carefully against the death and the destruction not only that we put in our own military's path but also the innocent people in another country who will likely be killed in the course of this activity. And of course none of this has been debated by the Congress. But what about the tactics of the 43rd President of the United States? He has repeated on more than one occasion that war is the last resort. ''My last resort,'' when everyone knows that it is his first objective. How can he be declaring that war is the last resort, that he has exhausted negotiation when actually he is short-circuiting the whole process?

And then we have the coalition, the fig leaf coalition of the willing, which bears not that much analysis. Who they are and why they are there speaks generally for itself. And then of course we have the central issue here that there is no compelling evidence that Iraq is a current threat to our national security. None. We waited for the grainy photos of the Secretary of State when he was supposed to have conclusively made the case. We have waited for the Secretary of Defense when he was supposed to have conclusively made the case. We waited for the President and the Vice President when they were supposed to have made the case. It was the Vice President who first announced early on that Iraq had nuclear

weapons. That turned out to be incorrect; and we have heard little of it, nothing of it since.

Then we had the assertion again by the Vice President of the United States that Iraq was linked to the tragedy of the attack on the United States on September 11. That has never been proven, and little has been made of that so far. Then of course it was asserted that our intelligence linked Iraq to al Qaeda. Not so. That has not happened either. So what we have here is a sorry compendium of misunderstandings, inaccuracies, and public relations gambits that do not do the most democratic government and the most powerful Nation on the planet any credit.

So the President has determined to unleash the dogs of war. He has set the clock ticking toward an unprecedented barrage of destruction that will be dropped upon a nation of 20 million people, a city of 6 million people within that country; and all of us who hold human life precious should watch this clock run down as we lurch toward an unnecessary war that the President seems determined to start.

So for the brave young men and women of our armed services who will be headed into harm's way, we offer them our support and our prayers for their safe return. But we also must be faithful to our duty, a duty entrusted exclusively to the Congress by our Founding Fathers, and that is the solemn duty to decide after thorough consideration amongst us whether or not this great Nation should go to war. So the Constitution's framers emphatically entrusted the decision to the Congress alone. This is not some recently determined statement of constitutional theory. Our Founding Fathers, as we review the debates that they had in writing the Constitution, were adamant that the executive not play a role, although once war began, the executive is the Commander in Chief to implement that decision. And those men who came together over 215 years ago were so intent on excluding the President that they rejected an offer to share the power to declare war between the Congress and the executive. This was debated centuries ago.

I know that some believe that the Congress properly authorized a war against Iraq and a resolution in October, but that is not the case. We have not yet performed our duty. We did enact a resolution that generally authorized the President to fight terrorism and to seek enforcement of previous United Nations resolutions on Iraq, but in reality that resolution bucked the constitutionality conferred on the Congress to the President. It let the President decide to choose when and where and against whom to start a war. It dodged the decision and sought to delegate an authority that is exclusively our own, an authority that cannot be delegated.

The administration argues that legal precedence allowed the Congress to provide an authorization of war that is functionally equivalent to the now rarely used formal declaration of war, which entirely misses the point. It is not the format which is at issue. It is who really decides, and it was clear at that time in the beginning from the congressional debate, from the executive branch statements and from the resolution itself that the diplomatic route would be pursued first by going through the U.N., subsequently in response to a broad national consensus the United States spearheaded with the passage of resolution 1441 that imposed a new inspection regime. The United Nations Security Council went along with the United States, and it was clear last fall that the decision of whether to declare war was being put off at that time unmistakably, and in the months since then it has become increasingly clear that the decision to go to war would turn on two crucial assessments. First, there would be an assessment of the results of the inspection team that was there checking to find out if there were weapons that could be destructive weapons or chemical or biological materials that would be in violation of the terms that had been imposed upon Iraq.

But the second assessment and the ultimate judgment would require weighing the implications of the inspection results and other information about what threat Iraq poses to the United States against the full costs of casualties, of the economic costs, the diplomatic fallout, and the increased terrorism in this country that could result from going to war. Clearly these are not exclusive military judgments reserved for a Commander in Chief. They are precisely the kind of complex national policy judgments that the Founding Fathers conferred very deliberately on the Congress in matters of war and peace. Yet in the present circumstances, the Congress has abdicated any role in that all-important decision. Rather, the entire world has been riveted on whether the American President would decide to declare war. The President has boldly told journalists and Members of Congress alike that it is his decision and his decision alone. This is a perversion of the Constitution of the United States. Even if one argues that the Congress properly exercises constitutional duties and that the President thereby has all the necessary authority to start a war, a fundamental question yet remains: Why war now? The Bush war would have disastrous far-ranging consequences for many years for every American citizen. War is about devastation, destruction, and death.

The American people are not blood thirsty. We want war only if our country is in imminent danger. Otherwise, a war is human and economic costs and moral costs are too great. It robs us of resources urgently needed by America's working families and those less fortunate. Even in terms of national security, an all out war would rob Americans of hundreds of billions of dollars needed for the first line of defense, which is homeland security on which we have made far too little progress since the tragedy of September 11.

As the President repeats his unverified mantra of threats to national security, cities across this land are laying off police officers, firemen, emergency medical service teams, and the so-called first responders to any new terrorist because this administration's ''first response'' to empty city treasuries have been, briefly, too bad, tough. This is not a partisan spat nor a Washington insiders policy dispute.

The citizens' crusade to stop an immoral war in Iraq has been nothing less than a noble struggle for our Nation's soul, and that struggle has not been particularly successful nor has it been a failure, because all across the Nation, there have been demonstrations, marches, protests, rallies; and I can tell you in the great State of Michigan there have only in the last few days been demonstrations in Detroit and Lansing and Grand Rapids and Traverse City and many other places throughout our state.

So we must commit ourselves to this cause with the same dedication and urgency in which many of us, most of us, strove to stop segregation and to end the Vietnam War, another conflict which finally brought our government to its senses. For the President to repeatedly insist that for him war is a last resort is contradicted by his actions which reveal that war is really his first choice and has been all along. His attempts to make it palatable by badgering, bullying, coercing, bribing countries into a so-called coalition of the willing has been a mere fig leaf transparent to the entire world.

The President has failed to present compelling evidence that Iraq currently is a threat to our national security. One rationale after another has been disproved. The President, the Vice President, the Secretary of Defense have presented a kaleidoscope of ever-changing rationale as they tried to nimbly stay one jump ahead of various truth squads at the United Nations, among skeptical Members of Congress, and among the media and even of its own intelligence agencies, particularly the Central Intelligence Agency.

□ 2015

Americans have borne the burden of war when attacked or actually threatened with great resilience, but America cannot in good conscience start a war so costly in blood and life and treasure on the basis of circumstantial evidence and speculation that sometime in the unspecified future, Iraq may present an actual threat to the United States, because this war against Iraq is a war that will devastate a country of 20 million or 26 million and cause damages that will take decades to undo; a war that will see many American casualties and that could fracture our fragile

economy; a war that will destabilize the Middle East and likely beyond; a war that will swell the ranks of terrorist recruits all over the world; a war that will weaken our fight against terrorism at home and abroad, and that will cost hundreds of billions of dollars desperately needed for programs in all of our cities; a war that will set a terrible precedent in a world of growing numbers of nuclear states, where atomic energy supplies can be bought at bazaars, on street corners, in a number of places in the world already, in a world where nations are anxious to get their hands on these ingredients and will do anything to get them, and some, I regret to report, are succeeding.

For any country to launch a preventive war against opponents that are deemed a possible future threat is an improper exercise of the power of war in this country, a war not really wanted by the American people and not desired by many of our military commanders on a personal level, and certainly not among our allies.

Worst of all, it is a war that, as the Central Intelligence Agency admits, will only make it more likely that Saddam Hussein will unleash whatever unconventional weapons he does have against our troops, against Israel and our other allies.

There is no evidence that Saddam seeks to commit suicide. We deterred him from using weapons of mass destruction during Desert Storm. If he faces destruction, however, he may well seek to play the role of Sampson.

Last weekend, several of the Nation's leading papers seemed to suddenly discover all of these grave costs of war in Iraq, in which article after article noted with an air of sudden reportorial discovery that the war would drastically increase the likelihood of Saddam Hussein's use of weapons of mass destruction, and that it would almost certainly escalate dramatically the number of terrorist attacks that could happen in the United States; that many U.S. military commanders fear that it would undermine the real war against terrorism; that there could be extensive casualties among innocent Iraqi civilians who have a great deal of reason to be opposed to Saddam Hussein; and that even following a quick military victory against Saddam Hussein, if there is to be one, we would be mired in an Iraqi quicksand of tribal feuds and guerrilla warfare for decades.

It would have been far more useful to their readers if the media had discovered the costly side of this war ledger months earlier. Instead, like the administration, most of the media focused overwhelmingly over the question of whether it would be preferable to prevent Saddam's use of armaments and remove his regime, as if there were no competing costs on the other side of this ledger that had to be carefully balanced and weighed in deciding whether this would be an action that would result in a net plus for America.

Now, there may be still time for the President to avoid starting the wrong war in the wrong place at the wrong time. There is still time, admittedly precious little, for the American people to speak out against the war that so few of them seem to support.

We should remember the warning of General Anthony Zinni, the Marine Commandant and head of the U.S. Central Command which guards the Middle East, who reminded us that military commanders know the full horrors of war and hesitate to plunge ahead until the national interest is clearly at stake.

On the other hand, the Marine Commandant warned, those who have never worn a uniform or have never seen combat are often the quickest to beat the drums of war.

So the administration will condemn whoever utters them as unpatriotic and partisan, just as the Johnson White House condemned Martin Luther King, Jr.'s questioning of Vietnam. The Bush team has already spread that slander in order to stop the erosion of support for the war as the public learns the truth. Are the military veterans and retired generals opposed to this war unpatriotic? Are the families of those who were killed on September 11 in New York and Pennsylvania who oppose this war partisan? That is outrageous.

I know many of my colleagues in good faith have been convinced that Iraq is a threat to us now, and they are entitled to their opinion, but they have been the target of a Niagara of propaganda, especially with the Vice President of the United States' early insistence that Saddam was involved in the September 11 attacks on the United States, and that he had nuclear weapons, both of these assertions which have long been disavowed by our Intelligence Community, our spy organizations. There have been many other assertions and premises used by the administration to market their product, in the revealing phrase of the White House Chief of Staff, which have crumbled under close scrutiny in the White House Chief of Staff's revealing terms.

So, I would ask this administration to reconsider their view and to ask themselves, almost the entire world is against this war. Every major city in the United States has gone on record in opposition to this war. The United States Conference of Catholic Bishops, the Pope, almost every major Protestant denomination, the American labor movement, the AFL–CIO, 13 million people, the National Association for the Advancement of Colored People have all gone on record against this war.

Leading retired U.S. military commanders, such as General Zinni, General Schwarzkopf in his original views, have voiced opposition to this war. Numerous Active Duty generals have told reporters off the record of their serious concerns about a war at this time against Iraq. General Scowcroft, an adviser to President George Herbert Walker Bush's administration, is against the war. And all of this opposition has arisen before the war has started, before a war has started, an unprecedented phenomenon in our history.

In view of these facts then, it is perhaps just possible that there is something amiss with the President's premises, something unconnected in his logic and his rejection of further efforts to resolve these issues peacefully.

I urge my colleagues to reflect upon these circumstances and join me in continuing to press and urge and pray for our President to find another way to follow the path of peace, for blessed are the peacemakers.

I now yield to the distinguished gentleman from Illinois (Mr. DAVIS), my friend and colleague for many years, even before he became a Member of Congress.

Mr. DAVIS of Illinois. Mr. Speaker, I thank the gentleman very much. I want to thank the gentleman from Michigan (Mr. CONYERS) for his steadfastness and his many years of understanding, that sometimes you might have to give out, but you never give up, and even though it appears to be the last minute, right down to the wire, here the gentleman is continuing to speak to the American people, trying to help all of us see the light and see the way. So I thank the gentleman for this opportunity to join with him.

On October 10, 2002, this Congress voted to give the President of the United States broad powers, which he has taken as the right to engage in a unilateral first strike war against Iraq without a clearly demonstrated and imminent threat of attack on the United States.

Our oath of office as Members of Congress, our constitutional charge, the mandate laid upon us by the people does not permit us to delegate the responsibility of engaging the awesome military power of the United States. Our oath of office does not permit us to delegate our responsibilities in placing our fighting men and women on the field of battle.

The Constitution places the power to declare war squarely and solely in the Congress. This issue arises far above partisan politics. President Abraham Lincoln put our Congressional responsibility this way: ''We cannot escape history. We of this Congress and this administration will be remembered in spite of ourselves. No personal significance or insignificance can spare one or another of us. The fiery trial through which we pass will light us down in honor or dishonor to the last generation.''

I opposed that resolution, and I remain opposed, because after all of the information I have seen, and after all I have heard, neither I nor a majority of the residents of my district, the Seventh Congressional District of Illinois, are convinced that the war is our only, our best and our most immediate option. We are not convinced that every diplomatic action has been exhausted.

In fact, diplomacy and inspections have not exhausted their ultimate potential.

I was not convinced, and I am still not convinced, that the resolution would properly guide us to act cooperatively and legally, through the United Nations, with the agreement and the involvement of the international community.

□ 2030

In fact, it has led us to pursue risky unilateral actions in defiance of international law and the United Nations charter.

As the American people are attempting to make sense of this complex situation, it is the duty of the Congress to ask some hard questions. One, is there an immediate threat to the United States? In my judgment, the answer is no. We have not received evidence of immediate danger. We have not received evidence that Iraq has the means to attack the United States, and we have not received evidence that the danger is greater today than it was last year.

Will the use of military force against Iraq reduce or prevent the spread or use of weapons of mass destruction? All evidence is that Iraq does not possess nuclear weapons today. The use of chemical or biological weapons or the passage of such weapons to terrorist groups would be nothing less than suicide for the current Iraqi leadership.

So I join with the gentleman from Michigan (Mr. CONYERS) in hoping that some way there is some resolve, that there is some sliver of chance, some reaction that might lead us out of this chaos and confusion into a peaceful existence, with the United States of America leading the way.

Mr. CONYERS. Mr. Speaker, I thank the gentleman for his thoughtfulness, and I am deeply grateful for him joining me tonight.

It is a pleasure to recognize the gentleman from New York (Mr. OWENS), who has worked in civil rights activity, and is a man of great thoughtfulness and perseverance.

Mr. OWENS. Mr. Speaker, I thank the gentleman for presiding over this Special Order on Iraq. We cannot say too much at this point about America's preemptive strike on Iraq. We are the greatest Nation that ever existed in the history of the world. We are the richest; we are the most powerful. We are also the most democratic. Never have so many people enjoyed democracy and never have so many people had an opportunity to help make decisions. We should not throw away our opportunity to help make this decision. We should not assume that it is all over, that decisions have been made and we cannot stop the war at this point. Or if the war should occur in the next few hours or the next few days, we should not assume that we cannot shorten it, we cannot do the best for our soldiers. The best thing to do for our soldiers is to bring them home safely, to get them out of conflict's way.

War is hell. War is hell. The question is, Do we have to plunge into hell in order to accomplish what we are seeking to accomplish?

I want to go back to where I was last fall when we considered the President's resolution, the resolution authorizing the President to go to war. At that time I said that I still believe that every step we take toward a war with Iraq makes us less safe, not more safe. If we get involved and obsessed with Iraq, it is a bottomless pit that makes us very much more unsafe than we were before. I said at that time that there are other situations existing in the world which we should spend more time on and take care of before we plunge into any kind of long-range involvement with Iraq, and I still say the same is true.

Most people have not bothered to observe the situation closely in Pakistan. Pakistan seems to be off the radar completely, off the agenda. Nobody talks about it. Pakistan is a nation of 180 million people. Most of them are Muslims. Officially they are a Muslim nation. They see themselves as a Muslim nation. Pakistan already has the nuclear bomb. They have nuclear weapons because we trained the Pakistani scientists in this country, and they now have nuclear weapons. They have nuclear weapons. A Muslim nation has nuclear weapons.

Pakistan has always had a positive relationship with the United States, but it has always been a strained relationship. Pakistan has always supported us throughout the entire Cold War. Pakistan supported us against the Russians in Afghanistan. There is a long history of Pakistan's loyalty to the United States.

Yet Pakistan has always been treated like a second-class partner. Pakistan has never been rewarded for its loyalty. When the Cold War was over, we just pulled out. The Afghanistan war, they were very much involved with, and after it was over, we just picked up and left. We have never given them the kind of aid economically that we should have provided. We have never offered them a Marshall Plan. We, at this point in history, even after al Qaeda, and Pakistan has now played a major role in al Qaeda, in the pursuit of al Qaeda and Osama bin Laden, they played a major role. But after all the negotiations of how we are going to go about doing this and what the alliance means, we have ended up giving Pakistan only $300 million in aid. Mr. Speaker, $300 million in aid to Pakistan, already fighting with us against Osama bin Laden, on the border of Afghanistan. On the border of Afghanistan, in great harm, harm's way, $300 million.

Now we are discussing packages with Turkey for $6 billion, just to let our troops pass through to go to Iraq. What do we think the Pakistanis think when they look at that?

Here is why I ask the question: What do you think the Pakistanis think? Because the other element in this is that this Pakistani Government, who has always been our friend, also teeters on the edge of dissolution. The Pakistani situation is very, very tenuous. They have a President who took over as a result of a military coup, but this same President was part of the military that helped us in Afghanistan. This same President presides over a Pakistani secret service intelligence agency. They are the ones who created the Taliban. They created the Taliban as a way of conquering Afghanistan. They are very close to the Taliban.

So when we had the invasion of Afghanistan, there are elements of Pakistan's military and Pakistan's intelligence services who are very unhappy about it, and as Muslims also do not like the idea of Muslims fighting Muslims.

The present government is very anxious. The President and the top officials go nowhere except with top security. They are very aware of the fact that they are in jeopardy. In other words, a coup could take place at any moment in Pakistan, and if a coup takes place and the right wing there, the people who are pro-Osama bin Laden, win, they have the nuclear bomb. Osama will have the nuclear bomb. It is just that dangerous.

Why do I talk about a coup on the eve of attacking Iraq? Because there is a fanatical element involved here which will be triggered at the invasion of Iraq all over the Muslim world. There is a fanatical element which the Pakistani Government may just not be able to contend with. We are in danger of having a coup take place and the nuclear bomb is the worst thing that could happen, nuclear bombs put in position where Osama bin Laden could get them.

I need not talk about the other critical situation in the world: North Korea. That is on the radar screen. People talk about that. We have in North Korea a dictator less known than Saddam Hussein. We do not even understand the machinations of this man's mind and the whole regime that he has managed to perpetuate all of these years. But people who have been there say that the population is fanatically behind him.

This is a population extremely intelligent; they have mastered modern technology. They have some of the best rockets in the world, and they are going on to fashion their own nuclear industry. They already have, they say, a couple of bombs and they are going to start making more. At the same time, they cannot grow enough food to feed their people. What kinds of monsters are these, and what kind of situation do we have when they have the technological confidence that great, but they are not able to feed the people? The people in charge do not even care enough to feed the people, obviously. That is another problem.

So we have those dangers in the world; and as we get obsessed with Iraq

and involved with Iraq, which is a problem, Saddam Hussein is a monster. Saddam Hussein is a threat to world order. But Saddam Hussein is not an immediate threat to the United States and probably not an immediate threat to any country because he knows if he attacks anyone in surrounding Arab countries, he will have the whole world come down on him again.

Saddam Hussein, I have no case to make for. The man finances suicide bombers in Palestine. The big question is why? Why did we let him continue to sell oil all over the world so that he could finance suicide bombers in Palestine and continue building his arms industry? Where does he get the money from to continue to build up his arms industry? We talk about weapons of mass destruction. He has a big army. He has a big army with conventional weapons. The money to buy those weapons and to keep that army going has continued to flow, despite the fact that we have sanctions imposed on Iraq. Why did we not enforce the sanctions? What oil barons did we bow to to let them make a profit by not enforcing the sanctions? Why did we not, if France was trafficking in oil and Russia was trafficking, why did we not come down on our partners and really make the sanctions stick? They have never stuck. He has continued to get money, as much as he wants, to do what he wants to do.

People say, well, we are responsible for a lot of deaths of children in Iraq. No. That is ridiculous. He has the money. He does not spend it for the nutrition of children; he does not spend it for medicine. He spends it on building up his weapons and his power, and we let him do it. Why do we have to go all the way to a war, mobilizing 300,000 American troops, when we did not bother to do what we could have done on the seas? We control the sea lanes. We could have stopped the oil from being sold and transmitted all over the world, but we did not.

So there are other solutions, is what I am saying. Why do we have to go into hell? War is hell. If we did not know it was hell, if our imaginations did not tell us that, reading the ''Iliad'' did not tell us, when I read the ''Iliad,'' I wondered why Homer went to such great lengths to talk about how the spear was plunged in mightily and the blood flowed like rivers, and he had four great descriptions of the horror of war. Well, in those days they did not have any movies. He did not have Spielberg to show him in ''Saving Private Ryan.'' If he did not read the ''Iliad,'' if he did not read any books and could not have his imagination telling him why war is hell, if he did not believe in Nikita Kruschev and the defense of Stalingrad, the facts of history, then we can see Steven Spielberg. It is right there on the screen in ''Saving Private Ryan.''

Our boys landed at Normandy under those conditions. It is not an exaggeration. War is hell. War was hell in a lot of other places too. War was hell at Gettysburg. The greatest number of American lives lost was lost in the Civil War; 600,000, at Gettysburg, thousands died, the largest number came from New York. But they died; they died for a noble cause at Gettysburg. They died for a noble cause at Normandy. They died for a noble cause in Korea. The North Koreans came brutally down on the South Koreans, and within days they wiped out the city of Seoul, a brutal onslaught. Millions of people died in the Korean War before the United States forces got involved.

Our armed services and our military might can be put to good use. I like to think of myself as a follower of Martin Luther King. But I am not a pacifist in the sense that I think military force is necessary. There are times that military force is necessary. Thank God we have force. Our professional soldiers are the best in the world. My brother was a sergeant major in the Army for 20, 26 years. We have a very professional group of people now that run the military, and they are determined to do a good job for our Nation. We cannot fault them for the decisions that were made.

The problem is at the top; and the White House and the decision-making here in Washington, it is all wrong and dangerously off course. We are at a pivotal moment in American history, and instead of going one way with our military might and our wealth and our power, and our influence, most people in the world love us. I do not believe Americans are hated by ordinary people anywhere in large numbers.

□ 2045

They think we are as close to heaven as we are ever going to get here on Earth in terms of our way of life, including the political institutions, as well as the supermarkets and the joys of life and so forth.

I would like to conclude with a little piece of poetry here. We have faced difficulties for a long time, since the beginning of the country, of various kinds. We have always overcome those difficulties. Thank God we had Thomas Jefferson to help us get off to a good start. Thank God we had Abraham Lincoln at a critical moment when our Nation was about to fall apart. There is no reason to believe that we will not overcome this time.

All of the Members of Congress and all of our constituents should not throw up our hands in despair and give up. Let us keep talking. Let us keep trying to arouse the public to understand that this is a war we do not need. By going into preemptive war, using our wealth and military power in the wrong way, we are going to set history against us. Instead of guiding history and being the force and civilization which carries mankind to wonders never dreamed of before, we will become the enemy, with a lot of people sniping at our heels, and finally they will put together coalitions and bring down the great American empire. Rome fell because it was arrogant and thought that it could go on and on throwing its power around.

We have at various times in history been delivered from this kind of arrogance and these kinds of mistakes. There was a man who wrote to Thomas Jefferson early in the history of the country who saw what happened when the Constitution was generated. It was always a miracle to him how these savage men, these people in the wilderness, could come together and put together a magnificent government.

His neighbor wrote and said that there was an angel over America. There is an angel in the whirlwind taking care of us. I think we ought to remember that as we go into this difficult, very bloody war. War is bloody, it is not what Good Morning America has been showing us. War is hell. We would like the angels in the whirlwind to come out and deliver us.

Some time ago, I think it was February 28, I do not remember what the occasion was, I wrote Angel in the Whirlwind, actually as a result of a quote that President Bush had made in his inaugural address.

Angel in the Whirlwind,
Tell us where you've been;
Come steer us through the storm,
Halt all this public sin.

Angel in the Whirlwind
Blow forth great truths;
All men are born equal,
Some men die great;
Profiles in courage
Never come too late.

Lincoln in the whirlwind
Blew powerful justice down;
Emancipation Proclamation,
Magnificent declaration,
Plain ordinary sensation,
Transformed to noble creation.

Sailors in the whirlwind
Forsake all ease,
Typhoons still lurk near,
Patriots must not fear.

Angel in the whirlwind,
Jefferson at your side,
Ships ashore at Normandy,
In every boat you ride,
Protect our future fate,
Martin King's posterity
Is waiting at the gate.

Angel in the whirlwind
Wrestle with the terror;
Tornado twisted greed;
Volcanoes belching
Ashes of indifference;
Human kind's highest hope
Strangling on a golden rope;
Merciful empire
That might've been,
Critically infected now
By the virus of public sin;
Giant graves reserved for midget men.

Merciful empire that might have been, or we could still be the merciful empire that saves civilization.

Angel in the whirlwind
Stay to save the brave and free,
Bring back judicial integrity,
Point us toward eternity,
Come steer us through new storms
Angel in the whirlwind.

Mr. CONYERS. Mr. Speaker, I thank the gentleman from New York (Mr.

OWENS) for his powerful, intellectual, and passionate discourse. It has helped this discussion immeasurably.

I am pleased to yield to the gentlewoman from Texas (Ms. JACKSON-LEE), my colleague on the Committee on the Judiciary in the House of Representatives. From the time she entered the Congress, the gentlewoman from Houston, Texas, has worked at my side on numerous issues and causes, a dear friend of mine.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentleman from Michigan, the distinguished gentleman, for having the wisdom to be on the floor of the House in the absence of the acceptance by the leadership of the charge that should be taken up; that is, to be debating the question of war.

I think it should be noted, though everyone is aware of the continuing leadership that the gentleman has given to a myriad of issues fairly, evenhandedly, and seeking justice, that the gentleman rose to the floor at the time that the clock ticked off or ticked out for the threat or the admonishment or the instruction, direction, or directive that was given to Saddam Hussein to leave Iraq and Baghdad in 48 hours; and, of course, the Nation knows that that ended tonight at 8 p.m.

It is appropriate that we are on the floor, because we are filling in the gap of really what the Congress should be doing at this moment; that is, a somber, decided, and deliberative debate on the constitutional question of whether or not this Congress will declare war against Iraq.

Through the course of our interaction, we have pressed the issue of not whether one is for or against this war, but whether or not this Congress has the sole responsibility to declare war.

Frankly, Mr. Speaker, and, frankly, with respect to this debate, I do not believe we should be silenced on this issue. I will tell the gentleman why; because even as America is hovering and preparing for the worst, the Constitution is being shredded. It is being ignored, and it is being taken lightly, because it is clear that the Founding Fathers wrote this document to respect the three branches of government, to recognize that we are strong as a democracy if those three branches are interrelated.

The Constitution does enunciate that the President, whoever that is, is the Commander in Chief and can deploy troops. Many will suggest that a resolution debated in October 2002, satisfied the question. It did not, because it gave more power to the President than has ever been given to any President in the United States, Democratic or Republican, meaning that actions might be able to be perpetrated without coming back to the United States Congress.

Clearly, it is well known that if the Congress does not use its power, it does not give up its power. So going back to the Constitution, whether or not it takes us 6 hours or 24 hours, it is clear that this body could debate that question. It is not, as I said, a question of winning or losing, it is a question of the sanctity of process. A President cannot singly and should not singly take the Nation into war.

I would just use as an example, we are not a parliamentary form of government, but it is interesting that our strongest ally was quite willing to appear before the British Parliament just yesterday and engage in a very open debate on this question. Would it not appear that we could do the same?

Let me just say this, and I will yield to the distinguished gentleman. We have been characterized, those of us who have been persistent in our opposition, and frankly I believe we should remain here in these Chambers until someone recognizes the responsibilities for this Congress to debate this question. But those of us who have raised our voices have been categorized and pushed to the side.

I do not think the media understands democracy, because whenever they present the largeness of this issue, it is a singular drumbeat: We are on the way to war. I assume now after 8 p.m. they are announcing war. It is a shame on them. As they say, it is a mockery on all of our houses; because, frankly, the American people deserve better. They deserve to know the facts, and that there are lucid and intelligent perspectives on both sides of this question.

I am not asking the President to give up everything and to suggest that Saddam Hussein should be given flowers, but I am saying that war should be the last option. I believe there will be a third option. I am appreciative of the gentleman from Michigan (Mr. CONYERS) joining me on filing legislation that again restates the proposition that the Congress has the authority to declare war, and we have filed that bill today.

But we have options, and we will be discussing this in the context of reaching out: One, convene an international tribunal, war crimes tribunal, with the United Nations Security Council and indict Saddam Hussein and his party leaders, and try him for war crimes; two, leave 50,000 troops on the border and bring home at least 200,000 of our young men and women; a vigorous, strong 50,000-person coalition, troops that are in a coalition, vigorously allowing the U.N. inspections to go forward; humanitarian aid now. Reinvigorate the Mideast peace process, fight the war against terrorism, and restore the coalition. These are key elements that could be done.

I believe, Mr. Speaker, that we can do something more than stand in silence. Frightening, deadening silence is appalling for this body that had the likes of the great leaders that we have known that have gone on before us.

I thank the distinguished gentleman for his leadership on this issue. I am not sure if the distinguished gentleman wants to close, but I think that more action is warranted than this Congress seems to have decided to do or the courage to do.

I would think more of all of us that we want to have a debate, whether we vote up or down on the question. I have no interest in suggesting that the victory be mine, but only that the process be real and that we do not give up the duty of this Congress to debate the question of war.

Mr. CONYERS. Mr. Speaker, I want to thank my colleague on the Committee on the Judiciary, the gentlewoman from Texas (Ms. JACKSON-LEE), for her critical analysis of what we can do other than what we are about to do: that this person, Saddam Hussein, should be tried for crimes against humanity in the Hague court, the international criminal court, as Milosevic was and others; and that we could repair even at this late hour from a course that we think is disastrous. I thank the gentlewoman for joining me tonight.

THE CENTRAL ISSUE OF IRAQ

The SPEAKER pro tempore (Mr. BONNER). Under the Speaker's announced policy of January 7, 2003, the gentleman from Colorado (Mr. MCINNIS) is recognized for 60 minutes.

Mr. MCINNIS. Mr. Speaker, I join my colleague this evening, the gentleman from Texas (Mr. BRADY). He and I for some time have wanted to get together and have a discussion on the House floor with our colleagues and discuss the central issue of Iraq.

As Members know, this evening is a very important point in time in our history. Tonight at 8 o'clock the what I would consider generous offer for Saddam Hussein to take his regime and liberate the country of Iraq expired. I would expect that at any hour from here on forward that the United States and its willing coalition, and I will present to my colleagues that this willing coalition actually today exceeds, exceeds the size of the coalition of the first Persian Gulf War.

This is not the United States acting alone, in contrary to some of the previous speakers that we have heard up here. Contrary to what they are saying, this is not the United States taking on the world; this is the United States and a large part of the free world taking on the horrible regimes of people like Saddam Hussein.

Contrary to what some of the previous speakers said about standing silent, it is the United States of America, it is the United Kingdom, it is the Spanish, it is the Italians, it is the Turks, it is the Netherlands, it is the Polish, it is the Hungarians, it is the Netherlands. I could go on through 45 of those names. These people are not standing silent. They are willing to stand up to a horrible monster, and they are willing to make sure that that horrible monster does not stand down the people of his own country, nor stand down the people of the world. For that, the United States and all of its allies deserve a great deal of credit.

Last night when I addressed this House, I talked about what I felt was patriotic action by citizens of this country and unpatriotic action. It is my feeling that it is certainly within the rights of our Constitution, it is something that people have fought and died for, the freedom of speech. While I disagreed with the likes of people like Martin Sheen, and George Clooney, and the Dixie Chicks, and Cheryl Crow and some of the people like that, although I disagreed with the brash, unjustified, unstudied, uneducated statements that they made, in my opinion, I am exercising my freedom of speech, and I did not take away from them the right to express those feelings.

□ 2100

I do not take away, although I find very hard to swallow, I do not take away from the right of anybody that wants to march in a peace protest or have a sign of protest. I do, however, find it somewhat ironic and somewhat sad that many of these people, including some of my colleagues on this very House floor, spend more time bashing our President who I think has done a remarkable job in the leadership understand a tremendous challenge, spend more time bashing the leadership of the country which has given them all of their privileges than they spend bashing the monster, the man who has killed more Muslims than anyone in the history of the world. That is ironic.

But then again these people, I think there are people that truly believe in this protest. And I think that they are within their rights, and I do not think they are unpatriotic because they march out there. But where they cross the line, where that line is crossed is when our troops engage and it is upon that moment of engagement that every person in this country that protested this, the George Clooneys, the Hollywood superstars, the Sheryl Crows, the Dixie Chicks, ought to drop those signs and ought to be in complete and unanimous support of our troops. And if you are not willing to support the troops of the United States of America, and I will state this again 50 times as I stated this last night and I will say it again now and I will say it till the day I die, if you are not willing to stand for the troops of the American forces, for those young men and women throughout the world that are standing on behalf of the security of this country and our allies, then you are unpatriotic and you have crossed that line. And there is a line between patriotism and being unpatriotic, and that line will be crossed within the next few hours if people like Martin Sheen or Sheryl Crow or George Clooney decide in their own manner, I will not support the troops of the United States of America.

How interesting I see the Oscars, the Academy Awards that are coming up. And by the way for people like Julia Roberts, some of these people that have taken positions, let me tell you, I think they are outstanding actors but, you know, you cannot be a master of all trades. And they certainly are not masters of foreign knowledge or foreign affairs. They ought to stick with acting. And I hear that some of these actors who are amongst the very privileged few of this country, take a look at Hollywood, these are amongst the very privileged few. They get money. They get limousines. They are welcomed at the Academy Awards with red carpet. They are treated. They are spoiled. Anything you want to take a look at. It is not to say they did not earn it. I am not saying they did not earn it. I am just saying they are a very privileged few; and, frankly, those privileges that are then bestowed upon them have been bestowed because they live in the greatest country in the history of the world.

Do you think in Iraq these people, George Clooney, could stand up and criticize the government? Do you think Martin Sheen, Martin Sheen would have been executed by Saddam Hussein a long time ago. Do you see any pictures in the Iraq paper of anybody protesting the policies of Saddam Hussein? Of course you do not.

How interesting that Saddam Hussein says he has free elections in Iraq and in the last election he did not have one ''no'' vote. Out of the millions of people in Iraq not one ''no'' vote. Now that ought to tell Martin Sheen something about a democracy. And those people that are going to stand up at the Academy Awards and think it is their God-given duty, not right, not right under the Constitution, but their God-given duty to stand up and not support the troops of the United States and criticize the country that has allowed them to have the privileges that very few in our society ever dream of having, and that is to go to the Academy Awards and get an award and they are going to criticize this country. I find that appalling. I find that so, so disappointing.

But on the other hand, there are a lot of people who do support the troops of the United States of America. I want to show you a commercial. It is titled ''Freedom,'' and I think it is very appropriate. I think it is very appropriate for what I am talking about right now, and that is appreciation of the history of this country, appreciation that the United States of America has done more good for more countries than any other country in the history of the world. This country gives by far more aid dollars than any other country in the world. This country has given more lives of its servicemen and servicepeople than any other country in the world in defense of other countries.

This country is not a conquering country. When the rest of the world gets in trouble, they come to the United States of America. They come to Great Britain. They come to the British and the Spanish. This alliance that we have put together to go in and cut the head off the snake is a coalition that has built respect, that has put the best example forward for the rest of the world. This country is a great country.

I had the privilege today of talking to some college students. What a great generation coming up. And I want to first have my colleague speak for a few moments, but after he speaks I want to go through some of the questions they asked me. They have got so much promise, and they were so proud of this country. And they were not necessarily prowar to be proud of this country. You do not have to be prowar.

I heard the preceding speaker up here talk about war. We should not have war. War is the last resort. Of course war is the last resort. Of course it is. But what recommendation do you have that is going to change things right now? You do not have it. You like to blah, blah, talk, talk, negotiate, negotiate, negotiate some of you people, but the fact is at some point in time somebody has got to have the courage to stand up and attack the cancer. You cannot play around with cancer. You cannot talk it to death. You need to get in. You need to diagnose it. You need to figure out what alternatives you have, but if the facts show up that you have no alternatives left, you better attack cancer. And it is the same thing with people like Saddam Hussein.

Imagine what this world would look like, just for a moment, even if you disagree with what I am saying this evening, tell me what this world would look like in 5 years if the United States stood down from Saddam Hussein. Tell me what the world would look like. Tell me what the world looks like today in Iraq. Tell me about the women in Iraq today. Tell me what privileges they have in that society. Compare it to the privileges given to the Hollywood celebrities at our Academy Awards, for example. Tell me about the health care in Iraq. Tell me about the criminal justice system where they put men through shredders, well, maybe women too. Tell me about the abuses in that. Tell me about the starvation in Iraq. There are a lot of comparisons we can make. And you can be very proud, very proud that we are all lucky enough by sake of birth, we are lucky enough to be citizens of the United States of America, but it comes with a price. We have got to be willing to stand up and defend this flag that stands behind us.

I want to refer over here to my poster to the right of what I said earlier. Freedom. Is it not funny, this is from the former Senator, U.S. Senator Fred Thompson. Freedom. ''It is the soldier, not the campus organizer who has given us the freedom to demonstrate.'' Look at that line. It is the soldier, not the campus organizer who has given us the freedom to demonstrate. It is the soldier not the reporter, not the reporter, it is the soldier, not the reporter who has given us the freedom of press. It is the soldier, not the poet who has given us the freedom of

speech. It is the soldier, not the poet who has given us the freedom of speech. It is the soldier who serves under the flag who defends the protesters' right to burn the flag. It is the soldier who stands under the flag and defends the flag that gives those protesters that right to burn the flag. Is it not time now to demonstrate that we support our troops? Were it not for the brave, there would be no land of the free. Were it not for the brave, there would be no land of the free.

The Martin Sheens of this world, the George Clooneys, the Julia Robertses, the Dixie Chicks, the people that have come out, the Howard Deans of Vermont, people like that, it is time for you to put down those signs of protest. It is time for you to support the troops of the United States of America. And if you fail to support those troops, I mean now, I mean today, this time limit is gone. At any given moment this Nation will engage in a military conflict. And let me repeat it once before I yield to my good friend from the State of Texas. Failure to support the troops of the United States of America by a United States citizen is representative and by definition unpatriotic.

Now, you can call my office all you want. You can be as mad as you want at me; but the fact is I believe in my heart that patriotism is defined right here, allows the campus organizers because of the soldier to have the freedom to demonstrate. Allows the poet the right to freedom of speech. Allows the defenders of the protesters' rights. But once we cross this line, once we ask these 18-, 19-, 20-year-old young men and women to take a weapon and risk the loss of their life, and, mind you, these are voluntary forces over there. This is not the draft. These are voluntary forces, the best fighting force the world has ever known. Once we ask them to stand on our behalf and to put their lives in the line of fire, then, by God, in my opinion you are unpatriotic if you do not support those troops.

Now, I am very pleased this evening that I have a colleague of mine who wished to join me and we wanted to do this as a joint statement. So I am very happy to yield to the gentleman from the State of Texas (Mr. BRADY).

Mr. BRADY of Texas. Mr. Speaker, I appreciate the leadership of the gentleman from Colorado (Mr. MCINNIS) on this issue and many other issues. He is a colleague of mine on the House Committee on Ways and Means. He plays a crucial role on a number of issues from tax reform to preserving Social Security and Medicare to trying and open up new markets around the world. But it is his, I think, vision on national security and this war on terrorism that prompted me to be here tonight. I appreciate him allowing me to be part of this program on an evening that I think history will mark as a very important next step in the war on terrorism.

Recently, I had the privilege of attending two rallies for America back in Texas, in my home region. The first one a couple of weeks ago was coordinated by KPRC radio in Houston. Two of the on-air commentators, Chris Baker and Pat Gray, put together a rally just on a week's notice, a mere week's notice, just basically invited the community to come together and support our troops and support this country. It was a remarkable rally. It was a cold and dreary day, not one that attracts a lot of people naturally; but yet in this plaza in downtown Houston there were between 8 and 10,000 Americans there to show their support for this President and support our troops or military men and women. And then last weekend in Woodland, Texas, where I live, not three blocks from where Cathy and I live with our two young boys, we had a rally for America as well. This one was organized by Dr. K.P. Reddy, who is an immigrant from India, a legal immigrant who came here with very little money in his pocket but a desire to live the American dream.

He organized this rally basically to remind America what a remarkable Nation we live in and what remarkable freedoms and blessings we possess. And both of these rallies were to me remarkable because they were just a grass roots outpouring of people who understand the importance of our security to our families and to our Nation.

I had a chance to talk to the groups at both of these rallies and here are the thoughts I shared with them: back home 1,200 miles from here in Washington, D.C., back home in College Station, Texas, is the George Bush Presidential Library Museum. Captured in these magnificent engraved letters high on the granite walls on the museum where each afternoon if you drive past, the beautiful Brazos Valley sun captures these words, and I think they are very appropriate to our time in our Nation. And the words say, ''Let every generation understand the blessings and burdens of freedom. Let them say we stood where duty required us to stand.''

As we stand today on the eve of liberating Iraq and striking another blow against international terrorism, thousands of our young men and women stand watch on foreign soil. Our soldiers are on patrol in Bosnia-Hersgovenia, Kosovo and Macedonia. They are hunting al Qaeda terrorists in Afghanistan and the Philippines. They are on patrols in the skies of Iraq and on the seas throughout the world. They are unloading the equipment near Turkey and training in the deserts of Kuwait. These patriots and their families are suffering hardships and making great sacrifices at this Nation's behest.

□ 2115

There is a good chance in the next few hours that we will ask even more of them. Another generation of Americans is standing where duty requires them to stand, and we are standing with them. For all our faults, America remains a good, good country. We did not deserve the attacks of September 11, nor the celebrations that followed in some parts of the world. And as happens in times of crisis, 9/11 brought out the best in America. We sensed a Nation turning back toward what is truly important, our faith, our families and our precious freedom. We saw it in the thousand flags flying, in overflowing hearts and in overflowing churches.

You may recall in his September 20 speech to the Nation, to the joint session of Congress, President Bush spoke for all of us then when he vowed that America would not rest until we had rooted out terrorism around the world. He said that countries harboring terrorists would be treated as terrorist nations themselves; that if you financed terrorists, if you trained terrorists, if you provided them safe harbor in your country, that you would be treated as a terrorist nation yourself. He cautioned wisely that the coming war would be a long one, to be measured in years rather than months.

As we have been reminded repeatedly by the recent al Qaeda attacks in Bali and Kenya, by the audiotape of bin Laden and his second in command predicting more terrorist attacks in America, as we have been reminded in the announcement that American intelligence have quietly thwarted more than 100 separate terrorist efforts, the question is not if America will be attacked again at home, but when and by whom. Instead of crashing airplanes into our downtown buildings, the terrorists of the future may well turn to dangerous chemical and biological weapons, suicide bombers, attempts to poison our air and water, disrupt our energy supply, our electronic commerce, and destroy our economy and the jobs that we and our neighbors rely upon. They will direct these weapons of terrible destruction toward America, because standing as the world's lone superpower also means standing as the world's biggest target. Despite what Hollywood and others are trying so desperately to sell to you, our homeland, our communities, our schools, our neighborhoods and millions of American lives remain at risk as we speak tonight.

We are going to fight this war on terrorism one way or another, either overseas at its source or here at home when it lands right on top of our neighborhoods. We choose overseas, at terrorism's source.

Personally I can tell you that casting a vote for war is the most difficult vote you ever cast. I have a younger brother Matt, who is a medic in the Army. He was deployed to Desert Storm a decade ago. Since then, he and his wife have added two young children to their family, Mattie and Caitland. He recently got word he is headed back to Turkey. Any time you cast a vote that will send your family to war, any time you cast a vote to send anyone's family, anyone's son or daughter, to a war they may not return from, you think hard

and you pray hard over it. Yet I know it was the right vote to cast, and Matt feels even more strongly than me.

I am certain because the first responsibility of our government is to defend American citizens. It is not the United Nations' responsibility, it is not France's nor Germany's. It is ours. The Afghanistan campaign was certainly the first step in the war on terrorism, but does anyone believe all terrorism begins and ends in Afghanistan? Does anyone believe there is only one terrorist, Osama bin Laden? Does anyone seriously believe Saddam Hussein has disarmed? Of course not.

By any measure, Saddam Hussein presents a grave threat to the safety, the security and the well-being of Americans here at home. Disarming Iraq and its support for state-sponsored terrorism is the next logical step to secure peace for our families and the world.

I served as a member of the House International Relations Committee for a number of years. Serving on that committee, it became clear to me that terrorism expands according to our willingness to tolerate it. Terrorism expands according to our willingness to accept it. For too long the world has turned a blind eye to terrorism. We have been afraid to confront it. Terrorism has grown strong because the actions of our world leaders never really matched their tough words.

That is over now. That all changed September 11. That all changed with President Bush as our Commander in Chief, and that all changed with a Nation that supports him. For the sake of our community and our security, we have to mean what we say. And for the sake of our children's future, we must follow through on our vow to end terrorism.

We know from experience that America's security at home depends upon our strength in the world. The value of our military to deter attacks and maintain peace depends in great measure on the value of our word. If the United Nations fails, and unfortunately they have as of tonight, although President Bush has bent over backwards to reach a diplomatic solution, the bottom line is you cannot give someone a backbone. They have to have one themselves. I think the exercise with the United Nations in which we tried so hard proves what global security experts have long suspected. Many nations in the world want terrorism to end, but few want the responsibility of actually doing it. If Saddam Hussein chooses to continue to arm himself and harbor terrorists, then America must act. Words alone are not enough. And when we send U.S. troops overseas, it must be to win and to return home as planned.

President George Washington said, there is nothing so likely to produce peace as to be well prepared to meet an enemy. We know the enemy. We know the difficulty. We know the duty, and we know the strength of America's military men and women, and we will not undermine them here at home. Despite what some believe, as Americans our rush is not for war, it is for peace, a secure peace, so that back in Texas where I live and in communities across America, when our families leave home each morning, they return home safely to us that night. That is not too much to ask. As the United States has shown in every world war, we are fighting not just for our Nation, but for a world free of fear, free from the horrors that fill our television screens too often, free from the threat of weapons of mass destruction which grow and grow each day, free from all that terrorism spawns.

If you think war is expensive, try living in terror. How much would we pay, how much would we give to have prevented the attacks of 9/11? To those who protest the war, I respectfully ask, was September 11 not enough? Was not September 11 enough to convince you this is not a game? This is not politics as usual. This is not Vietnam. This is like no other war. This is the prospect of a holocaust on our shores, on America's shores, among our communities, killing our families, injuring our neighbors, destroying our way of life for generations to come. And all the made-for-media protests, all the petitions and the slick TV ads in the world will not stop the next terrorists from attacking innocent Americans here on our shores again.

By standing tall, by standing firm, I believe President Bush has demonstrated what we all know in our hearts. Leadership is never easy, nor is it always popular, which is why we are so grateful for the nations and the leaders who stand with us, more than 30 of them, the third largest coalition in a century, people who are willing to say to international terrorism, enough. Enough. I am convinced, looking back, if more had stood with us, if France and Germany had put world security ahead of their shortsighted political ambitions, that we may well have disarmed Iraq and exiled Saddam Hussein without a shot being fired. Sadly, we will never know.

In some ways, I do not really worry about those in the free world who question the war. I worry about those in the world of terrorism who question the resolve of the American people. As you may recall, within days after the attacks of September 11, many around the world predicted that America would not have the heart nor the attention span nor the fortitude to mean what we say. They will soon learn they are wrong. No one knows better than Americans that if a nation values anything more than freedom, it will lose its freedom. The irony of it is that if it is comfort or it is money that it values more, it will lose that, too.

I have great faith in the American people. We will stand with President Bush. We will stand with our American military. We will stand where duty requires us to stand.

On the issue of defending America and disarming Saddam Hussein, people often ask, why Iraq and why now? To that, let me yield back to my colleague from Colorado, who speaks so eloquently about the need to defend our America and to secure peace throughout the world.

Mr. MCINNIS. Mr. Speaker, I hope the gentleman can stay around here for a while. I think this is a very good discussion. I want to point out something. I was moved by his remarks. On Sunday, there is going to be a special event in this country. On Sunday, we are going to have some of the privileged few of this country attend a ceremony called the Academy Awards. Today throughout the news, I read about how different people that were going to attend or perhaps even receive an Oscar at the Academy Awards were preparing these antiwar, anti-U.S., anti-American troop statements to present.

I want the people that are watching me and my colleagues this evening, on this floor, I want you to keep in mind that on Sunday as these movie actors such as George Clooney or Sean Penn or Julia Roberts or some of these other people, Martin Sheen is probably at the very head of that, as they pull up to the Academy Awards in their white limousines and walk on their red carpet and toast amongst the finest wine in this country, as they are in there on that stage being televised across this country on the Academy Awards, I want you to know that young American men and women could very likely be dying in the battlefield, dying to defend a country, dying to liberate another country, standing up for everything that this Nation believes in, a Nation that with its allies is willing to stand up and meet the challenge, to meet the cancer as it comes.

I will be very, very disappointed, and I hope the rest of America joins me in their disappointment if on Sunday during the Academy Awards that these people, the sponsors of the Academy Awards, the Motion Picture Association, the industry as a whole, if they stand there and allow these very privileged individuals, very privileged few amongst our population, condemn this Nation, condemn this administration, and in essence condemn the forces of the United States while, in fact, we have young men and women dying on those battlefields, and that could commence almost immediately.

Thank goodness there are nations like the United States of America and the British and the Spanish and the Italians and a number of other countries that are willing to stand up when good should rule over evil. They are willing to stand up and take on evil even though it is at the risk of their own life, at the risk of the safety of their own Nation, and how unfortunate that some people in the background who are safe in the foxhole take it upon themselves to come up with theories about how wrong the people that got out of foxhole are.

Again let me go back to the ad that Fred Thompson is running on TV. Freedom. It's the soldier, not the campus organizer, who's given us the freedom to demonstrate. It's the soldier, not the poet, who has given us the freedom of speech. It's the soldier, not the reporter, who's given us the freedom of press. It's the soldier who serves under the flag who defends the protester's right to burn the flag. Isn't it time now to demonstrate that we support our troops? Were it not for the brave, there would be no land of the free.

Again, for those of you, and I hope that some of you have some correspondence with Hollywood, I hope when you have the Academy Awards and the Oscar things on Sunday, that you can keep in mind, is it not time now to demonstrate that we support our forces of the Americans and our forces of our allies?

□ 2130

The gentleman from Texas (Mr. BRADY) brought up some stuff about the willing coalition, the coalition of the willing. I have heard a lot of propaganda, a lot of propaganda, including the preceding speakers, not my colleague from Texas, but before we got our hour some of the preceding speakers talked about how the United States is doing it alone, how the United States as a super power is going forward and going after poor little old Saddam. Let me say that that is nothing but pure propaganda. The coalition that is willing to stand up to the vicious regime of Iraq and liberate the people of Iraq, that coalition is larger than the coalition we had in the first Persian Gulf war. We do not have 10 other countries joining us. We do not have 15 other countries joining us. We do not even have 20 other countries joining us. We do not have 25. We have 45 other nations, 45 other nations that are willing to stand up and stand up to this threat and put their national defense in line to stop this cancer.

Let me just give an example of a few of them. To my right take a look at this. I will just jump around. Afghanistan, Denmark, Hungary, Japan, Lithuania, Nicaragua, Rumania, Turkey, United Kingdom. The British, they have been tremendous. Tony Blair, a profile in courage. Slovakia, the Philippines, Macedonia, South Korea, Iceland, Ethiopia, El Salvador, Colombia, Albania, Australia, Italy, Georgia, the Netherlands, Poland, Spain. Take a look at these. And I saw an interesting article today by Andrew Sullivan. Let me read this. There are three categories, countries that explicitly support the United States' position; countries that support it but wanted a second resolution, that is the second category; and the third category are the countries that oppose the war against Saddam. In the first camp, we have the United Kingdom, Spain, Denmark, Italy, Lithuania, Poland, Hungary, Rumania, et cetera, et cetera, et cetera. In the first camp those who support the United States and its willing coalition number 45 as of this hour, 45 as of this hour.

In the second camp, supportive, we have the Netherlands, the Czech Republic, Slovenia, and Slovakia. I put those five in a broadly positive column. That makes the total, if we add to the 45, somewhere pushing 50. Then we have the neutral countries, the neutral countries out there in Europe: Ireland, Austria, Finland, Serbia, Switzerland, and Norway. Australia, by the way, has dedicated troops to this. Australia has come strongly into the coalition of the willing.

Then we have the opponents. Let me stress the opponents that we have here, and let us count them on a finger. France, Germany, Belgium, Luxemburg, Sweden, and Greece. By my count we have about six countries that are neutral, six countries that are opposed; and over 45 nations, over 45 nations, have joined with the United States one way or the other to cut the snake off this horrible regime that has in fact enslaved the people of Iraq.

And let me give some examples. Afghanistan, they have pledged their support for the U.S. efforts, may open air space to U.S. military flights, U.S. and all of the allies. Albania, little Albania, offered to send troops, approved the U.S. use of their air space and their bases. Australia sent 2,000 of their elite SAS troops. These SAS troops are amongst the best in the world, 2,000 of them. They have sent fighter jets and they have sent warships to the Gulf. That is Australia. Bahrain, the headquarters of the U.S. Fifth Fleet; Bulgaria offered the use of air space, base and refueling for U.S. war planes, sent 150 troops specializing in chemical and biological warfare decontamination. Croatia, air space and airports open to civilian transport planes from the coalition. The Czech Republic sent noncombat troops specializing in chemical warfare decontamination in response to the U.S. request.

This list goes on and on and on. There are a lot of people out there that realize what we are facing. They understand what the world will look like in 5 years from now if we do not do something about this.

My good friend from the State of Texas mentioned that he regretted the fact that the French and the Germans did not come on board early on in this game, that had they come on board and had they let Iraq know that they meant business, we probably would have been able to resolve this diplomatically. When should they have come on board? They should have come on board 11 years ago. They should have come on board at any time during those 17 separate resolutions.

The French adopted one policy. First of all, they let Iraq know that under no circumstances, no matter what they do, neither the French nor the Germans nor the Belgians will ever attack them with a war. So do not worry about leverage; do not worry about a threat. In the meantime let us negotiate and negotiate and negotiate. It was the French that took the lead in crafting the resolution called 1441 4½ months ago. It was the French that persuaded the Germans and the Belgians for a unanimous vote with the rest of their colleagues at the United Nations, for a unanimous vote, no ''no'' votes on 1441, and it was the French that were the first ones to back out. It was the French that were the first ones to stand down on enforcement of 1441. Had they stuck to their guns, had Saddam Hussein known that the entire international community including the limited few that are now are not part of the coalition, the French, the Germans, and the Belgians, had they known that we were unified, they probably would have resolved this diplomatically. Saddam Hussein really would have disarmed, probably. What kind of message does it send to the rest of the world, to a North Korea or to other countries like Iran or Libya or countries like that when they know that all they have got to do is get a little disagreement going between longtime allies and get one of the sides of that disagreement to say right at the very beginning we will never under any conditions go to war? What kind of leverage does that give to them?

I had a very interesting discussion today with the students, and they asked a number of questions, and I think they should be addressed. I want to just very quickly, briefly talk about them before I turn the floor over to my colleague again. First of all, we had a little discussion on the Hollywood type. I have talked about enough on Hollywood, although I would note that over the weekend the Dixie Chicks who made that very derogatory political cheap shot at our President, who I think has done a tremendous job with Condoleezza Rice, with Colin Powell, with DICK CHENEY, with Don Rumsfeld; but the Dixie Chicks brought it upon themselves on foreign territory to announce that they are disgraced that the President is from the State of Texas.

Let me say what America feels about that. Sales dropped so dramatically after their comment. They had the number one song in the country. It dropped off. Do the Members know what the number two song is after I think a week or 3 days of being out on the charts? A song entitled ''Have You Forgotten.'' As my good friend from the State of Texas's comments were throughout his speech, have you forgotten September 11? Have you forgotten what this country stands for? Have you forgotten what these soldiers have done, the soldiers that have allowed the reporters the freedom of the press, the soldiers that have allowed the poets the freedom of speech, the soldiers that have allowed the protestors in this country the right to protest, protests where they would be immediately executed if they tried to pull that off in Iraq?

And I say to these people, have they forgotten what America is about? Have they forgotten about the greatness of this country, that this country has gone to war more often than any other country for other nations? How many thousands and thousands and thousands of Americans lay in their graves on foreign soils having fought for those other countries? The United States is not a cocky country. The United States does not try to bully people around, but the United States is willing to stand up when it counts. Have we forgotten?

And I venture to say this evening that the majority of Americans have not forgotten, that the majority of Americans understand that the good and the might of this country will in the end prevail for all good and that good will prevail over evil, and I venture to say that most Americans will not take with a grain of salt these movie Hollywood actors on Sunday when they appear at the Academy Awards condemning the United States, condemning the administration, condemning the very privileges that made them the privileged few. I venture to say that the American citizens are eminently proud of those soldiers and sailors and Marines and Coast Guard and the people in this country that are supporting logistically those troops.

The students asked me, What about the human shields? Should we avoid the human shields? My position is this: if the human shields took direction from Saddam Hussein of where to go to provide themselves as human shields, they have crossed that line from being noncombatants to combatants, and, frankly, they are a fair target.

Let me talk very briefly about the question that came up, What if we make the terrorists mad? If we attack Iraq and disarm Saddam Hussein and liberate that country, won't we make other countries mad at us, other terrorists? I said, as a comparison, imagine if we said to the police officers of this country, Before you make an arrest, make sure that you do not make the family of the defendant, the person you are arresting, make sure their families are not mad about the fact that you are arresting them.

What about the preemptive strike? they asked. Do we have a right that this Nation preemptively strike? On September 11 things changed dramatically. First of all, when it comes to terrorism, we can no longer defend this country from terrorism. We cannot put a police officer in every theater. We cannot put a police officer in every restaurant. We cannot guard everything. We have got to reach out and strike at the terrorists that are out there. We have got to go after them. We cannot wait for them to come after us. We cannot play a defensive game. We have to be offensive in our nature when we talk about terrorism. We have to be willing to stand up and take a preemptive strike when we have somebody like Saddam Hussein, who, by the way, took the first preemptive strike when he invaded Iran, took another preemptive strike when he invaded Kuwait, took a preemptive strike when he gassed 60,000 of his own people. His own people, he gassed them, mustard gas, ricin, nerve gas, and I have got a chart of examples. We do not have time this evening, but I have a chart of examples of time after time that he used these weapons of mass destruction against the Iranians, against his own people.

So of course we have the right to go out there, and I said, As a comparison, think of your local police officers. We do not say to our police officers they do not have the right of a preemptive strike. In fact we specifically give them the right to preemptively strike. If they roll up at a bank and there is somebody with a gun or there is somebody anywhere, a domestic dispute, and there is somebody with a gun, we do not ask the police officer to be shot at first before he can under certain conditions. Fire first.

This country has met the highest of standards, and along with its allies do my colleagues think we can put together a coalition of 45 different nations in this world, opposed by only six? That is what we have right now. The governments of six people that have officially cited their opposition. Do my colleagues think we can put that together if we did not meet some pretty high standards, and if the snake and if the regime we are going after was not worthy of these people, sometimes not politically correct in their countries? Take a look at Tony Blair, still having enough guts to stand up and put a stop to the regime of Saddam Hussein.

Let me move on and kind of wrap up because I want to have my colleague, who made what I thought was a very accurate statement, conclude. But I want to just say a couple of things. I really was excited to talk to these students today, and I told these students, our newspapers just by the nature of the business they are in, they print the bad stuff. Young people, my son and daughters are now grown, but they are in their early 20s, and it is very easy for them to be discouraged about what does the future of this country look like, what is my future, the opportunities, myself and my colleagues we have for our family, we have for jobs, for opportunities? We read the papers. It is pretty easy to be discouraged.

But I say to them if they take a look at their generation, first of all, their generation has more opportunities than any other generation in the history of the world and certainly in the history of our country. Their generation is brighter than any generation in the history of this country, and I say to these young people, what is going wrong in our society? What is going right would go through the ceiling of this dome. In other words, what is going right way exceeds what is going wrong. And because of the military strength of this country, because of the strength of the character of the people of this country, because of the dedication and the willingness to sacrifice for freedom, for democracy, for freedom of speech, for the freedoms that we have enjoyed and many, many times taken for granted, because this Nation has met those standards, that is why we are the finest country in the history of the world.

□ 2145

It is not because we have the biggest military machine, but it is because we have that machine that we avoid many fights. It is because people cannot wait to get into this country. I say to people, I say, what other country in the world has immigration problems like this country? You know what? In the United States, you do not see people falling over each other or swimming the Rio Grande to get out of this country. You see people coming into this country any way they can, because of the American dream, because of the American standards of democracy, because of the character of the American people. And at this very hour we are being tested.

We have a regime that believes in murder. We have the worst murderer of Muslim people in the history of the world, who dares the United States to take him on, who dares the United States to tell him he cannot have weapons of mass destruction.

Well, he has called the bluff on the wrong coalition of the willing. Not only has the United States accepted his challenge, in fact the United Nations did not accept the challenge, but the United States did accept the challenge, the British accepted the challenge, the Spanish accepted the challenge, the Italians accepted the challenge. Forty-five countries accepted the challenge to stand up for the character of freedom and democracy and to stand against the terrible regime of a dictatorship which has stolen from the people of Iraq, has stolen from the people of Iraq the basic bill of rights, the basic freedoms they ought to be guaranteed.

I am so proud, and I will conclude with this, I am so, so proud of our forces out there, that voluntarily have entered there; the families, by the way, not just the men and women in the field, but those wonderful wives and husbands who are home managing families, without their spouse, worried about whether their spouse will survive. I am proud of all of you.

We are Americans. We will always be Americans, and America will always stand proud. I would like to yield to my friend from Texas. I thought his comments were most appropriate.

If the gentleman might yield for one moment, I have just been advised that the President of the United States will address the country at 10:15 this evening. I would urge, I am asking everybody, the gentleman from Texas will wrap these comments up in 5 or 10 minutes, I ask that you immediately

after the conclusion of these comments, go to your national TV network at 10:15. The President, the leader of our country will address this Nation. This speech is historical. It is imminently important. It is imminently important for all of us to watch that.

I am sorry to interrupt the gentleman.

Mr. BRADY of Texas. I appreciate your leadership, and I think you have really concluded on the right note at the right time.

We are facing history in a war that is so unique. It is unlike any other. I think what some people do not understand is that the international community has ranked those nations around the world who are the champions of state-sponsored terrorism, and have for many years. Of those countries, Iraq has topped that list for many, many years. Their ability and willingness to allow training of terrorists to occur, to allow financing of terrorists to occur, to allow safe haven and transit and medical treatment to those terrorists around the world all place them in a unique situation.

I will tell you that this past weekend we remembered the victims of Saddam Hussein's terrible chemical weapons attack on the people of Halabja, a city in northern Iraq, and other village attacks in the Al-Anfal campaign.

On March 6, 1988, 15 years ago, the Iraqi Air Force dropped a devastating mix of mustard and nerve gas on citizens in this city. Five thousand of Hussein's own people were killed immediately at his hand, several thousand died later, and an estimated 10,000 people were maimed and still are suffering the effects of this attack. If you wonder if this gentleman is capable of launching an attack, if not today, in the future as he grows stronger, all we need to do is look at his attack on his own people.

With this, I will conclude. I understand that the President's spokesman, Ari Fleischer, has just announced the disarmament of Iraq has begun. The President will address the Nation at 10:15.

I believe we are at this moment in time reflecting on, in the words on the wall of the George Bush Presidential Library in College Station, ''Let every generation understand the blessings and burdens of freedom. Let them say we stood where duty required us to stand.''

Tonight, under the President's leadership, yet again we will stand where duty requires us to stand.

RECESS

The SPEAKER pro tempore (Mr. BONNER). Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 9 o'clock and 50 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 2237

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. DREIER) at 10 o'clock and 37 minutes p.m.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H. CON. RES. 95, CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2004

Mr. HASTINGS of Washington, from the Committee on Rules, submitted a privileged report (Rept. No. 108–44) on the resolution (H. Res. 151) providing for consideration of the concurrent resolution (H. Con. Res. 95) establishing the congressional budget for the United States Government for fiscal year 2004 and setting forth appropriate budgetary levels for fiscal years 2003 and 2005 through 2013, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. HASTINGS of Washington, from the Committee on Rules, submitted a privileged report (Rept. No. 108–45) on the resolution (H. Res. 152) waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. HYDE (at the request of Mr. DELAY) for today on account of medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

The following Members (at the request of Mr. HONDA) to revise and extend their remarks and include extraneous material:

Mr. DEFAZIO, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. TIERNEY, for 5 minutes, today.

Mrs. MCCARTHY of New York, for 5 minutes, today.

Mr. LYNCH, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. HONDA, for 5 minutes, today.

Ms. EDDIE BERNICE JOHNSON of Texas, for 5 minutes, today.

Mr. KUCINICH, for 5 minutes, today.

Mr. LEWIS of Georgia, for 5 minutes, today.

Ms. LEE, for 5 minutes, today.

The following Members (at the request of Mr. DUNCAN) to revise and extend their remarks and include extraneous material:

Mr. DUNCAN, for 5 minutes, today.

Mr. FOLEY, for 5 minutes, today.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mr. KINGSTON, for 5 minutes, today.

Mr. RUPPERSBERGER, for 5 minutes, today.

Mr. HOLT, for 5 minutes, today.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 628. An Act to require the construction at Arlington National Cemetery of a memorial to the crew of the *Columbia* Orbiter; to the Committee on Veterans' Affairs; and in addition to the Committee on Science 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.

ADJOURNMENT

Mr. HASTINGS of Washington. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 38 minutes p.m.), the House adjourned until Thursday, March 20, 2003, at 10 a.m.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports concerning the foreign currencies and U.S. dollars utilized for speaker-authorized official travel during the fourth quarter of 2002, pursuant to Public Law 95–384 are as follows:

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ENERGY AND COMMERCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2002

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Karen McCarthy	12/10	12/12	New Zealand		638.00						638.00
	12/13	12/16	Australia		993.00						993.00
	12/17	12/18	Micronesia		180.00						180.00
	12/18	12/19	Marshall Islands		260.00						260.00
Committee total					2,071.00						2,071.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

BILLY TAUZIN, Chairman, Mar. 12, 2003.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ENERGY AND COMMERCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2002

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Ed Whitfield	11/24	11/29	Italy		2,080.00		(3)				2,080.00
	11/29	12/1	Greece		236.00		(3)				236.00
	12/1	12/2	Spain		196.00		(3)				196.00
Hon. Charles F. Bass	12/2	12/4	Germany		210.00		(3)		426.96		636.96
	12/4	12/6	Italy		832.00		(3)				832.00
Hon. Nathan Deal	12/11	12/14	England		1,233.00		(3)				1,233.00
	12/14	12/16	Italy		882.00		(3)				882.00
	12/16	12/17	Switzerland		345.00		(3)				345.00
	12/17	12/18	Netherlands		345.00		(3)				345.00
Hon. Karen McCarthy	12/8	12/12	New Zealand [4]								
	12/12	12/16	Australia [4]								
	12/16	12/19	Fed. States of Micronesia [4]								
Brendan Kelsay, minority staff	10/29	11/2	China (PRC)		1,239.00		5,664.50				6,903.50
Kelly Cole Zerzan, majority staff	10/29	11/2	China (PRC)		1,239.00		5,664,50				6,903.50
Hon. Clifford Stearns	12/2	12/4	Germany		428.00	6,791.78	6,728.54				7,156.54
	12/4	12/7	Italy		552.00		215.38		479.27		1,247.65
Ramsen Betfarhad, staff	12/2	12/4	Germany		428.00		1,505.91				1,933.91
	12/4	12/7	Italy		1,248.00						1,248.00
Hon. Rick Boucher	12/2	12/4	Germany		428.00						428.00
Hon. John Shimkus	11/22	11/24	Lithuania				4,846.61				4,846.61
	11/15	11/20	Turkey		1,357.00						1,357.00
	11/20	11/22	Italy		840.00						840.00
Committee total					14,118.00		24,625.44		906.23		39,649.67

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.
[4] To be requested next quarter. Attachment to follow.

BILLY TAUZIN, Chairman, Mar. 12, 2003.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

1212. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Navy's Proposed Letter(s) of Offer and Acceptance (LOA) to Switzerland for defense articles and services (Transmittal No. 03-08), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

1213. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Army's Proposed Letter(s) of Offer and Acceptance (LOA) to Thailand for defense articles and services (Transmittal No. 03-09), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

1214. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the ''2003 International Narcotics Control Strategy Report,'' pursuant to 22 U.S.C. 2291(b)(2); to the Committee on International Relations.

1215. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Russia and Kazakhstan [Transmittal No. DTC 022-03], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

1216. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Russia, Ukraine and Norway [Transmittal No. DTC 023-03], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

1217. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Japan [Transmittal No. DTC 024-03], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

1218. A communication from the President of the United States, transmitting a report in consistent with section 3(b) of the Authorization for Use of Military Force Against Iraq Resolution of 2002 (Public Law 107-243); (H. Doc. No. 108—50); to the Committee on International Relations and ordered to be printed.

1219. A communication from the President of the United States, transmitting a resolution of advice and consent to ratification of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, adopted by the Senate of the United States on April 24, 1997, in accordance with Condition 9; to the Committee on International Relations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HASTINGS of Washington: Committee on Rules. House Resolution 151. Resolution providing for consideration of the concurrent resolution (H. Con. Res. 95) establishing the congressional budget for the United States Government for fiscal year 2004 and setting forth appropriate budgetary levels for fiscal years 2003 and 2005 through 2013 (Rept. 108–44). Referred to the House Calendar.

Mr. HASTINGS of Washington: Committee on Rules. House Resolution 152. Resolution waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (Rept. 108–45). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. LANTOS (for himself, Mr. WEXLER, Mr. GRAVES, Ms. WATSON, Mr. BROWN of Ohio, and Mr. FALEOMAVAEGA):

H.R. 1345. A bill to provide compensation to members of the reserve components who

suffer discrepancies between their military and nonmilitary compensation as a result of being ordered to serve on active duty for a period of more than 30 days, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Government Reform, and 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. TURNER of Ohio:

H.R. 1346. A bill to amend the Office of Federal Procurement Policy Act to provide an additional function of the Administrator for Federal Procurement Policy relating to encouraging Federal procurement policies that enhance energy efficiency; to the Committee on Government Reform.

By Mr. FILNER:

H.R. 1347. A bill to amend title 38, United States Code, to repeal the requirement that for former prisoners of war to be eligible for Department of Veterans Affairs dental benefits they must have been interned for a specified minimum period of time; to the Committee on Veterans' Affairs.

By Mr. KANJORSKI (for himself and Mr. JEFFERSON):

H.R. 1348. A bill to assure quality and best value with respect to Federal construction projects by prohibiting the practice known as bid shopping; to the Committee on Government Reform.

By Mr. BURTON of Indiana (for himself, Mr. PALLONE, Mr. SESSIONS, Mr. PAUL, Mrs. JO ANN DAVIS of Virginia, Mrs. MALONEY, Mr. FORD, Mr. MOORE, Mr. RYUN of Kansas, Mr. DUNCAN, Mr. STENHOLM, Mr. THORNBERRY, Mr. NADLER, Mr. WAMP, Mr. ALLEN, Mr. LATOURETTE, Mr. NORWOOD, Mr. ACKERMAN, Mr. PLATTS, Ms. WATSON, Mrs. CUBIN, Mr. SHAYS, Mr. GUTKNECHT, Mr. HOSTETTLER, Mr. HOEKSTRA, Mr. TANCREDO, Mr. TOOMEY, Mr. TURNER of Ohio, Mr. SMITH of Michigan, Mr. BARTLETT of Maryland, and Mr. JONES of North Carolina):

H.R. 1349. A bill to amend the Public Health Service Act with respect to the National Vaccine Injury Compensation Program; to the Committee on Energy and Commerce.

By Mr. CASTLE (for himself, Mr. BOEHNER, Mr. BALLENGER, Mr. MCKEON, Mr. SAM JOHNSON of Texas, Mr. GREENWOOD, Mr. DEMINT, Mrs. BIGGERT, Mr. TIBERI, Mr. KELLER, Mr. WILSON of South Carolina, and Mr. COLE):

H.R. 1350. A bill to reauthorize the Individuals with Disabilities Education Act, and for other purposes; to the Committee on Education and the Workforce.

By Mr. ACEVEDO-VILA:

H.R. 1351. A bill to amend title XVIII of the Social Security Act to increase payments under the Medicare Program to Puerto Rico hospitals; to the Committee on Ways and Means.

By Mr. BILIRAKIS:

H.R. 1352. A bill to amend the Internal Revenue Code of 1986 to allow taxpayers to designate that part or all of any income tax refund be paid over for use in biomedical research conducted through the National Institutes of Health; to the Committee on Ways and Means, 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 Mrs. DAVIS of California (for herself, Mr. ISSA, Mr. RODRIGUEZ, Mr. REYES, Mr. FROST, Mr. FILNER, and Mr. CUNNINGHAM):

H.R. 1353. A bill to authorize the Port Passenger Accelerated Service System (PortPASS) as a permanent program for land border inspection under the Immigration and Nationality Act; to the Committee on the Judiciary.

By Mr. TOM DAVIS of Virginia:

H.R. 1354. A bill to amend section 19 of title 3, United States Code, to include the Secretary of Homeland Security on the list of presidential successors; to the Committee on the Judiciary.

By Ms. DELAURO (for herself, Mr. NEAL of Massachusetts, and Mr. DOGGETT):

H.R. 1355. A bill to amend the Homeland Security Act of 2002 to clarify that a prohibition on contracting by the Secretary of Homeland Security with foreign incorporated entities applies to contracting with subsidiaries of such entities, and for other purposes; to the Committee on Government Reform, and in addition to the Committee on Homeland Security (Select), 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. ENGEL:

H.R. 1356. A bill to encourage the availability and use of motor vehicles that have improved fuel efficiency, in order to reduce the need to import oil into the United States; to the Committee on Ways and Means, and in addition to the Committees on Financial Services, and 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. FATTAH:

H.R. 1357. A bill to establish a program to assist homeowners experiencing unavoidable, temporary difficulty making payments on mortgages insured under the National Housing Act; to the Committee on Financial Services.

By Mr. ISRAEL (for himself and Mr. KIRK):

H.R. 1358. A bill to amend the Foreign Assistance Act of 1961 to require the Secretary of State to include in the annual Department of State's Country Reports on Human Rights Practices information on the nature and extent of the promotion of violence and hatred in the curriculum of schools in foreign countries, including the promotion of anti-Americanism, anti-Semitism, and racism; to the Committee on International Relations.

By Mr. KENNEDY of Rhode Island (for himself, Ms. ROS-LEHTINEN, Ms. NORTON, Mr. KILDEE, Mr. PLATTS, Mr. OWENS, Ms. KILPATRICK, Mr. LANTOS, Mr. SERRANO, Mr. DEUTSCH, Mr. STARK, and Mr. MARIO DIAZ-BALART of Florida):

H.R. 1359. A bill to increase the number of well-trained mental health service professionals (including those based in schools) providing clinical mental health care to children and adolescents, and for other purposes; 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. MCHUGH (for himself, Mr. DAVIS of Illinois, Mr. TOM DAVIS of Virginia, and Mr. BURTON of Indiana):

H.R. 1360. A bill to amend certain provisions of title 39, United States Code, relating to transportation of mail; to the Committee on Government Reform.

By Mr. MEEK of Florida (for himself, Ms. ROS-LEHTINEN, Mr. BOYD, Ms. CORRINE BROWN of Florida, Ms. GINNY BROWN-WAITE of Florida, Mr. BILIRAKIS, Mr. DAVIS of Florida, Ms. HARRIS, Mr. GOSS, Mr. FOLEY, Mr. WEXLER, Mr. LINCOLN DIAZ-BALART of Florida, Mr. DEUTSCH, Mr. SHAW, Mr. HASTINGS of Florida, Mr. FEENEY, and Mr. MARIO DIAZ-BALART of Florida):

H.R. 1361. A bill to direct the Secretary of the Interior to conduct a special resource study to determine the national significance of the Miami Circle site in the State of Florida as well as the suitability and feasibility of its inclusion in the National Park System as part of Biscayne National Park, and for other purposes; to the Committee on Resources.

By Ms. MILLENDER-MCDONALD:

H.R. 1362. A bill to provide enhanced Federal enforcement and assistance in preventing and prosecuting crimes of violence against children; to the Committee on the Judiciary, and in addition to the Committees on Education and the Workforce, and 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. GEORGE MILLER of California (for himself and Mr. ANDREWS):

H.R. 1363. A bill to prohibit institutions of higher education from unfairly imposing sanctions on student athletes; to the Committee on Education and the Workforce.

By Mr. NADLER:

H.R. 1364. A bill to authorize a national memorial at, or proximate to, the World Trade Center site to commemorate the tragic events of September 11, 2001, to establish the World Trade Center Memorial Advisory Board, and for other purposes; to the Committee on Resources.

By Ms. NORTON:

H.R. 1365. A bill to establish the United States Commission on an Open Society with Security; to the Committee on Transportation and Infrastructure.

By Mr. OBERSTAR (for himself, Mr. DEFAZIO, and Mr. LIPINSKI):

H.R. 1366. A bill to amend title 49, United States Code, to provide relief to the airline industry, and for other purposes; to the Committee on Transportation and Infrastructure, 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. PICKERING (for himself and Mr. TURNER of Texas):

H.R. 1367. A bill to authorize the Secretary of Agriculture to conduct a loan repayment program regarding the provision of veterinary services in shortage situations, and for other purposes; to the Committee on Agriculture.

By Mr. POMBO (for himself, Mr. SCHIFF, Ms. ESHOO, Ms. LEE, Mr. FILNER, Mr. SHERMAN, Mr. DOOLEY of California, Mr. COX, Mr. ROHRABACHER, Mr. ISSA, Mr. DREIER, Mr. CARDOZA, Mr. NUNES, Ms. WATSON, Mr. OSE, Mr. HUNTER, Mr. ROYCE, Mrs. TAUSCHER, Mr. GALLEGLY, Mr. STARK, Mr. GARY G. MILLER of California, Mr. GEORGE MILLER of California, Mr. RADANOVICH, Mrs. NAPOLITANO, Mr. WAXMAN, Ms. SOLIS, Mr. BERMAN, Mr. MCKEON, Ms. HARMAN, Mr. LEWIS of California, Mr. BACA, Mr. DOOLITTLE, Ms. MILLENDER-MCDONALD, Mr. CALVERT, Ms. LINDA T. SANCHEZ of California, Mrs. CAPPS, Ms. LORETTA SANCHEZ of California, Ms. ROYBAL-ALLARD, Ms. WOOLSEY, Mrs. BONO, Ms. WATERS, Mr. HONDA, Mr. THOMPSON of California, Ms. PELOSI, Mr. CUNNINGHAM,

Mr. MATSUI, Mr. FARR, Mrs. DAVIS of California, Mr. LANTOS, Mr. HERGER, Mr. THOMAS, Mr. BECERRA, and Ms. LOFGREN):

H.R. 1368. A bill to designate the facility of the United States Postal Service located at 7554 Pacific Avenue in Stockton, California, as the ''Norman Shumway Post Office Building''; to the Committee on Government Reform.

By Mr. RAMSTAD (for himself, Mr. CRANE, Mr. ENGLISH, Mr. LEWIS of Kentucky, Mr. SANDLIN, Mrs. JONES of Ohio, Mr. BUYER, and Mr. TAYLOR of Mississippi):

H.R. 1369. A bill to amend the Internal Revenue Code of 1986 to allow an above-the-line deduction for overnight travel expenses of national guard and reserve members; to the Committee on Ways and Means.

By Mr. WYNN (for himself and Mr. BURR):

H.R. 1370. A bill to provide for expansion of electricity transmission networks in order to support competitive electricity markets, to ensure reliability of electric service, to modernize regulation and for other purposes; 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. KUCINICH:

H. Con. Res. 101. Concurrent resolution expressing the sense of the Congress that Public Law 107-243, the authorization to use military force against Iraq, is null and void; to the Committee on International Relations.

By Ms. JACKSON-LEE of Texas (for herself and Mr. CONYERS):

H. Con. Res. 102. Concurrent resolution expressing the sense of Congress that Congress has the sole and exclusive power to declare war; to the Committee on International Relations.

By Mr. BEREUTER (for himself, Mr. EMANUEL, Mr. HYDE, Mr. LANTOS, and Mr. WEXLER):

H. Res. 149. A resolution expressing the condolences of the House of Representatives in response to the assassination of Prime Minister Zoran Djindjic of Serbia, and for other purposes; to the Committee on International Relations.

By Mr. RYUN of Kansas (for himself and Mr. BECERRA):

H. Res. 150. A resolution expressing the support of the House of Representatives for the members of the Armed Forces of the United States called upon to engage in possible military action in Iraq; to the Committee on Armed Services.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Mr. LANTOS introduced a bill (H.R. 1371) for the relief of Kuan-Wei Liang and Chun-Mei Hsu-Liang; which was referred 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. 20: Mr. KLECZKA, Ms. WOOLSEY, and Mr. GREEN of Texas.

H.R. 33: Mr. DEAL of Georgia and Mr. HEFLEY.

H.R. 44: Mr. MCHUGH.

H.R. 58: Mr. HONDA, Mr. GRIJALVA, Mr. BOUCHER, Mr. DOGGETT, Mr. LUCAS of Kentucky, Mr. RYAN of Ohio, Mr. FLAKE, Mr. GOODLATTE, and Mr. BISHOP of Georgia.

H.R. 135: Ms. BORDALLO.

H.R. 140: Mr. ISRAEL.

H.R. 141: Mr. WATT.

H.R. 151: Ms. LEE and Mr. STUPAK.

H.R. 218: Mr. DEMINT, Mr. DOOLITTLE, Mr. MURTHA, and Mr. COLE.

H.R. 236: Mr. MOLLOHAN and Mr. UDALL of New Mexico.

H.R. 290: Ms. NORTON and Mr. MCHUGH.

H.R. 294: Mr. GREEN of Wisconsin and Mr. MILLER of Florida.

H.R. 296: Mr. GRIJALVA.

H.R. 303: Mr. BARRETT of South Carolina and Mr. GILCHREST.

H.R. 339: Mr. BOEHNER, Mr. DEMINT, and Mr. HOEKSTRA.

H.R. 348: Mr. DAVIS of Tennessee, Mr. FILNER, Mr. JEFFERSON, Mr. WILSON of South Carolina, Mr. MCCRERY.

H.R. 375: Mr. GILLMOR, Mr. BRADLEY of New Hampshire.

H.R. 450: Mr. MCHUGH and Mrs. JOHNSON of Connecticut.

H.R. 463: Mr. MCINNIS and Mr. FOLEY.

H.R. 466: Mrs. WILSON of New Mexico and Ms. LOFGREN.

H.R. 491: Mr. MICHAUD.

H.R. 496: Mr. MOORE.

H.R. 501: Mr. MCCOTTER.

H.R. 502: Mr. STENHOLM.

H.R. 503: Mr. PETRI, Mr. GRIJALVA, and Mr. POMBO.

H.R. 584: Mr. MORAN of Virginia.

H.R. 594: Mr. CARDOZA, Mr. DEUTSCH, Mr. WEXLER, Mr. MORAN of Virginia, Mr. DAVIS of Florida, Mrs. MCCARTHY of New York, Mr. GRIJALVA, Mr. NORWOOD, Mr. ENGEL, and Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 623: Mr. ABERCROMBIE.

H.R. 661: Mr. ENGLISH.

H.R. 669: Mr. VAN HOLLEN.

H.R. 677: Mr. FARR.

H.R. 714: Mr. ISTOOK and Mr. MORAN of Kansas.

H.R. 728: Mr. LEWIS of Kentucky, Mr. BARTLETT of Maryland, Mr. SESSIONS, and Mr. CANNON.

H.R. 735: Ms. NORTON and Mr. VISCLOSKY.

H.R. 766: Mr. WATT, Mr. FILNER, Mr. DAVIS of Tennessee, and Ms. JACKSON-LEE of Texas.

H.R. 771: Mr. OSE, Mr. WHITFIELD, Mr. KIRK, Mr. PICKERING, and Mr. TERRY.

H.R. 775: Mr. OXLEY.

H.R. 786: Mr. LEWIS of Georgia.

H.R. 791: Mr. RYAN of Wisconsin and Mr. SIMMONS.

H.R. 811: Mrs. JONES of Ohio and Mr. SANDERS.

H.R. 817: Mr. ENGEL and Mrs. MALONEY.

H.R. 834: Mr. BLUMENAUER, Mr. BOSWELL, Mr. BOOZMAN, Mr. EVANS, Mr. DEAL of Georgia, Mr. KING of New York, Mr. PORTER, Ms. BORDALLO, Mr. COLE, Ms. GINNY BROWN-WAITE of Florida, and Mr. ETHERIDGE.

H.R. 839: Mr. VAN HOLLEN, Mr. GRIJALVA, and Mr. TURNER of Ohio.

H.R. 844: Mr. DAVIS of Illinois.

H.R. 854: Mr. GALLEGLY.

H.R. 870: Mr. SAM JOHNSON of Texas.

H.R. 871: Mr. LATHAM.

H.R. 876: Mr. TIAHRT.

H.R. 896: Mr. BRADY of Pennsylvania.

H.R. 898: Mr. WATT.

H.R. 934: Mr. STENHOLM.

H.R. 936: Mr. FROST, Mr. RANGEL, Mr. OLVER, Mr. BERMAN, Mr. NADLER, and Mr. RUSH.

H.R. 946: Mrs. JO ANN DAVIS of Virginia.

H.R. 953: Mr. BELL and Mr. MICHAUD.

H.R. 974: Mr. LAMPSON.

H.R. 983: Ms. WATSON and Mr. HOUGHTON.

H.R. 1023: Mr. BAKER.

H.R. 1029: Ms. SCHAKOWSKY.

H.R. 1068: Ms. SCHAKOWSKY, Mr. BERMAN, Mr. DINGELL, Mrs. MALONEY, Mr. BRADLEY of New Hampshire, Mr. OSBORNE, Mr. MCCOTTER, Mr. THOMPSON of Mississippi, and Mr. WICKER.

H.R. 1072: Mr. CANNON and Mr. SIMMONS.

H.R. 1085: Mr. BISHOP of Utah.

H.R. 1095: Mr. BARTLETT of Maryland.

H.R. 1096: Mr. HINOJOSA.

H.R. 1101: Mrs. JO ANN DAVIS of Virginia.

H.R. 1104: Mr. PLATTS, Mr. VITTER, Mr. MARIO DIAZ-BALART of Florida, and Mr. POMEROY.

H.R. 1118: Mr. SHAYS, Mr. MEEHAN, Mr. KILDEE, Mr. DEFAZIO, Mr. PALLONE, Mrs. EMERSON, Mr. MENENDEZ, Mr. SMITH of Washington, and Mr. ABERCROMBIE.

H.R. 1125: Mr. GOODLATTE, Mr. MCCOTTER, and Mrs. JONES of Ohio.

H.R. 1132: Mr. CUMMINGS, Mr. CROWLEY, Ms. LEE, Mr. THOMPSON of Mississippi, Mrs. JONES of Ohio, and Ms. JACKSON-LEE of Texas.

H.R. 1133: Ms. CARSON of Indiana, Mr. MARKEY, Mr. SERRANO, Mr. KILDEE, and Mr. VAN HOLLEN.

H.R. 1157: Mr. MOORE, Ms. SCHAKOWSKY, Mr. ENGEL, and Ms. KILPATRICK.

H.R. 1166: Mrs. CUBIN.

H.R. 1170: Mr. RAMSTAD, Mr. NORWOOD, and Mr. FRANKS of Arizona.

H.R. 1175: Mr. MARIO DIAZ-BALART of Florida.

H.R. 1191: Mr. THOMPSON of Mississippi, Mr. ETHERIDGE, Ms. MILLENDER-MCDONALD, and Mr. GILLMOR.

H.R. 1192: Ms. ROYBAL-ALLARD.

H.R. 1225: Mr. MCNULTY and Ms. MCCARTHY of Missouri.

H.R. 1231: Mr. BRADLEY of New Hampshire, Mr. MATHESON, Mrs. MILLER of Michigan, Mr. GRIJALVA, Mr. GREEN of Wisconsin, Ms. GINNY BROWN-WAITE of Florida, Mrs. MCCARTHY of New York, Ms. LOFGREN, Mr. GOODLATTE, Mr. NORWOOD, Mr. FRANKS of Arizona, and Mr. PUTNAM.

H.R. 1258: Mr. BOUCHER.

H.R. 1263: Mr. BACA.

H.R. 1264: Ms. EDDIE BERNICE JOHNSON of Texas, Mr. CARDOZA, Mr. MENENDEZ, and Mr. KILDEE.

H.R. 1290: Ms. BALDWIN.

H.R. 1294: Mr. FROST, Mr. MCDERMOTT, and Mr. CASE.

H.R. 1305: Mr. YOUNG of Alaska and Mr. RYAN of Ohio.

H.R. 1320: Mr. KIRK, Mr. PICKERING, Mr. BASS, and Mr. WHITFIELD.

H.J. Res. 4: Mr. KING of Iowa, Mr. PORTER, and Mr. RENZI.

H.J. Res. 20: Mr. RANGEL.

H.J. Res. 22: Mr. PLATTS.

H.J. Res. 24: Ms. MCCOLLUM, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. SANDERS, Mr. TOWNS, Mr. WU, and Ms. SOLIS.

H.J. Res. 37: Mr. LOBIONDO and Mr. KANJORSKI.

H. Con. Res. 30: Mr. DEUTSCH.

H. Con. Res. 56: Mr. BRADLEY of New Hampshire.

H. Con. Res. 78: Mr. NADLER.

H. Con. Res. 80: Mr. MEEKS of New York, Ms. WATSON, Mrs. NAPOLITANO, and Mr. BLUMENAUER.

H. Res. 141: Mr. FARR and Mr. HASTINGS of Florida.

H. Res. 142: Ms. NORTON.

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PROCEEDINGS AND DEBATES OF THE 108th CONGRESS, FIRST SESSION

Vol. 149 WASHINGTON, WEDNESDAY, MARCH 19, 2003 No. 44

Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

The PRESIDENT pro tempore. Today's prayer will be offered by our guest Chaplain, Rev. Charles V. Antonicelli, St. Joseph's Church on Capitol Hill, Washington, DC.

PRAYER

The guest Chaplain offered the following prayer:

Lord of all hopefulness, we come before You this day to praise You and to thank You for Your countless blessings.

With heavy hearts, dear Lord, we pray for Your peace and Your justice in our world. Help us to be the instruments of Your will. In Isaiah we read, ''Put away your misdeeds from before My eyes; cease doing evil; learn to do good. Make justice your aim: redress the wronged.''

God Almighty, bless and protect the men and women in this Senate who seek to do Your will. Give them right judgment. Help them to know Your loving presence always.

We ask this in Your holy name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable TED STEVENS 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.

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

SCHEDULE

Mr. FRIST. Mr. President, this morning the Senate will resume consideration of S. Con. Res. 23, the concurrent budget resolution, with 30 hours left for debate on the resolution. Fifteen hours remain under the control of the chairman of the Budget Committee and the ranking member respectively. Pending is the Boxer amendment No. 272 striking the reconciliation instruction to the Energy Committee relating to ANWR. While Senators on both sides of the aisle participated in the debate last night, there are still several Senators wishing to speak on this amendment this morning.

The consideration of other amendments is expected during today's session and rollcall votes will occur throughout the day. The Senate will finish the budget resolution this week. Therefore, Members should expect late nights and rollcall votes for the remainder of the week. I do want to stress to my colleagues that we will finish the budget resolution this week. We have 30 hours for debate and then the voting on the amendments, which is not a part of those hours. Therefore, we really have a challenge over the next 3 days but one that we will step up to and meet.

There is a lot of indecision in terms of potential military action abroad. As we all know, the clock is ticking for a deadline tonight and we will take that into consideration, but we will be focused on the budget over the course of today. It is the Nation's business. The American people expect us to pass a budget. We have certain statutory deadlines that we will meet in this Congress and therefore will finish the budget resolution this week.

The PRESIDING OFFICER. The Democratic whip.

Mr. REID. Mr. President, through the Chair to the leader, on the ANWR amendment, we have 40 minutes remaining on this side. The time on the other side is gone. Of course, other time can be yielded, as it will be, to speak on the amendment.

We have a couple of amendments lined up. I spoke to Senator NICKLES last night. The majority leader was present during most of those conversations. We hope to offer another amendment forthwith.

The one question that a number of Members have asked is what is the leader's—I think we all contemplate something happening in the next 24 hours in regard to the situation in Iraq. What is the leader's desire as to a resolution, which I am sure will be forthcoming at that time, as far as Members being able to speak on the resolution?

Mr. FRIST. Mr. President, not knowing what will happen tonight with the President's statement, as the deadline is reached for Saddam Hussein—and I have been working with the Democratic leader—we have a resolution of support and are working through the language that is most appropriate. We will do that over the course of today. Again, I want to be very careful not to anticipate an outcome which is not quite there, but if military action is begun, we would very soon introduce that resolution and give Senators the opportunity to speak. I think we all recognize that if military action is undertaken, although we hope and pray that things will be very shortlived, we do want to make sure Senators have the opportunity to express their support for our troops and for this President, if this engagement begins. So that is underway. We will address that over the course of the day. I do want to make it clear to our colleagues that we will be here this week until we finish the budget.

RESERVATION OF LEADER TIME

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

CONGRESSIONAL BUDGET FOR THE U.S. GOVERNMENT FOR FISCAL YEAR 2004

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. Con. Res. 23, which the clerk will report.

The legislative clerk read as follows:

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

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A concurrent resolution (S. Con. Res. 23) setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013.

Pending:

Boxer amendment No. 272, to prevent consideration of drilling in the Arctic National Wildlife Refuge in a fast-track budget reconciliation bill.

The PRESIDING OFFICER. Who yields time?

The Senator from Nevada.

Mr. REID. Senator CONRAD authorized Senator BOXER to control the final 40 minutes of debate. Do we not have 40 minutes on the amendment?

The PRESIDING OFFICER. Forty-one minutes is controlled by the sponsor.

Mr. REID. Senator CONRAD has authorized me to delegate that 41 minutes to Senator BOXER for allowing other Senators to speak during that 41 minutes.

The PRESIDING OFFICER. The Senator from California.

AMENDMENT NO. 272

Mrs. BOXER. Mr. President, at this point, I will yield to four people in sequence: Senator BINGAMAN, 10 minutes; Senator DURBIN, 5 minutes; Senator MURRAY, 5 minutes; Senator STABENOW 5 minutes. That will be the total of our speakers and then we will be happy to yield an equivalent amount of time to the other side, if that will be acceptable. These Senators would like to give their short statements and then go back to their committees.

Mr. NICKLES. Reserving the right to object, the Senator is trying to block in how much time?

Mrs. BOXER. Twenty-five minutes.

Mr. NICKLES. Reserving the right to object, let me consult with my colleague from Alaska.

Mrs. BOXER. As I understand it, I control 41 minutes of time. Is that correct? Instead of just standing here and speaking myself about this amendment, I have suggested we allow it to go in this sequence and then back to my colleagues on the other side, just for the sake of my colleagues' schedule.

Mr. STEVENS. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. When I left the floor last evening, I yielded to my colleague from Alaska, Senator MURKOWSKI, and it was my understanding the time would be charged against the bill. Instead, I understand it has been charged against the amendment. I ask the manager of our bill to allocate to us an equal amount of time as remains for the Senator from California under the amendment.

Mr. NICKLES. Mr. President, I am happy to yield to my friend and colleague from Alaska an hour on the bill so he may speak in opposition to the amendment of the Senator from California.

Mr. STEVENS. I thank the Chair.

The PRESIDING OFFICER. The Senator has that right.

The Senator from California has the floor.

Mrs. BOXER. Mr. President, I yield 10 minutes to a real leader on this issue, Senator BINGAMAN, the top Democrat on the Energy Committee.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for up to 10 minutes.

Mr. BINGAMAN. Mr. President, I very much appreciate the Senator from California yielding me some time to speak and briefly express the point of view that I expressed when we debated this bill last year.

As all of us know, this issue has been a perennial one. It comes back all the time in the Senate and has now for several decades. I rise to support the amendment of the Senator from California. The amendment would strike the provisions from the budget resolution that essentially pave the way for the opening of the Arctic National Wildlife Refuge to oil and gas development.

There are various reasons, both related to national security and related to the environment, that lead me to conclude that I do not support going ahead with oil and gas leasing and development of the Arctic Refuge. The most compelling reason for not opening the refuge is that it will do very little, if anything, to further our national energy security. Not a single drop of oil would come from the Arctic Refuge for at least 7 years and more likely 10 or 12 years.

I urge my colleagues to vote in support of the amendment for the following reasons:

First, drilling in the Arctic Refuge is not an answer to the problem of energy security. This chart is familiar to any who were here during the debate on the energy bill last year. The U.S. Geological Survey estimates the mean economically recoverable oil on Federal lands on the Costal Plain of the Refuge at somewhere between 3.2 and 5.2 billion barrels and that is at prices of somewhere between $20 and $24 per barrel, in 1996 dollars. Clearly, prices are higher today.

The Arctic Refuge would supply no more than 2 percent of America's oil demand in any given year. This chart shows the U.S. oil consumption in million barrels per day. The top line is the total oil demand. Below, the green line, is domestic oil production. The small red line is the ANWR production. Relative to our total consumption it is a small item. It will be at least 7 years, more likely 10 to 12, before there is actual production on the Coastal Plain if we were to vote today to open this area for production. Peak production would not occur for 20 years or more after the initial production started.

Another chart shows the same point in a slightly different way, that drilling in the Arctic Refuge does not address in a significant way our reliance on imported oil. This chart contains information from the Energy Information Administration. The green line indicates the net imports with ANWR production and the blue line is net imports without production from ANWR. According to our own Energy Information Administration, which is part of this administration, they show that production would begin in about 2012 and production from ANWR of oil, any significant oil, would end by about 2025. Then we are right back where we started.

So our dependence on foreign imports to meet our oil demand will continue to grow. It will not grow as much during those years when ANWR is in production, but it will grow a substantial amount. The Energy Information Agency estimates that production from the Arctic Refuge would reduce the net share of foreign oil relied on by consumers from 62 percent to 60 percent by the year 2020. As this chart shows, by 2025 we are right back to no reduction as a result of ANWR production because ANWR production will have largely played out by that time.

Another reason I offer to my colleagues today in support of the amendment, is that a controversy over the Arctic Refuge diverts attention from the real opportunities we have for enhancing domestic energy production. There are other ways we can expand production.

Senator GRASSLEY, Senator BAUCUS, Senator DOMENICI, and I introduced the Energy Tax Incentives Act the other day. Unlike the opening of the Arctic Refuge, this legislation would provide near-term increases in domestic energy production. Not only does the legislation include tax provisions that would help us diversify our energy supply and increase our reliance on renewable sources of energy and enhance energy efficiency, it would also provide specific incentives for increased oil and gas production.

Some would ask, from where is this oil and gas production going to come? I have another chart that makes a point people do not focus on. This is a map of the North Slope of Alaska showing the ANWR area on the right, the 1002 area. It shows the National Petroleum Reserve Alaska, the large tan-colored area on the map. The National Petroleum Reserve Alaska is an area that has begun to be leased by the Department of the Interior. Secretary Babbitt began that process when he was in office. Secretary Norton is proceeding with that. Frankly, I support going ahead with drilling in that area. There is a substantial likelihood of very large energy production from that area. There is a real prospect of increased oil and gas production from the North Slope.

Let me mention gas production. I indicated one of the reasons we should not focus on ANWR is that it is diverting our attention from our other opportunities to deal with our energy needs. One of those great opportunities is to bring the gas production from the

North Slope of Alaska, gas that is already being produced and reinjected into the ground, bring that gas down to the Lower 48 States. We tried very hard in the last Congress to pass legislation to streamline the process for getting a pipeline constructed. I strongly support that. We need a pipeline to bring that natural gas to the Lower 48. Anyone who is dependent upon natural gas for home heating today knows the price is high. They are going to notice it even more over the next 2 or 3 months as they get the bills during this period of high natural gas prices. The best opportunity we have to relieve that pressure is building that pipeline to bring Arctic gas down to the Lower 48. That is what we should concentrate on: develop more oil from the National Petroleum Reserve Alaska, bring the gas already produced on the North Slope down to the Lower 48. I hope we can do that.

I also make the point that we need to continue to emphasize developing alternative sources of energy. That is something we will get into in a large way when we debate a new energy bill this Congress, a new proposed energy bill, and we can make the point again.

The solution to our long-term energy problems is not to open the Arctic National Wildlife Refuge to drilling. It is an environmentally sensitive area, one we have determined to keep off bounds, out of bounds, for drilling up until now. I believe that is a sound policy.

In conclusion, there are many reasons why the Coastal Plain of the Arctic National Wildlife Refuge is not needed and should not be drilled for oil and gas. The environmental sensitivity of the area is clearly well recognized by all. Opening the Refuge is not good environmental policy. Equally important, it is far from necessary as part of our national energy policy.

I urge my colleagues to join in opposition to the oil and gas leasing and development of the Arctic National Wildlife Refuge and to support this amendment by the Senator from California.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. It is my understanding Senator BOXER has yielded me 5 minutes.

I say to my colleagues who follow this debate, take a look at this Arctic National Wildlife Refuge. If you look at the National Academy of Sciences' recent report, it is clear that drilling for oil in this wildlife refuge in the far reaches of Alaska is environmentally dangerous. There are some who write that off and say if we get more oil out of it and create some jobs, so what. Frankly, that is irresponsible.

We have a responsibility in this generation to leave to the next generation the natural heritage that we were given. If we are not forced to go to the Arctic National Wildlife Refuge for the survival of the United States or its economy, for goodness' sake, why would we run the risk to endanger this important National Wildlife Refuge that we have protected for over 50 years?

Second, this is as shortsighted as it gets, to suggest the only way to deal with energy security in the United States is for us to start drilling in wildlife refuges, that small part of the world we set aside to protect endangered species, topography, and environment that you cannot find anywhere else on Earth. Now the oil companies tell us: I'm sorry, our energy needs are so substantial, we have to start drilling there?

I say to the young people in America: Following this debate, take a look at the parking lots across America if you want to know what to do about energy. Take a look at the inefficient vehicles we are driving on the road today because this Congress and this country has not shown the leadership to have more efficient cars and trucks in America. We can do it. We have done it in the past. But this bill, this issue, is consistent with what I am afraid is the wrong message to America.

The message in this bill is: We may be minutes away from a war where thousands of American lives are at risk, we may be faced with terrible news for families across America and death in Iraq to innocent Iraqis, but we can still call for a tax cut for the wealthiest people in America. The message in this amendment is: We may face the question and challenge of energy security, but rather than to say to American families, Do your part, buy vehicles that are more efficient, and to Detroit, produce those vehicles—instead of that, no, we are going to drill for oil in a wildlife refuge in Alaska. Is that what America has come to? Is that what we are all about? Don't we expect our leaders to summon us to show our best, to sacrifice for our Nation so we can lead and demonstrate to future generations that we care about our natural heritage, we care about our spirit of national sacrifice?

This is an amendment that should be defeated. The Arctic National Wildlife Refuge should not be drilled. We should not move forward with this exploration. And this bill calling for tax breaks for the wealthiest people in America as we are poised to go to war is a shameful bill. It is something we should not be considering on the floor of the Senate at this moment in our history. This amendment, if I understand it correctly, will not change the budget levels. This amendment failed by only 1 vote, on a party-line vote, in committee. But I believe we will win it now.

Let me begin by saying that the Arctic National Wildlife Refuge provision has no place in the budget. For those who want to propose oil and gas development in this area of the Arctic National Wildlife Refuge, we can debate that in a more appropriate context, such as the energy bill. This important issue should not be snuck into the budget through a legislative back door, but should be debated in an open, honest way through the normal legislative process.

Let me also note that the full Senate has already defeated proposals to drill in the Arctic National Wildlife Refuge, because it is bad policy. We should end this perennial debate once and for all, and move to more reasonable matters that deserve the Senate's attention. There are better, longer-term solutions to our energy crisis than drilling in our few remaining frontier areas, including making automobiles more fuel efficient.

The Refuge is not the answer to energy problems. The most stunning statistic in this whole debate is that the Arctic coastal plain would only yield 6 months' worth of oil for our country; and we wouldn't get it for 10 years. And this is under the most optimistic assumptions.

There is no doubt that we are overdependent on foreign oil in our country. We need to address this issue on multiple fronts, including by exploring alternative sources of energy, such as fuel cells, and by promoting efficiency and thereby reducing consumption. I have talked with coal developers who say that we may be able to use coal to isolate hydrogen for use in fuel cells in automobiles. I have also talked with automobiles researchers, who have told me of myriad existing technologies to improve fuel efficiency in the transportation sector, the largest user of oil.

So to say that the Arctic National Wildlife Refuge is the only answer to our energy questions in completely offbase. In fact, it is not even one of the viable answers, because it holds so little oil compared to what we demand as a country.

The Refuge deserves protection. The 1.5 million-acre coastal plain of the Arctic National Wildlife Refuge is a clear candidate for protection under the Wilderness Act of 1964. That is why I am cosponsoring Senator LIEBERMAN's bill to designate this 1.5 million acre area as wilderness. This swath of land is surrounded on three sides by 8 million acres of land already designated as wilderness.

The Arctic Refuge includes boreal forests, dramatic peaks, and tundra. If features a complete range of arctic and subarctic ecosystems, with an extraordinary assemblage of wildlife. Polar and grizzly bears, wolves, muskoxen, and snow geese are just a few of the more than 200 animal species that use the coastal plain. Also the coastal plain is the most significant on-land polar bear denning habitat in the U.S. In addition, the 155,000 member porcupine caribou herd has used the coastal plain as a calving area for 20,000 years or more. There is no alternative to this sensitive habitat for the caribou herd.

Research has documented the ecological importance of this land, and the effects of oil and gas development there. On March 5, 2003, the National Academy of Sciences released a new report that details the serious, detrimental, and cumulative effects of oil

and gas activities on Alaska's North Slope. The report finds numerous effects, including ''a large oil spill in marine waters [which border the coastal plain] would likely have substantial accumulating effects on whales and other receptors because [current clean-up efforts are inadequate].'' This is especially significant, given that there is an average of 423 oil spills annually on the North Slope.

The report also finds that species population decline, including reduction of some bird species such as black brant, snow geese, eiders and probably some shorebirds, is common in industrial areas in the North Slope.

In an important new discovery, the report finds ''climate changes during the past several decades on the North Slope have been unusually rapid.'' Climate changes can change ice flow and the entire ecosystem of this area.

The report further finds that only about 100 acres—1 percent—of the habitat affected by gravel fill on the North Slope have been restored. The National Academy of Sciences concluded that unless major changes occur, it is unlikely that most disturbed habitat on the North Slope will ever be restored. Because natural recovery in the arctic is slow, effects of unrestored structures are likely to persist for centuries, and will accumulate as new structures are added.

Environmental impacts of oil and gas development are real, and that is why we need to site such activities in a careful, responsible manner.

In conclusion, Aldo Leopold, the long-time Forest Service employee and conservationist said it best in 1949: ''Having to squeeze the last drop of utility out of the land has the same desperate finality as having to chop up the furniture to keep warm.''

The Arctic Refuge is one of the last, remaining wilderness areas awaiting protection. Let's not destroy it; let's save it. And let's end this perennial debate once and for all. There are better, longer-term solutions to our energy crisis than drilling in our few remaining frontier areas, including making automobiles more fuel-efficient. And if we want to debate energy policy, the budget resolution debate is not the time to do it.

Out of respect for the proper legislative process, and out of respect for the seriousness of this decision in terms of energy and environment issues, and in terms of the impacts on the present and future generations of this country, I urge my colleagues to vote for the Boxer amendment.

Mrs. BOXER. Will the Senator yield his remaining time for a question?

Mr. DURBIN. Yes.

Mrs. BOXER. I wonder if the Senator had seen this chart which shows by the year 2030 how much energy is yielded by these various factors. This would be how much energy we would get from the Arctic Refuge production, 2.38 billion barrels of oil. If we just put better tires on our cars, it would result in better fuel economy, we would save more energy.

If we just closed the SUV loophole, meaning we got those SUVs up to the same mileage as cars, we would save 10 billion barrels. And, by the way, if we did fuel economy, as my friend suggested, up to 35 miles per gallon, which is very modest, look at what it would save: 18 billion barrels. Here is what the Arctic gets us, and we destroy a region that looks like this, instead of going this way.

Mr. DURBIN. I know my time is running out. I just want to say, when you turn to the conservatives in Congress and say: Can't we improve the efficiency of our vehicles? No, that's the heavy hand of Government.

Let me tell you, drilling in the Arctic National Wildlife Refuge is the heavy hand of Government in a part of our world we should be protecting. It is saying to oil companies, make a profit so we don't have to ask American families and automobile manufacturers to do the right thing for our future.

I reserve the remainder of my time.

Mrs. BOXER. Mr. President, I am going to take 1 extra minute off the bill, if I might, to simply send to the desk a letter from Jimmy Carter, former President Jimmy Carter. Last night it was implied by several colleagues—I have their words actually—I will not go through them now—that President Carter supports drilling in the Arctic National Wildlife Refuge. Just to quote from a little bit of his letter, he says:

> We can have the untouched sublime wilderness. Or we can have oil field development. But we cannot have both.
>
> Opening the coastal plain for oil exploration and development would be, despite all the much-vaunted technological promises, severely damaging to wildlife and the ecosystem. And it is inherently fatal to the wilderness qualities of this matchless example of America's natural heritage.

I ask unanimous consent that the letter be printed in the RECORD.

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

THE CARTER CENTER,
Atlanta, GA, February 27, 2002.

The Honorable SENATOR,
U.S. Senate, Senate Office Building, Washington, DC.

DEAR SENATOR: Every decade or so we seem to have a great national debate about whether or not to preserve the very best of our natural heritage. In the 1960s it was over building dams in the Grand Canyon, a desecration comparable to oil drilling in Yosemite or Yellowstone.

Now, an equally significant showdown is over the fate of the coastal plain of the Arctic National Wildlife Refuge, an area first set aside for protection by President Dwight Eisenhower.

Rosalynn and I have crouched on a peninsula in the Beaufort Sea to watch the defensive circling of musk oxen that perceived us as a threat to their young. We have sat in profound wonder on the tundra near the Jago River as 80,000 caribou streamed around and past us in their timeless migration from vital calving grounds on the coastal plain. We have watched dens of wolves, large flocks of Dall Sheep, and isolated polar bears. These phenomena of the untrammeled earth are what lead wildlife experts to characterize the coastal plain as America's Serengeti.

Having raveled extensively in this unique wilderness, I feel very strongly about its incredible natural values. I hope you will not be distracted by the argument that oil exploration and development will have minimal impact because the ''footprint'' of modern drilling technology will be small amid the 1,500,000 acres of the coastal plain.

This simply is not true. While a precise measurement of the exact acres finally to be covered by drill pads, gravel pits, access roads, air fields and the vast spider-web of pipelines might not exceed 2,000 acres, these acres would be spread across a far wider expanse, covering hundreds of square miles, connected by a network of modern transportation routes. The impacts on the fragile tundra ecosystem, on migratory waterfowl and on other wildlife would be much greater than the claims of the oil drillers.

The point I want to stress to you is that, as with the proposed dams in the Grand Canyon years ago, we face on the Arctic coastal plain a choice about fundamentals. We can have the untouched, sublime wilderness. Or we can have oil field development.

But we cannot have both.

Opening of the coastal plain for oil exploration and development would be, despite all the much-vaunted technological promises, severely damaging to wildlife and the ecosystem. And it is inherently fatal to the wilderness qualities of this matchless example of America's natural heritage.

Through compromises that began more than four decades ago and were concluded when I signed the Alaska National Interest Lands Conservation Act in 1980, 95% of Alaska's North Slope has already been made available for oil exploration or development. We should not sacrifice the last 5%—the area scientists call the ''biological heart of the Arctic Refuge''—for a speculative short-term fix of oil a decade from now.

As with previous great environmental debates, this issue has assumed gigantic symbolic stature, as some have elevated it as the alleged ''solution'' to everything from higher gas prices to terrorist threats.

The truth is we could drill every national park, wildlife refuge, and coastline and still be importing more than half our oil, remaining just as vulnerable to the price fluctuations of the global oil market. By contrast, raising the fuel economy of our cars and trucks would save far more of then we import from the Persian Gulf, reduce greenhouse gas emissions, and save billions for American consumers. To put this in perspective, had the United States continued to conserve oil at the same rate we did from 1976 to 1985, we could have weaned ourselves from Middle East oil fifteen years ago.

I urge you to pass a cleaner and safer energy plan that enhances our security without undermining our nations' great wilderness heritage. Please vote against cloture on any amendment that would authorize oil drilling in any part of the Arctic National Wildlife Refuge coastal plain.

Sincerely,

JIMMY CARTER.

Mrs. BOXER. I now yield 5 minutes to Senator PATTY MURRAY who has also been a tremendous voice for the environment here in the Senate.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mrs. MURRAY. I rise this morning to support the amendment of my colleague from California, Senator BOXER, that will stop this backdoor attempt to

drill for oil and gas in the Arctic National Wildlife Refuge.

I spoke several days ago here on the floor of the Senate at great length about what this budget proposal would do, the budget resolution that is before the Senate, and how reckless it is. It ignores the cost of war, it ignores the cost of the aftermath in Iraq, and it underfunds critical priorities here at home such as homeland security, education, and transportation.

But I am appalled that there is something else buried in this massive budget that needs to be removed. The budget now before the Senate actually assumes increased spending that will result from opening ANWR up to exploration and drilling, even though the Senate clearly rejected that last year. Exploration and drilling in ANWR is a controversial issue, and it should be fully debated. But the appropriate place for that debate is on the energy bill which the Senate will consider in the coming months.

Last year, this Senate soundly rejected efforts to open ANWR to exploration and to drilling. This year, proponents of drilling are using a backdoor approach to try to get support for ANWR in this budget reconciliation. The amendment that has been offered by my colleague from California will strike that language and leave the ANWR debate where it belongs, as part of the upcoming debate on an energy bill.

The budget reconciliation process was enacted actually to help us reduce our deficit. That is even more important now that our country is back in red ink. Instead of supporting a process that helps reduce our deficit, proponents of drilling are using it to pass something the Senate rejected last year.

The Arctic National Wildlife Refuge is an important and unique national treasure. It is the only conservation system in North America that protects a complete spectrum of arctic ecosystems. It is the most biologically productive part of the Arctic Refuge. Energy exploration in ANWR would have a significant impact on this unique ecosystem.

I have heard the proponents of this measure argue over the years that energy exploration has become what they call more environmentally friendly. That may be true. But there are significant environmental impacts for this sensitive region. The oil reserves in ANWR, in fact the oil reserves in the entire United States, are not enough to significantly reduce our dependence on foreign oil.

There are ways to reduce our need for foreign oil. My colleague, the Senator from Illinois, spoke about that a moment ago. We can increase the fuel economy of our automobiles and lightweight trucks. We can reduce our need for foreign oil by expanding the use of domestically produced renewable and alternative fuels. We can invest in emerging technologies such as fuel cells and solar electric cars, and we can increase the energy efficiency of our office buildings and homes. Those kinds of strategies will reduce our dependence on foreign oil and protect one of our Nation's most precious resources. That is what we should be focusing on.

I think we should also remember the amount of oil in ANWR is too small to significantly improve our current energy problems. The oil exploration in ANWR will not actually start producing oil for as many as 10 years.

Exploring and drilling for oil and gas in ANWR is not forward thinking. It is a 19th century solution to a 21st century problem. The Senate should soundly reject this backdoor attempt to use the budget process to embrace drilling in the Arctic National Wildlife Refuge when so many in the Senate oppose it. We should debate drilling in ANWR when the Senate energy bill comes up, but we should not make a decision on drilling in this budget resolution.

I urge my colleagues to support this very important amendment by the Senator from California.

Mrs. BOXER. Will the Senator yield her remaining time?

Mrs. MURRAY. I yield my remaining time to the Senator from California.

Mrs. BOXER. I say to my friend, I appreciate her raising the issue of the safety here because in the Prudhoe Bay oil field and the Trans-Alaska we have seen an average 423 spills annually on the North Slope since 1996, and that is according to the Alaska Department of Environmental Conservation. Over 1.7 million gallons of 40 different substances, from acid to waste oil, have been spilled during routine operations from 1996 to 2002. There were 2,958 spills, commonly diesel, crude oil, and hydraulic oil.

My friend is right. Maybe years ago they would have been worse spills, but the fact is there are terrible spills now.

I see that my colleague's time is up. I thank the Senator for participating.

Mr. President, I yield 5 minutes to Senator STABENOW from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized for up to 5 minutes.

Ms. STABENOW. Mr. President, first, as I begin, I know I share the feelings of all my colleagues, as we are debating this budget resolution and this important amendment, that our thoughts and prayers go to the men and women who are overseas, our troops who are being placed in harm's way. Regardless of our feelings about the policies that have brought us to this point, we all stand united in supporting our troops. It makes these kinds of debates even more important.

I am very proud to be a cosponsor of this amendment. I commend the Senator from California for her steadfast leadership on this issue, along with a number of colleagues of mine who have consistently stood firm about protecting the Arctic National Wildlife Refuge.

I have been pleased to be a cosponsor of legislation to stop drilling since first coming to the House in 1997. I also am proud to be the author of the ban that we placed on drilling in the Great Lakes, another national treasure. I view this area in Alaska as much of an irreplaceable and fragile natural and national treasure as the Great Lakes. I am very hopeful that today we will, one more time, stop this particular drilling policy from moving forward.

I would like to, once again, speak about some of the same points my colleagues have spoken of because I believe we have to keep repeating them to make it clear what the facts are.

First of all, the Arctic National Wildlife Refuge is, in fact, one of the wildest and most pristine places in the United States. We have an obligation to protect this area for the future, for those who are counting on us to be able to look beyond the immediate time period and look to the future for our country and for our children.

I believe we also have an obligation to stop back-door approaches to this issue. We are seeing, one more time, the drilling in the Arctic National Wildlife Refuge being placed in a bill where it should not be. This is a budget bill. We are focusing on the budget priorities for the next year.

Frankly, we should be debating how much the war is going to cost, and making sure our folks on the front line, and our first responders at home, police and firefighters and emergency workers, have what they need as we enter this very challenging time. Those are the kinds of things we should be debating, not seeing a back-door approach to drilling in the Arctic Wildlife Refuge.

Most importantly, we know that drilling in the wildlife refuge will not result in energy independence. This is talked about all of the time, but it needs to be repeated, that only 2 percent—if we were to drill, we are talking about 2 percent of America's oil demand every year; and it would take at least 10 years to begin to see this brought on to the market.

We are talking about 2 percent rather than focusing on other areas of energy policy that will net alternatives in terms of conservation: alternative vehicles, alternative fuels, all of those kinds of things we know will allow us to become energy independent sooner and more effectively for the long run.

It is impossible for the United States to drill its way to energy security and independence. What we need to have is a debate about the energy policy of the country and how we are going to move forward. And that needs to be done in the energy bill, not in the middle of the budget resolution.

I am concerned when I hear this particular debate tied to Iraq, the serious debate about war and the oil in Iraq. It is important to say that gas prices are determined by global supply and demand factors, as we all know, not by opening one area to drilling.

In addition, Iraq supplies a very small percentage of our U.S. energy needs. According to the EIA, only 1.5 percent of the Nation's energy supply comes from Iraq. Imports from Iraq were banned in 1990 in the wake of the Persian Gulf war, and we obtained no oil from 1991 to 1995—all with no impact on the greatest economic expansion in U.S. history. The fact is, Canada and Mexico together supply more oil to the U.S. than the entire Persian Gulf.

So I encourage my colleagues to join with us in support of this amendment.

The PRESIDING OFFICER. The Senator's time has expired.

Ms. STABENOW. I thank the Chair.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). Who yields time?

The Senator from Montana.

Mr. BURNS. Mr. President, I, on this issue, yield as much time to myself as I shall need. I ask unanimous consent to do that, and that the time come off the resolution.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BURNS. Mr. President, I don't know exactly where to begin on this particular subject. But I would like for the American taxpayers to understand one thing: We maintain a strategic oil reserve. It is 700 million barrels of oil that is stored in salt caves in Louisiana. It costs us $175 million a year to maintain the Strategic Petroleum Reserve. I just want the taxpayers to know what they are paying for.

The fact is, part of that oil was purchased by this Government and put in there, but most of it was taken from royalties. They took the oil instead of the money. And that was recovered on the Outer Continental Shelf or from public lands. So it is there: 700 million barrels of oil that costs the taxpayers $180 million a year to maintain.

I suggest that we have a Strategic Petroleum Reserve that is not costing the American people a thing. It is still in the ground in North Dakota, found on public lands, where we cannot get to it. It is found in Montana, on public lands, where we cannot get to it. That is because of organizations that deal primarily in fear, not common sense.

Abraham Lincoln once said: God must have loved the common man because he made so many of us. Then, when we use the same term in the phrase ''common sense,'' that sort of changes the definition a little bit.

That Strategic Petroleum Reserve is also maintained, and it is still in the ground in ANWR. We do not know how big that reserve is. It has been estimated to be anywhere from 5.3 billion barrels upwards. Does it answer the question of our shortage? Does it take care of all of that? No, it does not. We know that. But, on the other hand, it replaces all the oil we buy that is termed ''rogue'' oil—Iraqi oil that we give hard dollars for and that you contribute to every time you fill your tank at a filling station.

What is that money used for? We have seen it on television every night for the past month and a half. We know what that money is being used for. We give it to a tyrant who uses that money to subsidize families, to entice them to take one of their children and strap dynamite on them and walk onto a bus and blow themselves up, and for the development of weapons of mass destruction, chemical and biological warfare. That is what that money has done.

And yet we sit here today trying again to ban the use of a resource that is not only one of the major underpinnings to our economy, but also takes away from that $180 million a year we spend to maintain that SPR in case of an emergency. That is 90 days. It wouldn't even last 90 days. We would just go through it, bingo. It defies common sense, what we are doing here.

As far as my State of Montana is concerned, I don't know what the impact is. I know during the major exploration and lifting of Prudhoe Bay and the North Slope when it opened up, probably 1,500 families in Montana worked on the North Slope. It provided a lot of jobs. I am not saying that their figure here on the creation of jobs is what some would claim, but it isn't zero, I will guarantee you that. It is going to put a lot of people to work. Maybe jobs only are important to us if they are just in our home state. Maybe it is the welfare of the people if it is just in our State. But the impact it has on Alaska is terrific, on the people who live there, work there, raise their families there, provide services there.

If you wanted to put it to a vote in Alaska, this debate wouldn't even be taking place. The Native Alaskans; ask them, take a vote among them, if we really believe in this 50 percent plus 1. It is their income. This is just about all they have.

What you see of the pictures over there is a result of a 30-day growing season. Any other time I would look with great interest at a photograph that was being displayed last night of the caribou that was out in the water. They had water clear up over their back going into the sea up there. Do you know why they are standing in that water, folks? It is not to cool off. Because they have mosquitos up there that are big enough to turn over your dog tags and check your blood type. That is what they are getting away from. It is a hostile environment.

What are we doing here with the new technology: I mentioned a while ago the jobs of the families who are affected in my State. Those kinds of jobs have moved on. New technology has taken over. We drill differently now. We do it all differently with horizontal drilling practices, with one little area impacted. You may see the wells. It wouldn't be the size of the Chamber of the Senate. It may have a dozen wells. That is the way we do it now. Technology has moved on.

I was interested in the words of my good friend, the Senator from Michigan, and the Senator from California. And by the way, California consumes 12 percent of all of the transportation fuels produced in this country. Yet we cannot drill on the Outer Continental Shelf of California. There is a moratorium on that. There is a moratorium on Florida. They are quick to talk about the Gulf of Mexico and off the coast of Louisiana and Alabama. We can't drill off the east coast, yet Canada does. When you get north of the border, they drill all the way offshore almost to Iceland. If you want to go east of the United States and the Canadian line and the northern territories off Alaska, you have gas and oil production all across Canada. The largest exporter of energy to this country is Canada, both in crude and in gas.

Yet the United States is being denied our own resource in our own country to supply the heat and the transportation fuels for our own people and our own security. And groups would manipulate information on ANWR to deny the American people when common sense tells you it is just the other way. Those of us who live near and some of us on public lands understand what the thinking is.

I will tell you this, as we talk about this total resolution. If you want to see something happen, this President has offered a way to stimulate the economy and to have it going when those young men and young women come home from the gulf and they go back into the workforce. Do you want them to come back into a sluggish economy? Is that what we want to do here? Do we want to take a sluggish economy and pound it down further and have no opportunities for them outside of military life, those reservists and also those who serve in the National Guard?

We are finding out the cost of 50 percent of our force structure and military is at home now and not found on military bases, full-time soldiers, sailors, marines, and airmen. This is a part of that growth package. This is a part of a package that shows immediate return to the American taxpayer and also gives us that security, our own home security, if it is ever needed. What is wrong with finding out how much oil we really have? We can't even explore, let alone lift. And we are doing it based on thinking and facts that do not heed common sense. It is groups, little tiny groups that propagate misinformation and do it on an emotional ''green, fuzzy'' resolution. That you would deny people a livelihood, deny them food, deny them the basic needs of education and health care in the State of Alaska based on misinformation, that can't make one feel very good.

So if we are looking for job creation, if we are looking for energy security, if we want to do away with this little ticket of $175 million a year just to maintain oil in salt caves, then when you get the bottom line, the answer is

pretty clear—let alone the promise that this Congress made to the State of Alaska whenever they passed the land bill there and also created the Alaska National Wildlife Refuge.

By the way, we are breaking that word, too. That rests on the backs of Congress. So I ask for those who live there, the Natives who were raised there, with their traditions—I will tell you, I don't know if you have ever seen the caribou come across there. The area is not short of wildlife—not from the impact of Prudhoe and North Slope. All the benefits that have gone to Alaska and to America as a result of that tremendous resource—those tremendous reserves, in a part of the world that is fragile, yes; all land is fragile, but it is a land we can take care of and still use the resources it provides.

I ask my colleagues to use some common sense. Go through the same figures I have. If you get a different number, you let me know, because I am just a country boy; I count bushels and heads of livestock. But when you get to the bottom line, it is a plus for America, a plus for our security, a plus for jobs, and it is also a plus for the great State of Alaska.

Our technology has not gotten us to the point where we can safely and economically do in our transportation fuels, using fuel cells and biomass, anything you want to do. That technology is not there yet, folks. If you want to cut off the oil today, you will see how fast this economy would crumble. But you cannot talk economy, you cannot talk numbers, because this is an emotional debate. It is wrong. It is wrong to do it to the State of Alaska, and it is wrong to do it to America.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, I ask that the Senator from North Dakota yield such time as I may consume.

Mr. CONRAD. I am happy to do so.

Mr. REID. Mr. President, we are doing our best, in accordance with the direction we have gotten from the majority leader, to move this bill along. We are trying. I spoke to the manager of the bill this morning, and we are trying to do that. We want to offer other amendments. We have a couple of minutes left to speak on ANWR. We want to offer other amendments. We were ready to vote on ANWR last night, or this morning, or early this afternoon—anytime. We need to move this legislation along, and we are doing the very best we can, but we have amendments we have to offer.

I hope we have the opportunity to do that. The time is quickly dwindling, and we are doing our best not to have many votes on the vote-athon; but with each day that goes by, it appears there will have to be more because people are not having the opportunity to offer amendments.

The PRESIDING OFFICER. The Democratic leader is recognized.

Mr. DASCHLE. Mr. President, I will use my leader time for the comments I am about to make.

The decision whether or not to allow drilling in the Arctic National Wildlife Refuge is a defining moment for national energy and environmental policy.

This debate reflects two divergent views of our Nation's values and future.

We have a choice: Either we can continue building oil wells in environmentally sensitive areas or we can reject the quick fix and broaden our Nation's energy base while honoring our commitment to our natural heritage.

It has become apparent that America depends too heavily on some very undependable foreign sources of oil.

Hostilities in Iraq are just the latest chapter in decades of instability in the Persian Gulf.

Meanwhile, production of oil in Venezuela has been brought to a near standstill because of domestic unrest.

For the sake of our economy, for the sake of national security, and for the sake of our environment, America must reduce its reliance on foreign oil.

But instead of diversifying energy supply, investing in new technologies and promoting efficiency, the Bush administration's priority is to look for the next big domestic oil field.

Last year, the Senate rejected the Republicans' effort to authorize drilling in the Arctic National Wildlife Refuge in comprehensive energy legislation. Now they are back attempting to use the budget resolution to grease a change they couldn't make in the energy bill.

No matter how clever they view this parliamentary sleight of hand, the proponents of drilling in the Arctic Refuge cannot escape the facts.

While endangering one of the most pristine areas in the world, drilling in the Arctic National Wildlife Refuge would do nothing to make our country more energy independent.

We cannot sit silently by while the administration promotes a short-sighted strategy that mortgages one of our most precious and irreplaceable wild spaces for a few months' supply of oil.

Gasoline prices are soaring today. Yet this proposal would add nothing to our oil supply for 10 years.

Even then, the Arctic Refuge would supply our country with no more than 6 months' worth of oil and would reduce our dependence on foreign oil by just 2 percent.

This is not a serious attempt to come to grips with America's long-term energy needs. America cannot drill its way out of this problem.

Ninety-five percent of Alaska's North Slope is already open to drilling and exploration. Even if we drilled in the last 5 percent, even if we drilled in the backyards of every American, we could not satisfy our Nation's appetite for oil.

America produces just 3 percent of the world's oil; yet we consume 25 percent of that supply.

The answer to our energy challenge will not be found in the Arctic Refuge.

The answer will be found in our willingness to encourage American innovation and break the habit of spiraling energy consumption. We have met this test in the past.

In the 1970s, Congress increased fuel efficiency standards and began to encourage the development of renewable fuels.

Today, those fuel efficiency standards save our country the cost of 3 million barrels of oil every day.

That, and a wide range of clean, domestic, renewable energy technologies would dwarf any contribution the Arctic Refuge could make in the future.

Meanwhile, if drilling in the Arctic Refuge is authorized, our lack of vision would come at enormous cost.

According to the administration's own Fish and Wildlife Service, ''The Arctic refuge is among the most complete, pristine, and undisturbed ecosystems on Earth . . . a combination of habitats, climate and geography unmatched by any other northern conservation area.''

There is no alternative to Arctic National Wildlife Refuge once it is despoiled. But there is an alternative to this reckless proposal:

A true national energy strategy that speaks to our core environmental values while at the same time frees our country from the dictates and uncertain fortunes of foreign oil producers.

Now more than ever, we should be aware of the real cost of dependence on foreign oil.

Now more than ever, we need real answers and serious stewardship to the energy challenges of our Nation's future.

Mr. President, I encourage my colleagues to vote to strike the authorization to drill for oil in the Arctic National Wildlife Refuge from the budget resolution.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. On behalf of Senator CONRAD, I yield 10 minutes to the Senator from New Jersey, Mr. LAUTENBERG.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, I thank my colleague from Nevada for yielding the time to me to talk about the Boxer amendment and talk about the decision we could be making very shortly about the use of oil from the Arctic National Wildlife Refuge.

Mr. President, what happens is, as these debates get going, sometimes we hear statements that are somewhat misconstrued or mistaken. We just heard it suggested on the floor that funds from the purchase of Iraq oil are used to purchase bombs. Nothing could be further from the truth. The fact is, that money is passed through the United Nations to buy food to be distributed to the people of Iraq. There is no way that money can be used to buy

bombs. It is important we keep the record straight.

I want so much to see the Boxer amendment prevail, but in order to make the case, apparently, we have to do more than simply justify the fact that if we did not do this, we could find other ways to conserve oil and not have to invade this snow desert, if one has ever seen it. It is one of the most beautiful places in the world, and the last thing we ought to do is turn the Arctic National Wildlife Refuge into an oilfield.

I traveled to Alaska in the aftermath of the Exxon Valdez spill in 1989. At the time, I was chairman of the Transportation Appropriations Subcommittee, so I had jurisdiction over Coast Guard funding. I was also a senior member of the Environment and Public Works Committee. So I had a great deal of interest in the Valdez incident.

What I saw was shocking, stunning almost. Over 11 million gallons of oil spilled into the Prince William Sound. I witnessed beautiful wildlife covered in oil, many dead or dying. I saw workers from the Department of the Interior, the fire service, and others hand wiping oil off birds and other wildlife. It was a devastating tragedy.

The disaster left a major impression on me. I thought about my children, my grandchildren, other people's children, and other people's grandchildren. I never wanted to see the dismay on their faces should they ever witness this tragedy.

To this day, 14 years later, the area remains contaminated with a persistence that has surprised many scientists. Sadly, the optimistic predictions of its recovery proved to be unjustified. Fully 60 percent of the area remains contaminated. Pools of toxic oil are still being found several feet deep.

Ecosystems, such as those in Prince William Sound and the Arctic National Wildlife Refuge, are so fragile, they are such delicate treasures of our Nation.

I had the privilege of visiting the Arctic National Wildlife Refuge at the same time, and I can tell you, from personal experience, that in addition to the damage caused by drilling and oilspills, the debris of human intrusion, acres of rusting pipes and dilapidated structures dishonors America's 100-year-old tradition of protecting remote wild places.

On that visit, I flew in a single-engine plane across to a community called Deadhorse. It is right near Prudhoe Bay. It was troubling to see that area, the tundra littered by refuse left by the same oil companies that now avow they will be good environmental stewards should the Arctic Refuge be open to drilling.

Why would we risk devastating these national treasures? For what gain?

There is a dispute as to whether it is a 6-month oil supply or more that we will see from the Arctic Refuge, but for this short-term gain, what is the long-term risk, the cost?

I believe the long-term damage is too great. Turning this refuge into an oilfield will result in the loss of a national treasure we will never be able to replace. Look at what is happening on the North Slope. The National Research Council's new report shows that oil drilling on the North Slope has drastically reduced the population of nesting birds, such as the snow geese, and seismic exploration has displaced the culturally sacred bowhead whales from their migratory path, according to the National Research Council.

Additional drilling will only compound the stresses on these and the 200 other animal and bird species that inhabit the region.

What would the payoff be for recklessly endangering this national treasure? We would save more oil than we could drill at the Arctic Refuge at the height of production by requiring SUVs to meet the same fuel economy standards as regular cars. We never hear talk about conservation. We never hear talk about everybody pitching in on the eve of a war to economize and use less fuel whenever we can do so.

There is simply no good reason to endanger this fragile Coastal Plain ecosystem.

More than oil is at stake here. Thoreau wrote:

> In wilderness is the preservation of the world.

America and the world need the last remaining wilderness places. The Arctic wilderness is one of those places. It would be unconscionable to despoil it for all time just for a bit of oil. We can find other ways.

I came across an article that tells us about the risk, a risk we are not discussing in pure terms. This is an Internet news report from a service called Ananova. The headline is: "ExxonMobile damages for Valdez spill cut to $4 billion from 5; to appeal." It is going to be appealed further by the ExxonMobile company. They already paid some damages to the Alaskans, some money for cleanup, and some money to the State and Federal governments. But they have yet to pay a dime for punitive damages. This is 1989. We are not talking about recent months or even recent years. Fourteen years ago last month that tragedy took place, and they have not paid, and they do not want to pay. They are going back to court to say, Reduce our damages, even though the court the first time assessed them a $9 billion punitive damage claim. They are working their way down, and maybe they will get it down to nothing one of these days. We ought to stop it right now where it is and not permit this to continue. They just want to get their mitts on the money that comes from that oil drilling, and it is without regard for the consequences.

Mr. President, I ask unanimous consent that this article by Ananova be printed in the RECORD.

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

[From Ananova, December 8, 2002]

EXXONMOBIL DAMAGES FOR VALDEZ SPILL CUT TO $4 BILLION FROM 5; TO APPEAL

A US federal court in the state of Alaska has reduced punitive damages awarded in the 1989 Exxon Valdez oil spill to $4 billion from 5 billion, ExxonMobil Corp said in a statement late on Friday.

The company, which had been hoping for a far greater reduction in damages, said it plans to appeal against the ruling, saying it is excessive and "entirely inconsistent with the law."

ExxonMobil wanted the damages cut to no more than $40 million, a sum which would be "only slightly less than the largest punitive damages award ever approved by any federal appellate court anywhere."

A US appeals court last year sent the case back to the Anchorage District Court with orders to reduce the award to an amount consistent with constitutional limits.

Company officials said ExxonMobil took immediate responsibility for the spill, cleaned it up, and voluntarily compensated those who claimed direct damages.

It also paid $300 million immediately and voluntarily to more than 11,000 Alaskans and businesses affected by the spill, 2.2 billion for the cleanup of Prince William Sound, and another 1 billion to state and federal governments.

[From Environment, April 20, 1995]

JUDGE VOIDS PORTION OF EXXON FINE

An Alaska state judge, Brian Shortell, ruled that Exxon Corp., did not have to pay $9.7 million in punitive damages to five Alaska native corporations, it was reported March 31. The damages originally had been awarded in recompense for land damage caused by the March 1989 Exxon Valdez oil spill. The ruling had no effect on the $5 billion in punitive damages that Exxon had been ordered to pay to 14,000 Alaskan natives, fishermen and property owners. [See 1994 Environment: Exxon Fined $9.7 Million in 'Valdez' Spill, 1994 Exxon Fined $5 Billion In 'Valdez' Spill; Record Award to fishermen, Natives, 1989 Largest U.S. Oil Spill Fouls Alaska Marine Habitat; Containment Effort Delayed from Onset]

Shortell said that the corporations already had received adequate compensation from the Trans-Alaska Pipeline Liability Fund and a $98 million settlement with Alyeska Pipeline Service Co.

[Exxon Press Release, November 7, 2001]

EXXON VALDEZ APPEALS RULING, STUNS ALASKANS

(By Yereth Rosen)

ANCHORAGE, Nov. 7.—Exxon Mobil Corp.'s reprieve on Wednesday from a $5 billion punitive fine stunned and angered Alaskans who had sued the energy giant for punitive damages from the 1989 Valdez oil spill disaster.

The 9th Circuit Court of Appeals ruled that the fine, ordered by a U.S. District Court jury in 1994 at the close of a summer-long civil trial against Exxon was excessive. The court sent the case back to the trial court for assessment of a new fine.

One Alaska Native leader in Cordova, the town that is the center of the Prince William Sound commercial fishing industry, described a groundswell of anger at the ruling.

"I wouldn't want to be anyone from an oil company in this town today, I'll tell you that," said Bob Henrichs, a Native leader in Cordova.

Anyone associated with Exxon is particularly unwelcome, he said. "They hired a drunk who couldn't get a license to drive a car and turned him loose with an oil tanker," he said.

About 40,000 fishermen, Natives, property owners and others affected by the spill sued Exxon over the disaster. Most of the cases were consolidated and heard at the 1994 trial. Many plaintiffs were counting on payments from the punitive verdict to help heal various problems, including a deteriorating fishing economy.

Now the appeals court ruling has dashed those hopes, said Riki Ott, a Cordova fisherman, marine biologist and environmental activist.

The ruling means that Exxon Mobil may emerge unpunished for the spill, which continues to harm the area's environment and people, Ott said.

''They just go on, business as usual, and try to shove all of us under the carpet by relying on the court system, which favors big corporations,'' she said. ''Exxon has continued to profit off this, and we're all slowly going broke.''

SHOCK AND SURPRISE

Sue Aspelund, executive director of Cordova District Fishermen United, said she reacted to the news with ''shock and surprise.''

The fishermen's group on Wednesday was still trying to figure out what to do next, she said. Henrichs, president of a 500-member tribal organization based in Cordova, said his faith in the court system was shaken by the ruling.

I'd like those judges who made that decision to come up here and confront our people, look us in the eye,'' he said.

One of the lead attorneys for the spill plaintiffs said he believes the punitive award can be resurrected.

Attorney Brian O'Neill said arguments over the punitive fine will be made again within months before U.S. District Court Judge H. Russel Holland, who presided over the 1994 trial.

''And we'll go back and get the $5 billion. Because I think the process was fair, I think the award was fair,'' said O'Neill, who presented most of the plaintiffs' case at the trial.

''The thing that I'm sad about and embarrassed about is that it's taken us so long to get here,'' he said. ''It's going to take another year or two longer, but we'll get there.''

Meanwhile, Henrichs' organization, the Native Village of Eyak, and other Native groups are pushing for stricter regulation of the trans-Alaska pipeline. The 30-year leases that allow the pipeline to operate on state and federal land are up for renewal in 2004.

Ott is working on a campaign—including a possible new lawsuit against ExxonMobil—to address chronic illnesses that spill cleanup workers said they suffered as a result of working without proper protections.

The 11 million gallon (50 million liter) spill, the worst tanker disaster in U.S. waters, polluted more than 1,200 miles of shoreline and was the deadliest ever to wildlife.

It killed thousands of marine mammals and hundreds of thousands of seabirds, forced the shutdown of fish harvests and, government scientists say, caused lingering damage to fish, bird and mammal populations.

The U.S. District Court jury found that reckless behavior by Exxon and tanker captain Joseph Hazelwood had led to the spill. That verdict paved the way for the punitive fine.

Also during the trial, the jury ordered Exxon to pay $287 million in compensation to commercial fishermen, and the company settled some of the Native compensatory claims before the trials's end.

Mr. LAUTENBERG. Mr. President, we will wrap up this debate in a very short while. We have to look at the full picture. It is not simply getting oil here or taking advantage of an opportunity to go into the Arctic National Wildlife Refuge to search for more opportunities to consume oil at a rate that has never been heard of. We have to step back and take a look into the future as to what we want for our children and their children.

I hope the Boxer amendment will get the support it deserves. I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire. Who yields time?

Mr. NICKLES. Mr. President, how much time does the Senator from New Hampshire desire?

Mr. SUNUNU. I had not calculated it. Twenty minutes.

Mr. NICKLES. I yield to the Senator from New Hampshire as much time as he desires.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SUNUNU. I thank the Chair. Mr. President, I thank the chairman. As a new Member of the Senate, I bring to this body, as do many of my colleagues, experience having served in what we like to refer to as the ''other body,'' the House of Representatives. Prior to that service, I worked in what we sometimes refer to as the ''real world'' in manufacturing, having been trained as a mechanical engineer.

Engineers often try to develop solutions to problems by arguing from first principles, and that means simply that you work from the most basic understanding of a problem you wish to address. Once you come to terms with the central element of that problem, you are far better able to craft a meaningful and effective solution.

What the astute listener might ask is: What does this have to do with the Federal budget? And to that I reply, if you really want to put together an effective budget and a meaningful budget that will serve us well, we need to remind ourselves exactly what this budget resolution is for.

As we listen to much of the budget debate, one might understand or come to assume that the budget resolution establishes funding levels for every conceivable Federal program, every line item in the budget; that it rewrote the Tax Code; that it modernized Medicare, all in and of itself without even having the benefit of the President's signature. Of course, this is not the case, even though the rhetoric we hear might suggest otherwise.

So what is the budget resolution? It is simply a blueprint. It is a vision the Congress puts forward of where we imagine our budget priorities should be this year and in future years. We try to set priorities for taxes and for spending, try to estimate what we are going to collect into the Federal coffers, and try to set priorities for modernizing programs like Medicare or Social Security. Above all, it reflects a set of priorities.

For example, listening to the debate this morning, one might get the impression it actually authorizes oil exploration in northern Alaska. That is simply not the case. What the budget resolution as written would do is allow the Senate Energy Committee to write legislation that would then be debated on the Senate floor. It would still have to pass the Senate to allow exploration or production in northern Alaska to take place. The budget simply provides the mechanism allowing that legislation to be written and then later brought to the floor.

Our goal in this debate should be to reflect the right set of priorities in our country. To be sure, this is a $2 trillion budget we are talking about. If I or any of my colleagues were writing a $2 trillion budget, I am sure someone somewhere would find something in that $2 trillion budget they might disagree with, and I understand that. Any Member of the Senate, any citizen of our country, can find something in our Federal budget they are not comfortable with, that they do not like, that they would disagree with, a program they would change. But if we want to do the work of the American people in the Senate, we need to put together that budget blueprint. We need to set those priorities, and I would hope those priorities would be consistent.

As we listen to the debate over the next few days, unfortunately we will hear a lot that is not consistent. We will hear individuals talk about their concern for the Federal deficit, and then they will step forward and vote for an amendment that raises domestic spending and increases the deficit. We will hear individuals raise concerns about the cost of military action at this historic time. But after raising concerns about those costs, those individuals will then step forward and vote for amendments that raise domestic spending.

We will hear Members raise concerns about economic growth, and then instead of stepping forward to propose or support a package that lays the foundation for future economic growth, what will they do? They will step forward and they will vote to raise domestic spending. There is a pattern, to be sure.

We are in challenging and difficult times, and we have work in front of us that will require us to make difficult choices and to set the right priorities for our country.

Why do we need this budget in the first place? We need this budget, as I suggested before, to enable us to get our work done. I talked about the budget allowing the Energy Committee to come forward with legislation crafting a comprehensive energy policy that might include exploration in northern Alaska. The budget will also set an overall limit on discretionary spending. This year, I think the goal put forward in the budget resolution is approximately $784 billion. But we need to set that goal, that cap, that target, so the other spending committees, the

Appropriations Committee in particular, can then move the spending bills forward.

This is not insignificant. Last year, we failed to pass a budget in the Senate and we paid for it. We paid for it because as a result we could not get the work of the country done. We ended up completing that work, not in September, October, November, or December of last year, but in January of this year. That is simply wrong. That is why we need a budget. The budget lays the foundation for critical legislation, and not just a comprehensive energy bill. If we want to modernize Medicare, pass a prescription drug benefit for retirees in this country, we are going to need a budget resolution. If we want to pass an economic growth package that helps lay the foundation for job creation in America, we are going to need a budget resolution.

The Senate may well appear chaotic under any circumstances, but without a budget we are even more so. I do think it is important to note the minority in this case has not offered any comprehensive alternative to the budget. We will hear debate and criticism of the pending resolution that is before this body, but no comprehensive alternative. This is similar to last year when the minority, then in the majority, failed to offer and pass a comprehensive budget. As a result, not only were we completing last year's business this past January, but we were unable to pass a prescription drug benefit under Medicare and other work before the Senate was delayed. The budget resolution is critical to being able to get our work done in Congress.

What is in the budget resolution that is before us? What are the priorities we have laid out that have been put together by the hard work of the chairman of the Budget Committee and the members of the Budget Committee? Given the challenge of these times, I think it is a very strong package. The overall spending level, $784 billion, represents a growth in discretionary spending of a little bit less than 4.5 percent.

There is a basic principle at work, and that is we should not be expanding the size and scope of the Federal Government. We should not be increasing domestic spending any faster than an average family budget is increasing.

On the defense side, we all know the challenges we face, the priorities we need to set in defense spending. Defense spending has increased approximately 3.8 percent. Homeland security, where we need to make investments in new technology and new ways of identifying threats to this country, has been increased over 25 percent in order to help first responders—police and firefighters—around the country.

As with defense and homeland security, we have to set priorities throughout the budget. If the Federal spending level is increasing by 4 or 4.5 percent, not every program can receive a 10 or 20 percent increase. Priorities need to be set.

On veterans health care, we step forward to provide an increase of $1 billion in this budget; on education, a 4.5 percent increase, including $1 billion for special education, which is an enormous unfunded Federal mandate on cities and towns around the country. In science, space, and technology research, the budget provides for an additional 5.5 percent over last year. Setting priorities in important areas; that is what putting together a good budget is all about.

This budget will allow us to modernize Medicare, to add a prescription drug benefit to Medicare, something that is essential if we are going to deliver on our commitment to a modernized health care system for our retirees.

As we have heard and will continue to hear over the next couple of days, this budget allows for an economic growth package to help get our economy moving, to help create incentives to entrepreneurs and risk takers across the country to create new economic opportunity and to create new jobs.

I think it is the right set of priorities. I think it makes sense to put together a package that focuses on economic growth. I think it is the right thing to do to make sure we are not expanding the size and scope of the Federal Government any faster than the average family might be expanding its budget.

To be sure, we will hear people argue about the level of spending and we will have amendments to increase Federal spending in a number of areas. The fact of the matter is, we would hear those arguments and have that debate no matter what the spending level in this budget resolution was. If it was at $794 billion, we would have similar amendments to increase Federal spending. If it was at $800 billion, $810 billion, or $820 billion, we would have the same amendments to expand the size and scope of the Federal Government, because some legislators find it more difficult than others to set priorities and to control the size and scope of that spending. Now more than ever we need to set priorities.

We have heard and will continue to hear a lot of discussion in this budget debate about the deficit. It needs to be addressed. We cannot ignore it. In order to do the right thing regarding the deficit, we have to understand why it is there. Why do we have a deficit?

I just talked about spending growth. Growth in spending, expansion of the size and scope of the Federal Government, that alone is responsible for 25 percent of the deficit we have projected for the coming fiscal year and over the coming 10 years.

We had surpluses after a long period of expansion that began in the early 1980s, with a sharp brief interruption in 1991. Revenues increased year after year. We had record revenue growth because we had strong economic growth. That enabled us to balance the budget. Coupled with control of growth in spending, we were able to balance the budget. Some say the surpluses then just provided incentives to ramp up the spending level again. As we have seen over the last 5 or 6 years, the growth in discretionary spending has been at near historic levels.

At the same time, we had unprecedented defense and homeland security needs that had to be dealt with in the wake of September 11. With the recent economic downturn, we have seen unemployment costs increase once again. So new spending has been responsible for about 25 percent of the deficit. An even larger portion, almost half of the deficit, has been caused by the slowdown in the economy and the drop in revenues. This is unfortunate, but we all understand we are in slow economic times.

The result has not been created by tax cuts. Despite the rhetoric, the Tax Relief Act signed into law in 2001 was responsible for less than 25 percent of the deficit we will see in the coming year. It was the slowdown in the economy, cutting Federal revenues by over $150 billion over the last year, that resulted in 50 percent of the deficit we see today. That is why it is important we include in this resolution an allowance for an economic growth package. The economy has slowed down.

We need to understand why it slowed down. It is not because of inflation. It has not been because of a slowdown in consumer spending. American consumer spending has been surprisingly robust over the last 18 months. It has not been a credit squeeze like we had in 1991. This economic slowdown has been driven by and led by a slowdown in business investment. Businesses are reluctant to go out and spend additional capital on improvements to plants and equipment, on improvements of productivity and expansion of their facilities. We know of the slowdown in technology investment. That has led this slowdown in the economy.

If we want to do something about it—and I think we all care about the economic growth in this country—if we want to do something, we have to address the reason for the slowdown, to address the sharp downturn in business investment. That is what the economic package of the President has put forward and what this budget resolution attempts to do.

We have other options. We could do nothing. At the end of the day, if you watch the votes carefully, you will see that there are a number of Members of this body who would just as soon do nothing. They do not support an economic growth package. They will argue they do not want to increase the deficit. That means do nothing, do not spend any additional money, do not put together an economic growth package. I do not think with the economy as slow as it is, the American people want us to say we are going to do nothing to try to get job creation back on track.

We could spend more money and there will be a series of amendments to

this budget resolution to do just that. Some will be offered by those who decry the short-term deficit, or the deficit that we have had over the last year. But they will offer amendments to spend more money and ultimately increase the deficit. The idea that we could spend ourselves out of a recession is ridiculous. It is absurd on its face.

We have extended unemployment insurance. That was the right thing to do and it is an important thing to do. But in and of itself, spending more on unemployment insurance will not rekindle economic growth. We need to recognize that in order to create incentives for entrepreneurs and risk takers to spur job creation, we need to look at the Tax Code. That is where the growth package comes forward.

Is it a big package? Relatively speaking, not at all. It represents less than 2.5 percent of our Nation's revenue collections over the next 10 years. But it is focused on making the Tax Code more fair: by getting rid of the double taxation on dividends; by giving small businesses incentives to invest in plants, equipment and the modest increases I spoke of; and by tripling the amount small businesses could expense over time. It tries to deal with the economic slowdown by recognizing the first principles of why the economy has slowed down in the first place.

This budget sets forward a realistic, reasonable and common-sense limit on Federal spending. It sets priorities even within those areas for veterans health care, special education, science and technology, homeland security, and our national defense. It allows us to modernize Medicare and add an important prescription drug benefit. It also sets forward principles for an economic growth package we all know is needed in America.

It is a strong resolution. With all due respect to the chairman of the Budget Committee, it is probably not a perfect resolution. I served for 6 years on the Budget Committee in the House, and I am the first to admit there is no such thing. But it is a strong set of priorities for America. It reflects common sense when you look at the economic realities, the budget realities and the national security realities we have.

America was built on a foundation that rests on individual liberty. From that very first principle comes our country's commitment to property rights, to free markets, and to open trade. As we conclude this debate on the budget in the coming days, I hope our budget resolution will reflect the importance of these ideas; that it will include provisions necessary to strengthen our economy, but that it will balance the needs of our Government with the rights of individuals. These are not just fanciful ideas, but are bedrock principles that enabled America to build the strongest economy the world has ever known. They make us strong today and will keep us strong tomorrow.

Although I am just beginning my service in the Senate, I hope it will be marked by a consistent and enduring commitment to these ideas. I can think of no better way to serve my State and my country.

I yield the floor.

Mr. INHOFE. Mr. President, I rise today to discuss America's national security and the need for American independence from Middle Eastern oil.

America's chronic dependence on foreign oil is a critical national security issue. It not only affects citizens and businesses nationwide, but also has a direct impact on our Nation's ability to fight and win wars. As we prepare to engage in military operations in Iraq, it is important to understand that our forces are highly dependent on foreign oil, much of which comes directly from Iraq. In other words, we are dependent on oil from Iraq to fight a war against Iraq.

During the 1970s energy crisis, America was 36 percent dependent on foreign oil. Today we are 56 percent dependent, and by 2010, we are headed for well more than 60 percent. For the military, it now takes eight times as much oil to meet the needs of each U.S. soldier as it did during World War II. The Department of Defense today accounts for nearly 80 percent of all U.S. government energy use. During the 1991 Persian Gulf war, our 582,000 soldiers consumed 450,000 barrels of petroleum products—four times the daily amount used by the 2 million Allied soldiers that liberated Europe from the Nazis in World War II. Since World War I, the outcome of every war has been influenced by the control of the energy. We are talking about a serious national security issue.

As a result of military operations in Iraq, we must prepare ourselves for the possibility of disruptions in the flow of oil from the Middle East. Iraq has been the fastest growing source for United States oil imports. Shockingly, in the year 2000, $5 billion of American money went to Iraq to buy oil. After September 11, when asked how U.S. dependency on foreign oil relates to our national security, Deputy Secretary of Defense Paul Wolfowitz said that U.S. dependency on foreign oil ''is a serious strategic issue. . . . My sense is that [our] dependency is projected to grow, not to decline. . . . it's not only that we would, in a sense, be dependent on Iraqi oil, but the oil as a weapon. The possibility of taking that oil off the market and doing enormous economic damage with it is a serious problem.''

It is critical that we develop our own resources and establish our energy independence. Energy Secretary Spencer Abraham has reviewed our national energy policy. He has warned that unless we act now, we will threaten our national security, damage our economic prosperity, and harm our quality of life. Likewise, in both 1995 and 1999, the Secretary of Commerce acknowledged, pursuant to a law directing his assessment, that our oil deficit poses a threat to national security. This threat has been acknowledged by both sides of the aisle.

According to Secretary Abraham, consumption of energy has risen sharply yet production continues to decline. In a report released by the Energy Information Administration, the Department of Energy estimates that oil and gas reserves totaling 1,166 trillion cubic feet are recoverable in the lower 48 states and Alaska. The oil we could recover from three square miles of Alaska alone would allow our Nation to replace the oil we buy from Saudi Arabia for 30 years.

The time to act is now—not for some immediate quick fix, but for the long-term security of America in the years and decades ahead. Our lack of an adequate long-term national energy policy is not a partisan matter. It is a supreme national challenge that cannot be continually ignored without posing an increasing danger to our security and our way of life. Sadly, our Nation has failed for three decades to address this issue properly.

The tired refrain that ANWR ''will destroy the environment'' is so out of date and out of touch with reality when we have the technology and the know-how to affirmatively protect the environment while meeting an important long-term national security challenge. Additionally, I wish it were required for everyone who is going to be voting on ANWR to take a trip up to the North Slope of Alaska to see what we are really talking about. It is not a pristine wilderness. We are only talking about a very small, a minuscule part of that area up there, and we are talking about an environment where the Eskimos, the local people, are begging us to come in and open it up.

They have estimated that between 5.7 billion and 16 billion barrels of recoverable oil will be found in ANWR's Coastal Plain—up to 16 billion. That equates to over $300 billion worth of American oil. The American people want our country to comprehensively rebuild our military, our defenses and our future security on all fronts. This was true before September 11. It is only more true today. It is time for the Senate to vote, for the Congress to act, and for America to move forward towards true and lasting energy independence.

Mr. SARBANES. Mr. President, I rise in strong support of the amendment introduced by Senator BOXER, which would strike the provisions contained in the pending Budget Resolution that would allow for the commencement of oil exploration and drilling in the Arctic National Wildlife Refuge, ANWR. I am deeply concerned about the irreparable damage these actions would have on this unique and beautiful wilderness.

A mere 6 days ago, the Senate unanimously passed a resolution commemorating the Centennial Anniversary of the Wildlife Refuge System, established by President Theodore Roosevelt in 1903 with the designation of the Pelican Island Reservation on the eastern coast of Florida. According to last

week's resolution, which I cosponsored, the Senate ''reaffirms its commitment to continued support for the National Wildlife Refuge System, and the conservation of our Nation's rich natural heritage.'' The language contained in the pending Budget Resolution, which would lead to the disturbance of one of the largest and most pristine components of the Wildlife Refuge System, not only falls far short of this reaffirmation, but explicitly breaks the commitment laid out by President Roosevelt a century ago.

The principal mission of the Wildlife Refuge System, in President Roosevelt's own words, is ''keeping for our children's children as a priceless heritage, all of the delicate beauty of the lesser and burly majesty of the mightier forms of wildlife. . . .'' Moreover, Roosevelt declared that this mission is founded on the basic principle that ''wild beasts and birds are by right not the property merely of the people who are alive today, but the property of unborn generations, whose belongings we have no right to squander.'' The environmental damage we have seen throughout the country over the past 100 years has strengthened and reaffirmed President Roosevelt's wise foresight in preserving certain areas of beauty and natural significance for present and future generations.

Proponents of drilling in ANWR have claimed that oil exploration activities on the Refuge's fragile coastal plain will result in virtually undetectable environmental impact. However, an extensive, congressionally mandated report released earlier this month by the National Research Council of the National Academies of Science and Engineering makes clear that drilling in ANWR will result in significant damage to the region. According to the report, which examined the cumulative effects of oil and gas exploration and production on Alaska's North Slope over the past three decades, ''[r]oads, pads, pipelines, seismic-vehicle tracks, and transmission lines; air, ground, and vessel traffic; drilling activities; landfills, housing, processing facilities, and other industrial infrastructure have compromised wild-land and scenic values over large areas. . . .'' Moreover, ''climate changes during the past several decades on the North Slope have been unusually rapid,'' and ''noise from exploratory drilling and marine seismic exploration'' have disrupted migratory patterns and severely impeded reproductive rates of bowhead whales, caribou, native birds, and other species.

In addition to the major environmental impact that would likely affect ANWR should it be opened for oil and gas exploration, the resulting energy supply would do little to address our growing energy needs. Indeed, ANWR represents only five percent of Alaska's North Slope the remaining ninety-five percent of the North Slope is currently open to oil and gas exploration and production. According to a 1998 U.S. Geological Survey study, the total amount of oil that could be harvested from ANWR would roughly equal the amount of oil consumed by Americans in a 6-month period. Finally, this relatively small supply of oil would do even less to address our immediate energy needs. A 2001 report published by the Congressional Research Service has estimated that American consumers would not begin to benefit from oil recovered from ANWR for at least 10 years.

If we truly want to address the challenge of our country's overwhelming dependence on foreign oil, causing irreparable damage to an area of exquisite beauty in exchange for a small supply of oil and gas is not the manner in which we should proceed. It is my strongly-held belief that we must aggressively pursue sources of renewable energy, as well as turn our focus away from increased production, and toward greater conservation.

Mr. President, attempts to open ANWR to oil and gas exploration are reckless and shortsighted. I urge my colleagues to honor President Theodore Roosevelt's vision by joining me in supporting Senator BOXER's amendment to preserve the integrity and beauty of ANWR.

Mr. LEAHY. Mr. President, the Senate soon will have the opportunity to support an amendment to remove the proposal to increase oil and gas exploration in the Arctic National Wildlife Refuge from the budget reconciliation bill. By tucking away this proposal into the energy section of the reconciliation bill, proponents of this provision would smother the open debate the American public deserves on such a significant and contentious national issue.

Just last Friday, on March 14, we celebrated the 100th anniversary of the creation of the Nation's first Federal bird reserve on Pelican Island, the predecessor of today's refuge system. Today we are debating whether to allow further drilling in the fragile arctic environment, for reasons that do not add up to justify such a step.

Consider how far we have come since President Theodore Roosevelt had the vision to set aside the 5-acre Pelican Island—a small thicket of mangroves off the east coast of Florida—to a system that today totals more than 95 million acres consisting of 540 national wildlife refuges, thousands of small wetlands, and other special management areas. The National Wildlife Refuge System hosts 35,000,000 visitors annually, with the help of 30,000 volunteers. It is home to wildlife of almost every variety in every State of the Union, and some part or parts of the system are within an hour's drive of almost every major city. It would be unwise to sanction the degradation of one of the crown jewels of our refuge system—the Arctic National Wildlife Refuge.

The administration argues that allowing an increase in drilling in the Arctic National Wildlife Refuge would be an integral part of alleviating the Nation's dependence on foreign oil. In reality, drilling in the Arctic Refuge would only provide the equivalent of what the United States consumes in 6 months. Nor would this provision amount to any increase in oil production for at least a decade, or truly enhance our energy security, or lower prices for consumers, or create a significant number of new long-term jobs.

Furthermore, 95 percent of the potential oil reserves of Alaska's North Slope are already designated for potential leasing or open to exploration and drilling. The last 5 percent—the Coastal Plain of the Arctic Refuge—is the only wild stretch of the coast of Alaska's North Slope that remains off limits.

What are the tradeoffs? According to a recent National Academy of Sciences, NAS, report issued just last month, the impacts of current activity already adversely impacted numerous wildlife species in the Arctic Refuge. The NAS documented displacement to the fall migration patterns of bowhead whales due to noise associated from seismic exploration and cited an increased number of predators which adversely affects the reproduction rates in migratory and resident birds, as well as the migration pattern and reproduction rates of one of the greatest caribou herds in North America. The NAS study concluded that expanding oil and gas exploration into the surrounding refuge lands would result in further degradation of soils, vegetation, and aquatic systems in this fragile environment.

Protecting this refuge is our obligation as stewards of this land. As President Theodore Roosevelt, the creator of the refuge system, said: ''wild beasts and birds are by right not the property merely of the people who are alive today, but the property of unknown generations, whose belongings we have no right to squander.'' Sanctioning these incursions not only would damage the environment today, but it would take away those tangible and inherent values the refuge will provide to future generations—our children and grandchildren.

Last Thursday, March 13, the Senate unanimously approved a resolution marking the Centennial Anniversary of the National Wildlife Refuge System. This week, we have the opportunity to follow that symbolism with a more tangible step in defense of our refuge system, by voting to remove the rider on ANWR oil and gas exploration from the budget reconciliation bill.

Ms. SNOWE. Mr. President, I rise today to support the Boxer-Chafee amendment that has my cosponsorship along with 14 other colleagues. The amendment strikes the reconciliation instructions to the Committee on Energy and Natural Resources that would open up the Arctic National Wildlife Refuge to oil and gas exploration and drilling.

The issue as to whether to open up a pristine and vital habitat refuge for a finite amount of oil is a fundamental policy question that should not have been injected into the budget process, thereby bypassing the Senate committee process. Including the drilling receipts and reconciliation instructions in the budget is a major policy initiative with serious environmental ramifications.

The budget process, with its strict rules for limited debate, is not conducive to adequate consideration of this issue. In fact, opening up the Arctic Refuge proved to be extremely controversial in the 107th Congress and was debated at length during the Senate's consideration of its omnibus energy bill. On April 18, 2002, by a vote of 54 to 46, the Senate defeated a procedural motion to invoke cloture to shut off the debate.

Revenues from oil leases in the Arctic Refuge have been estimated to be $1.2 billion over 10 years. I believe that the budgetary effects of oil leases in the Refuge are incidental compared with the weight of its policy impact. The tradeoffs just don't balance out when considering drilling for a finite supply of oil in the biological heart of Alaska's coastal plain.

Drilling in the Refuge is not the solution to our Nation's current energy problems, and for years the issue has distracted us from the real answers to energy needs. Unfortunately, over the past several years, rather than being serious about offsetting the nation's increasing thirst for oil by increasing the use of alternate and renewable energy sources, we are now more dependent than ever on these foreign oil sources. If we are to be serious about addressing our energy needs, we should be advancing energy efficiency, energy conservation and clean, renewable sources of power so that we can reduce our need for fossil fuels, which is mainly responsible for air pollution and greenhouse gases impacting climate change.

As the storm clouds gather today in the Middle East, we should be putting our energies into becoming more fuel efficient, for instance, by increasing corporate average fuel economy, or CAFE, standards, to close the SUV loophole that currently allows the increasingly popular sport utility vehicles to get only 20.7 miles per gallon while passenger cars must meet a 27.5 mpg standard. Increasing the SUV standard to that of passenger cars would help to eliminate the need to import oil from the most volatile area of the globe.

In addition, based on the estimate provided by the Department of Energy's Energy Information Administration, it would realistically take seven to 12 years from approval to first production of oil, meaning that not a single drop of oil would be available to go to market for 7 to 12 years. In contrast, Paul Portney, Chairman of the National Academies' 2001 Report on CAFE standards, stated at the Joint Commerce and Energy Committees' hearing that year that ''. . . increases to fuel efficiency could be made in a few years.''

The fact is that, sooner or later, any oil found in ANWR will run out—while increasing CAFE standards will continue to decrease oil usage. It is estimated that one million barrels of oil per day would be saved by the Feinstein-Snowe bill that closes the SUV loophole. Improving the gasoline mileage of the Nation's new vehicles by just three miles per gallon could take less time and could be expected to save more oil than would ultimately be recovered over the lifetime of the finite oil resources in ANWR. The United States Geological Service estimates a 95 percent probability of 4.2 billion barrels of recoverable oil, and a five percent probability of 11.8 billion barrels of recoverable oil.

Interestingly, CAFE increases would keep more greenhouse gases, specifically carbon dioxide—the major cause of climate change—from going into the atmosphere because less gasoline would be used and therefore there would be less vehicle emissions of CO2. In contrast, the process of getting oil out of ANWR will add more greenhouse gases and air pollution because of the oil drilling facilities and processes required for extraction.

Drilling in the Arctic Refuge poses environmental risks by impacting sensitive wildlife habitats. The Refuge is the summer home for thousands of migratory birds; year-round home to muskoxen, fox, wolf and wolverine; and its lagoons support eight species of marine mammals, 62 species of coastal fish, and seven species of freshwater fish. Of note, the Refuge is the calving ground of the Porcupine caribou herd. Much has been said on the Senate floor about the Central Arctic caribou herds in the North Slope drilling area that have greatly increased since the North Slope pipeline was installed, but these caribou have the ability to move south, unlike the Porcupine caribou herd within the Arctic National Wildlife Refuge that have no place to go due to the geological features of the narrow strip of an island-like area in the refuge between the ocean and the mountains.

Again, I would like to reiterate that including drilling receipts and reconciliation instructions in the budget is not the right way to go as it is a major policy initiative with serious environmental ramifications that must be debated fully in the proper forum of committee hearings and subsequent floor and public debates. Consider the National Research Council's recently published report on the effects of drilling in the North Slope of Alaska. It stated that, even though oil companies have greatly improved practices in the Arctic, three decades of drilling along Alaska's North Slope have produced a steady accumulation of harmful environmental and social effects that will probably grow as exploration expands.

Some of the problems, the report said, could last for centuries, both because environmental damage does not heal easily in the area's harsh climate and because it is uneconomical to remove structures or restore damaged areas once drilling is over. I urge my colleagues to vote to strike the language from the budget resolution so that drilling in the Arctic National Wildlife Refuge does not begin.

The PRESIDING OFFICER. Who yields time?

Mrs. BOXER. Mr. President, I ask we take 10 minutes off our side of the resolution.

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

Mrs. BOXER. Mr. President I will speak a couple of minutes about the general budget, and then turn to the ANWR Alaska refuge amendment that is pending that I hope will prevail in a vote in a few years.

I ask unanimous consent Senators CORZINE and CLINTON be added as cosponsors to my ANWR amendment.

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

Mrs. BOXER. Mr. President, I will talk about this budget overall because I listened to my colleague talk about it in a way that, frankly, is stunning because I remember when Republicans wanted a constitutional amendment to balance the budget. Now they are embracing a budget that has deficits as far as the eye can see. If you like deficits as far as the eye can see, you will love this budget and you should vote for it because that is what you are getting.

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

Mrs. BOXER. I will after I am finished, as I listened to my friend talk for quite a few moments.

If you embrace the idea that deficits are a good thing for the country, red ink is a good thing for this country, you will love this budget; go ahead and vote for it and that is fine and we will talk about it when we go home.

If you like the idea that we should ignore an enormous cost that is staring us in the face as our beautiful men and women are standing on the brink of war, if you think this budget should ignore those costs, then you should vote for this budget because this is an Alice-in-Wonderland-type of budget.

The whole country is focused on what is about to happen—but not in this budget. I have seen comments made by friends of mine from the other body on the other side of the aisle that said hurry up and get this through before we have to deal with the costs of the war.

When I hear Senator FRIST say let's push this through fast, that, in my opinion, ties the knot here. The other side wants to get this done very quickly even though it has no costs for the war. The first person who said the war will cost between $100 billion and $200 billion was Larry Lindsey, and as we know, he was shown the door.

Vote for this budget if you think we should ignore the costs of the war. Vote for this budget if you love deficits. If you like breaking promises to our children on No Child Left Behind, cutting afterschool programs and the like, vote for this budget because that is what you are doing.

The President posed for pictures with Senator KENNEDY and Congressman MILLER—No Child Left Behind—and then he fails to fund it.

He is going to kick 50,000 California kids out of afterschool programs, unless we fix it. All through the country, he is going to kick 500,000 to 700,000 kids out of afterschool programs, including kids in New Hampshire and all over our great Nation.

Our kids deserve more than that. If you like the fact that No Child Left Behind is not funded fully, vote for the budget. If you want to cut environmental enforcement, vote for the budget. If you want to fund the highways and transit at a lower level than what we need, vote for the budget.

Especially vote for the budget if you want to give tax breaks to people who earn more than $1 million a year because they will get back $87,000 a year. Definitely vote for this budget if your heart bleeds for those folks who make more than $1 million a year because that is the centerpiece of this budget.

I hope we can change it. We are going to try to change it. We have a few brave souls on the other side of the aisle who agree with us. I don't know how it will turn out. But when I hear people talk about why our country is in so much economic trouble, it started 2 years ago. We lost 2 million jobs because we abandoned fiscal responsibility, we abandoned investment in job-producing investments, we abandoned the principles that led us to the greatest economic recovery in generations. But if you don't want to go back to those good days and stick with these bad days, vote for this budget.

On my time that is remaining, I want to say how excited I am that we actually may pass the Alaska wildlife amendment.

What we have here on this chart is a very simple visual of what we will save from various scenarios on imported oil. I had, yesterday, the percentages.

We see that while ANWR would reduce our reliance on imported oil by 2 percent, if we just did better tires on our cars, which would lead to better fuel economy, we could save 4.3 percent of imported oil. If we closed the SUV loophole and just had the SUVs get the same mileage as cars, we would save 16 percent on the amount of oil we have to import. If we increased our fuel economy by 13—to 35 miles per gallon—which the automobile people say is absolutely possible; we would reduce our dependence on foreign oil by 43 percent.

The alternative is this reduction of dependence on foreign oil by 2 percent. By the way, this wouldn't happen for 8 or 10 years. For everybody who says it is going to happen sooner, that is not what the proof is. The science tells us it will take 8 to 10 years to get it up and running.

This is the alternative, drilling in this God-given area.

I will give the remainder of my time to Senator CONRAD. We are talking about a place that looks like this. Yes, in the winter it is icy. Yes, in the winter there is not much—it doesn't look as beautiful as this, but I don't look as good as I looked when I was young, so that happens sometimes. But the bottom line is, it is a beautiful place.

Here are some other beautiful pictures. We will show you some of the wildlife that we have, this beautiful bird which is the whimbrel—quite beautiful. It is my chart bird, I call it. That is a beautiful example of what we are trying to save.

I will yield the remainder of my time on the resolution to Senator CONRAD and hope my colleagues on both sides will support the amendment.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I am wondering, I ask my colleague and friend from California who showed those pictures of a beautiful area adjacent to the Brookes Range—I have been there—I wonder, Has the Senator from California visited the 1002 area, the ANWR area?

Mrs. BOXER. I have been to Alaska and I am going back. I haven't been to the 1002 area, but my chief environmental legislative aide took my place on a trip that, unfortunately, I had to cancel 6 months ago, and just said it was absolutely exquisite.

As my friend knows, we have hundreds of wildlife refuges. I have been to a few. I haven't been to them all. But this is God's gift and whether—

Mr. NICKLES. The answer to the question is you have not been there?

Mrs. BOXER. Yes, I stated that clearly in the debate. The last time I was asked this question, people said these photos were——

Mr. NICKLES. Mr. President——

The PRESIDING OFFICER. The Senator from Oklahoma has the floor.

Mr. NICKLES. I would like to make a couple of comments. I am going to speak about ANWR momentarily. My friend and colleague from New Mexico, who happens to be chairman of the Energy Committee, wants to speak. But many of us have been to ANWR. The picture the Senator from California shows, the beautiful part, is of Alaska adjacent to the Brookes Range. It is gorgeous. That is not where we are drilling, or proposing to drill.

I will say, there are a couple of people who have been there more than the Senator from Oklahoma and that would be Senator MURKOWSKI and Senator STEVENS. They have been there many times. They know what the 1002 area is. They know the area we are talking about drilling. It is not the beautiful pictures we see that some people are advertising. People are not proposing to drill in those areas.

The area they are proposing to drill on is not nearly as pretty. It is very barren. It looks somewhat like a frozen moonscape area, or frozen Saharan desert, or something like that.

My point is, I see the picture of the caribou. I have seen them. I have been to Prudhoe Bay as well. I have seen a lot of caribou. The caribou happen to like the Prudhoe Bay area and the Alaska oil pipeline. There are a lot of caribou in that area.

I think there is a tradition in the Senate that is being violated and that is that we respect home State Senators, when we are talking about parks or refuges in their States. We usually assume they know best.

I heard Senator MURKOWSKI give an outstanding speech last night that talked about her State and talked about how important this is to her State and our country.

I heard Senator STEVENS, with whom I have had the pleasure of working with for the last 23 years and for whom I have great respect, and he knows this better than anybody. He used to be Solicitor at the Department of the Interior. He goes way back on this issue. He knows more about Alaska than the rest of the Senate combined.

To ignore his comments, or those of the Senator, Ms. MURKOWSKI—or Governor Murkowski—on this issue I think is a serious mistake, especially if people haven't been there. I encourage my colleagues, if they have questions about this area, to go visit it. I think it would be very educational. I think it would be very helpful, especially if we are going to try to dictate exploration in an area smaller than a couple of thousand acres, smaller than Dulles Airport. If we are going to try to mandate they cannot forever drill in those areas, I think we ought to at least go there and visit the area and know, really, what it looks like. If we have not been, I think we ought to defer to the home State Senators for their expertise and advice.

I yield to the chairman of the Energy Committee, Senator DOMENICI, such time as he desires on the amendment.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. REID. Will the Senator from New Mexico yield just for a question?

Mr. DOMENICI. Which Senator is going to ask a question?

Mr. REID. The Senator from Nevada.

Mr. DOMENICI. Of course.

Mr. REID. Last night the Senator from New Mexico said he wanted to speak for approximately an hour? How long, just so we can get people ready here.

Mr. DOMENICI. The Senator knows I don't have a notebook full here. I wanted to make sure. One thing I learned, as a Senator, from Senator BYRD is if you want to make a speech, don't agree to the shortest amount of time because, sure enough, you never get what you wanted to say said. I said an hour. I probably will use an hour.

Mr. REID. Thank you very much.

Mr. DOMENICI. I thank the distinguished minority floor leader.

Mr. President, fellow Senators, and more importantly, fellow Americans who might be watching, I am going to have one of my aides turn this chart for a moment. You are going to be able to read the print very easily. It says:

If ANWR was the size of this chart, the total footprint of any development there would be smaller than the box below.

You see the people running the television here in the Senate have to be very careful because if they are not, you will not even see it. ANWR is as big as this chart. We have done it to scale, all of that blue.

Now, regardless of what is said about what you are going to do to ANWR, let me submit to you that you are going to do it on this little piece, I say to the chairman. Look at this. Can you see it? Maybe I can show the chairman of the Budget Committee. Do you see that little piece there? I don't think you can even see it, that little piece. That is where ANWR is going to have a footprint to produce oil for America.

Can you imagine we are here arguing about whether or not we ought to take this tiny little piece? Here it is. Let me show it to you again. Do you see this, Mr. Chairman? I don't think you can see it from there. That is the size of the footprint. And the whole chart is the size of ANWR.

Now, I can guarantee you, the thousands of Americans who have been writing to their Senators and who joined the Sierra Club to say don't do anything in ANWR have no understanding, have never been told—as a matter of fact, have been told to the contrary—that of this huge wilderness, that is the amount of the footprint which will yield oil for America's future.

I ask the Presiding Officer, are you looking at this chart?

The PRESIDING OFFICER. Yes.

Mr. DOMENICI. Do you need any assistance to see it?

The PRESIDING OFFICER. I can see it from here.

Mr. DOMENICI. You don't have to answer. As a matter of fact, I am very hopeful that everybody can see it, because you saw beautiful polar bears, you saw fantastic growth everybody is proud of. But can anyone believe that little, tiny footprint is going to affect polar bears in the ANWR wilderness? Can you believe that much property, used to drill oil for America's future, is going to have an impact on America's economic future?

I submit, if the issue had not already been framed, and if, as a matter of fact, Senators had not already been convinced, if they truly started right here on the floor—let's discuss America; let's discuss the amount of oil we have to use each day; let's discuss our future; and now let's take a look at ANWR. If we had not received messages in the mail, if we had not received requests for contributions from those who support keeping ANWR exactly like it is, and not letting us have any of the resources that belong to America—if none of that occurred, we were here in a closed session, all 100 Senators, and those who wanted to say ''no drilling'' got a day, and I got an hour, they could talk all they wanted, and I would put this chart up and say, ''Are you kidding? You don't even want America to take a look at that?''

Now, having said that, it has been said on a number of occasions on the floor there isn't enough oil in ANWR to amount to anything. A few years ago, when I was sitting around and heard somebody say, ''America doesn't need this oil,'' I said to myself, ''Who are we kidding? How arrogant about our future are we? We don't need the oil that could be produced from Alaska because it isn't very much oil?''

Well, I started, over the weekend, asking, How much oil is it? How much oil is it in a way that maybe Americans would understand? And I decided we could take a little trip. We could take a trip through America and look at where we are producing oil today, and as we came upon a State that was producing oil, we would decide whether we needed that oil. After all, we are so strong and so arrogant about our economic future that there is a lot of oil America might have we must not need.

Guess what happened. The very first State I came upon was Texas. Texas. As I rode across America and stopped in various States, I stopped in Texas. And what did I find? I went to their Department of Minerals and Resources, and I looked, and I said: Could you help me? I am trying to find out where oil is produced in America and whether we need it or not. And what in the world did I find? ANWR has more oil than Texas. So I surmise we do not need the oil from Texas either. I surmise Texas oil does not amount to that much, because, after all, for comparison purposes, the total reserves in the State of Texas are 5.2 billion barrels. That is data for the year 2000. Let's repeat that. The reserves in the State of Texas for the year 2000 are 5.2 billion barrels.

According to the Energy Information Administration, upon which we as policymakers are basing our decisions, ANWR's oil reserves would range from a low—a low—of 5.7 billion barrels to a high of 16 billion barrels.

Let's repeat it. The reserves in the State of Texas, because that is where I started that sojourn—I would have ended up, had I not found that out in Texas—we did not have to go any further—I would have gone over to New Mexico and found their reserves, and then I would have gone to Oklahoma. But just stopping at Texas, you find the reserves in the State of Texas are estimated to be 5.2 billion barrels. And according to the experts advising the policymakers, the present Congress, and people of America, the reserves for ANWR—from that little, tiny dot—are 5.7 billion barrels for the low estimate, and 16 billion barrels for the high estimate.

I see the distinguished Senator from Alaska in the Chamber. That means, I say to the Senator, if I read it right, that the reserves in your State, just in ANWR, if one uses the most conservative estimates, are equivalent to or more than the State of Texas. And if you use just a middle point, a 50-percent expectancy in terms of reserve estimates, I imagine if you do that, the yield is twice the State of Texas. Twice the State of Texas. If you like this Senator's estimate, it will be twice the State of Texas, it will not be the 5.2 billion barrels because that is the lowest estimate.

Now, I would like, once and for all, whatever has been said in this Senate—with the charts up there about us not needing this, that it is only a speck of the world's production of oil—I would like to submit, we need the production from the State of Texas, and we need an equivalent to the production from the State of Texas which would come from ANWR. America, as rich as we are, as powerful as we are, as willing as we are to say, ''We just don't need this. We will buy it from the world. We just don't need American oil. We don't even need as much as Texas produces''—right—''Just forget about it; we will buy it''—we will buy it, all right. And then, as war looms, the case for Arctic oil gets better and better and better.

As we look at America's future, we hear people get on the floor and say: Don't worry about producing more oil; we will just conserve more. Well, we will have an Energy bill here on the floor about when we come back from the April recess. I welcome Senators to come to the floor and tell us how in the world in the future we are not going to have to continue to import huge quantities of oil.

Now, somebody can get up and say: We only want half the automobiles we are driving today 4 years from now and 5 years from now. That is ridiculous. Or: We are going to use hydrogen cars. Of course, we are going to use a few of them each year, and in 20 years we are going to use a bunch of them. What do we do in the meantime?

They will say: Let's use electric cars. We will use them, but how many? Everybody understands the oil consumption is not going to come down dramatically during the next decade to 20 years. And what are we going to be doing? We are going to be depending upon the world for that period of time, and well beyond that, to buy it from the world.

It seems to me that a secondary issue—maybe a primary issue—we are debating in the Senate is jobs for Americans. I regret to tell you that for those who oppose that little tiny piece of this budget resolution called ANWR, they are opposing the biggest job producer this whole bill has in mind. I am more certain that if ANWR is permitted to be developed, when the time comes that it is producing, it will produce more jobs for America than this bill with all its tax provisions and

at the same time will produce oil for Americans. This is the estimate given by the experts of the American jobs, high-paying jobs. We are not even including in this the fact that American companies will own it. Americans will be part of the rig operators. Americans will be producing the pipelines.

Here is the estimate of employment that would flow from ANWR. You could vote against all the tax relief if ANWR was coming on board next month. That can't happen because it is a few years away. Here are the jobs: 575,000 full-blown American jobs for American men and women and American executives, and they have to be high paying. For any State that would like to look: for Colorado, there is estimated employment of 8,000; New Jersey, 17,000; California, 63,000 jobs if ANWR comes on. I suppose in the course of things, 63,000 jobs doesn't mean that much for a big State such as California.

Incidentally, if I would have followed that little trip through America to see where the oil was produced and I would have passed right on by Texas, and passed right on by New Mexico, and passed right on by Arizona and a little pinch of Nevada, and ended up in California, and gone to their mineral extraction department and said, how much oil do you produce? guess what I would have found. I would have found that the production in California of crude oil for America is about equivalent to what will be produced from ANWR when it is producing oil for Americans. Think of that.

People look at California and say: Boy, if we didn't have that production from California, where would we be? Isn't that interesting? If we had ANWR on board and producing and we took our little trip through America and ended up in Alaska and somebody would have said to us, well, that is producing about the same as Texas and California, let's just not produce it anymore, what do you think would happen? Do you think anybody would vote for that? I mean, it would be such a ridiculous proposition that we don't need it, even though it is about the equivalent of California and about the same as Texas, that clearly this issue to this Senator reaches the point where you can hardly understand what we are doing on the floor of the Senate with as close a vote as you can possibly get on this issue.

To the two or three Senators who still might have enough courage, enough concern, enough freedom to say I am going to do what is best, I submit that they ought to vote to keep ANWR, keep that marvelous huge wilderness that President Eisenhower is cited as having been instrumental in creating, keep it, and use this tiny piece here to produce oil for generations to come.

There is an excellent review and outlook in the Wall Street Journal this morning called "Drilling for Votes." That is probably what they assume their editorial is doing, it is drilling for votes. It outlines the issues before us. It is rather succinct. It covers what I have just discussed, the insignificance of the probable damage to ANWR. I have tried to depict it in terms of jobs. It discusses that with words. They are wordsmiths, and they have done it in a very exciting, excellent, and forthright manner. They discuss jobs, which I just did. They also discuss what the distinguished chairman of the Budget Committee discussed for just a few moments as to what is the nature of this tiny piece of geography that is part of ANWR. It is not the beautiful parts of this that have been shown in pictures here on the floor. It is discussed in this editorial in words as to what it is. It says:

> This oil would come from a tiny piece of land that is nowhere near the "pristine" mountains shown in the Sierra Club ads. Exploration would be on Alaska's coastal plain, a sliver of tundra that [the Secretary of the Interior] has described aptly as "flat, white nothingness."

The editorial continues:

> Far from pristine, it is the home of the town of Kaktovik, with its people, cars, boats and airplane hangars. The actual drilling footprint would be about 2,000 acres, the size of Washington's Dulles Airport.

I ask unanimous consent that the entirety of this editorial be printed in the RECORD.

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

[From the Wall Street Journal, Mar. 19, 2003]

DRILLING FOR VOTES

If war in Iraq, sky-high oil prices and a moribund energy bill aren't reason enough for the Senate to finally approve drilling in the Arctic, could someone please tell us what is?

The Arctic National Wildlife Refuge is back in the headlines, and the good news is that Senate Republicans are very close to passing a drilling amendment. By attaching ANWR to the Senate budget resolution, they need only 51 votes and can avoid the filibuster threats (and Presidential aspirations) of certain opposition Senators from the Northeast.

The arguments for Arctic drilling haven't changed, but it's worth running through them again. The biggest is the ANWR is a new and important supply of oil. The site is expected to produce 10.4 billion barrels, or 1.4 million barrels a day—the largest single prospect for future oil production in the country. To put this in perspective, the oil-rich states of Texas and California each offer about one million barrels a day. No, ANWR won't provide "energy independence," but it will give a cushion in the event of future oil-supply crises.

This oil would come from a tiny piece of land that is nowhere near the "pristine" mountains shown in those Sierra Club ads. Exploration would be on Alaska's coastal plain, a sliver of tundra that Interior Secretary Gale Norton has aptly described as "flat, white nothingness." Far from pristine, it is home to the town of Kaktovik, with its people, cars, boats and airplane hangars. The actual drilling footprint would be about 2,000 acres, the size of Washington's Dulles Airport.

As for the environmental consequences, we'd point to the recent National Academy of Sciences report on the cumulative effects of drilling in the nearby North Slope. Green groups have spun the report as evidence of eco-calamity, but anyone who reads it knows it shows more or less the opposite.

The report, for instance, found that there had been no major oil spills on the North Slope through operation of oil fields, and that small spills had had no cumulative effects. While some animals had been "affected," the committee could not list any species that were threatened. And it conceded that drilling hadn't led to any large or long-term declines in the much-celebrated caribou herd.

It also noted that new technology had reduced damage to the tundra. Given the report was measuring the effects of 25-year old equipment, and that a Senate bill would require best-technology, we can expect even better results. And the report acknowledged that oil development had resulted in real improvements in schools, health care, housing and other community services for Alaskan communities.

As good as these policy arguments are, the reality is that drilling ultimately hinges on the environmental politics of the Senate. Republicans have 48 sure votes. They need two more, because Vice President Dick Cheney is standing by at his secure, undisclosed location to break a tie. Most of the focus is therefore on a few moderates, Arkansas Democrats Mark Pryor and Blanche Lincoln, and Republicans Gordon Smith and Norm Coleman.

If it's political cover these folks are looking for, they might consider the environmental advantages that would accrue to their home states with a yes vote. For starters, the ANWR plan would divert $2 billion of the $2.15 billion in federal royalties from drilling directly to the states for land and water conservation. A gusher of new oil in Alaska would also reduce the incentive to keep drilling in the lower 48, which has its own environmental costs.

And if these "moderates" are truly on the fence, they could give the Administration the benefit of the doubt, vote to keep ANWR in the Senate budget resolution for now and then fly to Alaska to see the site for themselves. At least if they changed their mind in the final budget later in the year, they'd really know what they were voting against.

We know it is perhaps a forlorn hope that Senators will vote on substance over environmental symbolism. But why not? On the economic and environmental merits, this isn't even a close call.

Mr. DOMENICI. One remaining issue is: How do you drill for oil today, and how did you drill for it 25 years ago or even 30 years ago, when some of the wells were drilled in California—maybe hundreds of the wells were drilled in California and hundreds, maybe thousands of the wells in Texas were drilled? Has America made any strides in changing the way we drill for oil in 15, 20, 25 years?

I can tell you, some of the most dynamic, intelligent engineers in the world have spent years finding out how to drill holes in Mother Earth. As a matter of fact, the expertise in drilling did not just come over these years from people interested in drilling for oil wells. We have had an interest in drilling for many reasons.

Would you believe that the great laboratories of America—Los Alamos, Sandia, Livermore—have had a genuine, abiding piece of their research directed at, how do you drill holes into Mother Earth?

One time, they were experimenting in one of the laboratories in drilling

thousands of feet underground to see if they could tap into the geothermal heat pockets. They learned all kinds of things about drilling. Then they had to drill holes as part of the nuclear weapons activities in the deserts of Nevada. Millions of dollars were put into, how do you do it so you don't waste time, so you don't produce a whole bunch of environmental degradation? Couple that with the resources of the energy companies, which wasn't soft; it was pretty big. It was pretty hot stuff. You put it together, and you have the most profound, innovative ways to drill for oil you could ever imagine.

Let me just suggest, if oil is about 400 yards over there and you found it—about four football fields away—and you don't want to touch that ground, you can start here, where I am standing, and you can drill over there in what is called slant drilling. It is done with such precision today that it can take place for yards and yards and yards from the actual point under the earth where you attempt to strike the liquid mineral, or the natural gas. That is what will be used if you are worried about how will you use this tiny piece, the size of Dulles, to go into the hinterland without touching anything.

That is the answer. You will go in when it is frozen, you will do your drilling activity, and when it starts to thaw, you get out and wait until it freezes again, you come back and, frankly, you won't know anything has happened—except that underground you will be moving ahead full speed to make America have more of the oil that is ours, that we own, that we will use for our future.

I have a little picture up here from Science Times. It was covered in the Times. It is called ''Hunting For Oil: New Precision, Less Pollution.''

I am sure those who have circulated millions and millions of letters and the hundreds of TV ads saying we are going to ruin ANWR—if we take a tiny piece of that property, the size of Dulles, which I have just shown you on the map, and we drill, they are assuming you are going to spoil the earth as you do when you are producing with the conventional drilling of wells.

This is a pictorial of the chronology and the evolution of how you go about drilling today.

Using the latest drilling techniques, oil drilling sites like those in the Alpine Fields of Alaska's North Slope are using cutting edge technology in the hope of reducing environmental damage.

To reduce the damage, recent advances are lessening the industrial impact on the fragile Arctic ecosystem.

They proceed to show you an Alpine Field, Alaska. They show you what is happening. Let me move over here because I described it in not too good a manner a while ago when I said the oil was 400 yards away, four football fields. You could drill from here.

Let's look at this diagram. You see, here is the platform that might be the size of Dulles. Here is the drilling. Here is the oil underground. And you see, way far away, the oil is underground, and it is going to be drilled and come up, and everything is going to be done on this platform. The same here. Here is a giant reservoir underground. It is many yards from where you have set out to manage and control the destiny of the tundra. There you are with this dramatic picture of how, just like a curved straw, you put it underground and maneuver it, and the ''milk shake'' is way over there, and your little child wants the milk shake, and they sit over here in their bedroom where they are feeling ill, and they just gobble it up from way down in the kitchen, where you don't even have to move the Mix Master that made the ice cream for them. You don't have to take it up to the bedroom. This describes the actual drilling that is taking place.

I told you a while ago that I was going to give you just a shirt-sleeve example, where four football fields over there is where you thought the oil was. I used an example that is way too small. As a matter of fact, 4 miles—not 400 yards, but 4 miles—away is this oil from this drill. It is not yards, not football fields, but miles. How many? Four. Now, you tell me that those who are telling America this will damage this tundra, damage this wilderness, are scurrying to the American people and telling them: Did you know you can set a piece of that aside and 4 miles away you can take oil out of the ground? Pretty fantastic.

As a matter of fact, I am using 4, because my staff told me 4. They have evidence from the science that it is 4. I don't see any reason it could not be more than 4. I don't see why it cannot be 6. In fact, if people want to know, we could go ask the experts how far away it can be. It can be plenty far away.

So no hard feelings. Everybody makes their case. I have been here a long time. I try to make mine. But I guarantee you, this one has me worried. If the Senate cannot say, 1, we need oil; 2, we need American oil; 3, if we have got American oil and we can take it out of the ground, we ought to properly assess the risk, we ought not to just say no. We just established we need it. It should be American, if possible. So, third, we ought to properly assess the risk.

The risk is not properly assessed by saying it is under ANWR, therefore no oil. That is not a risk assessment. That is an arbitrary decision—that in one swath negates the first two propositions of significance and reality. We need oil, and we need American oil.

It is too bad that we do hear in America—and people are fair minded—we should not be using so much oil. I hear that. I am prepared to confront that on the floor of the Senate because, when the energy bill comes up, some people are going to say we are not a very good country because, after all, we use a third of the energy of the world. Who do we think we are? Do you know what I say? I say we need it for our standard of living, but we don't deny it to the other people in the world. We will help them produce more. We will help them produce clean electricity so they can grow. But I am not prepared to say, since we need it for our standard of living—just because we use a disproportionate amount—abandon the oil in Alaska. What does that have to do with it? What does that have to do with whether we are using oil?

Mr. President, the other thing I think Senators and the people of this country ought to look at is, what is oil? It is easy to say we don't need oil, why should we buy so much oil? But oil is our everyday life.

Fellow Americans, do you want to live without cars? Sure, you do. Can you? No, you cannot. I will repeat, would you like to live without cars? Most Americans would say, of course, I love cars, I like them. If you want to say I wish I didn't, I wish I didn't have a car, I ask you, how would you make a living?

Equally important, where would you live? There are two freedoms that are not covered anywhere in the sacred documents of our country that have evolved, and they are about as American as the proverbial apple pie. They are: The freedom to own a house anywhere one can afford it; the yearning to have a house that is your own. We are not going to change that until America is no longer America. The second freedom is to own an automobile or two so you can go where you want when you want.

I respect the fact that Americans say: This is our life. But I regret to tell my fellow Americans, without oil or if oil becomes so ungodly high priced, both of those freedoms will be in jeopardy. There is no question, both of those freedoms will be in jeopardy because we have built our life around those freedoms being reasonably priced. If we make them unreasonably priced and create anger among the American people, and if, in fact, part of the reason the oil is so highly priced is because you did not want to use your own oil because you did not want to touch that little piece of property in ANWR, I surmise people will not think you have a very good excuse. I for one would say you do not have any excuse at all.

I want to recap—and I apologize to the Senate if I have spoken too long and if I have made any misstatements. I do not think I have, but if I have, I will try to correct them.

In summary, it is almost impossible to prove that ANWR will be damaged to any noticeable degree if we produce the oil that is under the footprint the U.S. Government would like to lease so we can determine whether oil is there and how much. It is almost impossible to prove damage.

I am prepared, although this debate will not go on much longer, to take any instrument, any study, any report anybody wants to bring to the floor to

the contrary and debate it. If they want to use the Academy of Sciences study that has just reviewed the Prudhoe area, let's debate it. One may find a few sentences in there that are cautionary, but they will find tremendous amounts of information saying those who claim Prudhoe Bay has been significantly damaging are in error, and it produced that other part, Prudhoe, which passed this Senate by one vote and has produced oil for America without which we would really be in trouble. We can debate that issue.

This is so small in comparison to the size of this wilderness, an area in the wilderness for which we are very grateful to whomever structures the underground oil reserves that they put it in this part of ANWR such that the drilling will occur in the area as I have described it: not mountainous and beautiful and full of flowers, but level and barren and frozen in a gigantic piece that looks like part of New Mexico that turned white and froze.

The next is we are not strong enough to throw away this much of our own patrimony. I do not know where I got the word except it is so important to own your own resources that in Spanish-speaking countries, such as Mexico, they call the oil of Mexico ''El patrimonio del estado de Mexico,'' the patrimony of the state. That is how important oil is. This is our patrimony. It belongs to us. For those who say we should not drill in ANWR because somebody went there and said, We just should not touch this wilderness, to me is absolutely ignoring the reality of America's future.

Every other issue I can think of—new technology which will cause a minimalization of environmental degradation, jobs in the future, and every other issue one can think of—is on the side of the last two or three votes deciding to get this done, not for me, but I have nine grandchildren. I hope they can still drive a car and own a house wherever they would like and work hard and give us ample time to make the transition toward other technologies that will make our lives like they are today rather than lock this up for no good reason.

I close by saying the patrimony of Americans.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from California.

Mrs. BOXER. Mr. President, I ask to take 5 minutes off the resolution to respond to the Senator from New Mexico. I believe I might pause here for a unanimous consent request. Mr. President, I ask Senator NICKLES, is that correct? Does the Senator wish that I wait while he propounds a unanimous consent request?

Mr. NICKLES. If the Senator will.

Mrs. BOXER. As long as it does not come off my time. I would like to reserve the 5 minutes off the resolution.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I am going to propound a couple unanimous consent requests. I appreciate the cooperation of my colleague.

It is our intention to have a vote on the ANWR amendment at 3 o'clock today. I know there are still some Senators, including Senator MURKOWSKI and Senator STEVENS, who wish to speak on the ANWR amendment, and we will accommodate their request. Also, Senator GRAHAM from South Carolina has an amendment. It would be my intention to send it to the desk so that discussion and debate can occur on that amendment as well. We will not lock in a time for a vote on that amendment, but we may vote on that shortly after the ANWR amendment.

We are also shopping, for the information of our colleagues, for a couple other major amendments. It was my intention, and it is still my intention, to have a vote on the 350 amendment, the size of the growth package, today. I would think that is a major amendment and will require some significant debate. That possibly could happen shortly after the ANWR vote or maybe early afternoon, maybe by 4 or 5 o'clock and have some of that debate between now and that point on the 350 amendment. That amendment is not ready right now.

Mr. President, I ask unanimous consent that the vote in relation to the Boxer amendment No. 272 occur at 3 o'clock today, with no amendments in order to the language to be stricken prior to that vote.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object, Mr. President.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, just so everyone within the sound of my voice understands, we tried to have the vote earlier than 3 o'clock. The Vice President is going to be here for one reason, and I think that is a powerful reason we are going to have the vote at 3 o'clock. I have no objection to the vote at 3 o'clock.

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

Mr. REID. Mr. President, if I may, while the manager of the bill is on the floor, I hope this sense of the Senate—I am happy it is their turn to offer an amendment, and we have no control over what they offer. But I hope, Mr. President, that we will not spend a lot of time on this sense-of-the-Senate amendment and that we can get to another amendment before 3 o'clock. I hope the manager will work with us so we can have Senator GRAHAM debate this amendment as long as he thinks appropriate. We will respond, if necessary. I think this will pass overwhelmingly, with the little knowledge I have of it, and I hope we can get to other amendments.

I say to my friend, we are ready to move forward on a homeland security amendment. We are ready, as we speak, to move forward on an education amendment. We hope we can get to those amendments before too long, recognizing that my friend, the manager of the bill, wants a vote on the best kept secret around here, the $350 million amendment which we will vote on sometime.

Mr. NICKLES. I thank my friend and colleague from Nevada. I have been working with Senator CONRAD, and it is a pleasure to work both with the Senator from Nevada and the Senator from North Dakota. It is my hope and desire to consider a lot of amendments, the serious amendments, the big amendments. I encourage people to give us copies. I have heard there is a desire to have a vote on the Hagel amendment. I have seen some language, but I am not sure which language.

That is maybe changing the Budget Act. So we kind of need to see that in advance. If people will give us these amendments, on both sides, we can try to get these in queue so we can have adequate but not extended debate, so we are not just burning time.

We know there is a limitation on debate. In years past, we have burnt all the time and then we have a very unpleasant vote-arama. I want to avoid that. I know the Senator from North Dakota wants to avoid that. We will cooperate with the managers to try to make that happen.

Mr. REID. Mr. President, I ask unanimous consent to set aside the pending amendment.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The Senator from California.

Mrs. BOXER. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator from California will state her inquiry.

Mrs. BOXER. I want to make sure I have my 5 minutes to respond to the hour-long speech of the Senator from New Mexico.

The PRESIDING OFFICER. That unanimous consent request was granted.

AMENDMENT NO. 279

Mr. NICKLES. Mr. President, I send a sense-of-the-Senate resolution offered by the Senator from South Carolina to the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES], for Mr. GRAHAM of South Carolina, proposes an amendment numbered 279.

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

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

The amendment is as follows:

(Purpose: To express the sense of the Senate regarding the urgent need for legislation to ensure the long term viability of the Social Security program)

On page 79, after line 22, add the following:

SEC. 308. SOCIAL SECURITY RESTRUCTURING.

(a) FINDINGS.—The Senate finds that—

(1) Social Security is the foundation of retirement income for most Americans;

(2) preserving and strengthening the long term viability of Social Security is a vital national priority and is essential for the retirement security of today's working Americans, current and future retirees, and their families;

(3) Social Security faces significant fiscal and demographic pressures;

(4) the nonpartisan Office of the Chief Actuary at the Social Security Administration reports that—

(A) the number of workers paying taxes to support each Social Security beneficiary has dropped from 16.5 in 1950 to 3.3 in 2002;

(B) within a generation there will be only 2 workers to support each retiree, which will substantially increase the financial burden on American workers;

(C) the implementation of a Social Security ''lockbox'' would have no direct effect on the future solvency of Social Security;

(D) without structural reform, the Social Security system, beginning in 2018, will pay out more in benefits than it will collect in taxes;

(E) without structural reform, the Social Security system, by 2042, will be insolvent and unable to pay full benefits on time;

(F) without structural reform, Social Security tax revenue in 2042 will only cover 73 percent of promised benefits, and will decrease to 65 percent by 2077;

(G) without structural reform, payroll taxes will have to be raised 50 percent over the next 75 years to pay full benefits on time, resulting in payroll tax rates of 16.9 percent by 2042 and 18.9 percent by 2077;

(H) without structural reform, Social Security's total cash shortfall over the next 75 years is estimated to be more than $25,000,000,000,000 in constant 2003 dollars;

(I) without structural reform, real rates of return on Social Security contributions will continue to decline dramatically for all workers; and

(J) absent structural reform, spending on Social Security will increase from 4.4 percent of gross domestic product in 2003 to 7.0 percent in 2077; and

(5) the Congressional Budget Office, the General Accounting Office, the Congressional Research Service, the Chairman of the Federal Reserve Board, and the President's Commission to Strengthen Social Security have all warned that failure to enact fiscally responsible Social Security reform quickly will result in 1 or more of the following:

(A) Higher tax rates.

(B) Lower Social Security benefit levels.

(C) Increased Federal debt.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the President and Congress should work together at the earliest opportunity to enact legislation to achieve a solvent and permanently sustainable Social Security system.

Mr. NICKLES. I know I gave that amendment to my colleague from Nevada, but I believe the Senator from South Carolina wanted me to call up the sense-of-the-Senate amendment No. 274.

The PRESIDING OFFICER. That is correct.

AMENDMENT NO. 279, WITHDRAWN

Mr. NICKLES. Mr. President, I ask unanimous consent to withdraw amendment No. 279.

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

AMENDMENT NO. 274

Mr. NICKLES. Mr. President, I send amendment No. 274 to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES], for Mr. GRAHAM of South Carolina, proposes an amendment numbered 274.

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

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

The amendment is as follows:

(Purpose: To express the sense of the Senate regarding the urgent need for legislation to ensure the long term viability of the Social Security program)

On page 79, after line 22, add the following:

SEC. 308. SOCIAL SECURITY RESTRUCTURING.

(a) FINDINGS.—The Senate finds that—

(1) Social Security is the foundation of retirement income for most Americans;

(2) preserving and strengthening the long term viability of Social Security is a vital national priority and is essential for the retirement security of today's working Americans, current and future retirees, and their families;

(3) Social Security faces significant fiscal and demographic pressures;

(4) the nonpartisan Office of the Chief Actuary at the Social Security Administration reports that—

(A) the number of workers paying taxes to support each Social Security beneficiary has dropped from 16.5 in 1950 to 3.3 in 2002;

(B) within a generation there will be only 2 workers to support each retiree, which will substantially increase the financial burden on American workers;

(C) the implementation of a Social Security ''lockbox'' would have no direct effect on the future solvency of Social Security;

(D) without structural reform, the Social Security system, beginning in 2018, will pay out more in benefits than it will collect in taxes;

(E) without structural reform, the Social Security system, by 2042, will be insolvent and unable to pay full benefits on time;

(F) without structural reform, Social Security tax revenue in 2042 will only cover 73 percent of promised benefits, and will decrease to 65 percent by 2077;

(G) without structural reform, payroll taxes will have to be raised 50 percent over the next 75 years to pay full benefits on time, resulting in payroll tax rates of 16.9 percent by 2042 and 18.9 percent by 2077;

(H) without structural reform, Social Security's total cash shortfall over the next 75 years is estimated to be more than $25,000,000,000,000 in constant 2003 dollars;

(I) without structural reform, real rates of return on Social Security contributions will continue to decline dramatically for all workers; and

(J) absent structural reforms, spending on Social Security will increase from 4.4 percent of gross domestic product in 2003 to 7.0 percent in 2077; and

(5) the Congressional Budget Office, the General Accounting Office, the Congressional Research Service, the Chairman of the Federal Reserve Board, and the President's Commission to Strengthen Social Security have all warned that failure to enact fiscally responsible Social Security reform quickly will result in 1 or more of the following:

(A) Higher tax rates.

(B) Lower Social Security benefit levels.

(C) Increased Federal debt.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the President and Congress should work together at the earliest opportunity to enact legislation to achieve a solvent and permanently sustainable Social Security system; and

(2) Social Security reform—

(A) must protect current and near retirees from any changes to Social Security benefits;

(B) must preserve Social Security's disability and survivors insurance programs;

(C) must not allow the government to invest directly the Social Security trust funds in the stock market;

(D) must not raise Social Security payroll tax rates;

(E) must reduce the pressure on future taxpayers and on other budgetary priorities;

(F) must provide competitive rates of return on Social Security contributions; and

(G) must prepare and strengthen the safety net for vulnerable populations.

Mr. NICKLES. Mr. President, for the information of my colleagues, we will have a vote on the ANWR resolution at 3. We will have a vote on the Graham of South Carolina sense-of-the-Senate amendment sometime shortly thereafter. It is my hope and desire that we will get another amendment in queue. I would like to see that amendment be the $350 billion limitation on the growth package. If not, we will work with our colleagues to find another substantive amendment to consider and try to get that in as quickly as possible.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I ask unanimous consent that I have 7 minutes following the Senator from California. Is that consistent with the way the manager of the bill has been operating the floor? If not, I will withhold.

Mr. NICKLES. If the Senator will yield, that has been done. It is not the best legislative procedure. I would like to follow a better legislative procedure and not stack. In order to manage the floor, Senators should be recognized at the conclusion of a speech, and if my colleague seeks recognition, I will yield to my colleague as soon as the Senator from California concludes her remarks.

The PRESIDING OFFICER. The Senator from California.

AMENDMENT NO. 272

Mrs. BOXER. Mr. President, the Senator from New Mexico spoke with tremendous conviction about why he wants to drill in the Alaska Wildlife Refuge. He said he had no hard feelings for those people who felt differently, but he said a number of things that deserve to be rebutted, and I am going to do that.

I certainly believe that whether one has an area that looks like this—and my colleagues said this is not a photograph of the area that would be drilled, but they are completely incorrect. This has been mapped. We have exactly where this is on the back of the photograph. It is right in the heart of the refuge. We had this picture last year, which then-Senator Frank Murkowski said was not taken in the refuge area. We had the head of Fish and Wildlife in Alaska phone in, irate, and essentially

say, yes, this is exactly where they want to drill, where the caribou are roaming.

So let's get that right. I am not going to stand up in front of pictures that do not apply to make my case. That is ridiculous. I would not do that. That is wrong. It is not a fair way to debate. I want to debate on the merit.

I also have never, ever said in this debate—and I spoke last night, as well as this morning—that people on the other side are doing this because they get campaign contributions from oil and gas companies and other economic interests. I will not do that. I have more respect than that. But, of course, my colleague from New Mexico says the only reason we are fighting for this is that we get contributions from a few environmental organizations. Hogwash. I would like to line up the campaign contributions of the environmental organizations versus the campaign contributions of big oil and gas companies.

Let's just cut it out. The Senate should be above that. I speak from my heart when I say there is an inconsistency with setting aside this beautiful acreage and then saying, oh, well, now we need to drill.

I received a call this morning from former Representative John Seiberling. Last night, his picture was held up by Senator STEVENS. Senator STEVENS said there was a deal cut in 1980 to allow oil drilling. Obviously, I was not in that meeting. The fact is I came to the Congress in 1982, so I missed that by 2 years.

Representative Seiberling phoned us this morning. He was the chairman of the House Subcommittee on Public Lands. He was in that picture, and he said there was no deal to open the Alaska Wildlife Reserve to exploration. So I want to state that for the record, just as last night I talked about the letter from President Jimmy Carter who said he is totally opposed to this drilling, even though he, too, was referred to as being part of this so-called deal.

I also want to show a footprint of the New Jersey Turnpike. Now, my colleagues are going to say: Well, Senator BOXER, what does that have to do with anything? The fact is, this is the same size footprint that the opposition is saying would be the footprint of the oil field that would be allowed in this refuge.

I say to my friends, the way Senator DOMENICI posed it, he had a great big chart and a little dot. Well, what goes on when you drill for oil is not a little dot. That is so obvious; it is kind of silly. If we even take the footprint that they talk about, the 2,000 acres, that is the footprint the size of the New Jersey Turnpike, and I say to anyone who has some common sense, no one would say that what happens on the New Jersey Turnpike does not have an impact on the surrounding community.

I also say to my friend, because he opposes me in a lot of areas—this is my friend from New Mexico. I served on the Budget Committee for years. I have tremendous respect for him, but we disagree. I, with just as much fervor as he, will say to my colleagues today I want them to look at the footprint for offshore oil drilling off the coast of California. It will look really small if the whole coastline is taken into account, but my people in California know it is destructive. How do we know that? We have seen it. We have seen what happens when oil spills. We know that no matter what technology is promised, accidents occur. We have certainly experienced that in Alaska given what has happened in the past from spills, and I put that in the RECORD before.

We know the USGS analysis says that oil in the refuge is scattered in many different areas. It would require multiple fields across the Coastal Plain, 250 miles of roads, 100 miles of pipeline.

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

Mrs. BOXER. Madam President, I ask for 3 additional minutes off the resolution.

The PRESIDING OFFICER. Does the Senator from North Dakota yield 3 minutes?

Mrs. BOXER. I would like 3 additional minutes, if I could, off the resolution, or I could take it off the amendment; it is immaterial.

Mr. CONRAD. We are now in a situation where we have had very extended debate on ANWR. At some point, we have to draw it to a close.

Mrs. BOXER. I will take the time from the amendment.

Mr. CONRAD. That will be fine, if we take it from the amendment.

Mrs. BOXER. That will leave 1 minute, and I will reserve that.

I say to my friend from North Dakota, the Senator from New Mexico had an hour speech and I believe I need to rebut it. We know from USGS we are talking 250 miles of roads, 100 miles of pipeline, airfields, gravel pits, power lines, waste facilities, and other structures. We are talking about this, not coming from the side of those who believe this pristine area ought to be left alone, but from the USGS survey.

John Seiberling says no deal was cut in 1980; Senator STEVENS sees it a different way. People can take away different meanings. But I mention that in the RECORD. When we hear President Carter's name as being part of a deal, and he writes a letter and says he does not want to see drilling here, we ought to set the record straight.

This is a fair debate. But it ought to be based on the facts as the people who were in the room saw it. Senator STEVENS laid out how he felt. John Seiberling phoned and left his phone number. I am sure if Senator STEVENS would like to chat with him, that would be fine with him.

Mr. STEVENS. Who should I call?

Mrs. BOXER. I am happy to answer on your time. May I answer on your time?

Mr. STEVENS. You mentioned my name, thank you very much.

Mrs. BOXER. I am sorry, I have 60 seconds left to rebut an hour-long tirade by someone on the other side who said the reason we are preserving the Arctic is because we received campaign contributions.

I print in the RECORD the facts, a letter from Jimmy Carter who opposes drilling in this area. He talks about it very eloquently.

John Seiberling, then-chairman of the House Subcommittee on Public Lands and National Parks, was in the picture that my friend from Alaska held up last night, and has said absolutely there was no deal cut to drill in this area. It is important we set that record straight.

I correct that. He was not in the picture, but in the meetings that led to the picture. He was the chairman of the House Subcommittee on Public Lands.

Lastly, I ask unanimous consent to have printed in the RECORD a copy of a very important document put together by the Alaska Wilderness League. In it there are comments of the National Research Counsel on the cumulative environmental effects of oil and gas activities on Alaska's North Slope. We keep hearing there is no problem, no problem at all, but there are newspaper reports that say the local people who live up there claim there is a problem with the caribou herds. They are going elsewhere, away from the drilling.

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

COMMENTS ON THE NATIONAL RESEARCH COUNCIL REPORT ON THE CUMULATIVE ENVIRONMENTAL EFFECTS OF OIL AND GAS ACTIVITIES ON ALASKA'S NORTH SLOPE

Overall: The report documents significant environmental and cultural effects that have accumulated as the result of three decades of oil development on Alaska's North Slope. Industrial activity has transformed what once was part of the largest intact wilderness area in the United States into a complex of oilfields and their interconnecting roads and pipelines that stretches over 1,000 square miles. Many important effects on animals and vegetation extend well beyond the actual ''footprint'' of development. New technologies have reduced some effects, but despite this, the committee concluded that expansion into new areas is certain to exacerbate existing effects and generate new ones.

While no economic assessment of the environmental costs of oil development on the North Slope has been done, the report estimates that the costs of removing facilities and restoring habitat will run in the billions of dollars. No money has been set aside for this purpose by either the oil companies or the government. Because natural recovery in the arctic is slow, effects caused by unrestored facilities are likely to persist for centuries.

ANIMALS

Bowhead whale migrations have been displaced by the intense noise of seismic exploration offshore. Spilled oil poses a great potential threat to bowhead whales due to their specific morphological characteristics.

The reproductive success of some bird species in the oilfields has been reduced to the

point where some oil-field populations are likely maintained only by immigration from more productive ''source'' habitats elsewhere. An important consequence of this phenomenon is that loss of such ''source'' habitats can threaten the viability of a population even though most of the habitat occupied by the species in a region remains relatively intact. The location of important source habitat for birds or other species is not well characterized for the North Slope. Thus, the spread of industrial development into new areas could result in unexpected species declines, even though total habitat loss might be modest.

Some denning polar bears have been disturbed by industrial activities. Though limited development offshore has taken place to date, full scale industrial development offshore would displace polar bears and ringed seals from their habitats, increase mortality, and decrease their reproductive success. Predicted climate change is likely to have serious effects on polar bears and ringed seals that will accumulate with those related to oil development.

Caribou

Although industrial development has not resulted in a long-term decline in the Central Arctic Herd (the herd most affected by current oil development), the Committee concluded that by itself is not a sufficient measure of whether adverse effects have occurred. Female caribou exposed to oilfield activity and infrastructure produced fewer calves, and following years when insect harassment was high, that effect increased, which may have depressed herd size. The spread of industrial activity into other areas that caribou use for calving and relief from insects, especially to the east where the coastal plain is narrower than elsewhere, would likely result in reductions in reproductive success.

The Porcupine herd, which calves in the Arctic National Wildlife Refuge, has the lowest growth capacity of the four arctic herds and the least capacity to resist natural and human-caused stress. Higher insect activity associated with climate warming could counteract any benefits of reduced surface development by increasing the frequency with which caribou encounter infrastructure.

DEVELOPMENT ''FOOTPRINT''

Development has directly affected 17,000 acres spread across an area roughly the size of the land area of Rhode Island. Of this, 9,000 acres are covered by gravel, excluding TAPS, the Haul Road and facilities in NPRA. The environmental effects of oil development are not limited to the ''footprint'' (actual area covered by a structure), but occur at distances that vary depending on the environmental component affected, from a few miles (animals), to much farther (visual effects and seismic effects on whales).

CLIMATE CHANGE AND NEW TECHNOLOGIES

Climate change will continue to affect the usefulness of many oilfield technologies and how they affect the environment. For example, the length of the winter season when seismic and other off road tundra travel is permitted, and ice roads and pads are constructed, has been steadily decreasing since the 1970's. The coastline of the North Slope is presently eroding at a rate of 8 feet per year, the fastest rate of coastline erosion in the United States, and this will accelerate with climate change.

WILDERNESS

Oil development has compromised wilderness values over 1,000 square miles of the North Slope. The potential for further loss is at least as great as what has already occurred as development expands into new areas. Roads, pads, pipelines, seismic vehicle tracks, transmission lines, air, ground and vessel traffic, drilling activities, and other industrial activities and infrastructure have eroded wilderness values over an area that is far larger than the area of direct effects. Most analyses of wilderness effects conducted by the government are cursory, out of date, or both, and none has used new techniques for measuring wilderness values, or attempted to coordinate wilderness assessment or planning among different jurisdictions.

ECONOMIC COSTS OF ENVIRONMENTAL EFFECTS

There have been no economic valuation studies of the effects of oil development on the physical biological, or human environment on the North Slope. As a result, the full cost of oil development on Alaska's North Slope has not been assessed, quantified, or incorporated into decisions that affect use of public land. Incorporation of environmental costs into an overall economic assessment of development would alter projections of economically recoverable oil and gas on public land on the North Slope. For example, the U.S. Geological Survey periodically estimates the amount of recoverable oil in various areas of federally owned land on the North Slope. In doing so, the USGS generally projects the amount of oil that is ''economically recoverable'' from these lands given a particular price of oil and given a set of costs associated with development and transportation. By not fully accounting for environmental costs in its projections, the USGS underestimates the cost of development, which in turn inflates the amount of oil considered economically recoverable at a given market price.

SPILLS

Hundreds of spills occur each year in the oilfields, but to date they have not been large enough or frequent enough for their effects to have accumulated. Offshore, the industry has not demonstrated the ability to clean up more than a small fraction of oil spilled in marine waters, especially when broken ice is present.

AIR POLLUTION

Not enough information is available to provide a quantitative baseline of spatial and temporal trends in air quality over long periods across the North Slope, and little research has been done to quantify effects. More than 70,000 tons of NO_x, are emitted each year by industrial facilities on the North Slope, along with thousands of tons of sulfur dioxide, carbon monoxide, volatile organic hydrocarbons, and millions of tons of carbon dioxide. Even though air quality meets national ambient air quality standards, it is not clear that those standards are sufficient to protect arctic vegetation.

LACK OF RESTORATION

Only about 100 acres (1%) of the habitat affected by gravel fill on the North Slope have been restored. The Committee concluded that unless major changes occur, it is unlikely that most disturbed habitat on the North Slope will ever be restored. Because natural recovery in the arctic is slow, effects of unrestored structures are likely to persist for centuries, and will accumulate as new structures are added.

DECISION-MAKING

Decisions about development on the North Slope have generally been made one case at a time, in the absence of a comprehensive plan and regulatory strategy that identifies the scope, intensity, direction, and consequences of industrial activities judged appropriate and desirable. Similarly, the minimal rehabilitation of disturbed habitat has occurred without an overall plan to identify land-use goals, objectives to achieve them, performance criteria, or monitoring requirements. Little consideration has been given to how future trajectories of development would be viewed by different groups, including North Slope residents. In addition, as indicated above, the full cost of oil development on Alaska's North Slope has not been assessed, quantified, or incorporated into decisions that affect use of public land.

WINTER OFF-ROAD SEISMIC EXPLORATION AND ICE ROADS

The Committee estimates that more than 32,000 miles of seismic trails, receiver trails, and camp-move trails were created between 1990 and 2001, an annual average of 2,900 miles each year. If current trends continue, some 30,000-line miles will be surveyed on the North Slope over the next decade. These trails produce a serious accumulating visual effect and can damage vegetation and cause erosion. Data do not exist to determine the period that the damage will persist, but some effects are known to have lasted for several decades. Seismic exploration is expanding westward into the western arctic and the foothills, where the hilly topography increases the likelihood that vehicles will damage vegetation. The use of ice roads and pads has increased and will continue to do so, but little information is available on how long effects persist.

REGILATORY ISSUES

The report did not evaluate the adequacy of existing regulations. However in the course of the review, a number of issues arose. Examples include the following.

Protecting the tundra from winter off road travel

DNR permits tundra travel for seismic camps where there is an average of 6″ of snow and 12″ of frozen soil, which the committee concluded are not based on scientific evidence. The only published study of seismic disturbance in relation to snow cover suggests that disturbance occurs at snow depths of 10″–28″ of snow. In addition, the use of AVERAGE snowpack and frost thickness by regulatory agencies does not take into account differences in snow cover across different land forms or across the slope.

Restoration

Fewer than 1% of Corps permits contain restoration requirements, and those don't generally include specific standards, requirements for long term monitoring, or performance criteria. Only 6 of the 1,179 permits issued by the Corps require the re-use of gravel. The Corps does not have an estimate of the area affected by permits it has issued.

Groundwater

Existing data on groundwater suggests that sub-permafrost groundwater may meet the regulatory definition of a drinking water source more commonly than thought. No testing of groundwater is required prior to waste injection.

Water withdrawals

Water withdrawals from fish-bearing lakes for purposes such as building ice roads and pads are limited to 15% of the estimated minimum winter water volume. The committee cited the lack of data to support this criterion, which it terms arbitrary. For fishless lakes, there were no restrictions on removal of water as of late 2002; all unfrozen water from such lakes can be drained. The effects of such complete withdrawals have not been evaluated.

Mrs. BOXER. Madam President, it is very important everyone vote. This is a close vote. I don't think this should be in a budget resolution. It is very obvious what the proponents of drilling want to do. They want to get this into

reconciliation so those who have deep, strong feelings will not be able to talk at length about it, to stop it. I hope we stop it today.

I reserve 1 minute for closing debate.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Madam President, previously I yielded the Senator from Alaska 1 hour on the amendment. Is there any time remaining?

The PRESIDING OFFICER. There is 12 minutes remaining on the amendment.

Mr. NICKLES. I yield to the Senator from Alaska not only those 12 minutes but also such time as he desires on this resolution. I also remind him I told the Senator from Alabama that he would be recognized for a few minutes, as well. I yield to the Senator from Alaska such time as he desires.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Madam President, I am delighted to be here when my friend from California mentions my name and someone I should call. I assume that would be President Carter. President Carter told the House of Representatives not to send him the 1980 bill until after the election. And he waited until after the election, but he did sign it.

The item I read last night is from Jimmy Carter's own record, his own words at the time he signed that bill. It is true, since that time he has campaigned against a provision of the bill that he signed.

We have an amendment introduced now by the Senator from Connecticut to repeal that provision. But that is the first time there has been an amendment to repeal that provision, primarily because the people who were here then who made the commitment to Alaska are all gone. It is sad we have to wait until those people who make commitments to a State that leads to a decision to withdraw over 100 million acres of Alaska land, the one decision we got was we would be able to open up exploration and development on the Arctic coast if we could show there would be no irreparable harm in that area. That was shown with two environmental impact statements.

Later I will make comments about the impact of the provision of the Senator from California with regard to the people of California. I spent a good period of time in California. I was raised there and went to school there—UCLA. I tell the people of California when their price of gasoline goes up, call Senator BOXER. Call her and ask her why she opposes oil coming from Alaska as it used to. For over 20 years we sent oil to California from the same area. Now she refuses to allow us to continue to explore in the area that her two colleagues, Senator Jackson and Senator Tsongas, in 1980, said would be open.

There are pretty flowers all over Alaska in the summertime. I can show the Senator from California a picture of a million acres of golden rod waving in the breeze. It is beautiful. But I can also show a picture again of the tundra. This is what the area she had a picture of looks like most of the time, the tundra, solid, frozen tundra, and we do this in the wintertime. We do not spoil the flowers. We build ice roads across the tundra and drill for oil and gas. It is completed when it is still frozen land.

We did not disturb the caribou. As a matter of fact, here is a good example. I am sorry the Senator from California has not seen fit to come to Alaska and look at the area she talks about. There is the caribou right near Port McIntyre field. That is where they come. They do not look disturbed to me. I have been up there, and there are so many on the runway we had to wait until they decided to leave because they get first call on the runway.

It is time we talk facts. And the fact is, Congress pledged this area would be available for oil and gas exploration. The 1002 area was specifically reserved for oil and gas exploration. It is not wilderness. The Senator from California and others insist on coming out here and saying we want to drill in wilderness. That is not true. It never was wilderness from the time it was withdrawn when I was in the Department of Interior in the 1950s. We specifically allowed oil and gas leasing under the Mineral Leasing Act to continue, although the area was withdrawn from all other forms of entry under public land laws.

As long as the Senator from California mentions whom I should call, she might want to visit with the Eskimos in the Senate gallery. They are part of 100,000 Alaska Natives in favor of drilling in this area. I intend to spell that out in more detail later.

I don't need to call a former President. I know where President Carter stands now, but I knew where he was when I saw him signing the bill. He signed that bill that contained the section 1002, and he gave us the right and approved the offer made by Senator Jackson and Senator Tsongas to me that if we allowed the million acres to be withdrawn, we would continue to have the right to explore in the Arctic.

I yield to my friend, and I reserve the remainder of my time. I will talk right up to the vote and urge Members of the Senate to think about one thing, and that is the value of the oil in our area of Alaska as compared to the continued dependence upon foreign oil in increasing amounts in this country.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Madam President, I thank the Senator from Alaska for his tremendous leadership on this issue. It is a very important issue to America. I salute the Presiding Officer for her leadership on it. It is so important.

There is no doubt about it; any activity in this area would have minimal environmental impact. This is going to be the most closely watched drilling ever to occur in the world, I suppose. It will be environmentally sound in every possible way, using the newest technology, as Senator DOMENICI said. It will be on land where you can control things better. It will be a minute footprint in these millions of acres of land. It is going to be carefully done.

While we are talking about safely drilling in Alaska, today no one I know of is seriously opposing drilling in the Caspian Sea. No one is opposing the drilling that goes on in Venezuela. We are drilling off the coast of Louisiana, Alabama, and Mississippi, and in the Gulf of Mexico right now, producing oil and gas in a much more high-risk environment than this would ever be. So this is an unbelievable argument to me. It goes against all logic.

This is a minute environmental impact, I suggest. But it represents, without doubt in my mind, the greatest economic growth potential of anything in the President's package or anything we are dealing with on the floor right now. This is an important growth issue for America. The reason is, we are talking about new wealth to America.

Every day, if we do not buy the oil that comes from this region, we will be sending our money to Venezuela and Saudi Arabia and Iraq and whatever other OPEC nation we would be sending it to—a direct sucking sound of American wealth going to foreign nations.

We have had various studies. One said 735,000 jobs would be produced. Another one has come in at 575,000 jobs that would be created.

I want to make one point. These are going to be critical jobs, high-paying jobs in drilling—environmental engineers, pump manufacturing, shipping, transportation, rail, airlines are going to be active, steelworkers, teamsters, and that kind of thing, high-paying jobs. Money will be paid to them out of the money that we would have otherwise sent outside of this country for foreign oil that would not have been paid to American workers. High paid salaries to American workers—it will be missed by us.

So I would say this is big. I will just briefly make this point. How big is it? If we had 575,000 jobs, and they are making higher wages, if they are a spouse who is working, they may be paying more than the figure I would float out, but I suggest these jobs will result in IRS payments to Uncle Sam, Uncle Sugar, of probably $10,000 per job.

You add that up, 575,000 jobs at $10,000 to the tax man of the United States, that turns out to $5.75 billion a year to the Treasury of the United States. Over 10 years that is almost $50 billion.

Are we going to pay this to the ''stans,'' to Russia, Venezuela, Mexico, Iraq, Kuwait, those countries? That is who is getting it now and will be getting it in the future. It is really a tremendous amount.

This does not count the royalties that will be paid by the drilling companies to the United States. They will be paying $10 to $20 billion over the life of this activity.

We have also not forgotten, I hope, that the drilling here, under the legislation as proposed, will result in the payment of $2.5 billion to the Land and Water Conservation Fund for conservation programs in America. I have absolutely no doubt—I know the Presiding Officer shares this—that $2.5 billion will do more environmental good throughout the entire United States than this 2,500-acre footprint of drilling would cause damage in this vast ANWR region of Alaska.

I really believe this is a tremendously important economic issue for America. It is jobs, jobs, jobs. Those of us who are wrestling with a budget in this country that shows declining revenues, it will guarantee increased tax revenues to the United States. We must not allow exaggerated fears to pull us back from this important issue.

It is great to be with the Senator from Alaska, and know he knows this issue so well. I appreciate his leadership. Yes, it is good for Alaska, but it is good for America. We thank you.

The PRESIDING OFFICER. The Senator from North Dakota.

AMENDMENT NO. 274

Mr. CONRAD. Madam President, I know the Senator from South Carolina has a sense-of-the-Senate amendment. Let me just say I regret that because we have done our level best to stop the practice of offering sense-of-the-Senate amendments on the budget resolution. We have established a point of order against them to try to discourage sense-of-the-Senate amendments. And we have been so far, until this moment, successful on both sides. I just say to my colleagues, if we start down this path, we will be right back to where we were in the past. We are going to be right back to vote-arama. We are going to be right back to a circumstance in which, when all time has expired, we are going to face 30 or 40 or 50 votes and nobody is going to have a chance to explain them. We are going to have Senators, hour after hour after hour, marching down into the well of the Senate to cast votes on issues they have not even had a chance to debate or had a chance to discuss.

I regret very much the sense-of-the-Senate amendment has been put in this queue. I say to my colleagues on the other side, if we start down this path, the same thing is going to happen over here.

Let me say, it is not the fault of the Senator from South Carolina. He has offered an amendment in good faith. We respect that Senator. But the point is a larger question of how we proceed on a budget resolution. Both sides have worked very hard to prevent vote-arama.

We are right now rushing toward that result. I hope everybody thinks very carefully now about the decisions we are making because we are going to reap the whirlwind.

Let me just say this to my colleagues. There is an alternative. The Senator from South Carolina has gotten in the queue. I hope we can work out an agreement on his amendment. I understand staffs on both sides are working on that. If we do not draw the line here, it is Katie bar the door. And we should all understand that.

No. 2, I hope after the Senator from South Carolina has a reasonable time to discuss his amendment, hopefully during that period our staffs can work together and we can reach an accommodation and agreement so the amendment of the Senator can be adopted without a vote. I urge that course on my colleagues on the other side.

Next, that we then move to a debate on another amendment with the ability to come back and finish off on ANWR before the vote that is now scheduled at 3 o'clock. I just hope we all think very carefully, now, in these minutes, before we head down this path, of where it leads. At the same time, on both sides, we discussed trying to reach an agreement on a set number of amendments, those to be debated and those to be in vote-arama.

On our side we are calling a caucus to discuss that very question. I hope the other side—I have already talked to Senator NICKLES about it—will give it close consideration as well, so we avoid this spectacle of vote-arama. But right now colleagues should understand we are headed for the vote-arama of all time, and it will not reflect well on the body, and it probably will not lead to the best results.

With that, I yield the floor and, again, hope my colleagues consider these options.

Mr. GRAHAM of South Carolina addressed the Chair.

Mr. STEVENS. Madam President, will the Senator yield for a moment?

Mr. GRAHAM of South Carolina. Absolutely.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Madam President, while the Senator from North Dakota is here, I would like to see if there could be an agreement. I understand we are going off this amendment to delete the ANWR provision in this budget resolution for a little while. I wonder if it would be possible if we could ask unanimous consent that we return to this amendment at 2 o'clock—the vote will be at 3—and the time between 2 and 3 o'clock be equally divided between the two sides.

Mr. CONRAD. I would certainly be open to that. I would want the opinion of the manager and chairman of the committee.

Mr. NICKLES. I have no objection to that. This is a very important amendment. It is one of the reasons why I encouraged our colleagues to bring it up. I knew it was going to take some time. I have no objection to that.

Mr. CONRAD. We have no objection on this side.

Mr. STEVENS. I do offer that unanimous consent request. I point out, I could speak from now until 3 o'clock, if the Senate would like to do that, but I think it is best we go ahead as the leader requests we do. I renew my request.

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

Who yields time?

The Senator from South Carolina.

Mr. GRAHAM of South Carolina. Madam President, I have a housekeeping chore. I would like to submit to the clerk a modification to my amendment and ask unanimous consent that the amendment be modified.

No modification is needed, I am told. Thank you.

Madam President, Social Security is not only hard to solve, it is also hard to get before the Senate. So I apologize for the confusion.

I understand the concern of my colleague from North Dakota. But having a bit of time to talk about Social Security I think is very appropriate.

The budget resolution process is a roadmap to make sure we can understand what we are doing as the year progresses in terms of spending and taxes and what provisions to take up and when. I applaud both the Senator from North Dakota and the Senator from Oklahoma for working together to try to make this as painless on the body as possible. But this amendment, hopefully, can be accepted in some form, either voted on or accepted by the body.

If you are going to have a roadmap for America this year or any other year, it is time we start putting Social Security on that roadmap. Social Security is a system that Democrats and Republicans embrace as being vital to the Nation. It is a system that working Americans pay into every year. Millions of Americans receive a substantial part, if not all, of their retirement income from Social Security, after years of paying into the system.

This amendment is part of this roadmap for America that we are talking about. It lays out some findings and some facts that are not Republican spin, not Democratic spin, but come from the Social Security trustees themselves, the people in charge of telling us, in managing the program—''us'' being the House and the Senate—the state of affairs with Social Security.

We are on the verge of a war. Only God knows what will happen here shortly. But it is my belief, unless there is some major miracle, we will be involved in hostilities with young men and women in harm's way protecting our freedom. I know one thing every Member of the body can agree on is that these young men and women deserve our support and our prayers if ordered into battle. And they will get that support and those prayers in a bipartisan way because what they are doing is very noble, in my opinion, trying to preserve our freedom and bringing about more stability in the Mideast.

We can argue about the nuances of the diplomacy and lack thereof in some people's opinion that got us to being on the brink of war, but once hostilities begin, I am sure everybody will come together and say a prayer for our troops and support our President the best they can.

That same dynamic needs to exist with Social Security, because there is a big, gaping hole in America's domestic agenda. You can talk about the size of the tax cuts, whether we should have one, whether it should be $750 billion or $350 billion or 30 cents or $2 trillion. Whatever opinion you have, I respect, and I have my own about that; and that is a point of debate.

One thing we need to understand and come together on quickly, in my opinion, is certain facts surrounding Social Security.

In 75 years—I know that seems forever. But my predecessor, Senator Thurmond, turned 100 a few months ago. He is going to be a first-time grandfather. Our State's former junior Senator, now senior Senator, is 81. So in South Carolina, 75 years is not long in politics. It seems forever, but it is not, really.

In 75 years, our trustees, the people in charge of the Social Security trust fund, tell us we will be $25.3 trillion short of the money necessary to pay benefits. I want to repeat that. I know there are a lot of important votes to come on ANWR and tax cuts, and this roadmap is about this year; and we are trying get through this day to make sure we can get on with the business of the Senate. And that is the way politics is, probably to a fault sometimes: getting through this day, getting through this amendment, so we can get on with the next event of the next day. We are in the middle of an international crisis, and our hope is we can get through the coming days as quickly as possible and resolve it.

Time is not on our side in solving Social Security structural problems. You could say: Well, 75 years is a long time. But between now and 75 years from now, for the obligations of the trust fund, and the money to pay those obligations, there will be a $25 trillion gap. And I ask, simply, the following question: Where does the money come from?

People want to know how much the war is going to cost—and the occupation. The truth is, it is going to be billions of dollars over several years. As we try to find out where the money comes from to get us through this day and this year, I hope we will start focusing on, in a bipartisan fashion, where does the money come from to keep Social Security solvent?

Seventy-five years from now, if nothing changes—if all we do is run ads against each other and belittle opportunities to fix it in a partisan way; if the Democratic and the Republican parties stay on track, based on the last campaign cycle, of trying to use the Social Security issue as a way to capture power for the moment—then we are going to allow one of the best programs in the history of the Nation not only to become insolvent but create a financial crisis in this country that we have not experienced, ever.

Another date I would like to point out: In 2042, which seems forever, but it is not, a problem occurs with Social Security. Seventy-five years from now, the unfunded liability in obligation will be $25.3 trillion. But before you get to that point in time, the next major event, according to the trustee report released yesterday, is 2042.

What happens in 2042? In 2042, the amount of money available to pay benefits will be such that benefits will be reduced for the average recipient by 28 percent. I want to say that again. If we do nothing different, if we just collect the same amount of money, and get the same growth rates, in 2042 you are going to reduce benefits for everybody on Social Security by 28 percent. The other option is, according to the trustees, raise payroll taxes of the workforce in existence then by 50 percent. These are two very dramatic and unacceptable options, in my opinion.

Now, in 2042, I doubt if I will be here. But if the history of my State stands the test of time, I will be here because I will turn 100 in 2055. If I can do what my predecessor has done, which I very seriously doubt, I will have another term left. I doubt if that will happen in my case, but somebody is going to be here in 2042 from South Carolina and every other State represented here today.

My hope is that during my time in the Senate, I can join with my colleagues of like mind on both sides of the aisle to make life a little better for the American public, the taxpayer, and those who will be doing the job we are engaged in today a little better than the trustees tell us of what is going to happen in 2042.

I would like to recognize certain Members of this body: Senator GREGG, Senator BREAUX, and many others, Senator Moynihan, a former Member of the Senate, who have brought ideas to the table, have worked in a bipartisan manner, along with President Bush. I compliment President Clinton for putting the issue of Social Security on the table. I didn't particularly like his solution to better growth rates, but he acknowledged that growth rates were a problem. So there is the foundation being laid in the last couple years to do something constructive.

I compliment everybody in this body who has been part of that process. As a Member of the House for four terms, I tried to be a constructive Member dealing with Social Security over there.

The temptation to achieve political power is great when the Senate and the House are so closely divided. Every issue is looked upon as the issue that can get you back in the majority or the issue that may cost you the majority. My concern is that if we have that approach to reforming and solving Social Security—I know the Senator from North Dakota who is managing the minority side of the bill is a fine Member who loves his country as much as I do—if we keep this partisan atmosphere going that has existed in the past and has been bipartisan in the demagoguery, we will run into a problem. So in 2042, I would like us to avoid what is coming our way. The only way to do is to start now.

Another date the Social Security trustees tell us is a very important date is 2018. I have gone from 75 years now to 2042 to 2018. What happens in 2018? In 2018, for the first time in the history of the program, we will pay more in benefits than we collect in taxes. What is going on here? There are a lot of young folks working in the Senate—pages, interns. We are really talking about their future more than anything else.

In 2018, we pay out more in benefits than we collect in taxes. What is wrong with Social Security? Why is it mounting up this unfunded obligation? Why are we beginning to pay more in benefits than we collect in taxes? Why do we have to cut benefits in 2042, and why are we $25 trillion short in the money to pay everybody 75 years from now?

Well, it is not a Republican or a Democratic problem in terms of politics. It is just the way the country has changed. I was born in 1955. In 1950, a few years before I was born, there were 16.5 workers to every retiree. According to the trustees, in 1950, there were 16.5 people working paying Social Security taxes for every retiree. Today there are 3.3 workers to every retiree. Twenty years from now, there are going to be two workers for every retiree. That is not a Republican problem. It is not a Democratic caused problem. That is not because we can't get along up here. That is because the ratios have changed. There is no reason to believe they will go back the other way.

My father and mother are deceased now, but I think in my mother's family there were nine members of her family, and my father had eight. I am not married. I don't have any kids. My sister has one. I sort of reflect what is going on in the world. I hope to help solve the problem later down the road. If I do what Senator Thurmond has done, 23 years from now, I would have my first child. I doubt if that will happen, either.

But as we kind of mark these points in time and make it personal, the problem is that the demographic changes in America have put Social Security at risk. It is nobody's fault, but it is everyone's problem. You cannot keep the program solvent when the ratio has gone from 16.5 workers to 1 in 1950 to 20 years from now being 2 to 1. There is just not enough money coming into the system.

Now, when you talk about Social Security spending and what to do and the idea that we are spending Social Security surpluses to run the Government,

you get everybody upset. And they should be. I came to the House in 1995. One of the first things we tried to do was isolate Social Security money surpluses and make sure we did not use the Social Security dollars paid into the system to run the Government. That has been a practice that has been going on for 30 or 40 years. Both parties have engaged in that practice.

Every year we collect more in Social Security taxes than we pay in benefits. That extra money is called surplus. We have borrowed that extra cash, given the trust fund IOUs that have to be redeemed in the future. That has allowed us to grow this Government without a direct tax on people.

That is a bad practice. It is not good government. It is not good business. For several years we have been able to avoid doing that in a bipartisan way.

You remember in the last debate there was the lockbox. Let's put everything related to Social Security in this lockbox. In my last campaign for the Senate, I constantly heard it: If you just left Social Security money alone and you didn't take it out to run the Government, if you kept it in a lockbox and left it alone, most of these problems would go away.

That is not true. As much as you would like to believe that, that is not true. If you took every penny collected from Social Security and you dedicated it totally to the trust fund and totally to the benefits to be paid, you are still $25 trillion short in 75 years. It still runs out of money in 2042. The problem is that two workers paying into the system will not be able to support the massive number of baby boomers coming into the system.

Having said that, I would like to work with my colleagues on both sides of the aisle to do a better job of protecting Social Security. I don't believe there is any party that has been in power for the last 40 years that could look the American public in the eye and say that they have not been guilty of using the surpluses in some fashion for other than Social Security.

In September of last year, I wrote a letter to the Social Security Administration asking 17 questions. Here is one of the questions I asked: Some have proposed a Social Security lockbox; would a lockbox, by itself, extend the solvency of Social Security beyond the year Social Security is expected to become insolvent? In a nutshell they said, the implementation of a Social Security lockbox would not alter this commitment and thus would have no direct effect on the future solvency of Social Security.

Having said that, I do believe we should isolate Social Security dollars and dedicate those dollars to the payment of Social Security trust fund obligations. That is just good government. But please do not tell your constituents back home that will fix this problem because it most certainly will not.

After having heard my rendition, there is probably not much good news you have heard yet. The good news: there is a way, in my opinion, to make up the $25 trillion shortfall over 75 years, to change the fact that you will have to reduce benefits by 2042 by 28 percent—that is all the money you will have to pay benefits by then—and to even change the dynamic of paying more out in benefits than you collect in taxes by 2018.

The good news—just like everything else in Washington, there is a bad news/good news part of what I am about to say—is that the growth rates for Social Security, the amount of return you get on your FICA tax dollars or Social Security tax dollars taken out of your paycheck for younger workers, people born in the 1980s, it is less than 2 percent. If you happen to be a minority in this country, born in the 1980s, it is less than 1 percent.

Let me say that again. This is not Lindsey Graham saying that. The Social Security trustees have reported back to me in this letter.

I ask unanimous consent to print the letter in the RECORD.

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

SOCIAL SECURITY,
OFFICE OF THE CHIEF ACTUARY,
Baltimore, MD, September 26, 2002.

Hon. LINDSEY O. GRAHAM,
House of Representatives,
Washington, DC.

DEAR MR. GRAHAM: Thank you very much for the opportunity to answer the questions you have posed in your letter of September 6, 2002. The answers below are based on the intermediate assumptions and projections presented in the 2002 Annual Social Security Trustees Report and estimates that we have provided for a number of reform proposals over the past several years.

Many of the questions that you raise are very complex and the answers are subject to considerable uncertainty and even debate. I am providing brief answers reflecting my understanding of these issues based largely on the work done in the Office of the Chief Actuary for the Trustees, the Administration, and the Congress. I hope these responses will be helpful. I look forward to working with you, and Aleix Jarvis and Jessica Efird of your staff in the effort to develop proposals to reform Social Security and restore long-term solvency for the program.

(1) Based on the Social Security Administration's projections, in what year does Social Security begin to pay more out than it takes in?

Answer. Under the current intermediate assumptions of the 2002 Annual Report of the Social Security Board of Trustees to the Congress, and assuming that current law is not changed, we project that annual cash flow for the Social Security program will remain positive through 2016 and will turn negative for calendar year 2017 and later. Annual cash flow is defined here as the excess of income (excluding interest) over expenditures.

(2) Based on the Social Security Administration's projections, in what year is Social Security expected to become insolvent?

Answer. Under the intermediate assumptions, full benefits would continue to be payable after 2016 and part of the way through 2041 by augmenting current revenue from taxes with revenue from redeeming special United States Treasury obligations held by the Trust Funds. During 2041, the theoretical combined Old-Age and Survivors Insurance (OASI) and Disability Insurance (DI) Trust Funds are projected to become exhausted and full scheduled benefits would no longer be payable on a timely basis. This condition is referred to as insolvency of the Trust Funds, because available tax revenue would then be sufficient to cover only about 73 percent of the cost of scheduled benefits. In fact, the OASI and DI Trust Funds operate separately and the projected dates of insolvency are 2043 for the OASI Trust Fund and 2028 for the DI Trust Fund. For simplicity of analysis, the date for theoretical combined Trust Funds is usually considered.

(3) Assuming current growth rates remain the same would benefits have to be reduced or taxes increased to keep Social Security from insolvency? If so, how much?

Answer. The intermediate assumptions for the Annual Trustees Reports reflect the Trustees, best judgment about the continuation of current trends in demographic and economic variables like birth rates, death rates, average wage increases and price increases. Assuming the intermediate assumptions of the 2002 Trustees Report are realized, Social Security will require either a reduction in benefit levels or an increase in revenue starting in 2041 for the combined OASDI program (and in 2043 for the OASI program and 2028 for the DI program). If benefits were reduced to meet the shortfall in revenue for the combined program, the reduction would need to be 27 percent starting with the exhaustion of the Trust Fund in 2041 and would rise to 34 percent for 2076. Alternatively, if additional revenue were provided beginning in 2041, revenue equivalent to a payroll tax rate increase of about 3.3 percent (from 12.4 percent under current law to about 15.7 percent) would be needed for the year. The additional revenue needed for 2042 would be equivalent to a payroll tax rate increase of about 4.5 percent. Thereafter the amount of additional revenue needed would gradually rise, reaching an amount equivalent to an increase in the payroll tax rate of about 6.4 percent for 2076. There is, of course, a great variety of ways in which benefits could be reduced or revenue increased for the Social Security program. Many different combinations of provisions to reduce benefits and/or provide increased revenue from taxes could be developed to avoid insolvency of the OASDI Trust Funds throughout the 75-year projection period, and beyond.

(4) If Social Security surpluses were not diverted from the general budget, how would that affect the system? Would it avert a future insolvency?

Answer. I assume you are referring to the fact that for most years in which Social Security has taken in more tax revenue than it has paid out in benefits and other expenses, the rest of the Federal budget has operated in deficit. In these years, the Social Security tax revenue not currently needed for benefit payments has, by law, been invested in securities backed by the full faith and credit of the United States Government. In practice, this revenue has been invested in special issue United States Treasury securities. These securities represent a commitment to redeem these investments, with interest at the market rate, when the Social Security Trust Funds are in need of revenue. Such commitments to the Social Security and Medicare Trust Funds have always been met in the past and should be expected to be met in the future regardless of the fiscal operations of the rest of the Federal Government. Therefore, the trust funds are in no way compromised in their role of maintaining solvency as a result of being invested in special Treasury securities. However, redemption of these Treasury securities held

by the Trust Funds does require the Treasury to allocate General Revenue for this purpose, and this allocation must be met by increasing taxes, reducing other federal spending, or increasing borrowing from the public.

(5) Some have proposed a Social Security ''lock box.'' Would a ''lock box'' by itself extend the solvency of Social Security beyond the year Social Security is expected to become insolvent?

Answer. As suggested above, the Social Security Trust Fund investments represent commitments of the United States Treasury that should be expected to be met when the Trust Funds need to redeem these investments. The implementation of a Social Security ''lock box'' would not alter this commitment and thus would have no direct effect on the future solvency of Social Security.

However, if the effect of a ''lock box'' were to require that the non-Social-Security Federal budget be in balance or surplus for the years in which Social Security makes investments, then the amount of borrowing from the public might be reduced. In this case the difficulty of generating General Revenue for the redemption of Trust Fund investments in the future would likely be diminished.

(6) How many South Carolinians do you project will be receiving Social Security benefits when the program becomes insolvent? How many South Carolinians currently receive benefits?

Answer: In December of 2001, about 704 thousand South Carolinians were receiving Social Security benefits. This represented about 1.5 percent of all Social Security beneficiaries at that time. If this percentage remains the same in 2041, when the combined Social Security Trust Funds are projected to become exhausted, we estimate that about 1.4 million South Carolinians will be receiving Social Security benefits at that time.

(7) What is the ratio of workers per retiree when the program began, in 1940, 1950, 1960, 1970, 1980, 1990, today, 2010, 2020, 2030, 2040?

Answer: The table below provides the historical and projected numbers of Social Security covered workers and beneficiaries. Ratios of covered workers to beneficiaries are shown both where beneficiaries include all beneficiaries and where beneficiaries are limited to retired workers. The number of beneficiaries was extremely small in 1940, the first year that monthly benefits were payable, because only workers with some work in 1937 through 1939 could qualify. This resulted in a very high ratio of covered workers to beneficiaries at the start of the program, which required several decades to mature.

SOCIAL SECURITY (OASDI) COVERED WORKERS, BENEFICIARIES, AND RATIOS—1940–2080

[In thousands]

	Beneficiaries			Ratio of Covered Workers to—	
	Covered workers	Retired workers	Total	Retirees	All beneficiaries
1940	35,390	112	222	316.0	159.4
1950	48,280	1,771	2,930	27.3	16.5
1960	72,530	8,061	14,262	9.0	5.1
1970	93,090	13,349	25,186	7.0	3.7
1980	113,649	19,564	35,118	5.8	3.2
1990	133,672	24,841	39,470	5.4	3.4
2002	152,461	29,123	46,239	5.2	3.3
2010	165,443	34,126	52,865	4.8	3.1
2020	172,848	48,324	68,699	3.6	2.5
2030	178,131	61,740	84,070	2.9	2.1
2040	184,433	66,895	90,068	2.8	2.0
2050	189,845	69,692	94,109	2.7	2.0
2060	194,568	74,937	100,177	2.6	1.9
2070	198,687	80,635	106,723	2.5	1.9
2080	202,238	85,939	112,895	2.4	1.8

Note.—Projections are based on the intermediate assumptions of the 2002 Trustees Report.

(8) What is the sum of the total cash shortfalls that social security is projected to experience from now through 2075, from 2025–2050, and from 2050–2075? (in constant and in present-value dollars)?

Answer. Combining financial values over substantial periods of time is generally done taking into account the ''time value of money''. This is accomplished by accumulating or discounting the separate annual values with interest to a common date. Values combined in this way are referred to as present values as of the date to which they are accumulated or discounted.

In present-value dollars (discounted at the OASDI Trust Fund interest rate to January 1, 2002) the total net OASDI cash flow for years 2002 through 2076 is projected to be nearly −$4.6 trillion. When the Trust Fund balances of over $1.2 trillion at the beginning of 2002 are added to this value, we get a financial shortfall (or unfunded obligation) for the 75-year period of $3.3 trillion. This unfunded obligation indicates that if an additional $3.3 trillion had been added to the Trust Funds at the beginning of 2002, the program would have had adequate financing to meet the projected cost of benefits scheduled in current law over the next 75 years. It should be noted that if the dollar amount of this unfunded obligation is accumulated with interest to the end of 2076, and then expressed in constant (CPI-indexed) 2002 dollars we get $33 trillion.

The present-value net cash-flow of almost −$4.6 trillion for the p0eriod 2002 through 2076 can be separated into the three 25-year sub-periods:+$0.4 trillion for the period 2002 through 2026, −$2.7 trillion for the period 2027 through 2051, and −$2.3 trillion for the period 2052 through 2076. If only years of negative cash flow are included then the value for the first 25-year sub-period is −$0.5 trillion and the total for the 72-year period is −$5.5 trillion.

Summing constant 2002-dollar values from several different years is equivalent to taking their present value and assuming that the operative real interest rate is zero. This may result in values that are difficult to interpret. Constant-dollar values are generally used for comparing separate values over time rather than for combining them. A comparison of constant-dollar values for a series covering many years is helpful in illustrating the extent of real growth in the series over time. There is no meaningful interpretation of the result from summing constant dollar values from many different years.

Expressing the combined values discussed above in terms of simple sums of constant 2002 dollars (CPI discounted dollars) results in quite different results from present value because much greater weight is placed on more distant future years than would be indicated by current market interest rates. Using this approach produces constant-dollar cash-flow sums of +$0.1 trillion for 2002 through 2026, −$8.6 trillion for 2027 through 2051, −$15.3 trillion for 2052 through 2076, and −$23.8 trillion for the entire 75-year period. The sum for the first 25-year period with only negative values included is −$1.1 trillion. The sum for the 75-year period including only negative annual values is −$24.9 trillion.

(9) As a demographic group, do African-American males receive the same proportional return from the retirement portion of Social Security as other demographic groups?

Answer. Due to the nature of the Social Security program it is difficult to look at retirement benefits in isolation. The payroll tax rate is specified in two components, one for retirement and survivor benefits and the other for disability benefits. In addition, a significant portion of the benefits payable from the retirement and survivor tax, for years after reaching normal retirement age (NRA), is actually attributable to the fact that many become eligible for disability benefits before reaching retirement age. However, there are some observations that we can make.

To understand the tradeoffs, first consider the comparison of returns on retirement and survivors taxes for men and women. Men tend to die younger and have higher career-average earnings than women. These factors tend to make the return on contributions for retired worker benefits alone lower for men than for women. However, most men marry, and many have spouses with lower career earnings who receive spouse or widow benefits based on the earnings and contributions of their husbands. This tends to raise the relative return for contributions made by men. Finally, men have higher disability rates than women and thus are more likely to have a shortened career, lessening their lifetime payroll tax contributions without materially affecting their monthly benefit level when retirement and survivors benefits become payable. Thus, with all these factors taken into account it is less clear whether men get a lower return on their retirement and survivor taxes than do women.

For African-American males the situation is even less clear. Life expectancy for African-American males is lower than for white males. But average career earnings are also lower. These factors have at least partly offsetting effects. Because African-American males have higher death rates, they are also more likely to leave a widow beneficiary if married. Importantly, African-American males are also more likely to become disabled than are white males.

Some recent studies have suggested that African-American males get a lower return from Social Security retirement benefits. But these studies have not sorted out many of the complicating factors mentioned above. In particular, many of these studies consider actual case histories of individuals who work successfully without becoming disabled up to retirement. For such individuals, life expectancy at retirement is clearly greater than for those who have been disabled prior to that time, but these studies use overall population death rates. Because African-American males are relatively more likely to become disabled, this distortion of overstating death rates for those who do not become disabled is relatively large for them. This is a significant shortcoming that causes a disproportionately large understatement in retirement returns for African-American males. We are working on a more complete model that we hope will address these concerns and will inform you of our progress in the future. But for now, the evidence on this question appears to be inconclusive.

(10) What is the average current return on investment for FICA tax contributions for someone born before and after 1948?

Answer. Actuarial Note Number 144 ''Internal Real Rates of Return Under the OASDI Program for Hypothetical Workers'' authored by Orlo Nichols, Michael Clingman, and Milton Glanz in June 2001 addressed this issue. This note provides extensive estimates of real internal rates of return for a wide variety of cases.

The most representative of these hypothetical cases presented may be the married couple with a husband and a wife, each having medium career earnings. For this case, assuming a realistic earnings scale through the working lifetime, the real internal rate of return was computed to be 3.50 percent for those born in 1920, declining to 2.33 percent for those born in 1943. Assuming that present-law scheduled benefits would be payable in the future with no change in the payroll tax rate, this real rate of return is projected to decline gradually, reaching 2.20 percent for those born in 1964, and then rising

gradually as life expectancy rises. However, the current payroll-tax rate is projected to be inadequate to finance scheduled benefits in the long run. Under the hypothetical assumption that payroll tax rates would be increased as needed to finance scheduled benefits in the future, future real rates are return are projected to decline more rapidly, reaching 1.95 percent for those born in 1985 and 1.63 percent for those born in 2004.

In general, real rates of return are higher for married couples with one earner and for workers with low earnings. Rates are generally lower for single workers and for high earners.

(11) Have policy proposals been introduced that keep Social Security from insolvency, allow for personal accounts, and do not change benefits for those already receiving Social Security benefits?

Answer. Absolutely. A number of Congressional proposals would accomplish these goals. At a hearing before the House Ways and Means Committee in June 1999, ten plans were presented by Congressional sponsors. The sponsors of these plans were, Archer/Shaw, Kolbe/Stenholm, Nadler, Moynihan/BKerrey, Gregg/Breaux, PGramm, NSmith, Stark, MSanford, and DeFazio. We estimated that all ten of these proposals would restore solvency for the Social Security program for at least the full 75-year projection period. None of these proposals would reduce benefits for current beneficiaries, but three of them would slow growth in benefits for current recipients by reducing the size of the automatic cost-of-living adjustment (COLA) either directly, or indirectly (through modifying the CPI). Seven of these proposals provided for individual accounts on a voluntary or mandatory basis.

Since 1999 additional proposals have been developed that would meet these criteria, including the Armey/DeMint plan and Models 2 and 3 of the President's Commission to Strengthen Social Security.

(12) Have there been any proposals introduced that would create personal accounts, avert a future insolvency of Social Security, without reducing benefits or increasing taxes? Have there been any proposals without personal accounts introduced that would avert a future insolvency of Social Security without reducing benefits or increasing taxes?

Answer. The financial shortfalls projected for the Social Security program can only be eliminated by reducing the growth in benefit levels from what is scheduled in current law, or by increasing revenue to the program. In the long-run, additional revenue can be generated by expanding the amount of advance funding either in individual accounts or in the Social Security Trust Funds. All of the proposals mentioned above pursue this approach to some degree. However, creating additional advance funding requires additional revenue for a period of time. This additional revenue may be generated by (1) reducing Social Security benefits paid from the Trust Funds, (2) directly increasing the amount of payroll tax or some other tax, or (3) providing transfers or loans from the General Fund of the Treasury. Whether General Revenue transfers or loans represent an indirect increase in taxes depends on a number of complex factors many of which are generally unknown in the context of Social Security reform, so no definitive answer can be given.

All of the plans that we have analyzed in recent years provide for one or more of the three measures to generate additional revenue both to restore solvency for the Social Security Trust Funds and to provide for additional advance funding. This is true for plans that include individual accounts as well as for those that do not.

Sincerely,

STEPHEN C. GOSS,
Chief Actuary.

Mr. GRAHAM of South Carolina. They have laid out the rates of return for people born after 1980.

As I have told you, they are less than 2 percent. Over time, they go down because the problem, over time, gets worse. As you pay into the system as a young worker, the obligations of the system get greater, and there really will be no rate of return. As a matter of fact, by 2042, not only does your money not work for you, it is not enough to pay benefits to people who are already in the system.

Here is the good news. If we could, in a bipartisan fashion, work together, I am confident we could construct a program for younger workers—voluntary in nature—that would allow them to take part of the money they pay into Social Security, invest it in a different system—equity and nonequity, depending on what they want to do—that will dramatically outpace a 1.8 percent return.

Here is what I suggest to you as reality. If you had a business and you wanted to sell an annuity to young people in America, and you laid out the program of that annuity and it mirrored Social Security, nobody in the country would invest in it simply because they can get a better rate of return leaving it in a checking account.

Now, everything about Social Security is not total retirement. There is a component of Social Security that pays for people who have been disabled and injured. That aspect of the program is extremely important also.

But to have a better business view of Social Security is necessary. If we could achieve better growth rates—and the trustees tell us that if you achieve better growth rates, every dollar in additional growth, every time the fund beats that 1.8 or 1.6 rate of return, that extra dollar allows benefits to be paid without raising taxes.

We are going to argue about the tax cut and how to stimulate the economy. I remember in my last campaign, when I presented this idea, the ad was that ''Lindsey Graham is going to take your Social Security tax dollars and put them in Enron stock.'' Well, I didn't wake up one day and think investing in Enron with Social Security was a good idea. That is not what this program is designed to do.

There is bipartisan support for personal accounts, allowing individual Americans the opportunity, if they choose, to invest in plans to get better growth rates. There are visitors here from all over the country, most likely, and I welcome them here. One thing about being a Member of the Senate, or the House, or a Federal employee in any fashion, is that you have the opportunity, if you choose, to invest in the Thrift Savings Plan. It is a pretty good deal. I, as a Senator, can invest up to about $10,000 of my salary into a thrift plan. It is a Government-sponsored plan, administered by the private sector, where I can choose between three or four different investment options, based on the risk I want to take. There are stock funds, mutual funds, bond/stock funds, Treasury notes, which I can choose based on the risk I want to take.

All of these funds are supported by the Government in the sense that we are going to stand behind them and not let them collapse. It is even better than that. The Government puts in 50 cents on the dollar up to the $10,000 I put in, and they do the same for every Federal employee.

I suggest something like that should exist for the average working person in this country because under the current tax system, the average American will pay more in Social Security taxes than in any other form of tax, because this comes out of our paycheck—6.5 percent—no matter what our income is, up to a certain level.

For middle- and low-income workers struggling to get by, 6.5 percent—I think that is the correct number—comes out of your paycheck to go into the Social Security trust fund. For younger workers, we are taking that money from you. We are giving you no options to invest it. We are controlling it for you, and you are going to get that 2 percent—eventually less than 1 percent—over time.

I think that is wrong for the people paying taxes. But here is the big crime of it all: That system locks in failure for Social Security. Some Senate, somehow, someday—if we don't do something relatively soon—is going to be dealing with a trust fund that is $25 trillion short of the money necessary to pay the obligation, and it is going to be dealing with a trust fund from which somebody gets a letter one day saying: That check you got last month will be reduced by 28 percent, and I am sorry we don't have the money to pay you.

I don't know who will be occupying this seat then—I doubt if it will be me—but I would like to take some of that burden off their shoulders and off the working families and the working people in this country, in terms of taking their money and getting a better rate of return for it.

So the hope and purpose of this amendment is to put into the record this year, 2003, let it be said—if there is a record that stands the test of time, let it be said that in 2003 the Senate will soon adopt facts that I think are irrefutable, nonpartisan in nature, that lay out the future of Social Security solvency in a very honest, dramatic, and chilling way.

I congratulate my colleagues who are willing to accept this amendment as part of the roadmap for the budget this year. The facts are real. They are not going to go away unless we make things happen differently.

One thing I remember from President Clinton—and it was a good line—is that

the definition of insanity is doing an event the same way and expecting different results. So I think it is insane politically for us to keep this system in place expecting different results to fall out of the sky. They will not fall out of the sky.

Our freedom is about to be strengthened because some young man and woman chose to volunteer to serve their country and risk their life for our freedom. You can debate all you would like whether this is an appropriate thing to do. But they have taken on that sacrifice, and they will accept the order, if given, to go forward. That model is the model that has kept us free for over 200 years—average, everyday Americans who are willing to do their part, willing to risk their sons and daughters, their own lives, to make sure the next generation can have the blessings of liberty that we have enjoyed.

There was an interview I heard today of a family with twin sons serving in the same Marine unit, both of them ready to go tomorrow, if that is the day chosen. The mom and the dad were very worried but bursting with pride about the fact that both of their sons have chosen to serve in the Marine Corps and both of them are on the tip of the spear. What they were trying to tell the commentator was that they are proud of them because they are willing to serve their country and protect their way of life. The parents mentioned the fact that their hope is that life will be better for their kids than it was for them, and that truly is the American dream. That is what keeps us all going, trying to make sure that we pass on to the next generation a future with a possibility, with hard work, to be better than the one we have experienced.

I can say with all the confidence in the world that if we don't act soon, and act decisively, and if we are not willing to sacrifice politically and make some structural reforms to Social Security, we are committing political malpractice, and the future of Social Security is dismal and the ability to maintain the system is going to be unbelievably costly, and you can wind up with a Social Security pension plan and the military, and no money to do anything else. That is what awaits us as a nation.

But I am just as confident that we will rise to the occasion, and I cannot see how right now—it is beyond my ability as a political person to see how all this is going to come together. I am telling you that, based on faith, I know it will. The problems facing our troops—there are so many scenarios that face them in the aftermath of Iraq. There are thousands of different scenarios of ''what if that'' and ''what if that.'' I can only tell you I have the same faith that at the end of the day we will be successful and at the end of the day the sacrifices will be made.

Unfortunately, some people, most likely, will lose their lives or be injured. We are going to get through this thing at the end of the day stronger rather than weaker. We are doing the right thing.

I have faith in our troops and in our President that the dictator, Saddam Hussein, will be gone soon. I have faith that this body, starting this year—I hope it is this year—will come together to address the looming problems that face Social Security. This amendment lays out those problems. It puts it as part of the road map for this year's budget and, at the end, it encourages all to work together with the President to come up with solutions to avoid raising taxes and cutting benefits. It is a small step that will hopefully get us to the right place one day.

I am standing on the shoulders of people who have gone before me who have addressed problems of Social Security, such as Senator Moynihan and other Senators in this body from both parties. I do not know how long I will be here. Only the Good Lord and the voters know that. I can tell my colleagues one thing for certain: While I am here—I consider it to be an honor to be here—I want to do as many constructive activities for my country as possible. I think one of the best things I can do is to come up with an approach my colleagues from the other side can buy into, which means a give and take, to put in place a plan that begins to turn around the dynamics that are facing Social Security.

The good news is if we work together, if we start now, we can beat this problem, we can solve this problem. The bad news is if we continue to do what we have done for the past decade, we are going to pass on to the next generation of political leaders and taxpayers a dismal picture. I would argue that would be the first time in the history of the country that political leaders passed on a country that was diminished, not enhanced. I am confident we will not be the first ones to make that mistake.

I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. SUNUNU). The Senator from North Dakota.

Mr. CONRAD. Mr. President, I thank the Senator for his statement. I will take a few moments later to respond. Hopefully, we can get an agreement on the contents of the Senator's amendment. In the meantime, the Senator from Washington has been patiently waiting. I yield her 10 minutes or whatever time she uses.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I will later be offering a very important amendment on the budget resolution. It will fully fund the No Child Left Behind Act, and I will be offering that amendment with Senators KENNEDY, BINGAMAN, KERRY, MIKULSKI, and JOHNSON.

Given the bipartisan support for the No Child Left Behind Act a year ago, I am disappointed that there are still no Republicans who have asked to cosponsor the funding that bill promised to all of our constituents.

A budget is a statement of our priorities. In an environment where we cannot fund everything, we have to make choices based on our values. Even when times are challenging, certainly as they are today, it is important that we continue to fund our children's education and to invest in their future.

This budget that is before the Senate has a meager investment in funding for the No Child Left Behind Act, and it fails our children and fails their future. It actually fails the very promise that Congress and this President made to students just a few years ago.

Leaving no child behind was a very important, noble goal, and it passed with bipartisan support. It was an education reform bill that was set out to say we will leave no child behind. But the Republican budget that is now before this Senate does not even come close to meeting the needs of our students or keeping the important promises of that legislation.

When we passed the No Child Left Behind Act, we passed it based on two commitments. The first was that we would hold schools accountable for their progress—an important promise. But we also had a second commitment that we would provide those schools with the resources to meet those new requirements. We are certainly keeping the first part of that bargain, but this budget suggests that my colleagues on the other side of the aisle do not intend to keep the second part of that promise.

We have to ask why this administration is willing to keep a commitment to come down very hard on low-performing schools, but it is unwilling to keep a commitment to provide the resources that our students need to succeed. Tougher accountability without adequate funding is not reform. Mr. President, that is politics.

I want to talk a few minutes about the ways this budget shortchanges America's students. The budget before us could cut funds for afterschool programs for more than 500,000 latchkey children in this country. That is on top, by the way, of the more than 6 million latchkey children we already are not serving.

This budget leaves 6 million of our most disadvantaged students behind by not providing the title I funding they need.

It also falls short on funding for teacher quality, class-size reduction, English language acquisition, safe and drug-free schools, and rural education.

At a time when we are demanding more than ever from our students, our teachers, and our schools, this budget does not invest in them. Some of my colleagues may argue that this budget increases funding for education, but let's be pretty clear. This budget before us robs Peter to pay Paul to provide that meager increase. Even that increase falls short.

Title I in this budget is underfunded by almost $6 million. This budget assumes the elimination of 46 education programs, including, by the way, rural education, support for small schools, and dropout provisions.

This budget also assumes a $400 million cut in afterschool programs despite the strong evidence that keeping children safe after school reduces juvenile violent crime and prevents children from engaging in risky behaviors.

This budget also freezes most of the other major No Child Left Behind programs, including funding for teacher quality, class-size reduction, bilingual education, and State test development. The Federal Government is not only requiring that States put assessments in place, we are requiring those students pass those assessments. That is where our obligation to provide the funding promised in No Child Left Behind comes in. Students need more tests, they need afterschool programs, tutoring, quality teachers, and small classes to pass those tests.

Given the budget crisis that is occurring in many of our States—my State has a $2.5 billion shortfall with which they are dealing—I think it is unrealistic to expect the States are going to suddenly pick up increased education funding to meet the new Federal mandates that this body passed on to them just a few short years ago.

Setting a high bar is obviously important. We all agree with that. But setting a high bar and failing to give our kids the resources to succeed is simply setting them up for failure. We know what the needs are out there. We know what works to help our children succeed, and I am really dismayed that the level of education funding in this budget is going to leave many of our children behind.

That is why later this afternoon I will be offering my amendment to fully fund the commitments we made, all of us made, in the No Child Left Behind Act. It will provide the resources that parents, teachers, and students are asking for. It will fully fund title I at the level that was agreed upon in the No Child Left Behind Act. It will continue to fund the effort to hire 100,000 fully qualified teachers so we can reduce the size of classes in early grades where our children are struggling to learn the basics, and when they are in a class of 35 or 40 students, they simply cannot get the attention they need to assure that when they move on in to the later grades they have the basic skills they need to be successful.

My amendment will also put a high-quality teacher in every classroom. Every parent knows the most important question you ask when your child comes home from school on the first day is, Who is your teacher? Why is that? Because they want to make sure their child has the best teacher. We promised in the No Child Left Behind Act that we would put a high-quality teacher in every classroom.

This budget fails to fulfill that promise. My amendment will also allow communities to offer more afterschool programs to keep our children safe and in a place where they can learn those high standards that we, at the Federal level, are now requiring. It will give children with limited English proficiency more support to succeed, and it will fund initiatives such as rural education and dropout prevention that this President's budget zeroes out.

We know the needs are there. We know what works to help our children succeed. We need the will of the Members of this Senate to make it happen.

I am out in my State, like every other Senator, and everywhere I go students, teachers, parents, principals, and community leaders come up to me and say: We want the No Child Left Behind Act to succeed. We want our students to be held to high standards. We want our principals, our teachers, and all of our administrators to be held to high standards. But we cannot do it when you rob us of the seriously needed funds to do it. Do not put a Federal mandate on us that is not followed through with the resources.

The amendment I am offering will fulfill the second half of that bill that so many Senators spoke so eloquently to a short time ago.

Two years ago, we started down a road of promising all children in this country a quality education. We did the first part by calling for schools to be more accountable for their progress, but now we are seriously stumbling on the second part, providing the funding so local schools can reach those goals that we set at the national level. I hope we are going to do the right thing, I hope we follow through on the promises that every single Senator in this body made to students several years ago, and I hope my colleagues will join me in supporting this amendment and doing the right thing for our children and our future.

We are at a very critical time in this country. We are facing a possible war in Iraq within hours. I think every American is feeling the anxiety and the angst that all of my constituents are as we move forward. Even at this time, we cannot ignore the anxiety that is happening in our children's classrooms. We need those children to succeed so we can have a strong country in the future. My amendment will assure that we keep that part of the commitment that was such an important part of No Child Left Behind.

I look forward to being able to offer this amendment at some time later this afternoon, and I urge my colleagues to support it. I yield the remainder of my time to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I thank the Senator from Washington for her excellent presentation on this amendment and hope that we can proceed with more substantive amendments as soon as possible and that we can have a healthy debate and then vote on these matters so the body has a chance to indicate their priorities.

I know there are other Senators wishing to discuss matters. I notice the very able senior Senator from South Carolina is in the Chamber. How much time is the Senator seeking?

Mr. HOLLINGS. Is it controlled time?

Mr. CONRAD. Yes, it is controlled time.

Mr. HOLLINGS. Ten minutes.

Mr. CONRAD. I yield 10 minutes to the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina on the Graham of South Carolina amendment.

Mr. HOLLINGS. Mr. President, I have a very high regard for my distinguished junior colleague, but anybody who puts up this particular sense-of-the-Senate resolution relative to Social Security could not possibly be voting for the tax cuts.

I know a majority of our Republican-controlled Budget Committee has voted for the tax cuts. The President is for the tax cuts. Right to the point, we are about to pass a tax cut in this budget resolution.

I want to bring into focus the sham of the so-called resolution of the distinguished junior Senator from South Carolina because he worries about the year 2042 hours before we are going to war and totally disregards the law. I will propose an amendment to strike all after the enacting clause and inserting in lieu thereof the Budget Act, section 13301.

Section 13301 was a very deliberate and discussed matter that we had not only in the Budget Committee, but I had help on both sides of the aisle, and we voted on it 98 to 2. It was signed into law on November 5, 1990, by President George Herbert Walker Bush. It signed into law the Greenspan commission. With this particular Graham of South Carolina resolution, one would think there was no President Bush commission.

President Bush's commission was chaired, I think, by one of our distinguished former Members, the Senator from New York, Mr. Moynihan, who is under the weather and we all pray for his speedy recovery, but we have that commission report on what to do.

This resolution says we really are concerned about Social Security at this particular point but, by passing this resolution, we want everybody to disregard the fact that this day, this week, this year, this budget, we will be spending Social Security trust funds in order to afford a tax cut. That is all it is. It is an absolute sham. They know it, and I know it.

Section 21 of the Greenspan commission said, put this money in a trust off budget. If we had adhered to it, I think we would have about a $1.3 trillion trust fund. The distinguished chairman of the Budget Committee, Senator NICKLES, said we have always taken from the general fund in order to pay for Social Security, but that is not

right. I have two pages of the 2003 annual report of the Social Security Commission, page 4 and page 5. I ask unanimous consent that those two pages be printed in the RECORD.

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

B. TRUST FUND FINANCIAL OPERATIONS IN 2002

The table below shows the income, expenditures, and assets for the OASI, the DI and the combined OASDI Trust Funds in calendar year 2002.

TABLE II.B1.—SUMMARY OF 2002 TRUST FUND FINANCIAL OPERATIONS

	Amounts (in billions)		
	OASI	DI	OASDI
Assets at the end of 2001	$1,071.5	$141.0	$1,212.5
Total income in 2002	539.7	87.4	627.1
Net contributions	455.2	77.3	532.5
Taxation of benefits	12.9	.9	13.8
Interest	71.2	9.2	80.4
Transfer from General Fund of the Treasury	.4	.....	.4
Total expenditures in 2002	393.7	67.9	461.7
Benefit payments	388.1	65.7	453.8
Railroad Retirement financial interchange	3.5	.2	3.6
Administrative expenses	2.1	2.0	4.2
Net increase in assets in 2002	146.0	19.5	165.4
Assets at the end of 2002	1,217.5	160.5	1,378.0

Note: Totals do not necessarily equal the sums of rounded components.

In 2002, 85 percent of total trust fund income consisted of net contributions, comprising taxes paid by employees, employers and the self-employed on earnings covered by Social Security. These taxes were paid on covered earnings up to a specified maximum annual amount, which was $84,900 in 2002 and is increased each year automatically (to $87,000 in 2003) as the average wage increases. The tax rates scheduled under current law for 2002 and later are shown in table II.B2.

TABLE II.B2.—TAX RATES FOR 2002 AND LATER

	OASI		OASDI
Tax rate for employees and employers, each (in percent)	5.30	0.90	6.20
Tax rate for self-employed persons (in percent)	10.60	1.80	12.40

Two percent of OASDI Trust Fund income came from subjecting up to 50 percent of Social Security benefits above a certain level to Federal personal income taxation, and 13 percent of OASDI income came from interest earned on investment of OASDI Trust Fund reserves. Social Security's assets are invested in interest-bearing securities of the U.S. Government. In 2002 the combined trust fund assets earned interest at an effective annual rate of 6.4 percent. More than 98 percent of expenditures from the combined OASDI Trust Funds in 2002 went to pay retirement, survivor, and disability benefits totaling $453.8 billion. The financial interchange with the Railroad Retirement program resulted in a payment of $3.6 billion from the combined OASDI Trust Funds, or about 0.8 percent of total expenditures. The administrative expenses of the Social Security program were $4.2 billion, or about 0.9 percent of total expenditures.

Assets of the trust funds provide a reserve to pay benefits whenever expenditures exceed income. Assets increased by $165.4 billion 2002 because income to each fund exceeded expenditures, as shown in table II.B1. At the end of 2002, the combined assets of the OASI and the DI Trust Funds were 288 percent of estimated expenditures for 2003.

Mr. HOLLINGS. We can see from the table:

Assets of the trust funds provide a reserve to pay benefits whenever expenditures exceed income. Assets increased by $165.4 billion in 2002 because income to each fund exceeded expenditures—as shown in the table II.B1.

Unlike what Senator NICKLES says at the end of 2002, the combined assets of the OASI and the DI Trust Funds were 288 percent of estimated expenditures for 2003.

This resolution of Senator GRAHAM of South Carolina is just cover for the looting of the Social Security trust fund. As the distinguished Presiding Officer knows, all that is needed to secure the Social Security trust fund is quit spending it on any and every other thing other than Social Security.

Is my time up?

Mr. CONRAD. Would the Senator like additional time?

Mr. HOLLINGS. Yes, I would like additional time, if I can have additional time.

Mr. CONRAD. I yield an additional 10 minutes to the Senator.

Mr. HOLLINGS. The reason I would like additional time is to amend this resolution, and insert section 13301. That is the budget law.

How can we bring into sharp focus that is the law? I have tried by putting different penalties in, but I cannot get the Senate to pass them. We have to quit worrying about the year 2042 and start worrying about today and getting by. Our soldiers in the front lines are ready to go into Iraq, and they are worried about being around this time tomorrow, not 2042.

It is a shame for the Senate to engage in this charade at this hour. We are looting the Social Security trust fund. We are running, this fiscal year, according to the President, $554 billion in the red. That is without the costs of the war, without a supplemental. We ran a deficit last year of $428 billion. That right there is $1 trillion of stimulus into this economy.

They should be ashamed to come here asking for tax reform under the cover of stimulus. No one believes the relief of taxes on dividends will stimulate the economy or the estate tax will stimulate the economy. Those with estates and those with dividends, Bill Gates and several other witnesses, have said that is the wrong course to take. They know it. I know it. You know it.

I had to speak on the initial amendment of my distinguished colleague from South Carolina for whom I have the greatest respect, but we are not going to be able to join in these charades. We have to start paying the bills, including paying for the war, and not engage in tax cuts.

Yesterday, I sent a Dear Colleague letter to everyone in this body about paying for the war. It is very simple. Here we are saying: GI, we want you to go into Iraq and we hope you do not get killed. Then we want you to come back. The reason we want you to come back is because my generation, this Congress, isn't going to pay for it. You are going to have to pay for it. You are not only going to have to fight the war but pay for it.

What do we need in this Congress right now—a tax cut so we can go to Disney World? That is the charade going on here, a few hours before we commit our troops to freedom in Iraq. We ought to sober up.

I am informed by the staff that we have to wait until the end of the consideration to put up the amendment.

Everyone is on notice, I would like to strike all of the ''whereases'' because that is poppycock. We do not all have to be worried about 2042, today, as we go into Iraq. We ought to cut out the playing of games and get serious around here that we are running the economy into the ground.

I yield back the remainder of my time and I ask that I be able to call the amendment at the proper time.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. CONRAD. Mr. President, the manager has the right of recognition.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. I hope we have an understanding from the Chair that the managers have the first right of recognition here or we will have a real problem.

The PRESIDING OFFICER. The Chair recognizes the Senator's right.

Mr. CONRAD. The Senators from South Carolina, in describing the problem, are correct. The problem with Social Security is severe. The Social Security trust fund is currently running surpluses. But we all know it is then going to turn to cash deficits. Those are going to become very large cash deficits. This is like falling off the cliff. This is the Social Security Administration's outlook for the Social Security trust fund.

Why is that? Very simply, the baby boom generation will start to retire. They are alive today. They are eligible for Social Security. When they start drawing Social Security, there will be 77 million, about double the number eligible now. When that occurs, we will have a very serious problem on our hands.

The Senator from South Carolina who offers the amendment has correctly described the problem, but he is not dealing with the budget resolution before the Senate. It exacerbates the problem severely.

This chart shows the Social Security and Medicare trust funds. The green bar is the Social Security trust fund; the red bars are the President's tax cuts, both enacted and proposed. One can see very clearly as the Social Security trust fund is running surpluses, the size of the President's tax cut proposals are growing. At the very time the Social Security trust fund turns cash negative, the cost of the President's tax cuts explode.

The result of this is a totally unsustainable plunge into deficits and debt. That is the fundamental problem

with the budget resolution before the Senate; it is the fundamental problem with the President's budget before the Senate.

The budget before the Senate takes out of the Social Security trust fund nearly all of the surpluses over the next 10 years. Social Security will run surpluses over the next 10 years of $2.718 trillion. The mark before us by the chairman takes $2.718 billion of those surpluses and uses it for other purposes, uses it to fund tax cuts, uses it to fund other expenditures.

The Senator from South Carolina said that is not an appropriate way to proceed. I agree. I hope he will consider opposing the budget resolution on that basis.

However, the Senator from South Carolina is also correct to say even if we do not do this, even if we do not raid the Social Security trust fund surplus, we still have a problem. This is a necessary step to stop this raid, but it is not sufficient. It is necessary because if instead of taking these funds and using it for other purposes we were to use that money to pay down debt or to prepay the liability, we would be in a less severe circumstance going forward.

The Senator from South Carolina, who offered the amendment, has referenced a $25 trillion shortfall in Social Security; that is, if you take each year and accumulate it over time. The net present value of those gaps between income and outgo for Social Security is not $25 trillion. The net present value is $3.5 trillion. Yet the President is proposing a tax cut with interest costs of $1.96 trillion, even though we are already in deficit.

Both Senators from South Carolina have revealed the flaw in this budget. We have record deficits now. The President proposes cutting taxes almost $2 trillion with the interest costs included. The result is we are taking virtually every penny—under the President's budget, every penny of the Social Security surplus over the decade, right on the eve of the retirement of the baby boom generation. I remind my colleagues, what earthly sense does this make? At the very time the cost of the Government explodes with the retirement of the baby boom generation, the costs of the President's tax cuts explode, driving us deep, deep into deficits and debt.

I hope this budget resolution falls on the basis that it puts us in a circumstance of ever mounting deficits and debt right at the time the baby boom generation retires.

If there has ever been an illogical, irrational, dangerous budget, this is it. To me, this is it. We are about to make fateful decisions we are going to be living with for a long time. Nobody should be under any illusion about where this is headed. This is headed right off the cliff.

We can either together find some way to restrain both our spending impulses and our tax-cutting impulses or we can wage what we have waged so far, which is a rush to deficits and debt.

It will be a sad day when we wake up from this hangover and from this binge of tax cutting and spending that can only lead one place, and that is to shredding of Social Security and Medicare and most of the rest of Government as we know it.

We have worked with the Senator from South Carolina to try to reach an agreement. I don't know if those modifications have been agreed to. If they have, we are prepared to accept them.

I think Senator CRAIG is perhaps waiting to speak on this matter so I withhold going further. Perhaps the Senator from South Carolina would like to speak further. I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM of South Carolina. Mr. President, I compliment the Senator. I thought that was a fairly eloquent rendition of where we find ourselves. But I would like to add to it and respond to my good friend, really, the senior Senator from South Carolina. If anyone has earned that title, Senator HOLLINGS has. He is the senior Senator from South Carolina.

But there is a difference between what the Senator from North Dakota and the senior Senator from South Carolina were saying that I think is important.

The purpose in my offering this sense-of-the-Senate amendment is to take facts that have been reported by the Social Security Administration and make them part of this year's roadmap when we decide what to do to get through the budget process this year and to remind the Senate and get the Senate to focus on the short- and long-term problems our Nation faces.

''Poppycock.'' I don't know what it means, but it is often used by my good friend from South Carolina, the senior Senator. It sounds good. Everything he says is intriguing to me, just by his speaking style. But I do want to respond to the gist of what he was saying. The sham and the fraud which I think has been going on, which has been going on for years, is to suggest there is an easy solution. It is to suggest if you just left Social Security alone, didn't use it for tax cuts or didn't use it for spending, everything would be OK. My senior Senator doesn't want to talk about 2042. I do. The reason I want to talk about 2018 and 2042 is I believe the reason I am here today is to pass on to the next generation a country very sound and very fit. If we do not address the problem of having two workers for every retiree, versus 16.5 when I was born, then we are going to fail and commit political malpractice.

I think it is political malpractice to suggest that if you just let Social Security alone, the problem will go away. Here is what the Social Security trustees said about that solution:

The implementation of a Social Security lockbox would not alter this commitment and thus would have no direct effect on the future solvency of Social Security.

As to the Senator from North Dakota, he is telling us, telling me, that now is not the time to cut taxes because of a variety of reasons, and one would be it will put pressure on the Social Security trust fund beyond the pressure that exists today.

People on my side would say that additional spending in the past, when the Democrats were in control, took money out of Social Security to put pressure on the trust fund.

The point is, the current income stream, diverted or not, is not going to save Social Security. We are going to have a $25 trillion shortfall in 75 years. And it does compound on itself. That is the point. The Senator from North Dakota is right. Every day, literally, that we ignore the problem of Social Security, it gets worse by billions. The unfunded liability has grown dramatically as we have been talking, and nobody is going to fix it except people such as us.

Here is why I will support the tax cut. One thing that is for sure, there are two Senators from South Carolina and we are going to cancel each other's vote a lot on taxes. He has his reasons and I have mine. The reason I will vote to cut your taxes is to stimulate the economy.

Where does Social Security money come from? What is the source of Social Security dollars? It is payroll taxes.

Well, who pays payroll taxes? People working.

How do you get a job? Somebody hires you.

How do they pay you? They make a profit.

The economy needs infusion, in my opinion. But I respect the Senator from North Dakota tremendously because he is saying let's put no pressure on Social Security, let's not have a tax cut. I respectfully disagree. I believe a tax cut will help stimulate the economy, making the economy and payroll taxes stronger, not weaker. But I respect him tremendously because he has bought into the big picture. We disagree about what to do today. We may disagree about spending plans tomorrow. But the Senator from North Dakota has bought into the big picture. He understands what faces our Nation.

As we argue about how to fix problems each year with the trust fund, I encourage him to work with me and others to come up with an overall solution that will hit the problem head on. This is a cancer that needs to be treated—and not with a Band-Aid. The problem we are facing as a Nation is we would not have enough money coming into the system, if it was all dedicated, to come close to paying benefits. In 2042—I will mention that date again—28 percent reduction in benefits; 2018, you pay more benefits in taxes. Every day we talk about it, it gets worse.

Having said that, I do believe the Senator from North Dakota and myself

will be able to work on a compromise that reflects accurately the facts facing the trust fund, the problem the Nation faces, and we will disagree about this year's budget and how to have a tax cut or not. But I do wish to work with him in the future because I believe he has got it. I believe he understands it.

With that, I will yield 10 minutes to my colleague, Senator CRAIG, from Idaho.

The PRESIDING OFFICER. The Senator from Idaho is recognized for 10 minutes.

Mr. CRAIG. Mr. President, I first ask unanimous consent I become a cosponsor of amendment No. 274.

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

Mr. CRAIG. Mr. President, I am pleased to join with the senior Senator from South Carolina on a sense-of-the-Senate amendment expressing that Congress well ought to act sooner rather than later in strengthening our Social Security Program for the long term, for the young men and women today who are beginning to invest in the system and who have grown increasingly to believe it will be unreliable and not there when they get to be of Social Security age.

Why? The statistics have been talked about this morning, but here we are again. Year after year, trustee report after trustee report has been played out, spoken to, shown on the floor of the Senate. Hearings after hearings, month after month in our committee rooms, have given us the same message. Whether it is the junior or senior Senator from South Carolina, they both agree on the outcome. They may disagree on the reasons, but the trustees are always reflecting the graph or the chart that is so effectively displayed here. This comes directly from the Social Security trustee report of 2002 that we are speaking to this morning.

Current retirees and those approaching retirement age are going to get their money. Why? Because Social Security in that sense is solvent. But what we are concerned about, and why we begin to express a degree of urgency about reform for Social Security, is that you do not reform Social Security today for tomorrow, you reform it today for 40 years down the road, or 50 years down the road. It is like an insurance account. We are the board of trustees responsible for establishing and sustaining its actuarial soundness so we do not have to dump large sums of general fund money into it at the last minute to keep it whole.

I think all of us agree with the general understanding and the overlook that the trustees and the studies have shown. Social Security is solid today for our seniors. I am chairman of the Special Committee on Aging. We have spent a lot of time looking at this issue. Some folks take umbrage when they hear that Social Security will be broke. I don't know of anything that would express it differently than this bright red ink that would suggest at about 2020 it breaks beyond the black ink, or the break-even, and it heads into deficit. That is exactly what the junior Senator from South Carolina is talking about and what I am talking about.

Last month, Alan Greenspan of the Federal Reserve was before our Subcommittee on Aging. He was not there to talk about interest rates. He was there to talk about global aging. He testified that the country faced ''abrupt and painful'' adjustments down the road as related to Social Security if we do not address it sooner rather than later.

He simply meant that baby boomers were going to get cut. In essence, this is what is going to happen: I am a baby boomer. I am afraid my grandkids are going to say to me: Grandpa, we can't afford you anymore. We can't afford a huge bump in our taxes just to pay for your well-being.

And I would not blame them, when we look at the kind of tax scale that will result if you stand here and say there is nothing required now and in the future to deal with this red ink, except leave the trust fund alone, and that in some magical, mythical way you can take it out of the general fund of the Treasury of the United States, and that you don't spend it, or at least you don't borrow it back to Government to spend on other programs until such time as it is necessary and on call and Government can afford to pay for it.

Those are the issues at hand. That is what this resolution is about, to push us forward and into action in the near future, to make the kinds of adjustments that will assure my grandchildren that Social Security is going to be there for them and that grandpa isn't going to break them by demanding they keep Social Security whole, because he did not have the common sense and the good judgment to deal with it in the appropriate fashion.

I hope I do have that common sense and good judgment. Certainly, the group that has been looking at it and the group that reports and talks about insolvency down the road and the need to adjust are doing a great service to this country.

Last November, Peter Fisher, the Under Secretary of Treasury for Domestic Finance, compared the unfunded promises in Social Security and Medicare to those of a spendthrift insurance company unable to make good on its promises.

When I asked Alan Greenspan, well, let's compare Social Security and Medicare and fixing it, he said: Frankly, Social Security is not that difficult. Why? Because you have real figures and exact numbers in a relative sense. You have demographic studies that project the number of people who will come online, and you can make the adjustments for it.

Medicare is tied to a very dynamic health care system. It is growing and changing, and its costs will grow and change. It is a much more difficult task at hand, if you will, than that of us building up the backbone to deal with Social Security.

To his credit, our President appointed the blue-ribbon panel to explore ways of addressing this challenge. The President's bipartisan commission to strengthen Social Security was co-chaired by former Senator Pat Moynihan, our colleague and former Finance Committee chairman. He is an undisputed expert on Social Security, with unique bipartisan credibility.

Now the President's bipartisan commission has come forward with three models to strengthen Social Security. Many of us are studying those models to determine what is the best way to reform not the politically possible, because we are going to have to convince ourselves and the public about reform—and that is what we are about to do, I hope—but what is the right way to reform Social Security, to create the dynamics 30 or 40 years down the road, to assure that young people who are now beginning to invest in it with their hard-earned tax dollars—their withheld dollars from their payroll—to assure that it will be there for them.

This week, the trustees have done their job, and they have done it well. They have talked about it, and they have determined a status quo or do-nothing plan versus a variety of others. The do-nothing plan is what the trustees laid before us on Monday. And the do-nothing plan is the plan represented right here, in all of the bright red ink that is either displayed by my chart or by the chart of the Senator from North Dakota. I think my chart is prettier, but the charts are the same. Democrat or Republican, the figures don't lie, and we can't lie about them.

We both agree that herein lies the problem. A dynamic economy—people working softens it, and that is what this tax cut is about, getting people back to work, putting money in the market, creating jobs. We are going to have to tighten our belt a little bit on the other side. We are going to have to quit spending at the rate we are spending while we are stimulating the economy and putting people back to work. That helps the bottom line and softens the deficit a little bit.

But most economists agree, if you do not give a tax cut, and you continue to spend at the rate you are spending, you are going to have deficits for a long time to come. You can't cut your way out of them. You have to grow the economy and put some money back in the Treasury, and in doing that, for the short term, you strengthen Social Security.

But this is what is true about the long term, and in the long term are people like me at 55, 50, 57 years of age. I am 57. And in a short time we are coming online—62, 65, 67 years of age, eligible for Social Security, being part of that baby boom generation, that tidal wave of people hitting the Social Security system.

The Senator from North Dakota talked about the doubling of the numbers of recipients. That is what this red ink is all about. We need to create dynamics in the system, and change it, and assure that the right kind of investment is going in, that the right kind of energy and multipliers are at work there, to assure that not only is the system going to be there in the long term for me, but, most importantly, that the system is going to be there for the young people who are investing in it today.

I am not alone in condemning the do-nothing plan.

The PRESIDING OFFICER. The Chair wants to inform the Senator he has used 10 minutes.

Mr. GRAHAM of South Carolina. If the Senator would like additional time——

Mr. CRAIG. If I could have an additional 2 minutes to wrap up.

The PRESIDING OFFICER. The Senator may continue.

Mr. CRAIG. Mr. President, I thank the Senator for yielding me the time.

Whether it is former Senator Bob Kerrey, Democrat from Nebraska, whether it is former Senator Pat Moynihan, Democrat from New York, whether it is Republican LARRY CRAIG of Idaho or Republican LINDSEY GRAHAM of South Carolina, the reality is, we all understand we must act now, sooner rather than later, to recreate, strengthen, and ensure the future for a Social Security system that is good for my grandkids to put their money in, that is a sound investment that will yield for them a reasonable supplemental income in their retirement years.

I am not alone in condemning the do-nothing plan. Our former colleague, Senator Bob Kerrey, from Nebraska wrote a letter to another former colleague, Senator Daniel Patrick Moynihan, from New York, on the eve of his assuming the cochairmanship of the President's Commission to Strengthen Social Security. He wrote:

> Dear Pat, In that I have a great and abiding interest in your success on the 2001 Social Security Commission and that I am willing to provide free advice, I offer the following two suggestions:
>
> 1. Start talking about the details of the most popular plan in Washington to fix Social Security. . . . It is called the do-nothing plan. The do-nothing plan discloses no details. . . . Citizens who want to know the rest of the details must look to the Social Security Trustees who will tell them this: The do-nothing plan proposes to cut benefits 25 to 33 percent by 2043.
>
> 2. Wealth should have a goal. . . . Our goal is to eliminate poverty amongst eligible Social Security beneficiaries. By the way, the do-nothing plan will increase poverty rates.

For every year we delay strengthening Social Security, it will only become more difficult to do.

The challenge calling out to this generation in Congress is how to sustain Social Security beyond this generation of retirees without overburdening our children and grandchildren with excessive taxes on their labor or huge cuts in retirement income.

It is not too late. We can still do the right thing. We can save Social Security by embracing the framework provided by the President's Commission and working to strengthen it soon.

David Walker, the Comptroller at the General Accounting Office, testified just this January before the Aging Committee that we have:

> a, window of opportunity to craft a solution that will protect Social Security benefits for the nation's current and near-term retirees, while ensuring that the system will be there for future generations.

We should embrace that window of opportunity for the sake of our children and grandchildren.

As I said: Here we are again. The trustees are trying to get Congress and the public to face the future with confidence and action. The challenge for us is to respond.

That is why the Aging Committee has been and will be holding hearings and briefings this year. We will continue to highlight the work of the—nonpartisan and bipartisan—General Accounting Office, the President's Commission to Strengthen Social Security, the Congressional Research Service, the Congressional Budget Office, and the Social Security trustees.

The call to action begins with understanding what the trustees have told us again this week. The consequences of the do-nothing plan will be devastating for today's workers and tomorrow's retirees.

That is what the study was all about. That is what the commission has been about. That is what this amendment is all about.

I thank the Senator from South Carolina for bringing forward this concurrent resolution, urging us forward now, to begin to act. Hopefully, by 2004, 2005, or 2006, we will have developed the political will to do the right thing for the Social Security system and its future.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from South Carolina is recognized.

Mr. GRAHAM of South Carolina. Mr. President, if I may, to put a couple things in perspective as we close out the discussion on the amendment, No. 1, I have been able to reach accommodation with the Senator from North Dakota about the language of the amendment. I am willing to accept his changes. I think they are reasonable and helpful.

I encourage my colleagues, we can have disagreements about how to best protect the Social Security trust fund. We can have a debate that we should not cut taxes, that we should make sure that we do nothing in terms of spending or tax cuts that jeopardizes the dollars coming in. That is a legitimate, healthy debate. I believe the best way to protect the trust fund is to create additional jobs and grow the economy so we will have more payroll taxes coming in to shore up the trust fund.

The focus of the amendment is to clarify in this roadmap the status of Social Security, not based on what a Republican thinks or what a Democrat thinks. And here is the summary of that status.

No matter what happens with the current amount of money coming into the system, if it is all protected, or some of it is bled off, if every dollar were to be collected that is going to be paid, it is $25 trillion short to pay bills in the next 75 years. And in 2042, you would have to cut 28 percent of the benefit package or increase taxes by 50 percent. In 2018, you would pay more in benefits than you collect in taxes. Why is that? The amount of money to be dedicated to this system, if it is all left alone, is nowhere near the amount of money to pay the benefits. It is no one's fault. It is not Senator HOLLINGS' fault, and it is not my fault. The problem is we went from 16.5 workers paying into the system in 1950 to 20 years from now having two to one. There are just not enough people paying taxes to take care of the baby boomers.

One thing I am trying to make crystal clear is, there is no easy fix. The demagoguery must stop now. Those who say a tax cut this year or a spending plan next year is the problem with Social Security are missing the boat and engaging in conduct that is going to prevent us from ever finding a solution that works.

My belief is that you grow the economy to help Social Security. The belief of the Senator from North Dakota is that you don't do anything to jeopardize the trust fund this year through a tax cut. I respect that. I just disagree.

I hope if there is a vote in any fashion on this amendment, that my colleagues would allow the product that the Senator from North Dakota and I have come up with to be part of the record because it is vitally important that the Senate incorporate information from the Social Security trustees that tells us exactly the future of Social Security and its status so that there will be something we can agree on and we can start working toward a solution sooner rather than later. If we can't agree on the basis, if we can't put into the budget resolution what the Social Security trustees are telling us about the status of the fund in 2018 and 2042 and the structural problems, if we can't do that because somebody wants to make a point about the tax cuts for political advantage, how in the world are we ever going to solve this problem?

I hope the Senate will overcome the temptation to kind of punch and counterpunch on the debate about taxes or any other debate and put in the record the real facts about Social Security, a record that has been established between myself and the Senator from North Dakota. It would be a great day, a small step forward to finally come to grips with the problems that Social Security faces.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I must say, when I hear the suggestion that cutting taxes now won't affect Social Security in the future, that is no economics that I understand.

Just so we all understand how it works, all the revenue of the Federal Government goes in a pot. All the expenditures come out of that pot. That is the way it works. When you take revenue away from that revenue stream and you already can't pay your bills, guess what. You can't pay your bills in an even more serious way. Any family's economics would tell them that if you are not able to pay your bills now and you go out and cut your income more, you have more bills you can't pay. That is what our friends on the other side are trying to convince people of. I don't think that is going to work.

This is the hard reality of the budget before us. There is over $2.7 trillion of Social Security surplus available in the next 10 years. I believe we ought to take that money and either pay down debt or prepay the liability. That would strengthen Social Security.

The other side has offered a budget that takes virtually every penny of those Social Security surpluses and uses them to pay for tax cuts or other expenditures. That does not help Social Security. That hurts Social Security. That makes the shortfall more serious going forward because we have not taken the resources, those trust fund surpluses, and used it to either pay down debt or prepay the liability.

The other side tries to posture that one side wants to do nothing; the other side wants to do something about economic growth. No. No, I don't believe their program improves economic growth. Why not? Because the tax cuts are not paid for by reducing spending. The tax cuts are paid for by borrowing. You can't borrow your way to prosperity.

Here is the work of the macroeconomic advisers. These are people under contract to the White House and under contract to the Congressional Budget Office to tell us what the effect of various fiscal policies are on economic growth. Do you know what they tell us? If we enact the President's plan, it will actually hurt long-term economic growth. It will hurt economic growth. Why? Because of increased deficits and debt that put a weight on the economy. What is that weight? When you run deficits and debt, that reduces the pool of societal savings, that reduces the money available for investment. That hurts economic growth. That is exactly what the folks who have analyzed this have concluded.

Is the Senator from South Carolina seeking time?

Mr. HOLLINGS. Yes.

Mr. CONRAD. I yield 10 minutes to the Senator from South Carolina.

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

Mr. HOLLINGS. Mr. President, right to the point, when the distinguished Senator from Idaho was talking about growing out to it, I ask unanimous consent to print page 6 of the budget resolution before us in the RECORD at this particular point.

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

Fiscal year 2012: – $327,375,000,000.
Fiscal year 2013: – $317,115,000,000.

(5) PUBLIC DEBT.—The appropriate levels of the public debt are as follows:

Fiscal year 2003: $6,687,816,000,000.
Fiscal year 2004: $7,269,629,000,000.
Fiscal year 2005: $7,825,005,000,000.
Fiscal year 2006: $8,366,224,000,000.
Fiscal year 2007: $8,885,256,000,000.
Fiscal year 2008: $9,412,708,000,000.
Fiscal year 2009: $9,932,454,000,000.
Fiscal year 2010: $10,443,080,000,000.
Fiscal year 2011: $10,971,657,000,000.
Fiscal year 2012: $11,449,831,000,000.
Fiscal year 2013: $11,919,328,000,000.

(6) DEBT HELD BY THE PUBLIC.—The appropriate levels of the debt held by the public are as follows:

Fiscal year 2003: $3,858,449,000,000.
Fiscal year 2004: $4,184,748,000,000.
Fiscal year 2005: $4,446,730,000,000.
Fiscal year 2006: $4,661,214,000,000.
Fiscal year 2007: $4,828,626,000,000.
Fiscal year 2008: $4,980,020,000,000.
Fiscal year 2009: $5,101,852,000,000.
Fiscal year 2010: $5,190,541,000,000.

Mr. HOLLINGS. On page 6 you will see that the appropriate levels of the public debt are as follows: Fiscal year 2003, $6,687,816,000,000, but for the fiscal year 2013, the public debt is $11,919,328,000,000. So it is an increase of $5.2 trillion. Good gosh, I said ''trillion.'' I was hoping to say ''billion.'' The debt goes up, up, and away. Well, we know what the interest cost is going to be on that. That is going to be in excess of $600 or $700 billion a year. We just can't afford that.

Let me say to the distinguished colleague from South Carolina, again, I was here in the 1970s. I was here in the 1980s. We didn't spend the Social Security trust fund, but we were beginning to drain it at the very end of the 1970s. And we appointed the Greenspan commission, and the Greenspan commission put on a graduated increase in taxes over the years to take care of the baby boomers in the next generation, exactly what my colleague from South Carolina is talking about. We foresaw that. It was supposed to build up these reserves and surpluses. That is exactly what has occurred.

I refer, since it is already in the record, to page 4 of the annual report of the Social Security trust fund that was issued on Monday.

It shows at the end of 2002, we had assets in the Social Security trust of $1.378 trillion. Of course, they have been spending the money on any and everything but Social Security. You can propose plan A, and plan B. You can talk about 2018 and 2042 and all those other funny little things until you are blue in the face. But unless and until you stop spending Social Security moneys on everything but Social Security, none of those plans is going to work—whether you privatize or not. That is why the Congress, under the leadership of President George Herbert Walker Bush, in November of 1990, wrote into law section 13301.

I want to put Section 13301 into the amendment to make it crystal clear. I don't mind some of the whereases—and I understand the Senator from North Dakota wants to try to move things along and accommodate my colleague from South Carolina in taking a sense of the Senate. But there is no way in the world to make that a bill because there is no way to write it. You have to provide what the budget impact is, and everything else like that, and have it appraised. So it remains as a sense of the Senate at the desk. So that we can clear the air from this particular sham, I raise a point of order under section 305 of the Budget Act that sense-of-the-Senate resolutions are nongermane.

The PRESIDING OFFICER. A point of order is not in order at this time. It can only be made when the time of the amendment has been used or yielded back.

Mr. HOLLINGS. Very good. I yield the floor. I think I have made my point. I ask the Chair, is it still a sense-of-the-Senate resolution? What is the form?

The PRESIDING OFFICER. It is a sense-of-the-Senate amendment.

Mr. HOLLINGS. A sense-of-the-Senate amendment. Right, mine would be the sense of the Senate. So I don't know—may I ask unanimous consent, then, to be recognized at the end, not to make a point of order?

I ask unanimous consent that when the time expires, I may be recognized to have considered the amendment, or voted on the amendment that I have at the desk.

The PRESIDING OFFICER. Is there objection?

Mr. GRAHAM of South Carolina. Mr. President, reserving the right to object, I believe an effort is being made between my office and Senator HOLLINGS' to work something out we can all live with. I ask him to take that into consideration. There are negotiations going on as we speak.

Mr. HOLLINGS. Do you object?

The PRESIDING OFFICER. Does the Senator object?

Mr. GRAHAM of South Carolina. No, I do not object.

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

The Senator from South Carolina is recognized.

Mr. GRAHAM of South Carolina. Mr. President, simply put, a couple things: My senior Senator seems to suggest we did something in the 1980s that has made Social Security sound. Social Security has surpluses today, but every day that goes by, those surpluses are not enough to pay the bills that are due and yet to come. Here is what the Social Security Administration told us yesterday: There are 3.3 workers to every retiree in 2002. Twenty years

from now, it goes 2 to 1. They told us yesterday that without structural reform—I emphasize again, structural reform does not include leaving Social Security current dollars alone. If you leave every dollar owed to Social Security alone and do nothing else, it still runs out of money in 2042. It is $25 trillion short in 2075. That is not the problem. People who say that are not being forthright about the problem.

Having said that, I join my colleague from South Carolina and the Senator from North Dakota to try to make sure we preserve Social Security, keep it strong and healthy until we can find a structural reform. He has made an argument that cutting taxes reduces the family's income. The point is that payroll taxes are the income for Social Security. We are in a depressed economy right now.

We are trying—at least I am trying—to take some dollars and invest them back into the families and businesses of America, to create additional jobs, to strengthen the revenue flow, and to protect the revenue flow of Social Security.

My friend from North Dakota doesn't believe it will work. I totally respect him. But it is very difficult to be lectured to by some of my friends on the other side of the aisle about needing to be good stewards with taxpayer dollars. I came to Congress in 1994. When I came here, there were deficits as far as the eye could see. We had not balanced the budget in 30 years. We were able to balance the budget and cut taxes twice. Now, because of war, recession, and other problems, we have a debt. The debt, compared to the gross domestic product, is very small as compared to years past. But it is still a debt, and it is a real problem, and we need to work together to solve that debt, and we will.

I am asking my colleagues today, whatever you think about the tax cut, or other proposals that my party may present today or tomorrow, please do not prevent us from having in the RECORD for the country to see the true state of affairs with Social Security. My amendment doesn't fix the problem; it identifies it. I have been able to work with the Senator from North Dakota to put it into the RECORD. Today could be a good day—a day that the Senate agrees on the outyear problems of Social Security and begins to define it in a nonpartisan way or today could be the same old politics, where the political moment prevents us from talking honestly and openly about the looming problem of Social Security.

I am hopeful this will be a different day because, if not, we have lost the opportunity to do something constructive to fix Social Security. I appreciate the Senator from North Dakota working with me. I hope I can reach an agreement with my senior Senator from South Carolina to define the problem in honest terms, without anybody putting their spin on it, because the wording comes from the Social Security Administration. If I fail, I deeply regret the fact that I was not able to achieve this small first step. I am hopeful that, working together, we can achieve this small first step. That is all I know to say.

This is a great exercise in what this country faces. I am trying to use the Social Security trustees' report to define the problem. I don't want the demagoguery of the moment to keep us from doing that, because the country loses in the debate of the moment. There are honest differences. Let's do something constructive and define the problem in the terms given by the Social Security trustees.

I reserve the remainder of my time.

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

Mr. CONRAD. Mr. President, has the Senator from South Carolina now seen the modification suggested by the senior Senator from South Carolina? Is the Senator from South Carolina, at this point, willing to accept the modifications we previously discussed, as well as the modification of the senior Senator from South Carolina?

Mr. GRAHAM of South Carolina. After having reviewed the documents, I am willing to agree to the modifications as offered by my senior Senator and the modification offered by the Senator from North Dakota. I am willing to do that. I think it is a good first step.

Mr. CONRAD. I appreciate that and I think that would be a good outcome. I will soon seek unanimous consent to accept the amendment as modified, and then we will be able to proceed. As you know, at 2 o'clock, we have to turn our attention back to the ANWR discussion.

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

Mr. CONRAD. Yes, without losing my right to the floor. We are up against the 2 o'clock time limit.

Mr. REID. I would like to get this amendment accepted.

Mr. CONRAD. Would the Senator from South Carolina, including his modification, accept that?

Mr. HOLLINGS. That would be acceptable.

AMENDMENT NO. 274, AS MODIFIED

Mr. CONRAD. Madam President, I ask unanimous consent that we accept the amendment of the Senator from South Carolina, as modified.

The PRESIDING OFFICER (Mrs. DOLE). The Senator has a right to modify his amendment. The amendment is so modified.

The amendment, as modified, is as follows:

On page 79, after line 22, add the following:

SEC. 308. SOCIAL SECURITY RESTRUCTURING.

(a) FINDINGS.—The Senate finds that—

(1) Social Security is the foundation of retirement income for most Americans;

(2) preserving and strengthening the long term viability of Social Security is a vital national priority and is essential for the retirement security of today's working Americans, current and future retirees, and their families;

(3) Social Security faces significant fiscal and demographic pressures;

(4) the nonpartisan Office of the Chief Actuary at the Social Security Administration reports that—

(A) the number of workers paying taxes to support each Social Security beneficiary has dropped from 16.5 in 1950 to 3.3 in 2002;

(B) within a generation there will be only 2 workers to support each retiree, which will substantially increase the financial burden on American workers;

(C) without structural reform, the Social Security system, beginning in 2018, will pay out more in benefits than it will collect in taxes;

(D) without structural reform, the Social Security trust fund will be exhausted in 2042, and Social Security tax revenue in 2042 will only cover 73 percent of promised benefits, and will decrease to 65 percent by 2077;

(E) without structural reform, future Congresses may have to raise payroll taxes 50 percent over the next 75 years to pay full benefits on time, resulting in payroll tax rates of as much as 16.9 percent by 2042 and 18.9 percent by 2077;

(F) without structural reform, Social Security's total cash shortfall over the next 75 years is estimated to be more than $25,000,000,000,000 in constant 2003 dollars or $3,500,000,000 measured in present value terms;

(G) absent structural reforms, spending on Social Security will increase from 4.4 percent of gross domestic product in 2003 to 7.0 percent in 2077; and

(5) the Congressional Budget Office, the General Accounting Office, the Congressional Research Service, the Chairman of the Federal Reserve Board, and the President's Commission to Strengthen Social Security have all warned that failure to enact fiscally responsible Social Security reform quickly will result in 1 or more of the following:

(A) Higher tax rates.

(B) Lower Social Security benefit levels.

(C) Increased Federal debt or less spending on other federal programs.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the President, the Congress and the American people including seniors, workers, women, minorities, and disabled persons should work together at the earliest opportunity to enact legislation to achieve a solvent and permanently sustainable Social Security system; and

(2) Social Security reform—

(A) must protect current and near retirees from any changes to Social Security benefits;

(B) must reduce the pressure on future taxpayers and on other budgetary priorities;

(C) must provide benefit levels that adequately reflect individual contributions to the Social Security system.

(D) must preserve and strengthen the safety net for vulnerable populations including the disabled and survivors.

(3) We should honor section 13301 of the Budget Enforcement Act of 1990.

The PRESIDING OFFICER. Will the Senators yield back their time on the amendment?

Mr. CONRAD. Yes, we are prepared to yield back.

The PRESIDING OFFICER. Time is yielded back. The question is on agreeing to amendment No. 274, as modified.

Without objection, the amendment, as modified, is agreed to.

The amendment (No. 274), as modified, was agreed to.

Mr. HOLLINGS. Madam President, the agreement we had that I be recognized now should be vitiated. It is not necessary.

The PRESIDING OFFICER. That is vitiated by this action.

AMENDMENT NO. 272

Mr. CONRAD. Parliamentary inquiry: Are we now in the circumstance that we are back on the debate on ANWR for 1 hour preceding the vote at 3 o'clock?

The PRESIDING OFFICER. The Senator is correct. Who yields time?

Mr. CONRAD. Time is equally divided during that time?

The PRESIDING OFFICER. The Senator is correct.

Mr. CONRAD. I thank the Chair and yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Alaska.

Mr. STEVENS. Madam President, I believe we have an hour equally divided at this time.

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. Madam President, I yield such time as my colleague from Alaska, Senator MURKOWSKI, desires. Does she need 10 or 12 minutes?

Ms. MURKOWSKI. Ten minutes.

The PRESIDING OFFICER. The Senator from Alaska.

Ms. MURKOWSKI. I thank the Chair. Madam President, the discussion about ANWR is more than just pictures. It is more than statistics, numbers, and barrels of oil that might be recoverable. ANWR is about real people, real jobs, and real opportunities, and that is what we need to be focusing on. We do not need to get caught up in the hype of the pretty pictures. I will be the first to tell you that my State is absolutely drop-dead gorgeous, and I want to keep it that way. I would not be supporting anything, and I would not be standing on the floor of the Senate suggesting that we should do anything to despoil that.

I want to talk briefly today about three points and what ANWR means to us in Alaska. It is jobs, it is protection of the environment, and it is also about economic security—three commonsense, basic issues.

Let me talk quickly about the environment because it is these attacks that I think first and foremost have kept ANWR from being developed for the past 20-some years, all the concern of the development of oil and gas reserves on the North Slope, on the Coastal Plain. It was intended and identified as early as 1960 by President Eisenhower that this area had great potential for oil exploration and drilling and should be utilized as such.

We do care for the environment. We have shown that through construction of our 800-mile Trans-Alaska pipeline that carries the oil safely, bisecting the State from top to bottom. We have done a darn good job, and the scientific studies and reports, including the National Academy of Sciences' report that came out 2 weeks ago, demonstrate that. We do a good job. We care for our environment in Alaska.

The environment and development are not mutually exclusive terms. We have demonstrated time and again that they are not mutually exclusive. For those who will take the time to visit our oilfields up North, I think they will be amazed at the technology, the innovation we utilize when it comes to the extraction of our natural resources.

The good Senator from New Mexico stood in this Chamber earlier and talked about the directional drilling and the technique that is now available to develop our oil. I think he used the number 4 miles; that we can snake this oil well down across a 4-mile area of terrain. He used the analogy of a child with a straw and a milkshake and that straw could go 4 miles. That is a pretty vivid image. Actually, the good chairman of the Energy Committee is incorrect; we can actually go 6 miles. The technology has come so far in the 30 years since we have been drilling on the North Slope.

We talk about the footprint. The footprint has been described in so many ways. You can fit six of the oil development areas in the size of Dulles Airport. It is the size of the Pinehurst golf course. The visuals are there, but what we need to impress upon people, what we have to impress upon people is that the footprint is practically negligible in the context of the whole Coastal Plain and certainly in the context of the whole of ANWR and even more certainly in the context of the entire scope of our State.

What we are talking about, first of all, is very small. But even if it is small, we still need to do it responsibly, and we do that through the technology. The State of Alaska is the first to make sure the environmental standards are met and the permitting requirements are met. Nobody wants to rape, spoil, or ruin the land.

Madam President, I am third generation Alaskan. I am the first person serving in Congress for the State of Alaska who was actually born in the State. I was born in the territory. I am the last person to suggest we should do anything that would spoil our environment, my environment, the environment in which I choose to raise my family. My boys, my husband, and I live for fishing, hunting, camping, and backpacking. This is the part of Alaska we want to preserve. So let us do it right. We know how to do it right.

I will talk a bit about the jobs. We have talked about jobs repeatedly on this floor. Last night, we demonstrated through the testimony and the charts that we are talking about some 575,000 jobs across the country. We need to remember that when I talk about jobs, I do not want people to think that Alaska is interested in opening up ANWR just because it means jobs and opportunity for my constituents, for the people in my State. It does. It means that, and it means more. It means roads, hospitals, schools, and facilities. It enables people in my State to live, but it also means jobs across America.

As I said, this means 575,000 jobs across the country. If we look at the numbers, they are all over the board: The State of New Jersey, 178,000 jobs; the State of Pennsylvania, 27,000; the State of Ohio, 25,000; the State of Kentucky, 10,000; the State of Texas, 47,000; the State of California, 63,000 jobs. We are talking about real jobs for real Americans across the country.

We are considering the economic stimulus package that the President has put forth. There is no better economic stimulus than jobs and job opportunity. We can provide that for America through ANWR, and they are good-paying jobs.

I made the point last night—and it is compelling—that the job opportunities right now for Alaska are approximately 11,000 jobs within the petroleum industry. If we were to accept this amendment, if we were to strip ANWR from the budget resolution, what these other States would be saying is that it is OK for us to have petroleum-based jobs in our States but, Alaska, we do not want you to have any more. We are cutting you off. In other words, Massachusetts could keep its 20,000 petroleum-based jobs, New Jersey could keep its 27,000 petroleum industry jobs, and New York could keep its 37,000 petroleum industry jobs, while Alaskans should look for alternatives.

The impression I get as an Alaskan, looking from the inside out, is that the lower 48 would just as soon lock us up, not allow us to have good-paying jobs that will feed our families and allow us to live in the State we want to live.

But, no, the jobs we should have are jobs such as carrying the bags for the tourists who come to our State. Yes, we want tourism but we also want real jobs, and these petroleum-based jobs are jobs that are real for Alaskans.

It is one thing if the residents of the State of Alaska said we do not want this and Congress was trying to shove it down their throats, but Alaskans have said yes. We have said we will accept responsible oil development and production in our backyard. We will take it, and we will do it responsibly. We promise we will be responsible.

This gets to my last point, which is economic security and basically plain old common sense. There is kind of an 800-pound gorilla sitting in the Chamber now. We are literally at the brink of war. We do not know what is going to happen in Iraq. We do not know if Saddam Hussein is going to torch the oil fields. We have no idea. What we do know is that in the past several months, we have increased our imported oil from Iraq. We have doubled our imports from Iraq in the past couple of months. We have sent billions of dollars to Iraq. I am not quite sure how the paper trail goes, but I do not think it is too farfetched to assume that we send billions of dollars to Iraq to Saddam Hussein, who in turn sells us the oil that we place in our aircraft or our

air carriers and we send our men and our women over to defend no-fly zones, to put them in harm's way, when we could be producing domestically. If that does not keep us awake at night, I do not know what will. It does not make sense at this point in time.

The PRESIDING OFFICER. The Senator's time has expired.

Ms. MURKOWSKI. I ask for an additional minute.

Mr. STEVENS. One additional minute.

The PRESIDING OFFICER. The Senator may continue.

Ms. MURKOWSKI. I have placed on each Member's desk a copy of Review & Outlook from the Wall Street Journal that ran this morning. I urge each Member to review that, because it does speak exactly to the issue I addressed.

I conclude by reminding members of some very pertinent facts. ANWR has more oil in it than the State of Texas. These are not made-up facts. This is Department of Interior, USGS. This is not insignificant quantities we are dealing with.

The PRESIDING OFFICER. The Senator has used her minute.

Ms. MURKOWSKI. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

The Senator from California.

Mrs. BOXER. I yield myself 5 minutes.

I ask the Senator from Alaska, is it OK upon my completion of 5 minutes that Senator FEINGOLD address the Senate for 5 minutes, and then we would turn it back to the time of the Senator from Alaska? Is that all right with the Senator?

Mr. STEVENS. Yes.

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

Mrs. BOXER. Madam President, let's be clear. Ninety-five percent of Alaska's North Slope is open for drilling. That is a fact. We are talking about the last 5 percent. The debate is whether that should be opened as well.

Clearly, this is going to be a very close vote. I have great respect for the Senators from Alaska, but I would welcome it if they wanted to help preserve the environment in my State.

As far as jobs are concerned, there was a report done by the Joint Economic Committee on March 14, 2002. They issued a report that said there would be 65,000 jobs nationwide by 2020, an employment gain of less than one-tenth of 1 percent of the U.S. workforce, and CRS—that is the Congressional Research Service—Report No. R.S. 21030, October 1, 2001, said under the most likely scenario, full development in the Arctic would result in 60,000 jobs.

I am not one to say 60,000 jobs are no jobs—that is a lot of jobs—but the more than 2 million jobs we have seen go down the drain in the last 2 years, that is a bigger debate.

I also want to make the point that for those of us in California who defend and protect our coastline from oil companies every day of the week, we made a choice. Yes, we know there would be jobs developed there, but it would destroy that coastline and have the potential for horrific accidents and problems because we have experienced those.

So I say to my friends from Alaska, I hope they will understand the people in this country who support keeping this 5 percent of the North Slope in its pristine environment are doing so because we think it is good for the soul of this country, and we believe there are more jobs to be created through other means.

The reason I have this photograph—and it was challenged not by my colleagues from Alaska at all but by others—this is clearly in the development area—and also by Secretary Norton, who is quoted in the newspaper as saying the image of flat white nothingness is what one sees the majority of the year. This is the reason I felt compelled—and I was glad to see my colleague from Alaska say she agrees, it is magnificent, and I wish every Member could have the chance to take a look at this beautiful book, Arctic National Wildlife Refuge: Seasons of Life and Land. It is a photographic journey by this incredible photographer through all the seasons. Some of the most beautiful scenes are in the winter. I know my colleagues cannot see this, but it shows the birds and the snow and all the rest. It is quite beautiful.

I guess beauty is in the eye of the beholder. Maybe Secretary Norton looks at this and comes away with another point of view, and I respect that. I just do not happen to agree with it.

In April—I think it is April 10—there will be an exhibit opened at the Smithsonian on the Mall which will show these photographs, and more. So I hope people will take a chance to look at it, because it is quite breathtaking to see.

I want to reiterate that I printed in the RECORD last night a letter from the Alaska Inter-Tribal Council. They have asked me to make a point of this letter they have written, in which they say:

> We urge you to reject . . . any other proposals to authorize oil exploration and development of the birthplace and nursery of the Porcupine Caribou Herd, the coastal plain and the Arctic National Wildlife Refuge.

They talk about they support the Gwich'ins to seek permanent protection of the Arctic National Wildlife Refuge. I know the Gwich'in people are here. I also know there are other tribal people here as well, and I say that I have met with them many times and have been touched and moved with their testimony. They are very proud the Alaska Inter-Tribal Council that represents 187 tribes is with them, and they asked me specifically to put this letter into the RECORD.

Let me finish by saying the U.S. Fish and Wildlife Service has a beautiful Web site and they say on it:

> The Arctic refuge is among the most complete, pristine and undisturbed ecosystems on Earth . . . a combination of habitats, climate and geography unmatched by any other northern conservation area.

This is a quote from the U.S. Fish and Wildlife Service. This is very clearly the point of view of most people, and I hope that we would honor this God-given treasure today and vote to strip this language from the bill and take a stand in favor of keeping this area pristine.

I look forward to the remarks of Senator FEINGOLD.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Madam President, I rise today to support this amendment which is similar to one I offered in the Budget Committee. It would strike the reconciliation instruction to the Energy Committee contained in the budget resolution before us.

This instruction requires the Energy Committee to produce $2.15 billion by reporting out legislation by May 1, 2003, with the assumption that they open the coastal plain of the Arctic National Wildlife Refuge to oil drilling.

Management of the Arctic Refuge Coastal Plain has been hotly debated for many years. Some Senators, like myself, believe that this area should be designated as a Federal wilderness area. Other Senators believe that this area should be explored for its oil potential.

I support this amendment because I believe that the fate of the coastal plain of the Arctic refuge is a question of Federal National Wildlife Refuge management, not budgetary policy. If a Senator believes that oil reserves which may be located under the coastal plain are needed today, or 20 years from now, for reasons of enhancing this country's energy security, then the fate of the refuge is a question of energy policy, not budgetary policy.

No matter where a Senator might consider himself or herself in the discussion over the fate of the refuge, and this issue was debated at length during the Senate's consideration of the energy bill last year, no Senator has said that the primary reason to change the management of the refuge was because we just needed the revenue.

In fact, the chairman of the Budget Committee, Mr. NICKLES, again stated, when I offered my amendment in committee, that these instructions are included in the budget resolution because Arctic drilling is needed to stimulate the economy, create jobs, and produce oil, not for purposes of revenue.

I know there are strongly held views on this topic, and I do not intend here to go into all the reasons why I have concerns about the possibility of oil drilling in the refuge. Other Senators who join in offering this amendment will be making that case and making it effectively.

I feel that the fate of the coastal plain of the Arctic refuge is too important to become a number in the budget process.

I also think that, for several reasons, Senators who support drilling in the

refuge should support this amendment and object to using the budget resolution and reconciliation to achieve that goal.

As Senators know, debate on a reconciliation bill and all amendments, debatable motions, and appeals related to it is limited to a total of 20 hours. After 20 hours, debate ends. Consideration of amendments then may continue without any debate.

I am concerned that using a fast track procedure like reconciliation to open the refuge exposes the Senate to criticism that we are using the refuge revenues in part for tax cuts, or to authorize new spending programs.

Particularly, the Senate may be accused of dispensing refuge revenues in unrelated accounts to gain political support for refuge drilling. Our constituents may also be concerned that we will have to spend a great deal to implement a drilling program in the Arctic refuge because much of the infrastructure needed to bring oil from the refuge to the rest of the country does not exist today.

As well, I am concerned that some Senators are supporting drilling in the refuge because they feel that it can be done in an ''environmentally safe'' way or they feel that it should be done jointly with energy efficiency, oil savings, and alternative energy programs to reduce our dependence upon foreign oil.

Reconciliation limits the way in which Senators who are concerned about these issues, and who do not serve on the Energy Committee, are able to address those issues on the floor. ''It'' cuts it off. You cannot have a real debate about what should be done. It is simply a budget number.

The Congressional Budget Act explicitly prohibits the offering of nongermane amendments to a reconciliation bill. If a Senator felt that the Energy Committee's reconciliation bill opening the refuge did not go far enough to regulate environmental impacts associated with Arctic drilling, or to promote alternative energy in light of Arctic drilling, the Senator may not be able to offer amendments on the floor to improve the bill.

Such amendments, which might improve the bill from an environmental standpoint, might well be considered extraneous because they do not raise revenue.

I would caution all members of the Senate who have committed to support Arctic drilling only in certain cases, or only if certain other legislative or regulatory actions take place, to think seriously about whether reconciliation serves their interests and their constituents' interests.

Finally, I oppose using reconciliation because I believe it is being used to limit consideration of a controversial issue. The American people have strongly held views on drilling in the refuge, and they want to know that the Senate is working to pass legislation to manage the area appropriately in a forthright and open process.

That will not be achieved if reconciliation instruction on the Arctic refuge is included in the resolution before us. I urge support for my amendment.

Mr. STEVENS. I yield myself 4 minutes.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Madam President, the Senator from California could not be more in error about the amount of land on our north arctic shoreline. It is not 95 percent open. There is the naval reserve No. 4. That is 52 percent of the coastline closed. She knows it is closed.

Beyond that, the Senator from California comes in with a letter from the Inter-Tribal Council of Alaska. That is a group of dissidents in Alaska, as far as I am concerned. The 100,000-member group of Alaskans known as the Alaska Federation of Natives—my colleague Senator MURKOWSKI had printed in the RECORD last night their Resolution 9505 absolutely supporting opening of this area to oil and gas drilling.

The main thing is, in 1985 it was drilled pursuant to a law passed in 1980 to drill a test well to see if the area could produce oil and gas. The exact results have been classified, but we know it does have the largest basin on the North American continent. If it is drilled, we expect it to produce enormous amounts of oil. One estimate I have before me is the total expected reserves for oil and gas in nongas liquids from Alaska, not taking into account the price per barrel, is 32.5 billion to 69.36 billion barrels.

When they first told us about the discovery in the Arctic known as Prudhoe Bay, they said the estimate was about a billion barrels. Last year, we produced the 17 billionth barrel, and it is still producing. As a consequence, we face a process of discrimination. We are crying to be treated equally. In California, they have four refuges. Three of them produce oil and gas: Hopper Mountain, Seal Beach, and Sutter. The fourth has a producing well and did not produce until 2000.

The Senator from California says, protect the pristine wildlife refuges. This is an enormous area. Her area is less than 100,000 acres, and they are drilling it. It comes down to the question, How much are you influenced by the extreme environmental movement in the United States?

This comes down to a question of jobs. It is jobs. There are many Alaska Native people in the gallery now. They need jobs. This is their area. This is a chart showing how many of the wildlife refuges in the United States have oil and gas drilling: California has 4, two northern States have 4 each, Illinois has 4, and there are 17 in Louisiana. Louisiana has proved you can have oil and gas drilling and compatible protection of wildlife at the same time.

All we are seeking is to be treated equally. We have a whole series of points that have been made in the last few days. And when I have this debate—there have been a lot of debates here since 1980. The commitment was finally made by two friends of mine who are now deceased, Senator Jackson and Senator Tsongas. After they made their pledge, I helped them to get the whole bill passed, over 100 million acres.

There were newspaper ads: Ted Stevens, come home; you made a mistake. If we lose today, I probably did make a mistake because I trusted the Senate. I trusted the Senate to follow the law. I hope the time comes when other people face the same proposition and they can rest assured.

The PRESIDING OFFICER. Who yields time?

The Senator from California.

Mrs. BOXER. Madam President, I am finding the source for the comment I made that Senator STEVENS took issue with that the 5 percent of the North Slope was available for drilling. That comment was made by the Interior Secretary to the Senate in the committee. That statement was made in 1995. I am putting my hands on the exact words.

I yield 5 minutes to the Senator from Connecticut who has been a real leader in this fight, Senator JOE LIEBERMAN.

Mr. LIEBERMAN. Madam President, I thank my friend from California for the steadfast and spirited advocacy she has made of this amendment.

We come in about half an hour to another moment of truth. President Bush said earlier in the week that we were at a moment of truth with regard to Iraq and Saddam Hussein and weapons of mass destruction. I agreed with him. In half an hour we come to a different kind of moment of truth in the long, ongoing battle about whether we will preserve the magnificent natural gift we received from our Creator in the Arctic Refuge known as the American Serengeti and inhabited by so many magnificent species of wildlife, for a very small amount of oil.

This question, this moment of truth also raises the question about whether we will accept a contention of the Bush administration that somehow, by doing this, we are solving America's energy problem. With all respect, there could not be a more ridiculous contention.

The facts are clear. If drilling occurs by the year 2020, our dependence on foreign oil, as a result of the oil from the Arctic Refuge, will be reduced from 62 percent to 60 percent. That is not the road to energy independence.

Those of us on both sides of the aisle, Republicans and Democrats, who oppose drilling in the Arctic Refuge support new domestic energy production, including new fossil fuel energy production. In fact, it is worth pointing out that the previous administration leased more land for energy development than either of the preceding two. But it opposed drilling for oil in the Arctic Refuge. Those decisions need not be hazardous to our environment. They need not destroy precious places. Each must be evaluated in light of the

specific environmental consequences of the exploration, and our most important shared environmental treasures must be placed off limits.

The Arctic Refuge, in my opinion, is one such place. We simply would not gain enough in oil or energy independence to justify long-term harm to this place. The facts in that regard are clear. Setting up the intricate infrastructure required to pump oil out of the refuge will despoil the land and its ecosystems forever. After hundreds of pin pricks, the refuge will be in that sense bleeding, its wildlife will be reeling. We will never be able to get it back to where it was.

Supporters of drilling insist on numbers that grossly overestimate the benefits and underestimate the cost. Could the drilling in the refuge coexist with wildlife? Not by a long shot. The USGS, part of the administration, confirmed that development of the refuge would result in substantial environmental destruction.

Do we want to tear up this magnificent piece of America for such a tiny reward, when harnessing American technology to improve conservation and efficiency and developing alternative energy sources could reap many times the benefit? To me, the answer is clear. Oil drilling in the refuge is not a path to energy independence. It is not a path to economic security. It is, in fact, a road to ruin, environmental ruin of this wildlife refuge. The oil that would be gained will come and go in almost no time. But the destruction will last forever.

This is an unsettled time in our Nation's history. People feel insecure about so much—about the war in Iraq, about terrorism, about economic insecurity. It does seem to me that the decision we make today relates to that. There have to be some places, some things, some values, some natural treasures that do not change, that we have to protect, particularly at this moment. This is a place from which we gain strength, from which we gain purpose, from which we gain tranquility. Let us not, in the pressures of the moment, let it be destroyed forever.

I quote, finally, the words of Theodore Roosevelt, who may be considered in his time to be an extreme environmentalist. In 1916 TR said:

> The greatest good for the greatest number applies to the number within the womb of time, compared to which those now alive form but an insignificant fraction. Our duty to the whole, including the unborn generations, bids us to restrain an unprincipled present-day minority from wasting the heritage of these unborn generations.

The final sentence from TR, President Teddy Roosevelt:

> The movement for the conservation of wildlife and the larger movement for the conservation of all of our natural resources are essentially democratic in spirit, purpose, and method.

Those are timeless words which come home to us almost a century later as we face the moment of truth for today and for tomorrow in this vote. I urge my colleagues, please support the best of America. Vote for this amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. I yield myself just 1 minute while the Senator from Connecticut is here. We have 77 percent of all the wild refuges in the United States in Alaska. We are talking about 2,000 acres out of almost 90 million acres of land.

I don't understand people who stand here and say save this pristine part of the United States. I invite all of them—I will take them up there right now and let them see the Arctic Slope. It is frozen tundra. Look at this map. That shows how much of this area is withdrawn. The Senator from California says it is 95 percent—look at it. If you go from the coast on the Arctic coast of Alaska, it is not open. The only part of Federal land that is really open now is 1.5 million acres that was left open by the Jackson-Tsongas amendment. The rest of it is closed.

I reserve the remainder of my time.

Mrs. BOXER. Parliamentary inquiry: Could you tell me how much time remains on the Senator from Alaska's side and how much on my side?

The PRESIDING OFFICER. The Senator from California has 12 minutes 29 seconds; the Senator from Alaska has 13 ½ minutes.

Mrs. BOXER. I ask the Senator, what is your preference? Senator CHAFEE would like to speak, but if you would like to take some time?

Mr. STEVENS. Madam President, I was waiting for Senator DOMENICI. I think Senator CHAFEE was waiting for time.

Mrs. BOXER. I was just asking my colleague if he preferred Senator DOMENICI to go since he just spoke.

Mr. STEVENS. We will wait.

Mrs. BOXER. I yield 5 minutes for Senator CHAFEE. I want to say he is a leader on this issue, and he is one of six Republicans who signed a letter saying don't deal with this issue in the context of a budget resolution. I look forward to hearing his 5 minutes.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Madam President, I accepted an offer last August to go to ANWR, to the Arctic National Wildlife Refuge. Since I have been here for 3 years, I have heard a lot of debate about it, and I assumed I heard a lot of exaggeration also. I wanted to go myself and so I accepted the invitation.

I took a bush plane from Fairbanks over the Brooks Range, as you see here. The Brooks Range is very desolate, almost devoid of any sign of life, any sign of vegetation. It is quite a trip over the Brooks Range. As we cleared that mountainous terrain, stretching out before the Arctic Ocean, the Beaufort Sea, was the most gorgeous grasslands, the last thing I expected to see that far north.

We banked around with our bush plane and you can see here where we landed. As we banked in for a landing, scurrying through the brush was a big, brown, cinnamon-colored beast, a grizzly bear.

We got out of our plane and immediately were covered with tremendous amounts of mosquitoes. It was quite an experience. We pulled the nets on our hats over our heads and set up our tents, which we can see here. We had some chow and then that night it snowed. We came on the Brooks Range earlier, and they had no snow on them, but the snow came that night. Thankfully, we never saw another mosquito, so we had the great experience of having mosquitoes but then had 2 days—3 days in order to hike around the area. Every day we would hike for as much as 4 or 5 hours, then come in for lunch, and go out and hike for the afternoon another 4 or 5 hours.

In August, it is just as light at 3 in the afternoon as it is at 3 in the morning, so it is quite an experience that far up.

I will have to say, Senator STEVENS, this is the most beautiful place. I have been in 49 out of 50 States. The only one I have not been in is Hawaii. This is the most beautiful place I have ever been.

Mr. STEVENS. The oilwells are just 25 miles away; does he know that?

Mr. CHAFEE. Yes. I will conclude in that direction. Not only did we see the grizzly bears and one caribou—the caribou migration had gone through, but we did see one caribou—but we saw all kinds of life: Ground squirrels, prairie chickens—I think they call them ptarmigan. We also saw all sorts of birds and saw also the signs of life—musk ox droppings. We didn't see musk ox, but we saw the droppings all over the place. So obviously they had been there. All kinds of caribou droppings were everywhere you went.

What a surprise it was to go this far north and see such beautiful country. It is like the plains of Wyoming or Montana. And it was a great surprise to me.

So all the environmentalists who talk about it being the Serengeti of America, they are right. This is unique. It is special. I urge my colleagues to support the amendment for that reason.

On the trip, we then had an opportunity to go to Prudhoe Bay. And what a change it is, as you go west from the 1002 area, which is where we were camping, to Prudhoe Bay. Before we leave the 1002 area, here we are, as shown on this picture. There I am, my wife Stephanie, the small band of us up there braving the elements, experiencing the 1002 area.

When we went to Prudhoe Bay, it was a change in the topography. It gets much more pockmarked with water. It is a lot different from what we saw here in ANWR. And it seems more suitable for man's incursion and for drilling as you get closer to Prudhoe Bay.

We landed in Prudhoe Bay. We went to the hotel, which was a collection,

really, of trailers put together. And the proprietor of the hotel at Prudhoe Bay said: Be careful. There is a grizzly bear in town. His name is Toby. When you walk around, just be careful. You never know. You don't want to surprise him and have him attack you. So just keep your wits about you.

We had a great tour of Prudhoe Bay. And after we left and came back to the States, about 2 months later, I saw, in the New York Times, a little filler article, that Toby was getting into the inn where we were staying and they had to put him down. So it made the New York Times, Toby getting into the inn and having to be put down.

But the point is, there should be places for the Tobys of the world. And then there are other places where we should drill. And, obviously, they are incompatible. No one wanted to harm Toby, but it just came to that.

The PRESIDING OFFICER. The Senator has used 5 minutes.

Mrs. BOXER. Madam President, I yield an additional 2 minutes to the Senator.

The PRESIDING OFFICER. The Senator may continue.

Mr. CHAFEE. I thank the Senator.

Madam President, that is the point. There should be areas of the world for man and drilling, and then there should be areas of the world for the Tobys of the world. And if we are going to proceed with drilling in ANWR, absent any effort at conservation—and many of the Senators who are going to vote in favor of drilling in ANWR did not vote for raising the CAFE standards that would save much more of our resources in natural fuels—that is a bad policy and a wrong direction to go.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. Madam President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Madam President, I am delighted the Senator from Rhode Island has gone to our State and seen it in August. I would invite him to come up and join me right now, and go take a look at that same place.

But what I would really like for him to do is to remember, if I had not changed my vote in 1980, there would have been no refuge at all. It was a wildlife range. My colleague wanted to block it entirely, and I associated myself with Senator Jackson and Senator Tsongas and got the job done, and got it withdrawn, so we could proceed with development. And now the colleagues you have joined want to renege on the commitment that was made to me as a Senator by two distinguished leaders of the Senate, the Senator's father included.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. How much time remains, Madam President?

The PRESIDING OFFICER. The Senator from Alaska has 13 minutes; the Senator from California has 6 minutes 13 seconds.

Mr. STEVENS. Madam President, I yield the Senator from New Mexico 5 minutes.

Mr. DOMENICI. Madam President, I thank the Senator from Alaska.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, fellow Senators, I come from New Mexico. New Mexico is right next to Mexico. Mexico has oil underground, God made. Do you know what they call it? They call it their patrimony. It is so important that they claim it is theirs and it is their future—not locked up under the ground—to use. It is their patrimony. In fact, in Spanish, they say: ''El patrimonio del pais es el petroleo.'' That is how important it is.

Now, for all of those who have been here giving speeches about making sure we protect the ANWR wilderness, look at this picture. Look at this picture with me. You see this big, blue picture? I am going to go around the edges for you. Isn't that big?

Senator, do you want to take a look? That is drawn to scale. That is ANWR. Unless you have very good glasses, very good eyes, you can't see, from your seat, where ANWR's drilling sites will be, because it will be that big, Senator. Can you see that little spot?

Mr. CHAFEE. Yes, I can.

Mr. DOMENICI. That is how big the development for oil for America will be out of this wilderness.

Now, anybody who blesses this floor piously about preservation is ignoring the reality. America cannot live without oil. I wish we could.

Alaska is America. Oil in Alaska is our patrimony, just like oil in Mexico is the patrimony of the Republic of Mexico. To say that using that piece of property—see it. I am not sure our TV cameras are showing it to Americans, that is how big it is.

It is now said, that is all you need to drill for oil—to do what?—to produce as much oil as the State of Texas produces. There are even environmentalists who say, in their literature, it is an irrelevant amount of oil, it is not needed.

Well, Madam President, as I crossed America, looking to find comparisons, as soon as I got to Texas, I asked, how much oil is there? They told me, it is almost the exact amount of billions of barrels of reserve as is in this tiny piece of property as big as the properties at Dulles here in Virginia.

So if this is irrelevant to America, I assume we should not have drilled in Texas. How much oil might it produce? About the same amount as California per year. I ask Senator NICKLES, is one to say California's production is not needed? We are so rich and arrogant about our wealth that we can throw away this huge amount of oil? We don't need it for America?

I believe to turn this down is not an insult to Alaska; it is not reneging on something to TED STEVENS; it is an absolute denial to the American people of the increased prospect of reasonably priced oil for the future.

If you are worried about the future high prices of oil and you want to blame someone, I say, blame the vote this afternoon. If this is defeated, you can put it right up there along with any other country that you assume is out to raise prices on the American consumer. Because that vote, denying the right of Americans to produce this oil, will just as assuredly result in the prospect of increased costs of oil to Americans.

I wish we could stand on the floor and say: Americans, we have a plan. We are going to dramatically reduce the number of automobiles.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOMENICI. I ask the Senator, could I have 1 additional minute?

He said yes.

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

Mr. DOMENICI. Let me just say, I wish we had a plan that said: In the future, we do not need all this; we do not need all these cars; we can get by with far less. But, frankly, I believe, under any scenario, for the next 25 to 30 years, our children, our way of life, our standard of living, demand that we do right and that we use that tiny piece of real estate without doing damage to this gigantic wilderness to produce energy for our great country.

I thank Senator STEVENS for yielding.

The PRESIDING OFFICER. Who yields time?

Mrs. BOXER. Madam President, parliamentary inquiry: How much time remains on each side, please?

The PRESIDING OFFICER. The Senator from California has 6 minutes 13 seconds; the Senator from Alaska has 7 minutes 25 seconds.

Mrs. BOXER. I would like to retain my time to close debate, if it is all right with the Senator from Alaska.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. I yield my colleague 2 minutes, Madam President.

The PRESIDING OFFICER. The Senator from Alaska.

Ms. MURKOWSKI. Madam President, it has been suggested in the past few minutes and last evening that instead of opening ANWR, we need to look to conservation; we need to discuss CAFE standards; we need to look to alternative fuels.

We need to keep ANWR in context. This is not an either/or debate. These concepts are not mutually exclusive. We have to have increased conservation efforts, of course. That is reasonable. But as the Senator from New Mexico has stated, we will never be entirely free in our reliance on oil, on petroleum products.

When you look at what we get from petroleum products, it is not just the gasoline that goes in our vehicles. That is not the only issue. We use it in our

plastics. We use it for Band-Aids, for perfume, for so many things that you can't even imagine. We will continue to need gas. We will continue to need oil. These are necessary for us as a society.

To suggest that we are going to conserve our way out of reliance on petroleum is not reasonable. It is not feasible. We have to accept both. We need the domestic energy sources that only ANWR can provide to us. We have heard it repeated time and time again today and yesterday and in the years throughout the debate, this is where the energy reserves are. We can't deny that. We can't be put off or led astray by looking at nice pictures and thinking that somehow or other in order to preserve this area, we have to give up development.

The PRESIDING OFFICER. The Senator's 2 minutes have expired. Who yields time?

Mr. STEVENS. How much time remains?

The PRESIDING OFFICER. The Senator from Alaska has 5 minutes 24 seconds. The Senator from California has 6 minutes 13 seconds. Who yields time?

Mr. STEVENS. I yield 1 minute to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Madam President, momentarily we will be voting on the Boxer amendment. I urge my colleagues to vote no. I compliment my colleagues, Senators STEVENS and MURKOWSKI. I listened to the debate last night and today. If people are interested in the facts, they happen to know the facts. They live there. They have been there. A lot of people are pointing out pristine pictures of wildlife.

That is not the 1002 area that would be drilled. I have seen that. We can do drilling in that area in a very environmentally sensitive and sound way. We can do it. Our country happens to need that million barrels per day of domestic oil that can be produced. We need it. If not, we will be buying it from Iraq. We will be buying it from the Middle East. We will be buying it from areas that are a lot more vulnerable than Alaska. This way we can keep the jobs in the United States. This way we can keep production and our dollars in the United States.

We have a tradition in the Senate that we listen to home State Senators in areas that concern their State.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. NICKLES. I yield myself an additional minute.

The PRESIDING OFFICER. Does the Senator from Alaska yield?

Mr. STEVENS. Certainly.

Mr. NICKLES. For people who live outside the State and have never been in this area to try to dictate that we should never drill there, without living there, and override and superimpose their will over the two home State Senators, I find to be almost incredible. It is denying Alaska a chance to grow. It is denying our country a chance to grow.

I urge my colleagues to listen to Senator STEVENS, to listen to Senator MURKOWSKI, and let's allow some environmentally safe and sound production that our country desperately needs.

I thank my colleagues from Alaska.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. I ask the Chair to let me know when I have 1 minute left.

The PRESIDING OFFICER. The Chair will notify the Senator.

Mr. STEVENS. Madam President, this is a diagram of the 1002 area. I pointed out previously that in 1958 there was a well drilled just east of Kaktovik. It is still classified as the result of overwhelming interest by the oil industry after that to conduct seismic in this area. This is the Marsh Creek anticline. East of that area is where this enormous reservoir is. To the west going over to the river, where this is the Prudhoe Bay area, that has all been very prolific. There was a well drilled off shore in Camden Bay. There has been a series of wells drilled offshore. The only well that has been drilled onshore was in 1985.

This is an area, as I said, a million and a half acres that in 1980 was kept open for oil and gas exploration by the Tsongas-Jackson amendment. The balance of this area is wilderness. This has never been wilderness. We heard repeatedly about wilderness.

I have now been here 35 years. I have trusted the Senate quite often. The one time I really trusted Senators was when I decided to work with Senators Tsongas and Jackson to get this bill passed, get it done. We thought we had a substantial concession in the fact that the Arctic Slope would continue to be open for oil and gas exploration as it was intended by President Eisenhower, as it was intended entirely up until 1980.

Through the period of the discussion of this matter, since 1980, I have had a series of Senators tell me, I will be with you if you need me. They know who they are. This is the day that I need them. This vote is going to be very close. It represents a vote that culminates some substantial period of my life because I started working on this area in 1956.

The PRESIDING OFFICER. The Senator has 1 minute remaining.

Mr. STEVENS. I will save it.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. I yield 1 minute to the Senator from New Jersey, Mr. LAUTENBERG.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. I thank the Senator from California. In a short statement I would like to identify what has happened since 1989 when the *Exxon Valdez* ran aground, since the period of time when the court said that ExxonMobil should pay $9 billion in punitive damages for the havoc it created in Prince William Sound. Lest we be fooled that these environmental stewards are going to take good care of our assets, of our natural resources, let's look at what happened.

The fine is now down $4 billion. This is since shortly after 1989. And who is paying the tariff here? Well, the Anchorage Daily News on August 4, 1998, reported ''Apparently Delay Pays.''

The PRESIDING OFFICER. The Senator has used 1 minute.

Mrs. BOXER. I yield an additional 1 minute.

Mr. LAUTENBERG. Exxon is earning $90,000 an hour, about $2 million a day, or nearly $800 million a year, on the same $5 billion as long as the case drags on. And the money stays in its coffers. They are not even paying for it. In fact, what they are doing is making money, interest on that money which belongs to the citizens of the country and for the protection of our environment.

What we are looking at is a corporate behavior that should be unacceptable under any standard and where they are using this opportunity to cash in on delays by skillful lawyers instead of paying their obligation as it fell upon them through the courts.

It is an outrage. We cannot trust these people to take care of this environment of ours for our children and our grandchildren. I hope the Boxer amendment passes.

Mrs. BOXER. Madam President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 4 minutes 5 seconds.

Mrs. BOXER. I would like to be told when I have a minute left.

We are reaching the end of a tough debate. It is a very close vote, no doubt about it. The Vice President, I understand, is on his way over in case it is a tie vote. I want to pick up on something Senator NICKLES said when he kind of cast aspersions on those who live outside of the State of Alaska and are speaking up in favor of this Arctic Wildlife Refuge.

Let me be clear. I come from a State that has millions of acres of wilderness, thousands and thousands of acres of beautiful Federal land. We are very proud of it. We have forests, desert, wetlands, and the rest, including Yosemite National Park. Let me be clear. I welcome the support of my colleagues. I don't shun it. I welcome them to help me preserve those acres for the people of California and the people of the country and, indeed, the people of the world. In our State, we consider these treasures not only to be God-given resources, but we look at them as God-given resources that we, the people of this planet, have to protect.

I am interested in Senator DOMENICI's presentation. It was well done. He has a big chart and he has a dot on the chart. He says: Look at this, it is a dot on this chart. Well, if you go up into space and you look at the Earth, it looks like a little marble. Does that

mean we should not care about what happens on God's Earth?

So I think we are getting to the point at which we have to make a choice. Do we want to change the policy and go into this beautiful refuge or do we want to look at other ways to get more energy—I underscore, much more energy?

Look, if we just close the loopholes on SUVs—by the way, I represent a lot of soccer moms and let me tell you, they want their SUVs, and they want to get better fuel economy from them. I live in a community where almost every other car is big because I live in suburbia. They want to have the option to drive those cars and not have to spend $100 every time they fill up the tank. If we were just to close that SUV loophole, we would save, by 2030, 10 billion barrels of oil. This is what we are talking about. That is far more than you would get out of the Arctic. If you moved up the fuel economy just to 35 miles a gallon—listen to this—we would be 43 percent less dependent upon foreign oil. With ANWR, it is 2 percent.

Vote for the Boxer amendment. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator has 1 minute remaining.

The Senator from Alaska has 1 minute 2 seconds.

Mr. STEVENS. Madam President, again, I think this is the most important vote in the history of my service in the Senate. I worked on this with President Eisenhower. Our people were about ready to go to war. He said in World War II that our ships, our planes, and our tanks must have oil. That will continue on into the future. Opening this area will not give our people oil now but will assure that we have a greater reserve in the future.

My last comment is this. In the time I have served here, many people have made commitments to me, and I have never broken a commitment in my life. I make this commitment: People who vote against this today are voting against me, and I will not forget it.

Mrs. BOXER. Madam President, this is a country of laws, not men. This is a country that treasures its God-given gifts—from the mountains, to the prairies, to the oceans white with foam. God bless America, my home sweet home.

This isn't about us being here for 2 years, or 6 years, or 10 years, or 20, or even 50. We will be gone. But we need to think about the future. We can do more for our troops were we just to increase fuel economy. We will save far more doing that than by drilling in a pristine area that has wildlife that looks like this picture.

Mr. STEVENS. Regular order.

Mrs. BOXER. Madam President, I hope we will stand with the environment and vote for the Boxer amendment.

I yield the floor.

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

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

Mr. NICKLES. Madam President, I ask for the yeas and nays on the Boxer amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to amendment No. 272. The clerk will call the roll.

The legislative clerk called the roll.

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

The result was announced—yeas 52, nays 48, as follows:

[Rollcall Vote No. 59 Leg.]

YEAS—52

Baucus	Dorgan	Lincoln
Bayh	Durbin	McCain
Biden	Edwards	Mikulski
Bingaman	Feingold	Murray
Boxer	Feinstein	Nelson (FL)
Byrd	Fitzgerald	Nelson (NE)
Cantwell	Graham (FL)	Pryor
Carper	Harkin	Reed
Chafee	Hollings	Reid
Clinton	Jeffords	Rockefeller
Coleman	Johnson	Sarbanes
Collins	Kennedy	Schumer
Conrad	Kerry	Smith
Corzine	Kohl	Snowe
Daschle	Lautenberg	Stabenow
Dayton	Leahy	Wyden
DeWine	Levin	
Dodd	Lieberman	

NAYS—48

Akaka	Dole	Lugar
Alexander	Domenici	McConnell
Allard	Ensign	Miller
Allen	Enzi	Murkowski
Bennett	Frist	Nickles
Bond	Graham (SC)	Roberts
Breaux	Grassley	Santorum
Brownback	Gregg	Sessions
Bunning	Hagel	Shelby
Burns	Hatch	Specter
Campbell	Hutchison	Stevens
Chambliss	Inhofe	Sununu
Cochran	Inouye	Talent
Cornyn	Kyl	Thomas
Craig	Landrieu	Voinovich
Crapo	Lott	Warner

The amendment (No. 272) was agreed to.

Mrs. BOXER. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. REID. Madam President, I have been authorized by the manager of the bill to yield 20 minutes to the Senator from West Virginia, Senator BYRD.

The PRESIDING OFFICER. The Senator from West Virginia.

AMERICA'S IMAGE IN THE WORLD

Mr. BYRD. Madam President, I believe in this great and beautiful country. I have studied its roots and gloried in the wisdom of its magnificent Constitution and its inimitable history. I have marveled at the wisdom of its Founders and Framers. Generation after generation of Americans has understood the lofty ideals that underlie our great Republic. I have been inspired by the story of their sacrifice and their strength.

But today I weep for my country. I have watched the events of recent months with a heavy, heavy heart.

No more is the image of American one of strong, yet benevolent peacekeeper. The image of America has changed. Around the globe, our friends mistrust us, our word is disputed, our intentions are questioned.

Instead of reasoning with those with whom we disagree, we demand obedience or threaten recrimination. Instead of isolating Saddam Hussein, we seem to have succeeded in isolating ourselves. We proclaim a new doctrine of preemption which is understood by few but feared by many. We say that the United States has the right to turn its firepower on any corner of the globe which might be suspect in the war on terrorism. We assert that right without the sanction of any international body. As a result, the world has become a much more dangerous place.

We flaunt our superpower status with arrogance. We treat U.N. Security Council members like ingrates who offend our princely dignity by lifting their heads from the carpet. Valuable alliances are split. After war has ended, the United States will have to rebuild much more than the country of Iraq. We will have to rebuild America's image around the globe.

The case this administration tries to make to justify its fixation with war is tainted by charges of falsified documents and circumstantial evidence. We cannot convince the world of the necessity of this war for one simple reason: This is not a war of necessity, but a war of choice.

There is no credible information to connect Saddam Hussein to 9/11, at least up to this point. The twin towers fell because a world-wide terrorist group, al Qaida, with cells in over 60 nations, struck at our wealth and our influence by turning our own planes into missiles, one of which would likely have slammed into the dome of this beautiful Capitol except for the brave sacrifice of some of the passengers who were on board that plane.

The brutality seen on September 11th and in other terrorist attacks we have witnessed around the globe are the violent and desperate efforts by extremists to stop the daily encroachment of Western values upon their cultures. That is what we fight. It is a force not confined to territorial borders. It is a shadowy entity with many faces, many names, and many addresses.

But, this administration has directed all of the anger, fear, and grief which emerged from the ashes of the Twin Towers and the twisted metal of the Pentagon towards a tangible villain, one we can see and hate and attack. And villain he is. But he is the wrong villain. And this is the wrong war. If we attack Saddam Hussein, we will probably drive him from power. But the zeal of our friends to assist our global war on terrorism may have already taken flight.

The general unease surrounding this war is not just due to ''orange alert.'' There is a pervasive sense of rush and risk and too many questions unanswered. How long will we be in Iraq? What will be the cost? What is the ultimate mission? How great is the danger at home?

A pall has fallen over the Senate Chamber. We avoid our solemn duty to debate the one topic on the minds of all Americans, even while scores of thousands of our sons and daughters faithfully do their duty in Iraq.

What is happening to this country—my country, your country, our country? When did we become a nation which ignores and berates our friends and calls them irrelevant? When did we decide to risk undermining international order by adopting a radical and doctrinaire approach to using our awesome military might? How can we abandon diplomatic efforts when the turmoil in the world cries out for diplomacy?

Why can this President not seem to see that America's true power lies not in its will to intimidate, but in its ability to inspire?

War appears inevitable. But I continue to hope that the cloud will lift. Perhaps Saddam will yet turn tail and run. Perhaps reason will somehow still prevail. I along with millions, scores of millions of Americans will pray for the safety of our troops, for the innocent civilians—women, children, babies, old and young, crippled, deformed, sick—in Iraq, and for the security of our homeland.

May God continue to bless the United States of America in the troubled days ahead, and may we somehow recapture the vision which for the present eludes us.

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

The PRESIDING OFFICER. The clerk will call the roll.

Expressions of approval or disapproval are not permitted.

The legislative clerk proceeded to call the roll.

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

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

Mr. MCCAIN. Madam President, I ask unanimous consent to use time under the resolution.

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

Mr. MCCAIN. Madam President, I observed the comments of the distinguished Senator from West Virginia concerning the events which are about to transpire within the next hour or so, or days. I did not really look forward to coming to the floor and debating the issue. It has been debated. It has been discussed in the media. It has been discussed at every kitchen table in America. But I felt it would be important for me to respond to allegations concerning the United States of America, its status in the world, and, in particular, what happens after this conflict is over, which I do not think we have paid enough attention to, perhaps understandably, because our first and foremost consideration is the welfare of the young men and women we are sending in harm's way.

But to allege that somehow the United States of America has demeaned itself or tarnished its reputation by being involved in liberating the people of Iraq, to me, simply is neither factual nor fair.

The United States of America has involved itself in the effort to disarm Saddam Hussein, and now freedom for the Iraqi people, with the same principles that motivated the United States of America in most of the conflicts we have been involved in, most recently Kosovo and Bosnia, and in which, in both of those cases, the United States national security was not at risk, but what was at risk was our advocacy and willingness to serve and sacrifice on behalf of people who are the victims of oppression and genocide.

We did not go into Bosnia because Mr. Milosevic had weapons of mass destruction. We did not go into Kosovo because ethnic Albanians or others were somehow a threat to the security of the United States. We entered into those conflicts because we could not stand by and watch innocent men, women, and children being slaughtered, raped, and ''ethnically cleansed.'' We found a new phrase for our lexicon: ''ethnic cleansing.'' Ethnic cleansing is a phrase which has incredible implications.

The mission our military is about to embark on is fraught with danger, and it means the loss of brave young American lives. But I also believe it offers the opportunity for a new day for the Iraqi people.

Madam President, there is one thing I am sure of, that we will find the Iraqi people have been the victims of an incredible level of brutalization, terror, murder, and every other kind of disgraceful and distasteful oppression on the part of Saddam Hussein's regime. And contrary to the assertion of the Senator from West Virginia, when the people of Iraq are liberated, we will again have written another chapter in the glorious history of the United States of America, that we will fight for the freedom of other citizens of the world, and we again assert the most glorious phrase, in my view, ever written in the English language; and that is: We hold these truths to be self-evident, that all men are created equal and endowed by their Creator with certain inalienable rights, and among these are life, liberty, and the pursuit of happiness.

The people of Iraq, for the first time, will be able to realize those inalienable rights. I am proud of the United States of America. I am proud of the leadership of the President of the United States.

It is not an easy decision to send America's young men and women into harm's way. As I said before, some of them will not be returning. But to somehow assert, as some do, that the people of Iraq and the Middle East are not entitled to those same God-given rights that Americans and people all over the country are, that they do not have those same hopes and dreams and aspirations our own citizens do, to me, is a degree of condescension. I might even use stronger language than that to describe it.

So I respectfully disagree with the remarks of the Senator from West Virginia. I believe the President of the United States has done everything necessary and has exercised every option short of war, which has led us to the point we are today.

I believe that, obviously, we will remove a threat to America's national security because we will find there are still massive amounts of weapons of mass destruction in Iraq.

Although Theodore Roosevelt is my hero and role model, I also, in many ways, am Wilsonian in the respect that America, this great Nation of ours, will again contribute to the freedom and liberty of an oppressed people who otherwise never might enjoy those freedoms.

So perhaps the Senator from West Virginia is right. I do not think so. Events will prove one of us correct in the next few days. But I rely on history as my guide to the future, and history shows us, unequivocally, that this Nation has stood for freedom and democracy, even at the risk and loss of American lives, so that all might enjoy the same privileges or have the opportunity to someday enjoy the same privileges as we do in this noble experiment called the United States of America.

I yield the floor.

The PRESIDING OFFICER (Mr. CRAPO).

The Senator from Washington.

AMENDMENT NO. 284

(Purpose: To fully fund the No Child Left Behind Act in 2004 and reduce debt by reducing tax breaks for the wealthiest taxpayers)

Mrs. MURRAY. Mr. President, I send an amendment to the desk on behalf of myself, Senators KENNEDY, HARKIN, BINGAMAN, KERRY, MIKULSKI, JOHNSON, SARBANES, EDWARDS, and CLINTON.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Washington [Mrs. MURRAY], for herself, Mr. KENNEDY, Mr. HARKIN,

Mr. BINGAMAN, Mr. KERRY, Ms. MIKULSKI, Mr. JOHNSON, Mr. SARBANES, Mr. EDWARDS, and Mrs. CLINTON proposes an amendment numbered 284.

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

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

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mrs. MURRAY. Mr. President, the amendment I offer is the one I spoke about earlier today. Clearly, we are in a very important day in the history of this country, and really of this world, as we wait to find out what is going to happen in Iraq. All of our thoughts and prayers are with the young men and women who wait, as we do, to see what is going to happen. Certainly our country is anxious and on edge, and we all hope they are successful. We all hope this endeavor leaves us where this country needs to be. But certainly a lot else is going on as well.

Here we are on the floor of the Senate debating a budget resolution that has been put forward by the majority party.

I am one of those who come to the Chamber to express my serious concern that the budget before us does not include any funds to pay for the war in Iraq, nor does it pay for the peace we hope will ensue afterwards. We do not know what the cost is going to be. Yet hidden inside this budget is a major tax cut that will make it impossible for us to be able to provide what is important for the country, whether it is a war in Iraq or, as my constituents are worried about, a conflict in North Korea, if one occurs there as well.

Also, in this budget we are looking at tremendous cuts to the education of our young children. It is especially important today, as we face the uncertain future of where we go from here, that we give some certainty to the children in our classrooms, because now more than ever we need to make sure they have a solid education, that they are capable of making it through school with the skills they need so they can help get our economy back on track and make us strong for whatever future conflict the country may find itself in, but also so they can be productive adults.

Not very long ago this body passed a bill called No Child Left Behind. It was a promise from the President and all of us who worked on it that we would put in place for the first time strong accountability rules for the public education system. We would hold schools, teachers, and principals accountable to make sure our students met the high standards we were setting. But that was not all the legislation promised. It also promised that we would fund what was necessary to help our children reach those goals.

It promised that every classroom would have a high-quality teacher. That is a problem in our country today where many teachers are in classrooms where they don't have the skills they need to teach the subjects they are required to teach. It requires in this bill that we have a highly qualified teacher in every classroom. That doesn't just happen. It happens because we make sure the resources are there to do it. Without the money to make that happen, we have passed on an unfunded mandate to the States.

We said in No Child Left Behind that children will be in an environment where they can learn. Far too many children are in classrooms that have 35 or 40 children in first, second, and third grade classrooms. There is no way those children who come to class, many of them in very difficult situations, have the ability to learn basic math, science, English, writing skills because they don't have the time of a teacher when there are too many kids in the classroom. We need to make sure we help provide the resources so we don't set kids up to test but that we actually provide the resources so they are in a small enough classroom with a highly qualified teacher.

The budget before us does not provide funds for this. It only comes through with half of the promise we gave to our children several years ago that we would leave no child behind. It leaves the promise of testing, but it does not fulfill the promise of funding.

The amendment I have sent to the desk will fully fund the No Child Left Behind Act. It says it is a priority of our country that we will not just pass an unfunded mandate on to States but that we will assure that children have afterschool programs so they can get the extra skills they need to catch up and pass the tests we are requiring them to take. It means we will fully fund title I funding so that 6 million of our most disadvantaged students will not be left behind. It provides funds for English language acquisition and safe and drug free schools and, importantly, rural education.

The Presiding Officer knows, as I do, that in many of our rural school districts we have a difficult time attracting qualified teachers. They often leave to go to urban or suburban schools where it is easier to teach. We want to make sure that even if there are only 40 kids in a school building, that they get the same help and instruction and qualified teachers so they can learn the skills they need to pass the tests we have required of them. My amendment will make sure that we fund the rural education programs.

If we don't do this, we are passing an unfunded mandate on to States at a time that they cannot afford to take it. My State legislature is facing a $2.5 billion budget deficit right now. They are struggling to come to some difficult decisions. It is extremely unfair of us at the Federal level to tell them, while they are struggling through these budget decisions, that they now have a new unfunded mandate of making sure children pass tests; otherwise, their schools are failing and not providing the funds to make sure that happens.

Our State legislators do not have the funds to fund a Federal mandate. If we will not follow through with the funding, we cannot keep the first half of No Child Left Behind that says that schools have to be held accountable. I don't want to lower the standards. I don't want to take that accountability away. But I also do not want to pass on an unfunded mandate to schools today when they are struggling with fewer resources because our own State legislatures are having difficulty in these tough economic times giving them the tools they need. I hope we don't fail at No Child Left Behind by not providing funding but providing the mandates.

It will be imperative for this Congress to come back and revisit this if we don't provide the funds because I assure you every school board member—and I was a school board member at one time—will be back here screaming about unfunded mandates. We will end up having to take steps backward in accountability in order to accommodate them. I don't think that is where any Member here wants to go.

The amendment I sent to the desk will help us reach that goal by fully funding the No Child Left Behind Act so we can keep both sides of the promise that we made to the children and to the parents and to the school employees and to the districts across the country that when we said No Child Left Behind, we said accountability, but we also said resources.

I stand here terribly conscious that Senator Wellstone no longer sits behind me because of the tragedy that occurred right before the election of last year. I know if Senator Wellstone were here, he would be walking up and down this aisle yelling about the fact that we can't educate kids on a tin cup budget.

I will tell you, the Republican budget that is before us today is a tin cup budget. It is a budget that does not provide the resources that our young people need in order to be able to learn, in order for teachers to educate our children, and for them to be a success.

It would be a tremendous setback for this country in terms of education if we don't pass this amendment and assure that our schools are funded.

It is a difficult day for all of us to be in the Senate debating these critical issues. We all know that hanging over us is a war that could possibly begin at any time. Our hearts are heavy with what could occur in the next few weeks and months. But it is also a time that we cannot abandon our young children. They are counting on us as the adults to make the right decisions for them and not to forget them in this time of crisis. If we don't pass this amendment and fully fund No Child Left Behind, it will send a message to every child that we have forgotten them. I will not do that. I will work hard every day to make sure we fund the important education structure and give our kids the

opportunity to learn and succeed. That is a commitment every one of us should take as a tremendous responsibility.

I know there are other Senators who wish to speak on the amendment. I will yield the floor in a few minutes.

I want to make a few more comments before I do that. I see Senator GREGG is here as well. I know we have to debate what is full funding and what should be our responsibility. But I think the outlines of No Child Left Behind are fairly clear in what our commitment is to young people. If we don't fully fund title I to give disadvantaged students the opportunity to learn, we are requiring them to take a test and not giving them the resources they need, coming from a disadvantaged background, to be able to pass those tests. I think that is a pretty sorry statement in the Senate.

The amendment I am offering has $8.9 billion in funding for Function 500, so it will fully fund the No Child Left Behind Act. As I stated earlier, the programs that it will fully fund are title I, teacher quality, class size, English language acquisition, after-school centers, and rural education. It also includes sufficient funding to restore the President's cuts that are in the Republican budget before us for programs such as smaller learning communities and dropout prevention programs.

The amendment also includes $8.9 billion for deficit reduction. I think both the education and deficit reduction funding are extremely important right now. This is all taken from the dividend tax cut.

I know we are going to have a tax debate later on, but I have talked to many of my constituents across the State of Washington, and when they are given the choice of whether or not to have a tax cut that actually doesn't benefit many of the residents of the State of Washington or this country or the opportunity to provide a good education for young children who are in school today, they all choose that their money be spent on young children so they can have an opportunity.

Bill Gates is a constituent of mine. He is a wonderful success story. He will benefit tremendously from the tax cut in the Republican budget. But I think he and most of my constituents agree that they would benefit much more from a citizenry that is left behind that is educated and capable of producing and capable of producing another Bill Gates in the future.

If we rob our children of an education, we are also robbing ourselves of future entrepreneurs who can be successful businessmen, businesswomen, and be in walks of life that help create new jobs for the future. It is very shortsighted to not fully fund No Child Left Behind for the future of the country.

We will have other amendments, I know, during this budget debate, to fully fund IDEA. That is an issue this Senate has taken up and talked about many times. We actually had hoped to fully fund IDEA not that long ago, but we were told we had to wait for reauthorization. We are still waiting for the reauthorization bill to come over, and we still have not fully funded IDEA.

I know Senator KENNEDY is on the floor as well. He has been a staunch proponent of fully funding education for our young children and is even concerned about the Pell grants and their funding in this budget. We have many students in college who are struggling to pay their tuition and are finding themselves taking out loans of tremendous size just to get through school, and they are graduating with thousands of dollars in loans. It is really important that we don't leave a generation with huge debt, trying to pay them off, if we want our economy to get back on track.

Senator KENNEDY will talk later on the importance of increasing the Pell grant funding so that we leave fewer students with tremendous loans in the future. I know Senator DODD will be out here also to talk about Head Start and day care and other issues affecting young people.

Let me conclude by saying that there are thousands of young children in this country who are waiting anxiously to see if the U.S. Senate can live up to the obligations of the No Child Left Behind Act that was passed not long ago. Today, we will have an opportunity with the amendments that I have to let the young kids know that we in this country are ready to stand by them.

I thank the Chair and yield the floor.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I ask unanimous consent that we vote in relation to the Murray amendment at 5 o'clock this evening, with the time until then equally divided. I know my colleague from Washington spoke, but I say the time divided equally on the amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. NICKLES. Mr. President, I am trying to understand the amendment. I have not looked at it totally. The Senator's amendment would increase funding in this education function by $8.9 billion for fiscal year 2004?

Mrs. MURRAY. The Senator is correct.

Mr. NICKLES. We have a 10-year budget. Do you increase funding in 2005 or 2006 or any of the outyears?

Mrs. MURRAY. This just sets the appropriations level for this year and 2004.

Mr. NICKLES. You also increase taxes, or decrease the tax cut—whichever language you want to use—by an amount of how much?

Mrs. MURRAY. The amount in the amendment reduces the tax cut by $17.8 billion.

Mr. NICKLES. Now, what percentage of an increase in the—$8.9 billion is what percent of an increase over the money being spent this year?

Mrs. MURRAY. It is approximately an 8-percent increase.

Mr. NICKLES. My calculation is that it is closer to 40 percent.

Mrs. MURRAY. Well, I am happy to doublecheck to answer the Senator, but I would be astounded—I believe it is an 8-percent increase over the funding level.

Mr. NICKLES. Will the Senator yield further?

Mrs. MURRAY. Yes, absolutely.

Mr. NICKLES. Doesn't your amendment deal only with No Child Left Behind?

Mrs. MURRAY. It ensures that we fully fund No Child Left Behind for fiscal year 2004 and the programs within the No Child Left Behind.

Mr. NICKLES. Correct me if I am wrong, but isn't that figure $23.6 billion, and so you would increase that amount by $8.9 billion, and isn't that closer to 40 percent?

Mrs. MURRAY. You are talking about the overall education funding. I am talking about the No Child Left Behind Act.

Mr. NICKLES. We will have to debate that. I believe I am talking about the No Child Left Behind. I believe you are increasing that by about 40 percent, which is kind of hard to understand.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. I am happy to yield to my colleague from Massachusetts. I want to clarify that the vote that will occur at 5 o'clock will be on the amendment that I have offered; is that correct?

Mr. NICKLES. On or in relation thereto.

Mrs. MURRAY. No amendments will be in order prior to the vote.

Mr. NICKLES. I am reserving the right to table the amendment, and no amendment prior to that vote. We still would have the option for a motion to table, and if a motion to table wasn't successful, to offer a substitute amendment.

Mrs. MURRAY. I yield to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, the budget that is before us at this present time is about one basic and fundamental issue, and that is the issue of priorities, the issue of choices, how we are going to allocate scarce resources in this country.

The fact is that the Republican budget has said we will add $1.6 trillion in additional tax breaks, most of which will go to the very wealthy individuals in this country.

The Senator from the State of Washington says, no, let's just take $8.9 billion of that and designate that for the No Child Left Behind Act, and then let's take another $8.9 billion towards reducing the deficit that we are additionally creating with the $1.6 trillion in additional tax reductions.

The question is very simple: Do we want to educate the children of this country, or do we want more tax breaks for the very wealthy? That is the issue before the Senate.

It is going to be clouded up with a lot of other kinds of rhetoric, but it is a choice. Do you want to educate the children, or do you want more tax breaks? That is the issue. That is the issue.

Mr. President, I will use figures from the Department of Education. The Department of Education—this is their document—for the year 2003, the total figure for education is $53 billion. And now the President's request is $53 billion. There it is. That is the Republican President's request on No Child Left Behind—effectively flat funding. Flat funding.

Now, we know the President of the United States worked with the Congress—Republicans and Democrats—to enact the No Child Left Behind Act. That added important reforms and accountability—accountability for the children to perform, accountability of the schools to teach, accountability for the teachers to learn and to be well-qualified, accountability for the parents to become involved, accountability on the local communities to have responsibilities. It also had accountability for the Congress of the United States to fund that program, and this administration has abandoned that accountability. It has abandoned it. The documents from the administration's Department of Education show that.

At this hour, the Senator from Washington is saying: We do not want to abdicate our responsibility. Maybe the administration does, but we do not, and the Senate will have an opportunity at 5 o'clock to indicate whether they prefer to give additional hundreds of millions of dollars to the wealthiest individuals, or to meet our fundamental commitment to children and parents, 55 million of them across this country, and make sure they have a well-qualified teacher in their classrooms, make sure there are going to be after-school programs to assist these children, make sure they have a sound curriculum, make sure that the tests are going to test those children on that curriculum, and that if a child falls behind, they are going to get the supplementary services they need. This is all at a time when the States are in deficit of $90 billion. A third of that money is education; 75 percent of that is for K through 12.

The children are being put through the wringers. They are being put through the wringers in all 50 States. I will not take the time to read from letters from teachers and superintendents of schools or school boards, but that is the message they are sending.

We made a commitment, a promise to those children and to their parents. The choice is very simple: Are we going to meet that commitment in supporting the amendment of the Senator from Washington, or are we going to give additional tax breaks to the wealthiest individuals? It is as simple and fundamental and basic as that, Mr. President, make no mistake about it. I hope later on we will have a chance to do something about that.

Finally, on the President's proposal for education, if we look over the period to the year 2010, with the requests that are being made in the President's budget there are still 5.6 million children left behind. There it is under this administration. I remember when the administration wanted the title ''No Child Left Behind,'' and we talked about that in our conference. As we talked about that, we said: Are we really going to leave children behind, or is this going to be a commitment? It was clear to me that Republicans and Democrats in the conference said: This is going to be a commitment.

Unless we accept the amendment of the Senator from Washington and unless we are going to start on a glidepath towards funding No Child Left Behind, we are going to leave millions of children in this country behind. Which is it, Senate of the United States: billions more for tax breaks for wealthy individuals or investing in the children who are out there tonight, today, this evening, studying hard, trying to make a go of it and finding out that instead of having maybe 15, 18, 20 pupils in a class, this year there are going to be 25 or 30 in it? And we can go down the list. Every Member knows that.

It is a question of priorities, and the Murray amendment is as clear as can be. I hope when the time comes, the amendment will be accepted.

I reserve the remainder of our time.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, what is the status of the time?

The PRESIDING OFFICER. The Senator from Oklahoma retains 26 minutes. The Senator from Washington retains 10 minutes 40 seconds.

Mr. GREGG. I ask to be yielded 15 minutes.

Mr. NICKLES. I yield 15 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. GREGG. Mr. President, first, I always enjoy hearing the Senator from Massachusetts and the Senator from Washington discuss education, especially the Senator from Massachusetts. I appreciate the fact we put microphones in the Chamber because that certainly helps me hear him as we go forward.

I wish to start, however, with the question of the budget. I thought I would bring along the budget on education that we passed last year when the Democratic membership controlled the Senate. So I did, and here it is.

You may be asking, Where is it? It did not pass. The budget on education was not even brought to the floor last year. An epiphany has occurred. Suddenly, they are concerned about education. Suddenly, they are interested in education enough to debate it in this budget. But where were they last year? Where were they? They were not on the floor of the Senate promoting a budget to promote education. This is their budget last year on education. A blank page.

We have to go back in history to find out what the position of the membership of the other party is relative to the issue of funding education in comparison with what this President has done.

This President has dramatically increased funding for education, and if we compare his commitment to education to the prior administration's commitment to education in the years when the prior administration proposed education funding, we will see that in the last year of the Clinton administration, there was $42 billion being spent on education. This year, a proposed $66.5 billion is being spent on education by this President.

President Bush's commitment to education has been the second largest factor of increase in the Federal budget over the last 3 years. It has meant real dollars going to the issue of education.

Now let's turn to the question of title I, which is the purpose of this amendment, which is the No Child Left Behind issue. Let's look at all the issues for a moment. Let's compare what the Democratic leadership did when they controlled the Senate versus what we have done under Republican control of the Senate over the last few years.

From the period 2001 to 2004, when we had Republican leadership in the Senate, the red bars reflect increases in education funding for title I, for IDEA, Pell grants, and total discretionary education. Increases from the Democratic side of the aisle during this same period were minuscule; in fact, one was even a negative in the Pell grant area during that same period. There are dramatic increases coming from this President.

Let's look at title I because this is the most stark, dramatic, and I think precise chart we have to reflect what is really being done.

Since the Republicans took control of the Senate and the Congress, we see these huge increases in funding for title I: $1 billion a year since President Bush has been in office. Every year, $1 billion, $1 billion, $1 billion on top of the prior amounts, as compared with 1993 through 1995. In fact, if we went back further, it would be worse coming in from the prior administration. So the commitment has been there.

If we look at the history of title I increases, which is what this amendment is about, and compare what President Clinton did when the Democrats were in control to what President Bush has done since he has been in charge, during the 1994 to 2001 period, over the 8-year period, President Clinton proposed $2.4 billion in increases in title I funding; in 3 years, President Bush has proposed $3.9 billion in increases in funding.

It is very easy to come to the floor in a difficult fiscal time when we are facing a war, when there are a lot of pressures on us because of a deficit, and say you have no responsibility because you do not produce budgets that you are willing to increase spending ad infinitum, which is what this amendment essentially does. It is a little more difficult, however, in a time of deficits, when we are at war, to come forward and actually increase spending, which is exactly what President Bush did.

I note, during this period, 1994 to 2001, we were running surpluses. The opportunity was there to increase spending without a great deal of choice in the area of priorities. Today it is a much tougher situation, and the choices on priorities have been made, and President Bush is committed to that funding.

Now I will go to one other chart, which I find absolutely startling because I think this shows some of these amendments we are going to be getting from the other side, especially on the issue of education, are taking advantage of the fact that the other side does not have to produce a budget.

Let's look back when they did, theoretically, have to produce a budget. Of course, they did not. We could go back to their budget, which was a blank page, but they did produce an appropriations bill, which they never passed. In fact, they never even called it to the floor of the Senate. It took the Republican Congress 2 weeks to pass it. The other side had a whole year. They were not able to do it, but we were able to do it. I will get into the numbers there, but the fact is when they produced their budget, or their appropriations bill, what did they have in their numbers for funding? They had $11.8 billion. What was the authorization level? It was $16 billion. So by their own terms, the last time they had control, the last time they had the opportunity to do the job of governing, they underfunded the title I account by $4 billion—by their terminology, not by mine.

How many children did they silence, to use the term of Senator KENNEDY? How many are added up in that $4 billion figure? I do not know. Personally, I do not think that is a proper way to address it, but if those are the terminologies one is going to use, then what is good for the goose is good for the gander. The fact is they were $4 billion short of their own goal. So a lot of what we are hearing today is tilting with straw dogs when it comes to the issue of how much is being spent and who is spending what.

Let's look a little bit, though, at what this President has done—a 145 percent increase in education funding, as compared with health, as compared with defense, a huge increase.

The argument is being made that title I has not been fully funded because the authorization levels have not been met. That, of course, goes to this chart. If we were to fully fund every bill that has been authorized by this Congress—well, just by our committee—we would be talking trillions of dollars. We all recognize that authorization level is not the level at which we end up. We end up at an appropriated level. And the question becomes: How do different accounts compete within those appropriation accounts? Who is being successful, who is not? Where are the priorities? Where are the choices being made?

The point this chart unalterably makes is that as far as this administration is concerned, the priority is education—a billion dollars of new funding for title I every year since this administration has been in office—in fact, $1.5 billion one year, I think, and $1 billion for special education funding every year since this administration has been in office, which compares rather starkly, as I mentioned, with the Clinton years in the area of title I, where essentially there were very little funding increases. Over 7 years, it was $2.4 billion as compared with $3.9 billion for the Bush administration.

The issue of whether or not this is an unfunded mandate is a total misrepresentation relative to No Child Left Behind. The fact is the funding that is flowing into the States to support No Child Left Behind is flowing in before the States and the communities have an obligation to do things under No Child Left Behind. We are actually prefunding many, if not all, of the obligations which the States are assuming under No Child Left Behind to the extent we ask them to do things.

For example, testing regime. In the State of New Hampshire it costs about $300,000 to produce a test. Under No Child Left Behind, we have asked that instead of testing three grades, they are going to have to test three more grades, a number of more grades, actually, but they do not have to have those tests up and running for awhile. However, we are giving them the money today to design the tests. Not only are we giving them money, but on the average we are giving New Hampshire at least $500,000 to develop new tests. It only costs them $300,000 to do the test. They are making $200,000 per test that they develop, and that is true across the country.

It is also true of the basic funding regime relative to issues, for example, like teachers. We heard a little talk about teachers. The President's commitment for funding for teachers is up 35 percent over what the prior administration did, a $726 million increase coming into this year.

More importantly, under No Child Left Behind, we no longer put strings behind those dollars. We say to the local school districts, instead of having to use this new money, the 35 percent increase in funding for education for teachers and for teacher support, instead of having to use that money to hire more teachers, you, the principal, can make the decision to use that money to hire more teachers, if that is what you need, to pay your best teachers more, if that is what you think is going to get you good teachers to stay there, to give your teachers better education by sending them out to schools and getting supplemental education for them, by giving them technology support. You have the choice. You, the school district, are going to get this extra money. Plus, you are going to get it without strings. You are going to have flexibility as to how to use it so you can make that dollar go further.

So to represent that the teacher side of the No Child Left Behind bill has not only been underfunded but is not being adequately managed is just inaccurate. The fact is, it has been funded, it has been increased, and it is a dramatically more liberal use of the dollars at the discretion of the local school district. I know they are going to get more for the dollars spent.

Now I guess we are going to have time later on—I ask the Chair how much time I have remaining?

The PRESIDING OFFICER. Two minutes.

Mr. GREGG. The record on special education is even more dramatic. Where the Clinton administration essentially flatlined special education for 8 years, this administration has increased it, by historic levels, over a billion dollars a year every year—dramatic increases for special education.

We will get into that. We will get into the issue of the Pell grants, where the numbers are equally stark, where this administration has made huge commitments in comparison to the time when the responsibilities for funding education actually fell into the hands of our colleagues across the aisle. But what we have today, unfortunately, is an attempt to use the lack of responsibility to have to produce a budget to throw out numbers which are irresponsible and claim that they are responsible.

The last budget the Democrats produced on the issue of education was a blank. That is what they brought to the floor on the issue of education last year, whereas the President of the United States stepped up to the plate and increased title I funding by $3.9 billion in 3 years. That is real commitment to the kids of America.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I ask unanimous consent that Senator DODD be listed as a cosponsor on my amendment.

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

Mrs. MURRAY. I yield 2 minutes to the Senator from Massachusetts and then 4 minutes to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I ask unanimous consent that the Department of Education's fiscal year 2004 President's budget be printed in the RECORD.

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

DEPARTMENT OF EDUCATION FISCAL YEAR 2004 PRESIDENT'S BUDGET

[In thousands of dollars

Office, account, program and activity	DIM	2002 appropriation	2003 President's request	2003 appropriation	2004 President's request	Change from 2003 appropriation
Contributions (DEOA, section 421)	M	485	0	0	0	0
Outlays	M	469	85	0	0	0
General fund receipts:						
1. Perkins loan repayments	M	(39,041)	(50,000)	(50,000)	(50,000)	0
2. CHAFL downward reestimate of loan subsidies	M	(27)	(27)	(27)	0	27
Total	.....	(39,068)	(50,027)	(50,027)	(50,000)	27
Outlays, Total	.....	(39,068)	(50,027)	(50,027)	(50,000)	27
Budget authority total, Education Department	.....	55,747,031	60,403,502	60,962,382	63,626,734	2,664,352
Discretionary funds	D	[2] 49,505,598	[2] 50,309,879	[2] 50,868,759	[2] 55,383,203	4,514,444
Mandatory funds	M	6,241,433	10,093,623	10,093,623	8,243,531	(1,850,092)
Outlays total, Education Department	.....	46,285,284	59,379,318	59,753,542	58,864,922	(888,620)
Discretionary funds	D	41,305,647	50,039,352	50,272,152	51,170,323	898,171
Mandatory funds	M	4,979,637	9,339,966	9,481,390	7,694,599	(1,786,791)

[1] Excludes funds for increased agency pension and annuitant health benefits costs, which are currently paid from a central Office of Personnel Management fund: $23,728 thousand in fiscal year 2003 and $22,528 thousand in fiscal year 2004.

[2] Excludes a total of $15,011,301 thousand in advance appropriations that becomes available on October 1 of the succeeding fiscal year.

[3] Excludes a total of $17,255,301 thousand in advance appropriations that becomes available on October 1 of fiscal year 2004.

Note: Appropriation totals displayed above reflect the total funds provided in the year of appropriation, including advance appropriation amounts that do not become available until the succeeding fiscal year. The total budget authority reflects funds that become available in the fiscal year shown, which includes new amounts provided for that fiscal year and amounts advanced from the prior year's appropriation.

Note: This budget replaces the table prepared when the fiscal year 2004 President's Budget was transmitted to Congress on February 3, 2003, prior to enactment of the fiscal year 2003 appropriation. The fiscal year 2003 appropriation has since been enacted and is included in this table. The fiscal year 2004 President's budget remains the same as requested on February 3.

Mr. KENNEDY. What it shows is the appropriations for 2002, $49 billion; the President's request is $50 billion. They added $400 million. Then the appropriations went up $3 billion because of the activity on the floor of the Senate. The next year the administration asked for $26 million—an increase of 5/100th of one percent. Let us look at the point my good friend, Senator GREGG, left behind. The point he has not disputed is we have 6.2 million children who are left behind. Let's forget what happened to the Republicans, let's forget what happened to the Democrats, and say let's accept the Murray amendment that will include 3 million more children. Let's not argue about the past. Let's argue about the future.

This amendment will increase by 3 million the number of children who will be covered. We have a chance to do that tonight. We have a chance to do that at 5 o'clock. That is what we are asking the Senate to do, instead of having additional tax breaks for the wealthiest individuals in this country.

Put the children first. That is what the Murray amendment would do.

I hope my good friend from New Hampshire will join us hand in hand together and support the Murray amendment, and we will cut in half the number of children being left behind.

Mr. GREGG. Will the Senator from Oklahoma yield a couple of minutes to respond?

Mr. NICKLES. I yield 4 minutes to my colleague.

Mr. GREGG. The Senator from Massachusetts argued it might have credibility and might have legs were it not for the fact there is presently—because of the huge amount of money the President of the United States, George Bush, has put into this account—there is presently unspent title I dollars representing billions.

Mr. KENNEDY. Will the Senator yield?

Mr. GREGG. Is this a question?

Mr. KENNEDY. Yes. The Senator is not surprised on that because they always commit that money in July of the next year. You can use all the charts you want; it is committed and it is expended in July. Everyone understands that.

Mr. GREGG. I appreciate the Senator's question, and I am sure it was a question, although I never really actually heard the question.

But I make the point this is 2001 money, 2 years ago; August has already come and gone for 2001; and 2002 is fast approaching.

The fact is, we are putting so much money in the pipeline so fast because we are prefunding this issue, as we should be, that we are not creating an unfunded mandate. We are actually creating a situation where many States are, for at least the moment, not making money but seeing a significant surplus in the amount of money coming in relationship to the amount of money they are having to spend to reach the goals of No Child Left Behind, which, as we all know, is to give low-income kids a better shot at the American dream by educating them properly.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, let me speak for the 4 minutes I was allocated by the Senator from Washington to support the amendment Senator MURRAY and Senator KENNEDY have put forward. I compliment them on the leadership they provide on education issues and this amendment in particular.

I heard my colleague from New Hampshire talk about how we cannot just increase funding ad infinitum, that what this amendment would do is throw out numbers that are irresponsible. That was one of his phrases.

As I understand the amendment, and the reason I am cosponsoring the amendment, this amendment proposes to fully fund the No Child Left Behind Act. All it is saying is we made an agreement on a bipartisan basis. The President participated in that agreement. We told the people of our States and our school districts that we were going to provide a certain level of support to help them implement the No Child Left Behind Act. The budget before the Senate does not do that.

The suggestion is made that the reason it has not done that is because there is surplus money that has come into the State and we prefunded things and they have not been able to spend the money in the pipeline. This is news to the school districts in my State and to the people involved with trying to educate the children in my State. In fact, when I go home, what I hear from people in my State is that we have these new requirements, we need assistance, we need resources. If you want us to train teachers' aides, which we want to do, if you want us to raise the level of qualifications of our teachers, which we want to do, please help. Please come through with the resources that were committed in the No Child Left Behind Act. That is exactly what this amendment tries to do.

The other comment I heard was we cannot fully fund every bill that is authorized in this Congress. That is not what the Senator from Washington and the Senator from Massachusetts are proposing. They are saying, let's just fully fund this bill. Let's take education and recognize that it needs to be a priority.

In this budget resolution, we have over $1.3 trillion in tax cuts. Now, is it too much to say that $8.9 billion of additional funds should go into education? I don't think that is an unreasonable request. I think, clearly, the priorities of the American people would be with us, and they would agree, let's fully fund the No Child Left Behind Act before we start cutting taxes.

We all know we have enormous other expenses that are coming at us as a result of the war that is imminent in Iraq. I certainly intend to support those expenditures, but to suggest that we do not have enough money left to pursue our education funding, to keep the promise we made to the American people at the time the No Child Left Behind Act was signed into law, is very unfortunate.

I participated with the Secretary of Education when he came to my State and had something of a rally in Albuquerque to talk about No Child Left Behind and what a wonderful thing it was for the State. I supported that legislation. I supported it all the way through. I worked with my colleagues to try to be sure it made good sense and fit the circumstances of our State. But I did so always on the assumption that we would then come along and provide the Federal support to the States for local school districts to implement those improvements.

I think it is essential we do that. I think it is essential we adopt the Murray-Kennedy amendment. I hope our colleagues will support this amendment and keep faith with the young people of our country.

Everyone in this body gives speeches talking about how the future lies with the children of the country. We need to do right by them and adopt this amendment and make education a priority in this budget.

The pending budget simply sets the wrong priorities by providing over $1.3 trillion in tax benefits to the wealthiest while cutting education funding.

This budget abandons the promise to leave no child behind by cutting funding for the No Child Left Behind Act—legislation repeatedly embraced by the Administration and passed by a strong bipartisan vote just last Congress—by $700 million.

Under this budget, Title I—the program targeted on districts and schools with large numbers of disadvantaged students—would be approximately $5.8 billion short compared to the levels agreed to on a bipartisan basis in the No Child Left Behind Act. As a result, over 6 million poor children will be left behind.

In addition, over 500,000 children will lose access to after school services under these funding levels.

The budget before us also contemplates eliminating funding for key education programs—again enacted on a bipartisan basis last Congress.

For example, the budget contemplates eliminating funding for the dropout prevention program, at a time when the pressure is greater than ever to push at risk students out so they do not negatively impact school performance.

The budget also contemplates cutting existing programs that provide research-based strategies for schools to improve academic achievement and reduce dropout rates. For example, the smaller communities program provides funds to schools seeking to create personalized learning environments that research proves will increase student academic achievement, reduce dropout rates, and increase school safety. It is exactly the type of reform effort that we endorsed and indeed required in the No Child Left Behind Act. It is the type of program that we should expand, rather than eliminate.

If we truly intend to leave no child behind, education funding—particularly funding for the programs targeted toward the most disadvantaged children—must be our top priority, not our last.

The funding provided in this amendment would achieve that goal by providing funding sufficient to serve another 2 million needy children under the Title I program. In addition, every one of the 10,000 schools currently identified as not meeting the standards provided in the No Child Left Behind Act will be able to implement research-based school reform models.

We also will be able to maintain the current level of after-school services while expanding after school programs to another 1.3 million latchkey children.

We would be able to make substantial contributions to the quality of instruction by providing enough funding to hire 50,000 fully qualified teachers and provide professional development to 200,000 teachers.

Finally, we will be able to continue key programs such as the dropout prevention program and smaller learning communities programs.

This amendment can make a real difference for our states and local districts.

As my colleagues know, State cuts to education caused by ''the most ominous fiscal crisis since World War II'' make Federal support ever more crucial for local communities. States face a cumulative $80 billion budget deficit, with a dozen States cutting k–12 spending last year and another 11 poised to do so this year.

States and communities across the Nation are being forced to cut services due to increased demands and reduced resources. For example, in Oregon school districts are carving weeks of instruction off the school year. One thousand teacher positions have been lost in Oregon so far this year. The schools in Arkansas, Louisiana, South Dakota, and Colorado are cutting back to a four-day week to trim costs. In Alabama, the schools are being forced to raise the class sizes, cut back extracurricular activities, and lay off 2,000 teachers and support staff. In Kentucky, 1,000 teacher and support positions have been cut and their technology programs have been slashed. In Massachusetts, dozens of school nurses have been laid off.

As a result, it is not a surprise that a bipartisan poll recently demonstrated that a majority of Americans support increased Federal support for education and more voters name education as their top budget priority for next year than any other issue. Education ranks more than 10 points higher than the next 2 highest budget priorities—health care and terrorism/security.

I urge my colleagues to support the amendment and thank my colleagues again for their leadership.

Mr. SARBANES. Mr. President, I express my strong support for the amendment offered by Senators Murray and Kennedy to increase funds for the No Child Left Behind Act by $8.9 billion, fully funding this critical legislation. The amendment also includes $8.9 billion for deficit reduction. Both the education and deficit reduction funding are taken from the dividend tax cut. It is imperative that Congress sends a strong message in support of education that is accompanied by equally strong funding.

The budget resolution we consider today fails to provide sufficient funding for education programs at all levels. Despite the Administration rhetoric that places great importance on improving educational opportunities for all Americans, President Bush's budget underfunds a variety of programs—early childhood education, elementary education, vocational education, and higher education—that are especially important to families given the weak economy.

States are struggling with budget shortfalls, rising student enrollment, and an increasing number of students with limited English proficiency. At the same time, States are working to meet the new requirements of the No Child Left Behind Act. I supported the No Child Left Behind Act because I agreed with its principles—all public school children should be able to achieve and all schools should be held accountable when their students fail to do so. I believed the President when he said education would be a priority. But now we face a budget that does not make education a priority. Instead, we are asked to support a budget that somehow finds the money to provide a tax cut for the wealthiest individuals, but cannot do so for the education of our Nation's children.

This budget provides only a 2 percent overall increase for education programs, and some increases such as those for both Title I and IDEA, are largely paid for with cuts to other valuable education programs. Funding for the No Child Left Behind Act is cut by $700 million below fiscal year 2003 levels. It shortchanges Title I funding by $5.8 billion below the authorized level. Title I could reach only 40 percent of eligible low-income children at this level. This budget also cuts funding for teacher quality programs, after school programs, and eliminates 46 education initiatives.

The No Child Left Behind Act places a variety of new requirements on States and local school districts, including annual standardized testing and increased teacher certification. While we can expect our educators to do all within their power to improve our schools, we cannot expect this landmark legislation to be effective if they are not given the resources to implement these programs. If this amendment passes, over 2 million additional needy children will be served by Title I, after school opportunities would be extended to an additional 1.3 million latchkey kids, and 50,000 new teachers could become fully qualified.

I find it unconscionable that we can consider a tax cut aimed at the wealthiest Americans while purporting to be unable to adequately fund education programs. Now is the time to move beyond the rhetoric and show teachers, parents and students that we are sincere in our efforts to help them. I urge my colleagues to vote in favor of the Murray-Kennedy amendment.

Mr. KERRY. Mr. President, I am pleased to be a cosponsor of Senator MURRAY's amendment to the budget resolution that will fully fund the No Child Left Behind Act. I regret that I will not be present for the vote, but if I were present I would vote for the Murray amendment to increase education funding by $8.9 billion.

Unfortunately, both the budget resolution that we are debating and President Bush's proposed fiscal year 2004 budget do not fulfill the funding commitment that Congress made when we passed the No Child Left Behind Act into law. In fact, the budget resolution contains a $700 million cut in funding for the No Child Left Behind Act compared to the fiscal year 2003 levels.

The budget resolution's title I funding leaves more than 6 million disadvantaged children behind. There is no increase for teacher quality funds, even though nearly 40 percent of title I children are taught by teachers without a college degree in their primary instructional field and our schools will need to hire 2 million new teachers over the next decade. While 6 million latchkey children currently go without afterschool programs, this budget cuts afterschool funding for more than 500,000 children. And it eliminates all funding for rural education, dropout prevention, preparing tomorrow's teachers in technology, and smaller learning communities among other things.

We have said it time and again during debate on No Child Left Behind and since it became law: new reforms and stronger accountability systems are not going to work if we don't provide resources to ensure that all children can learn to high standards. That means providing the full authorized amount of title I funding, it means helping schools meet the major new requirements for teacher quality that the law imposed, and it means increasing not slashing funding for afterschool programs. I hope all of my colleagues can support this important amendment.

Mrs. BOXER. Mr. President, I would first like to thank Senator MURRAY for this critical amendment to deliver on the promise we made to the Nation's children by fully funding the No Child Left Behind Act.

It has been over 1 year since the approval of the No Child Left Behind Act. But we are not fulfilling the promise made in that law and are, in fact, leaving millions of kids behind. The Nation has made little progress toward improving the quality of our children's education. In fact, we have taken a huge step backward by actually cutting funding for the education reform law that was enacted.

The Murray amendment will not only alleviate the fiscal crisis in our schools so that they can provide a high-quality education for our children, but it will provide funding to keep our children safe in afterschool programs.

As the author with Senator ENSIGN of the bipartisan afterschool program that President Bush signed into law as part of the No Child Left Behind Act, I want to emphasize how important the Federal afterschool program is to children and families across America. Dozens of respected, independent studies tell us that afterschool programs keep children safe, reduce crime and drug use, and improve academic performance.

However, despite strong evidence that keeping children safe after school can reduce juvenile crime and prevent children from engaging in risky behaviors, the administration's budget for fiscal year 2004 slashes Federal funding for afterschool programs by 40 percent.

This unprecedented cut would result in over 81,000 children in California and almost 600,000 children nationally being pushed out onto the streets after school. Furthermore, by not fully funding afterschool programs at the level that we promised in the No Child Left Behind Act, we will be leaving over a million more children not just behind, but home alone.

We cannot afford to neglect our commitment to our Nation's children. The time for rhetoric has passed and now it is time to act. It is time to fully fund afterschool programs and the entire No Child Left Behind Act.

The PRESIDING OFFICER. Who yields time?

Mr. NICKLES. How much time remains?

The PRESIDING OFFICER. The Senator from Oklahoma has 10 minutes and the Senator from Washington has 4 minutes.

Mr. NICKLES. I yield 4 minutes to the Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I congratulate the Senator from New Hampshire and other Senators who have been working hard on the Leave No Child Behind legislation.

I am a new Senator and was not here when it was done. I watched it from a distance as a former Education Secretary, to see how the Federal Government, which contributes about $650 or so out of the $7,000 or so we spend per student in this country on K–12 education, could make a difference.

The principles of flexibility and accountability and the addition of more options for parents and significant additional funding have been a very good bipartisan start. The funding, which is the area at issue today, has been generous.

When I look at my own State of Tennessee, for example, we can always use a little more of the Federal dollars to help do what needs to be done, but the amount that has come in has been very helpful. For example, in fiscal year 2000—and this follows to a great extent what the Senator from New Hampshire said—and then in fiscal year 2001, President Clinton asked for $8 billion and then $8.3 billion. In fiscal year 2000, the Congress appropriated roughly what the President requested, and in fiscal year 2001, it appropriated $8.7 billion. Tennessee got $137 million in fiscal year 2000 and $141 million in fiscal year 2001 for title I funding, the largest federal program that helps low-income children. This is the money that focuses on leaving no child behind.

When President Bush came in, he asked for $9 billion and the Congress appropriated over $10 billion, and the share of title I funding for Tennessee went up to $152 million. In the budget we just finished in January, the President asked for $11 billion, and Congress provided $300 million more, and Tennessee's share went to $164 million. With the newest recommendation from the President, an increase of $1 billion, Tennessee is up to $174 million. These increases in title I funding are moving more rapidly than other parts of the federal budget.

Could it be more? Maybe I will suggest over time we spend more. But we need to recognize these are significant increases in spending to fund the new programs from the Federal Government, while staying within a reasonable budget.

In Nashville last week, I picked up an article about teachers, which you do not see that often, that talked about how much they appreciated the additional federal funding for ESL, English as a second language, and how it was helping and how the new money for this year, which we just finished appropriating a few weeks ago, is making its way into the school system. One of the teachers said this was the first year for major funding and it should really improve services.

So I stand here today to say that I compliment President Bush, and this Senate, and this Congress, for what they have accomplished in the last 2 years—significant increases in funding for title I and the IDEA program over what was being spent when President Bush took office, even in a time when we have a budget under stress and are considering a war. Education funding is growing at a more rapid rate, as it should, I believe, than virtually any other part of the budget. I am glad to see that.

I ask unanimous consent that the article from the Tennessean be printed in the RECORD, and I yield the floor.

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

[From the Tennessean, Mar. 17, 2003]

FEDERAL FUNDING HELPS DEFRAY LOCAL COST OF ESL PROGRAMS

(By Claudette Riley)

Students with limited English skills who enter Tennessee schools will now find classrooms that are better equipped than ever to meet their needs.

This year, the state received more than $2.24 million in federal funding to help public schools meet the needs of students served in English as a Second Language, or ESL, programs.

In recent years, local districts have shouldered the cost of providing the required services, with limited help from state funding or grants.

''This is the first year for major funding. It should really improve services,'' said Carol Irwin, ESL coordinator for the state Department of Education. ''It should put more professional development in place, pay for materials and technology, and hire more tutors and translators.''

Tennessee and other states with a steady influx of families from other countries are benefiting from a shift in the way federal ESL funds are allocated. National education officials used census data to determine how much each state would receive for this school year.

''It's made a tremendous difference. We went from a teacher and a half to a teacher with two full-time educational assistants,'' said Vivian McCord, director of federal projects for Dickson County schools. ''We meet with the children on a daily basis now, and they are given tutoring.''

Of the $2.24 million in federal funds allocated to Tennessee this year, nearly $1.8 million went directly to school districts, $112,000 was pulled out for administrative costs and another 15%—or $336,000—was awarded as grants to the school systems with the highest need.

''It's just encouraging for districts to know they'll have some financial help,'' Irwin said. ''The districts have been struggling to get this done.''

Based on existing numbers, the state will get $2.65 million in federal funding for ESL during the 2003—04 school year and nearly $3 million the next year, officials said.

''The numbers keep rising, and so we're getting more money,'' Irwin said.

The extra money is welcome news for the state's 138 school districts, many of which have reached deep into their own pockets to put the ESL programs in place.

The federal funding is helping us,'' said Sayra Hughes, coordinator of ESL for Metro schools, which received nearly $600,000 from the new funding. ''It's just an added bonus. It has assisted—the local funding is still there.''

The federal funding isn't expected to replace local contributions, but school officials said it would help them provide more staff and better services and materials.

Tennessee has 15,007 students in ESL programs, and 28.5% of them—4,283—are in Metro schools. The district received the largest chunk of the new federal funds.

''We're been able to purchase a lot of additional materials,'' Hughes said. ''We were able to increase the services provided by the tutor translators.''

Jan Lanier, chairwoman of the ESL department at Metro's Glencliff High School, said she would like to eventually put in a language laboratory and provide students struggling to learn English with better research materials and bilingual dictionaries.

''We have some, but we don't have enough for every class to have a full set.''

While district officials say the extra federal money is welcome, some note that it won't cover the cost of operating ESL programs.

We did have more money this year, but it didn't come close to covering what we spend on staff,'' said Andy Brummett, director of Lebanon Special School District. ''The majority of the money we spend to serve these children is local.''

The PRESIDING OFFICER. Who yields time?

The Senator from Washington.

Mrs. MURRAY. Mr. President, I ask unanimous consent to add Senator REED of Rhode Island as a cosponsor, and I yield him 2 minutes of my time.

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

Mr. REED. Mr. President, the choice before us is very clear: Are we going to devote $8.9 billion to tax cuts, most of them favoring the very rich, or are we going to devote $8.9 billion to the children and the schools of America? The choice is much more clear since the No Child Left Behind Act was passed because we made significant commitments to improve the quality of education in the United States while imposing significant responsibilities on the schools. The schools are expecting this money. The suggestion that there is a lot of money in the pipeline is interesting, but I would be shocked because that suggests the Department of Education is inept in getting money that is there to the schools that desperately need it.

There are 10,000 identified failing schools in this country. There are scores of children being taught by teachers without a college degree in their primary field of instruction. All of that needs remediation, help, and resources, but instead the budget before us provides billions in tax cuts when our schools desperately need that money.

It is not a question of what we did last year, it is a question of what we will do this year. It is a question of whether we will meet the needs of the American students and whether we will keep the promises of the No Child Left Behind Act. We are not keeping those promises in the budget that is presented to us by the Budget Committee. We should keep those promises, and by doing so, we will do something I believe every American wants more than tax cuts that favor very wealthy Americans. We want to see every child in this country have a decent education, succeed, contribute, and be part of this great country. That is what the Murray amendment does.

The choice before us is clear, compelling, emphatic: Put the money with the schools and the children, and our economy will be better, and our schools and students will be better. We can afford it because if we do not commit the funding to the children, it will go to tax cuts primarily to upper income Americans.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. NICKLES. How much time remains on both sides?

The PRESIDING OFFICER. Six minutes for the Senator from Oklahoma, 2 minutes for the Senator from Washington.

Mr. NICKLES. I yield myself 3 minutes.

Mr. President, when we marked up our budget, we put in a couple of billion dollars actually over the President's request. I mentioned to my colleagues then: No matter what we put in, there are going to be amendments on the floor to increase education.

I might show our colleagues—Senator GREGG did this far better than I—education funding under this President as compared to President Clinton has exploded. It has gone up dramatically. Title I, which addresses the issue we have before us on No Child Left Behind—if you look at the rate of growth we have in title I grants, it is a dramatic increase.

The Senator from Washington has an amendment. This might even show it better. It shows that the spending level basically in the last few years, under this President compared to the previous President, has had a dramatic increase. As a percentage, I might mention, it went up in title I percentages of 10.3, 18.1, 12.9, 8.6—big increases.

The Senator from Washington has an amendment that says let's do No Child Left Behind and let's go from $23 billion—let's add another $8.9 billion, which would be a 38.7 percent increase for 1 year. It says $8.9 billion. It doesn't sound like much. Most of the figures we are dealing with are over 10 years. This is 1 year. We only increased nondefense discretionary spending by $10 billion. This is $9 billion for education, and not all education, just part of education. I understand there will be amendments later to deal with IDEA, and we put in an additional $1 billion for IDEA, we put in an additional $1 billion for title I at the request of the chairman of the HELP Committee, who was a strong leader and made an excellent presentation.

No matter what we do, no matter how high the percentage increases we have, even if they are double digits, there are amendments that will say let's do more. This amendment says let's do 38.7 percent more. I think it is irresponsible, and I will urge my colleagues at an appropriate time to support a motion to table the amendment.

The PRESIDING OFFICER. Who yields time?

The Senator from Washington.

Mrs. MURRAY. Mr. President, we are about to vote on a very important amendment. Not very long ago, the Members of this body voted to pass a bill called No Child Left Behind. The budget that is put forward to us today will leave thousands of children behind if we do not fulfill the commitment we have made.

I have listened to the arguments on the other side. I have seen the charts and graphs. If there is one thing I have learned here in the Senate, it is that you can have a chart or graph to show whatever you want it to show. But what I do know is Senator KENNEDY showed on the chart behind us, 3 million more children in this country, 3 million more children need more funding if they want to meet the obligations of No Child Left Behind; 50,000 fully qualified teachers need to be hired; we need to provide training for 200,000 teachers. The numbers are really clear.

If you look at the Republican budget itself, their document shows 46 programs that have been eliminated in their budget: Adult education, community technology, dropout prevention, elementary and secondary school counseling, foreign language, physical education, rural education, vocational education. These are programs listed in their budget that they cut.

We can put up charts and graphs, but I can tell you one thing: The children in our schools, the parents who take their children there, the teachers who teach there, the community members who work in our schools all know when we pass a bill and say we are going to test our kids at the Federal level and we do not provide the resources to make sure those children can learn, we pass on an unfunded mandate that is irresponsible to our States that are struggling today.

The amendment we are about to vote on fully funds title I. It continues the effort to hire 100,000 qualified teachers. It helps to put high-quality teachers in the classrooms and continues to make sure we fulfill our obligations.

Tougher accountability without adequate reform is not reform, it is politics. We know our children need books, they need teachers, they need the programs, and they need the Federal Government to live up to its responsibility. That is what this amendment does.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Oklahoma.

Mr. NICKLES. I yield the remainder of our time to the Senator from New Hampshire.

Mr. GREGG. There have been a lot of representations here, but we need to go back to the fact that on our side of the aisle we had to produce a budget—and we did, something that didn't happen last year from the other side of the aisle relative to bringing it to the floor.

When the other side of the aisle was talking dollars, they were willing to give up on $4 billion relative to children in title I. That was their gap last year in their appropriating bill. For them to come forward this year and say suddenly that gap is an unacceptable event and inappropriate and inconsistent with everything that is right about taking care of our children in this country is truly a bit of an inconsistency, to be kind.

The issue of balancing this against a tax cut I find difficult. Tax cut for the rich? Sixty percent of the people who get the dividends cut, should we actually put it in place, are going to be senior citizens. It is their money. It is their money.

The issue is, how do you prioritize spending? The President of the United States has prioritized spending. He has put education right at the top of his priorities, at a much higher level than President Clinton put it—in fact, at a level so much higher than President Clinton put it that it represents a factor of two or three times what President Clinton did during his time in office.

He has done it at the same time as he has limited overall spending of the Federal Government. The spending on education in this bill significantly exceeds the overall spending of the Federal Government in all accounts except possibly defense, because we are at war. That is a hard commitment, and it translates into real dollars, $1 billion of additional money every year since he has been President for title I, for IDEA, over $3 billion of new money—$3.9 billion—for title I. Those are hard dollars, real dollars, done in a responsible budgeting way.

Mr. President, is my time up?

The PRESIDING OFFICER. Yes. All time has expired.

Mr. GREGG. Mr. President, I yield the floor.

Mr. President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion to table amendment No. 284.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS) and the Senator from Massachusetts (Mr. KERRY), are necessarily absent. I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote no.

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

The result was announced—yeas 50, nays 48, as follows:

[Rollcall Vote No. 60 Leg.]

YEAS—50

Alexander	Domenici	Miller
Allard	Ensign	Murkowski
Allen	Enzi	Nickles
Bennett	Fitzgerald	Roberts
Bond	Frist	Santorum
Brownback	Graham (SC)	Sessions
Bunning	Grassley	Shelby
Burns	Gregg	Smith
Chafee	Hagel	Snowe
Chambliss	Hatch	Specter
Cochran	Hutchison	Stevens
Coleman	Inhofe	Sununu
Cornyn	Kyl	Talent
Craig	Lott	Thomas
Crapo	Lugar	Voinovich
DeWine	McCain	Warner
Dole	McConnell	

NAYS—48

Akaka	Dayton	Leahy
Baucus	Dodd	Levin
Bayh	Dorgan	Lieberman
Biden	Durbin	Lincoln
Bingaman	Feingold	Mikulski
Boxer	Feinstein	Murray
Breaux	Graham (FL)	Nelson (FL)
Byrd	Harkin	Nelson (NE)
Campbell	Hollings	Pryor
Cantwell	Inouye	Reed
Carper	Jeffords	Reid
Clinton	Johnson	Rockefeller
Collins	Kennedy	Sarbanes
Conrad	Kohl	Schumer
Corzine	Landrieu	Stabenow
Daschle	Lautenberg	Wyden

NOT VOTING—2

Edwards Kerry

The motion was agreed to.

Mr. NICKLES. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

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

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

Mr. NICKLES. Madam President, for the information of our colleagues, this is Wednesday night. I ask the Parliamentarian, how many hours are left on both sides?

The PRESIDING OFFICER. On the majority side, there are 10 hours 17 minutes remaining. On the minority side, there are 11 hours 42 minutes remaining.

Mr. NICKLES. For the information of our colleagues, this is Wednesday. We are working very aggressively to finish this bill. I have tried to see if we could not advance a lot of the major amendments, including the 350 amendment. I have been trying to get that up all day. I have not been successful, but I understand we will have that up tomorrow.

Several people have been asking about this amendment. This is the amendment that would reduce the growth package from $725 billion to $350 billion. I suspect we will have votes on that tomorrow. It is my expectation tonight, for the information of my colleagues, as long as the majority leader is willing, we will stay in until midnight tonight. Several people said they did not want to have votes tonight, that they have other things to do.

I have consulted with my friend and colleague from North Dakota who has been a pleasure to work with on this resolution, and we both know we have a lot of amendments with which we need to deal. I urge my colleagues to work with us and not surprise us with their amendments, show us their amendments, and we will see if we can agree to them or work out a time agreement on them and see if we can finish this resolution in a timely, orderly fashion, in a way we would be proud to function. Sometimes the Senate does not do that when we handle budgets.

It would be my expectation that we would stay in at least until midnight tonight and consider several amendments. I believe we now have three amendments in order. Senator KYL has an amendment dealing with the death tax; Senator GRAHAM of Florida has an amendment dealing with prescription drugs; and Senators COLLINS and ROCKEFELLER have an amendment dealing with assistance to States.

We are willing to consider all those amendments and additional amendments tonight. I will yield the floor. It is our expectation there will not be any additional rollcall votes tonight, but that does not mean the Senate will not be considering amendments.

I urge my colleagues, if they have amendments, please work with Senator CONRAD and myself to have those amendments timely considered.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Madam President, let me rivet a point that the chairman of the budget committee is making. We have three additional amendments lined up, but we should do more amendments tonight. If we are serious about avoiding a vote-arama at the end, where we do not have a chance to describe amendments, we just have to vote on amendment after amendment, the way to do that is not to do our work now.

I say to some colleagues who have said they have to make a change in amendments, it is not convenient for them to come tonight, if we are going to get this done, they have to put aside convenience and get over here and offer their amendments. There is a limited amount of time remaining to debate and discuss amendments, and people are going to lose their opportunity—let me make that very clear on our side—to have time to debate their amendment. They will get a vote because the rules allow that, but they are going to lose their chance to debate and discuss it. So this is the time, if they want to debate an amendment, to get over here and offer the amendment.

Mr. DORGAN. If my colleague will yield for a question?

Mr. CONRAD. Be happy to yield.

Mr. DORGAN. I ask my colleague, and perhaps Senator NICKLES and the majority leader as well, I fully agree with the notion we need to move along, address these amendments, try to get through this budget resolution, but I also understand, as do most of my colleagues, that the potential of military action is imminent—perhaps hours, perhaps a day, perhaps two days, I do not know, but my expectation would be when military action is commenced and our sons and daughters of America are ordered to military action and in the field, almost every Senator will want to address and discuss that issue. My hope and expectation would be at that moment, when we see what is the most serious decision faced by our country, that is, sending our young men and women to combat, that we would want to leave the budget and have an ample amount of time for every Member of the Senate to address that issue.

I inquire of my colleague and others who are managing this bill whether that interval will be made available to Members of the Senate?

Mr. CONRAD. I respond to my colleague by saying I hope that would be the case if we find ourselves at war, that there would be an ample opportunity for Senators to address that. My own belief is that would be appropriate for the Senate to do, to turn its attention to a state of war. My own belief is it would be inappropriate for us to continue on with business as usual when we have our sons and daughters in harm's way.

I am very hopeful if it comes to that, during this period while we are debating the budget, that it would be set aside for a time so there would be a discussion in the Chamber and the Senators have a chance to express themselves.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Madam President, I have a couple of objectives. First and foremost will be an appropriate response to military action if our women and men are engaged in combat. There will be an appropriate response in terms of support for our Commander in Chief, as well as the military personnel, which will be discussed on the floor. There will be an opportunity to do that. At this juncture, we do not know when that will occur, if it will occur. In all likelihood, it will occur at some juncture. I think the fact we are hearing from both sides of the aisle that it is important to do—yet the time is uncertain—means I need to go back to the first point the chairman and ranking member made, and that is we have a lot of work to do; that the clock is ticking. The clock is ticking in terms of the budget process itself, in terms of the number of hours on both sides of the aisle. It is critically important that Members of this body come to the floor to offer amendments, to come up with specific language, to debate it and discuss it. That is the reason we are going to be here for the next 6 hours to give that opportunity to Members. We will start in the morning at an early hour in order to fulfill our responsibilities in terms of the budget. That is the plan.

We will finish the budget this week. It may be tomorrow or tomorrow night. It may be Friday morning, it may be Friday afternoon, it may be Friday night, but we will finish this budget this week.

Mr. DORGAN. Will the majority yield for one question?

Mr. FRIST. Yes.

Mr. DORGAN. Madam President, I, of course, think the response by the majority leader is perfectly appropriate. We do want to finish this bill. We ought to make progress and try and get it done. My only inquiry was if there is military action and if, in fact, our soldiers are in the field in hostile action, I agree with my colleague, Senator CONRAD, that I would not want us to be going through a vote-arama for 6, 8, 10, 12 hours with business as usual. I would very much want us, and I think most Members of the Senate would want us, to move off what we are doing and recognize that this Senate will want to express itself on these issues, not to be critical but I think to be supportive, supportive of our troops and supportive of this country's interests. We want this to go well and we want to express ourselves on it.

I am satisfied with the majority leader's response. I wanted to say I feel strongly, as do many others in this Chamber, about the desire to address our support for those troops who are ordered to action, if that is the case.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. As we talked about this morning, a resolution of support for President Bush, and the men and women, our troops, who will be in the field, is being developed in concert with the minority leader, myself, and others. We are working on that language, as the Senator well knows, as we speak.

If and when military action occurs, that will be brought to the floor in short order, with an opportunity to express that very important support.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. HARKIN. Will the Senator yield?

Mr. NICKLES. I will be happy to yield to my friend for a question.

Mr. HARKIN. Let me ask a question on process. A lot of us would like to offer amendments. This thing gets plugged up and goes on hour after hour. If the Senator wants to be in until midnight, that is fine. I have an amendment I would like to offer, but should I offer it at 8, 9, 10, 11, or 12? I would like some idea of where I am going to be in the queue, but just to say come and offer amendments is not very conducive to an orderly process. So if there is some kind of queue, will there be time limits put on these amendments so we have some idea of when we should come over to offer our amendments? Since we are not going to have any votes, it would be nice to have some idea of when we could come over and offer our amendments.

Mr. NICKLES. I will be happy to respond. Most of the amendments have been offered on the minority side, and we are happy to consider amendments. I have been urging people to offer amendments dealing with the growth package. We need to find out if the growth package is going to be zero, if it is going to be 350, if it is going to be 725. So I would encourage those amendments. We had those amendments in committee. We ought to have them on the floor. If we are going to have them, let us have them.

I have also encouraged other amendments. Members can work with our colleague, Senator CONRAD, as far as trying to prioritize which amendments might be next on the minority side. I think that would be the likely outcome.

Colleagues on this side have been consulting me as far as who would be next on our side, and so at that point I think we might be better served to

begin considering amendments. Right now we have three amendments in the queue. I believe Senator KYL's amendment will not be debated too long tonight, maybe 30 minutes.

Mr. KYL. At most.

Mr. NICKLES. Thirty minutes for his. I believe Senator GRAHAM of Florida is going to discuss the prescription drug amendment. That is a pretty big amendment, a couple hundred billion dollars, I believe, and so that may take a little longer discussion. Then I believe there is also a resolution to be offered by Senator ROCKEFELLER and Senator COLLINS. That may take maybe an hour, maybe less than an hour. We will be available for consideration of additional amendments. We may set aside a lot of amendments tonight and stack those amendments that require a rollcall vote. Maybe most of these will not require a rollcall vote, but we are willing to stack some of these for votes for the convenience of all Members.

Mr. SARBANES. Will the chairman yield on that very point?

Mr. NICKLES. Be happy to.

Mr. SARBANES. When does the chairman intend to vote on the amendments that are going to be offered and considered this evening?

Mr. NICKLES. I would expect that will be tomorrow afternoon. I will make that decision after consulting both the majority leader and the ranking member of the Budget Committee.

Mr. SARBANES. Presumably, then, if it is tomorrow afternoon, there would be added to the list other amendments that will be offered tomorrow morning, is that the procedure?

Mr. NICKLES. That is correct. I say to my colleagues, for their information, I did consult with Senator BREAUX and Senator SNOWE, and I believe they are planning on offering the 350 amendment in the morning. That is a very significant amendment, just so people will know that will also be in the queue tomorrow morning.

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

Mr. NICKLES. Be happy to yield.

Mr. DURBIN. I ask the Senator from Oklahoma, has anyone suggested a time limit on the debate on each of these amendments of no more than half an hour so more amendments can be debated? We know where we are headed. We are going to run out of time and some of the amendments will not even have 1 minute of debate if we are not careful.

Is it possible we could have a unanimous consent request to limit the debate to no more than half an hour on each amendment?

Mr. NICKLES. Responding to my colleague, it depends on the amendment. I don't know if we can agree to a half an hour agreement on an amendment that would increase spending on prescription drugs by $200 billion. That does not fit for a 30-minute discussion. Possibly other amendments might. So we will have to do an amendment-by-amendment basis.

The resolution says each amendment would have up to 2 hours. I am happy to shorten that when appropriate.

The PRESIDING OFFICER. Senator from North Dakota.

Mr. CONRAD. I wonder if, on the next three amendments, we might arrive at a time agreement for the convenience of our colleagues. The Senator from Arizona has been very generous. He has said we can have 30 minutes equally divided, something like that. Would that be appropriate?

Mr. NICKLES. We are not prepared to enter into that on that amendment yet, nor on the Graham amendment. Possibly on the Rockefeller-Collins and possibly after Senator COLLINS' amendment we might agree to some of these. But I don't think we are ready just yet.

Madam President, I yield to the Senator from Arizona for the purpose of introduction of an amendment.

The PRESIDING OFFICER. The Senator from Arizona.

AMENDMENT NO. 288

Mr. KYL. Madam President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. KYL] proposes an amendment numbered 288.

Mr. KYL. I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To provide financial security to family farm and small business owners by ending the unfair practice of taxing someone at death)

On page 3, line 9, decrease the amount by $200,000,000.

On page 3, line 10, decrease the amount by $5,200,000,000.

On page 3, line 11, decrease the amount by $10,200,000,000.

On page 3, line 12, decrease the amount by $34,600,000,000.

On page 3, line 13, decrease the amount by $31,600,000,000.

On page 3, line 14, decrease the amount by $34,100,000,000.

On page 3, line 15, decrease the amount by $36,600,000,000.

On page 3, line 16, decrease the amount by $31,100,000,000.

On page 3, line 17, decrease the amount by $33,700,000,000.

On page 3, line 18, decrease the amount by $58,100,000,000.

On page 3, line 19, decrease the amount by $63,900,000,000.

On page 3, line 23, decrease the amount by $200,000,000.

On page 4, line 1, decrease the amount by $5,200,000,000.

On page 4, line 2, decrease the amount by $10,200,000,000.

On page 4, line 3, decrease the amount by $34,600,000,000.

On page 4, line 4, decrease the amount by $31,600,000,000.

On page 4, line 5, decrease the amount by $34,100,000,000.

On page 4, line 6, decrease the amount by $36,600,000,000.

On page 4, line 7, decrease the amount by $31,100,000,000.

On page 4, line 8, decrease the amount by $33,700,000,000.

On page 4, line 9, decrease the amount by $58,100,000,000.

On page 4, line 10, decrease the amount by $63,900,000,000.

On page 41, line 22, decrease the amount by $85,000,000.

On page 41, line 23, decrease the amount by $85,000,000.

On page 42, line 2, decrease the amount by $4,692,000,000.

On page 42, line 3, decrease the amount by $4,692,000,000.

On page 42, line 6, decrease the amount by $9,406,000,000.

On page 42, line 7, decrease the amount by $9,406,000,000.

On page 42, line 10, decrease the amount by $33,617,000,000.

On page 42, line 11, decrease the amount by $33,617,000,000.

On page 42, line 14, decrease the amount by $30,324,000,000.

On page 42, line 15, decrease the amount by $30,324,000,000.

On page 42, line 18, decrease the amount by $32,408,000,000.

On page 42, line 19, decrease the amount by $32,408,000,000.

On page 42, line 22, decrease the amount by $35,018,000,000.

On page 42, line 23, decrease the amount by $35,018,000,000.

On page 43, line 2, decreased the amount by $28,750,000,000.

On page 43, line 3, decreased the amount by $28,750,000,000.

On page 43, line 6, decreased the amount by $2,515,000,000.

On page 43, line 7, decreased the amount by $2,515,000,000.

On page 43, line 10, decreased the amount by $336,000,000.

On page 43, line 11, decreased the amount by $336,000,000.

On page 43, line 14, decreased the amount by $347,000,000.

On page 43, line 15, decreased the amount by $347,000,000.

Mr. KYL. In the spirit of the day, I was going to take 30 minutes. I will take exactly half that time, 15 minutes, and perhaps later we can agree to a time limitation. We certainly should not need a great deal of time on this amendment.

This amendment is very simple. It simply moves forward 1 year the time for repeal of the estate tax or what is known as the death tax. As my colleagues know, we repealed the death tax permanently in the year effective January 1, 2010. This amendment moves that to January 1, 2009.

The reason for this is we can establish the proposition with this amendment that we do need to permanently repeal the estate tax. The budget that has been crafted by Senator NICKLES and his committee has accounted for 3 years of permanent repeal. So that is already accounted for in this budget. This amendment would bring that forward 1 more year, so we would have a total of 4 years of repeal of the estate tax accounted for in our budget.

We would still have to accomplish this, of course, by amendment or legislation. We cannot do it as part of the budget itself. This would create the opportunity for us to do that. That is the reason for my amendment.

Now, there are a lot of reasons we decided to repeal the estate tax, and I

don't think we need to repeat all of those tonight. The majority of this body supports repeal of the estate tax. We have passed repeal of the estate tax. There were good reasons for doing so, primarily because it is an unfair tax.

In addition to that, it hurts small business. If you have a business of, say, 25 employees and you have to sell your assets, your equipment, in order to pay your estate taxes, not only have you had to disband your business but you have also put 25 people out of work.

At this time in our economy where we are concerned about joblessness, where we want to create more jobs, not see more jobs disappear, knowing the estate tax is going to be permanently repealed even sooner than we anticipated will help businesses stay alive to provide the jobs and the economic growth we need.

We know by far and away the vast majority of the jobs in this country are created by small business.

There were a number of sponsors of our original repeal. I anticipate we will have a number of sponsors of this amendment.

I ask unanimous consent Senator SESSIONS be added as an original cosponsor of my amendment.

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

Mr. KYL. Rather than restating all the arguments for repeal, since we have already voted to do that, I will bring my colleagues up to date on some current research about what the American people believe about the estate tax.

A poll was conducted early this year between January 16 and 21. It was a poll of about three times as many people as are ordinarily interviewed. Over 2,500 registered voters were interviewed for this survey by a research company. Its findings ought to be of significant interest to my colleagues.

The bottom line is with respect to the estate tax. The conclusion of the poll is that the American people simply oppose, on principle, the concept of anyone being taxed on the death of their parents or their spouse.

I thought I would share just four specific results from this survey. When it comes to stimulating the economy, the poll confirmed that Americans overwhelmingly believe tax relief is more effective than increases in Government spending. This goes to the general proposition that is being debated between those who believe we should spend more to help our economy and those who believe we should provide tax relief.

The question was, Which is better for the Federal Government to stimulate the economy, increase economic growth, and create new jobs? And they were given two choices. One was the tax cut option, and the other was the spending option. Fully 68 percent chose the tax cut option, whereas only 20 percent said increased Government spending was the best for economic growth and the creation of new jobs.

Two of the subgroups are particularly fascinating. Among Democrats surveyed, the ratio in favor of tax cuts over increased spending is a healthy 2 to 1, 57 percent to 28 percent. I do not have it broken down by State, but among Democrats, if it is 2 to 1, I daresay among Republicans it is even more than that.

Among those with incomes below $30,000, 65 percent back the tax cut approach to improving the economy, while only 19 percent prefer increased Government spending. This is a significant finding in the survey.

If there is going to be a tax cut, the question is, Should everyone get something back or should we wait until we have a budget surplus? In other words, what of this argument that will be contributing to the deficit?

When given a choice of three options, even with the debate about the ballooning deficit, just one in four Americans, 24 percent, believe there should be no tax cuts for anyone until we have a budget surplus. Let me restate that. Only 24 percent of Americans believe it is improper to cut taxes while we have a deficit.

For those who believe the majority of Americans do not want to cut taxes until we are in a surplus situation, this survey demonstrates that is incorrect. Only 24 percent of Americans believe that.

To the third point, tax fairness. This is where we get into the death tax repeal specifically, but it relates to other taxes, too. As a general proposition, one expects people tend to favor taxes on someone else and to oppose taxes that affect them directly. And that is, as a general proposition, true. But what this survey of over 2,500 Americans just a couple of months ago confirms is that there is a very strong consensus that there are a couple of taxes that are absolutely unfair and it does not make any difference what demographic category you are in. Whether you are rich or poor, the overwhelming majority believes there are two taxes that are absolutely unfair, and there is an overwhelming consensus they should be repealed.

What are those two taxes? These are the two at the top of the list to the question, What tax do you think is completely unfair or completely fair? The two taxes people would repeal with the biggest majority are the Social Security benefit tax and the death tax.

Remember the tax that was imposed in the early Clinton years to actually tax Social Security benefits? That is very unpopular. Five percent of the people think it is completely fair; 62 percent think it is completely unfair.

With the death tax, 7 percent think it is completely fair and 62 percent also think that tax is completely unfair. Sixty-two percent of all Americans think it is completely unfair to have a death tax, and only 7 percent think it is completely fair.

All other taxes—marriage penalty tax, long distance phone tax, savings account tax, all the way down to stock dividends, payroll income tax, property tax, gas tax, sales tax, right down the list, and they get increasingly popular. The marriage penalty, 60 percent of Americans think that is completely unfair. We are doing away with that in the tax package we will present as part of the budget. Long distance phone tax, 38 percent of the people think that is unfair. Capital gains tax, 23 percent think it is unfair. Stock dividend, more think it is completely unfair than completely fair, 23 to 21, the payroll tax, and so on. You finally get down to an alcohol and beer tax. That is pretty unpopular. Only 8 percent think that is a bad deal; 57 percent think it is fine. It is pretty much the same number for the cigarette tax.

The bottom line is in this very recent extraordinarily large survey what we find is the two taxes the American people would repeal first and foremost are the tax on Social Security benefits and the estate tax. Fully 62 percent of the American people believe that tax to be completely unfair.

With regard to the death tax in particular, you would think that this would be a tax that rich people would really like to get rid of and poor people would like to keep. After all, by its very nature, if you have a business or family farm or have some wealth to pass on to your heirs, repealing this tax would benefit you more than someone who has absolutely nothing. What does the survey show?

Fully 65 percent of those with incomes below $30,000 believe the death tax is completely unfair. By comparison, a very interesting statistic, only 59 percent of individuals with incomes above $60,000 label the death tax unfair.

Ironically, more people at the lower end of the economic spectrum view this tax as completely unfair than when you get to be higher in the economic spectrum. The fact is, another poll, a Gallup poll, demonstrated the same phenomenon. Even though most people understood that repeal of the death tax would not benefit them personally, an overwhelming majority still favored repeal of the death tax. Why? Because they understand it is unfair.

One of the great things about this country and the American people is they have an innate sense of fairness. Even if something doesn't benefit them directly, they understand if it is wrong they are willing to support its repeal.

There are some other interesting survey results in terms of arguments against the death tax. I thought some of these were fun, and then I will close this out. If you ask certain questions about the death tax, for example, if you remind people that the highest rate of taxation for the death tax is 50 percent, then 79 percent of the people agree that is unfair and the tax should be repealed.

When you remind people that the inheritance tax represents double and triple taxation, again 79 percent believe it should be repealed.

With some of the arguments that are actual statements of fact with respect to the inheritance or estate tax, when reminded of that, the American people are even more strongly in support of its repeal than if they are not reminded of that. Also, when you remind people that the tax is unfair because it singles out those who save and invest, for no reason other than the fact that they became successful and then died—of course, the exact thing we try to teach people, save your money, invest it, try to pass it along to your kids. It is the American dream to make the next generation better off than your generation; if you live the American dream, you get punished. If you are broke, you don't get punished. Of course the American people, when reminded of that, are even stronger in favor of repeal.

The bottom line is every subgroup and fully 58 percent of the electorate as a whole, including, as I said, a majority of every subgroup, would vote for a candidate who advocates repeal of the death tax. Only 32 percent would vote for the candidate who supported maintaining the death tax.

The bottom line of all this research is it seems to me we would not be keeping faith with the American people unless we are willing to move forward the date that the death tax is repealed.

In the interim period of time, we are reducing the rate and we are also increasing the amount of income that is exempted from the inheritance tax. Both are good. But it seems to me, given this fact, that it is not too much to ask my colleagues to accelerate by 1 year the date that the tax is actually repealed. There will be some who say we cannot afford an immediate repeal today. To that I say, if that is your view, fine. That is not what we are doing here. I would prefer to do that.

I think we can compromise and agree that moving the repeal date forward 1 year is both something that is affordable and something that should be done.

This amendment is very straightforward. That is the long and short of it. I think I pointed out the American people would support this. I hope since the Senate has already gone on record by repealing the estate tax in the year 2010, that we would not be bashful about moving that forward by 1 year, to 2009.

I guess my question to the body when we finally bring this to a vote is, Did you mean it when you said we should repeal the estate tax? If so, let's move that repeal date forward by 1 year.

Mr. CONRAD. Mr. President, might I ask the author of this amendment what the cost is?

Mr. KYL. Mr. President, I will try to get the exact number here in just a moment. I am informed that the estimated cost is $46 billion.

Mr. CONRAD. It is $46 billion?

Mr. KYL. Correct.

Mr. CONRAD. Mr. President, I say to my colleague—

Mr. KYL. Might I add one more thing, that, in our amendment, is accounted for within the budget because the money is taken from another account so it is not added on to the expense of the budget.

Mr. CONRAD. That was going to be my next question, if I could, to the Senator. What is the way the Senator pays for this $46 billion?

Mr. KYL. Mr. President, I tell my colleague the function in the budget is No. 920. That is the source of the funding for this amendment.

Mr. CONRAD. Could the Senator tell us what constitutes 920?

Mr. KYL. That is a general fund for Finance Committee action at some specified date in the future.

Mr. CONRAD. I would say to my colleagues and the Senator from Arizona, it strikes me as ill-timed to come before the body and ask for another $46 billion when we are already deep in debt. We now know we are going to be facing deficits this year of $500 billion; the deficits as defined by law of over $300 billion every year for the next 10 years. We are going to be taking virtually every penny of the Social Security surplus under the chairman's mark. Now the Senator offers $46 billion, which he funds by reducing function 920. Function 920, of course, is a general governmental function, which is a popular place to reduce around here.

I say to my colleagues, it seems to me that a wiser course than full repeal, which costs, combined with this amendment, $207 billion over the period of this budget, when we are already running deficits under the chairman's mark of $1.7 trillion, that a wiser course would be, instead of waiting until 2009 to have an elimination of the estate tax, to have people waiting all of that time between now and then and having an exemption of $1 million currently, instead of that, we could go to a $3 million exemption per person, $6 million per couple, have it take effect now, and only cost $33 billion for the whole thing, a fraction of the cost of complete repeal. We would continue to have a functioning estate tax but fundamentally reform it: Change it, don't end it. Change it to say an individual would have $3 million completely sheltered; a family would have $6 million completely sheltered. With planning, they could do substantially more than that and have that effective now, have that effective in the first part of the budget year that we are discussing. That would have a cost of $33 billion instead of the cost of permanent repeal of $207 billion, especially given the fact we are already in deep deficit.

At some point I hope colleagues will begin to consider alternatives, to reform the estate tax, to change it, to make it more fair, and to fundamentally buttress the economic security of the country by not compounding these record deficits we already have.

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

Mr. CONRAD. I am happy to yield to my colleague for a question.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from North Dakota.

Mr. DORGAN. I say to my colleague, Senator CONRAD, I am unfamiliar with this notion of a tax on death. My colleague from Arizona spoke at length about the death tax.

I am wondering, would it not be true that should a Member of the Senate, perhaps a married Member of the Senate, die, God forbid, in the coming week or so, that the spouse of that Member of the Senate would inherit, would have all of their property immediately with the spousal exemption, so that death would incur no tax, there would be no tax?

So if there is a death in which there is no tax—which is the case with respect to the spouses, a 100-percent exemption—and all the property goes to the spouse, with no tax consequence, then exactly what is the death tax the Senator from Arizona is referring to? Is it, in fact, the tax on inherited wealth that exists in our law?

And if it is on inherited wealth, of course, that is a different discussion which we should have. But if it is the death tax—which is a term that was created by pollsters to evoke a certain response—is it not the case that there is not a tax on death, that many deaths in this country means the estate is probated, and all of the assets of that estate go immediately to the spouse, with no tax under any circumstances? Is that not the case?

Mr. CONRAD. That is the case. In fact, there is no death tax in America. That is a good rhetorical line, but there is no tax at death in America. Only 2 percent of estates currently are taxed, and they are taxed because they have amounts of value in the estate of over $1 million.

Now, under current law, in 2009, only three-tenths of 1 percent of estates will be subject to tax. That would mean 99.7 percent of estates would not be taxed.

I might say, under the proposal I am suggesting tonight, we could go to that level next year. Why wait to have estate tax reform? Why not go to a $3 million exemption per person, $6 million per couple, and not wait until 2009?

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

Mr. CONRAD. I want to complete my thought and complete my exchange with my colleague. Then I will be happy to yield.

The thing that strikes me is we have gotten off on a debate here that really is detached from reality. It is detached from reality because the cost of full repeal in the next 10 years is $207 billion. How is that going to be financed? It is going to be financed by borrowing the money. It is going to be financed by taking it out of the Social Security trust fund surpluses. That is how it is going to be financed.

Now, does that make any sense? I would say no. I would say to borrow

the money to give a big tax cut to the wealthiest Americans really does not make a whole lot of sense.

Does that mean the current estate tax ought to be retained? No, it should not. It ought to be reformed, not repealed. It ought to be altered, as I suggest, so that a couple could exempt $6 million dollars. That costs a fraction of repeal and would give immediate relief.

I am happy to yield to my colleague.

Mr. DORGAN. If the Senator will yield further for a question, is it not the case that the majority last year passed a tax plan that had the following rather comical circumstance: It said we will sequentially increase the exemption on the estate tax to the point where in 2010 it is repealed, but in the year 2011 it actually comes back again?

And if that is the case—I believe it is—I think historians will look back at this and say, well, who on Earth could have thought of that? Well, they thought of it, all right. That is what they put in the tax bill.

Now, if that is the case, isn't it also the case that the amendment being offered today says let's make it even more farcical: Let's decide we will increase the exemption up until 2009, and we will have a 2-year repeal of the estate tax, to have it come back in 2011?

We laughed a little last year about estate planning. There are going to be a lot of people on life support in 2009 because they have to wait until 2010 to die to get the total exemption, total repeal that was offered by the majority party.

Now they are going to offer a 2-year window for death, apparently, and then the estate tax comes back in 2011. It is the most Byzantine, preposterous amount of nonsense. You would not put 10 people in a room with a six-pack of beer and come out with a worse result than they came out with last year on this estate tax issue.

But to get back on the final point, it was passed as a repeal of the death tax when, in fact, there is no tax on death. There is a tax on inherited wealth.

I ask my colleague, isn't the remaining question for this Senate, do we want to have some basic taxation on the largest estates—on the largest estates—of $1 billion, $10 billion, $20 billion, many of which have never been subjected to any kind of a tax because they were built with inside buildup and built with growth appreciation and have never been subjected to tax?

Is the final argument, final debate, and final question, do we want to retain at least some basis of an estate tax for the very largest estates?

Mr. CONRAD. It would seem to me really almost self-evident that the wiser course here would be immediate reform of the estate tax. Let's go to $3 million for an individual, $6 million for a couple. It would cost $33 billion over the next decade, but that is a fraction of the over $200 billion it would cost to fully repeal it.

My colleague is quite correct, in estates of over $10 million, fully 56 percent of the value of those estates has never been taxed. This is according to a study by Poterba and Weisbenner, that finds that is as a result of unrealized capital gains and as a result of buildup of property values never subjected to tax at all.

So the question is, what is going to be the way we share the tax burden in this country? What is the most fair and equitable way to do that?

I would suggest completely eliminating the estate tax for very wealthy individuals, which is of necessity going to force others—middle-class people, lower-middle-class people—to pay more in order to foot the bill, is not fair. It is not equitable.

It would really make more sense to fundamentally change the estate tax, to give a much larger exemption than we currently have. Currently, it is $1 million. Instead, we should raise that to $3 million for an individual, $6 million for a couple, and do it immediately. It costs a fraction of repealing it all. We would still have wealthy individuals in this country who would have an opportunity to contribute and not shift that tax burden onto middle-income taxpayers.

Mr. NICKLES. Will the Senator yield?

Mr. CONRAD. I am happy to yield to my colleague.

Mr. NICKLES. I thank my friend and colleague.

I heard your proposal that would increase the exemption. I did not hear you address rates. Would you leave the rates at the present 50-percent rate for estates that would be taxed?

Mr. CONRAD. What I just described, I say to the Senator, I don't know if you had a chance to hear.

Mr. NICKLES. I will be happy to look at it.

Mr. CONRAD. It is to have a reform of estate tax. Instead of the $1 million exemption currently, to go to $3 million for an individual, $6 million for a couple. In this calculation, it costs $33 billion. I don't——

Mr. NICKLES. What is the tax rate?

Mr. CONRAD. I was going to get to that.

I think this is at the 50-percent rate. I would certainly be open to an adjustment of that rate as well in order to try to arrive at a conclusion that was equitable and that is not as costly as full repeal.

Mr. NICKLES. I thank the Senator.

Mr. REID. Will the Senator from North Dakota yield for a question?

Mr. CONRAD. I am happy to yield.

Mr. REID. I have been sitting here listening to this debate. Under the proposal offered by the distinguished Senator from Arizona, it is my understanding that Warren Buffet, who is worth $38 billion, I was told——

Mr. CONRAD. How much?

Mr. REID. Worth $38 billion.

Mr. CONRAD. That is real money.

Mr. REID. If he passed away, under this amendment offered by my friend from Arizona, he would pay no estate taxes.

Mr. CONRAD. That is correct. He would pay no estate tax.

Mr. REID. What would happen to his accumulated wealth?

Mr. CONRAD. Well, it would go as directed under his will. I am not privy to what distributions he has determined to make.

Mr. REID. Will the Senator from North Dakota yield for another question?

Mr. CONRAD. I am happy to yield.

Mr. REID. I wanted to confirm that the Senator from North Dakota has listened to Warren Buffett, Bill Gates, Sr., and George Soros. I have heard those three people state that they think it is ridiculous, senseless to have them pay no estate tax. Have you heard these three very wealthy men say this?

Mr. CONRAD. I have. In fact, I have heard all three of those gentlemen and other wealthy individuals—George Soros, of course, who is a multibillionaire; Mr. Buffett, a multibillionaire; Mr. Gates, Sr., I don't think he himself is a multibillionaire, although he is obviously a very wealthy individual—say they believe it is un-American not to have an estate tax; that an estate tax was put in place first of all to raise revenue during a war, interestingly enough. That is how we initially got the estate tax, was to help pay for a war.

Here we are on the brink of another war, and instead of figuring out how to pay for it, we are trying to figure out how to have trillions of dollars of additional tax cuts going primarily to the wealthiest among us. It really is kind of baffling. We are asking young men and women to be prepared to sacrifice everything, and we are prepared to sacrifice nothing, apparently.

There are many wealthy individuals who believe the estate tax ought to be modified. I would strongly support that. I don't think a million-dollar exemption anymore is realistic or very relevant in light of the economy today. I believe it ought to be dramatically increased. I think we ought to go to $3 million for an individual, $6 million for a couple, and we ought to do it now. I would also be open to a reduction in rates. I think 50 percent is too high. But repealing it all is unaffordable, it is unfair, and it is fundamentally a long-term mistake. Why? Because I think it will lead to the concentration of wealth in the hands of fewer and fewer people.

If you look back to the establishment of the estate tax, one of the foremost advocates was a Republican President, Theodore Roosevelt. Theodore Roosevelt said it is a profound social mistake to allow wealth to accumulate in the hands of a handful of people who, by inheritance, become enormously powerful; that our society is a society based on merit and a society based on what an individual achieves, not what they inherit; and that if we want to become like Europe and have inherited wealth assume a greater and greater

role in society, then eliminate the estate tax, because in very short order you will have enormous wealth and power accumulate in the hands of a few.

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

Mr. CONRAD. I am happy to yield.

Mr. REID. In my previous question to the Senator from North Dakota, I talked about three very successful men, all of whom are senior citizens. I want to relate to the Senator from North Dakota that about 2 months ago I had dinner in Las Vegas with a man I had never met before. His name is Pierre Omidyar. Pierre is the founder of eBay. As a young man, he had this idea and on his computer developed eBay which is now a fantastically significant part of our economy. It is his. He, in spite of the stock market dropping, is worth $3 or $4 billion. He is 34 years old.

The whole purpose of his dinner with me, just the two of us, was to explain to me how he hoped I would work as hard as I could to make sure the estate tax is not repealed. Here is a man who is happily married, has two little children, and is one of the wealthiest men in America. He is not an old man; he is a very young man. And he believes, as does the Senator from North Dakota, that acquired wealth in large amounts is not good for America.

I don't think I have given this story to the Senator from North Dakota, have I?

Mr. CONRAD. No.

Mr. REID. But if we have these very successful people talking about why they believe it is bad—I have been present when Mr. Gates, Mr. Buffett, and Mr. Soros all talked about their belief that by a roll of the dice, a roulette wheel, they were born in America. They said they could have their entrepreneur genius—those are words I am using, not theirs—and if they were born anyplace but in the United States, it wouldn't amount to much. They believe as a result of their having been born in America, they owe that to America.

The Senator has heard those statements, has he not?

Mr. CONRAD. I have.

Mr. REID. Would the Senator agree that those three older men and the young man have a concept of what the Senator from North Dakota is saying: Change the estate tax, raise it if it is appropriate. I believe it is appropriate. Would the Senator agree that we have tried to do that? We have asked unanimous consent. We have offered amendments that have been defeated. I want the Senator from North Dakota to see if he agrees with me. I think people want the political issue more than they want to change the estate tax. Would the Senator agree with that?

Mr. CONRAD. I hope that is not the case. We have an opportunity now to resolve the estate tax for a long time. If we would reform it without repealing it, we would do something that is important and valuable. At $1 million, the estate tax is biting at much too low a level. Most of us in this Chamber would certainly degree with that statement. The economy has changed. The world has changed. We have not made a significant enough adjustment in the estate tax. We have not modernized the estate tax in a way that makes any sense.

One million, it has been raised to that, but that has not kept pace with what has happened in the real world. As a result, it is putting too much pressure on small farmers and small business people. We could do something right now. We could raise that exemption to $3 million for an individual and $6 million for a couple. With planning, it could be substantially more than that. That would shield the vast majority of small businesses, the vast majority of individuals. At the same time, we would not have the extraordinary cost associated with repeal.

We have to have current events inform our decisions. The hard reality is, we are in record deficit. We have deficits as far as the eye can see. And the situation is going to get worse when the baby boomers retire. From where is the money going to come? If you repeal the estate tax, that burden is going to have to shift somewhere else. It is going to raise taxes on middle-income people. That is where most of the taxes are paid. I don't think that is the appropriate outcome.

I do think we ought to reform it. We ought to raise this. I would even be open to what the chairman of the committee has referenced as the tax rate itself, which at 50 percent seems unreasonably high as well. Perhaps in the time remaining here we might get together and come up with something that would really be a contribution to the country and a valuable change.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, as I understand it, the Senator from Arizona had offered an amendment. We had discussed, prior to his offering the amendment, that Senator GRAHAM, I, and Senator STABENOW would offer an amendment on prescription drugs. I would ask the manager about the circumstances. Do we need to set aside the amendment that is now pending in order to offer the amendment on prescription drugs for Senator GRAHAM, myself, and Senator STABENOW?

Mr. NICKLES. The Senator is correct. We need to set it aside. I think a couple of us want to speak on the amendment that is pending before we set it aside.

I think the debate has been on the one side for the last 25 minutes.

Mr. DORGAN. I understand. We were told that the presentation of that was going to be 5 minutes, and we were going to move to that amendment. That has not quite happened. I wonder when we might expect to move to this amendment.

Mr. NICKLES. Mr. President, I encourage my colleagues to go through the Chair for parliamentary procedure. I didn't make that point, but I think it is important.

The PRESIDING OFFICER. Who yields time?

Mr. NICKLES. If the Senator is finished with his inquiry, I yield to the Senator from Alabama 10 minutes. Would that be sufficient?

Mr. SESSIONS. That would be sufficient.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I send a modification to the desk on behalf of Senator KYL, which he failed to file earlier.

The PRESIDING OFFICER. Is there objection to the modification?

Mr. CONRAD. Mr. President, is the Senator proceeding on a modified amendment?

Mr. SESSIONS. My understanding is that it has been agreed to previously.

Mr. CONRAD. There has been no request to modify the amendment.

Mr. SESSIONS. I withdraw that request at this time.

The PRESIDING OFFICER. The Senator from Alabama has the floor.

Mr. SESSIONS. Mr. President, there is a death tax. I had in my office 2 days ago Professor Harold Apolinsky, from the University of Alabama. He is indeed a brilliant professor. He has dedicated his life to the elimination of the death tax. He says it is an immoral tax. He feels so strongly about it that he has given an incredible amount of his time and effort and resources into seeking its elimination.

I recall just how much of an impact it can have. A lady I know told me the story of her grandfather. President Reagan had been in office in 1981, and they passed an amendment that changed the death tax a little bit.

Do you know what it was then when they changed it? The rate was 70 percent on estates over $175,000. Four Members in this body voted to keep it at that rate. They reduced it to 55 percent. Big deal.

They were home for Christmas and the family was gathered. He had cancer and he was dying, fading fast. She told the story that every morning he asked what day it was. He died at 10 a.m. on January 1, the day the law took effect—his last great act for his family to protect a little bit more of the farm that he had built up over all those years.

I believe we are in agreement on the modification now; is that correct?

Mr. CONRAD. Mr. President——

The PRESIDING OFFICER. The Senator from Alabama has the floor.

AMENDMENT NO. 288, AS MODIFIED

Mr. SESSIONS. Mr. President, I reoffer the modification on behalf of Senator KYL. I think maybe we have an understanding now.

The PRESIDING OFFICER. Is there objection to the modification?

Mr. CONRAD. Reserving the right to object, and we will not object, we are happy to have the amendment modified

so that Senator KYL's actual intention is embodied in the amendment. We are happy to allow that modification to be made.

The PRESIDING OFFICER. The amendment will be so modified.

The amendment, as modified, is as follows:

On page 3, line 9, increase the amount by $115,000,000.
On page 3, line 10, increase the amount by $508,000,000.
On page 3, line 11, increase the amount by $595,000,000.
On page 3, line 12, increase the amount by $783,000,000.
On page 3, line 13, increase the amount by $1,076,000,000.
On page 3, line 14, decrease the amount by $3,909,000,000.
On page 3, line 15, decrease the amount by $12,218,000,000.
On page 3, line 16, decrease the amount by $28,750,000,000.
On page 3, line 17, decrease the amount by $2,515,000,000.
On page 3, line 18, decrease the amount by $336,000,000.
On page 3, line 19, decrease the amount by $347,000,000.
On page 3, line 23, increase the amount by $115,000,000.
On page 4, line 1, increase the amount by $508,000,000.
On page 4, line 2, increase the amount by $595,000,000.
On page 4, line 3, increase the amount by $783,000,000.
On page 4, line 4, increase the amount by $1,076,000,000.
On page 4, line 5, decrease the amount by $3,909,000,000.
On page 4, line 6, decrease the amount by $12,218,000,000.
On page 4, line 7, decrease the amount by $28,750,000,000.
On page 4, line 8, decrease the amount by $2,515,000,000.
On page 4, line 9, decrease the amount by $336,000,000.
On page 4, line 10, decrease the amount by $347,000,000.
On page 4, line 14, increase the amount by $115,000,000.
On page 4, line 15, increase the amount by $508,000,000.
On page 4, line 16, increase the amount by $595,000,000.
On page 4, line 17, increase the amount by $783,000,000.
On page 4, line 18, increase the amount by $1,076,000,000.
On page 4, line 19, decrease the amount by $3,909,000,000.
On page 4, line 20, decrease the amount by $12,218,000,000.
On page 4, line 21, decrease the amount by $28,750,000,000.
On page 4, line 22, decrease the amount by $2,515,000,000.
On page 4, line 23, decrease the amount by $336,000,000.
On page 4, line 24, decrease the amount by $347,000,000.
On page 5, line 4, increase the amount by $115,000,000.
On page 5, line 5, increase the amount by $508,000,000.
On page 5, line 6, increase the amount by $595,000,000.
On page 5, line 7, increase the amount by $783,000,000.
On page 5, line 8, increase the amount by $1,076,000,000.
On page 5, line 9, decrease the amount by $3,909,000,000.
On page 5, line 10, decrease the amount by $12,218,000,000.
On page 5, line 11, decrease the amount by $28,750,000,000.
On page 5, line 12, decrease the amount by $2,515,000,000.
On page 5, line 13, decrease the amount by $336,000,000.
On page 5, line 14, decrease the amount by $347,000,000.
On page 41, line 22, increase the amount by $115,000,000.
On page 41, line 23, increase the amount by $115,000,000.
On page 42, line 2, increase the amount by $508,000,000.
On page 42, line 3, increase the amount by $508,000,000.
On page 42, line 6, increase the amount by $595,000,000.
On page 42, line 7, increase the amount by $595,000,000.
On page 42, line 10, increase the amount by $783,000,000.
On page 42, line 11, increase the amount by $783,000,000.
On page 42, line 14, increase the amount by $1,076,000,000.
On page 42, line 15, increase the amount by $1,076,000,000.
On page 42, line 18, decrease the amount by $3,909,000,000.
On page 42, line 19, decrease the amount by $3,909,000,000.
On page 42, line 22, decrease the amount by $12,218,000,000.
On page 42, line 23, decrease the amount by $12,218,000,000.
On page 43, line 2, decrease the amount by $28,750,000,000.
On page 43, line 3, decrease the amount by $28,750,000,000.
On page 43, line 6, decrease the amount by $2,515,000,000.
On page 43, line 7, decrease the amount by $2,515,000,000.
On page 43, line 10, decrease the amount by $336,000,000.
On page 43, line 11, decrease the amount by $336,000,000.
On page 43, line 14, decrease the amount by $347,000,000.
On page 43, line 15, decrease the amount by $347,000,000.

Mr. SESSIONS. Mr. President, this is a big deal in real life. We are talking about taking half of somebody's accumulated estate. That is a lot. It does happen when people die, and there are professionals out there who do this business, and they try to manipulate and avoid and delay, and sometimes they are successful, sometimes they are not. I want to talk about it in a little bit different vein tonight.

I want to talk about what I think is a major problem in America. I know Senator CONRAD is concerned about it. It is a collapse of smaller businesses and a trend toward larger and larger consolidation of business.

I know an individual in Alabama—I met him at a town hall meeting. He and his father spoke to me. They told me they are paying $5,000 a month for life insurance on their father's life. They own three motels. They would like to expand motels. That $5,000 a month would probably help them buy a fourth motel. But they have to pay it for no other reason than if something happens to their father, they would have to pay an estate tax, and it would come out of their small business and they would lose it.

Remember, this little chain of three motels is competing against Ramada, Holiday Inn, Marriott, and they are getting savaged every generation by a 50-percent tax on what the value of that family's estate is. That tax is not paid by the broadly held corporations, the international corporations. They never pay this tax. Think about it. It is a tax that falls on small businesses and individuals. It does not fall on big businesses.

I know an individual who owns several thousand acres of land. He is very fortunate and very generous with ball teams and schools and charitable organizations and is a wonderful person. Some might say he is wealthy. But the big paper companies own millions of acres of land. They don't ever pay a death tax. He is competing, really, with them.

I know International Paper owns 2 million acres of land. They are never impacted by the death tax.

Ask yourself, why is it that banks in towns all over America are closing? In Mobile, AL, we had four local banks. They are all gone today. One or two came back, but all of them were sold out to the big ones. Why? Because the people who owned them got up in years and they were facing a confiscatory tax on what they had accumulated. They didn't have the cash to pay it. Everything they owned was in the bank, the business they built up. They had to get out and get liquid and create a situation in which they could avoid some taxes, perhaps, and have the cash to pay the tax because if they had to sell off the business all at once to pay the tax, it would collapse.

I am saying, with absolute confidence, this death tax is a driving force behind the collapse of small businesses. Think about funeral homes. I know the occupant of the chair, who is from Tennessee, knows that the people running those funeral homes are usually good business people. As the population grew and more people came to the end of their life, they have done well in their business, but they are then facing the death tax. Maybe they have stock or bought some property, and they may have a home that has appreciated in value. All of a sudden they are looking at a big hit.

Now funeral homes are being brought up by chains—broadly held corporations now have these funeral homes. They will never pay the death tax. It will never impact them.

How do you with a $3 million company compete with Holiday Inn? We want to encourage $50 million companies, $100 million companies, and $200 million companies to compete against billion-dollar companies. We are chopping them off.

A vision I have is that you go out in the woods and there is a little pine tree trying to grow and compete with the taller trees. But just as it breaks in and gets sunlight, somebody comes in and chops the top off and takes half of it. It will never be able to compete.

We are putting them at a disadvantage. It cannot be overcome. I believe

it is unhealthy. If we care about small business, about encouraging innovation and competition and growth in America, we need to think about this. So I think there are a lot of reasons we ought to consider the elimination of this tax. It is certainly an unfair tax. People have paid their taxes, and then at the time of their death, they are taxed again in a way that savages the ability of a business to remain competitive.

I note that the taxes are only a percent or two of the income to this Government. It is not critical to our revenue.

The PRESIDING OFFICER. The Senator has used his 10 minutes.

Mr. SESSIONS. We voted to eliminate the death tax once before. It is time to complete the job. I support the amendment.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I know there are colleagues who want to offer the prescription drug amendment. I will make a few comments on elimination of the death tax.

A couple of people said there is no tax on death. I disagree. I can say that from experience. My father died, and there was a significant death tax. His death was a taxable event. If he had not died, there would not have been a taxable event. To say there is no death tax—maybe it is something the pollsters came up with—is something about which I totally disagree.

Under current law, if you die, if your estate is above a certain amount, your survivors will have to pay a tax. I call that a death tax. It can be called an inheritance tax, an estate tax, whatever one wants to call it.

We did pass an exemption in 1981 that exempted surviving spouses from the death tax. I was one of the principal sponsors of that legislation in 1981. I worked to put that in the big bill. That was one of the big tax bills. I was a freshman Senator and I really wanted to put that in the bill because I learned the hard way.

My father passed away. My mother had five kids, and she inherited a business. The Government came in and said: We want about half of the business. We negotiated, struggled, and agonized. I say we, I was a child. My mother struggled for years over what the size of this company was, how much of it the Government was entitled to—were they entitled to half of it, a third of it. Eventually, something was settled but she had to pay the Government. I guess I did, too. Survivors who wanted to keep the business had to pay a lot of tax. Why? Because my father died. So if somebody says there is not a death tax, I disagree.

They say: We exempt spouses. That does not make any difference. If you want to pass your business on to your son, the Government says: We want half.

Somebody said it only applies to 1 percent or 2 percent of the estates. What tax rate is right? Fifty percent? I appreciate the fact that my colleague from North Dakota said the rate is too high. It is too high. Why would we tax estates, a death tax, in excess of the personal tax rate? The maximum personal tax rate hopefully will soon be 35 percent. The maximum corporate rate is 35 percent. Why should a taxable event caused by death be as much as 50 percent?

Frankly, if we do not extend the law, it could go back to 55 and 60 percent. In present law, the maximum is 50 percent. But if the 2001 law expires—if we go back before we made the changes in 2001, then the maximum tax rate returns to 55 percent, and on a taxable estate between $10 million and $17 million, there is an additional 5 percent surcharge. It will go back to 60 percent.

I hear some colleagues say: We should exempt not just $1 million, but maybe $2 million or $3 million, maybe twice that amount for spouses. But above that, we still would have a rate of 50 percent. That is way too high. Why is that? Why in the world if somebody passes away should the Government take half? If somebody builds a business and let's say they build up the business, and maybe they are employing thousands of people, should the Government come in and take half? Whoever inherited the business has to sell it and pay taxes. The Government wins and the employees lose—they lose their jobs.

What about George Soros? He is a billionaire. Or Mr. Buffett? My guess is—I do not know—my guess is they have foundations, they have great tax accountants, and they were able to set up foundations that do not pay tax, period.

They do not pay tax on their earnings. They are tax exempt, and they do not pay death taxes. They built up these enormous foundations. Great, I am proud of them.

There are a whole lot of people who own family farms and businesses that they are trying to grow and expand, and they are not big enough to hire attorneys and have foundations, and they are liable for a death tax. That hangs as a heavy cloud over a lot of businesses that decide not to grow because they know if they grow, the Government is going to get half.

We did work in 2001 to bring that down. We gradually brought it down to, I think, 45 percent. It goes to zero in the year 2010, and then presumably if we do not pass a bill to change it, by 2011, it will pop back up to 55, maybe even as much as 60 percent.

Senator KYL says let's expand that zero bracket. The resolution before us presumes—presumes—that Congress will extend the provisions in the 2001 tax bill, so it would extend the repeal of the death tax for the year not only 2010, but also 2011 and 2012. Senator KYL's amendment says it should be for the year 2009. That will be 4 years with a zero tax on the taxable event of death.

If somebody says they pay no tax, they do not understand Senator KYL's amendment. They do not understand the law we passed. Senator KYL's amendment and the present law says a taxable event is moved from death to the sale of the property. What does the sale of the property mean? It means capital gains. What is the tax rate on capital gains? It is 20 percent.

Also in that provision we passed in 2001, it says we eliminate or stop the step-up in basis over a certain amount. What does that mean? It means if George Soros has a net worth of $38 billion and he passed away, if he has not paid capital gains on that net worth and there is no step-up in basis and the initial investment was much less than that, then he would be taxed at 20 percent on that incremental value.

Maybe if he had initial investment of, let's say, $18 billion—I doubt it would be that much; maybe a lot less—he would pay 20 percent on the incremental difference between the carryover basis and what it was at the time of sale. If somebody in his company did not sell the business, there would not be a tax.

I like to think of this more in the vernacular of a small business. If a small business wants to pass it on to their kids and the kids do not sell the business, they do not pay a tax. But when and if they do sell, they pay a tax. There would be capital gains on a carried-over basis.

It is interesting, the people who have scored some of these amendments, Joint Tax, sort of forgot to account the offsetting additional income that would be generated from the sale of operations, the capital gains that would be measured.

The law we passed in 2001 says: Let's change the taxable event from death to when the property is sold. If someone receives property as a result of someone's death and they sell it, then they pay capital gains. If they do not sell it, then there is no capital gains. The taxable event would no longer be death; it would be when the property is sold. It makes eminent good sense.

There are other ways of doing this, but the present law in taxing estates and taxing inherited property or taxing a business or a farm or a ranch just makes no sense whatsoever. The big boys are able to figure out ways to get around it through fancy accountants and foundations, and they do not pay the tax. A lot of middle-income people and smaller businesses pay a lot of tax. It really does inhibit their growth.

I compliment my colleague from Arizona for his amendment. I am intrigued by the interest of my colleagues from North Dakota and Nevada in maybe trying to do something. I think we can do something, and we have the opportunity to do it. It will not be done in this bill. We did not put in a reconciliation instruction dealing with this provision, but it is something we can deal with and this Congress ought to deal with. There is some money on the table

to make that available. We should have a tax rate on a taxable estate or inherited property in the neighborhood of 20 percent. You might generate some money.

Right now this tax is counterproductive in so many ways. I will give one example. Our business did not grow because we were thinking at that time that the Government would take so much, so why would anybody expand if the Government is going to come in and take it? And how could you pass property on from one generation to another generation to another generation if the Government wanted to come in and take half every time? It just does not work. It is very difficult for a privately held business, if they want to pass it on from the second and third generation, to do so if the Government is going to take half. That business may be more than $3 million. That business may be $20 million. It may be $100 million. Think of some great companies that might be privately held. If the owners pass away, should the Government take half? I do not think so. I would hope not.

I am intrigued by the ideas that different colleagues have.

I encourage an open dialogue. I think my colleague from Arizona is to be complimented for his work in this field. I am intrigued and encouraged by some of the debate I am hearing. I would love to see us come up with a bipartisan, permanent resolution on how to address the estate tax. The present law is not satisfactory. It needs to be amended. It needs to be addressed, and I would love to see this Congress this year pass something we could all be proud of that would be a significant and positive reform for businesses and individuals all across the country.

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

Mr. NICKLES. I would be happy to yield.

Mr. REID. Would the Senator, the manager of the bill for the majority, on the next amendment which will be offered, which will be prescription drugs, allow a time of 40 minutes on each side?

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. I cannot agree to a 40 minute time limit——

Mr. REID. I withdraw the request.

Mr. NICKLES. On an amendment that deals with $200 billion. That would be so many billion dollars per minute. That might be a little expensive. I will be happy to work with my colleagues.

If no other Senators wish to speak on the underlying amendment, I ask unanimous consent to set aside the pending amendment so an amendment offered by the Senator from North Dakota and the Senator from Florida can be offered at this point.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from North Dakota.

AMENDMENT NO. 294

Mr. DORGAN. Mr. President, I send an amendment to the desk on behalf of myself, Senator GRAHAM of Florida, and Senator STABENOW, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for himself, Mr. GRAHAM of Florida, and Ms. STABENOW, proposes an amendment numbered 294.

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

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

The amendment is as follows:

(Purpose: To provide a meaningful prescription drug benefit in Medicare that is available to all beneficiaries)

On page 3, line 9, increase the amount by $7,580,000.

On page 3, line 10, increase the amount by $23,341,000,000.

On page 3, line 11, increase the amount by $26,169,000,000.

On page 3, line 12, increase the amount by $29,003,000,000.

On page 3, line 13, increase the amount by $32,406,000,000.

On page 3, line 14, increase the amount by $35,710,000,000.

On page 3, line 15, increase the amount by $39,465,000,000.

On page 3, line 16, increase the amount by $43,508,000,000.

On page 3, line 17, increase the amount by $47,687,000,000.

On page 3, line 18, increase the amount by $52.440,000,000.

On page 3, line 19, increase the amount by $58,514,000,000.

On page 3, line 23, increase the amount by $7,589,000,000.

On page 4, line 1, increase the amount by $23,341,000,000.

On page 4, line 2, increase the amount by $26,169,000,000.

On page 4, line 3, increase the amount by $29,003,000,000.

On page 4, line 4, increase the amount by $32,406,000,000.

On page 4, line 5, increase the amount by $35,710,000,000.

On page 4, line 6, increase the amount by $39,465,000,000.

On page 4, line 7, increase the amount by $43,508,000,000.

On page 4, line 8, increase the amount by $47,687,000,000.

On page 4, line 9, increase the amount by $52,440,000,000.

On page 4, line 10, increase the amount by $53,514,000,000.

On page 4, line 14, decrease the amount by $56,000,000.

On page 4, line 15, decrease the amount by $6,750,000,000.

On page 4, line 16, decrease the amount by $12,607,000,000.

On page 4, line 17, decrease the amount by $2,089,000,000.

On page 4, line 18, increase the amount by $11,134,000,000.

On page 4, line 19, increase the amount by $13,388,000,000.

On page 4, line 20, increase the amount by $18,051,000,000.

On page 4, line 21, increase the amount by $23,189,000,000.

On page 4, line 22, increase the amount by $28,020,000,000.

On page 4, line 23, increase the amount by $33,135,000,000.

On page 4, line 24, increase the amount by $39,338,000,000.

On page 5, line 4, decrease the amount by $56,000,000.

On page 5, line 5, decrease the amount by $6,750,000,000.

On page 5, line 6, decrease the amount by $12,607,000,000.

On page 5, line 7, decrease the amount by $2,089,000,000.

On page 5, line 8, increase the amount by $11,134,000,000.

On page 5, line 9, increase the amount by $13,388,000,000.

On page 5, line 10, increase the amount by $18,051,000,000.

On page 5, line 11, increase the amount by $23,189,000,000.

On page 5, line 12, increase the amount by $28,020,000,000.

On page 5, line 13, increase the amount by $33,135,000,000.

On page 5, line 14, increase the amount by $39,338,000,000.

On page 5, line 17, increase the amount by $7,645,000,000.

On page 5, line 18, increase the amount by $30,091,000,000.

On page 5, line 19, increase the amount by $38,776,000,000.

On page 5, line 20, increase the amount by $31,092,000,000.

On page 5, line 21, increase the amount by $21,272,000,000.

On page 5, line 22, increase the amount by $22,322,000,000.

On page 5, line 23, increase the amount by $21,414,000,000.

On page 5, line 24, increase the amount by $20,319,000,000.

On page 5, line 25, increase the amount by $19,667,000,000.

On page 6, line 1, increase the amount by $19,305,000,000.

On page 6, line 2, increase the amount by $19,176,000,000.

On page 6, line 5, decrease the amount by $7,645,000,000.

On page 6, line 6, decrease the amount by $37,737,000,000.

On page 6, line 7, decrease the amount by $76,513,000,000.

On page 6, line 8, decrease the amount by $107,604,000,000.

On page 6, line 9, decrease the amount by $128,877,000,000.

On page 6, line 10, decrease the amount by $151,199,000,000.

On page 6, line 11, decrease the amount by $172,612,000,000.

On page 6, line 12, decrease the amount by $192,931,000,000.

On page 6, line 13, decrease the amount by $212,599,000,000.

On page 6, line 14, decrease the amount by $231,903,000,000.

On page 6, line 15, decrease the amount by $251,080,000,000.

On page 6, line 18, decrease the amount by $7,645,000,000.

On page 6, line 19, decrease the amount by $37,737,000,000.

On page 6, line 20, decrease the amount by $76,513,000,000.

On page 6, line 21, decrease the amount by $107,604,000,000.

On page 6, line 22, decrease the amount by $128,877,000,000.

On page 6, line 23, decrease the amount by $151,199,000,000.

On page 6, line 24, decrease the amount by $172,612,000,000.

On page 6, line 25, decrease the amount by $192,931,000,000.

On page 7, line 1, decrease the amount by $212,599,000,000.

On page 7, line 2, decrease the amount by $231,903,000,000.

On page 7, line 3, decrease the amount by $251,080,000,000.

On page 29, line 6, decrease the amount by $6,000,000,000.

On page 29, line 7, decrease the amount by $6,000,000,000.

On page 29, line 10, decrease the amount by $10,000,000,000.

On page 29, line 11, decrease the amount by $10,000,000,000.

On page 29, line 14, increase the amount by $2,498,000,000.

On page 29, line 15, increase the amount by $2,498,000,000.

On page 29, line 18, increase the amount by $17,195,000,000.

On page 29, line 19, increase the amount by $17,195,000,000.

On page 29, line 22, increase the amount by $20,630,000,000.

On page 29, line 23, increase the amount by $20,630,000,000.

On page 30, line 2, increase the amount by $26,482,000,000.

On page 30, line 3, increase the amount by $26,482,000,000.

On page 30, line 6, increase the amount by $32,751,000,000.

On page 30, line 7, increase the amount by $32,751,000,000.

On page 30, line 10, increase the amount by $38,644,000,000.

On page 30, line 11, increase the amount by $38,644,000,000.

On page 30, line 14, increase the amount by $44,787,000,000.

On page 30, line 15, increase the amount by $44,787,000,000.

On page 30, line 18, increase the amount by $52,013,000,000.

On page 30, line 19, increase the amount by $52,013,000,000.

On page 40, line 2, decrease the amount by $56,000,000.

On page 40, line 3, decrease the amount by $56,000,000.

On page 40, line 6, decrease the amount by $750,000,000.

On page 40, line 7, decrease the amount by $750,000,000.

On page 40, line 10, decrease the amount by $2,607,000,000.

On page 40, line 11, decrease the amount by $2,607,000,000.

On page 40, line 14, decrease the amount by $4,587,000,000.

On page 40, line 15, decrease the amount by $4,587,000,000.

On page 40, line 18, decrease the amount by $6,061,000,000.

On page 40, line 19, decrease the amount by $6,061,000,000.

On page 40, line 22, decrease the amount by $7,242,000,000.

On page 40, line 23, decrease the amount by $7,242,000,000.

On page 41, line 2, decrease the amount by $8,431,000,000.

On page 41, line 3, decrease the amount by $8,431,000,000.

On page 41, line 6, decrease the amount by $9,562,000,000.

On page 41, line 7, decrease the amount by $9,562,000,000.

On page 41, line 10, decrease the amount by $10,624,000,000.

On page 41, line 11, decrease the amount by $10,624,000,000.

On page 41, line 14, decrease the amount by $11,652,000,000.

On page 41, line 15, decrease the amount by $11,652,000,000.

On page 41, line 18, decrease the amount by $12,675,000,000.

On page 41, line 19, decrease the amount by $12,675,000,000.

On page 61, line 12, insert ''on an equal basis with respect to benefit level regardless of whether such beneficiaries remain in the traditional medicare fee-for-service program under parts A and B of such title or enroll in a private plan under the medicare program'' after ''prescription drugs''.

On page 61, line 19, strike $400,000,000,000 and insert $619,000,000,000.

Mr. DORGAN. Mr. President, I will describe the general direction of this amendment. I will be followed by my colleague, Senator GRAHAM of Florida, who will talk in greater specifics about the particular approach dealing with a prescription drug benefit in Medicare. Following that, my colleague from Michigan will also speak.

This amendment would increase the amount of money available to put a prescription drug benefit in the Medicare Program. I think we are long past the point where the question is whether we should put a prescription drug benefit in the Medicare Program. The question is no longer whether. I think almost all Members of the Congress agree we ought to do that. The question is how. How do we do it? What kind of a prescription drug benefit do we put in the Medicare Program?

Senior citizens are 12 percent of the population in our country, yet they consume one-third of all prescription drugs. That is important to understand. As people grow older, they have more health challenges. They are able to access these miracle drugs, the new miracle drugs that extend life in so many areas, but miracle drugs produce no miracles if one cannot afford them.

At an age in life when people reach retirement and have diminished income, they discover that they cannot afford to buy the miracle drugs they need, the drugs their doctor prescribes, for someone who may have heart disease, diabetes, and several other maladies. We hear senior citizens say over and over again that they go to the grocery store with a pharmacy in the back, and they have to go to the pharmacy first to find out how much they are going to have left for food because they cannot afford all of their medicine and food.

If we had created Medicare last year, there is no question that we would have included in that Medicare Program a prescription drug benefit. Instead, Congress created it in the 1960s. Most of us were not here then. So there was no prescription drug benefit put in the Medicare Program because most of the lifesaving drugs that are now available were not then in existence. They are now, and senior citizens are living longer and better lives. Part of it is because we have these prescription drugs that can extend life.

So the question is, How do we now modify the Medicare Program to add a benefit for prescription drugs, to help so many senior citizens who simply cannot afford them?

I had a hearing in Dickinson, ND, one evening on the issue of prescription drugs in Medicare. An oncologist told me about his cancer patient, a woman on Medicare who had a mastectomy because of breast cancer. He prescribed a prescription drug for her. He said: You need to take this prescription drug in order to reduce the chances of recurrence of this breast cancer. She said: What will it cost? He told her the cost of the drugs. She said: Doctor, I cannot possibly buy that prescription drug. I have no money. I will just take my chances.

We do not have to do that. Our amendment is very simple. The underlying budget proposed $400 billion for a Medicare prescription drug plan. We propose that the portion of the tax cut in this budget amendment dealing with the tax cut for dividends be used instead of cutting taxes for dividends in the following manner: That $219 billion be provided in this amendment in order to increase above the $400 billion, so we would have then $619 billion for a prescription drug plan in the Medicare Program. The additional $251 billion in savings generated by this amendment would be used to reduce the Federal budget deficit.

We are doing two things: Making more money available so a decent prescription drug plan can be offered, and my colleague from Florida will more adequately describe exactly what kind of a program can be offered for that, and then in addition, reducing the Federal budget deficit.

I will make a couple of additional points. Our amendment also establishes a very important principle for a Medicare prescription drug benefit. Medicare beneficiaries who choose to remain in traditional fee-for-service Medicare should receive the same level of benefit for prescription drugs as do others. The President has proposed something that says we will provide a prescription drug benefit but we will do it only if someone leaves their fee-for-service type of care and goes to an HMO. That is not fair. That is not the right thing to do. Senior citizens ought to be able to go to the doctor of their choice and get the health care they need from the doctor they have always been seeing for their problems. Yet that will not be the case under the President's proposal.

So we say let's increase the amount of money so we can have a reasonable and a good prescription drug benefit in the Medicare Program. Let's do that at the same time we reduce the Federal budget deficit with the other money that we save from this tax change, and let's also establish the principle, as we do in this amendment, that all Medicare beneficiaries ought to have the availability of this prescription drug benefit, even if they choose to stay in a fee-for-service program. That is a very important issue.

Let me make one final point. As is always the case when we debate the budget in the Senate, we are confronted with a series of choices, difficult choices sometimes but nonetheless choices. We can make a decision about that. We can decide that it is far more important, as some have done in the Senate, to exempt dividends from taxation than it is to have a good prescription drug benefit in the Medicare

Program. I do not happen to share that choice. I think that is a terrible choice. That is a horrible choice to make in terms of priorities. So with this amendment we make a different choice. We believe that this is one of those circumstances that demands and certainly deserves the attention of the Senate. I think every Senator is on record as saying we ought to do something about this issue of prescription drugs in Medicare, but we have had difficulty trying to find the right approach.

We have all kinds of different plans. What we propose with this amendment is to have sufficient money, $619 billion, to put together a plan of which we can be proud, to put together a plan that works, one that really helps senior citizens and one that does not force them all into managed care or HMO organizations as a price for them to be able to access prescription drugs that they need to continue to lead a good life. That is all this amendment is about. It is a simple choice. It is a lot of money, but it is a simple choice. Let's choose the right thing. Let's choose to do what all of us have said we want to do, and that is to put a good prescription drug plan in the Medicare Program.

My colleague, Senator GRAHAM from Florida, is going to describe in more detail exactly what that program could look like and how that program would work for senior citizens. I am very pleased to have worked with him, as well as the Senator from Michigan, on this amendment.

I yield the floor.

The PRESIDING OFFICER (Mr. COLEMAN). Who yields time?

Mr. GRAHAM of Florida. I yield myself such time as I may consume.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Florida.

Mr. GRAHAM of Florida. Mr. President, I offer this amendment with my colleagues from North Dakota and Michigan so that when we come to debate the specifics of a prescription drug benefit for Medicare, we will be able to provide a real benefit, a real benefit with no gimmicks, no gaps, no hidden ''gotchas.''

Last year, 52 Senators voted for a plan that provides all Medicare beneficiaries with an affordable, comprehensive, and universal drug benefit delivered through Medicare. The proposal offered last year received 52 votes and was very direct. It provided that seniors would pay a $25 per month voluntary premium. This program is not mandatory; seniors will decide for themselves whether they want to participate. There would be no deductible. Seniors would pay no more than a $10 copayment for generic medications and $40 for medically necessary brand-name medications. After $4,000 was paid by the senior out of pocket, Medicare would pay the remaining expenses under a catastrophic position. Special consideration was provided for the lowest income non-Medicaid elderly by picking up all, or a portion of, their monthly premiums and copayments.

The plan we offered last year that received 52 votes, with the inflation and with the change in the demographics of the elderly population, would cost, over the next 10 years, $619 billion. The budget resolution which is before the Senate today would limit the expenditure for a prescription drug benefit to no more than $400 billion. Removed from the $400 billion would be the cost of any other changes to the Medicare system.

Our colleagues on the Budget Committee have adopted the $400 billion from the President's framework for adding a prescription drug benefit to Medicare. It is unclear precisely what we would be buying with $400 billion, but let's talk about what we know of some of the principles of the President's prescription drug plan.

He would provide, for those Medicare beneficiaries in the traditional fee-for-service program, that there would be coverage of prescription drugs for the lowest income—the question mark as to what that demarcation would be. They would receive up to $600 a year for their prescription drug benefits. I point out to the Presiding Officer and my colleagues, the average Medicare beneficiary last year paid $2,100 for their prescription drugs.

Other than the lowest income, there would be no ongoing benefit and there would be a catastrophic benefit at a yet to be specified level. That is what 89 percent of the Medicare beneficiaries—those who have elected to stay in the traditional fee-for-service Medicare—would have available.

Mr. President, 11 percent of the 40 million Medicare beneficiaries are in some form of managed care. Under the President's plan, they would receive a prescription drug benefit, maybe one very similar to the one that 52 Senators voted for last year. We do not have the details to have a clear understanding of what that 11 percent would receive.

The only way you can fit an affordable, comprehensive, universal prescription drug benefit is by not making it universal, not covering seniors who are in the traditional Medicare Program unless they either have very low incomes or very high drug costs. For instance, if the catastrophic level were to be set at $5,000, less than 3 percent of the Medicare beneficiaries would spend that much and therefore be eligible to participate in the catastrophic provisions of the President's plan.

The President's proposal buys a drug benefit for $400 billion by providing a benefit—even that is undefined—only for those seniors who will enroll in some form of managed care. This has been referred to as a plan to herd seniors into managed care because their needs for a prescription drug benefit are so desperate. No one can argue a benefit like the one proposed by President Bush meets the goals of an affordable, universal, comprehensive drug benefit which is what America's seniors need.

The most fundamental reform we can make in the Medicare Program is to offer to all Medicare beneficiaries, including the 89 percent who have elected to enroll in the traditional fee-for-service Medicare, all beneficiaries—those as well as the 11 percent who have currently elected to participate in a managed care program—a universal, comprehensive, affordable prescription drug benefit. Why is this so important? In my opinion, it is so important because it is the fundamental reform which Medicare must make.

Medicare is a program of the 1960s. It is appropriately described as a sickness program. If you are ill enough to require a physician's attention or, even more, require hospitalization, Medicare will pay a substantial proportion of your costs. What Medicare will not pay is the cost to keep you out of the doctor's office and out of the hospital. Why? Because almost every preventive care program has as one of its key elements the use of prescription drugs. These are the modern miracles of medicine. They are almost always required if we are to be able to manage a condition before it becomes critical.

Thus, to have a Medicare Program which makes that fundamental reform from a sickness system to a system that promotes the highest level of health, it must have a prescription drug benefit. Certainly some seniors under the President's proposal will have no choice but to move from their current preference for traditional fee-for-service, where they have the maximum number of choices, into a managed care system, where their choices can be severely restricted.

As my colleague from North Dakota has already said, this debate is about priorities. Is the statement the Senate wants to make that we give greater importance to an oversized tax cut than we do to a real, affordable, comprehensive, and universal drug benefit for all seniors? I think the answer is clear.

In addition to providing adequate funding for a prescription drug benefit, this amendment will also provide $177 billion over the next 10 years for deficit reduction, which would, in fact, become $251 billion for deficit reduction by including the interest cost which we will have to pay for $177 billion over the next 10 years. This is a needed remedy for the rapidly increasing deficits that we have experienced, almost as urgent as the needed benefit of prescription drugs for older Americans.

We are suggesting these two elements, a $219 billion addition to the Medicare account in order to be able to fund an affordable, comprehensive, and universal prescription drug benefit, and $177 billion for deficit reductions—we are suggesting it be paid by a reduction in the provision for tax reductions of $396 billion. That number was not just chosen by accident. That is the amount

the President has proposed for his dividend tax cut, making dividends no longer taxable.

I believe the dividend tax cut should be reduced, first because it will do very little to stimulate our sluggish economy, and specifically because it will do very little to benefit America's seniors. I heard earlier today the argument made in support of the elimination of taxation of dividends, that it was a critical matter for America's seniors. Most American seniors will not benefit at all, and the average tax reduction for America's seniors, by eliminating the taxation on dividends, is estimated to be $118 per year.

Contrast that minimal savings for seniors with the savings that seniors will secure through a comprehensive, universal, and affordable prescription drug benefit.

I urge my colleagues to support this amendment. This amendment will not only affect our seniors and our ability to provide them with a reasonable prescription drug benefit, it will also provide Congress the direction required to assure responsible spending of the taxpayers' money. This is a goal, not just for seniors, it is a goal which all Americans deserve.

Mr. REID. Mr. President, on behalf of Senator CONRAD, I yield one-half hour to the Senator from Michigan, Ms. STABENOW.

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

The Senator from Michigan.

Ms. STABENOW. Mr. President, I first commend my friend and colleague from Florida for his ongoing leadership on the issue of Medicare prescription drug coverage. I am very hopeful we will be able to put into place the bill he has described so eloquently that would greatly benefit all older Americans and the disabled. It is my pleasure to join with him and with my distinguished colleague from North Dakota, Mr. DORGAN, as well, who has also been an outspoken leader both on Medicare prescription drugs and also on issues relating to containing costs, opening the borders to Canada, and other issues that would lower prices.

It is my pleasure to join with both of them in what I believe to be one of the most important, if not the most important, amendment we will be addressing to the budget resolution.

As my colleagues have said, the budget resolution is about American priorities and values. We lay out for the year and then project for 10 years what our most important priorities are, just as a family does in their own budget. We on this side of the aisle have argued that, of course, safety and security is critical. Education and the opportunity for young people and adults to have skills and be able to be successful in our society is critically important. Also, health care, the ability to have health care for your family, and the ability for every senior and every disabled person to know that, in fact, Medicare will be strong and will be there for them when they retire when they are eligible, and that it will reflect the way health care is provided today is also important.

We all know today prescription drug coverage is the primary way to provide health care, both for prevention, to be able to stop disease, and be able to monitor and keep us from having to have an operation or be in the hospital. Outpatient prescription drugs are a critical part of the way health care is provided today.

Medicare, which is a great American success story, simply needs to be updated in order to cover prescription drugs. That is what this amendment does. It says that as a value for our families and a priority for Americans, we choose to set aside dollars for a comprehensive, affordable prescription drug benefit for all seniors. We want to do that through Medicare, through strengthening, protecting, and preserving Medicare. It also says when we have to make choices, if we have to choose—as we always have to do in our own budget, in the Federal budget—between another tax cut for those earning millions of dollars a year, or putting dollars in the pockets of our seniors to help pay for their prescription drugs, their medicine, we choose prescription drug coverage for our seniors. We also choose paying down the debt to protect Social Security and Medicare for the future.

This amendment does two very important things: It guarantees that we will have enough resources to do a comprehensive Medicare prescription drug benefit. It also says the debt that is being accumulated by this country is absolutely unacceptable, and we need to be putting money aside to pay down that debt in order to make sure we can keep interest rates low to spur the economy so our families can buy homes and cars and send their children to college and not experience double-digit interest rates. We need to keep that debt down. That also allows us to protect Social Security and Medicare funds for the future for the trust funds. That priority, and a prescription drug coverage priority, is absolutely essential.

We also say something else that is very important. We need to make sure that traditional Medicare that has been there is there regardless of where you live. My great State is a huge State geographically, 9 million people plus. We need to make sure the seniors in Detroit or Marquette or Ironwood or Three Rivers or Benton Harbor or my home in Lansing all have the same ability and the same dependability in terms of Medicare prescription drugs. They will know the premiums are the same, their cost, their ability to choose their own doctor, their ability to choose their own medicines, to go to their own local pharmacy—that should be available regardless of where you live.

One of my great concerns is we have seen, unfortunately, more and more talk about reforming Medicare, which I believe is a code word for privatizing Medicare. All we are seeing leads us to believe that the administration wants to privatize Medicare and require seniors, if they are going to get real health care coverage that includes prescription drugs, to go into private insurance systems; to go into an HMO or another kind of system.

The administration has indicated, if they stay in traditional Medicare where the overwhelming majority of seniors are, they are willing to offer a discount card that the GAO tells us would be about $3.31 savings on a prescription. That is not very much if you are someone who is paying $100 or $150 or $200 for a simple 30-day prescription.

Then they have said: If you accumulate thousands of dollars—we don't know exactly what the number would be, but have catastrophic needs—you would be able to get some kind of help. We don't know at what point they would designate that, but if you want to get real help with prescription drugs, if you want to be covered for prescription drugs, then you would have to go to the private sector to be covered.

That is absolutely unacceptable. Seniors of this country have already chosen between Medicare and going into the private sector. We have that now. We have traditional Medicare and we have something called Medicare+Choice that is a private sector HMO approach. It is your choice as a senior.

In fact, my mother chose to go into an HMO herself in Michigan, and had a good experience, but the Medicare beneficiaries were dropped from that HMO because they decided not to cover them anymore. And that has happened to over 41,000 people just in Michigan.

What we have seen is that when seniors are being given a choice between traditional Medicare and the HMO system, they have already chosen: They have chosen Medicare, traditional Medicare. But for the small percent who chose to go into the private sector, they found it was not dependable. For my own mother, who chose to do that, she found she could not count on it. It was not ultimately available to her. And now, in Michigan, only 2 percent of people who are on Medicare can even qualify, can even find a private insurer that will cover them, and they all are in the eastern part of our State. So if you live in Lansing or Flint or Saginaw or Grand Rapids or on up in Traverse City or on up in the upper peninsula, you don't even have that choice because there is nothing available.

So what we have said in this amendment is that seniors need to know the prescription drug benefit that everybody is talking about should not just be available if you choose a private insurance policy, private insurance model through Medicare; you should have the right to have a choice of traditional Medicare and have the very same prescription drug coverage.

That is what this amendment says. If we want to offer seniors choice, then

we need to make sure we offer them a real choice: the choice of Medicare as they know it, Medicare as they have been able to depend upon, as well as the other private sector models that have been proposed by the President and our colleagues.

This amendment, I believe, is exactly what the seniors of America are asking us to do: simply update Medicare, strengthen the system they count on, and make sure they have affordable prescription drug coverage. I strongly support this amendment. I am proud to be cosponsoring this amendment with my colleagues. The dual goal of having Medicare prescription drug coverage and a major payment on the debt is very important.

When we look at who the beneficiaries of Medicare are—our seniors—the majority of them are women. So I speak as one of the women of the Senate to say that the women of this country are counting on Medicare as well as Social Security. This is very real for the older women of our country. They are counting on us to fulfill the real promise of Medicare.

Mr. President, our seniors, as well as everyone who is involved with prescription drugs, are counting on us to do one other thing. I wish to speak to that for a moment. It relates to another amendment I will be offering later on in this debate that needs to be coupled with this amendment, and that is the question of lowering the price of prescription drugs.

We need to update Medicare to cover prescriptions. But at the same time, we need to lower the price through more competition, so that we can afford that coverage and be able to make it available to as many people as possible.

Along with my colleagues, Senator DORGAN and Senator SCHUMER, I am going to be offering an amendment the purpose of which is to reduce prescription drug prices for everyone, with the passage of legislation similar to S. 812, which passed overwhelmingly by the Senate last summer, a bill that contained provisions relating to generic drug reform, reimportation of prescription drugs from Canada—in other words, opening the border to Canada for our citizens—and State authority with respect to Medicaid drug rebate agreements. What that means is supporting our States that are being creative in finding ways to use their authority to lower the prices of prescription drugs for their citizens.

This amendment would take the approximately $7.4 billion minimal of savings through the generic drug reform we passed last summer coupled with any savings—and as yet they have not been able to calculate the savings—that we know would be there from opening the border to Canada, and dropping prices in half. But we would take those dollars and put it into a fund that is already in the budget resolution—a $50 billion fund for the uninsured—and we would add those budget savings to that fund for programs that help individuals and small businesses obtain health insurance.

We know the majority of those without insurance—in fact, we are told that 75 percent of the people who do not have health insurance are working, and they are working for small businesses. So this issue of lowering prices is very important for all businesses, but I would say particularly small businesses, that have seen their premiums—at least in Michigan, we know, according to Michigan Blue Cross and Blue Shield, that premiums for small businesses have doubled, at least, in the last 5 years. And we know, when we look behind those prices, as well as the prices for the Big Three automakers, and for other major employers, that the major reason the price of health care is going up is because of the explosion in the price of prescription drugs. The average retail prescription drug increase for brand names is three times the rate of inflation—three times the rate of inflation. So we have seen an explosion.

By the way, this relates back to Medicare coverage because a majority of those who are uninsured who are paying those prices are our senior citizens. In fact, the people who pay the highest prices in the world today are Americans, predominantly our seniors, who do not have insurance and walk into the local pharmacy and need to buy their medicine. So there is an important partnership here of both Medicare prescription drug coverage and lowering prices for everyone.

Last year, on a bipartisan vote, I was very proud of this body, my colleagues on both sides of the aisle, who joined together to, first of all, tighten up the rules and eliminate loopholes in relation to unadvertised brands, what we call generic drugs, that are supposed to be available when a patent runs out on a brand name. The formulas are supposed to be available so they can be manufactured at a much cheaper price, oftentimes 50 percent, sometimes as much as 70 percent less. We know by having more use of unadvertised brands, and they being more available on the market, we can drop insurance rates, we can drop prescription drug prices for our seniors and for everyone.

We also know if we simply open the border to Canada—I find this whole issue so amazing because we trade with Canada on everything except prescription drugs. In fact, in my great State of Michigan, right now we are seeing truckloads of trash coming in from Canada that we are told we cannot stop from going into Michigan landfills because we have open trade laws. So we can't stop the trash, but we can't bring in prescription drugs that would help our seniors and help our families be able to lower their costs, by bringing in American-made, American-subsidized prescriptions, that are sold in Canada at reduced prices.

That was the second part of what we did last summer, to pass a bill that opened the border. And we know that by doing that, licensed pharmacists could develop business relationships. Whether it is a pharmacist at the hospital, a pharmacist at the local pharmacy, a pharmacist working with health clinics or at a university, they could bring these back and make prescription drugs available. We ought to be doing that. It is very perplexing and frustrating that that is not happening.

In fact, to add insult to injury, the FDA has just informed us in the last week based on pressure from the pharmaceutical industry that not only are they not going to open the border, but they are going to begin enforcing the law against those who help our seniors. Whether it is an insurance company paying for reimbursement, whether it is others helping our seniors to go across the border to get their prescriptions at a lower price, working through a Canadian doctor and pharmacy, the FDA now says they will clamp down on that rather than working with us to open the borders in a safe way. This is the second part of how we lower prices.

The third way we lower prices is by supporting States that have been working to use their group purchasing power to negotiate with the pharmaceutical companies that do business with them on Medicaid, to negotiate with them to provide rebates and discounts for the uninsured in their State. A number of States have done that, and they have all been challenged, unfortunately, by the pharmaceutical industry. We want to make it clear that States have the ability on behalf of their citizens to advocate and to negotiate lower prices. That is the second amendment we will be offering.

Again, we will be offering an amendment that says we will reduce prescription drug prices. We will save dollars for the Federal Government, and then those dollars will be redirected into a fund and put aside to support small businesses to provide health care coverage for their employees.

The budget resolution is about priorities. We all know that. It is about values. It is about who we are as Americans. When I talk with people in Michigan, there is not a higher priority now than health care: Families struggling with the cost of medicine; seniors not having access to prescription drug coverage; businesses trying to figure out how to pay the bill; employees being told their pay will be frozen so their employer can pay the health care costs; those who are losing their jobs finding themselves in a situation where they are losing their health care. We even know that our reservists and members of the National Guard currently serving us in the gulf may find themselves not having health insurance for themselves and their families.

This is an issue that touches each and every one of us. Every year we talk about it. Every session we talk about it. It is complicated. It involves setting priorities on funding. Too much of the time, we set it aside to go on to something else. I hope we will not do that

this time, that we will make it clear, through this budget, that Medicare prescription drug coverage, that health care for small businesses and their employees, that lowering the prices of prescription drugs will be a top American priority. We can say, we will wait until next year, we will wait until the next budget resolution, but we can't say, we will wait until next year to get sick, to get cancer, or that a family will wait until next year until grandma or grandpa need a nursing home or their children get sick.

Health care for American families is an urgent matter. It is an urgent matter for everyone. It needs to be an urgent matter for all of us here in the Senate.

I urge my colleagues to support the amendment on Medicare prescription drug coverage, and I urge my colleagues as well to join with us in the amendment to reduce the price of prescription drugs and support our small businesses that are struggling to provide health care for their employees.

I yield back.

The PRESIDING OFFICER. Who yields time?

The Senator from Utah.

Mr. BENNETT. Mr. President, acting as the leader, I yield myself 7 minutes, with the understanding that following me, the Senator from Iowa will be recognized.

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

Mr. BENNETT. Mr. President, I have listened to the debate and wanted to make a few observations. I understand the Senator from Iowa is prepared to perhaps be a little more erudite than I. But I have heard personal references, and I must come share a few personal references, not specifically on this amendment but on the subject of Medicare.

The statement has been made that Medicare is a great success story. Medicare is a disaster. Everybody who deals with it understands that except the Congress. We have to understand that Medicare, in order to work properly, is going to have to be overhauled from top to bottom as quickly as possible. Taking the assumption that the present Medicare system is working well and all we need to do is add a little here and add a little there will further compound the disaster.

Let me give two examples that I hope will help illustrate this. The first is a town meeting where a woman came to me and said: Can you do something to fix Medicare?

I said: Well, tell me what the problem is.

She said: I am a professional woman. I am a college graduate. I think I am fairly intelligent. I handle my mother's affairs. My mother is in her eighties. She is on Medicare. I have finally figured out how to deal with Medicare. I throw away everything unopened, and at the end of the month I call the Salt Lake clinic and say: How much do I owe you for my mother? Trying to wade through the paperwork is so daunting, I can't even begin to understand anything they send to me. The assumption that my 85-year-old mother would be able to handle any of it is absurd. I tried. I struggled. I got the manuals. Finally, I discovered the way to deal with Medicare is to throw away everything unopened and once a month call the Salt Lake clinic and say: How much do I owe you for my mother?

This is a family and a circumstance where money is not a problem. Simply coping with the paperwork is overwhelming.

Second example: I have a daughter of whom I am enormously proud. She graduated with her master's degree from George Washington University after her bachelor's at Boston University. She got a job in a nursing home. She is a speech therapist. She is also a very enthusiastic young lady. She called me after about 4 days on the job.

Dad, she said—exploding over the telephone—you are a Senator. You have to fix Medicare.

I said: Now calm down. Tell me what your problem is.

She said: Medicare is a disaster. Medicare is terrible. Let me tell you my experiences.

And she began describing some of the problems she had in giving proper care to the people in this nursing home and always being told, no, you can't do that until you check to see whether or not Medicare will cover it.

She said: I thought that would be a fairly simple thing to find out. So I go down the hall and say: Will Medicare cover this procedure? It takes days to get an answer to that question.

Then she said: Dad, do you know who the highest paid person in this facility is—with a salary higher than the administrator, higher salary than the doctors, higher salary than the nurses, higher salary than any of the health professionals? It is the woman who understands Medicare. She gets paid more than anybody here because that skill is in greater demand and shorter supply than professional medical skills.

She called me back sometime later and said:

> I have had patients die while we waited to get an answer as to whether or not Medicare would cover it. Their family said, ''Don't touch my grandmother; don't do anything until we find out whether Medicare would cover it.''

It was so arcane and difficult to work through all of the paperwork and come up with the answer—well, maybe they would have died anyway; they were old and in a nursing home. People die in nursing homes. But this was a very traumatic experience for my daughter, who was convinced that the kind of therapy she was trained to provide, she was prepared to provide, which could have extended the life of that particular patient.

So as we get carried away with the rhetoric around here about what we have to protect and not protect about Medicare, let us begin to understand the truth about Medicare. Medicare is the best Blue Cross/Blue Shield fee-for-service indemnity plan of the 1960s—frozen in time. We don't practice medicine the way medicine was practiced in the 1960s when Medicare was created. We don't even come close anymore.

Yes, we need a prescription drug benefit because prescription drugs do things now that they had nothing to do with in the 1960s. But instead of pasting it on to the existing circumstance and creating a new set of forms and eligibilities and more demand for that highest paid person in the nursing home, let us as a Congress face the fact that we need to start from a clean sheet of paper, all over again, with all of the money we are putting into it—which is sizable—and say let's create a whole new system. This budget doesn't do that, but this amendment that is being offered will make things worse in that regard.

I only hope that somewhere along the line we can begin to face the fact that Medicare is 40 years old, whereas the practice of medicine is changing so constantly that we could say it is only 40 months old. Let's start with a clean sheet of paper. Let's not try this Band-Aid approach. Let's not just put this here, and put that there, and tell our constituents we are giving them something when, in fact, we are perpetuating an existing problem and ultimately making it worse.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I yield myself such time as I might consume. For the benefit of the people who are waiting to speak, I don't think I will take long on this subject.

I rise because I want to urge my colleagues to vote against the Dorgan amendment when the vote comes up tomorrow. I don't see anything wrong with the issue of Medicare being discussed because it is one of two or three of the most important issues this Congress will deal with. So it is very appropriate to have Medicare very much at the top of the agenda. It is very appropriate to have prescription drugs for seniors, as a part of strengthening and improving Medicare, be very high on the agenda. And it is very high on the agenda.

It is just a question, as it relates to the Dorgan amendment, of whether or not crafting a Medicare prescription drug program ought to be an issue on the budget, or whether you ought to let the will of Congress work and do that through the Senate Finance Committee.

We know Medicare is going to be a very important issue this year, not only because it has been very much an issue in the last election, but because the Senate majority leader has a longtime interest in Medicare and prescription drugs. He told me, as Chairman of

the Senate Finance Committee, that he would like to have the Senate Finance Committee put it very high on its agenda and have legislation prepared early for this summer's debate.

The Senate Finance Committee is going to meet that deadline. I hope Senator FRIST will be able to keep his own calendar and bring it up at that particular time. What we are talking about on this issue is whether or not the $400 billion for prescription drugs in the budget resolution is enough and whether or not an extension beyond that $400 billion is needed at this particular time.

I am here to say it is not needed at this particular time for two reasons. One, I think I can show that $400 billion is an ample amount of money to present to the Senate a good prescription drug program; and two, taking money away from tax relief for working men and women, which this amendment does, to spend on Medicare is the wrong thing to do for the long-term benefit of Medicare. Because as the trustees of the Medicare and Social Security Program pointed out in their annual report, you see Medicare in a little worse situation this year than last year because there is less payroll tax coming in because the economy is not doing quite as well as it should be. If we want to preserve the long-term viability of the Medicare trust fund, obviously, the best thing we can do is create jobs. That is what the growth package, the jobs package, that we are going to be working on this spring—tax reduction for working men and women—is all about—the creation of jobs, to have the economy grow, so more payroll taxes will be coming into the Medicare fund.

Let me explain to my colleagues why we should vote this amendment down. I start with the premise that it is long past time for Congress to strengthen and improve the Medicare Program, and the No. 1 way in which we can improve and strengthen Medicare is the enactment of a prescription drug benefit for our Nation's seniors.

We all know that adding prescription drug coverage to the Medicare Program is an expensive endeavor. Given the rapidly rising costs of Medicare and the present challenge we have just to meet our current obligations in the program, adding prescription drug coverage must be done carefully and responsibly. You don't do it by just pulling a figure out of the air, reducing the tax relief package, and putting it over here in the Medicare trust fund.

As I have said, the Medicare trustees reported last year that the program already faces substantial challenges in the not-too-distant future. The Medicare trust fund will begin to run cash deficits in 2013 that grow larger and larger until the fund is bankrupt in the year 2026.

While we are working on adding a drug benefit to Medicare, prescription drug spending has grown an average of almost 15 percent annually from 1995 to the year 2000. And the Congressional Budget Office predicts that Medicare beneficiaries will spend about $1.8 trillion on prescription drugs over the 10-year budget window.

Now, is the $400 billion in the budget resolution before us enough to spend on improving Medicare and adding a prescription drug benefit? Well, first of all, we have to recognize that Congress has come a long way in how much it has allocated to a Medicare drug benefit. For example, in fiscal year 2001, the budget resolution had $40 billion over 5 years for a drug benefit. This budget, as I have said, proposes $400 billion over 10 years and is yet $100 billion more than we had in the last budget resolution, which was for fiscal year 2002, and had $300 billion for prescription drugs over the 10 years.

I say to people on the other side of the aisle that we had a lot of support in arguing for a $300 billion budget figure for prescription drugs in that fiscal year 2002 budget. Many of my friends on the other side of the aisle spoke in favor of that proposal on the Senate floor. These Senators believed then that $300 billion would provide a good drug benefit for seniors and be affordable for taxpayers. Now we are proposing $400 billion for Medicare and for a drug benefit. This amount is certainly adequate for developing a good Medicare drug benefit for our Nation's seniors.

I urge my colleagues to support the $400 billion in funding for Medicare and vote against amendments such as the Dorgan amendment to dramatically increase the cost of that drug benefit.

I ask those very same Senators on the other side of the aisle who may want to support their colleague that if they thought 2 years ago $300 billion was a good figure and they helped us get that passed, then they would think that $400 billion is adequate as we start down this road, a road that is going to lead us to the successful passage of a drug benefit program for seniors.

As for a comparable prescription drug benefit, one of the directions that the Dorgan amendment would give the Committee on Finance—a requirement that traditional Medicare and whatever enhancement of Medicare we develop for seniors which would give them the right to choose between more than one benefit plan would have comparable prescription drug benefits—I want my colleagues on the other side of the aisle to know I will work with other members of the Finance Committee to make sure Medicare beneficiaries in traditional Medicare have a good prescription drug benefit, as well as those who may choose to go to a new, enhanced plan.

This amendment wants to tie the hands of the members of the Senate Finance Committee. The budget bill is not the place to craft a Medicare prescription drug benefit. That is the jurisdiction of the Senate Finance Committee. The committee will have its opportunity to function under my chairmanship, at the direction of Senator FRIST, our majority leader, who said he did not want to make the mistake of last year when then-majority leader Senator DASCHLE brought the issue right to the floor, bypassing the committee.

We can in this body develop bipartisanship not on the floor of the Senate but in the committees of the Senate. That is no more true than in the Senate Finance Committee which has such a reputation for bipartisanship.

I urge my colleagues to defeat this amendment and let the Finance Committee do its work.

I yield the floor.

The PRESIDING OFFICER. Who yields time? Who yields to the Senator?

Mr. CONRAD. Mr. President, how much how much time is the Senator seeking?

Mr. ROCKEFELLER. There will be, I say to the Senator from North Dakota, three Senators speaking on behalf of the amendment. Forty-five minutes would be an outside number.

Mr. CONRAD. How much time would the Senator from West Virginia like?

Mr. ROCKEFELLER. Eight, nine minutes.

Mr. CONRAD. I yield 10 minutes to the Senator from West Virginia.

Mr. REID. Mr. President, I ask, through the Chair, the Senator from Maine, it is my understanding she has permission from the manager of the bill to have the pending amendment set aside to offer this amendment.

Ms. COLLINS. The Senator is correct.

Mr. REID. I should think that is what should be done now. Does the Democratic manager agree with that?

Mr. CONRAD. That will be the appropriate action to take at this point, if the Senator from Maine will make that request.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, the Senator from West Virginia, on behalf of the Senator from Maine, the Senator from Oregon, the Senator from Nebraska, and several cosponsors, is sending an amendment to the desk to ask for its consideration. I ask that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from West Virginia.

AMENDMENT NO. 275

Mr. ROCKEFELLER. Mr. President, I call up amendment No. 275 which is already at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. ROCKEFELLER], for himself, Ms. COLLINS, Mr. NELSON of Nebraska, Mr. SMITH, Mr. SCHUMER, Mr. EDWARDS, Mrs. CLINTON, Mrs. HUTCHISON, Mr. BINGAMAN, Mr. CORZINE, Ms. MIKULSKI, Mr. KOHL, Mr. KERRY, Mr. SARBANES, Mrs. MURRAY, Ms. CANTWELL, Mr. DEWINE, and Mr. COLEMAN, proposes an amendment numbered 275.

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

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

The amendment is as follows:

(Purpose: To express the sense of the Senate concerning State fiscal relief)

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE CONCERNING STATE FISCAL RELIEF.

(a) FINDINGS.—The Senate makes the following findings:

(1) States are experiencing the most severe fiscal crisis since World War II.

(2) States are instituting severe cuts to a variety of vital programs such as health care, child care, education, and other essential services.

(3) According to the Kaiser Commission on Medicaid and the Uninsured, 49 States already have taken actions or plan to cut medicaid before or during the current fiscal year 2003. Medicaid budget proposals in many States would eliminate or curtail health benefits for eligible families and substantially reduce or freeze provider reimbursement rates.

(4) In 2002, at least 13 States reported decreased State investments in their child care assistance programs.

(5) According to a forthcoming analysis of 22 States, at least 1,700,000 people are now at risk of losing their health care coverage under cuts that have already been implemented or proposed.

(6) Fiscal relief would help avoid adding even more Americans to the ranks of the uninsured while preserving the safety net when it is most needed during an economic downturn.

(7) Curtailing the States' need to cut spending and increase taxes is essential for true economic growth.

(b) SENSE OF THE SENATE.—It is the Sense of the Senate that the functional totals in this resolution assume that any legislation enacted to provide economic growth for the United States should include not less than $30,000,000,000 for State fiscal relief over the next 18 months (of which at least half should be provided through a temporary increase in the Federal medical assistance percentage (FMAP)).

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the following Senators be added as cosponsors. Cosponsors already are myself, Ms. COLLINS, Mr. NELSON of Nebraska, Mr. SMITH, Mr. SCHUMER, Mr. EDWARDS, and Mrs. CLINTON. I ask unanimous consent to add Mrs. HUTCHISON, Mr. BINGAMAN, Mr. CORZINE, Ms. MIKULSKI, Mr. KOHL, Mr. KERRY, Mr. SARBANES, Mrs. MURRAY, Ms. CANTWELL, Mr. DEWINE, and the distinguished Presiding Officer, Mr. COLEMAN, as cosponsors.

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

Mr. ROCKEFELLER. Mr. President, I will not talk long, although this is an extraordinarily important subject particularly affecting the stimulus package and affecting a lot of people in all of our States.

The sense-of-the-Senate amendment which we put before the Senate now—and it is that, a sense of the Senate—we did the same thing this past July in the form of an amendment, and it received some 75 votes. It was very bipartisan. But this is a sense of the Senate. It is not an amendment per se.

What we are wanting to do is to add no less than $30 billion over the next 12 months for the State stimulus relief package that should be included in any stimulus package. In fact, I would argue it makes no sense to do this without including the amendment which will then find its way to the Finance Committee where we will work with it.

It is interesting, in fact, that there are many who say the primary problem for our economy at this particular point is not the impending war with Iraq, but is, in fact, the plight of our State governments and our Federal Government—the deficits and debt, in the case of the Federal Government, and the deficits, in the case of the States. We have to address the State budget shortfalls in order for any growth package to be at all meaningful. It is not as colorful and does not have as much pizzazz, but it affects incredible numbers of people.

States obviously have to balance their budgets. Senator NELSON from Nebraska will be speaking shortly. He was a Governor, as was I. Nearly every State, if not every State, faces deficits. They are likely to grow in the upcoming year. The deficits are now $70 billion to $85 billion projected for 2004. This is on top of the $50 billion in deficits that the States already have for 2003.

This constitutes a real crisis for them. They cannot print money, and they cannot do what we can do in the Senate: simply go into deficit and go on. They have to take action to close the deficit. Herein is the problem that affects the stimulus package, States, and people.

They have to cut programs or they have to increase revenues—neither important—but one of the difficulties and responsibilities of being a Governor is that you have to make those decisions—either raise revenues, cut programs, or you do both, which is why Governors often are not terribly popular at the end of 8 years.

It is about $1 out of every $8 of expenditures in the budget that these deficits represent. So it is a very large amount of money. Some 38 States, three out of four States, either cut spending in 2002, are projecting to cut spending in 2003, or do both. That is, raise revenues and cut spending.

One cannot talk about stimulating the States' economies without talking about Medicaid. Medicaid and Medicare—Medicare which we have just been discussing—between those two programs, which are both located in the same Government agency, it is a substantially greater amount of money than resides in the Department of Defense. People have to understand this, it is an enormous amount of money in Medicaid and Medicare.

Families USA, which is well respected, recently did a study on the economic impact of Medicaid. I am not talking yet about people. This is the economic impact of Medicaid. One of their key findings was that in the year 2001, which was the last year their research could cover, States spent almost $98 billion on Medicaid. But that was not the whole point. The point was that the Medicaid amount that they spent generated a threefold increase in the economic impact on the 50 States to the tune of $279 billion.

I submit that is called fiscal stimulus of a large magnitude, because it gets into goods and services, increased business activities, and I do not think I have to go on. I am very happy to say that West Virginia was among the 10 States with the highest rate of return for every dollar spent on Medicaid. So for the State that this Senator represents, it was very meaningful.

This amendment specifies that no less than one-half of the amount; that is, $30 billion, allotted for State fiscal relief must be devoted to a temporary increase in the Federal medical assistance percentage, or FMAP. That is what we voted on in July of last year. That is what passed 75 to 24—tremendously bipartisan.

This is a similar structure to the legislation that Senator COLLINS, Senator NELSON of Nebraska, and I introduced recently involving $20 billion. It was a temporary increase in the Federal Medicaid matching rate, as well as increasing funding for the Social Security block grant.

As I indicated, the legislation is very bipartisan. It puts money into Medicaid, but it also puts money into the Social Security block grant, which, quite frankly, is very good because in the Finance Committee we have been discussing welfare reform. We all know there is a shortage of childcare. Governors have the discretion to take that money and spend it on local projects or on childcare or however they might wish. Obviously, there are restrictions.

This is strongly supported by providers and by—well, I will not go into that, but it is strongly supported. It did get 75 votes, and the National Governors Association wants this more than anything else the Congress can provide, with the exception of homeland security. This will then go on to the Finance Committee.

The stimulus that Medicaid provides to the States—aside from the stimulus, there are now 1,700,000 people who will lose their Medicaid if we do nothing about this problem, if we do not increase FMAP, the Medicaid match matter. There is nothing they can do about it. They will simply have to cut more people. I say to my colleagues, they should know that States have already cut a million people off of Medicaid.

Up until this point, if we do nothing they will then cut an additional 1.7 million people off Medicaid. When one does that, one understands that there are about 47 million people on Medicaid in this country and they are people

who are vulnerable. It is the second largest item in most States' budgets. It is always, therefore, a target for cuts. It cannot be otherwise, and Governors have to do that.

What I need to say more than anything, and more poignantly hopefully, is that Medicaid is an extraordinary safety net which was set up years ago for our most vulnerable Americans, which includes not only our low-income children and working families but also our disabled and our elderly.

This strikes me as an extraordinarily reasonable amendment. Some may argue that the Federal Government is already spending too much on Medicaid and the States need to do a better job, and I would come back vociferously and say that the States are doing a superb job. In fact, they have done as well or better than the private sector on this matter indeed, as Medicare only spends 2 to 3 percent for overhead costs in the administration of the program, in spite of all the fraud and abuse charges that are thrown at it.

Costs are rising in Medicaid because of prescription drugs and long-term care costs. Those are the two fastest growing items in health care. They both reside in Medicaid at this point. Medicaid has prescription drugs. Medicare does not. And so people seek it out.

In conclusion, this is a sense-of-the-Senate amendment. No less than $30 billion of State fiscal relief should be included in anything which we call a fiscal stimulus or an economic growth package. This is the most important action we could take, and I urge my colleagues to support the amendment.

I yield whatever time she may consume to the distinguished Senator from Maine, Ms. COLLINS.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I thank my colleague from West Virginia for his comments. It has been such a pleasure to work with him. He is an eloquent and compassionate advocate for health care for low-income families. I am delighted to be his partner in this regard.

I also acknowledge the hard work of Mr. NELSON, the Senator from Nebraska, and Senator GORDON SMITH of Oregon. The four of us have worked very hard on this initiative for over a year. We are also delighted to have the Presiding Officer's critical support in this initiative.

States from Maine to Nebraska, from West Virginia to Oregon, are facing the most serious budget shortfalls in 50 years. The bipartisan amendment that we are offering tonight takes the first step toward providing States with a measure of much needed fiscal relief.

Regardless of the size of the tax cut, we believe it is imperative that the economic growth package include a significant amount for State fiscal relief. Therefore, our amendment expresses the sense of the Senate that at least $30 billion of the economic growth package be targeted to State fiscal relief over the next 18 months to help our States cope with an aggregate budget shortfall that is nearly four times that size.

This bipartisan amendment has been drafted in a way that is both budget and deficit neutral, and I stress that for the information of my colleagues. It neither increases nor decreases the amount provided for reconciliation in the budget resolution. Therefore, our amendment does not add to the deficit. It does not change the spending caps that are included in this resolution.

The attacks of September 11 on our Nation, coupled with the subsequent recession and resulting unemployment, have placed tremendous and unanticipated strains on Government services and resources. At the same time, the States, which are after all our partners in providing health care, education, and other essential services, are facing a dramatic and unexpected decline in Government revenues at precisely the time when the demand for Government services is the greatest because of the lagging economy.

State budgets are under siege. The combination of increasing demands for services and resources, coupled with the dramatic drop in revenues, is causing a fiscal crisis for States from coast to coast.

The State of Maine, for example, faces a budget shortfall over the next 2 years of approximately $1.2 billion. Let me put that in perspective. The entire budget for Maine is only $5.3 billion, which means it faces a shortfall of more than 20 percent. To put the plight of Maine into perspective, I point out if the Federal Government were facing a 20-percent shortfall, it would have to close a $440 billion budget gap, and it would have to do so under its Constitution without borrowing a single dime. That is the dilemma facing our States.

The States have to balance their budgets. They cannot print more money. They cannot borrow more money. They have to balance their budgets. States have been using rainy day funds, delaying capital projects, cutting spending, increasing taxes. They are doing whatever they can to balance their budgets.

According to a February report by the National Conference on State Legislatures, States have been forced to cut a number of critical programs, ranging from education to corrections. Mr. President, 29 States have imposed across-the-board budget cuts, and at least 24 States are considering tax increases to help close those budget gaps.

Moreover, at a time when the number of people without health insurance is climbing, 49 States have either already taken action to cut their Medicaid Program, or are planning to do so. Medicaid provides medical care for 44 million low-income people nationwide, including 218,000 individuals in my home State. States are cutting benefits, increasing copays, restricting eligibility, or removing poor families from the rolls because of soaring costs and plunging revenues. As a consequence, the National Governors Association estimates as many as 2 million low-income individuals across this country will lose their health care coverage as a result of the loss of Medicaid coverage.

Let me be clear, I am not saying Congress should bail out the States. I am not saying States should not have to make hard choices. I am not saying States should not cut their budgets, that they should not balance their budgets. The States do need to tighten their belts during these austere fiscal times, but the nature and the severity of the fiscal crisis facing our States has convinced me we simply must help. The consequences are too dire, otherwise, and too many very low-income individuals will suffer if we do not step in and help.

That is why I joined in this effort to provide for a temporary increase in the February Medicaid matching rate as well as some flexible funds that go to every State. Specifically, our amendment, which has strong bipartisan support, provides $30 billion to the States, at least half of which would have to be provided through a temporary increase in the Medicaid matching rate.

Our amendment is strongly supported by a host of health care patient and consumer advocacy groups, including the American Hospital Association, the American Health Care Association, the Visiting Nurses Associations of America, the American Dental Association, Families USA, the Child Welfare League of America, the Alzheimer's Association, the National Alliance for the Mentally Ill, the Children's Defense Fund, the Consortium for Citizens with Disabilities, and many other critically important organizations.

The support our proposal has received underscores how important it is we act now to provide assistance to the States at a time when many are looking toward further cuts in their health care programs to help balance their budgets.

We have focused particularly on Medicaid because of our concern about the impact on low-income families in America. But there is another reason it makes sense to target this assistance to the Medicaid Program; that is, Medicaid is the fastest growing component of State budgets.

While State revenues are stagnant or declining in most States, Medicaid costs are increasing at a rate of more than 13 percent a year. My home State of Maine is one of many States that has been forced to consider cuts in its Medicaid Program to compensate for its budget shortfalls.

Legislation enacted as a consequence of our amendment, I stress again, will not free States from making very painful and difficult choices in crafting their budgets for the year. But it will help prevent the most harmful cuts, those that would affect the families who can least afford them, those who

are already under strain as we see the number of uninsured continue to climb to 41 million Americans without insurance.

To Maine, our amendment could mean as much as $190 million over the next 18 months for health care and social services that would help our most needy citizens. In other words, this is about helping those who are most vulnerable in our society. In addition, our proposal makes sound economic sense. Putting money into the hands of the States is a good way to stimulate economic growth.

After all, if we cut taxes in Washington only to have taxes increased in State capitals across this country, we will wipe out the good that we do by cutting taxes. We know if we get money into the hands of the States, they will put it directly into the economy, and that is just the kind of stimulus our economy needs.

Congress is most effective when it stands arm in arm, not toe to toe, with our partners, the States. Our States face a crisis of vast and still-expanding dimensions. We need to help. This amendment is a critical step forward in doing just that. I hope we will have another very strong bipartisan vote for our proposal so that we can ensure any fiscal relief is included in any economic growth package that we consider later this year.

I am happy to yield to my colleague from West Virginia.

Mr. ROCKEFELLER. I ask the Senator from Maine, in the summary before the vote tomorrow, opponents will no doubt ask what is our source of funding. That is a fair question to ask, and it has a very easy answer, in this case in a sense-of-the-Senate amendment.

Would the Senator from Maine be willing to clear up for our colleagues how we will pay for this?

Ms. COLLINS. The Senator from West Virginia raises an excellent question. Again, I stress that what our direction to the Finance Committee would say, when you report an economic growth package, fiscal relief up to at least $30 billion should be part of that package.

So our sense-of-the-Senate amendment does not increase the deficit. It does not increase the overall spending in this resolution. It does not increase the budget caps that are in this resolution. All it says is, when an economic growth package is reported by the Finance Committee, it should include the $30 billion in State fiscal relief.

So this proposal is budget neutral and it is deficit neutral. It does not have the impact that might cause some people otherwise to oppose it.

Mr. ROCKEFELLER. I thank the Senator and ask if she would further yield?

Ms. COLLINS. I am happy to yield to my friend.

Mr. ROCKEFELLER. It would be natural, in the nature of this body, for people to come and say—the Senator referred to this in her remarks—you are talking about making available $30 billion to the States; we have enough problems of our own at the Federal Government level. I pointed out in my remarks the recession we are in right now is more a matter, not of war that we are in, but the State situation and the Federal Government situation.

So people would say just let the States go ahead and pay for this. If they have to make cuts, they have to make cuts. It is their fault they are in this kind of situation.

I was wondering how the Senator would reply to that.

Ms. COLLINS. Mr. President, I would respond to that concern in two ways. First of all, the dramatic decline in revenues is not the fault of State governments. It is a product of the lagging economy we are in, and the lingering effects of the attacks on our Nation of September 11. The States have been prudent, have taken appropriate steps, but when you have 49 States, every single State but Wyoming, struggling to close budget gaps, it is clear it is not the result of profligate spending by one or two particular States but, rather, reflects our declining economy or our lagging economy.

What we have here is a confluence of the impact of September 11 and a recession with declining revenues that have caused these budget gaps in 49 States.

A second point is, despite our best efforts, the States are still going to have to make some very painful and difficult choices. In the State of Maine, we are facing a budget gap of over $1 billion. Under our proposal, Maine would get a much welcomed $190 million. There is still a long ways to go.

Our proposal will certainly help the States avoid some of the most harmful cuts, particularly in health care, which is our greatest concern, but it certainly does not mean States are let off the hook in any way.

Mr. ROCKEFELLER. If the Senator will further yield, she leads directly to the question I wanted to ask her. That is, that there are many who have not worked in the bowels of State government, so to speak, who think Medicaid is sort of a gift from the Federal Government to the States. They do not understand that there is a very complex formula wherein all the States have to contribute, the formula is based upon their prosperity, and things of that sort.

So the concept that this is somehow the Federal Government turning over money to the States and there is no cost to them doesn't make any sense, does it?

Ms. COLLINS. The Senator is absolutely correct. Medicaid is a partnership between the Federal Government and our partners, the States, to provide health care to low-income families, the very poor individuals, to those who need it most. Medicaid is the fastest growing component in State budgets. So States certainly are contributing to this program. It has been a successful partnership. We are suggesting a temporary increase over the next 18 months. I hope we will grant that.

I have several letters which I am going to have printed in the RECORD, which talk about protecting the States' ability to provide and deliver this health care, and points out, again, that these are health care services to the most vulnerable Americans we serve.

I ask unanimous consent that a letter from the National Association for Home Care and Hospice be printed in the RECORD.

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

HOMECARE & HOSPICE,
January 22, 2003.

Hon. BOB GRAHAM,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR GRAHAM: On behalf of the National Association for Home Care & Hospice (NAHC), the nation's largest association representing home care and hospice providers, caregivers and the patients they serve, I am writing to commend you on the introduction of S. 138, the ''State Budget Relief Act of 2003.''

As you are well aware, the current economic downturn has resulted in drastically lower state tax revenues. Moreover, the number of uninsured continues to grow as more and more people are forced from the labor market. This has resulted in states being forced to cut their Medicaid budgets at the exact time that there is a growing need for services.

Your legislation, by temporarily increasing the Federal Medical Assistance Percentage (FMAP) as a way to direct additional federal funding to state Medicaid programs, will protect states' health care delivery systems and ensure the continuation of health services for the most vulnerable of our population. Without this assistance, many communities will find themselves with providers that are understaffed, have crumbling infrastructures, lack current medical technology, or have reduced or eliminated certain services.

NAHC believes that home health and hospice services remain one of the remedies to the widespread concern over growing health care costs. In recent years, state Medicaid programs have increased their utilization of home and community-based long-term care services in lieu of institutional care through the use of waivers. In fact, the Centers for Medicare and Medicaid Services (CMS) recently reported that Medicaid spending growth levels for home care services more than doubled between 2000 and 2001—from 8,6 percent to 17.3 percent. Some of this trend reflects the growing desire to implement the Supreme Court's Olmstead decision to provide disabled individuals care in the least restrictive setting possible and the Administration's goals as set forth in its ''New Freedom Initiative.'' This desirable trend is at risk of falling victim to the widespread cuts to the Medicaid program that states are being forced to implement due to budget shortfalls.

Once again, thank you for your leadership on this issue. Let me know if there is anything my staff or I can do to ensure the passage of this important legislation.

Sincerely,

VAL J. HALAMANDARIS,
President.

Mr. ROCKEFELLER. I thank the Senator from Maine.

Mr. SMITH. Mr. President, I rise today in support of this sense of the Senate amendment to provide funding for State fiscal relief.

States are suffering their worst fiscal crisis in over half a century.

Forty one million Americans live, work, and go to school without health insurance, and that number grows every single day.

I have been a strong supporter of State fiscal relief since the economy began to slow several years ago. Since then, the situation has only gotten worse. This is the third consecutive year of nationwide budget problems for the States.

According to the Kaiser Family Foundation, 49 States and the District of Columbia have taken Medicaid cost-containment action this fiscal year; additional cuts are expected next year as States struggle to fill budget shortfalls of billions of dollars.

States are reducing or freezing provider payments, establishing or strengthening prescription drug cost controls, reducing benefits, increasing co-payments for Medicaid beneficiaries, and most significantly, States are increasing restrictions on eligibility for Medicaid.

What does this mean? Let me be clear: it means that the number of uninsured Americans will continue to grow.

According to the CDC, Medicaid and SCHIP provided coverage for 2 million children and 1 million adults who lost their health coverage last year. In addition to those who did qualify for these programs, many more did not; they joined the ranks of the uninsured. In 2001, 1.4 million people became uninsured, and this number is likely to be even higher for 2002 and 2003.

While we need to strengthen our economy in the long run, it is imperative that we address the immediate economic problems, particularly the state fiscal crisis. State fiscal relief is one of the most effective policies the Congress could and should enact as part of the economic stimulus/growth package.

There is no question that States will spend any additional Federal funds they receive quickly, putting money directly into the economy rather than curtailing economic activity. As many economists have noted, we need to increase demand in the economy—but State budget actions to balance their budgets right now are reducing demand significantly.

This is precisely the wrong medicine at the wrong time for our economy.

Last year, 75 Senators voted to provide State fiscal relief by boosting FMAP payments to States, but in the end, the legislation was not signed into law and State fiscal relief—needed now more than last year—has still not been delivered.

The magnitude of the State fiscal crisis is growing steadily worse. Oregon alone is facing a budget deficit of at least $1 billion in the upcoming fiscal year. Already, one in four Medicaid recipients in Oregon is experiencing service cuts, and more reductions are on the way. Districts in my State have the shortest school year of any schools in the country. Some teachers in my State have even agreed to work for free in order to keep the schools open! And things are so bad for Oregon schools that recently the Doonesbury comic strip dedicated a whole week of comics to the sad state of Oregon school funding.

This proposal would bring almost $331 million to Oregon over the next 18 months, which would go a long way to maintain the fragile health care safety net for vulnerable Oregonians. Bipartisan support for our FMAP proposal has grown steadily. It is supported by groups representing the States, the elderly, the disabled, children, and Oregon's governor Kulongoski, among many, many others. It has support because it is a sound proposal. It provides temporary assistance to States in a very timely and efficient manner.

Several weeks ago, I was in Oregon for a series of town hall meetings with my colleague Ron Wyden. At every stop, we spoke to people who were being affected by the first round of budget cuts. I can tell you, as we listened to these good people tell their stories, there wasn't a dry eye in the house.

The pain is real. We have to do something and we have to do it now, and I urge my colleagues to support this fiscal relief amendment to the budget.

The PRESIDING OFFICER. Who yields time? Does the Senator from West Virginia yield time?

Mr. ROCKEFELLER. How much time, might I ask the Senator, does he require?

Mr. NELSON of Nebraska. I estimate 5 minutes.

Mr. ROCKEFELLER. The Senator is welcome to that.

Mr. NELSON of Nebraska. Mr. President, it is a pleasure to join with my colleague from the State of Maine. We have been working for a long time to bring about help for the States in the area of Medicaid and in the area of welfare reform and social services.

Our amendment makes it clear that the Senate recognizes the partnership between the Federal Government and the States, and is committed to helping the States see their way out of their dire budget situation.

How bad is this budget shortfall? The States are currently experiencing the worst fiscal crisis since World War II. States have accumulated $26 billion in deficits this year on top of $50 billion in deficits from last year. Even greater gaps, reaching upwards of $70 to $85 billion in deficits, are projected for the next fiscal year. It is, in fact, a crisis.

But the budget crisis is more than just numbers and dollars. This is about real people. And the people of our States have been hit hard by the tough economic times. Nearly every State is required to have a balanced budget, even during a recession. The rainy day funds have run dry and funding for programs as critical as Medicaid have been cut to the bone. The only option left for many States is to cut critical programs even further or raise taxes.

Just last year, Nebraska reduced the number of low-income working families that were eligible for assistance with childcare. More than 2,000 Nebraska families have lost childcare assistance as a result of this change. Those hardest hit are families that have managed to stay off welfare for more than 2 years. These families who have slowly but steadily made progress to self-sufficiency may soon find themselves struggling to pay their childcare bills and returning to the welfare rolls. Childcare assistance is integral to any effort to move families from welfare to work and to keeping low-income parents employed. State fiscal relief will protect the progress we have made in welfare reform over the past decade from being undone.

Many of the other cuts are being considered in the areas of education, health care, social services, and corrections.

My office recently received a call from Sharon Walters of Omaha, NE. The message she relayed is a good illustration of how these proposed cuts are affecting real people. She wanted to make sure I know the importance of my efforts to provide State fiscal relief. She represents Bethphage, an organization that provides community-based services for people with disabilities. She was worried because much of their funding comes from Medicaid. Because of so many proposed cuts to the Medicaid program, Bethphage and other programs like theirs, may soon be forced to limit the good work they do if State budgets do not see some relief soon.

State fiscal relief is not only needed to protect education, health care, Medicaid and other social service programs, it is needed to stimulate our economy.

In discussing various jobs and growth proposals with my colleagues this year, I have repeatedly asked them to ''Show me the Stimulus'' and demonstrate how proposed tax cuts or spending will get our economy back on track.

Although economists differ on the stimulative effect of the varying tax cut proposals, I think there is little question that providing States with fiscal relief would be a boost to the economy. In fact, State fiscal relief may provide more ''bang for the buck'' than many of the other stimulus proposals being discussed. According to a recent study done by Mark Zandi at economy.com every dollar spent in State fiscal relief will create $1.24 in demand the following year.

At a time when we are trying to get the economy back on track, it would be irresponsible for the Senate to turn its back on this nationwide crisis and do nothing.

It doesn't make much sense to cut taxes in Washington while States are

forced to raise them in Lincoln, Des Moines, Topeka, Pierre, Saint Paul, or wherever and other State capitals throughout the United States. State fiscal relief is a commonsense approach to getting our economy back on track. As well, it is the right thing to do. Not only will State fiscal relief shield the people of our States from some of the tough economic times, to some extent, it will also stimulate our economy and return individuals and States alike to financial security.

Again, I thank my colleagues—Senators COLLINS and ROCKEFELLER—for their work on this important effort and urge my colleagues to join us in supporting this amendment.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. NELSON of Nebraska. I thank my colleagues and thank the Presiding Officer for this time.

The PRESIDING OFFICER. The Democratic whip.

Mr. REID. Mr. President, on behalf of Senator CONRAD, I yield to the distinguished Senator from Maryland 20 minutes.

Mr. SARBANES. At most.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I intend to speak to an amendment which will be offered tomorrow. I take this approach because I am joined in sponsoring this amendment by Senator JEFFORDS, Senator MIKULSKI, and Senator BOB GRAHAM of Florida. And they will, presumably, be able to address the amendment as well on that occasion.

The amendment that we will offer will boost Federal funding for the Clean Water and Safe Drinking Water State Revolving Funds from the level that is recommended in the budget resolution, which is $2.2 billion, to $5.2 billion; $3.2 billion of this for the Clean Water State Revolving Fund and $2 billion for the Safe Drinking Water State Revolving Fund.

Regrettably, the President's budget for fiscal 2004 and the budget resolution severely shortchange the funds needed by State and local governments to upgrade their aging wastewater and drinking water infrastructure.

The President's budget provides only $1.7 billion for both State Revolving Funds, equally split. The budget resolution recommends a somewhat higher figure, a little over $2 billion for both funds, but that is still far short of what is needed.

Despite progress over the last three decades, EPA reports that more than 40 percent of our Nation's lakes, rivers, and streams are still too impaired for fishing or swimming. Discharges from aging and failing sewage systems, urban storm water, and other sources continue to pose serious threats to our Nation's waters, endangering public health and both the fishing and recreational industries.

Of course, as we all realize, population growth and development are placing additional stress on the Nation's water infrastructure and our ability to make sustainable gains in water quality.

Across the Nation, our wastewater and drinking water systems are aging. And, in some cases, systems currently in use were built more than a century ago and have outlived their useful life.

For many communities, current treatment is not sufficient to meet water quality goals. Recent EPA modeling indicates that municipal wastewater treatment facilities in my own State will have to reduce nitrogen discharges by nearly 75 percent to restore the Chesapeake Bay and its tributaries to health.

In April of 2000, the Water Infrastructure Network, a broad coalition of locally elected officials, drinking water and wastewater service providers, State environmental and health administrators, engineers, and environmentalists released a report, ''Clean and Safe Water for the 21st Century.'' This report documented a $23 billion a year shortfall in funding needed to meet national environmental and public health priorities in the Clean Water Act and in the Safe Drinking Water Act. And all of the studies have substantiated this gap. For example, in May of 2002—less than a year ago—the Congressional Budget Office released a report showing very large gaps for clean water needs and drinking water needs over the next 20 years.

The need for additional investment in wastewater and drinking water infrastructure is clearly documented. But States, localities, and private sources cannot meet the funding gap alone. Local communities already pay almost 90 percent of the total cost, or about $60 billion a year, to build, operate, and maintain their drinking water and wastewater systems.

But as Administrator Whitman recently pointed out:

> The magnitude of the challenge America faces is clearly beyond the ability of any one entity to address.

States are currently facing the worst fiscal crisis in 50 years and cannot afford to make new investments in clean water and drinking water infrastructure.

Clearly, water pollution is an interstate problem that requires, in part, a Federal response. In our own case, in Maryland, water flows into the Chesapeake Bay from six States. Other States need to make investments as well in order to clean up the watershed. It is vital that the Federal Government maintain a strong partnership with States and local governments in order to address this major environmental challenge.

The increases provided for in this amendment are the first step necessary to deal with this pressing problem. It represents an investment in the health of Americans and a clean environment, and is, I believe, an investment that will pay substantial dividends.

Wastewater treatment plants not only prevent billions of tons of pollutants from reaching our rivers, lakes, streams, and coasts, they also help prevent waterborne diseases and make waters safe for swimming and fishing. In fact, the Water Infrastructure Network says that clean water supports $50 billion a year in the water-based recreation industry, at least $300 billion a year in coastal tourism, $45 billion annually in commercial fishing and shellfishing, and hundreds of billions of dollars a year in basic manufacturing that relies on clean water.

According to the Water Infrastructure Network, clean rivers, lakes, and coastlines attract investment in local communities and increase land values on or near the water, and that, in turn, creates jobs, adds to the tax base, and improves revenues for local, State, and Federal governments. Some 54,000 community drinking-water systems provide drinking water to more than 250 million Americans. By keeping water supplies free of contaminants that cause disease, these water systems reduce sickness and related health care costs. They reduce absenteeism in the workforce. And they, obviously, add to our quality of life.

Investment in the infrastructure we are talking about here—sewer and water improvements—would also create substantial numbers of jobs through construction. It would provide an impetus to our economy at a time when it needs an impetus.

There is strong support for increased investment in infrastructure. Colleagues on both sides of the aisle have taken a lead on this issue over the years.

The case for the amendment is compelling. Maintaining clean, safe water remains one of our leading national challenges. This budget resolution should not and need not come at the expense of human health or a clean environment. I strongly urge my colleagues, when the amendment is presented, to support it and to begin to address this large funding gap that looms into the future with respect to this very important aspect of our domestic agenda. This is both good environmental policy and good economic policy. Support for this amendment will offer an opportunity to continue to make progress on clean water and safe drinking water. I commend the amendment to my colleagues when it is brought before them at the appropriate time.

Mr. President, I have a number of letters from organizations in support of the amendment. I ask unanimous consent to print them in the RECORD.

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

NATIONAL ASSOCIATION OF COUNTIES,
Washington, DC, March 19, 2003.

Subject: Support for the Jeffords/Sarbanes/Mikulski/Graham SFR amendment.

DEAR SENATOR: The National Association of Counties (NACO) supports the Jeffords/Sarbanes/Mikulski/Graham amendment to boost funding for the Clean Water and Safe

Drinking Water State Revolving Funds (SRF) from the Fiscal 2003 enacted level of $2.19 billion to $5.2 billion.

Despite progress over the past 30 years, the Environmental Protection Agency reports that more than 40 percent of our nation's lakes, rivers, and streams are still too impaired to be utilized for their intended use. And, discharges from aging and failing sewage systems, urban storm water and other sources continue to pose serious threats to our nation's waters. Population growth and development only place more stress on the nation's water infrastructure and its ability to maintain current standards.

On September 30, 2002, the EPA released a Clean Water and Drinking Water Infrastructure Gap Analysis. This report discovered a $535 billion gap between current spending and projected water and wastewater infrastructure needs over the next 20 years if additional investments are not made.

It is vital that the Federal government work with the state and local governments to prevent this massive projected funding gap and share the burden of maintaining and improving the nation's water infrastructure. An increase in funding for the Clean Water SRF to $2 billion in fiscal year 2004 is the first step necessary to meet these funding requirements.

Additionally, each billion dollars invested in water infrastructure creates an estimated 40,000 jobs. So this amendment is both pro-environmental policy and pro-economic policy. Thank you for offering this timely and important amendment.

Sincerely,

LARRY NAAKE,
Executive Director.

NATIONAL LEAGUE OF CITIES,
Washington, DC, March 19, 2003.

Hon. PAUL SARBANES,
U.S. Senate,
Washington, DC.

DEAR SENATOR SARBANES: On behalf of the National League of Cities and the 18,000 cities and towns across the nation we represent, we would like to express our support for your efforts, along with those of Senators Mikulski, Graham and Jeffords, to increase funding for the Clean Water and Drinking Water State Revolving Funds.

As you know, our cities and towns are facing a $23 billion funding gap annually to repair and replace aging infrastructure for these critical, but unseen, services, despite annual local expenditures of more than $60 billion for wastewater and drinking water. We also agree that investments in our water and wastewater infrastructure can serve as a job creation component of an economic stimulus initiative.

We applaud and appreciate your efforts and offer any assistance we can to help you attain your objective.

Sincerely,

DON BORUT,
Executive Director.

ASSOCIATION OF
METROPOLITAN WATER AGENCIES,
Washington, DC, March 19, 2003.

Hon. PAUL S. SARBANES,
U.S. Senate,
Washington, DC.

DEAR SENATOR SARBANES: On behalf of the nation's largest public water suppliers, thank you for your efforts to increase funding for the drinking water and clean water state revolving funds (SRFs) to $5.2 billion in fiscal year 2004. If this increase is appropriated, the benefits will be safer water supplies, cleaner rivers and streams, and a stronger economy.

The Association of Metropolitan Water Agencies represents the nation's largest publicly owned drinking water providers. ANWA's members serve safe drinking water to more than 110 million Americans.

Sources including the Water Infrastructure Network, EPA, GAO and the CBO confirm that water systems face multi-billion-dollar gaps in funding, as water facilities, particularly underground distribution systems, reach the end of their useful lives. According to WIN, the gap between what utilities currently invest and what they will need to invest over the next 20 years is $23 billion per year. Water systems themselves pay the majority of infrastructure costs, but federal help is needed, especially for metropolitan systems.

Twenty-one States provided no assistance to systems serving 100,000 or more people between 1996-2002. Thirteen more States provided assistance to only one or two of these systems. Only a substantial boost in funding will provide the opportunity to better help our nation's largest public water systems.

Thank you for supporting drinking water and wastewater infrastructure funding.

Sincerely,

DIANE VANDE HEI,
Executive Director.

WATER ENVIRONMENT FEDERATION,
March 19, 2003.

Hon. PAUL SARBANES (D-MD),
Washington, DC.

DEAR SENATOR SARBANES: It is our understanding that you and other Senators plan to offer an amendment during consideration of the FY 2004 Budget Resolution that would substantially increase funds available for the Clean Water and Safe Drinking Water state revolving funds (SRFs). The Water Environment Federation, an organization whose members are directly involved in the implementation of clean water programs, strongly supports this amendment.

The need for increased investment in water infrastructure is well documented. In September 2002, the Environmental Protection Agency released a Clean Water and Safe Drinking Water Infrastructure Gap Analysis which found that there will be a $535 billion gap between current spending and projected needs for water and wastewater infrastructure over the next 20 years if additional investments are not made. In May 2002, the Congressional Budget Office released a report that estimated a spending gap for drinking water between $132 billion and $388 billion over 20 years and the spending gap for drinking water needs at between $70 billion and $362 billion over 20 years.

WEF, founded in 1928, is a not-for-profit technical and educational organization with members from varied disciplines who work toward the WEF vision of preservation and enhancement of the global water environment. The WEF network includes more than 100,000 water quality professionals from 79 Member Associations in 32 countries.

Sincerely,

TIM WILLIAMS,
Managing Director,
Government and Public Affairs.

ASSOCIATION OF
METROPOLITAN SEWERAGE AGENCIES,
Washington, DC, March 19, 2003.

Hon. PAUL SARBANES,
U.S. Senate, Hart Senate Office Building,
Washington, DC.

Hon. JIM JEFFORDS,
U.S. Senate, Dirksen Senate Office Building,
Washington, DC.

Hon. BARBARA MIKULSKI,
U.S. Senate, Hart Senate Office Building,
Washington, DC.

Hon. BOB GRAHAM,
U.S. Senate, Hart Senate Office Building,
Washington, DC.

DEAR SENATORS: On behalf of the nearly 300 publicly owned wastewater treatment agency members who provide treatment to a majority of Americans, the Association of Metropolitan Sewerage Agencies (AMSA) offers its support for your amendment to the Fiscal 2004 Budget Resolution. Your amendment would boost funding for the Clean Water State Revolving Fund (CWSRF) from its current funding level of $1.35 billion to $3.5 billion in fiscal year 2004, an increase which AMSA believes would mark an important first step toward developing a long-term, sustainable solution for the wastewater infrastructure funding gap.

As your March 14 Dear Colleague letter aptly states, ''It is vital that the Federal government maintain a strong partnership with states and local governments in averting this massive projected funding gap and share in the burden of maintaining and improving the nation's water infrastructure,'' Your amendment demonstrates that water quality remains a high priority for the 108th Congress and helps bring the significant goal of overcoming the clean water funding gap within reach.

AMSA's overarching goal is to ensure America's clean water progress. Once again, we thank you for your support of the nation's publicly owned treatment works and for your help in meeting this critical national objective. AMSA looks forward to working with you on a long-term, sustainable funding solution for the nation's core wastewater infrastructure. If you have any questions, please contact me at 202/833–2672.

Sincerely,

KEN KIRK,
Executive Director.

ASSOCIATION OF
CALIFORNIA WATER AGENCIES
Washington, DC, March 19, 2003.

Hon. PAUL SARBANES,
U.S. Senate, Hart Senate Office Building,
Washington, DC.

Hon. JIM JEFFORDS,
U.S. Senate, Dirksen Senate Office Building,
Washington, DC.

Hon. BARBARA MIKULSKI,
U.S. Senate, Hart Senate Office Building,
Washington, DC.

Hon. BOB GRAHAM,
U.S. Senate Hart Senate Office Building,
Washington, DC.

DEAR SENATORS: The Association of California Water Agencies (ACWA) strongly supports your proposed amendment to the fiscal year 2004 Budget Resolution to increase funding for the Clean Water and Safe Drinking Water State Revolving Funds (SRFs).

Throughout the United States, these programs provide indispensable resources to rural areas and municipalities alike for projects that enable compliance with drinking water standards, protection of waterways, sanitation, environmental preservation and more. The SRFs are the backbone of our water infrastruce, and with increasingly severe demands on water supplies, the Funds

will become more important in the years ahead.

Last year the U.S. Environmental Protection Agency acknowledged a multi-billion dollar need for reinvestment in our water infrastructure, and this ''funding gap'' is the ongoing subject of bipartisan legislation.

ACWA represents 440 public water agencies in California collectively responsible for more than 90 percent of the water delivered for residential and agricultural use.

Thank you for your efforts to increase funding for water infrastructure in the 2004 budget, and we look forward to working with you to advance this worthwhile goal.

Sincerely,

DAVID L. REYNOLDS,
Director of Federal Relations.

AMERICAN SOCIETY OF CIVIL ENGINEERS,
Washington, DC, March 19, 2003.

Hon. PAUL SARBANES,
Hart Building,
Washington, DC.

DEAR SENATOR SARBANES: I am writing on behalf of the 130,000 members of the American Society of Civil Engineers (ASCE) to support passage of your amendment to increase funding for the Clean Water Act and Safe Drinking Water Act State Revolving Loan Fund (SRF) programs for fiscal year 2004.

Two years ago ASCE released its 2001 Report Card for America's Infrastructure. At that time, we found that the nation's aging wastewater and drinking-water systems received an overall grade of D. These systems are quintessential examples of aged systems that need to be updated. For example, some sewer systems are 100 years old. Many older drinking-water systems are structurally obsolete.

The annual funding shortfall of $11 billion for drinking-water and $12 billion for wastewater only accounts for improvements to the current system and do not even take into consideration the demands of a growing population.

The amendment that you propose would help make an important down payment on the necessary investment in our long-neglected water systems.

If ASCE can be of any assistance in this important endeavor, please do not hesitate to contact Brian Pallasch at 202–326–5140 or Michael Charles at 202–326–5126.

Sincerely yours,

THOMAS L. JACKSON, P.E.,
President.

CONSTRUCTION MANAGEMENT ASSOCIATION OF AMERICA,
McLean, VA, March 19, 2003.

Hon. JAMES M. JEFFORDS,
U.S. Senate,
Washington, DC.

Hon. BARBARA A. MIKULSKI,
U.S. Senate,
Washington, DC.

Hon. PAUL S. SARBANES,
U.S. Senate,
Washington, DC.

Hon. BOB GRAHAM,
U.S. Senate,
Washington, DC.

DEAR SENATORS JEFFORDS, MIKULSKI, SARBANES, AND GRAHAM: I am writing on behalf of the more than 2,000 members of the Construction Management Association of America (CMAA) to express our strong support for the proposed amendment you plan to offer today during consideration of the FY 2004 Budget Resolution, which would increase funding for the Clean Water and Safe Drinking Water State Revolving Funds (SRF) from the Fiscal 2003 enacted level of $2.2 billion to $5.2 billion.

CMAA is an industry association of firms and professionals who provide program and construction management services to owners in the planning, design and construction of capital projects of all types. CMAA's mission is to ''promote professionalism and excellence in the management of the construction process.''

As you are well aware, America's water infrastructure systems are aging, deteriorating and demanding attention. Reports show that municipal sewer systems overflow some 40,000 times annually. In addition, approximately 42 million Americans are served by old sewer systems that don't even separate storm water from waste. The need for improvement is clear, and growing.

According to a 2001 report published by The Water Infrastructure Network (WIN), of which CMAA is a member, wastewater systems faced a daunting capital investment shortfall of approximately $12 billion each year over the next two decades. A similar report by the Congressional Budget Office (CBO) concluded in 2002 that ''costs to construct, operate, and maintain the nation's water infrastructure can be expected to rise significantly in the future.'' The CBO conservatively estimated that the needs would be $13 billion annually for wasterwater systems over the next 20 years.

An increase in funding for the Clean Water SRF to $3.2 billion and for the Safe Drinking Water SRF to $2 billion in fiscal year 2004, as proposed in your amendment, would help address this massive water infrastructure funding gap.

Once again, CMAA offers its strongest support for this important amendment and commends you for your leadership in helping to address our nation's water infrastructure funding gap. Should you have any questions or comments, please do not hesitate to contact Elizabeth Aronson, our Director of Government Affairs, at 703/216–3248.

Thank you for the opportunity to comment on this important matter.

Sincerely,

BRUCE D'AGOSTINO,
Executive Director.

THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA,
Alexandria, VA, March 18, 2003.

Hon. PAUL SARBANES,
U.S. Senate,
Washington, DC.

DEAR SENATOR SARBANES: As you consider the Fiscal Year 2004 Budget Resolution, the Associated General Contractors of America (AGC) urges you to support the Jeffords-Sarbanes-Mikulski-Graham amendment to boost funding for the Clean and Safe Drinking Water State Revolving Funds. The amendment would increase funding from the Fiscal Year 2003 enacted level of $2.19 billion to $5.2 billion.

AGC is proud of the role the construction industry has played in improving water quality. However, the needs facing our nation's wastewater and drinking water systems are tremendous. The EPA reports that more than 40 percent of our nation's lakes, rivers, and streams are still too impaired for fishing or swimming. Discharges from aging and failing sewage systems, urban storm water and other sources continue to pose serious threats to our nation's waters, endangering not only public health, but also fishing and recreation industries. Population growth and development have placed additional stress on the nation's water infrastructure and its ability to sustain the water quality gains realized since the inception of the Clean Water Act. Today, maintaining clean, safe water remains one of our greatest national and global challenges.

In May 2002, the Congressional Budget Office released a report that estimated the spending gap for clean water needs between $132 billion and $388 billion over 20 years and the spending gap for drinking water needs at between $70 billion and $362 billion over 20 years. In September 2002, the EPA released the Clean Water and Drinking Water Infrastructure Gap Analysis which found that there will be a $535 billion gap between current spending and projected needs for water and wastewater infrastructure (combined) over the next 20 years if additional investments are not made. When the analysis was released Administrator Whitman pointed out, ''. . .the magnitude of the challenge America faces is clearly beyond the ability of any one entity to address.''

The funding included in this amendment will improve our water systems, the environment, and also create tens of thousands of jobs. Please support the Jeffords-Sarbanes-Mikulski-Graham amendment.

Sincerely,

STEPHEN E. SANDHERR,
Chief Executive Officer.

Mr. NICKLES. Will the Senator yield for a brief question?

Mr. SARBANES. I am happy to yield.

Mr. NICKLES. I missed the opening part of his comments. Can the Senator tell me how much money is involved and over what period of time?

Mr. SARBANES. The amendment has another $3 billion for these purposes, both for the Clean Water and the Safe Drinking Water State Revolving Funds. These are the moneys that go into the State Revolving Funds. Then, of course, they have to be matched by the States and often the localities. So the amount of money is leveraged significantly beyond what the Federal contribution would be.

Mr. NICKLES. So there would be a total of $3 billion over the 10-year period of time.

Mr. SARBANES. Another $3 billion, that is right.

Mr. NICKLES. I thank my friend. Am I correct it would be offset, reducing the tax reductions that are in the proposal?

Mr. SARBANES. The bill has room in it for $726 billion worth of tax cuts. Obviously, this raises the question of priorities. Is it more important to give these particular tax cuts, which, of course, I believe strongly are heavily weighted towards the wealthy, as opposed to making some investment in programs of this sort? We have to connect the two. I am willing to look at doing reasonable tax cuts, but I think what is in the resolution, as the chairman knows from my statements in committee, is far too excessive. If it were up to me, I would reduce that amount. I would use a limited portion of it to fund some of these priority programs. I would use the remainder of it to hold down the deficit so we are not projecting such large deficits out into the future.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I thank my colleague for offering his amendment. We will consider the amendment tomorrow. We have already had three or four amendments that are in the queue tomorrow. I understand there

will be others. We have asked other Senators to come forward tonight to offer their amendments. The Senator from Maryland is doing that and explained it. I appreciate his explanation of the amendment. I am sure we will try to get that in the queue. I know Senator CRAPO has an interest on this issue as well.

It is 8:45, and we have requested colleagues if they had amendments to bring those to the floor. I am concerned about having a vote-arama or having so many people saying: Wait a minute, I didn't have a chance to offer my amendment.

We have been saying all along that we would be in session very late tonight to receive amendments. We will be in session very late tomorrow tonight to dispose of amendments. I would like to see if we can't work out some amendments, accept some amendments, voice vote some amendments, and work toward completing this bill and avoid the crash at the end, the vote-arama where we have votes on amendments without having the slightest idea what is in them. We have done that in the past. That is not a good way to legislate. I would like to avoid that if possible.

I thank my colleague from Maryland for coming late tonight and offering the amendment. I wish more Senators would have. I look forward to working with him tomorrow.

The PRESIDING OFFICER. Who yields time?

Mr. REID. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged equally.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NICKLES. 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. NICKLES. Mr. President, I ask unanimous consent that at 4 p.m. on Thursday, the Senate proceed to a series of votes in relation to the following amendments: Kyl amendment No. 288; Dorgan amendment No. 294; Rockefeller-Collins amendment No. 275. I further ask unanimous consent that no second-degree amendments be in order to any of the preceding amendments prior to the vote, and that there be 2 minutes for debate equally divided prior to each vote.

Mr. REID. Mr. President, I ask if the Senator will modify his unanimous consent request that there be 10 minutes between the second and third votes.

Mr. NICKLES. Mr. President, I ask unanimous consent to limit the time on the last two amendments to 10 minutes.

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

MORNING BUSINESS

Mr. NICKLES. Mr. President, I ask unanimous consent that the Senate proceed to a period for morning business.

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

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. In the last Congress, Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred on September 12, 2001, in New York, NY. Five teenagers attacked an Arab-American candy store owner. The teenagers stopped in front of the small store and asked the owner, who stood in the doorway, ''Do you feel sorry for America?'' Without waiting for a response, one teen punched the owner, sending him reeling backwards onto the floor, bleeding heavily. The assailants were able to flee from the scene before witnesses could catch them.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

ZORAN DJINDJIC

Mr. LEAHY. Mr. President, the cold-blooded assassination of Serbian Prime Minister Zoran Djindjic is a tragedy not only for Serbia, but for the other former Yugoslav republics whose futures are so closely linked. I knew and admired Prime Minister Djindjic from our meetings in Washington, and I want to express my deepest sympathy to his family and to the Serbian people.

Zoran Djindjic was a charismatic and courageous leader who recognized that Serbia's best hope, after years of nationalist-inspired ethnic hatred and war destroyed Yugoslavia and caused the deaths of hundreds of thousands of innocent people, was to follow the path of democracy and the rule of law. This was not an easy choice, as it required confronting the forces of corruption and evil which, despite the overthrow of Slobodan Milosevic, have sought to preserve the status quo.

It was Prime Minister Djindjic who, at considerable personal risk, obtained Milosevic's arrest, after President Kostunica refused to cooperate with the Hague tribunal. Turning over Milosevic was a key step, but Mr. Djindjic understood that it was only the first step toward a formal break with the failed policies of the past.

For the past 3 years, the Congress has provided substantial aid to support economic and political reform in Serbia. However, we have also made clear in legislation and in discussions with Serb officials, that continued cooperation with the Hague prosecutor is essential for continued United States aid to Serbia. There were times in our discussions when Serb officials complained bitterly that the United States and the Hague prosecutor were pressuring them too hard to apprehend and transfer suspected war criminals. In fact, they did so even before the arrest of Milosevic. We responded that while we did not expect them to apprehend all the indictees in Serbia overnight, the United States cannot provide millions of dollars in aid unconditionally to a government that harbors indicted war criminals.

Since the arrest of Milosevic, the Serb Government's cooperation with the Hague tribunal has been sporadic. Mr. Djindjic wanted to move faster, while Mr. Kostunica stood in the way. While some indictees have been turned over, 18 remain at liberty and access to witnesses and documents necessary to the prosecution of these cases has been unsatisfactory. Moreover, there has often been no cooperation until just weeks or days before the deadline in U.S. law for the cutoff of aid.

I mention this because immediately after Prime Minister Djindjic was gunned down some Serb officials blamed his assassination on the pressure exerted on Serbia by the United States and the war crimes prosecutor. I understand that reaction. It is convenient to blame others rather than to acknowledge the difficult but essential task at hand—to remove from the security forces those Milosevic loyalists involved with and protecting organized crime figures and war crimes suspects. But I believe that had the Serb Government moved faster, and more aggressively—as Prime Minister Djindjic urged for the benefit of the Serbian people and the survival of democracy—to arrest those who made no secret of their efforts to thwart reform, this tragedy might have been avoided.

Zoran Djindjic's death has kindled an outpouring of sympathy. Millions of Serbs have taken to the streets to express their support for the policies he fought for. Let us hope that just as millions of Serbs joined together three years ago to oust Milosevic from power, Zoran Djindjic's death will be the catalyst for a renewed and unrelenting effort to destroy the remaining vestiges of the Milosevic era. The United States stands ready to strongly support that effort. There is no alternative, if Serbia is to take its place in today's democratic Europe.

HONORING AMERICAN SOLDIERS

Mr. ALLEN. Mr. President, I rise to honor our brave soldiers fighting in the global war on terrorism. We recently passed the first anniversary of Operation Anaconda, a critical seven-day

military effort within Operation Enduring Freedom that helped break the back of the Taliban and al-Qaida in Afghanistan. It is fitting to take time to remember the sacrifice of the participants in that noble undertaking in the mountains of Afghanistan, and to ask Americans to pray for those who gave their lives. Let us also pause to recall the continuing efforts of our armed forces and civilian national security employees in Operation Enduring Freedom, and in the global war on terrorism. We are profoundly grateful for the sacrifices of all, and offer our prayers and deep gratitude to them and to their families.

On March 1, 2002, Americans went into battle near Gardez, Afghanistan, with Afghan and other allies, to attack al-Qaida and Taliban forces in eastern Afghanistan. Over the course of seven days, our forces engaged and defeated determined terrorist forces throughout mountains and rough terrain, at elevations as high as 12,000 feet, and in temperatures that dropped to 15 degrees Fahrenheit at night.

During Operation Anaconda, American Special Operations Forces combined with elements of the 101st Airborne Division, the 10th Mountain Division, and other aviation and ground units representing several allied nationalities to bring the war begun on September 11, 2001, directly to the terrorists and their supporters.

On March 4, 2002, a small American force came under night attack at a desolate mountain base at Takur Ghar. As a result of the ensuing engagement, seven Americans died. They gave their lives while trying to help each other, in a remote and forbidding place where their duty and their devotion to one another and their families had taken them. These seven Americans—like all Americans, civilian and uniformed, now engaged in the noble effort to end the terrorist threat to our Nation—were volunteers. They didn't have to be on Takur Ghar, but when called they did not hesitate to step forward and say ''send me.'' As a testament to their heroism, at least eight Silver Stars, the Nation's second highest medal for valor, were awarded to participants in the battle along with almost thirty Bronze stars and numerous other awards.

Mr. President, Americans and their allies gave their lives during Operation Anaconda and elsewhere in Afghanistan. Americans and their allies have given their lives in other engagements in Operation Enduring Freedom.

Let us take a moment to reflect upon the sacrifices of those who died on Takur Ghar, and on other remote battlefields in the war on terrorism. Let us rededicate ourselves to ensuring the safety of home and hearth for their families, and for ours. Finally, let the Senate and all Americans show deep gratitude for their unselfish decisions to step forward and say ''send me.''

ADDITIONAL STATEMENTS

TRIBUTE TO NEW HAMPSHIRE POSTAL WORKERS

• Mr. SUNUNU. Mr. President, contrary to popular belief, this motto, which appears on a number of postal buildings, is not the official motto of the United States Postal Service. But it certainly could have been this past winter in the Granite State, where we suffered through some of the coldest temperatures and heaviest snowfalls in recent memory.

In spite of these challenges, Postal Services employees in New Hampshire have achieved record performance. On-time First-Class overnight mail service is at all-time record levels, and customer satisfaction is at 98 percent. In addition, New Hampshire's Postal employees re the safest in the Northeast and among the safest in the nation. Under ordinary working conditions, these achievements would be impressive. When you consider the bone chilling cold and seemingly relentless snows of these past few months, these achievements are even more remarkable and indicative of the dedication and commitment of New Hampshire's Postal employees.

While the New Hampshire District of the United States Postal Service has always been among the national leaders in serving and satisfying their customers, I want to publicly thank each of New Hampshire's 4,000 Postal employees for their tireless efforts, especially over these past few months: the employees are the processing and distribution plants who made sure that the mail was ready for timely dispatch despite the concelled flights and closed roads caused by the inclement weather, the maintenance people who kept the sorting machines running efficiently as well as the employees who maintained the vehicles so that mail could be transported safely and on time; letter carriers that withstood the cold, brutal weather and traversed through mountains of snow to provide delivery to their customers; and the clerks in the post offices who cheerfully greeted customers and gladly handed over mail rendered undeliverable in areas with impassible roads.

I also would like to give a well-deserved thank you to the postal customers in our great state who worked so hard to maintain safe access to their mail receptacles. Clearly, mail service this past winter was a team effort requiring patience and cooperation among and between Postal employees and New Hampshire's Postal customers. Once again, New Hampshire's hardy residents and Postal employees delivered.•

HONORING THE LOUISVILLE BALLET

• Mr. BUNNING. Mr. President, I have the privilege and honor of rising today to recognize the Louisville Ballet, the State Ballet of Kentucky. Last week, this organization celebrated its 50th anniversary in the performing arts. This occasion was marked by special performances and educational events throughout the week.

This company originally started as a civic ballet company, performing on a production-by-production basis. It was not until 1975, when eight dancers were hired as an ensemble company, that the company achieved professional recognition and status. Now, 50 years later, the Louisville Ballet employs over 30 dancers, occupies the award-winning Louisville Ballet Center, administers the Louisville Ballet School, and reaches over 100,000 people every year. Their reputation for excellence in the arts drew the world-famous dancer Mikhail Baryshnikov to perform with the company for two seasons during the late seventies.

In addition to bringing excellence in performing arts to thousands of ballet fans, the company takes immense pride in its educational outreach programs offered to students. Through in-school, in-theater, and in-studio programs, students gain a behind-the-scenes glimpse of the ballet world, from early production planning basics to viewing a live performance. More importantly, these programs emphasize the importance of physical activity and positive self-esteem.

I appreciate the tradition of excellence created by the Louisville Ballet Company and their efforts to reach out to communities. Please join me in congratulating artistic director Mr. Bruce Simpson and the Louisville Ballet Company and wishing them another wonderful 50 years and beyond.•

TRIBUTE TO MATTHEW R. DUKSA, SR.

• Mr. DODD. Mr. President, I rise today to celebrate the life of Matthew R. Duksa, Sr., a Connecticut businessman who passed away on November 28, 2002. Mr. Duksa, known as ''Mattie'' to many of his friends, was born and raised on Oak Bluff Farm, his family's dairy farm in Southington, CT. He graduated from Lewis High School and then attended the Cheshire Academy and the Connecticut College of Commerce in New Haven. Later, he graduated Magna Cum Laude from the McAllister School of Embalming in New York.

In 1949, Mattie opened the Borawski-Duksa Funeral Home in New Britain, CT and began a career providing comfort to families in their darkest hours. In 1952, he established the Newington Memorial Funeral Home in Newington, CT. He served as president of both firms until his death this past November.

Too often we think of community service as some immediate, extraordinary act or some heroic event. But communities are shaped by the daily routines and simple acts of kindness and respect that citizens display each

day. Men like Mattie Duksa—who do difficult jobs that need to be done—help to define and reinforce the values of our communities. The businesses they run and the lives they lead affect us all for the better.

Outside his business, Mattie had a well-developed sense of civic duty. He was a Newington volunteer firefighter for 16 years. He served as Director of the Newington Volunteer Ambulance Company. He was Chairman of West Meadow Cemetery Expansion and Building Committee. And he was a proud member of the Organization of Polish Businessmen.

The communities he served came to rely on Mattie's gentle understanding and his spirit. In 1997, the Newington Chamber of Commerce named Mattie ''Business Person of the Year.'' In 2002, the funeral homes he founded were honored as ''Family Business of the Year'' by the University of Connecticut Family Business Program.

Mattie and his lifetime of service to his community will be missed, but remembered fondly by those who knew him and benefitted from his many contributions. I extend my sympathies to his wife Dottie, his son Matthew, his daughter Diana Duksa-Kurz, and his grandchildren James, Kristy, Johanna, and Jacqueline.●

HONORING MSGT KATHERINE BARTON

● Mr. BURNS. Madam President, today I rise to honor MSgt. Katherine Barton for her 20 years of service in the U.S. Air Force. She recently retired from the Wilford Hall Medical Center at Lackland Air Force Base, in San Antonio, TX.

Katherine Barton grew up on air force bases all over the country, moving every few years as her father, Lt. Col. William C. Flannigan, was promoted and reassigned. She enlisted in the Air Force in 1979 and began her distinguished Air Force career as a police officer. In subsequent years she became a supervisor in medical administration, where she continued to perform her duties in an outstanding manner, as well as earning her bachelor's degree in History from the University of Houston.

MSgt. Katherine Barton's service includes Active Duty assignments in New York and Texas, National Guard assignments in Vermont and Texas, and Air Force Reserve assignments in Louisiana and Texas.

MSgt. Katherine Barton and her husband, Keith, are the proud parents of three sons. Like most military families, Keith's support has been instrumental in Katherine's service to her country.

While in the Reserves, MSgt. Katherine Barton has been activated in time of war, not once, but twice; in January 1991 for the gulf war and again in October 2001 for the war on terror. When she was needed most, MSgt. Katherine Barton left her job as a teacher, the comforts of her home, and the arms of a loving family to serve her country.

Madam President, I congratulate MSgt. Katherine Barton for her 20 years of service to our great Nation. Her contributions to the U.S. Air Force and to all Americans she protected will not be forgotten.●

DAIMLERCHRYSLER

● Mr. LUGAR. Mr. President, I wanted to share with my colleagues the text of a speech delivered by Jürgen E. Schrempp, chairman of the Board of Management DaimlerChrysler AG, on December 2, 2002, at an event sponsored by the Center for Strategic and International Studies. I had the honor and privilege of introducing Mr. Schrempp at this event, and I hope his insights about the automotive industry and about international trade will be helpful as we, as a nation, work to strengthen our economy.

The speech follows.

THE TRANSATLANTIC PARTNERSHIP

1. Introduction—Senator Lugar, Excellencies, Honored guests, Ladies and Gentlemen, Thank you for your warm welcome. Senator, may I offer my special thanks for your thoughtful and gracious introduction. Your remarks are deeply appreciated, coming as they do from a world leader in the field of foreign affairs. I would also like to thank the good people from the Center for Strategic and International Studies—and specifically Simon Serfaty—for their hard work in making this conference such a success. The value of the CSIS in facilitating dialogue about what route Europe and America should follow, to fulfill their joint destiny, is immeasurable. It's a great pleasure—and a privilege—for me to be with you today. It is also an opportunity to talk about an important, visceral part of my life. That is the relationship between Europe and the United States.

2. A personal view of the United States—I have a very personal view of this connection. My first real contact with America came during the early eighties. I had been appointed chief executive of Euclid, a Daimler-Benz subsidiary operating out of Cleveland, Ohio. The company produced really heavy-duty trucks. And it was my first really heavy-duty job with Daimler-Benz. In this two-year period: I discovered the bottomless hospitality of the American people. I discovered the extent to which my body could produce adrenaline. I came to grips with the reality of America's leadership in world affairs. And I became very aware of our crucial transatlantic links! Links in which DaimlerChrysler now has an extremely healthy self-interest! DaimlerChrysler is, after all, the most significant German-American company.

3. America's role in Europe—From my perspective, the positive impact of American actions on Europe is central in much of what we, as Europeans, have become. One of the highest points I can recall was the role played by the 41st President of the United States, and his team, in unifying Germany. And, of course, ending the Cold War. Never forget: It was the Americans who stood in the vanguard against European communism. From thousands of kilometers away across the Atlantic! I was certainly not surprised. America's warmth and friendship has been a given for a long time. America helped to establish the Berlin relief-corridor after the war. It put in place the Marshall Plan to rehabilitate Europe. And its contribution to the wider freedoms now enjoyed by Europeans has been enormous.

4. The high stakes of alienating the EU from the US—Ladies and Gentlemen, Stakes are high in the complex areas of business and political diplomacy. Especially for the United States and Europe. More than anything, our priority must be to establish truths about one another and build on these. One such truth is that we are totally wedded to the cause of democracy. We are also inextricably bound together by the cause of those freedoms that define our civilization. These are the values that mark us as prime custodians of the free world. These are the values for which we are prepared to fight!

5. Commercial interdependence is the key—But it is not only these strong emotional ties that underpin the transatlantic bridge. Our commercial interdependence is a vital part of that bridge's structure. The United States and the European Union enjoy the world's most significant commercial relationship. They are, quite simply, each other's largest trade and investment partners. Together the United States and the EU account for 40 percent of world GDP as well as 80 percent of global foreign direct investment. It requires very little analysis to establish that this joint relationship is essential. Yet we now need to face a sudden and strange reality. The exceptional goodwill characterizing our historic links is being tested. Quite seriously, I might add.

6. The DaimlerChrysler example of excellent US/European relations—In this regard I have a real sense of deja vu. Mainly because of my experience at DaimlerChrysler! This merger offers the best example of outstanding transatlantic relations I can think of. Why do I say this? Well, shortly after the deal, global automotive markets began to deteriorate. The highly acclaimed ''Merger of the Century'' was suddenly under fire. But we stayed calm. We were patient. We held our course. Above all, we believed in ourselves. We had an unshakable sense that we should not meet operational challenges by changing our well-defined strategy. And, by the way, why should we have done so? Mercedes-Benz, the most valuable automotive brand in the world, remains the ultimate benchmark in the luxury segment. Our Commercial Vehicle Division was—and is—by some margin, the world's market leader in trucks, vans and buses. Therefore, we were able to focus on our main operational challenge. That was to implement our turnaround plan at Chrysler. Since then our phenomenal team in Auburn Hills has made outstanding progress. As a result, Chrysler Group earnings for the full-year 2002 will reflect a real turnaround. And on this score, I believe the empowering union of German and American interests was a critical factor. It prevented a deeper financial crisis—similar to those experienced at Chrysler in 1979 and 1991—from occurring. And Chrysler now enjoys the same access to credit markets as the rest of our group. Bearing in mind what happened before, I'm sure many Americans have recently breathed a huge sigh of relief!

7. The practical results of amalgamating Daimler-Benz and Chrysler—You may ask how we turned the corner. Firstly, we combined the very best of our American and German heritages. Then we unlocked the vast potential of our joint experience by working with extraordinary commitment—and loyalty—to one another! I can say with considerable pride that since the merger we have built an enterprise in which America and Germany can have great confidence. We have harmonized processes. We have exchanged components, engines and transmissions and other commodities. For example, we decided

that state-of-the-art five-speed automatic Mercedes-Benz transmission units would be manufactured in Kokomo, Indiana—Senator Lugar's home state! It was also decided that, for the benefit of our customers, these units would go into Chrysler vehicles. But this is just the tip of the iceberg. This investment is only part of a 30 to 40 billion dollar, five-year investment plan for North America. It's a plan that will offer optimal security for more than 100,000 employees, well into the future! I should add that, very selectively, we already share expertise and technology for different products. The new Chrysler Crossfire will be the first highly visible result of this policy. It is a breathtaking coupe. With great American design and Mercedes components. The Crossfire will hit the markets next year. At the point where—as we like to say—Route 66 meets the Autobahn. But what we have built together also has substantial global implications. We are now able to develop crucial interests in Asia. Our significant Japanese investment in Mitsubishi Motors and our stake in Hyundai of South Korea are such interests. So is the dynamic commercial vehicle business we are building in the region. Yet this is not all. China has moved into the frame as well. Soon we will have a meaningful, viable operation there. Which is why we can say with pride that ours is a truly global company.

8. Lessons from the DCX experience—Ladies and gentlemen, I would like to share with you what tough times have taught our great company. We have learned one of life's fundamental truths. That success and happiness depend to a great degree on an ability to confront and solve problems. Or challenges, as I prefer to call them. Another fact is absolutely clear to me. Today's positive results have come because Americans and Europeans resolved to capitalize on their differences. We did not succumb to them. We learned a third important lesson during the recovery process. Successful relationships need time for constant review and reaffirmation. Right now, I believe this is of wider and special significance. And, in this context, I feel a strong need for a constructive ''time out'' in the debate on relations between the US and Europe. There is currently far too much heat and far too little light on the subject! We need to regroup!

9. Potential points of dispute—Before we can do that, however, we have to concede that differences have arisen. The first area of conflict concerns trade. We are predominantly a transatlantic company. But trade restrictions imposed on either side of the Atlantic sometimes have really negative results! I think, for example, of US steel tariffs, and EU penalties in response to the FSC decision. We are simply caught in the crossfire. And our customers as well as employees pay the price. But my purpose in mentioning this is not to apportion blame. It is simply to note that trade restrictions do more harm than good. I therefore agree with the recent statement by President Bush that there is a need to remove tariffs. And non-tariff-based trade barriers. I hasten to add. Let's hope the leaders in charge of trade issues go down this road! There is a second front on which policy differences are always aired. The conflicting views of Europe and the US on global environmental matters have developed into a hot topic. Finally, geopolitical issues have arisen around national security and defense commitments. These discordant views are not restricted to partisan arguments. There are also internal disagreements—on both sides of the Atlantic. And, once again, most differences tend to be about procedure and the degree to which action is implemented. Fundamental objectives are seldom in dispute.

10. The need for openness and honesty—However, the problem seems to be systemic. And in the process, concerns that originate from fear have also emerged. Fear that unilateral rather than multi-lateral action could be taken to secure world peace. I think particularly of polarized policies on Iraq. But I don't want to go into detail on that. I simply want to make one point. Among great friends, such as the US and Europe, we are able to discuss differing views with complete honesty. In the same vein, however, we should do this face-to-face, and privately.

11. Call to intensify result-driven dialogue between the two continents—On the public front there is plenty of talk. Talk about how to revive transatlantic initiatives. But there is nothing that remotely resembles implementation. Let's get past the pussy footing! It's time for meaningful engagement and visible, tangible results. However, this will only come from blunt, hard-nosed implementation! In 1998, I found myself chairing the European section of the Transatlantic Business Dialogue. The TABD was the brainchild of the late Secretary of Commerce, Ron Brown and the former European Commissioner, Martin Bangemann. Founded in 1995, it was initially accepted by CEOs on both sides of the Atlantic with some enthusiasm. I'm even able to say that we achieved some encouraging results. But this organization, in its present form, has been allowed to stagnate. What we now need is dynamic interchange between the two continents. And such a process must take place with mutual commitment and enthusiasm from its transatlantic participants. Particularly herby on the political side. I undertake today that DaimlerChrysler will pursue any initiative along these lines. Provided it leads to sensible, intensified and result-driven work between us.

12. To keep the TABD or introduce a new process—At the very least, we need to reinvent the TABD. Or it may be preferable to start afresh. One thing is certain, however. We need to engage a dynamic group of leaders who should represent politics and business. They must select and tackle important as well as relevant issues. And they must be totally committed to the process of implementation. People who are prepared to roll up their sleeves and get stuck into things! People with a can-do attitude! People not afraid of breaking new ground! People of passion!

13. The need for a highly principled, organized mission—Such a body would be the best platform from which to proceed. And build on what the U.S. and Europe have thus far accomplished together. Which is an extraordinary amount! Take the multilateral institutions that have served us so well over the last 50 years. NATO, the IMF, the World Bank, the World Trade Organization, and the United Nations are among them! Quite clearly, their historic achievements signify an important reality. Now, with the Cold War consigned permanently to the deep freeze, some argue that we no longer have a really big issue to unite us. That instead we hassle over petty details. So I believe we have to find a new, highly principled mission. One that binds our two regions even more closely together! A mission that captures our imagination! Along with the hearts and minds of our global constituencies! In this connection, there are highly complex tasks ahead of us.

14. The priorities of corporations and governments—I refer to the finding of effective solutions for what Kofi Annan calls ''problems without passports.'' This will demand unusual levels of organization! It will also require great determination—and dedicated focus. For instance, we have to find common cause in the war against terror. But this should primarily be directed at preventive action. Never again can the infamy of September 11 be repeated. Joint intelligence sharing and cooperation on the gathering of financial intelligence would be a good start. Another constructive step would be close cooperation on important initiatives like the Nunn-Lugar program. This program is crucial. It offers safeguards against nuclear and scientific material in the former Soviet Union falling into the wrong hands. We generally need to create fresh initiatives to neutralize any other nuclear, biological and chemical agents of destruction. But we need to step up investment in such programs, as well. A second goal must be to bring democracy and economic development to regions that have known too little of both. We need sustainable development to lift people out of poverty and abject subsistence. After all, half the world lives on $2 dollars a day—or less!

15. The need to safeguard and, where necessary, to rebuild civil society—Last year I called for a concerted international effort to rebuild civil society in broken countries like Afghanistan. I repeat that call today. And I do so because dysfunctional countries are much more of a drain on global resources than those that operate efficiently. We must therefore heed the lessons of the past. The investment made in rebuilding Europe has been more than repaid. In hard currency. In the fruits of stability. And—together with the United States—in the development of the most powerful alliance of nations the world has seen. Only through this alliance will we be able to deal with problems that threaten mankind.

16. Problems that endanger the human race—One such diabolical problem is the spread of the HI Virus and AIDS. More than 45 million people worldwide are currently infected with the virus and face a painful, degrading death. In my beloved South Africa this involves 25 percent of the population! At DaimlerChrysler, combating the AIDS pandemic is a priority. It's a priority recognized by the Global Business Coalition on HIV/AIDS. In June this year, at a function in New York, they acknowledged our tremendous South African HIV/AIDS program. And when Kofi Annan handed me their much-coveted award—for Excellence in the Workplace—I was very proud indeed. At the same time I was appointed Chairman of the Global Business Coalition. I welcomed this assignment with a sense of humility—and urgency. For fighting this dread disease—and dealing with the other problems I have mentioned—represent the real challenges of humanity. It's therefore high time to stop playing in the shallow end of our global pool. We need to dive deep! But it is patently obvious that the partnership, between the U.S. and EU is pivotal to any prospect of real success. Together, we hold the key to the health and wealth of the global economy. And that, Ladies and Gentlemen, is an awesome responsibility.

17. Conclusion—We may, realistically, not be able to do everything. But over the past 50 years, Europe and the U.S. have changed the face of the planet. Very much for the better! As partners, I'd back us as winners all over again. Our common ground is solid and fertile. The challenges are irresistible. The need for unity is more essential than ever. The urgency that demands immediate engagement between us is white-hot. And the time for a solemn pledge of trust in one another is precisely right. I thank you.●

WALLY CONERLY DAY

● Mr. LOTT. Mr. President, I would like to take this opportunity to recognize and honor an outstanding citizen of Mississippi. On March 5, 2003, Governor Ronnie Musgrove signed a proclamation declaring March 19, 2003 to be

officially known as Wally Conerly Day in the State of Mississippi.

Dr. A. Wallace Conerly recently retired from the positions of Vice Chancellor for Health Affairs and Dean of the School of Medicine at the University of Mississippi Medical Center in Jackson.

I have worked closely with Dr. Conerly since he was appointed Dean of the School of Medicine, and I am both proud and grateful that Mississippians can claim Dr. Conerly as one of our own.

While I could spend hours going over Dr. Conerly's record of service and accomplishments in detail, I would like to take a few moments to touch on some of the highlights that are most impressive to me. Dr. Conerly has served as a faculty member of the University of Mississippi Medical Center for the past 30 years. He assumed an appointment as Assistant Vice Chancellor for Health Affairs in 1981 before being appointed as Vice Chancellor for Health Affairs and Dean of the School of Medicine in 1994.

As the chief executive officer of the State's only academic health sciences center, he leads an institution that employs more than 7200 people and has an annual budget of more than $610 million. He is also the chief architect of the Medical Center's ongoing expansion program, the largest in the history of Mississippi higher education. Phase I, completed in 1999 and totaling $211 million, included a new children's hospital, a new women and infant's hospital, a building for the School of Health-Related Professions, an addition to the School of Nursing, a student union, two parking garages and an imaging center. A second $124 million construction phase is currently underway and includes a critical care hospital, a new adult hospital, a classroom addition, a children's hospital addition, and an expansion to the Arthur C. Guyton Research Complex. It has been my honor to work with Dr. Conerly in support of this ambitious endeavor.

Dr. Conerly has served not only the medical community of Mississippi honorably, but also the United States Air Force. For his service, he was the recipient of the United States Air Force Flight Surgeon of the Year Award in 1962 and the United States Air Force Commendation Medal in 1963. He was honorably discharged in 1966 at the rank of major.

As you might imagine, Dr. Conerly is also active in the Jackson community. He has served on the Board of Directors of the American Red Cross, Mississippi Chapter, and the Capital Area United Way. He has been President of the Rotary Club of Jackson and Chairman of the Board of Governors of the University Club. In 2001 the Mississippi Division of the Multiple Sclerosis Society honored Dr. Conerly and the Medical Center with its 2001 Hope Award, an award given annually for outstanding community contributions. He also received Millsaps College's ''Alumnus of the Year'' award in 2002, and he and his wife were recognized as the 2002 People of Vision by Preserve Sight Mississippi.

As I am sure you can see, Dr. Conerly has distinguished himself both personally and professionally, and he has been a valued asset to Mississippi. His record of service is not only a testament to his professional skill, but also to the quality of his personal character. He is most deserving of having this day named in honor of him, and I felt it was appropriate that I share this brief record of his contributions to Mississippi with all of you here today.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PERIODIC REPORT ON THE NATIONAL EMERGENCY WITH RESPECT TO NATIONAL UNION FOR THE TOTAL INDEPENDENCE OF ANGOLA (UNITA) DECLARED IN EXECUTIVE ORDER 12865 OF SEPTEMBER 26, 1993—PM 25

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

As required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), I am providing a 6-month report prepared by my Administration on the national emergency with respect to the National Union for the Total Independence of Angola (UNITA) that was declared in Executive Order 12865 of September 26, 1993.

GEORGE W. BUSH.

THE WHITE HOUSE, *March 19, 2003.*

FIRST BIENNIAL FEDERAL OCEAN AND COASTAL ACTIVITIES REPORT—PM 26

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation:

To The Congress of the United States:

In accordance with section 5 of the Oceans Act of 2000 (33 U.S.C. 857–19), I transmit herewith the first biennial Federal Ocean and Coastal Activities Report as prepared by my Administration.

GEORGE W. BUSH.

THE WHITE HOUSE, *March 19, 2003.*

REPORT ON THE PARTICIPATION OF THE UNITED STATES IN THE UNITED NATIONS AND ITS AFFILIATED AGENCIES DURING CALENDAR YEAR 2001—PM 27

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations;

To The Congress of the United States:

I am pleased to transmit herewith a report prepared by my Administration on the participation of the United States in the United Nations and its affiliated agencies during the calendar year 2001. The report is required by the United Nations Participation Act (Public Law 264, 79th Congress).

GEORGE W. BUSH.

THE WHITE HOUSE, *March 19, 2003.*

MESSAGE FROM THE HOUSE

At 2:53 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 145. An act to designate the Federal building located at 290 Broadway in New York, New York, as the ''Ted Weiss Federal Building''.

H.R. 868. An act to amend section 527 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 to require that certain claims for expropriation by the Government of Nicaragua meet certain requirements for purposes of the prohibition on foreign assistance to that government.

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. 26. Concurrent resolution condemning the punishment of execution by stoning as a gross violation of human rights, and for other purposes.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 868. An act to amend section 527 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 to require that certain claims for expropriation by the Government of Nicaragua meet certain requirements for purposes of the prohibition on foreign assistance to that government; to the Committee on Foreign Relations.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 26. Concurrent resolution condemning the punishment of execution by stoning as a gross violation of human rights,

and for other purposes; to the Committee on Foreign Relations.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–1508. A communication from the Director, Office of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting, pursuant to law, the report of a rule entitled ''Insurance of State Banks Chartered as Limited Liability Companies 12 CFR Part 303 (RIN3064–AC53)'' received on March 17, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–1644. A communication from the Deputy Assistant Administration, Regulatory Programs, National Marine Fisheries Service, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Final Rule to amend portions of the regulations governing the halibut fishery under the Western Alaska Community Development Quota (CDQ) Program (0648–AL97)'' received on March 17, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1645. A communication from the Deputy Assistant Administration, Regulatory Programs, National Marine Fisheries Service, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska—Final 2003 Harvest Specifications for the Groundfish Fisheries of the Bering Sea and Aleutian Islands Area'' received on March 17, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1646. A communication from the Deputy Assistant Administration, Regulatory Programs, National Marine Fisheries Service, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska—Final 2003 Harvest Specifications for the Groundfish Fisheries of the Gulf of Alaska'' received on March 17, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1647. A communication from the Acting Director, National Marine Fisheries Service, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Closure of Directed Fishing for Species in the Rock Sole/Flathead Sole/other flatfish'' fishery category by vessels using trawl gear in the Bering Sea and Aleutian Islands management area (BSAI)'' received on March 17, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1648. A communication from the Deputy Assistant Administration, Regulatory Programs, National Marine Fisheries Service, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Closure of the directed fishing groundfish with nonpelagic trawl gear in the red king crab saving subarea (RKCSS) of the Bering Sea and Aleutian Islands management area (BSAI)'' received on March 17, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1649. A communication from the Acting Director, National Marine Fisheries Service, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fishery Closure; Inseason prohibition of directed fishing for Pacific cod in the Western Regulatory Area of Gulf of Alaska (0679)'' received on March 17, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1650. A communication from the Acting Director, National Marine Fisheries Service, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Pacific Cod by Catcher Processors and Catcher Vessels 60 Feet Length Overall and Using Pot Gear in the Bering Sea and Aleutian Islands management area'' received on March 17, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1651. A communication from the Acting Director, National Marine Fisheries Service, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Reduce the Commercial Trip Limit for the Hook-and-Line Fishery for the Gulf Group King Mackerel in the Southern Florida West'' received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1652. A communication from the Acting Assistant Administrator, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Notice of Open Meeting: The Science Advisory Board—March 18–19, 2003'' received on March 17, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1653. A communication from the Legal Advisor, International Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''In the Matter of Flexibility for Delivery of Communications by Mobile Satellite Service Providers in the 2 G Hz Band, the L–Band, and the 1.6/2.4 G Hz Bands; Review of the Spectrum of the Spectrum Sharing Plan Among Non-Geostationary Satellite Orbit Mobile Satellite Service Systems in the 1.6/2.4 G HZ (IB Doc. No. 01–185 & 02–364)'' received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1654. A communication from the Secretary of Commerce, transmitting, pursuant to law, the report relative to the activities and the progress made in protecting and restoring living marine resources and the habitat of the Chesapeake Bay; to the Committee on Commerce, Science, and Transportation.

EC–1655. A communication from the Director, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report relative to bluefin tuna for 2001–2002; to the Committee on Commerce, Science, and Transportation.

EC–1656. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report relative to the Feasibility of Accelerating the Intergrated Deepwater System, received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1657. A communication from the Secretary of Commerce, transmitting, pursuant to law, the report relative to grants authorized by the Anadromous Fish Conservation Act of 1965 describing funding to states and other entities for projects that support research on interjurisdictional and anadromous resources, received on March 12, 2003; to the Committee on Commerce, Science, and Transportation.

EC–1658. A communication from the President of the United States to the President Pro Tempore of the U.S. Senate, transmitting, pursuant to the Authorization for the Use of Military Force Against Iraq Resolution of 2002 (Public Law 107–243), the report relative to the determination that reliance on diplomatic and other peaceful means alone will neither protect the National Security of the United States nor likely lead to the enforcement of all relevant United Nations Security Council resolutions regarding Iraq and that the United States and other Countries continue to take the necessary actions against international terrorists and terrorist organizations, including those nations, organizations, or persons who planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, received on March 19, 2003; to the Committee on Foreign Relations.

EC–1659. A communication from the President of the United States, transmitting, pursuant to law, a report relative to the aggregate number, locations, activities, and lengths of assignment for all temporary and permanent United States military personnel and United States individual civilians retained as contractors involved in Plan Columbia; to the Committee on Foreign Relations.

EC–1660. A communication from the Under Secretary of State, Arms Control and International Security, transmitting, pursuant to law, the 28th edition of World Military Expenditures and Arms Transfers (WHEAT), received on March 17, 2003; to the Committee on Foreign Relations.

EC–1661. A communication from the Director, Federal Emergency Management Agency, transmitting, pursuant to law, the report relative to funding under FEMA–3170 as a result of the loss of the Space Shuttle Columbia has exceeded $5,000,000, received March 17, 2003; to the Committee on Environment and Public Works.

EC–1662. A communication from the Director, Inland Waterways Users Board, transmitting, pursuant to law, the 2003 Annual Report, received on March 12, 2003; to the Committee on Environment and Public Works.

EC–1663. A communication from the Assistant Secretary, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of rule entitled ''Endangered and Threatened Wildlife and Plants; Final Designation of Critical Habitat for Two Larkspurs from Coastal Northern California (1018–AG96)'' received on March 13, 2003; to the Committee on Environment and Public Works.

EC–1664. A communication from the Assistant Secretary, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of rule entitled ''Endangered and Threatened Wildlife and Plants; Final Designation of Critical Habitat for Sidalcea Keckii (Keck's checkermallow) (1018–AG93)'' received on March 13, 2003; to the Committee on Environment and Public Works.

EC–1665. A communication from the Under Secretary of Defense, Comptroller, Department of Defense, transmitting, pursuant to law, the report relative to the Air Force pursuing (Air Force/Navy) multi-year procurement (MYP) for CC–130J and KC–130J aircraft for fiscal year FY 2003 through 2008.

EC–1666. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the Annual Forces Retirement Home (AFRH) for Fiscal Year 2001; to the Committee on Armed Services.

EC–1667. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Electronic Submission and Processing of Payment Requests (DFARS Case 2002–D001)'' received on March 17, 2003; to the Committee on Armed Services.

EC–1668. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report rule entitled ''Documentation of Immigrants Under the Immigration

and Nationality Act as Amended—Immediate Relative (22 CFR Part 42)'' received on March 12, 2003; to the Committee on the Judiciary.

EC–1669. A communication from the General Counsel, Department of Commerce, transmitting, pursuant to law, the report relative to a legislative proposal to restructure the patent fees and adjust trademark fees for the U.S. Patent and Trademark Office (USPTO); to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 164. A bill to authorize the Secretary of the Interior to conduct a special resource study of sites associated with the life of Cesar Estrada Chavez and the farm labor movement (Rept. No. 108–20).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

S. 212. A bill to authorize the Secretary of the Interior to cooperate with the High Plains States in conducting a hydrogeologic characterization, mapping, modeling and monitoring program for the High Plains Aquifer, and for other purposes (Rept. No. 108–21).

From the Committee on Energy and Natural Resources, without amendment:

S. 220. A bill to reinstate and extend the deadline for commencement of construction of a hydroelectric project in the State of Illinois (Rept. No. 108–22).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, without amendment:

S. 278. A bill to make certain adjustments to the boundaries of the Mount Naomi Wilderness Area, and for other purposes (Rept. No. 108–23).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 328. A bill to designate Catoctin Mountain Park in the State of Maryland as the ''Catoctin Mountain National Recreation Area'', and for other purposes (Rept. No. 108–24).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

S. 347. A bill to direct the Secretary of the Interior and the Secretary of Agriculture to conduct a joint special resources study to evaluate the suitability and feasibility of establishing the Rim of the Valley Corridor as a unit of the Santa Monica Mountains National Recreation Area, and for other purposes (Rept. No. 108–25).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, without amendment:

S. 425. A bill to revise the boundary of the Wind Cave National Park in the State of South Dakota (Rept. No. 108–26).

H.R. 397. A bill to reinstate and extend the deadline for commencement of construction of a hydroelectric project in the State of Illinois (Rept. No. 108–27).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. GREGG for the Committee on Health, Education, Labor, and Pensions.

*Kenneth M. Ford, of Florida, to be a Member of the National Science Board, National Science Foundation.

*Dario Fernandez-Morera, of Illinois, to be a Member of the National Council on the Humanities.

*Mary Costa, of Tennessee, to be a Member of the National Council on the Arts.

*Makoto Fujimura, of New York, to be a Member of the National Council on the Arts.

*Jerry Pinkney, of New York, to be a Member of the National Council on the Arts.

*Karen Lias Wolff, of Michigan, to be a Member of the National Council on the Arts.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. REED:

S. 656. A bill to provide for the adjustment of status of certain nationals of Liberia to that of lawful permanent residence; to the Committee on the Judiciary.

By Mr. BAYH (for himself and Mr. LIEBERMAN):

S. 657. A bill to amend title IV of the Social Security Act to provide grants to promote responsible fatherhood, to encourage teen pregnancy prevention strategies, and for other purposes; to the Committee on Finance.

By Mr. BINGAMAN (for himself and Mr. DORGAN):

S. 658. A bill to extend the authority for Energy Savings Performance Contracts and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CRAIG (for himself, Mr. BAUCUS, Mr. ALEXANDER, Mr. ALLARD, Mr. ALLEN, Mr. BENNETT, Mr. BOND, Mr. BREAUX, Mr. BROWNBACK, Mr. BUNNING, Mr. BURNS, Mr. CAMPBELL, Mr. CHAMBLISS, Mr. COCHRAN, Mr. COLEMAN, Ms. COLLINS, Mr. CORNYN, Mr. CRAPO, Mrs. DOLE, Mr. DOMENICI, Mr. DORGAN, Mr. ENSIGN, Mr. ENZI, Mr. FRIST, Mr. GRAHAM of South Carolina, Mr. GRASSLEY, Mr. GREGG, Mr. HAGEL, Mr. HATCH, Mrs. HUTCHISON, Mr. INHOFE, Mr. JOHNSON, Mr. KYL, Ms. LANDRIEU, Mrs. LINCOLN, Mr. LOTT, Mr. MCCONNELL, Mr. MILLER, Ms. MURKOWSKI, Mr. NELSON of Nebraska, Mr. NICKLES, Mr. REID, Mr. ROBERTS, Mr. SANTORUM, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH, Mr. SPECTER, Mr. STEVENS, Mr. SUNUNU, Mr. TALENT, and Mr. THOMAS):

S. 659. A bill to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others; to the Committee on the Judiciary.

By Mr. JOHNSON:

S. 660. A bill to extend limitations on certain provisions of State law under the Fair Credit Reporting Act; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SCHUMER (for himself, Mr. WARNER, Mr. SARBANES, Mr. KENNEDY, and Mrs. CLINTON):

S. 661. A bill to amend the Internal Revenue Code of 1986 to equalize the exclusion from gross income of parking and transportation fringe benefits and to provide for a common cost-of-living adjustment, and for other purposes; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 662. A bill to extend to Nepal certain preferential treatment with respect to apparel articles; to the Committee on Finance.

By Mr. INOUYE:

S. 663. A bill for the relief of the Pottawatomi Nation in Canada for settlement of certain claims against the United States; to the Committee on the Judiciary.

By Mr. HATCH (for himself, Mr. BAUCUS, Mr. GRASSLEY, Mr. ROCKEFELLER, Mr. SMITH, Mr. DASCHLE, Mr. KYL, Mrs. LINCOLN, Mr. THOMAS, Mr. KERRY, Mr. BUNNING, Mrs. FEINSTEIN, Mr. ALLEN, Mrs. BOXER, Mr. COCHRAN, Mr. LIEBERMAN, Mrs. HUTCHISON, Ms. STABENOW, Mr. ENSIGN, Mr. BAYH, Mr. ALLARD, Mr. MILLER, and Ms. CANTWELL):

S. 664. A bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit, to increase the rates of the alternative incremental credit, and to provide an alternative simplified credit for qualified research expenses; to the Committee on Finance.

By Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. ROBERTS, Mr. BROWNBACK, Mrs. LINCOLN, Mr. BURNS, Mr. CRAIG, Mr. CRAPO, Mr. FITZGERALD, Mr. JOHNSON, Mr. HAGEL, Mr. MILLER, Mr. DORGAN, and Mr. DASCHLE):

S. 665. A bill to amend the Internal Revenue Code of 1986 to provide tax relief for farmers and fisherman, and for other purposes; to the Committee on Finance.

By Mr. LIEBERMAN (for himself and Mr. HATCH):

S. 666. A bill to provide incentives to increase research by private sector entities to develop antivirals, antibiotics and other drugs, vaccines, microbicides, detection, and diagnostic technologies to prevent and treat illnesses associated with a biological, chemical, or radiological weapons attack; to the Committee on Finance.

By Mr. GRASSLEY (for himself, Mr. HAGEL, Mr. DORGAN, Mr. JOHNSON, and Mr. DASCHLE):

S. 667. A bill to amend the Food Security Act of 1985 to strengthen payment limitations for commodity payments and benefits; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. REED (for himself, Mr. DODD, Mr. KENNEDY, and Mrs. MURRAY):

S. 668. A bill to amend the Child Care and Development Block Grant Act of 1990 to provide incentive grants to improve the quality of child care; to the Committee on Health, Education, Labor, and Pensions.

By Ms. SNOWE (for herself, Mr. KOHL, Mr. ROCKEFELLER, Mrs. LINCOLN, Ms. LANDRIEU, Mr. BREAUX, Mr. BAYH, Mr. JOHNSON, and Mr. LIEBERMAN):

S. 669. A bill to provide more child support money to families leaving welfare, to simplify the rules governing the assignment and distribution of child support collected by States on behalf of children, to improve the collection of child support, and for other purposes; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CAMPBELL:

S. Con. Res. 24. A concurrent resolution concerning a joint meeting of Congress and

the culminating year of the commemoration of the 50th anniversary of the Korean War; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 15

At the request of Mr. GREGG, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 15, a bill to amend the Public Health Service Act to provide for the payment of compensation for certain individuals with injuries resulting from the administration of smallpox countermeasures, to provide protections and countermeasures against chemical, radiological, or nuclear agents that may be used in a terrorist attack against the United States, and to improve immunization rates by increasing the distribution of vaccines and improving and clarifying the vaccine injury compensation program.

S. 138

At the request of Mr. ROCKEFELLER, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 138, a bill to temporarily increase the Federal medical assistance percentage for the medicaid program.

S. 140

At the request of Mrs. FEINSTEIN, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 140, a bill to amend the Higher Education Act of 1965 to extend loan forgiveness for certain loans to Head Start teachers.

S. 202

At the request of Mr. DEWINE, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 202, a bill to amend the Internal Revenue Code of 1986 to allow as a deduction in determining adjusted gross income that deduction for expenses in connection with services as a member of a reserve component of the Armed Forces of the United States, to allow employers a credit against income tax with respect to employees who participate in the military reserve components, and to allow a comparable credit for participating reserve component self-employed individuals, and for other purposes.

S. 215

At the request of Mrs. FEINSTEIN, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 215, a bill to authorize funding assistance for the States for the discharge of homeland security activities by the National Guard.

S. 300

At the request of Mr. MCCAIN, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 300, a bill to award a congressional gold medal to Jackie Robinson (posthumously), in recognition of his many contributions to the Nation, and to express the sense of Congress that there should be a national day in recognition of Jackie Robinson.

S. 349

At the request of Mrs. FEINSTEIN, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 349 , a bill to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

S. 363

At the request of Ms. MIKULSKI, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 363, a bill to amend title II of the Social Security Act to provide that the reductions in social security benefits which are required in the case of spouses and surviving spouses who are also receiving certain Government pensions shall be equal to the amount by which two-thirds of the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds $1,200, adjusted for inflation.

S. 371

At the request of Mr. DEWINE, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 371, a bill to amend the Public Health Service Act to ensure an adequate supply vaccines.

S. 380

At the request of Ms. COLLINS, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 380, a bill to amend chapter 83 of title 5, United States Code, to reform the funding of benefits under the Civil Service Retirement System for employees of the United States Postal Service, and for other purposes.

S. 437

At the request of Mr. KYL, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 437, a bill to provide for adjustments to the Central Arizona Project in Arizona, to authorize the Gila River Indian Community water rights settlement, to reauthorize and amend the Southern Arizona Water Rights Settlement Act of 1982, and for other purposes.

S. 448

At the request of Mr. DODD, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 448, a bill to leave no child behind.

S. 451

At the request of Mr. BUNNING, his name was added as a cosponsor of S. 451, a bill to amend title 10, United States Code, to increase the minimum Survivor Benefit Plan basic annuity for surviving spouses age 62 and older, to provide for a one-year open season under that plan, and for other purposes.

S. 464

At the request of Mr. REID, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 464, a bill to amend the Internal Revenue Code of 1986 to modify and expand the credit for electricity produced from renewable resources and waste products, and for other purposes.

S. 480

At the request of Mr. HARKIN, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 480, a bill to provide competitive grants for training court reporters and closed captioners to meet requirements for realtime writers under the Telecommunications Act of 1996, and for other purposes.

S. 511

At the request of Mr. BINGAMAN, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 511, a bill to provide permanent funding for the Payment In Lieu of Taxes program, and for other purposes.

S. 530

At the request of Mr. KERRY, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 530, a bill to amend title 5, United States Code, to create a presumption that a disability or death of a Federal employee in fire protection activities caused by any of certain diseases is the result of the performance of such employee's duty.

S. 560

At the request of Mr. CRAIG, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 560, a bill to impose tariff-rate quotas on certain casein and milk protein concentrates.

S. 569

At the request of Mr. ENSIGN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 569, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 582

At the request of Mr. BUNNING, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 582, a bill to authorize the Department of Energy to develop and implement an accelerated research and development program for advanced clean coal technologies for use in coal-based electricity generating facilities and to amend the Internal Revenue Code of 1986 to provide financial incentives to encourage the retrofitting, repowering, or replacement of coal-based electricity generating facilities to protect the environment and improve efficiency and encourage the early commercial application of advanced clean coal technologies, so as to allow coal to help meet the growing need of the United States for the generation of reliable and affordable electricity.

S. 623

At the request of Mr. WARNER, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Washington (Ms. CANTWELL) were added as cosponsors of S. 623, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 640

At the request of Mr. LEAHY, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 640, a bill to amend subchapter III of chapter 83 and chapter 84 of title 5, United States Code, to include Federal prosecutors within the definition of a law enforcement officer, and for other purposes.

S. 650

At the request of Mr. DEWINE, the names of the Senator from Washington (Mrs. MURRAY) and the Senator from Tennessee (Mr. FRIST) were added as cosponsors of S. 650, a bill to amend the Federal Food, Drug, and Cosmetic Act to authorize the Food and Drug Administration to require certain research into drugs used in pediatric patients.

S.J. RES. 4

At the request of Mr. HATCH, the names of the Senator from Wyoming (Mr. THOMAS), the Senator from Arizona (Mr. KYL), the Senator from Nevada (Mr. REID), and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S.J. Res. 4, a joint resolution proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States.

S. CON. RES. 8

At the request of Ms. COLLINS, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. Con. Res. 8, a concurrent resolution designating the second week in may each year as ''National Visiting Nurse Association Week.''

S. RES. 44

At the request of Mr. GRAHAM of South Carolina, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. Res. 44, a resolution designating the week beginning February 2, 2003, as ''National School Counseling Week.''

S. RES. 52

At the request of Mr. CAMPBELL, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. Res. 52, a resolution recognizing the social problem of child abuse and neglect, and supporting efforts to enhance public awareness of the problem.

S. RES. 58

At the request of Mr. ALLEN, the names of the Senator from Pennsylvania (Mr. SANTORUM), the Senator from Ohio (Mr. DEWINE) and the Senator from Georgia (Mr. MILLER) were added as cosponsors of S. Res. 58, a resolution expressing the sense of the Senate that the President should designate the week beginning June 1, 2003, as ''National Citizen Soldier Week.''

S. RES. 62

At the request of Mr. ENSIGN, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. Res. 62, a resolution calling upon the Organization of American States (OAS) Inter-American Commission on Human Rights, the United Nations High Commissioner for Human Rights, the European Union, and human rights activists throughout the world to take certain actions in regard to the human rights situation in Cuba.

AMENDMENT NO. 272

At the request of Mrs. BOXER, the names of the Senator from New Jersey (Mr. CORZINE) and the Senator from New York (Mrs. CLINTON) were added as cosponsors of amendment No. 272 proposed to S. Con. Res. 23, an original concurrent resolution setting forth the congressional budget for the United States Governments for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013.

AMENDMENT NO. 274

At the request of Mr. CRAIG, his name was added as a cosponsor of amendment No. 274 proposed to S. Con. Res. 23, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013.

AMENDMENT NO. 274

At the request of Mr. HOLLINGS, his name was added as a cosponsor of amendment No. 274 proposed to S. Con. Res. 23, supra.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS—Tuesday, March 18, 2003

By Mr. KENNEDY:

S. 647. A bill to amend title 10, United States Code, to provide for Department of Defense funding of continuation of health benefits plan coverage for certain Reserves called or ordered to active duty and their dependents, and for other purposes.

Mr. KENNEDY. Mr. President, today I am introducing a bill to close an unfortunate loophole in health insurance coverage for families of reserve and guard members who are called up for active duty.

As we face the likelihood of war with Iraq, one hundred and fifty thousand members of the National Guard and the Reserves have been mobilized for service. These soldiers, sailors, marines, and airmen are standing by their country in a time of national emergency. But unless the Congress takes immediate action, too many of the spouses and children of these brave men and women may find the quality of their health care reduced.

Today's military relies more heavily than ever before on the reserve and guard. Currently, over 150,000 National Guard and reserve soldiers, sailors, Marines and airmen have been mobilized. They are spending an average of thirteen times longer on active duty today than compared to a decade ago.

Our men and women in uniform are working and training hard for the serious challenges before them. They are living in the desert, enduring harsh conditions, and contemplating the horrors of the approaching war. At the same time, they must put their lives on hold, dealing with family crises by phone and email. We must do our best to take care of those they have left at home.

During the Vietnam War, only 20 percent of all Army personnel were married. Today over 50 percent of the active military are married. These numbers are even higher in the guard and reserves. This service places heavy strain on the families who are left behind to worry and cope with the sudden new demands of running a household alone.

For the guard and reservists' families, a recall to active duty brings new bureaucratic challenges. Employers are not required to keep paying the health insurance for reservists while they are deployed. Many guardsmen and reservists may not be able to afford to pay for health care for their families while they are away.

If a guardsman or reservist is activated for more than thirty days, their family is eligible to enroll in the TRICARE program. However, during that first month, the family may not have any health insurance. In addition, if their family doctor does not participate in TRICARE, the family must find a new doctor while coping with all the other demands of the service member's absence. A family with a sick child and a father or mother sent off to war should not have to cope with the added burden of giving up the family doctor they trust.

The bill I am introducing will assure continuity of health insurance coverage for families of reservists and National Guard personnel called to active duty. Under this bill, these families retain the option of private health insurance coverage during the period of active duty, rather than enrolling in TRICARE.

The bill amends the COBRA coverage rules to specify that loss of employment-based coverage due to active-duty allows them to use the COBRA mechanism to retain their health care coverage. The Federal Government will pay the cost of premiums not covered by employers. This assistance will relieve some of the financial burden on families when the service member leaves a more lucrative private sector job to serve in the military. The Federal Government will also pay the cost of continuing family coverage purchased in the individual insurance market, for those who do not have employment-based coverage.

The cost of this modest additional help for the families of our servicemen will be small, since spouses and children who continue to use their private insurance policies will not be using TRICARE medical services that would otherwise be the government's responsibility.

This bill will not change the health care coverage for service members who will continue to receive health care

through the military medical system. Nor will it change the health care coverage for active duty family members who retain TRICARE eligibility and receive health care either through the direct care system or TRICARE network.

When reservists and members of the National Guard are called to active duty in time of international crisis, they are asked to put their lives on the line for their country. The least we can do for them is assure that their families can continue to receive quality health care without interruption during their absence.

I urge my colleagues to move promptly to enact this legislation.

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. 647

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

SECTION 1. DEPARTMENT OF DEFENSE PAYMENT FOR CONTINUATION OF NON-TRICARE HEALTH BENEFITS COVERAGE FOR CERTAIN MOBILIZED RESERVES.

(a) PAYMENT OF PREMIUMS.—

(1) REQUIREMENT TO PAY PREMIUMS.—Chapter 55 of title 10, United States Code, is amended by inserting after section 1078a the following new section:

"§ 1078b. Continuation of non-TRICARE health benefits plan coverage for certain Reserves called or ordered to active duty and their dependents

''(a) PAYMENT OF PREMIUMS.—The Secretary concerned shall pay the applicable premium to continue in force any qualified health benefits plan coverage for an eligible reserve component member for the benefits coverage continuation period if timely elected by the member in accordance with regulations prescribed under subsection (h).

''(b) ELIGIBLE MEMBER.—A member of a reserve component who is called or ordered to active duty for a period of more than 30 days under a provision of law referred to in section 101(a)(13)(B) of this title is eligible for payment of the applicable premium for continuation of qualified health benefits plan coverage under subsection (a).

''(c) QUALIFIED HEALTH BENEFITS PLAN COVERAGE.—For the purposes of this section, health benefits plan coverage for a member called or ordered to active duty is qualified health benefits plan coverage if—

''(1) the coverage was in force on the date on which the Secretary notified the member that issuance of the call or order was pending or, if no such notification was provided, the date of the call or order; and

''(2) on that date, the coverage applied to the member and dependents of the member.

''(d) APPLICABLE PREMIUM.—The applicable premium payable under this section for continuation of health benefits plan coverage in the case of a member is the amount of the premium payable by the member for the coverage of the member and dependents.

''(e) BENEFITS COVERAGE CONTINUATION PERIOD.—The benefits coverage continuation period under this section for qualified health benefits plan coverage in the case of a member called or ordered to active duty is the period that—

''(1) begins on the date of the call or order; and

''(2) ends on the earlier of the date on which—

''(A) the member's eligibility for transitional health care under section 1145(a) of this title terminates under paragraph (3) of such section;

''(B) the member or the dependents of the member eligible for benefits under the qualified health benefits plan coverage become covered by another health benefits plan that is not TRICARE; or

''(C) the member elects to terminate the continued qualified health benefits plan coverage of the dependents of the member.

''(f) EXTENSION OF PERIOD OF COBRA COVERAGE.—Notwithstanding any other provision of law—

''(1) any period of coverage under a COBRA continuation provision (as defined in section 9832(d)(1) of the Internal Revenue Code of 1986) for a member under this section shall be deemed to be equal to the benefits coverage continuation period for such member under this section; and

''(2) with respect to the election of any period of coverage under a COBRA continuation provision (as so defined), rules similar to the rules under section 4980B(f)(5)(C) of such Code shall apply.

''(g) SPECIAL RULE WITH RESPECT TO INDIVIDUAL HEALTH INSURANCE COVERAGE.—With respect to a member of a reserve component described in subsection (b) who was enrolled in individual health insurance coverage (as such term is defined in section 2791(b)(5) of the Public Health Service Act) on the date on which the member was called or ordered to active duty, the health insurance issuer may not—

''(1) decline to offer such coverage to, or deny re-enrollment of, such individual during the benefits coverage continuation period described in subsection (e);

''(2) impose any preexisting condition exclusion (as defined in section 2701(b)(1)(A) of the Public Health Service Act) with respect to the re-enrollment of such member for such coverage during such period; or

''(3) increase the premium rate for re-enrollment of such member under such coverage during such period above the rate that was paid for the coverage prior to the date of such call or order.

''(h) NONDUPLICATION OF BENEFITS.—A dependent of a member who is eligible for benefits under qualified health benefits plan coverage paid on behalf of a member by the Secretary concerned under this section is not eligible for benefits under TRICARE during a period of the coverage for which so paid.

''(i) REVOCABILITY OF ELECTION.—A member who makes an election under subsection (a) may revoke the election. Upon such a revocation, the member's dependents shall become eligible for TRICARE as provided for under this chapter.

''(j) REGULATIONS.—The Secretary of Defense shall prescribe regulations for carrying out this section. The regulations shall include such requirements for making an election of payment of applicable premiums as the Secretary considers appropriate.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1078a the following new item:

''1078b. Continuation of non-TRICARE health benefits plan coverage for certain Reserves called or ordered to active duty and their dependents.''.

(b) APPLICABILITY.—Section 1078b of title 10, United States Code (as added by subsection (a)), shall apply with respect to calls or orders of members of reserve components of the Armed Forces to active duty as described in subsection (b) of such section, that are issued by the Secretary of a military department on or after the date of the enactment of this Act.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN (for himself and Mr. DORGAN).

S. 658. A bill to extend the authority for Energy Savings Performance Contracts and for other purposes; to the Committee on Energy and Natural Resources.

Mr. BINGAMAN. Mr. President, I rise today to introduce legislation that will ensure the continuation of a program that has provided a flexible and cost-effective way to reduce the Federal Government's energy bills.

Since the 1970's Federal Government agencies have been required by law or Executive Order to steadily improve the energy efficiency of Federal buildings. For example, the Energy Policy Act of 1992 set a goal of reducing energy use per square foot by 20 percent in FY 2000 compared to FY 1985. Preliminary data from the Department of Energy indicates that agencies exceeded this goal by 2.7 percent and spent $2.3 billion less for energy in FY 2000 than in FY 1985.

One of the reasons the Federal Government was successful was the availability of an innovative financing method for energy efficiency improvements. In the 1992 Energy Policy Act, Congress created Energy Savings Performance Contracting ESPC, which offered a way to invest in energy savings improvements at no capital cost to the government by leveraging private sector capital.

Under the ESPC authority, private sector companies enter into contracts with Federal agencies to install energy savings equipment and make operational or maintenance changes to improve building efficiency. The companies pay the up-front costs of the energy efficiency improvements and guarantee the agency a fixed amount of cost savings through the life of the contract. The energy service company recoups its investment over time from the energy cost savings. Since 1992, nearly $1.1 billion in private sector capital has been invested in Federal energy improvement projects under ESPCs resulting in hundreds of millions of dollars in permanent savings to the US taxpayer.

Unfortunately the authority for this successful program expires at the end of September 2003. Congress must act quickly to continue ESPC authority.

Our legislation would extend the authority for the ESPC program permanently. The bill also makes several changes designed to improve and expand the program. It adds ''water cost savings'' as an allowable measure for Energy Savings Performance Contracting for civilian agencies, as they have been for Department of Defense facilities for several years.

The legislation also addresses the problem of improving energy efficiency in a building that has long since passed its useful life and is in constant need of maintenance and repair. To prevent this waste of funds, the legislation

would allow Energy Savings Performance Contracting to include the savings anticipated from operation and maintenance efficiencies of a replacement facility. The Department of Energy conducted a feasibility study for replacing a complex of 50 year old army barracks in my State—now used as DOE's Albuquerque operations office. The study demonstrated that the costs savings created by energy, operations and maintenance efficiencies of a new replacement building can pay for the new facility.

These provisions were agreed to last fall by the House and Senate conference committee on the Energy Policy Act of 2002. They are good policy for energy efficiency and for the Federal taxpayer.

In addition, our bill would authorize a pilot program to determine whether the ESPC concept can be applied to non-building projects. About 60 percent of the Federal Government's energy consumption occurs in government vehicles, cars, trucks, ships and air craft. Another 7 percent occurs in energy intensive operations such as irrigation, manufacturing and research activities. Increased efficiency for these activities could yield tremendous savings. This program was discussed favorably at the Energy Committee's March 11 hearing on energy efficiency.

I look forward to working with my cosponsor Senator DORGAN, and other interested Senators to enact this legislation as soon as possible.

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. 658

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Energy Savings Performance Contracts Amendments Act of 2003''.

SEC. 2. PERMANENT EXTENSION.

Section 801(c) of the National Energy Conservation Policy Act (42 U.S.C. 8287(c)) is repealed.

SEC. 3. COST SAVINGS FROM REPLACEMENT FACILITIES.

Section 801(a) of the National Energy Conservation Policy Act (42 U.S.C. 8287(a)) is amended by adding at the end the following new paragraph:

''(3)(A) In the case of an energy savings contract or energy savings performance contract providing for energy savings through the construction and operation of one or more buildings or facilities to replace one or more existing buildings or facilities, benefits ancillary to the purpose of such contract under paragraph (1) may include savings resulting from reduced costs of operation and maintenance at such replacement buildings or facilities when compared with costs of operation and maintenance at the buildings or facilities being replaced.

''(B) Notwithstanding paragraph (2)(B), aggregate annual payments by an agency under an energy savings contract or energy savings performance contract referred to in subparagraph (A) may take into account (through the procedures developed pursuant to this section) savings resulting from reduced costs of operation and maintenance as described in subparagraph (A).''.

SEC. 4. ENERGY SAVINGS.

Section 804(2) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(2)) is amended to read as follows:

''(2) The term 'energy savings' means—

''(A) a reduction in the cost of energy or water, from a base cost established through a methodology set forth in the contract, used in an existing federally owned building or buildings or other federally owned facilities as a result of—

''(i) the lease or purchase of operating equipment, improvements, altered operation and maintenance, or technical services;

''(ii) the increased efficient use of existing energy sources by cogeneration or heat recovery, excluding any cogeneration process for other than a federally owned building or buildings or other federally owned facilities; or

''(iii) the increased efficient use of existing water sources; or

''(B) in the case of a replacement building or facility described in section 801(a)(3), a reduction in the cost of energy, from a base cost established through a methodology set forth in the contract, that would otherwise be utilized in one or more existing federally owned buildings or other federally owned buildings by reason of the construction and operation of the replacement building or facility.''.

SEC. 5. ENERGY SAVINGS CONTRACT.

Section 804(3) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(3)) is amended to read as follows:

''(3) The terms 'energy savings contract' and 'energy savings performance contract' means a contract which provides for—

''(A) the performance of services for the design, acquisition, installation, testing, operation, and, where appropriate, maintenance and repair, of an identified energy or water conservation measure or series of measures at one or more locations; or

''(B) energy savings through the construction and operation of one or more buildings or facilities to replace one or more existing buildings or facilities.''.

SEC. 6. ENERGY OR WATER CONSERVATION MEASURE.

Section 804(4) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(4)) is amended to read as follows:

''(4) The term 'energy or water conservation measure' means—

''(A) an energy conservation measure, as defined in section 551(4)(42 U.S.C. 8259(4)); or

''(B) a water conservation measure that improves water efficiency, is life cycle cost effective, and involves water conservation, water recycling or reuse, improvements in operation or maintenance efficiencies, retrofit activities or other related activities, not at a Federal hydroelectric facility.''.

SEC. 7. REVIEW.

Within 180 days after the date of the enactment of this Act, the secretary of Energy shall complete a review of the Energy Savings Performance Contract program to identify statutory, regulation, and administration obstacles that prevent Federal agencies from fully utilizing the program. In addition, this review shall identify all areas for increasing program flexibility and effectiveness, including audit and measurement verification requirements, accounting for energy use in determining savings, contracting requirements, and energy efficient services covered. The Secretary shall report these findings to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, and shall implement identified administrative and regulatory changes to increase program flexibility and effectiveness to the extent that such changes are consistent with statutory authority.

SEC. 8. PILOT PROGRAM TO EXPAND ENERGY SAVINGS PERFORMANCE CONTRACTS TO NON-BUILDING PROJECTS.

Title VIII of the National Energy Conservation Policy Act (42 U.S.C. 8287–8287c) is amended by adding at the end the following:

''SEC. 805. PILOT PROGRAM FOR ENERGY SAVINGS PERFORMANCE CONTRACT INVESTMENTS IN NON-BUILDING ENERGY SAVINGS PROJECTS.

''(a) AUTHORIZATION.—The Secretary of Defense and the heads of other interested Federal agencies are authorized, on a pilot basis, to enter into up to ten energy savings performance contracts under this Title for the purpose of achieving savings, secondary savings, and benefits incidental to those purpose, in non-building energy efficiency improvement projects.

''(b) SELECTION OF PROJECTS.—The Secretary of Energy, in consultation with the Secretary of Defense and the heads of other interested Federal agencies, shall select up to ten contract projects for this pilot program. The projects shall be selected to demonstrate the applicability and benefit of energy savings performance contracting to a range of non-building energy efficiency improvement projects.

''(c) DEFINITIONS.—For the purposes of this section:

''(1) The term 'non-building' means any vehicle, device, or equipment that is transportable under its own power by land, sea, or air and consumes energy from any fuel source for the purpose of such transportability, or to maintain a controlled environment within such vehicle, device or equipment; or any Federally owned equipment used to generate electricity or transport water.

''(2) The term 'secondary savings', means additional energy or cost savings that are a direct consequence of the energy savings that result from the energy efficiency improvements that were financed and implemented pursuant to the energy savings performance contract. Such 'secondary savings' may include, but are not limited to, energy and cost savings that result from a reduction in the need for fuel delivery and logistical support. In the case of electric generation equipment, secondary savings may include the benefits of increased efficiency in the production of electricity.

''(d) REPORT.—No later than three years after the enactment of this section, the Secretary of Energy shall report to the Congress on the progress and results of this program. Such report shall include: a description of all projects undertaken; the energy and cost savings, secondary savings, other benefits and problems resulting from such projects; and the overall cost-benefit of such projects. The report shall also include recommendations, developed in consultation with those agencies that undertook projects under the program, as to whether the authorization to enter into energy savings performance contract for non-building projects should be extended, expanded, or otherwise modified.''

SEC. 9. UTILITY INCENTIVE PROGRAMS.

Section 546(c)(3) of the National Energy Conservation Policy Act (42 U.S.C. 8256(c)(3)) is amended by striking ''facilities'' and inserting ''facilities, equipment and vehicles''.

By Mr. CRAIG (for himself, Mr. BAUCUS, Mr. ALEXANDER, Mr. ALLARD, Mr. ALLEN, Mr. BENNETT, Mr. BOND, Mr. BREAUX,

Mr. BROWNBACK, Mr. BUNNING, Mr. BURNS, Mr. CAMPBELL, Mr. CHAMBLISS, Mr. COCHRAN, Mr. COLEMAN, Ms. COLLINS, Mr. CORNYN, Mr. CRAPO, Mrs. DOLE, Mr. DOMENICI, Mr. DORGAN, Mr. ENSIGN, Mr. ENZI, Mr. FRIST, Mr. GRAHAM of South Carolina, Mr. GRASSLEY, Mr. GREGG, Mr. HAGEL, Mr. HATCH, Mrs. HUTCHISON, Mr. INHOFE, Mr. JOHNSON, Mr. KYL, Ms. LANDRIEU, Mrs. LINCOLN, Mr. LOTT, Mr. MCCONNELL, Mr. MILLER, Ms. MURKOWSKI, Mr. NELSON of Nebraska, Mr. NICKLES, Mr. REID, Mr. ROBERTS, Mr. SANTORUM, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH, Mr. SPECTER, Mr. STEVENS, Mr. SUNUNU, Mr. TALENT, and Mr. THOMAS):

S. 659. A bill to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others; to the Committee on the Judiciary.

Mr. CRAIG. Mr. President, I am pleased to join with Senator BAUCUS in introducing the Protection of Lawful Commerce in Arms Act, on behalf of ourselves and more than half of our colleagues in the United States Senate: Senators ALEXANDER, ALLARD, ALLEN, BENNETT, BOND, BREAUX, BROWNBACK, BUNNING, BURNS, CAMPBELL, CHAMBLISS, COCHRAN, COLEMAN, COLLINS, CORNYN, CRAPO, DOLE, DOMENICI, DORGAN, ENSIGN, ENZI, FRIST, GRAHAM of South Carolina, GRASSLEY, GREGG, HAGEL, HATCH, HUTCHISON, INHOFE, JOHNSON, KYL, LANDRIEU, LINCOLN, LOTT, MCCONNELL, MILLER, MURKOWSKI, NELSON of Nebraska, NICKLES, REID, ROBERTS, SANTORUM, SESSIONS, SHELBY, SMITH, SPECTER, STEVENS, SUNUNU, TALENT, and THOMAS.

This is an extraordinary showing of support for a bill, and I believe it is a testament to the gravity of the threat addressed by the legislation: the abuse of our courts through lawsuits filed to force law-abiding businesses to pay for criminal acts by individuals beyond their control.

The businesses I am talking about are collectively known as the U.S. firearms industry. The lawsuits in question claim that even though these businesses comply with all laws and sell a legitimate product, they should be responsible for the misuse or illegal use of the firearm by a criminal. These actions are pursued with the intent of driving this industry out of business, regardless of the thousands of jobs that would be lost in the process and the impact on citizens across the Nation who would never contemplate committing a crime with a gun.

Let me be clear about this. These lawsuits are not brought by individuals seeking relief for injuries done to them by anyone in the industry. Instead, this is a politically-inspired initiative trying to force social goals through an end-run around the Congress and state legislatures.

The theory on which these lawsuits are based would be laughable, if it weren't so dangerous: to pin the responsibility for a criminal act on an innocent party who wasn't there and had nothing to do with it. They argue that merely by virtue of the fact that a gun was present, those who were part of the commercial distribution chain should be held responsible for the gun's misuse.

This isn't a legal theory—it's just the latest twist in the gun controllers' notion that it's the gun, and not the criminal, that causes crime.

The truth of the matter is that there are millions of firearms in this country today, yet only a tiny fraction of them have ever been used in the commission of a crime. The truth of the matter is that again and again, law-abiding firearm owners are using their guns, often without even firing a shot, to defend life and property. The truth of the matter is that the intent of the user, not the gun, is what determines whether that gun will be used in a crime. The trend of abusive litigation targeting the firearms industry not only defies common sense and concepts of fundamental fairness, but it would do nothing to curb criminal gun violence. Furthermore, the burdens it seeks to impose would jeopardize Americans' constitutionally-protected access to firearms for self defense and other lawful uses.

The bill that more than half of the United States Senate has already endorsed is a measured response that would put a stop to this abusive trend without endangering legitimate claims for relief. Let me emphasize that it does not insulate the firearms industry from all lawsuits or deprive legitimate victims of their day in court, as some critics have charged. Indeed, it specifically provides that actions based on the wrongful conduct of those involved in the business of manufacturing and selling firearms—breaches of contract, defects in firearms, negligent entrustment, criminal behavior—would not be affected by this legislation. It is solely directed at stopping frivolous, politically-driven litigation against law-abiding individuals for the misbehavior of criminals over whom they had no control.

The courts of our Nation are supposed to be forums for resolving controversies between citizens and providing relief where warranted, not a mechanism for achieving political ends that are rejected by the people's representatives in Congress and the state legislatures. I hope all our colleagues will join us in taking a measured, principled stand against this abusive litigation by supporting the Protection of Lawful Commerce In Arms Act.

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. 659

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 ''Protection of Lawful Commerce in Arms Act''.

SEC. 2. FINDINGS; PURPOSES.

(a) FINDINGS.—The Congress finds the following:

(1) Citizens have a right, protected by the Second Amendment to the United States Constitution, to keep and bear arms.

(2) Lawsuits have been commenced against manufacturers, distributors, dealers, and importers of firearms that operate as designed and intended, which seek money damages and other relief for the harm caused by the misuse of firearms by third parties, including criminals.

(3) The manufacture, importation, possession, sale, and use of firearms and ammunition in the United States are heavily regulated by Federal, State, and local laws. Such Federal laws include the Gun Control Act of 1968, the National Firearms Act, and the Arms Export Control Act.

(4) Businesses in the United States that are engaged in interstate and foreign commerce through the lawful design, manufacture, marketing, distribution, importation, or sale to the public of firearms or ammunition that has been shipped or transported in interstate or foreign commerce are not, and should not, be liable for the harm caused by those who criminally or unlawfully misuse firearm products or ammunition products that function as designed and intended.

(5) The possibility of imposing liability on an entire industry for harm that is solely caused by others is an abuse of the legal system, erodes public confidence in our Nation's laws, threatens the diminution of a basic constitutional right and civil liberty, invites the disassembly and destabilization of other industries and economic sectors lawfully competing in the free enterprise system of the United States, and constitutes an unreasonable burden on interstate and foreign commerce of the United States.

(6) The liability actions commenced or contemplated by the Federal Government, States, municipalities, and private interest groups are based on theories without foundation in hundreds of years of the common law and jurisprudence of the United States and do not represent a bona fide expansion of the common law. The possible sustaining of these actions by a maverick judicial officer or petit jury would expand civil liability in a manner never contemplated by the framers of the Constitution, by Congress, or by the legislatures of the several States. Such an expansion of liability would constitute a deprivation of the rights, privileges, and immunities guaranteed to a citizen of the United States under the Fourteenth Amendment to the United States Constitution.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To prohibit causes of action against manufacturers, distributors, dealers, and importers of firearms or ammunition products for the harm caused by the criminal or unlawful misuse of firearm products or ammunition products by others when the product functioned as designed and intended.

(2) To preserve a citizen's access to a supply of firearms and ammunition for all lawful purposes, including hunting, self-defense, collecting, and competitive or recreational shooting.

(3) To guarantee a citizen's rights, privileges, and immunities, as applied to the States, under the Fourteenth Amendment to the United States Constitution, pursuant to section 5 of that Amendment.

(4) To prevent the use of such lawsuits to impose unreasonable burdens on interstate and foreign commerce.

(5) To protect the right, under the First Amendment to the Constitution, of manufacturers, distributors, dealers, and importers of firearms or ammunition products, and trade associations, to speak freely, to assemble peaceably, and to petition the Government for a redress of their grievances.

SEC. 3. PROHIBITION ON BRINGING OF QUALIFIED CIVIL LIABILITY ACTIONS IN FEDERAL OR STATE COURT.

(a) IN GENERAL.—A qualified civil liability action may not be brought in any Federal or State court.

(b) DISMISSAL OF PENDING ACTIONS.—A qualified civil liability action that is pending on the date of enactment of this Act shall be immediately dismissed by the court in which the action was brought.

SEC. 4. DEFINITIONS.

In this Act, the following definitions shall apply:

(1) ENGAGED IN THE BUSINESS.—The term ''engaged in the business'' has the meaning given that term in section 921(a)(21) of title 18, United States Code, and, as applied to a seller of ammunition, means a person who devotes, time, attention, and labor to the sale of ammunition as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of ammunition.

(2) MANUFACTURER.—The term ''manufacturer'' means, with respect to a qualified product, a person who is engaged in the business of manufacturing the product in interstate or foreign commerce and who is licensed to engage in business as such a manufacturer under chapter 44 of title 18, United States Code.

(3) PERSON.—The term ''person'' means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity, including any governmental entity.

(4) QUALIFIED PRODUCT.—The term ''qualified product'' means a firearm (as defined in subparagraph (A) or (B) of section 921(a)(3) of title 18, United States Code), including any antique firearm (as defined in section 921(a)(16) of such title), or ammunition (as defined in section 921(a)(17) of such title), or a component part of a firearm or ammunition, that has been shipped or transported in interstate or foreign commerce.

(5) QUALIFIED CIVIL LIABILITY ACTION.—

(A) IN GENERAL.—The term ''qualified civil liability action'' means a civil action brought by any person against a manufacturer or seller of a qualified product, or a trade association, for damages resulting from the criminal or unlawful misuse of a qualified product by the person or a third party, but shall not include—

(i) an action brought against a transferor convicted under section 924(h) of title 18, United States Code, or a comparable or identical State felony law, by a party directly harmed by the conduct of which the transferee is so convicted;

(ii) an action brought against a seller for negligent entrustment or negligence per se;

(iii) an action in which a manufacturer or seller of a qualified product knowingly and willfully violated a State or Federal statute applicable to the sale or marketing of the product, and the violation was a proximate cause of the harm for which relief is sought;

(iv) an action for breach of contract or warranty in connection with the purchase of the product; or

(v) an action for physical injuries or property damage resulting directly from a defect in design or manufacture of the product, when used as intended.

(B) NEGLIGENT ENTRUSTMENT.—In subparagraph (A)(ii), the term ''negligent entrustment'' means the supplying of a qualified product by a seller for use by another person when the seller knows, or should know, the person to whom the product is supplied is likely to, and does, use the product in a manner involving unreasonable risk of physical injury to the person and others.

(6) SELLER.—The term ''seller'' means, with respect to a qualified product—

(A) an importer (as defined in section 921(a)(9) of title 18, United States Code) who is engaged in the business as such an importer in interstate or foreign commerce and who is licensed to engage in business as such an importer under chapter 44 of title 18, United States Code;

(B) a dealer (as defined in section 921(a)(11) of title 18, United States Code) who is engaged in the business as such a dealer in interstate or foreign commerce and who is licensed to engage in business as such a dealer under chapter 44 of title 18, United States Code; or

(C) a person engaged in the business of selling ammunition (as defined in section 921(a)(17) of title 18, United States Code) in interstate or foreign commerce at the wholesale or retail level, consistent with Federal, State, and local law.

(7) STATE.—The term ''State'' includes each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States, and any political subdivision of any such place.

(8) TRADE ASSOCIATION.—The term ''trade association'' means any association or business organization (whether or not incorporated under Federal or State law) that is not operated for profit, and 2 or more members of which are manufacturers or sellers of a qualified product.

By Mr. SCHUMER (for himself, Mr. WARNER, Mr. SARBANES, Mr. KENNEDY, and Mrs. CLINTON):

S. 661. A bill to amend the Internal Revenue Code of 1986 to equalize the exclusion from gross income of parking and transportation fringe benefits and to provide for a common cost-of-living adjustment, and for other purposes; to the Committee on Finance.

Mr. SCHUMER. 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. 661

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 ''Commuter Benefits Equity Act of 2003''.

SEC. 2. UNIFORM DOLLAR LIMITATION FOR ALL TYPES OF TRANSPORTATION FRINGE BENEFITS.

(a) IN GENERAL.—Section 132(f)(2) of the Internal Revenue Code of 1986 (relating to limitation on exclusion) is amended—

(1) by striking ''$100'' in subparagraph (A) and inserting ''$190'', and

(2) by striking ''$175'' in subparagraph (B) and inserting ''$190''.

(b) INFLATION ADJUSTMENT CONFORMING AMENDMENTS.—Subparagraph (A) of section 132(f)(6) of the Internal Revenue Code of 1986 (relating to inflation adjustment) is amended—

(1) by striking the last sentence,

(2) by striking ''1999'' and inserting ''2003'', and

(3) by striking ''1998'' and inserting ''2002''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 3. CLARIFICATION OF FEDERAL EMPLOYEE BENEFITS.

Section 7905 of title 5, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (2)(C) by inserting ''and'' after the semicolon;

(B) in paragraph (3) by striking ''; and'' and inserting a period; and

(C) by striking paragraph (4); and

(2) in subsection (b)(2)(A) by amending subparagraph (A) to read as follows:

''(A) a qualified transportation fringe as defined in section 132(f)(1) of the Internal Revenue Code of 1986;''.

Mr. SARBANES. Mr. President, I am pleased to join with my colleagues in introducing the Commuter Benefits Equity Act of 2003. This measure is another important step forward in our efforts to make transit services more accessible and improve the quality of life for commuters throughout the Nation.

All across the Nation, congestion and gridlock are taking their toll in terms of economic loss, environmental impacts, and personal frustration. According to the Texas Transportation Institute, in 2000, Americans in 75 urban areas spent 3.6 billion hours stuck in traffic, with an estimated cost to the Nation of $67.5 billion in lost time and wasted fuel, and the problem is growing. One way in which Federal, State, and local governments are responding to this problem is by promoting greater use of transit as a commuting option. The American Public Transportation Association estimates that last year, Americans took over 9.5 billion trips on transit, the highest level in more than 40 years. But we need to do more to encourage people to get out of their cars and onto public transportation.

The Internal Revenue Code currently allows employers to provide a tax-free transit benefit to their employees. Under this ''Commuter Choice'' program, employers can set aside up to $100 per month of an employee's pretax income to pay for the cost of commuting by public transportation or vanpool. Alternatively, an employer can choose to offer the same amount as a tax-free benefit in addition to an employee's salary. This program is designed to encourage Americans to leave their cars behind when commuting to work.

By all accounts, this program is working. In the Washington area, for example, the Washington Metropolitan Area Transit Authority estimates that over 200,000 commuters take advantage of transit pass programs offered by their employers. That means fewer cars on our congested streets and highways.

Employees of the federal government account for a large percentage of those benefitting from this program in the

Washington area. Under an Executive Order, all Federal agencies in the National Capital Region, which includes Montgomery, Prince George's, and Frederick Counties, Maryland, as well as several counties in Northern Virginia, are required to offer this transit benefit to their employees. The Commuter Choice program is now being used by an estimated 130,000 Washington-area Federal employees who are choosing to take transit to work.

However, despite the success of the Commuter Choice program, our tax laws still reflect a bias toward driving. The Internal Revenue Code allows employers to offer a tax-free parking benefit to their employees of up to $190 per month. The striking disparity between the amount allowed for parking—$190 per month—and the amount allowed for transit—$100 per month—undermines our commitment to supporting public transportation use.

The Commuter Benefits Equity Act would address this discrepancy by raising the maximum monthly transit benefit to $190, equal to the parking benefit, and providing that the benefits will be adjusted upward together in future years. The Federal Government should not reward those who drive to work more richly than those who take public transportation. Indeed, since the passage of the Intermodal Surface Transportation Efficiency Act of 1991, Federal transportation policy has endeavored to create a level playing field between highways and transit, favoring neither mode above the other. The Commuter Benefits Equity Act would ensure that our tax laws reflect this balanced approach.

In addition, the Commuter Benefits Equity Act would remedy another inconsistency in current law. Private-sector employers can offer their employees the transit benefit in tandem with the parking benefit, to help employees pay for the costs of parking at transit facilities, commuter rail stations, or other locations which serve public transportation or vanpool commuters. However, under current law, Federal agencies cannot offer a parking benefit to their employees who use park-and-ride lots or other remote parking locations. The Commuter Benefits Equity Act would remove this restriction, allowing Federal employees access to the same benefits enjoyed by their private-sector counterparts.

The Washington Metropolitan Region is home to thousands of Federal employees. It is also one of the Nation's most highly congested areas, ranking fourth in per capita congestion. This area has the third longest average commute time in the country. It is clearly in our interest to support programs which encourage Federal employees to make greater use of public transportation for their commuting needs.

The simple change made by the Commuter Benefits Equity Act would provide a significant benefit to those Federal employees whose commute to work includes parking at a transit facility. For example, a commuter who rides the Metrorail to work and parks at the Rockville park-and-ride lot pays about $45 monthly for parking, on top of the cost of riding the train. A private-sector employee whose employer provides the parking benefit in addition to salary could receive $540 a year tax free to help pay these parking costs. Federal government employees should be allowed the same benefit.

I support the Commuter Benefits Equity Act because it creates parity—parity in the tax code between the parking and transit benefits, and parity for Federal employees with their private-sector counterparts. Both of these improvements will aid our efforts to fight congestion and pollution by supporting public transportation. I encourage my colleagues to join me in supporting the Commuter Benefits Equity Act.

By Mrs. FEINSTEIN:

S. 662. A bill to extend to Nepal certain preferential treatment with respect to apparel articles; to the Committee on Finance.

Mrs. FEINSTEIN. Mr. President, I rise today to introduce legislation to grant garment imports from Nepal duty free status in the United States for two years. We have an opportunity the help one of the world's most impoverished countries sustain a vital export industry and promote political and economic stability after years of conflict.

My interest in Nepal goes back over 25 years and I have had the pleasure to travel there and visit with friends on many occasions. The warmth and friendliness of the people and the vitality and richness of the culture are only matched by the beauty of the breathtaking landscape.

Nevertheless, Nepal faces some serious challenges in the years ahead as it attempt to build a prosperous economy and raise the living standards of its people.

It ranks as the 12th poorest country in the world, with a per capita income of $240. Approximately 42 percent of the 24 million people live in poverty. Unemployment stands at 47 percent.

On top of this, Nepal has had to confront a Maoist insurgency which has claimed the lives of more than 7,200 people since 1996 with two thirds of the deaths occurring since November 2001. Estimated to include between 5,000 and 10,000 armed soldiers, the Maoists control between one-quarter and one-half of the country.

As a result of the political instability, for the first time in twenty years Nepal's economy contracted in 2002 by 0.6 percent and tourism, one of the main sources of income, fell by 27 percent. The situation became so dire last year that one advisor to Nepal's king noted that ''Nepal is on the verge of becoming a failed state.''

Yet there is reason for hope. On January 29, 2003 the Government of Nepal and the Maoist rebels reached a cease-fire agreement, opening the door for negotiations for a permanent end to the conflict. I am hopeful they will be successful. We now have the opportunity to build on the hopes of a peaceful solution to conflict and really make a difference in the lives of the Nepalese people.

Humanitarian and development assistance should be an important part of that effort. But we should also help the Nepalese help themselves and open the U.S. market to a critical export industry. In the end, economic growth and prosperity can best be achieved when Nepal is given the chance to compete and grow in a free and open global marketplace.

Success in that marketplace will lead to a lesser dependence on foreign aid and encourage Nepal to develop other viable export industries.

Since the mid-1980s, garments have emerged as a key part of Nepal's manufacturing sector. The garment industry in Nepal is entirely export oriented and accounts for 40 percent of the foreign exchange earnings. It employs over 100,000 workers half of them women and sustains the livelihood of over 350,000 people. The United States is the largest market for Nepalese garments and accounts for 80–90 percent of Nepal's total exports every year.

Yet, despite Nepal's poverty and the importance of the garment industry and the U.S. market, Nepalese garments are subject to U.S. tariffs of 17–35 percent. This is simply not acceptable and does harm to a country that can least afford it.

I might point out that this tariff rate is in contrast to the European Union, Canada, and Australia which allow or will soon allow Nepalese garments into their markets duty free.

The United States can make a real difference now to sustain the garment industry in Nepal and promote economic growth and higher living standards. My bill is simple and straightforward. It grants duty free status to imports of Nepalese garments and textiles for a two year period. This is the same status granted to participating lesser developed countries under the African Growth and Opportunity Act.

For those of my colleagues who are concerned about the impact that duty free status for Nepalese garments and textiles would have on the domestic industry, it is worth noting that Nepalese garments, at their highest level, accounted for 0.1 percent of all garment and textile imports in the United States generating $29.5 million in revenue.

Nepal is, and will continue to be, a small player in the U.S. garment market, but the importance of the garment industry in Nepal compels us to action.

Let us not miss this chance to help Nepal build a better future for its people and demonstrate to them and the rest of the world the desire of the United States to see developing nations rise from poverty to economic prosperity. I urge my colleagues to support this legislation.

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. 662

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

SECTION 1. TREATMENT OF CERTAIN TEXTILES AND APPAREL.

Notwithstanding any other provision of law, the preferential treatment extended to apparel articles under section 112(b)(3)(B) of the African Growth and Opportunity Act (19 U.S.C. 3721(b)(3)(B)) shall also apply to apparel articles that are imported directly into the customs territory of the United States from Nepal in accordance with the provisions set forth in such section as if such articles were articles of a lesser developed beneficiary sub-Saharan African country, if Nepal has satisfied the requirements set forth in section 113 of such Act (19 U.S.C. 3722), except that—

(1) any reference in section 112(b) or section 113 of the African Growth and Opportunity Act to a lesser developed beneficiary sub-Saharan African country or countries) shall be treated as a reference to Nepal; and

(2) such preferential treatment shall apply to apparel articles imported into the customs territory of the United States during the period beginning on October 1, 2003, and ending on September 30, 2005.

By Mr. INOUYE:

S. 663. A bill for the relief of the Pottawatomi Nation in Canada for settlement of certain claims against the United States; to the Committee on the Judiciary.

Mr. INOUYE. Mr. President, almost eight years ago, I stood before you to introduce a bill ''to provide an opportunity for the Pottawatomi Nation in Canada to have the merits of their claims against the United States determined by the United States Court of Federal Claims.''

That bill was introduced as Senate Resolution 223, which referred the Pottawatomi's claim to the Chief Judge of the U.S. Court of Federal Claims and required the Chief Judge to report back to the Senate and provide sufficient findings of fact and conclusions of law to enable the Congress to determine whether the claim of the Pottawatomi Nation in Canada is legal or equitable in nature, and the amount of damages, if any, which may be legally or equitably due from the United States.

Last year, the Chief Judge of the Court of Federal Claims reported back that the Pottawatomi Nation in Canada has a legitimate and credible legal claim. Thereafter, by settlement stipulation, the United States has taken the position that it would be ''fair, just and equitable'' to settle the claims of the Pottawatomi Nation in Canada for the sum of $1,830,000. This settlement amount was reached by the parties after seven years of extensive, fact-intensive litigation. Independently, the court concluded that the settlement amount is ''not a gratuity'' and that the ''settlement was predicated on a credible legal claim.'' Pottawatomi Nation in Canada, et al. v. United States, Cong. Ref. 94–1037X at 28 (Ct. Fed. Cl., September 15, 2000) (Report of Hearing Officer).

The bill I introduce today is to authorize the appropriation of those funds that the United States has concluded would be ''fair, just and equitable'' to satisfy this legal claim. If enacted, this bill will finally achieve a measure of justice for a tribal nation that has for far too long been denied.

For the information of our colleagues, this is the historical background that informs the underlying legal claim of the Canadian Pottawatomi.

The members of the Pottawatomi Nation in Canada are one of the descendant groups—successors-in-interest—of the historical Pottawatomi Nation and their claim originates in the latter part of the 18th Century. The historical Pottawatomi Nation was aboriginal to the United States. They occupied and possessed a vast expanse in what is now the States of Ohio, Michigan, Indiana, Illinois, and Wisconsin. From 1795 to 1833, the United States annexed most of the traditional land of the Pottawatomi Nation through a series of treaties of cession—many of these cessions were made under extreme duress and the threat of military action. In exchange, the Pottawatomis were repeatedly made promises that the remainder of their lands would be secure and, in addition, that the United States would pay certain annuities to the Pottawatomi.

In 1829, the United States formally adopted a Federal policy of removal—an effort to remove all Indian tribes from their traditional lands east of the Mississippi River to the west. As part of that effort, the government increasingly pressured the Pottawatomis to cede the remainder of their traditional lands—some five million acres in and around the city of Chicago and remove themselves west. For years, the Pottawatomis steadfastly refused to cede the remainder of their tribal territory. Then in 1833, the United States, pressed by settlers seeking more land, sent a Treaty Commission to the Pottawatomi with orders to extract a cession of the remaining lands. The Treaty Commissioners spent two weeks using extraordinarily coercive tactics—including threats of war—in an attempt to get the Pottawatomis to agree to cede their territory. Finally, those Pottawatomis who were present relented and on September 26, 1933, they ceded their remaining tribal estate through what would be known as the Treaty of Chicago. Seventy-seven members of the Pottawatomi Nation signed the Treaty of Chicago. Members of the ''Wisconsin Band'' were not present and did not assent to the cession.

In exchange for their land, the Treaty of Chicago provided that the United States would give to the Pottawatomis five million acres of comparable land in what is now Missouri. The Pottawatomi were familiar with the Missouri land, aware that it was similar to their homeland. But the Senate refused to ratify that negotiated agreement and unilaterally switched the land to five million acres in Iowa. The Treaty Commissioners were sent back to acquire Pottawatomi assent to the Iowa land. All but seven of the original 77 signatories refused to accept the change even with promises that if they were dissatisfied ''justice would be done.'' Treaty of Chicago, as amended, Article 4. Nevertheless, the Treaty of Chicago was ratified as amended by the Senate in 1834. Subsequently, the Pottawatomis sent a delegation to evaluate the land in Iowa. The delegation reported back that the land was ''not fit for snakes to live on.''

While some Pottawatomis removed westward, many of the Pottawatomis—particularly the Wisconsin Bank, whose leaders never agreed to the Treaty—refused to do so. By 1836, the United States began to forcefully remove Pottawatomis who remained in the east—with devastating consequences. As is true with many other American Indian tribes, the forced removal westward came at great human cost. Many of the Pottawatomi were forcefully removed by mercenaries who were paid on a per capita basis government contract. Over one-half of the Indians removed by these means died en route. Those who reached Iowa were almost immediately removed further to inhospitable parts of Kansas against their will and without their consent.

Knowing of these conditions, many of the Pottawatomis including most of those in the Wisconsin Bank vigorously resisted forced removal. To avoid Federal troops and mercenaries, much of the Wisconsin Bank ultimately found it necessary to flee to Canada. They were often pursued to the border by government troops, government-paid mercenaries or both. Official files of the Canadian and United States governments disclose that many Pottawatomis were forced to leave their homes without their horses or any of their possessions other than the clothes on their backs.

By the late 1830s, the government refused payment of annuities to any Pottawatomi groups that had not removed west. In the 1860s, members of the Wisconsin Band—those still in their traditional territory and those forced to flee to Canada—petitioned Congress for the payment of their treaty annuities promised under the Treaty of Chicago and all other cession treaties. By the Act of June 25, 1864, 13 Stat. 172, the Congress declared that the Wisconsin Band did not forfeit their annuities by not removing and directed that the share of the Pottawatomi Indians who had refused to relocate to the west should be retained for their use in the United States Treasury. H.R. Rep. No. 470, 64th Cong., p. 5, as quoted on page 3 of

memo dated October 7, 1949. Nevertheless, much of the money was never paid to the Wisconsin Band.

In 1903, the Wisconsin Band—most of whom now resided in three areas, the States of Michigan and Wisconsin and the Province of Ontario—petitioned the Senate once again to pay them their fair portion of annuities as required by the law and treaties. Sen. Doc. No. 185, 57th Cong., 2d Sess. By the Act of June 21, 1906, 34 Stat. 380, the Congress directed the Secretary of the Interior to investigate claims made by the Wisconsin Band and establish a roll of the Wisconsin Band Pottawatomis that still remained in the East. In addition, the Congress ordered the Secretary to determine ''the[] [Wisconsin Bands] proportionate shares of the annuities, trust funds, and other moneys paid to or expended for the tribe to which they belong in which the claimant Indians have not shared, [and] the amount of such monies retained in the Treasury of the United States to the credit of the clamant Indians as directed the provisions of the Act of June 25, 1864.''

In order to carry out the 1906 Act, the Secretary of Interior directed Dr. W.M. Wooster to conduct an enumeration of Wisconsin Band Pottawatomi in both the United States and Canada. Dr. Wooster documented 2007 Wisconsin Pottawatomis: 457 in Wisconsin and Michigan and 1550 in Canada. He also concluded that the proportionate share of annuities for the Pottawatomis in Wisconsin and Michigan was $477,339 and the proportionate share of annuities due the Pottawatomi Nation in Canada was $1,517,226. The Congress thereafter enacted a series of appropriation Acts from June 30, 1913 to May 29, 1928 to satisfy most of money owed to those Wisconsin Band Pottawatomis residing in the United States. However, the Wisconsin Band Pottawatomis who resided in Canada were never paid their share of the tribal funds.

Since that time, the Pottawatomi Nation in Canada has diligently and continuously sought to enforce their treaty rights, although until this congressional reference, they had never been provided their day in court. In 1910, the United States and Great Britian entered into an agreement for the purpose of dealing with claims between both countries, including claims of Indian tribes within their respective jurisdictions, by creating the Pecuniary Claims Tribunal. From 1910 to 1938, the Pottawatomi Nation in Canada diligently sought to have their claim heard in this international forum. Overlooked for more pressing international matters of the period, including the intervention of World War I, the Pottawatomis then came to the U.S. Congress for redress of their claim.

In 1946, the Congress waived its sovereign immunity and established the Indian Claims Commission for the purpose of granting tribes their long-delayed day in court. The Indian Claims Commission Act (ICCA) granted the Commission jurisdiction over claims such as the type involved here. In 1948, the Wisconsin Band Pottawatomis from both sides of the border—brought suit together in the Indian Claims Commission for recovery of damages. Hannahville Indian Community v. U.S., No. 28 (Ind. Cl. Comm. Filed May 4, 1948). Unfortunately, the Indian Claims Commission dismissed Pottawatomi Nation in Canada's part of the claim ruling that the Commission had no jurisdiction to consider claims of Indians living outside territorial limits of the United States. Hannahville Indian Community v. U.S., 115 Ct. Cl. 823 (1950). The claim of the Wisconsin band residing in the United States that was filed in the Indian Claims Commission was finally decided in favor of the Wisconsin Band by the U.S. Claims court in 1983. Hannahville Indian Community v. United States, 4 Ct. Cl. 445 (1983). The Court of Claims concluded that the Wisconsin Band was owed a member's proportionate share of unpaid annuities from 1838 through 1907 due under various treaties, including the Treaty of Chicago and entered judgment for the American Wisconsin band Pottawatomis for any monies not paid. Still the Pottawatomi Nation in Canada was excluded because of the jurisdictional limits of the ICCA.

Undaunted, the Pottawatomi Nation in Canada came to the Senate and after careful consideration, we finally gave them their long-awaited day in court through the congressional reference process. The court has now reported back to us that their claim is meritorious and that the payment that this bill would make constitutes a ''fair, just and equitable'' resolution to this claim.

The Pottawatomi Nation in Canada has sought justice for over 150 years. They have done all that we asked in order to establish their claim. Now it is time for us to finally live up to the promise our government made so many years ago. It will not correct all the wrongs of the past, but it is a demonstration that this government is willing to admit when it has left unfulfilled an obligation and that the United States is willing to do what we can to see that justice—so long delayed—is not now denied.

Finally, I would just note that the claim of the Pottawatomi Nation in Canada is supported through specific resolutions by the National Congress of American Indians, the oldest, largest and most-representative tribal organization here in the United States, the Assembly of First Nations, which includes all recognized tribal entities in Canada, and each and every one of the Pottawatomi tribal groups that remain in the United States today.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

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

S. 663

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

SECTION 1. SETTLEMENT OF CERTAIN CLAIMS.

(a) AUTHORIZATION FOR PAYMENT.—Notwithstanding any other provision of law, subject to subsection (b), the Secretary of the Treasury shall pay to the Pottawatomi Nation in Canada $1,830,000 from amounts appropriated under section 1304 of title 31, United States Code.

(b) PAYMENT IN ACCORDANCE WITH STIPULATION FOR RECOMMENDATION OF SETTLEMENT.—The payment under subsection (a) shall—

(1) be made in accordance with the terms and conditions of the Stipulation for Recommendation of Settlement dated May 22, 2000, entered into between the Pottawatomi Nation in Canada and the United States (referred to in this Act as the ''Stipulation for Recommendation of Settlement''); and

(2) be included in the report of the Chief Judge of the United States Court of Federal Claims regarding Congressional Reference No. 94–1037X submitted to the Senate on January 4, 2001, in accordance with sections 1492 and 2509 of title 28, United States Code.

(c) FULL SATISFACTION OF CLAIMS.—The payment under subsection (a) shall be in full satisfaction of all claims of the Pottawatomi Nation in Canada against the United States that are referred to or described in the Stipulation for Recommendation of Settlement.

(d) NONAPPLICABILITY.—Notwithstanding any other provision of law, the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.) shall not apply to the payment under subsection (a).

By Mr. HATCH (for himself, Mr. BAUCUS, Mr. GRASSLEY, Mr. ROCKEFELLER, Mr. SMITH, Mr. DASCHLE, Mr. KYL, Mrs. LINCOLN, Mr. THOMAS, Mr. KERRY, Mr. BUNNING, Mrs. FEINSTEIN, Mr. ALLEN, Mrs. BOXER, Mr. COCHRAN, Mr. LIEBERMAN, Mrs. HUTCHISON, Ms. STABENOW, Mr. ENSIGN, Mr. BAYH, Mr. ALLARD, Mr. MILLER, and Ms. CANTWELL):

S. 664. A bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit, to increase the rates of the alternative incremental credit, and to provide an alternative simplified credit for qualified research expenses; to the Committee on Finance.

Mr. HATCH. Mr. President, I am very pleased to join with my friend and colleague Senator BAUCUS and a majority of our Finance Committee colleagues from both sides of the aisle today in introducing legislation that would permanently extend and improve the research tax credit.

The 1990s were a great period in American economic history because American workers became more productive. This increase in productivity allowed the economy to continue to grow faster than almost anyone thought possible. Throughout the 1990s, doomsayers said that we had reached the economy's speed limit, but we just kept growing. How did this happen?

The Congressional Budget Office, Federal Reserve Chairman Alan Greenspan, and dozens of leading economists have all heralded the increase in our

productivity as a key to those economic good times. A major reason for this increase in productivity, is the flowering of new ideas through research and development. Restoring and increasing that growth is what our bill today is all about.

But why do we need a research tax credit? Are not profitable new ideas their own reward? Is not the promise of future profits from new drug discoveries and new manufacturing techniques its own incentive? Will not companies do large amounts of R&D on their own, without any special tax incentives?

Yes, of course, they will. But they clearly will not do enough. This is because cutting-edge research and development has spillover effects that reach far beyond the company that makes the investment. When companies invent new ideas and new production techniques, those inventions last forever, and help people in the United States and throughout the world. But the company that invests in R&D will only be able to make a sizable profit on its invention for a few years at most. That is because either the patent will expire, or other companies will imitate the new technique and cut the inventor's hoped-for profits.

Now, I am all in favor of vigorous competition—it keeps our companies strong and efficient. But we have to recognize that competition means that innovators will receive only a fraction of the benefits of their innovation. Once the imitators pop up and competition increases, we know that profits will fall, prices will fall, and the benefits of innovation, thankfully, will get passed on to consumers. We need innovation, and fortunately, we have a strong, proven tax incentive that can encourage that innovation. The benefits of innovation reach far beyond the company that invents them. That is why we need to give companies incentives to do more innovation.

I believe the best way to ensure that private-sector investment in research and development continues at the healthy rate needed to fuel productivity gains in the future is to improve and permanently extend the research credit. This tax provision is a proven and a cost-effective incentive to increase private-sector R&D spending.

Studies have shown that the research tax credit significantly increases research and development expenditures. The marginal effect of one dollar of the research credit creates approximately one dollar of additional private research and development spending over the short-run and as much as two dollars of extra R&D spending over the long-run. That, is a good deal for the American taxpayer.

One of the greatest strengths of the research credit has always been that it gave good incentives for more innovation. This year's proposal to extend the credit is no exception. This year, we have added a third way to qualify for the credit, an elective ''alternative simplified credit.'' We propose to base this new alternative credit on how much a company has increased its R&D spending compared to the last three years. Companies will average their R&D spending over the previous three years, and cut that number in half. For every dollar they spend over that amount, they get a 12 percent tax credit. If they spend less than that amount, they get no credit at all. This is why this credit is so effective—it gives benefits to companies that do more, and gives no benefits to companies that do less. That is good tax policy, and good growth policy.

Once again, I want to ask my colleagues to make this credit permanent. I think we all know that this credit is going to be extended, again and again, every few years. It takes time and energy for my colleagues to revisit this issue every few years. Can we not just, once and for all, make this provision permanent? We know this is good policy, and it is one of the most effective tax incentives in the code. As I stated earlier, even under today's permanently temporary credit, every dollar of tax credit is estimated to increase R&D spending by one dollar in the short run and by up to two dollars in the long run. And if we make this permanent, those incentives will only improve.

As it stands, companies have to take account of the fact that Congress could allow the credit lapse for a few months, as it did a number of years ago. So companies hedge their bets, they spend a little less on R&D, and our economy suffers as a result. By contrast, permanence helps planning. The sooner we make this permanent, the sooner companies can begin to enlarge and expand their research and development units, and the sooner their innovations will strengthen economic growth.

A permanent extension of this credit may seem costly in terms of lost revenue. However, when you consider the value that this investment will create for our economy, it is a bargain. In fact, one study estimates that a permanent research credit would result in our Gross Domestic Product increasing by $10 billion after five years and by $31 billion after 20 years.

By making our workers more productive, this credit will also increase wages. That is because study after study shows an iron-clad link between worker productivity and worker wages. Findings from a study conducted by Coopers & Lybrand show that workers in every state will benefit from higher wages if the research tax credit is made permanent. Payroll increases as a result of gains in productivity stemming from the credit have been estimated to exceed $60 billion over the next 12 years.

My home State of Utah is a good example of how State economies benefit from the research tax credit. Utah is home to a large number of firms that invest a high percentage of their revenue on research and development.

In Utah, five percent of the workers—51,000 people—work in the research-intensive high technology sector. That includes over 10,000 people working just to design computer systems, and over 6,000 producing medical equipment. And there is a lot of R&D taking place outside of Utah's high tech sector.

Just to give one example, more than 7,000 people work in Utah's chemical industry, and workers in that industry benefit from research and development taking place in Utah and throughout the country. Aerospace and the drug and pharmaceutical industries are two more examples of big Utah employer groups that reap the benefits of R&D. And even in the midst of my state's currently weak job market, two industries that increased employment in 2002 were the medical equipment and the scientific research and development services industries.

So, the point I want to make is not that Utah needs to do all of the research in order to reap the benefits of that research. Instead, the point I want to make is that workers in my state will become more productive and earn higher wages both when they invent new ideas, and when they use new ideas, wherever those new ideas come from.

I want Utah companies to be able to buy better manufacturing equipment, more reliable electronics, and have access to more efficient quality control techniques. The workers who use new inventions will get just as many benefits as workers who create those new inventions. And the evidence clearly shows, that the research credit will increase creation.

In short, there are tens of thousands of employees working in Utah's thousands of technology based companies, with tens of thousands more working in other sectors that engage in R&D. Beyond that, practically all of Utah's hundreds of thousands of workers benefit from higher productivity coming from the innovations that researchers both inside and outside of Utah produce. Research and development is clearly the lifeblood of our economy.

During the ten times in the past 20 years that Congress has extended the research credit for a short time, the ostensible reason has been a lack of revenue. The excuse we give to constituents is that we didn't have the money to extend the bill permanently. Ironically, it costs at least as much in terms of lost revenue, in the long run, to enact short-term extensions as it does to extend it permanently.

A permanent research credit has wide support in both the Senate and the House. A few years ago, this body passed by a vote of 98–1 an amendment that would have permanently extended the credit. Unfortunately, all amendments were ultimately stripped from the underlying bill. Moreover, the permanent extension of the credit is a major provision in President Bush's tax plan, and was supported by both former President Clinton and by Al

Gore. Again in 2001, this body voted to include a permanent research credit in the President's tax plan.

In conclusion, making the research tax credit permanent will increase the growth rate of our economy. It will mean more and better jobs for American workers. Making the tax credit permanent will speed economic growth. And new technology resulting from American research and development will continue to improve the standard of living for every person in the U.S. and around the world. I look forward to working with my colleagues on the Finance Committee and in the Senate as a whole to create a permanent, improved research and development tax credit.

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. 664

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 ''Investment in America Act of 2003''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Research and development performed in the United States results in quality jobs, better and safer products, increased ownership of technology-based intellectual property, and higher productivity in the United States.

(2) The extent to which companies perform and increase research and development activities in the United States is in part dependent on Federal tax policy.

(3) Congress should make permanent a research and development credit that provides a meaningful incentive to all types of taxpayers.

SEC. 3. PERMANENT EXTENSION OF RESEARCH CREDIT.

(a) IN GENERAL.—Section 41 of the Internal Revenue Code of 1986 (relating to credit for increasing research activities) is amended by striking subsection (h).

(b) CONFORMING AMENDMENT.—Paragraph (1) of section 45C(b) of such Code is amended by striking subparagraph (D).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

SEC. 4. INCREASE IN RATES OF ALTERNATIVE INCREMENTAL CREDIT.

(a) IN GENERAL.—Subparagraph (A) of section 41(c)(4) of the Internal Revenue Code of 1986 (relating to election of alternative incremental credit) is amended—

(1) by striking ''2.65 percent'' and inserting ''3 percent'',

(2) by striking ''3.2 percent'' and inserting ''4 percent'', and

(3) by striking ''3.75 percent'' and inserting ''5 percent''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 5. ALTERNATIVE SIMPLIFIED CREDIT FOR QUALIFIED RESEARCH EXPENSES.

(a) IN GENERAL.—Subsection (c) of section 41 of the Internal Revenue Code of 1986 (relating to base amount) is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph:

''(5) ELECTION OF ALTERNATIVE SIMPLIFIED CREDIT.—

''(A) IN GENERAL.—At the election of the taxpayer, the credit determined under subsection (a)(1) shall be equal to 12 percent of so much of the qualified research expenses for the taxable year as exceeds 50 percent of the average qualified research expenses for the 3 taxable years preceding the taxable year for which the credit is being determined.

''(B) SPECIAL RULE IN CASE OF NO QUALIFIED RESEARCH EXPENSES IN ANY OF 3 PRECEDING TAXABLE YEARS.—

''(i) TAXPAYERS TO WHICH SUBPARAGRAPH APPLIES.—The credit under this paragraph shall be determined under this subparagraph if the taxpayer has no qualified research expenses in any 1 of the 3 taxable years preceding the taxable year for which the credit is being determined.

''(ii) CREDIT RATE.—The credit determined under this subparagraph shall be equal to 6 percent of the qualified research expenses for the taxable year.

''(C) ELECTION.—An election under this paragraph shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Secretary. An election under this paragraph may not be made for any taxable year to which an election under paragraph (4) applies.''

(b) COORDINATION WITH ELECTION OF ALTERNATIVE INCREMENTAL CREDIT.—

(1) IN GENERAL.—Section 41(c)(4)(B) of the Internal Revenue Code of 1986 (relating to election) is amended by adding at the end the following: ''An election under this paragraph may not be made for any taxable year to which an election under paragraph (5) applies.''

(2) TRANSITION RULE.—In the case of an election under section 41(c)(4) of the Internal Revenue Code of 1986 which applies to the taxable year which includes the date of the enactment of this Act, such election shall be treated as revoked with the consent of the Secretary of the Treasury if the taxpayer makes an election under section 41(c)(5) of such Code (as added by subsection (a)) for such year.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

Mr. BAUCUS. Mr. President, I am pleased to again join with my friend, Senator HATCH, and my other colleagues, in introducing legislation to make a permanent commitment to research-intensive businesses in the United States. This legislation is bipartisan and bicameral. A companion bill was introduced in January in the House of Representatives by Congresswoman NANCY JOHNSON and Congressman ROBERT MATSUI.

Every morning we here news of some new product or discovery that promises to make our jobs easier or our lives better. Many of these innovations started with a business decision to hire needed researchers and finance the expensive and long process of research and experimentation. Since 1981, when the R&D tax credit was first enacted, the federal government was a partner in that business endeavor because of the potential spillover benefits to society overall from additional research spending.

Research has shown that a tax credit is a cost-effective way to promote R&D. The General Accounting Office, the Bureau of Labor Statistics, the National Bureau of Economic Research, and others have all found significant evidence that a tax credit stimulates additional domestic R&D spending by U.S. companies. A reported by the Congressional Research Service, CRS, indicates that economists generally agree that, without government support, firm investment in R&D would fall short of the socially optimal amount and thus CRS advocates government policies to boost private sector R&D.

R&D is linked to broader economic and labor benefits. R&D lays the foundation for technological innovation, which, in turn, is an important driving force in long-term economic growth—mainly through its impact on the productivity of capital and labor. We have many times heard testimony from economists, including Federal Research Board Alan Greenspan, that the reason our economy grew at such breakneck speed during the 1990s stemmed from the productivity growth we realized thanks to technological innovations.

There has been a belief that companies would continue to increase their research spending and that the benefits of these investments on the economy and labor markets would continue without end. Unfortunately, that is not the case. New data compiled by Battelle Memorial Institute and R&D Magazine project that for 2003, U.S. company spending on research will be mostly flat for the second year in a row. According to this report, companies plan a 0.1 percent increase in R&D spending in 2003. Spending in 2002 rose a mere 0.3 percent over 2001 levels. This compares to 2001 when R&D spending grew by 5 percent over the previous year. Those numbers should be a wake up call for all of us. As research spending falls, so too will the level of future economic growth.

It is also important to recognize that many of our foreign competitors are offering permanent and generous incentives to firms that attract research dollars to those countries. A 2001 study by the Organization of Economic Cooperation and Development, OECD, ranked the U.S. ninth behind other nations in terms of its incentives for business R&D spending. Countries that provide more generous R&D incentives include Spain, Canada, Portugal, Austria, Australia, Netherlands, France, and Korea. The United Kingdom was added to this list in 2002 when it further expanded its existing R&D incentives program. The continued absence of a long-term U.S. government R&D policy that encourages U.S.-based R&D will undermine the ability of American companies to remain competitive in U.S. and foreign markets. This disparity could limit U.S. competitiveness relative to its trading partners in the long-run.

Also, U.S. workers who are engaged in R&D activities currently benefit

from some of the most intellectually stimulating, high-paying, high-skilled jobs in the economy. My own State of Montana is an excellent example of this economic activity. During the 1990s, about 400 establishments provided high-technology services, at an average wage of about $35,000 per year. These jobs paid nearly 80 percent more than the average private sector wage of less than $20,000 per year during the same year. Many of these jobs would never have been created without the assistance of the R&D credit. While there may not be an immediate rush to move all projects and jobs offshore, there has been movement at the margins on those projects that are most cost-sensitive. Once those projects and jobs are gone, it will be many years before companies will have any incentive to bring them back to the United States.

We continue to grapple with the need to stimulate economic growth and advance policies that represent solid long-term investments that will reap benefits for many years to come. Senator HATCH and I repeatedly have pointed to the R&E tax credit as a measure that gives us a good ''bang for our buck.'' I hope this year we can enact a permanent tax credit that is effective and more widely available. I encourage my colleagues to join us in this effort.

As we have in years past, our proposal would make the current research and experimentation tax credit permanent and increase the Alternative Incremental Research Credit, AIRC, rates. This year we take one additional but necessary step.

We propose a new alternative simplified credit that will allow taxpayers to elect to calculate the R&D credit under new computational rules that will eliminate the present-law distortions caused by gross receipts.

There is no good policy reason to make research more expensive for some industries than for others. While the regular R&E tax credit works very well for many companies, as the credit's base period recedes and business cycles change, the current credit is out of reach for some other firms that still incur significant research expenditures. To help solve part of this problem Congress enacted the AIRC in 1996 and now we propose a way to address the rest of that problem.

Under current law, both the regular credit and the AIRC are calculated by reference to a taxpayer's gross receipts, a benchmark that can produce inequities and anomalous results. For example, many taxpayers are no longer able to qualify for the regular credit, despite substantial R&D investments, because their R&D spending relative to gross receipts has not kept pace with the ratio set in the 1984–88 base period, which governs calculation of the regular credit. This can happen, for example, simply where a company's sales increase significantly in the intervening years, where a company enters into an additional line of business that generates additional gross receipts but involves little R&D, or where a company becomes more efficient in its R&D processes.

Our proposal would correct this by allowing taxpayers a straightforward alternative research credit election. Taxpayers could elect, in lieu of the regular credit or the AIRC, a credit that would equal 12 percent of the excess of the taxpayer's current year qualified research expenditures, ''QREs'', over 50 percent of the taxpayer's average QREs for the 3 preceding years. Unlike the regular credit and the AIRC, this credit calculation does not involve gross receipts.

The R&D tax credit has proven it can be an effective incentive. We need to act to make it a permanent part of the tax code that U.S. businesses can rely on. The best thing we can do for our long-term economic well-being is to stoke the engine of growth—technology, high-wage jobs and productivity. I look forward to working with Sen. HATCH and all my colleagues on this important issue.

I urge my colleagues to support this important piece of legislation.

By Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. ROBERTS, Mr. BROWNBACK, Mrs. LINCOLN, Mr. BURNS, Mr. CRAIG, Mr. CRAPO, Mr. FITZGERALD, Mr. JOHNSON, Mr. HAGEL, Mr. MILLER, Mr. DORGAN, and Mr. DASCHLE):

S. 665. A bill to amend the Internal Revenue Code of 1986 to provide tax relief for farmers and fishermen, and for other purposes; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, I rise today to introduce, along with my good friend, Senator BAUCUS, to introduce the Tax Empowerment and Relief for Farmers and Fishermen Act, which I will refer to as the ''TERFF Act.'' I am pleased that Senators ROBERTS, BROWNBACK, LINCOLN, BURNS, CRAIG, CRAPO, FITZGERALD, HAGEL, and DORGAN are joining Senator BAUCUS and me as cosponsors of this important legislation.

I am a farmer, like my father was before me. I understand farming and how policy decisions from Washington impact hardworking farmers, like my son Robin. Before I ran for elected office and after I leave, God willing, I'll still be farming. There is little that I feel more strongly about than providing the agriculture community with the potential to survive and to thrive. As far as I'm concerned, agriculture is my ''turf'' and as long as I'm in this town, I'll do all I can to serve my friends and neighbors in the agriculture community.

This legislation has already been adopted by the Senate multiple times. In the midst of a serious downturn in the agriculture economy, it seems to me we ought to be doing everything we can to help farmers, and this would provide significant assistance.

First, this legislation includes Farm, Fish, and Ranch Risk Management Accounts. These farmer saving accounts would allow farmers to contribute up to 20 percent of their income in an account, and deduct it in the same year. Farm accounts would be a very important risk management tool that will help farmers put away money when there's actual income, so that, in the bad times, there will be a safety net. This measure has strong bipartisan support and was actually sent to President Clinton, who vetoed it.

In addition, this legislation would exempt Conservation Reserve Program payments from self-employment tax. Under current law, farmers who participate in the CRP are unnecessarily struggling during tax season because of a case pushed by the IRS. The latest 6th Circuit court's ruling treats CRP payments as farm income subject to the additional self-employment tax rate of 15 percent.

Senator BROWNBACK has taken the lead on fixing this problem. This unfair tax not only ignores the intent of Congress in creating the CRP, it discourages farmers from using environmentally pro-active measures. At a time when farmers are struggling to regain their footing economically and do the right thing environmentally, it's important that Congress support them by upholding its promise on CRP.

In addition, Senator LUGAR has led the effort to expand the current program that allows companies to donate to food banks, so that farmers and restaurants can also donate surplus food directly to needy food banks. This will be a win for the farmers and a big win for people who depend on food bank assistance.

In addition, when we passed income averaging for farmers a few years ago, we neglected to take into account the problem of running into the alternative minimum tax, which many farmers are facing now. My bill will fix this growing problem.

My bill also expands opportunities for beginning farmers who are in need of low interest rate loans for capital purchases of farmland and equipment.

Current law permits State authorities to issue tax exempt bonds and to lend the proceeds from the sale of the bonds to beginning farmers and ranchers to finance the cost of acquiring land, buildings and equipment used in a farm or ranch operation.

Unfortunately, aggie bonds are subject to a volume cap and must compete with big industrial projects for bond allocation. Aggie bonds share few similarities to industrial revenue bonds and should not be subject to the volume cap established for industrial revenue bonds.

Insufficient allocation of funding due to the volume cap limits the effectiveness of this program. We can't stand by and allow the next generation of farmers to lose an opportunity to participate in farming because of competition with industry for reduced interest loan rates.

In addition, the IRS recently determined that some cooperatives should be exposed to a regular corporate tax due to the fact that they are using organic value-added practices rather than manufactured value-added practices. This is unfair, and needs to be fixed.

It is also imperative that we not neglect the difficulties many producers are facing in light of persistent drought conditions. Under current law, a producer who loses livestock, or is forced to sell livestock, or is forced to sell livestock, is required to replace that livestock within two years. However, some parts of the country have already experienced two years of drought with no end in sight.

It goes against common sense for these producers to replace livestock until conditions improve. My legislation would extend the 2-year deadline to 4 years.

And of course my package wouldn't be complete without a provision leveling the playing field for ethanol producers.

The Small Ethanol Producer Credit will allow small cooperative producers of ethanol to be able to receive the same tax benefits as large companies. This provision provides cooperatives the ability to elect to pass through small ethanol producer credits to its patron.

The ''TERFF'' package will do more to reform taxes for the American farmer than any other measure in recent memory. I urge my colleagues to strongly support this measure.

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. 665

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

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This Act may be cited as the ''Tax Empowerment and Relief for Farmers and Fishermen (TERFF) Act''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; etc.
Sec. 2. Farm, fishing, and ranch risk management accounts.
Sec. 3. Exclusion of rental income from self-employment tax.
Sec. 4. Exclusion of conservation reserve program payments from self-employment tax.
Sec. 5. Exemption of agricultural bonds from private activity bond volume limits.
Sec. 6. Modifications to section 512(b)(13).
Sec. 7. Charitable deduction for contributions of food inventory.
Sec. 8. Coordinate farmers and fishermen income averaging and the alternative minimum tax.
Sec. 9. Modification to cooperative marketing rules to include value added processing involving animals.
Sec. 10. Extension of declaratory judgment procedures to farmers' cooperative organizations.
Sec. 11. Small ethanol producer credit.
Sec. 12. Payment of dividends on stock of cooperatives without reducing patronage dividends.
Sec. 13. Special rules for livestock sold on account of weather-related conditions.

SEC. 2. FARM, FISHING, AND RANCH RISK MANAGEMENT ACCOUNTS.

(a) IN GENERAL.—Subpart C of part II of subchapter E of chapter 1 (relating to taxable year for which deductions taken) is amended by inserting after section 468B the following new section:

''SEC. 468C. FARM, FISHING, AND RANCH RISK MANAGEMENT ACCOUNTS.

''(a) DEDUCTION ALLOWED.—In the case of an individual engaged in an eligible farming business or commercial fishing, there shall be allowed as a deduction for any taxable year the amount paid in cash by the taxpayer during the taxable year to a Farm, Fishing, and Ranch Risk Management Account (hereinafter referred to as the 'FFARRM Account').

''(b) LIMITATION.—

''(1) CONTRIBUTIONS.—The amount which a taxpayer may pay into the FFARRM Account for any taxable year shall not exceed 20 percent of so much of the taxable income of the taxpayer (determined without regard to this section) which is attributable (determined in the manner applicable under section 1301) to any eligible farming business or commercial fishing.

''(2) DISTRIBUTIONS.—Distributions from a FFARRM Account may not be used to purchase, lease, or finance any new fishing vessel, add capacity to any fishery, or otherwise contribute to the overcapitalization of any fishery. The Secretary of Commerce shall implement regulations to enforce this paragraph.

''(c) ELIGIBLE BUSINESSES.—For purposes of this section—

''(1) ELIGIBLE FARMING BUSINESS.—The term 'eligible farming business' means any farming business (as defined in section 263A(e)(4)) which is not a passive activity (within the meaning of section 469(c)) of the taxpayer.

''(2) COMMERCIAL FISHING.—The term 'commercial fishing' has the meaning given such term by section (3) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802) but only if such fishing is not a passive activity (within the meaning of section 469(c)) of the taxpayer.

''(d) FFARRM ACCOUNT.—For purposes of this section—

''(1) IN GENERAL.—The term 'FFARRM Account' means a trust created or organized in the United States for the exclusive benefit of the taxpayer, but only if the written governing instrument creating the trust meets the following requirements:

''(A) No contribution will be accepted for any taxable year in excess of the amount allowed as a deduction under subsection (a) for such year.

''(B) The trustee is a bank (as defined in section 408(n)) or another person who demonstrates to the satisfaction of the Secretary that the manner in which such person will administer the trust will be consistent with the requirements of this section.

''(C) The assets of the trust consist entirely of cash or of obligations which have adequate stated interest (as defined in section 1274(c)(2)) and which pay such interest not less often than annually.

''(D) All income of the trust is distributed currently to the grantor.

''(E) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

''(2) ACCOUNT TAXED AS GRANTOR TRUST.—The grantor of a FFARRM Account shall be treated for purposes of this title as the owner of such Account and shall be subject to tax thereon in accordance with subpart E of part I of subchapter J of this chapter (relating to grantors and others treated as substantial owners).

''(e) INCLUSION OF AMOUNTS DISTRIBUTED.—

''(1) IN GENERAL.—Except as provided in paragraph (2), there shall be includible in the gross income of the taxpayer for any taxable year—

''(A) any amount distributed from a FFARRM Account of the taxpayer during such taxable year, and

''(B) any deemed distribution under—

''(i) subsection (f)(1) (relating to deposits not distributed within 5 years),

''(ii) subsection (f)(2) (relating to cessation in eligible farming business), and

''(iii) subparagraph (B) or (C) of subsection (f)(3) (relating to prohibited transactions and pledging account as security).

''(2) EXCEPTIONS.—Paragraph (1)(A) shall not apply to—

''(A) any distribution to the extent attributable to income of the Account, and

''(B) the distribution of any contribution paid during a taxable year to a FFARRM Account to the extent that such contribution exceeds the limitation applicable under subsection (b) if requirements similar to the requirements of section 408(d)(4) are met.

For purposes of subparagraph (A), distributions shall be treated as first attributable to income and then to other amounts.

''(f) SPECIAL RULES.—

''(1) TAX ON DEPOSITS IN ACCOUNT WHICH ARE NOT DISTRIBUTED WITHIN 5 YEARS.—

''(A) IN GENERAL.—If, at the close of any taxable year, there is a nonqualified balance in any FFARRM Account—

''(i) there shall be deemed distributed from such Account during such taxable year an amount equal to such balance, and

''(ii) the taxpayer's tax imposed by this chapter for such taxable year shall be increased by 10 percent of such deemed distribution.

The preceding sentence shall not apply if an amount equal to such nonqualified balance is distributed from such Account to the taxpayer before the due date (including extensions) for filing the return of tax imposed by this chapter for such year (or, if earlier, the date the taxpayer files such return for such year).

''(B) NONQUALIFIED BALANCE.—For purposes of subparagraph (A), the term 'nonqualified balance' means any balance in the Account on the last day of the taxable year which is attributable to amounts deposited in such Account before the 4th preceding taxable year.

''(C) ORDERING RULE.—For purposes of this paragraph, distributions from a FFARRM Account (other than distributions of current income) shall be treated as made from deposits in the order in which such deposits were made, beginning with the earliest deposits.

''(2) CESSATION IN ELIGIBLE BUSINESS.—At the close of the first disqualification period after a period for which the taxpayer was engaged in an eligible farming business or commercial fishing, there shall be deemed distributed from the FFARRM Account of the taxpayer an amount equal to the balance in such Account (if any) at the close of such disqualification period. For purposes of the

preceding sentence, the term 'disqualification period' means any period of 2 consecutive taxable years for which the taxpayer is not engaged in an eligible farming business or commercial fishing.

''(3) CERTAIN RULES TO APPLY.—Rules similar to the following rules shall apply for purposes of this section:

''(A) Section 220(f)(8) (relating to treatment after death of account holder).

''(B) Section 408(e)(2) (relating to loss of exemption of account where individual engages in prohibited transaction).

''(C) Section 408(e)(4) (relating to effect of pledging account as security).

''(D) Section 408(g) (relating to community property laws).

''(E) Section 408(h) (relating to custodial accounts).

''(4) TIME WHEN PAYMENTS DEEMED MADE.—For purposes of this section, a taxpayer shall be deemed to have made a payment to a FFARRM Account on the last day of a taxable year if such payment is made on account of such taxable year and is made on or before the due date (without regard to extensions) for filing the return of tax for such taxable year.

''(5) INDIVIDUAL.—For purposes of this section, the term 'individual' shall not include an estate or trust.

''(6) DEDUCTION NOT ALLOWED FOR SELF-EMPLOYMENT TAX.—The deduction allowable by reason of subsection (a) shall not be taken into account in determining an individual's net earnings from self-employment (within the meaning of section 1402(a)) for purposes of chapter 2.

''(g) REPORTS.—The trustee of a FFARRM Account shall make such reports regarding such Account to the Secretary and to the person for whose benefit the Account is maintained with respect to contributions, distributions, and such other matters as the Secretary may require under regulations. The reports required by this subsection shall be filed at such time and in such manner and furnished to such persons at such time and in such manner as may be required by such regulations.''.

(b) TAX ON EXCESS CONTRIBUTIONS.—

(1) Subsection (a) of section 4973 (relating to tax on excess contributions to certain tax-favored accounts and annuities) is amended by striking ''or'' at the end of paragraph (3), by redesignating paragraph (4) as paragraph (5), and by inserting after paragraph (3) the following new paragraph:

''(4) a FFARRM Account (within the meaning of section 468C(d)), or''.

(2) Section 4973 is amended by adding at the end the following new subsection:

''(g) EXCESS CONTRIBUTIONS TO FFARRM ACCOUNTS.—For purposes of this section, in the case of a FFARRM Account (within the meaning of section 468C(d)), the term 'excess contributions' means the amount by which the amount contributed for the taxable year to the Account exceeds the amount which may be contributed to the Account under section 468C(b) for such taxable year. For purposes of this subsection, any contribution which is distributed out of the FFARRM Account in a distribution to which section 468C(e)(2)(B) applies shall be treated as an amount not contributed.''.

(3) The section heading for section 4973 is amended to read as follows:

"SEC. 4973. EXCESS CONTRIBUTIONS TO CERTAIN ACCOUNTS, ANNUITIES, ETC.".

(4) The table of sections for chapter 43 is amended by striking the item relating to section 4973 and inserting the following new item:

''Sec. 4973. Excess contributions to certain accounts, annuities, etc.''.

(c) TAX ON PROHIBITED TRANSACTIONS.—

(1) Subsection (c) of section 4975 (relating to tax on prohibited transactions) is amended by adding at the end the following new paragraph:

''(6) SPECIAL RULE FOR FFARRM ACCOUNTS.—A person for whose benefit a FFARRM Account (within the meaning of section 468C(d)) is established shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be a FFARRM Account by reason of the application of section 468C(f)(3)(A) to such account.''.

(2) Paragraph (1) of section 4975(e) is amended by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively, and by inserting after subparagraph (D) the following new subparagraph:

''(E) a FFARRM Account described in section 468C(d),''.

(d) FAILURE TO PROVIDE REPORTS ON FFARRM ACCOUNTS.—Paragraph (2) of section 6693(a) (relating to failure to provide reports on certain tax-favored accounts or annuities) is amended by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively, and by inserting after subparagraph (B) the following new subparagraph:

''(C) section 468C(g) (relating to FFARRM Accounts),''.

(e) CLERICAL AMENDMENT.—The table of sections for subpart C of part II of subchapter E of chapter 1 is amended by inserting after the item relating to section 468B the following new item:

''Sec. 468C. Farm, Fishing and Ranch Risk Management Accounts.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 3. EXCLUSION OF RENTAL INCOME FROM SELF-EMPLOYMENT TAX.

(a) INTERNAL REVENUE CODE.—Section 1402(a)(1)(A) (relating to net earnings from self-employment) is amended by striking ''an arrangement'' and inserting ''a written lease agreement''.

(b) SOCIAL SECURITY ACT.—Section 211(a)(1)(A) of the Social Security Act is amended by striking ''an arrangement'' and inserting ''a written lease agreement''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 4. EXCLUSION OF CONSERVATION RESERVE PROGRAM PAYMENTS FROM SELF-EMPLOYMENT TAX.

(a) INTERNAL REVENUE CODE.—Section 1402(a)(1) (relating to net earnings from self-employment) is amended by inserting ''and including payments under section 1233(2) of the Food Security Act of 1985 (16 U.S.C. 3833(2))'' after ''crop shares''.

(b) SOCIAL SECURITY ACT.—Section 211(a)(1) of the Social Security Act is amended by inserting ''and including payments under section 1233(2) of the Food Security Act of 1985 (16 U.S.C. 3833(2))'' after ''crop shares''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made after the date of the enactment of this Act.

SEC. 5. EXEMPTION OF AGRICULTURAL BONDS FROM PRIVATE ACTIVITY BOND VOLUME LIMITS.

(a) IN GENERAL.—Section 146(g) (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 '', and'', and by inserting after paragraph (4) the following new paragraph:

''(5) any qualified small issue bond described in section 144(a)(12)(B)(ii).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

SEC. 6. MODIFICATIONS TO SECTION 512(b)(13).

(a) IN GENERAL.—Paragraph (13) of section 512(b) (relating to special rules for certain amounts received from controlled entities) is amended by redesignating subparagraph (E) as subparagraph (F) and by inserting after subparagraph (D) the following new subparagraph:

''(E) PARAGRAPH TO APPLY ONLY TO EXCESS PAYMENTS.—

''(i) IN GENERAL.—Subparagraph (A) shall apply only to the portion of a specified payment received or accrued by the controlling organization that exceeds the amount which would have been paid or accrued if such payment met the requirements prescribed under section 482.

''(ii) ADDITION TO TAX FOR VALUATION MISSTATEMENTS.—The tax imposed by this chapter on the controlling organization shall be increased by an amount equal to 20 percent of the larger of—

''(I) such excess determined without regard to any amendment or supplement to a return of tax, or

''(II) such excess determined with regard to all such amendments and supplements.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to payments received or accrued after December 31, 2000.

(2) PAYMENTS SUBJECT TO BINDING CONTRACT TRANSITION RULE.—If the amendments made by section 1041 of the Taxpayer Relief Act of 1997 did not apply to any amount received or accrued in the first 2 taxable years beginning on or after the date of the enactment of the Taxpayer Relief Act of 1997 under any contract described in subsection (b)(2) of such section, such amendments also shall not apply to amounts received or accrued under such contract before January 1, 2001.

SEC. 7. CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF FOOD INVENTORY.

(a) IN GENERAL.—Subsection (e) of section 170 (relating to certain contributions of ordinary income and capital gain property) is amended by adding at the end the following new paragraph:

''(7) APPLICATION OF PARAGRAPH (3) TO CERTAIN CONTRIBUTIONS OF FOOD INVENTORY.—For purposes of this section—

''(A) EXTENSION TO INDIVIDUALS.—In the case of a charitable contribution of apparently wholesome food—

''(i) paragraph (3)(A) shall be applied without regard to whether the contribution is made by a C corporation, and

''(ii) in the case of a taxpayer other than a C corporation, the aggregate amount of such contributions from any trade or business (or interest therein) of the taxpayer for any taxable year which may be taken into account under this section shall not exceed 10 percent of the taxpayer's net income from any such trade or business, computed without regard to this section, for such taxable year.

''(B) LIMITATION ON REDUCTION.—In the case of a charitable contribution of apparently wholesome food, notwithstanding paragraph (3)(B), the amount of the reduction determined under paragraph (1)(A) shall not exceed the amount by which the fair market value of such property exceeds twice the basis of such property.

''(C) DETERMINATION OF BASIS.—If a taxpayer—

''(i) does not account for inventories under section 471, and

''(ii) is not required to capitalize indirect costs under section 263A,

the taxpayer may elect, solely for purposes of paragraph (3)(B), to treat the basis of any apparently wholesome food as being equal to 25 percent of the fair market value of such food.

''(D) DETERMINATION OF FAIR MARKET VALUE.—In the case of a charitable contribution of apparently wholesome food which is a qualified contribution (within the meaning of paragraph (3), as modified by subparagraph (A) of this paragraph) and which, solely by reason of internal standards of the taxpayer or lack of market, cannot or will not be sold, the fair market value of such contribution shall be determined—

''(i) without regard to such internal standards or such lack of market and

''(ii) by taking into account the price at which the same or substantially the same food items (as to both type and quality) are sold by the taxpayer at the time of the contribution (or, if not so sold at such time, in the recent past).

''(E) APPARENTLY WHOLESOME FOOD.—For purposes of this paragraph, the term 'apparently wholesome food' has the meaning given such term by section 22(b)(2) of the Bill Emerson Good Samaritan Food Donation Act (42 U.S.C. 1791(b)(2)), as in effect on the date of the enactment of this paragraph.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after the date of the enactment of this Act.

SEC. 8. COORDINATE FARMERS AND FISHERMEN INCOME AVERAGING AND THE ALTERNATIVE MINIMUM TAX.

(a) IN GENERAL.—Section 55(c) (defining regular tax) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

''(2) COORDINATION WITH INCOME AVERAGING FOR FARMERS AND FISHERMEN.—Solely for purposes of this section, section 1301 (relating to averaging of farm and fishing income) shall not apply in computing the regular tax.''.

(b) ALLOWING INCOME AVERAGING FOR FISHERMEN.—

(1) IN GENERAL.—Section 1301(a) is amended by striking ''farming business'' and inserting ''farming business or fishing business''.

(2) DEFINITION OF ELECTED FARM INCOME.—

(A) IN GENERAL.—Clause (i) of section 1301(b)(1)(A) is amended by inserting ''or fishing business'' before the semicolon.

(B) CONFORMING AMENDMENT.—Subparagraph (B) of section 1301(b)(1) is amended by inserting ''or fishing business'' after ''farming business'' both places it occurs.

(3) DEFINITION OF FISHING BUSINESS.—Section 1301(b) is amended by adding at the end the following new paragraph:

''(4) FISHING BUSINESS.—The term 'fishing business' means the conduct of commercial fishing as defined in section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 9. MODIFICATION TO COOPERATIVE MARKETING RULES TO INCLUDE VALUE ADDED PROCESSING INVOLVING ANIMALS.

(a) IN GENERAL.—Section 1388 (relating to definitions and special rules) is amended by adding at the end the following new subsection:

''(k) COOPERATIVE MARKETING INCLUDES VALUE-ADDED PROCESSING INVOLVING ANIMALS.—For purposes of section 521 and this subchapter, the term 'marketing the products of members or other producers' includes feeding the products of members or other producers to cattle, hogs, fish, chickens, or other animals and selling the resulting animals or animal products.''.

(b) CONFORMING AMENDMENT.—Section 521(b) is amended by adding at the end the following new paragraph:

''(7) CROSS REFERENCE.—

''For treatment of value-added processing involving animals, see section 1388(k).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 10. EXTENSION OF DECLARATORY JUDGMENT PROCEDURES TO FARMERS' COOPERATIVE ORGANIZATIONS.

(a) IN GENERAL.—Section 7428(a)(1) (relating to declaratory judgments of tax exempt organizations) is amended by striking ''or'' at the end of subparagraph (B) and by adding at the end the following new subparagraph:

''(D) with respect to the initial classification or continuing classification of a cooperative as described in section 521(b) which is exempt from tax under section 521(a), or''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to pleadings filed after the date of the enactment of this Act.

SEC. 11. SMALL ETHANOL PRODUCER CREDIT.

(a) ALLOCATION OF ALCOHOL FUELS CREDIT TO PATRONS OF A COOPERATIVE.—Section 40(g) (relating to alcohol used as fuel) is amended by adding at the end the following new paragraph:

''(6) ALLOCATION OF SMALL ETHANOL PRODUCER CREDIT TO PATRONS OF COOPERATIVE.—

''(A) ELECTION TO ALLOCATE.—

''(i) IN GENERAL.—In the case of a cooperative organization described in section 1381(a), any portion of the credit determined under subsection (a)(3) for the taxable year may, at the election of the organization, be apportioned pro rata among patrons of the organization on the basis of the quantity or value of business done with or for such patrons for the taxable year.

''(ii) FORM AND EFFECT OF ELECTION.—An election under clause (i) for any taxable year shall be made on a timely filed return for such year. Such election, once made, shall be irrevocable for such taxable year.

''(B) TREATMENT OF ORGANIZATIONS AND PATRONS.—The amount of the credit apportioned to patrons under subparagraph (A)—

''(i) shall not be included in the amount determined under subsection (a) with respect to the organization for the taxable year,

''(ii) shall be included in the amount determined under subsection (a) for the taxable year of each patron for which the patronage dividends for the taxable year described in subparagraph (A) are included in gross income, and

''(iii) shall be included in gross income of such patrons for the taxable year in the manner and to the extent provided in section 87.

''(C) SPECIAL RULES FOR DECREASE IN CREDITS FOR TAXABLE YEAR.—If the amount of the credit of a cooperative organization determined under subsection (a)(3) for a taxable year is less than the amount of such credit shown on the return of the cooperative organization for such year, an amount equal to the excess of—

''(i) such reduction, over

''(ii) the amount not apportioned to such patrons under subparagraph (A) for the taxable year,

shall be treated as an increase in tax imposed by this chapter on the organization. Such increase shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.''.

(b) IMPROVEMENTS TO SMALL ETHANOL PRODUCER CREDIT.—

(1) DEFINITION OF SMALL ETHANOL PRODUCER.—Section 40(g) (relating to definitions and special rules for eligible small ethanol producer credit) is amended by striking ''30,000,000'' each place it appears and inserting ''60,000,000''.

(2) SMALL ETHANOL PRODUCER CREDIT NOT A PASSIVE ACTIVITY CREDIT.—Clause (i) of section 469(d)(2)(A) is amended by striking ''subpart D'' and inserting ''subpart D, other than section 40(a)(3),''.

(3) ALLOWING CREDIT AGAINST ENTIRE REGULAR TAX AND MINIMUM TAX.—

(A) IN GENERAL.—Subsection (c) of section 38 (relating to limitation based on amount of tax), as amended by section 301(b) of the Job Creation and Worker Assistance Act of 2002, is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

''(4) SPECIAL RULES FOR SMALL ETHANOL PRODUCER CREDIT.—

''(A) IN GENERAL.—In the case of the small ethanol producer credit—

''(i) this section and section 39 shall be applied separately with respect to the credit, and

''(ii) in applying paragraph (1) to the credit—

''(I) the amounts in subparagraphs (A) and (B) thereof shall be treated as being zero, and

''(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the small ethanol producer credit).

''(B) SMALL ETHANOL PRODUCER CREDIT.—For purposes of this subsection, the term 'small ethanol producer credit' means the credit allowable under subsection (a) by reason of section 40(a)(3).''.

(B) CONFORMING AMENDMENTS.—Subclause (II) of section 38(c)(2)(A)(ii), as amended by section 301(b)(2) of the Job Creation and Worker Assistance Act of 2002, and subclause (II) of section 38(c)(3)(A)(ii), as added by section 301(b)(1) of such Act, are each amended by inserting ''or the small ethanol producer credit'' after ''employee credit''.

(4) SMALL ETHANOL PRODUCER CREDIT NOT ADDED BACK TO INCOME UNDER SECTION 87.—Section 87 (relating to income inclusion of alcohol fuel credit) is amended to read as follows:

''SEC. 87. ALCOHOL FUEL CREDIT.

''Gross income includes an amount equal to the sum of—

''(1) the amount of the alcohol mixture credit determined with respect to the taxpayer for the taxable year under section 40(a)(1), and

''(2) the alcohol credit determined with respect to the taxpayer for the taxable year under section 40(a)(2).''.

(c) CONFORMING AMENDMENT.—Section 1388 (relating to definitions and special rules for cooperative organizations) is amended by adding at the end the following new subsection:

''(k) CROSS REFERENCE.—For provisions relating to the apportionment of the alcohol fuels credit between cooperative organizations and their patrons, see section 40(g)(6).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 12. PAYMENT OF DIVIDENDS ON STOCK OF COOPERATIVES WITHOUT REDUCING PATRONAGE DIVIDENDS.

(a) IN GENERAL.—Subsection (a) of section 1388 (relating to patronage dividend defined) is amended by adding at the end the following new sentence: ''For purposes of paragraph (3), net earnings shall not be reduced by amounts paid during the year as dividends on capital stock or other proprietary

capital interests of the organization to the extent that the articles of incorporation or bylaws of such organization or other contract with patrons provide that such dividends are in addition to amounts otherwise payable to patrons which are derived from business done with or for patrons during the taxable year.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions in taxable years beginning after the date of the enactment of this Act.

SEC. 13. SPECIAL RULES FOR LIVESTOCK SOLD ON ACCOUNT OF WEATHER-RELATED CONDITIONS.

(a) RULES FOR REPLACEMENT OF INVOLUNTARILY CONVERTED LIVESTOCK.—Subsection (e) of section 1033 (relating to involuntary conversions) is amended—

(1) by striking ''CONDITIONS.—For purposes'' and inserting ''CONDITIONS.—

''(1) IN GENERAL.—For purposes'', and

(2) by adding at the end the following new paragraph:

''(2) EXTENSION OF REPLACEMENT PERIOD.—

''(A) IN GENERAL.—In the case of drought, flood, or other weather-related conditions described in paragraph (1) which result in the area being designated as eligible for assistance by the Federal Government, subsection (a)(2)(B) shall be applied with respect to any converted property by substituting '4 years' for '2 years'.

''(B) FURTHER EXTENSION BY SECRETARY.—The Secretary may extend on a regional basis the period for replacement under this section (after the application of subparagraph (A)) for such additional time as the Secretary determines appropriate if the weather-related conditions which resulted in such application continue for more than 3 years.''.

(b) INCOME INCLUSION RULES.—Section 451(e) (relating to special rule for proceeds from livestock sold on account of drought, flood, or other weather-related conditions) is amended by adding at the end the following new paragraph:

''(3) SPECIAL ELECTION RULES.—If section 1033(e)(2) applies to a sale or exchange of livestock described in paragraph (1), the election under paragraph (1) shall be deemed valid if made during the replacement period described in such section.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

Mr. BAUCUS. Mr. President, I am pleased to join Chairman GRASSLEY in introducing the Tax Empowerment and Relief for Farmers and Fishermen Act.

Rural America has been experiencing some hard times. Drought, low prices, and an economic downturn have left agricultural producers in dire straits and have left rural economies reeling. Farmers and ranchers are the life blood to rural economies, and when agriculture is hurting, rural America hurts. Small towns are dying, stores on Main Street are closing and farmers are leaving their land.

Congress has worked hard to help our nation's agricultural producers, but with this bill, we are giving them the tools to help themselves. This package includes Farm, Fish, and Ranch Risk Management Accounts, otherwise known as FFARRM Accounts. These farmer savings accounts would allow farmers to contribute up to 20 percent of their income to a savings account, and deduct it in the same year. FFARRM accounts would be a very important risk management tool to help farmers put away money when there's actual income, so that in the really bad times there would be a safety net.

This legislation also reverses unfair IRS decisions on self-employment tax for farmers. Farmers who participate in the Conservation Reserve Program are unnecessarily struggling during tax season because of a case pursued by the IRS. The latest 6th-Circuit Court ruling treats CRP as farm income subject to the additional self-employment tax rate of 15 percent. This unfair tax not only ignores the intent of Congress in creating the CRP, but it also discourages farmers from using environmentally pro-active measures. The bill also includes a provision to reverse an IRS attempt to apply the self-employment tax on farmers' cash rental income.

Also included in the package is a provision to hold farmers harmless from the Alternative Minimum Tax when they use income averaging. When Congress passed income averaging for farmers a few years ago, it neglected to take into account the problem of running into the alternative minimum tax, which many farmers are facing now. This legislation will fix this growing problem.

It also contains an expansion of first-time farmer loans, or Aggie Bonds. This expands opportunities for beginning farmers who need low-interest rate loans for purchases of farmland and equipment. Current law permits state authorities to issue tax-exempt bonds and to lend the proceeds from the sale of the bonds to beginning farmers and ranchers to finance the cost of acquiring land, buildings and equipment used in a farm or ranch operation. Unfortunately, Aggie Bonds are subjected to a volume cap and must compete with big industrial projects for bond allocation. Aggie Bonds share few similarities to Industrial Revenue Bonds and should not be subjected to the volume cap established for IRBs. Insufficient allocation of funding due to the volume cap limits the effectiveness of this program.

Farmer co-op initiatives are also included. Recently the IRS determined that some cooperatives should be exposed to a regular corporate tax due to the fact that they are using organic value-added practices rather than manufactured value-added practices. The bill also would permit small cooperative producers of ethanol to receive the same tax benefits as large companies.

Another important provision provides tax relief for ranchers that are forced to sell their livestock on account of drought. The bill gives producers the time they need to reinvest proceeds tax-free when drought makes it impossible to feed their herds.

I look forward to working with my colleagues to enact this crucial piece of legislation.

By Mr. LIEBERMAN (for himself and Mr. HATCH):

S. 666. A bill to provide incentives to increase research by private sector entities to develop antivirals, antibiotics and other drugs, vaccines, microbicides, detection, and diagnostic technologies to prevent and treat illnesses associated with a biological, chemical, or radiological weapons attack; to the Committee on Finance.

Mr. LIEBERMAN. Mr. President, America has a major flaw in its defenses against bioterrorism. Hearings I chaired in the Government Affairs Committee on bioterrorism demonstrated that America has not made a national commitment to research and development of treatments and cures for those who might be exposed to or infected by a biological agent, chemical toxin, or radiological material. Correcting this critical gap is the purpose of legislation we are introducing today.

This legislation is a refined and upgraded version of legislation I introduced last year, S. 1764, December 4, 2001, and S. 3148, October 17, 2002, and I am delighted that Senator HATCH has joined me as the lead cosponsor of the new bill.

Obviously, our first priority must be to attempt to prevent the use of these agents and toxins by terrorists, quickly assess when an attack has occurred, take appropriate public health steps to contain the exposure, stop the spread of contagion, and then detoxify the site. These are all critical functions, but in the end we must recognize that some individuals may be exposed or infected. Then the critical issue is whether we can treat and cure them and prevent death and disability.

In short, we need a diversified portfolio of medicines. In cases where we have ample advance warning of an attack and specific information about the agent, toxin, or material, we may be able to vaccinate the vulnerable population in advance. In other cases, even if we have a vaccine, we might well prefer to use medicines that would quickly stop the progression of the disease or the toxic effects. We also need a powerful capacity quickly to develop new countermeasures where we face a new agent, toxin, or material.

Unfortunately, we are woefully short of vaccines and medicines to treat individuals who are exposed or infected. We have antibiotics that seem to work for most of those infected in the current anthrax attack, but these have not prevented five deaths. We have no effective vaccines or medicines for most other biological agents and chemical toxins we might confront. We have very limited capacity to respond medically to a radiological attack. In some cases we have vaccines to prevent, but no medicines to treat, an agent. We have limited capacity to speed the development of vaccines and medicines to prevent or treat novel agents and toxins not currently known to us.

We have provided, and should continue to provide, direct Federal funding for research and development of new

medicines, however, this funding is unlikely to be sufficient. Even with ample Federal funding, many private companies will be reluctant to enter into agreements with government agencies to conduct this research. Other companies would be willing to conduct the research with their own capital and at their own risk but are not able to secure the funding from investors.

The legislation we introduce today would provide incentives for private biotechnology companies to form capital to develop countermeasures—medicines—to prevent, treat and cure victims of bioterror, chemical and radiological attacks. This will enable this industry to become a vital part of the national defense infrastructure and do so for business reasons that make sense for their investors on the bottom line.

Enactment of these incentives is necessary because most biotech companies have no approved products or revenue from product sales to fund research. They rely on investors and equity capital markets to fund the research. They must necessarily focus on research that will lead to product sales and revenue and, thus, to an end to their dependence on investor capital. There is no established or predictable market for countermeasures. These concerns are shared by pharmaceutical firms. Investors are justifiably reluctant to fund this research, which will present challenges similar in complexity to AIDS. Investors need assurances that research on countermeasures has the potential to provide a rate of return commensurate with the risk, complexity and cost of the research, a rate of return comparable to that which may arise from a treatment for cancer, MS, Cystic Fibrosis and other major diseases.

It is in our national interest to enlist these companies in the development of countermeasures as biotech companies tend to be innovative and nimble and intently focused on the intractable diseases for which no effective medical treatments are available.

The incentives we have proposed are innovative and some may be controversial. We invite everyone who has an interest and a stake in this research to enter into a dialogue about the issue and about the nature and terms of the appropriate incentives. We have attempted to anticipate the many complicated technical and policy issues that this legislation raises. The key focus of our debate should be how, not whether, we address this critical gap in our public health infrastructure and the role that the private sector should play. Millions of Americans will be at risk if we fail to enact legislation to meet this need.

On November 26 of 2001, the Centers for Disease Control issued its interim working draft plan for responding to an outbreak of smallpox. The plan does not call for mass vaccination in advance of a smallpox outbreak because the risk of side effects from the vaccine outweighs the risks of someone actually being exposed to the smallpox virus. At the heart of the plan is a strategy sometimes called ''search and containment.''

This strategy involves identifying infected individual or individuals with confirmed smallpox, identifying and locating those people who come in contact with that person, and vaccinating those people in outward rings of contact. The goal is to produce a buffer of immune individuals and was shown to prevent smallpox and to ultimately eradicate the outbreak. Priorities would be set on who is vaccinated, perhaps focusing on the outward rings before those at the center of the outbreak. The plan assumes that the smallpox vaccination is effective for persons who have been exposed to the disease as long as the disease has not taken hold.

In practice it may be necessary to set a wide perimeter for these areas because smallpox is highly contagious before it might be diagnosed. There may be many areas subject to search and containment because people in our society travel frequently and widely. Terrorists might trigger attacks in a wide range of locations to multiply the confusion and panic. The most common form of smallpox has a 30 percent mortality rate, but terrorists might be able to obtain supplies of ''flat-type'' smallpox with a mortality rate of 96 percent and hemorrhagic-type smallpox, which is almost always fatal. For these reasons, the CDC plan accepts the possibility that whole cities or other geographic areas could be cordoned off, letting no one in or out—a quarantine enforced by police or troops.

The plan focuses on enforcement authority through police or National Guard, isolation and quarantine, mandatory medical examinations, and rationing of medicines. It includes a discussion of ''population-wide quarantine measures which restrict activities or limit movement of individuals [including] suspension of large public gatherings, closing of public places, restriction on travel [air, rail, water, motor vehicle, and pedestrian], and/or 'cordon sanitaire' [literally a 'sanitary cord' or line around a quarantined area guarded to prevent spread of disease by restricting passage into or out of the area].'' The CDC recommends that states update their laws to provide authority for ''enforcing quarantine measures'' and it recommends that States in ''pre-event planning'' identify ''personnel who can enforce these isolation and quarantine measures, if necessary.'' Guide C—Isolation and Quarantine, page 17.

On October 23, 2001, the CDC published a ''Model State Emergency Health Powers Act.'' It was prepared by the Center for Law and the Public's Health at Georgetown and Johns Hopkins Universities, in conjunction with the National Governors Association, National Conference of State Legislatures, Association of State and Territorial Health Officials, National Association of City and County Health Officers, and National Association of Attorneys General. A copy of the model law is printed at www.publichealthlaw.net. The law would provide powers to enforce the ''compulsory physical separation (including the restriction of movement or confinement) of individuals and/or groups believed to have been exposed to or known to have been infected with a contagious disease from individuals who are believed not to have been exposed or infected, in order to prevent or limit the transmission of the disease to others.'' Federal law on this subject is very strong and the Administration can always rely on the President's Constitution authority as Commander in Chief.

Let us try to imagine, however, what it would be like if a quarantine is imposed. Let us assume that there is not enough smallpox vaccine available for use in a large outbreak, that the priority is to vaccinate those in the outward rings of the containment area first, that the available vaccines cannot be quickly deployed inside the quarantined area, that it is not possible to quickly trace and identify all of the individuals who might have been exposed, and/or that public health workers themselves might be infected. We know that there is no medicine to treat those who do become infected. We know the mortality rates. It is not hard to imagine how much force might be necessary to enforce the quarantine. It would be quite unacceptable to permit individuals to leave the quarantined area no matter how much panic had taken hold.

Think about how different this scenario would be if we had medicines that could effectively treat and cure those who become infected by smallpox. We still might implement the CDC plan but a major element of the strategy would be to persuade people to visit their local clinic or hospital to be dispenses their supply of medicine. We could trust that there would be a very high degree of voluntary compliance. This would give us more time, give us options if the containment is not successful, give us options to treat those in the containment area who are infected, and enable us to quell the public panic.

Because we have no medicine to treat those infected by smallpox, we have to be prepared to implement a plan like the one CDC has proposed. Theirs is the only option because our options are so limited. We need to expand our range of options.

We should not be lulled by the apparent successes with Cipro and the strains of anthrax we have seen in the recent attacks. We have not been able to prevent death in some of the patients with late-stage inhalation anthrax and Robert Stevens, Thomas Morris Jr., Joseph Curseen, Kathy Nguyen, and Ottilie Lundgren died. This legislation is named in honor of

them. What we needed for them, and did not have, is a drug or vaccine that would treat late stage inhalation anthrax.

As I have said, we need an effective treatment for those who become infected with smallpox. We have a vaccine that effectively prevents smallpox infection, and administering this vaccine within four days of first exposure has been shown to offer some protections against acquiring infection and significant protection against a fatal outcome. The problem is that administering the vaccine in this time frame to all those who might have been exposed may be exceedingly difficult. And once infection has occurred, we have no effective treatment options.

In the last century 500 million people have died of smallpox—more than have from any other infectious diseases—as compared to 320 million deaths in all the wars of the twentieth century. Smallpox was one of the diseases that nearly wiped out the entire Native American population in this hemisphere. The last naturally acquired case of smallpox occurred in Somalia in 1977 and the last case from laboratory exposure was in 1978.

Smallpox is a nasty pathogen, carried in microscopic airborne droplets inhaled by its victims. The first signs are headache, fever, nausea and backache, sometimes convulsions and delirium. Soon, the skin turns scarlet. When the fever lets up, the telltale rash appears—flat red spots that turn into pimples, then big yellow pustules, then scabs. Smallpox also affects the throat and eyes, and inflames the heart, lungs, liver, intestines and other internal organs. Death often came from internal bleeding, or from the organs simply being overwhelmed by the virus. Survivors were left covered with pockmarks—if they were lucky. The unlucky ones were left blind, their eyes permanently clouded over. Nearly one in four victims died. The infection rate is estimated to be 25–40 percent for those who are unvaccinated and a single case can cause 20 or more additional infections.

During the 16th Century, 3.5 million Aztecs—more than half the population died of smallpox during a two-year span after the Spanish army brought the disease to Mexico. Two centuries later, the virus ravaged George Washington's troops at Valley Forge. And it cut a deadly path through the Crow, Dakota, Sioux, Blackfoot, Apache, Comanche and other American Indian tribes, helping to clear the way for white settlers to lay claim to the western plains. The epidemics began to subside with one of medicine's most famous discoveries: the finding by British physician Edward Jenner in 1796 that English milkmaids who were exposed to cowpox, a mild second cousin to smallpox that afflicts cattle, seemed to be protected against the more deadly disease. Jenner's work led to the development of the first vaccine in Western medicine. While later vaccines used either a killed or inactivated form of the virus they were intended to combat, the smallpox vaccine worked in a different way. It relied on a separate, albeit related virus: first cowpox and the vaccinia, a virus of mysterious origins that is believed to be a cowpox derivative. The last American was vaccinated back in the 1970s and half of the US population has never been vaccinated. It is not known how long these vaccines provide protection, but it is estimated that the term is 3 to 5 years.

In an elaborate smallpox biowarfare scenario enacted in February 1999 by the Johns Hopkins Center for Civilian Biodefense Studies, it was projected that within two months 15,000 people had died, epidemics were out of control in fourteen countries, all supplies of smallpox vaccine were depleted, the global economy was on the verge of collapse, and military control and quarantines were in place. Within twelve months it was projected that eighty million people worldwide had died.

A single case of smallpox today would become a global public health threat and it has been estimated that a single smallpox bioterror attack on a single American city would necessitate the vaccination of 30 to 40 million people.

The US government is now in the process of purchasing substantial stocks of the smallpox vaccine. We then face a very difficult decision on deploying the vaccine. We know that some individuals will have an adverse reaction to this vaccine. No one in the United States has been vaccinated against smallpox in twenty-five years. Those that were vaccinated back then may not be protected against the disease today. If we had an effective treatment for those who might become infected by smallpox, we would face much less pressure regarding deploying the vaccine. If we face a smallpox epidemic from a bioterrorism attack, we will have no Cipro to reassure the public and we will be facing a highly contagious disease and epidemic. To be blunt, it will make the current anthrax attack look benign by comparison.

Smallpox is not the only threat. We have seen other epidemics in this century. The 1918 influenza epidemic provides a sobering admonition about the need for research to develop medicines. In two years, a fifth of the world's population was infected. In the United States the 1918 epidemic killed more than 650,000 people in a short period of time and left 20 million seriously ill, one fourth of the entire population. The average lifespan in the US was depressed by ten years. In just one year, the epidemic killed 21 million human beings worldwide—well over twice the number of combat deaths in the whole of World War I. The flu was exceptionally virulent to begin with and it then underwent several sudden and dramatic mutations in its structure. Such mutations can turn flu into a killer because its victims' immune systems have no antibodies to fight off the altered virus. Fatal pneumonia can rapidly develop.

Another deadly toxin, ricin toxin, was of interest to the al-Qaeda terrorist network. At an al-Qaeda safehouse in Saraq Panza, Kabul reporters found instructions for making ricin. The instructions make chilling reading. ''A certain amount, equal to a strong dose, will be able to kill an adult, and a dose equal to seven seeds will kill a child,'' one page reads. Another page says: ''Gloves and face mask are essential for the preparation of ricin. Period of death varies from 3 to 5 days minimum, 4 to 14 days maximum.'' The instructions listed the symptoms of ricin as vomiting, stomach cramps, extreme thirst, bloody diarrhea, throat irritation, respiratory collapse and death.

No specific treatment or vaccine for ricin toxin exists. Ricin is produced easily and inexpensively, highly toxic, and stable in aerosolized form. A large amount of ricin is necessary to infect whole populations—the amount of ricin necessary to cover a 100-km^2 area and cause 50 percent lethality, assuming aerosol toxicity of 3 mcg/kg and optimum dispersal conditions, is approximately 4 metric tons, whereas only 1 kg of Bacillus anthracis is required. But it can be used to terrorize a large population with great effect because it is so lethal.

Use of ricin as a terror weapon is not theoretical. In 1991 in Minnesota, 4 members of the Patriots Council, an extremist group that held antigovernment and antitax ideals and advocated the overthrow of the US government, were arrested for plotting to kill a US marshal with ricin. The ricin was produced in a home laboratory. They planned to mix the ricin with the solvent dimethyl sulfoxide, DMSO, and then smear it on the door handles of the marshal's vehicle. The plan was discovered, and the 4 men were convicted. In 1995, a man entered Canada from Alaska on his way to North Carolina. Canadian custom officials stopped the man and found him in possession of several guns, $98,000, and a container of white powder, which was identified as ricin. In 1997, a man shot his stepson in the face. Investigators discovered a makeshift laboratory in his basement and found agents such as ricin and nicotine sulfate. And, ricin was used by the Bulgarian secret police when they killed Georgi Markov by stabbing him with a poison umbrella as he crossed Waterloo Bridge in 1978.

Going beyond smallpox, influenza, and ricin, we do not have an effective vaccine or treatment for dozens of other deadly and disabling agents and toxins. Here is a partial list of some of the other biological agents and chemical toxins for which we have no effective treatments: clostridium botulinum toxin, botulism, francisella tularensis, tularaemia, Ebola hemorrhagic fever, Marbug hemorrhagic fever, Lassa fever, Julin, Argentine

hemorrhagic fever, Coxiella burnetti, Q fever, brucella species, brucellosis, burkholderia mallei, glanders, Venezuelan encephalomyelitis, eastern and western equine encephalomyelitis, epsilon toxin of clostridium perfringens, staphylococcus entretoxin B, salmonella species, shigella dysenteriae, escherichia coli O157:H7, vibrio cholerae, cryptosporidium parvum, nipah virus, hantaviruses, tickborne hemorrhagic fever viruses, tickborne encephalitis virus, yellow fever, nerve agents, tabun, sarin, soman, GF, and VX, blood agents, hydrogen cyanide and cyanogens chloride, blister agents, lewisite, nitrogenadn sulfur mustards, and phosgene oxime, heavy metals, arsenic, lead, and mercury, and volatile toxins, benzene, chloroform, trihalomethanes, pulmonary agents, Phosgene, chlorine, vinly chloride, and incapacitating agents, BZ.

The naturally occurring forms of these agents and toxins are enough to cause concern, but we also know that during the 1980s and 1990s the Soviet Union conducted bioweapons research at forty-seven laboratories and testing sites, employed nearly fifty thousand scientists in the work, and that they developed genetically modified versions of some of these agents and toxins. The goal was to develop an agent or toxin that was particularly virulent or not vulnerable to available antibiotics.

The United States has publicly stated that five countries are developing biological weapons in violation of the Biological Weapons convention, North Korea, Iraq, Iran, Syria, and Libya, and stated that additional countries not yet named, possibly including Russia, China, Israel, Sudan and Egypt, are also doing so as well.

What is so insidious about biological weapons is that in many cases the symptoms resulting from a biological weapons attack would likely take time to develop, so an act of bioterrorism may go undetected for days or weeks. Affected individuals would seek medical attention not from special emergency response teams but in a variety of civilian settings at scattered locations. This means we will need medicines that can treat a late stage of the disease, long after the infection has taken hold.

We must recognize that the distinctive characteristic of biological weapons is that they are living micro-organisms and are thus the only weapons that can continue to proliferate without further assistance once released in a suitable environment.

The lethality of these agents and toxins, and the panic they can cause, is quite frightening. The capacity for terror is nearly beyond comprehension. We do not believe it is necessary to describe the facts here. Our point is simple: we need more than military intelligence, surveillance, and public health capacity. We also need effective medicines. We also need more powerful research tools that will enable us to quickly develop treatments for agents and toxins not on this or any other list.

We need to do whatever it takes to be able to reassure the American people that hospitals and doctors have powerful medicines to treat them if they are exposed to biological agents or toxins, that we can contain an outbreak of an infectious agent, and that there is little to fear. To achieve this objective, we need to rely on the entrepreneurship of the biotechnology industry.

In the summer of 200_, the Defense Science Board completed a study of the countermeasures we have available. It focused on countermeasures—diagnostics, vaccines, and drugs—for the top nineteen bioterror threats, and estimated what we have available today, what we might have available in five years and what we might have available in ten years.

If one assumes that we need diagnostics, vaccines, and drugs for all nineteen of these bioterror threats, we need fifty-seven countermeasures (19 times 3). It found that today we have only one of these fifty-seven countermeasures, a drug for Chlamydia psittaci. It found that in five years we might have twenty of the fifty-seven countermeasures and in ten years we might have thirty-four of the fifty-seven. These are optimistic assessments.

It set reasonable criteria for what constitutes an effective countermeasure. For diagnostics, it said that we are unprepared if our diagnostic takes more than 24 hours, requires confirmatory testing and the patient must be symptomatic. If said we are somewhat prepared if the diagnostic takes 12 to 24 hours, requires confirmatory testing, and works in some cases where the patient is asymptomatic. It said we are only truly prepared if the test takes less than 12 hours, requires no confirmatory testing, and detects the disease when the patient is asymptomatic. It found that we have no diagnostics today that meet the top standard and might have diagnostics for seventeen of the nineteen terror threats in five years and eighteen of the nineteen in ten years.

For vaccines it found that we are unprepared if we have no vaccine. We are partially prepared if we have a vaccine but have production or use limitations. And we are fully prepared if we have a vaccine generally available. It found that we have no vaccines today that meet the top standard and might have vaccines for two of the terror threats in five years and nine in ten years.

For therapeutics it found that we are unprepared if we have no approved treatment. We are partially prepared if we have a treatment available but have production or use limitations. And we are fully prepared if we have a treatment available. It found that we have one treatment that meets the top standard and might have treatments for the same agent in five years and seven treatments in ten years.

Obviously, we are woefully unprepared. The Defense Science Board only focused on the top nineteen threats, and there are many others for which we are also unprepared.

My proposal would supplement direct Federal Government funding of research with incentives that make it possible for private companies to form the capital to conduct this research on their own initiative, utilizing their own capital, and at their own risk—all for good business reasons going to their bottom line.

The U.S. biotechnology industry, approximately 1,300 companies, spent $13.8 billion on research last year. Only 350 of these companies have managed to go public. The industry employs 124,000, Ernest & Young data, people. The top five companies spent an average of $89,000 per employee on research, making it the most research-intensive industry in the world. The industry has 350 products in human clinical trials targeting more than 200 diseases. Losses for the industry were $5.8 billion in 2001, $5.6 billion in 2000, $4.4 billion in 1999, $4.1 billion in 1998, $4.5 billion in 1997, $4.6 billion in 1996, and similar amounts before that. In 2000 fully 38 percent of the public biotech companies had less than 2 years of funding for their research. Only one quarter of the biotech companies in the United States are publicly traded and they tend to be the best funded.

There is a broad range of research that could be undertaken under this legislation. Vaccines could be developed to prevent infection or treat an infection from a bioterror attack. Broad-spectrum antibiotics are needed. Also, promising research has been undertaken on antitoxins that could neutralize the toxins that are released, for example, by anthrax. With anthrax it is the toxins, not the bacteria itself, that cause death. An antitoxin could act like a decoy, attaching itself to sites on cells where active anthrax toxin binds and then combining with normal active forms of the toxin and inactivating them. An antitoxin could block the production of the toxin.

We can rely on the innovativeness of the biotech industry, working in collaboration with academic medical centers, to explore a broad range of innovative approaches. This mobilizes the entire biotechnology industry as a vital component of our national defense against bioterror weapons.

The legislation takes a comprehensive approach to the challenges the biotechnology industry faces in forming capital to conduct research on countermeasures. It includes capital formation tax incentives, guaranteed purchase funds, patent protections, and liability protections. We believe we will have to include each of these types of incentives to ensure that we mobilize the biotechnology industry for this urgent national defense research.

Some of the tax incentives in this legislation, and both of the two patent incentives I have proposed, may be controversial. In our view, we can debate tax or patent policy as long as you

want, but let's not lose track of the issue here—development of countermeasures to treat people infected or exposed to lethal and disabling bioterror weapons.

We know that incentives can spur research. In 1983 we enacted the Orphan Drug Act to provide incentives for companies to develop treatments for rare diseases with small potential markets deemed to be unprofitable by the industry. In the decade before this legislation was enacted, fewer than 10 drugs for orphan diseases were developed and these were mostly chance discoveries. Since the Act became law, 218 orphan drugs have been approved and 800 more are in the pipeline. The Act provides 7 years of market exclusivity and a tax credit covering some research costs. The effectiveness of the incentives we have enacted for orphan disease research show us how much we can accomplish when we set a national priority for certain types of research.

The incentives we have proposed differ from those set by the Orphan Drug Act. We need to maintain the effectiveness of the Orphan Drug Act and not undermine it by adding many other disease research targets. In addition, the tax credits for research for orphan drug research have no value for most biotechnology companies because few of them have tax liability with respect to which to claim the credit. This explains why we have not proposed to utilize tax credits to spur countermeasures research. It is also clear that the market for countermeasures is even more speculative than the market for orphan drugs and we need to enact a broader and deeper package of incentives.

The government determines which research is covered by the legislation and which companies qualify for the incentives for this research. No company is entitled to utilize the incentives until the government certifies its eligibility.

These decisions are vested in the Secretary, Department of Homeland Security. In S. 1764, the decisions were vested in the White House Office of Homeland Security, but it is now likely that a Department will be created. I have strongly endorsed that concept and led the effort to enact the legislation forming the new Department.

The legislation confers on the Secretary, in consultation with the Secretary of Defense and Secretary of Health and Human Services, authority to set the list of agents and toxins with respect to which the legislation and incentives applies.

The Secretary determines which agents and toxins present a threat and whether the countermeasures are ''more likely'' to be developed with the application of the incentives in the legislation. The Secretary may determine that an agent or toxin does not present a threat or that countermeasures are not more likely to be developed with the incentives. It may determine that the government itself should fund the research and development effort and not rely on private companies. The Department is required to consider the status of existing research, the availability of non-countermeasure markets for the research, and the most effective strategy for ensuring that the research goes forward. The legislation includes an illustrative, non-binding list of fifty-four agents and toxins that might be included on the Secretary's list. The decisions of the Secretary are final and are not subject to judicial review.

The Department then must provide information to potential manufacturers of these countermeasures in sufficient detail to permit them to conduct the research and determine when they have developed the needed countermeasure. It may exempt from publication such information as it deems to be sensitive.

The Department also must specify the government market that will be available when a countermeasure is successfully developed, including the minimum number of dosages that will be purchased, the minimum price per dose, and the timing and number of years projected for such purchases. Authority is provided for the Department to make advance, partial, progress, milestone, or other payments to the manufacturers.

The Department is responsible for determining when a manufacturer has, in fact, successfully developed the needed countermeasure. It must provide information in sufficient detail so that manufacturers and the government may determine when the manufacturer has successfully developed the countermeasure the government needs. If and when the manufacturer has successfully developed the countermeasure, it becomes entitled to the procurement, patent, and liability incentives in the legislation.

Once the list of agents and toxins is set, companies may register with the Department their intent to undertake research and development of a countermeasure to prevent or treat the agent or toxin. This registration is required only for companies that seek to be eligible for the tax, purchase, patent, and liability provisions of the legislation. The registration requirement gives the Department vital information about the research effort and the personnel involved with the research, authorizes inspections and other review of the research effort, and the filing of reports by the company.

The Secretary then may certify that the company is eligible for the tax, purchase, patent, and liability incentives in the legislation. It bases this certification on the qualifications of the company to conduct the countermeasure research. Eligibility for the purchase fund, patent and liability incentives is contingent on successful development of a countermeasure according to the standards set in the legislation, as determined by the Secretary.

The legislation contemplates that a company might well register and seek certification with respect to more than one research project and become eligible for the tax, purchase, patent, and liability incentives for each. There is no policy rationale for limiting a company to one registration and one certification.

This process is similar to the current registration process for research on orphan, rare, diseases. In that case, companies that are certified by the FDA become eligible for both tax and market exclusivity incentives. This process gives the government complete control on the number of registrations and certifications. This gives the government control over the cost and impact of the legislation on private sector research.

The registration and certification process applies to research to develop diagnostics and research tools, not just drugs and vaccines.

Diagnostics are vital because healthcare professionals need to know which agent or toxin has been used in an attack. This enables them to determine which treatment strategy is likely to be most effective. We need quickly to determine which individuals have been exposed or infected, and to separate them from the ''worried well.'' It is likely in an attack that large numbers of individuals who have not been exposed or infected will flood into healthcare facilities seeking treatment. We need to be able to focus on those individuals who are at risk and reassure those who are not at risk.

In terms of research tools, it is possible that we will face biological agents and chemical agents we have never seen before. As I've mentioned, the Soviet Union bioterror research focused in part on use of genetic modification technology to develop agents and toxins that currently-available antibiotics can not treat. Australian researchers accidentally created a modified mousepox virus, which does not affect humans, but it was 100 percent lethal to the mice. Their research focused on trying to make a mouse contraceptive vaccine for pest control. The surprise was that it totally suppressed the ''cell-mediated response''—the arm of the immune system that combats viral infection. To make matters worse, the engineered virus also appears unnaturally resistant to attempts to vaccinate the mice. A vaccine that would normally protect mouse strains that are susceptible to the virus only worked in half the mice exposed to the killer version. If bioterrorists created a human version of the virus, vaccination programs would be of limited use. This highlights the drawback of working on vaccines against bioweapons rather than treatments.

With the advances in gene sequencing—genomics—we will know the exact genetic structure of a biological agent. This information in the wrong hands could easily be manipulated to design and possibly grow a lethal new bacterial and viral strains not found in nature. A scientist might be able to mix

and match traits from different microorganisms—called recombinant technology—to take a gene that makes a deadly toxin from one strain of bacteria and introduce it into other bacterial strains. Dangerous pathogens or infectious agents could be made more deadly, and relatively benign agents could be designed as major public health problems. Bacteria that cause diseases such as anthrax could be altered in such a way that would make current vaccines or antibiotics against them ineffective. It is even possible that a scientist could develop an organism that develops resistance to antibiotics at an accelerated rate.

This means we need to develop technology—research tools—that will enable us to quickly develop a tailor-made, specific countermeasure to a previously unknown organism or agent. These research tools will enable us to develop a tailor-made vaccine or drug to deploy as a countermeasure against a new threat. The legislation authorizes companies to register and receive a certification making them eligible for the incentives in the bill for this vital research.

The legislation includes four tax incentives to enable biotechnology and pharmaceutical companies to form capital to fund research and development of countermeasures. Companies must irrevocably elect only one of the incentives with regard to the countermeasure research.

Four different tax incentives are available so that companies have flexibility in forming capital to fund the research. Each of the options comes with advantages and limitations that may make it appropriate or inappropriate for a given company or research project. We do not now know fully how investors and capital markets will respond to the different options, but we assume that companies will consult with the investor community about which option will work best for a given research project. Capital markets are diverse and investors have different needs and expectations. Over time these markets and investor expectations evolve. If companies register for more than one research project, they may well utilize different tax incentives for the different projects.

Companies are permitted to undertake a series of discrete and separate research projects and make this election with respect to each project. They may only utilize one of the options with respect to each of these research projects.

The first option is for the company to establish an R&D Limited Partnership to conduct the research. The partnership passes through all business deductions and credits to the partners. For example, under this arrangement, the research and development tax credits and depreciation deductions for the company may be passed by the corporation through to its partners to be used to offset their individual tax liability. These deductions and credits are then lost to the corporation. This alternative is available only to companies with less than $750,000,000 in paid-in capital.

The second option is for the company to issue a special class of stock for the entity to conduct the research. The investors would be entitled to a zero capital gains tax rate on any gains realized on the stock held for at least three years. This is a modification of the current Section 1202 where only 50 percent of the gains are not taxed. This provision is adapted from legislation I have introduced, S. 1134, and introduced in the House by Representatives DUNN and MATSUI, H.R. 2383. A similar bill has been introduced by Senator COLLINS, S. 455. This option also is available to small companies.

The third and fourth options grant special tax credits to the company for the research. The first credit is for research conducted by the company and the other for research conducted at a teaching hospital or similar institution. Tax credits are available to any company, but they only are useful to a company with tax liability against which to claim the credit. Very few biotechnology companies receive revenue from product sales and therefore have no tax liability. Companies with revenue may be able to fund the research from retained earnings rather than secure funding from investors.

A company that elects to utilize one of these incentives is not eligible to receive benefits of the Orphan Drug Tax Credit. Companies that can utilize tax credits—companies with taxable income and tax liability—might find the Orphan Credit more valuable. The legislation includes an amendment to the Orphan Credit to correct a defect in the current credit. The amendment has been introduced in the Senate as S. 1341 by Senators HATCH, KENNEDY and JEFFORDS. The amendment simply states that the Credit is available starting the day an application for orphan drug status is filed, not the date the FDA finally acts on it. The amendment was one of many initiatives championed by Lisa J. Raines, who died on September 11 in the plane that hit the Pentagon, and the amendment is named in her honor. As we go forward in the legislative process, I hope we will have an opportunity to speak in more detail about the service of Ms. Raines on behalf of medical research, particularly on rare diseases.

The guaranteed purchase fund, and the patent protections, and liability provisions described below provide an additional incentive for investors and companies to fund the research.

The market for countermeasures is speculative and small. This means that if a company successfully develops a countermeasure, it may not receive sufficient revenue on sales to justify the risk and expense of the research. This is why the legislation establishes a countermeasures purchase fund that will define the market for the products with some specificity before the research begins.

The Secretary will set standards for which countermeasures it will purchase and define the financial terms of the purchase commitment. This will enable companies to evaluate the market potential of its research before it launches into the project. The specifications will need to be set with sufficient specificity so that the company—and its investors—can evaluate the market and with enough flexibility so that it does not inhibit the innovativeness of the researchers. This approach is akin to setting a performance standard for a new military aircraft.

The legislation provides that the Secretary will determine whether the government will purchase more than one product per class. It might make sense—as an incentive—for the government to commit to purchasing more than one product so that many more than one company conducts the research. A winner-take-all system may well intimidate some companies and we may end up without a countermeasure to be purchased. It is also possible that we will find that we need more than one countermeasure because different products are useful for different patients. We may also find that the first product developed is not the most effective.

The purchase commitment for countermeasures is available to any company irrespective of its paid-in capital.

Intellectual property protection of research is essential to biotechnology and pharmaceutical companies for one simple reason: they need to know that if they successfully develop a medical product another company cannot expropriate it. It's a simple matter of incentives.

The patent system has its basis in the U.S. Constitution where the federal government is given the mandate to ''promote the Progress of Science and the Useful Arts by securing for a limited time to Authors and Inventors the exclusive right to their respective Writings and Discoveries.'' In exchange for full disclosure of the terms of their inventions, inventors are granted the right to exclude others from making, using, or selling their inventions for a limited period of time. This quid pro quo provides investors with the incentive to invent. In the absence of the patent law, discoverable inventions would be freely available to anyone who wanted to use them and inventors would not be able to capture the value of their inventions or secure a return on their investments.

The patent system strikes a balance. Companies receive limited protection of their inventions if they are willing to publish the terms of their invention for all to see. At the end of the term of the patent, anyone can practice the invention without any threat of an infringement action. During the term of the patent, competitors can learn from the published description of the invention and may well find a new and distinct patentable invention.

The legislation provides two types of intellectual property protection. The

first simply provides that the term of the patent on the countermeasure will be the term of the patent granted by the Patent and Trademark Office without any erosion due to delays in approval of the product by the Food and Drug Administration. The second provides that a company that successfully develops a countermeasure will receive a bonus of two years on the term of any patent held by that company. Companies must elect one of these two protections, but only small biotechnology companies may elect the second protection. Large, profitable pharmaceutical companies may elect only the first of the two options.

The first protection against erosion of the term of the patent is an issue that is partially addressed in current law, the Hatch-Waxman Patent Term Restoration Act. That act provides partial protection against erosion of the term, length, of a patent when there are delays at the FDA in approving a product. The erosion occurs when the PTO issues a patent before the product is approved by the FDA. In these cases, the term of the patent is running but the company cannot market the product. The Hatch-Waxman Act provides some protections against erosion of the term of the patent, but the protections are incomplete. As a result, many companies end up with a patent with a reduced term, sometimes substantially reduced.

The issue of patent term erosion has become more serious due to changes at the PTO in the patent system. The term of a patent used to be fixed at 17 years from the date the patent was granted by the PTO. It made no difference how long it took for the PTO to process the patent application and sometimes the processing took years, even decades. Under this system, there were cases where the patent would issue before final action at the FDA, but there were other cases where the FDA acted to approve a product before the patent was issued. Erosion was an issue, but it did not occur in many cases.

Since 1995 the term of a patent has been set at 20 years from the date of application for the patent. This means that the processing time by the PTO of the application all came while the term of the patent is running. This gives companies a profound incentive to rush the patent through the PTO. Under the old system, companies had the opposite incentive. With patents being issued earlier by the PTO, the issue of erosion of patent term due to delays at the FDA is becoming more serious and more common.

The provision in the legislation simply states that in the case of bioterrorism countermeasures, no erosion in the term of the patent will occur. The term of the patent at the date of FDA approval will be the same as the term of the patent when it was issued by the PTO. There is no extension of the patent, simply protections against erosion. Under the new 20 year term, patents might be more or less than 17 years depending on the processing time at the PTO, and all this legislation says is that whatever term is set by the PTO will govern irrespective of the delays at the FDA. This option is available to any company that successfully develops a countermeasure eligible to be purchased by the fund.

The second option, the bonus patent term, is only available to small companies with less than $750,000,000 in paid-in capital. It provides that a company that successfully develops a countermeasure is entitled to a two-year extension of any patent in its portfolio. This does not apply to any patent of another company bought or transferred in to the countermeasure research company.

I am well aware that this bonus patent term provision will be controversial with some. A company would tend to utilize this option if it owned the patent on a product that still had, or might have, market value at the end of the term of the patent. Because this option is only available to small biotechnology companies, most of whom have no product on the market, in most cases they would be speculating about the value of a product at the end of its patent. The company might apply this provision to a patent that otherwise would be eroded due to FDA delays or it might apply it to a patent that was not eroded. The result might be a patent term that is no longer than the patent term issued by the PTO. It all depends on which companies elect this option and which patent they select. In some cases, the effect of this provision might be to delay the entry onto the market of lower priced generics. This would tend to shift some of the cost of the incentive to develop a countermeasure to insurance companies and patients with an unrelated disease.

My rationale for including the patent bonus in the legislation is simple: I want this legislation to say emphatically that we mean business, we are serious, and we want biotechnology companies to reconfigure their research portfolios to focus in part on development of countermeasures. The other provisions in the legislation are powerful, but they may not be sufficient.

This proposal protects companies willing to take the risks of producing anti-terrorism products for the American public from potential losses incurred from lawsuits alleging adverse reactions to these products. It also preserves the right for plaintiffs to seek recourse for alleged adverse reactions in Federal District Court, with procedural and monetary limitations.

Under the plan, the Secretary of HHS is required to indemnify and defend entities engaged in qualified countermeasure research through execution of ''indemnification and defense agreements.'' This protection is only available for countermeasures purchased under the legislation or to use of such countermeasures as recommended by the Surgeon General in the event of a public health emergency.

The legislation contains a series of provisions designed to enhance countermeasure research.

The legislation provides for accelerated approval by the FDA of countermeasures developed under the legislation. In most cases, the products would clearly qualify for accelerated approval, but the legislation ensures that they will be reviewed under this process.

It provides a statutory basis for the FDA approving countermeasures where human clinical trials are not appropriate or ethical. Rules regarding such products have been promulgated by the FDA.

It grants a limited antitrust exemption for certain cooperative research and development of countermeasures.

It provides incentives for the construction of biologics manufacturing facilities and research to increase the efficiency of current biologics manufacturing facilities.

It enhances the synergy between our for-profit and not for profit biomedical research entities. The Bayh-Dole Act and Stevenson-Wydler Act form the legal framework for mutually beneficially partnerships between academia and industry. My legislation strengthens this synergy and these relationships with two provisions, one to upgrade the basic research infrastructure available to conduct research on countermeasures and the other to increase cooperation between the National Institutes of Health and private companies.

Research on countermeasures necessitates the use of special facilities where biological agents can be handled safely without exposing researchers and the public to danger. Very few academic institutions or private companies can justify or capitalize the construction of these special facilities. The Federal government can facilitate research and development of countermeasures by financing the construction of these facilities for use on a fee-for-service basis. The legislation authorizes appropriations for grants to non-profit and for-profit institutions to construct, maintain, and manage up to ten Biosafety Level 3–4 facilities, or their equivalent, in different regions of the country for use in research to develop countermeasures. BSL 3–4 facilities are ones used for research on indigenous, exotic or dangerous agents with potential for aerosol transmission of disease that may have serious or lethal consequences or where the agents pose high risk of life-threatening disease, aerosol-transmitted lab infections, or related agents with unknown risk of transmission. The Director of the Office and NIH shall issue regulations regarding the qualifications of the researchers who may utilize the facilities. Companies that have registered with and been certified by the Director—to develop countermeasures under Section 5 (d) of the legislation—shall

be given priority in the use of the facilities.

The legislation also reauthorizes a very successful NIH-industry partnership program launched in FY 2000 in Public Law 106–113. The funding is for partnership challenge grants to promote joint ventures between NIH and its grantees and for-profit biotechnology, pharmaceutical and medical device industries with regard to the development of countermeasures, as defined in Section 3 of the bill, and research tools, as defined in Section 4(d)(3) of the bill. Such grants shall be awarded on a one-for-one matching basis. So far the matching grants have focused on development of medicines to treat malaria, tuberculosis, emerging and resistant infections, and therapeutics for emerging threats. My proposal should be matched by reauthorization of the challenge grant program for these deadly diseases.

The legislation also sets incentives for the development of adjuvents to enhance the potency, and efficacy of antigens in responding to a biological agent.

It requires the new Department to issue annual reports on the effectiveness of this legislation and these incentives, and directs it to host an international conference each year on countermeasure research.

This legislation is carefully calibrated to provide incentives only where they are needed. This accounts for the choices in the legislation about which provisions are available to small biotechnology companies and large pharmaceutical companies.

The legislation makes choices. It sets the priorities. It provides a dose of incentives and seeks a response in the private sector. We are attempting here to do something that has not been done before. This is uncharted territory. And it also an urgent mission.

There may be cases where a countermeasure developed to treat a biological toxin or chemical agent will have applications beyond this use. A broad-spectrum antibiotic capable of treating many different biological agents may well have the capacity to treat naturally occurring diseases.

This same issue arises with the Orphan Drug Act, which provides both tax and FDA approval incentives for companies that develop medicines to treat rare diseases. In some cases these treatments can also be used for larger disease populations. There are few who object to this situation. We have come to the judgment that the urgency of this research is worth the possible additional benefits that might accrue to a company.

In the context of research to develop countermeasures, I do not consider it a problem that a company might find a broader commercial market for a countermeasure. Indeed, it may well be the combination of the incentives in this legislation and these broader markets that drives the successful development of a countermeasure. If our intense focus on developing countermeasures, and research tools, provides benefits for mankind going well beyond terror weapons, we should rejoice. If this research helps us to develop an effective vaccine or treatment for AIDS, we should give the company the Nobel Prize for Medicine. If we do not develop a vaccine or treatment for AIDS, we may see 100 million people die of AIDS. We also have 400 million people infected with malaria and more than a million annual deaths. Millions of children die of diarrhea, cholera and other deadly and disabling diseases. Countermeasures research may deepen our understanding of the immune system and speed development of treatments for cancer and autoimmune diseases. That is not the central purpose of this legislation, but it is an additional rationale for it.

The issue raised by my legislation is very simple: do we want the Federal government to fund and supervise much of the research to develop countermeasures or should we also provide incentives that make it possible for the private sector, at its own expense, and at its own risk, to undertake this research for good business reasons. The Frist-Kennedy law focuses effectively on direct Federal funding and coordination issues, but it does not include sufficient incentives for the private sector to undertake this research on its own initiative. That law and my legislation are perfectly complimentary. We need to enact both to ensure that we are prepared for bioterror attacks.

Mr. President, I ask unanimous consent that a summary of the bill be printed in the RECORD.

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

BIOLOGICAL, CHEMICAL AND RADIOLOGICAL WEAPONS COUNTERMEASURES RESEARCH ACT OF 2003

SENATORS LIEBERMAN AND HATCH, CONGRESSMEN TOM DAVIS, CAL DOOLEY, CURT WELDON, AND NORM DICKS

The legislation proposes incentives that will enable biotechnology and pharmaceutical companies to take the initiative—for good business reasons—to conduct research to develop countermeasures, including diagnostics, therapeutics, and vaccines, to treat those who might be exposed to or infected by biological, chemical or radiological agents and materials in a terror attack.

The premise of this legislation is that direct government funding of this research is likely to be much more expensive and risky to the government and less likely to produce the countermeasures we need to defend America. Shifting some of the expense and risk of this research to entrepreneurial private sector firms is likely to be less expensive and much more likely to produce the countermeasures we need to protect ourselves in the event of an attack.

For biotechnology companies, incentives for capital formation are needed because most such companies have no approved products or revenue from product sales to fund research. They rely on investors and equity capital markets to fund the research. These companies must focus on research that will lead to product sales and revenue and end their dependence on investor capital. When they are able to form the capital to fund research, biotech companies tend to be innovative and nimble and focused on the intractable diseases for which no effective medical treatments are available. Special research credits for pharmaceutical companies are also needed.

For both biotech and pharmaceutical companies, there is no established or predictable market for these countermeasures. Investors and companies are justifiably reluctant to fund this research, which will present technical challenges similar in complexity to development of effective treatments for AIDS. Investors and companies need assurances that research on countermeasures has the potential to provide a rate of return commensurate with the risk complexity and cost of the research, a rate of return comparable to that which may arise from a treatment for cancer, MS, Cystic Fibrosis and other major diseases or from other investments.

President Bush's BioShield initiative is designed to establish and predictable market for these countermeasures. This legislation provides a template for implementation of BioShield and supplements it with additional incentives to ensure that the industry is enthusiastically engaged in this vital research.

The legislation provides tax incentives to enable companies to form capital to conduct the research and tax credits usable by larger companies with tax liability with respect to which to claim the credits. It provides a guaranteed and pre-determined market for the countermeasures and special intellectual property protections to serve as a substitute for a market. Finally, it establishes liability protections for the countermeasures that are developed.

Section 3 of the legislation is drafted as an amendment to the Homeland Security Act of 2002 (HSA)(P.L. 107–296). Section 2 sets forth findings and sections 4–9 are drafted as amendments to other statutes.

1. Setting Research Priorities (Section 1811 of HSA): The Department of Homeland Security sets the countermeasure research priorities in advance. It focuses the priorities on threats for which countermeasures are needed, and with regard to which the incentives make it ''more likely'' that the private sector will conduct the research to develop countermeasures. It is required to consider the status of existing research, the availability of non-countermeasure markets for the research, and the most effective strategy for ensuring that the research goes forward. The Department then provides information to potential manufacturers of these countermeasures in sufficient detail to permit them to conduct the research and determine when they have developed the needed countermeasure. The Department is responsible for determining when a manufacturer has, in fact, successfully developed the needed countermeasure.

2. Registration of Companies (Section 1812 of HSA): Biotechnology and pharmaceutical companies register with the Department to become eligible for the incentives in the legislation. They are obligated to provide reports to the Department as requested and be open to inspections. The Department certifies which companies are eligible for the incentives.

Once a company is certified as eligible for the incentives, it becomes eligible for the tax incentives for capital formation, and if it successfully develops a countermeasure that meets the specifications of the Department, it becomes eligible for the procurement, patent, and liability provisions.

3. Diagnostics (Sections 1813 and 1814 of HSA): The incentives apply to development of detection systems and diagnostics, as well as drugs, vaccines and other needed countermeasures.

4. Research Tools (Section 1815 of HSA): A company is also eligible for certification for the tax and patent provisions if it seeks to develop a research tool that will make it possible to quickly develop a countermeasure to a previously unknown agent or toxin, or an agent or toxin not targeted by the Department for research.

5. Capital Formation for Countermeasures Research (Section 1821 of HSA; also section 4 of the legislation): The legislation provides that a company seeking to fund research is eligible to elect from among four tax incentives. The companies are eligible to:

(a). Establish an R&D Limited Partnership to conduct the research. The partnership passes through all business deductions and credits to the partners.

(b). Issue a special class of stock for the entity to conduct the research. The investors would be entitled to a zero capital gains tax rate on any gains realized on the stock.

(c). Receive a special tax credit to help fund the research.

(d). Receive a special tax credit for research conducted at a non-profit and academic research institution.

A company must elect only one of these incentives and, if it elects one of these incentives, it is then not eligible to receive benefits under the Orphan Drug Act. The legislation includes amendments (Section 9 of this legislation) to the Orphan Drug Act championed by Senators Hatch, Kennedy and Jeffords (S. 1341). The amendments make the Credit available from the date of the application for Orphan Drug status, not the date the application is approved as provided under current law.

6. Countermeasure Purchase Fund (Section 1822 of HSA): The legislation provides that a company that successfully develops a countermeasure—through FDA approval—is eligible to sell the product to the Federal government at a pre-established price and in a predetermined amount. The company is given notice of the terms of the sale before it commences the research.

7. Intellectual Property Incentives (Section 1823 of HSA; also section 5 of this legislation): The legislation provides that a company that successfully develops a countermeasure is eligible to elect one of two patent incentives. The two alternatives are as follows:

(a). The company is eligible to receive a patent for its invention with a term as long as the term of the patent when it was issued by the Patent and Trademark Office, without any erosion due to delays in the FDA approval process. This alternative is available to any company that successfully develops a countermeasure irrespective of its paid-in capital.

(b). The company is eligible to extend the term of any patent owned by the company for two years. The patent may not be one that is acquired by the company from a third party. This is included as a capital formation incentive for small biotechnology companies with less than $750 million in paid-in capital, or, at the discretion of the Department of Homeland Security, to any firm that successfully develops a countermeasure.

In addition, a company that successfully develops a countermeasure is eligible for a 10-year period of market exclusivity on the countermeasure.

8. Indemnification Protections (Section 1824 of HAS; also Section 10 of the legislation): The legislation provides for indemnifications for liability for the company that successfully develops a countermeasure.

9. Accelerated Approval of Countermeasure (Section 1831 of HSA): The countermeasures are considered for approval by the FDA on a ''fast track'' basis.

10. Special Approval Standards (Section 6 of this legislation: The countermeasures may be approved in the absence of human clinical trails if such trails are impractical or unethical.

11. Limited Antitrust Exemption (Section 7 of this legislation): Companies are granted a limited exemption from the antitrust laws as they seek to expedite research on countermeasures.

12. Biologics Manufacturing Capacity and Efficiency (Section 1832 and 1833 of HSA; and section 8 of this legislation): Special incentives are incorporated to ensure that manufacturing capacity is available for countermeasures.

13. Strengthening of Biomedical Research Infrastructure (Section 1834 and 1835 of HSA): Authorizes appropriations for grants to construct specialized biosafety containment facilities where biological agents can be handled safely without exposing researchers and the public to danger (Section 216). Also reauthorizes a successful NIH-industry partnership challenge grants to promote joint ventures between NIH and its grantees and for-profit biotechnology, pharmaceutical and medical device industries with regard to the development of countermeasures and research tools (Section 217).

14. Annual Report (Section 1841 of HSA): The Department is required to prepare for the Congress an annual report on the implementation of these incentives.

15. International Conference (Section 1842 of HSA): The Department is required to organize an annual international conference on countermeasure research.

By Mr. GRASSLEY (for himself, Mr. HAGEL, Mr. DORGAN, Mr. JOHNSON, and Mr. DASCHLE):

S. 667. A bill to amend the Food Security Act of 1985 to strengthen payment limitations for commodity payments and benefits; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. GRASSLEY. Mr. President, the American people recognize the importance of the family farmer to our Nation, and the need to provide an adequate safety net for family farmers. In recent years, however, assistance to farmers has come under increasing scrutiny.

Critics of farm payments have argued that the largest corporate farms reap most of the benefits of these payments. The reality is, over 60 percent of the payments have gone to only 10 percent of our Nation's farmers.

What's more, farm payments that were originally designed to benefit small and medium-sized family farmers have contributed to their own demise. Unlimited farm payments have placed upward pressure on land prices and have contributed to overproduction and lower commodity prices, driving many family farmers off the farm.

The Senate agreed, by an overwhelming vote of 66 to 31, to a bipartisan amendment sponsored by Senators DORGAN and myself to target federal assistance to small and medium-sized family farmers. The amendment would have limited direct and countercyclical payments to $75,000. It would have limited gains from marketing loans and LDPs to $150,000, and generic certificates would have been included in this limit. That would have limited farm payments to a combined total of $275,000.

That amendment was critical to family farmers in Iowa. I feel strongly the farm bill failed Iowa when it failed to effectively address the issue of payment limitations. This is our chance to remedy the problem.

This bi-partisan legislation provides a limit of $40,000 for direct payments, $60,000 for counter-cyclical pavement, and $175,000 for LDPs and marketing loan gains. The combined limit is $275,000.

I urge my colleagues to support this bi-partisan legislation and to encourage the development of reasonable, legitimate payment limits.

I ask unanimous consent 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. 667

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

SECTION 1. PAYMENT LIMITATIONS.

Section 1001 of the Food Security of 1985 (7 U.S.C. 1308) is amended—

(1) in subsection (b)(1), by striking ''$40,000'' and inserting ''$20,000'';

(2) in subsection (c)(1), by striking ''$65,000'' and inserting ''$30,000'';

(3) by striking ''(d)'' and all that follows through the end of paragraph (1) and inserting the following:

''(d) LIMITATIONS ON MARKETING LOAN GAINS, LOAN DEFICIENCY PAYMENTS, AND COMMODITY CERTIFICATE TRANSACTIONS.—

''(1) LOAN COMMODITIES.—The total amount of the following gains and payments that a person may receive during any crop year may not exceed $87,500:

''(A)(i) Any gain realized by a producer from repaying a marketing assistance loan for 1 or more loan commodities under subtitle B of title I of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7931 et seq.) at a lower level than the original loan rate established for the loan commodity under that subtitle.

''(ii) In the case of settlement of a marketing assistance loan for 1 or more loan commodities under that subtitle by forfeiture, the amount by which the loan amount exceeds the repayment amount for the loan if the loan had been settled by repayment instead of forfeiture.

''(B) Any loan deficiency payments received for 1 or more loan commodities under that subtitle.

''(C) Any gain realized from the use of a commodity certificate issued by the Commodity Credit Corporation for 1 or more loan commodities, as determined by the Secretary, including the use of a certificate for the settlement of a marketing assistance loan made under that subtitle.''; and

(4) by adding at the end the following:

''(h) SINGLE FARMING OPERATION.—

''(1) IN GENERAL.—Notwithstanding subsections (b) through (d), subject to paragraph (2), if a person participates only in a single farming operation and receives, directly or indirectly, any payment or gain covered by this section through the operation, the total amount of payments or gains (as applicable) covered by this section that the person may receive during any crop year may not exceed twice the applicable dollar amounts specified in subsections (b), (c), and (d).

''(2) INDIVIDUALS.—The total amount of payments or gains (as applicable) covered by this section that an individual person may receive during any crop year may not exceed $275,000.

''(i) SPOUSE EQUITY.—Notwithstanding subsections (b) through (d), except as provided in subsection (e)(2)(C)(i), if an individual and spouse are covered by subsection (e)(2)(C) and receive, directly or indirectly, any payment or gain covered by this section, the total amount of payments or gains (as applicable) covered by this section that the individual and spouse may jointly receive during any crop year may not exceed twice the applicable dollar amounts specified in subsections (b), (c), and (d).

''(j) REGULATIONS.—

''(1) IN GENERAL.—Not later than July 1, 2003, the Secretary shall promulgate regulations—

''(A) to ensure that total payments and gains described in this section made to or through joint operations or multiple entities under the primary control of a person, in combination with the payments and gains received directly by the person, shall not exceed twice the applicable dollar amounts specified in subsections (b), (c), and (d);

''(B) in the case of a person that in the aggregate owns, conducts farming operations, or provides custom farming services on land with respect to which the aggregate payments received by the person exceed the applicable dollar amounts specified in subsections (b), (c), and (d), to attribute all payments and gains made to the person on crops produced on the land to—

''(i) a person that rents land for a share of the crop that is less than the usual and customary rate, as determined by the Secretary;

''(ii) a person that provides custom farming services through arrangements under which—

''(I) all or part of the compensation for the services is at risk;

''(II) farm management services are provided by—

''(aa) the same person;

''(bb) an immediate family member; or

''(cc) an entity or individual that has a business relationship that is not an arm's length relationship, as determined by the Secretary; or

''(III) more than ⅔ of all payments received for custom farming services are received by—

''(aa) the same person;

''(bb) an immediate family member; or

''(cc) an entity or individual that has a business relationship that is not an arm's length relationship, as determined by the Secretary; or

''(iii) a person under such other arrangements as the Secretary determines are established to transfer payments from persons that would otherwise exceed the applicable dollar amounts specified in subsections (b), (c), and (d); and

''(C) to ensure that payments attributed under this section to a person other than the direct recipient shall also count toward the limit of the direct recipient.

''(2) PRIMARY CONTROL.—The regulations under paragraph (1) shall define 'primary control' to include a joint operation or multiple entity in which a person owns an interest that is greater than the total interests held by other persons that materially participate on a regular, substantial, and continuous basis in the management of the operation or entity.''.

SEC. 2. REGULATIONS.

(a) IN GENERAL.—The Secretary of Agriculture may promulgate such regulations as are necessary to implement this Act and the amendments made by this Act.

(b) PROCEDURE.—The promulgation of the regulations and administration of this Act and the amendments made by this Act shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the ''Paperwork Reduction Act'').

(c) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

Mr. DORGAN. Mr. President, I rise today to co-sponsor a bill that imposes meaningful farm payment limitations.

A gentleman from Arkansas is the principal landlord of a 61,000-acre farm. Although he serves as president of a tractor dealership with sales over $30 million, this ''farmer'' received $38 million in farm subsidies over 5 years. Stories like these about corporate farmers who received millions of dollars in Federal agriculture payments undermine support for the real purpose of our farm program: to help family farmers.

What do I mean by family farmers? I am talking about people out there living in a rural community, trying to raise a family and trying to operate a family farm and trying to raise enough food to support themselves. They go to town and buy their supplies, keeping small town life not only viable, but also vibrant. I am talking about a network of food producers scattered across this country that represents, in my judgment, food security for our country.

And this goal of helping family farmers with a safety net in the form of farm program payments during tough times is something that has become much different over a long period of time. It is not the case that we are fighting over farm program payments for family farmers.

But regrettably, millions of dollars of farm payments are not going to small towns and family farms. They are going to big cities and corporate America. They are going to that millionaire farmer in Arkansas, to Ted Turner, and city dwellers who visit their farm twice a year. The biggest operations keep getting the bulk of the farm benefits while the small farmers are getting squeezed out of the rural areas. When this happens, the family farm operation can't compete with the larger enterprises because of the financial disadvantages.

My fear is that if we do not do something about this problem, the American people are going to push back on this issue and say, ''This is not why we are paying taxes. We really support family farms. We believe family farms are important for America. But we don't believe we are paying taxes so you can transfer money to the tune of millions, even hundreds of millions, to those who need it least and ought not be getting farm payments.''

So I am co-sponsoring this legislation. This bill would impose modest limits on the amount of farm payments that any farm operation can receive in one year. These limits would have virtually no impact on family farms and would strengthen our agriculture program by targeting the payments to these smaller operations.

Here are the limitations that my bill would impose: the bill would limit direct payments to producers to $40,000. Limits on counter-cyclical payments would be $60,000. The bill limits Marketing Loan Gains and Loan Deficiency Payments to $175,000. The overall limit for a farm is $275,000. The limits would save the Federal Government more than $1 billion over 10 years.

In times of budget deficits, government expenditures need to be targeted to those who need it most. Fortune 500 companies aren't the intended targets of farm legislation, family farmers are. Limiting farm payments to those who provide the food security of this country ought to be the farm policy of this country and this legislation is a step in that direction.

By Mr. REED (for himself, Mr. DODD, Mr. KENNEDY, and Mrs. MURRAY):

S. 668. A bill to amend the Child Care and Development Block Grant Act of 1990 to provide incentive grants to improve the quality of child care; to the Committee on Health, Education, Labor, and Pensions.

Mr. REED. Mr. President, I rise today to introduce the Child Care Quality Incentive Act of 2003.

This legislation seeks to address low child care payment or reimbursement rates. Payment rates determine the level at which States will reimburse child care providers who care for those low-income children who receive a subsidy.

Low payment rates directly affect the kind of care children get and whether families can find quality child care in their communities. Low payment rates mean limited parental access to quality child care.

Child care providers are also affected when rates are set below the market rate. Low payment rates force child care providers serving low-income children to cut corners in ways that lower the quality of child care such as reducing staff or decreasing salaries and benefits, eliminating professional development opportunities, and forgoing books and other literacy materials. Providers who avoid this route may simply not accept low-income children with subsidies or may even go out of business.

These dilemmas can be avoided if we help states set payment rates that keep pace with the marketplace.

Currently, the Child Care and Development Block Grant, CCDBG, requires States to ensure that their rates are sufficient to ''ensure equal access'' for eligible families to child care services comparable to those available to non-eligible families in the private market. CCDBG regulations require states to conduct market rate surveys every

other year, but there is no requirement for states to actually use the market rate surveys to set payment rates.

Unfortunately, more than half of the States do not make payment rates based on the 75th percentile, by which families could access care from 75 out of 100 local providers, of a current market survey.

The need for quality child care has never been greater, as our welfare reform policy directs more of our low-income families to find work and our educational policy demands more of our students and schools. Yet, States, due to severe budget crunches, are cutting back on rates and other quality initiatives and restricting eligibility for subsidies.

I am pleased to be joined by Senators DODD, KENNEDY, and MURRAY in once again introducing the Child Care Quality Incentive Act, which seeks to redouble our child care efforts and renew the child care partnership with the States by providing incentive funding to increase payment rates.

Our legislation establishes a new, mandatory pool of funding under the Child Care and Development Block Grant, CCDBG. This new funding, coupled with mandatory, current market rate surveys, will form the foundation for significant increases in state payment rates for the provision of quality child care.

We have received overwhelming support for this bill from the child care community, including endorsements from USA Child Care, Children's Defense Fund, Catholic Charities of USA, YMCA of USA, the National Child Care Association, and a host of organizations and agencies across the country.

Children are the hope of America, and they need the best of America. We cannot ask working families to choose between paying the rent, buying food, and being able to afford the quality care their children need. We've made a lot of progress in improving the health, safety, and well-being of children in this country. If we are serious about putting parents to work and protecting children, we must invest more in child care help for families.

This year, Congress is slated to reauthorize the Child Care and Development Block Grant. The time for action on rates is now. I urge my colleagues to join Senators DODD, KENNEDY, MURRAY, and me in this endeavor to improve the quality of child care by cosponsoring the Child Care Quality Incentive Act and working to include its provisions in the CCDBG reauthorization.

I ask unanimous consent that the text 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. 668

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 Care Quality Incentive Act of 2003''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) Recent research on early brain development reveals that much of a child's growth is determined by early learning and nurturing care. Research also shows that quality early care and education leads to increased cognitive abilities, positive classroom learning behavior, increased likelihood of long-term school success, and greater likelihood of long-term economic and social self-sufficiency.

(2) Each day an estimated 13,000,000 children, including 6,000,000 infants and toddlers, spend some part of their day in child care. However, a study in 4 States found that only 1 in 7 child care centers provide care that promotes healthy development, while 1 in 8 child care centers provide care that threatens the safety and health of children.

(3) Full-day child care can cost $4,000 to $12,000 per year.

(4) Although Federal assistance is available for child care, funding is severely limited. Even with Federal subsidies, many families cannot afford child care. For families with young children and a monthly income under $1,200, the cost of child care typically consumes 25 percent of their income.

(5) Payment (or reimbursement) rates, which determine the maximum the State will reimburse a child care provider for the care of a child who receives a subsidy, are too low to ensure that quality care is accessible to all families.

(6) Low payment rates directly affect the kind of care children get and whether families can find quality child care in their communities. In many instances, low payment rates force child care providers serving low-income children to cut corners in ways that impact the quality of care for the children, including reducing the number of staff, eliminating professional development opportunities, and cutting enriching educational activities and services.

(7) Children in low-quality child care are more likely to have delayed reading and language skills, and display more aggression toward other children and adults.

(8) Increased payment rates lead to higher quality child care as child care providers are able to attract and retain qualified staff, provide salary increases and professional training, maintain a safe and healthy environment, and purchase basic supplies, children's literature, and developmentally appropriate educational materials.

(b) PURPOSE.—The purpose of this Act is to improve the quality of, and access to, child care by increasing child care payment rates.

SEC. 3. PAYMENT RATES.

Section 658E(c)(4) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858c(c)(4)) is amended—

(1) by redesignating subparagraph (B) as subparagraph (C);

(2) in subparagraph (A), by striking ''to comparable child care services'' and inserting ''to child care services that are comparable (in terms of quality and types of services provided) to child care services''; and

(3) by inserting after subparagraph (A) the following:

''(B) PAYMENT RATES.—

''(i) SURVEYS.—In order to provide the certification described in subparagraph (A), the State shall conduct statistically valid and reliable market rate surveys (that reflect variations in the cost of child care services by locality), in accordance with such methodology standards as the Secretary shall issue. The State shall conduct the surveys not less often than at 2-year intervals, and use the results of such surveys to implement, not later than 1 year after conducting each survey, payment rates described in subparagraph (A) that ensure equal access to comparable services as required by subparagraph (A).

''(ii) COST OF LIVING ADJUSTMENTS.—The State shall adjust the payment rates at intervals between such surveys to reflect increases in the cost of living, in such manner as the Secretary may specify.

''(iii) RATES FOR DIFFERENT AGES AND TYPES OF CARE.—The State shall ensure that the payment rates reflect variations in the cost of providing child care services for children of different ages and providing different types of care.

''(iv) PUBLIC DISSEMINATION.—The State shall, not later than 30 days after the completion of each survey described in clause (i), make the results of the survey widely available through public means, including posting the results on the Internet.''.

SEC. 4. INCENTIVE GRANTS TO IMPROVE THE QUALITY OF CHILD CARE.

(a) FUNDING.—Section 658B of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858) is amended—

(1) by striking ''There'' and inserting the following:

''(a) AUTHORIZATION OF APPROPRIATIONS.—There'';

(2) in subsection (a), by inserting ''(other than section 658H)'' after ''this subchapter''; and

(3) by adding at the end the following:

''(b) APPROPRIATION OF FUNDS FOR GRANTS TO IMPROVE THE QUALITY OF CHILD CARE.—Out of any funds in the Treasury that are not otherwise appropriated, there is authorized to be appropriated and there is appropriated $500,000,000 for each of fiscal years 2004 through 2008, for the purpose of making grants under section 658H.''.

(b) USE OF BLOCK GRANT FUNDS.—Section 658E(c)(3) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858c(c)(3)) is amended—

(1) in subparagraph (B), by striking ''under this subchapter'' and inserting ''under this subchapter (other than section 658B(b))''; and

(2) in subparagraph (D), by inserting ''(other than section 658H)'' after ''under this subchapter''.

(c) ESTABLISHMENT OF PROGRAM.—Section 658G of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858e) is amended by inserting ''(other than section 658H)'' after ''this subchapter''.

(d) GRANTS TO IMPROVE THE QUALITY OF CHILD CARE.—The Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.) is amended by inserting after section 658G the following:

''SEC. 658H. GRANTS TO IMPROVE THE QUALITY OF CHILD CARE.

''(a) AUTHORITY.—

''(1) IN GENERAL.—The Secretary shall use the amount appropriated under section 658B(b) for a fiscal year to make grants to eligible States, and Indian tribes and tribal organizations, in accordance with this section.

''(2) ANNUAL PAYMENTS.—The Secretary shall make an annual payment for such a grant to each eligible State, and for Indian tribes and tribal organizations, out of the corresponding payment or allotment made under subsections (a), (b), and (e) of section 658O from the amount appropriated under section 658B(b).

''(b) ELIGIBLE STATES.—

''(1) IN GENERAL.—In this section, the term 'eligible State' means a State that—

''(A) has conducted a statistically valid survey of the market rates for child care services in the State within the 2 years preceding the date of the submission of an application under paragraph (2); and

''(B) submits an application in accordance with paragraph (2).

''(2) APPLICATION.—

''(A) IN GENERAL.—To be eligible to receive a grant under this section, a State shall submit an application to the Secretary at such time, in such manner, and accompanied by such information, in addition to the information required under subparagraph (B), as the Secretary may require.

''(B) INFORMATION REQUIRED.—Each application submitted for a grant under this section shall—

''(i) detail the methodology and results of the State market rates survey conducted pursuant to paragraph (1)(A);

''(ii) describe the State's plan to increase payment rates from the initial baseline determined under clause (i);

''(iii) describe how the State will increase payment rates in accordance with the market survey results, for all types of child care providers who provide services for which assistance is made available under this subchapter;

''(iv) describe how payment rates will be set to reflect the variations in the cost of providing care for children of different ages and different types of care;

''(v) describe how the State will prioritize increasing payment rates for—

''(I) care of higher-than-average quality, such as care by accredited providers or care that includes the provision of comprehensive services;

''(II) care for children with disabilities and children served by child protective services; or

''(III) care for children in communities served by local educational agencies that have been identified for improvement under section 1116(c)(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(c)(3));

''(vi) describe the State's plan to assure that the State will make the payments on a timely basis and follow the usual and customary market practices with regard to payment for child absentee days; and

''(vii) describe the State's plans for making the results of the survey widely available through public means.

''(3) CONTINUING ELIGIBILITY REQUIREMENT.—

''(A) SECOND AND SUBSEQUENT PAYMENTS.—A State shall be eligible to receive a second or subsequent annual payment under this section only if the Secretary determines that the State has made progress, through the activities assisted under this subchapter, in maintaining increased payment rates.

''(B) THIRD AND SUBSEQUENT PAYMENTS.—A State shall be eligible to receive a third or subsequent annual payment under this section only if the State has conducted, at least once every 2 years, an update of the survey described in paragraph (1)(A).

''(4) REQUIREMENT OF MATCHING FUNDS.—

''(A) IN GENERAL.—To be eligible to receive a grant under this section, the State shall agree to make available State contributions from State sources toward the costs of the activities to be carried out by the State pursuant to subsection (c) in an amount that is not less than 20 percent of such costs.

''(B) DETERMINATION OF STATE CONTRIBUTIONS.—Such State contributions shall be in cash. Amounts provided by the Federal Government may not be included in determining the amount of such State contributions.

''(c) USE OF FUNDS.—

''(1) PRIORITY USE.—An eligible State that receives a grant under this section shall use the funds received to significantly increase the payment rate for the provision of child care assistance in accordance with this subchapter up to the 100th percentile of the market rate determined under the market rate survey described in subsection (b)(1)(A).

''(2) ADDITIONAL USES.—An eligible State that demonstrates to the Secretary that the State has achieved a payment rate of the 100th percentile of the market rate determined under the market rate survey described in subsection (b)(1)(A) may use funds received under a grant made under this section for any other activity that the State demonstrates to the Secretary will enhance the quality of child care services provided in the State.

''(3) SUPPLEMENT NOT SUPPLANT.—Amounts paid to a State under this section shall be used to supplement and not supplant other Federal, State, or local funds provided to the State under this subchapter or any other provision of law.

''(d) EVALUATIONS AND REPORTS.—

''(1) STATE EVALUATIONS.—Each eligible State shall submit to the Secretary, at such time and in such form and manner as the Secretary may require, information regarding the State's efforts to increase payment rates and the impact increased payment rates are having on the quality of child care in the State and the access of parents to high-quality child care in the State.

''(2) REPORTS TO CONGRESS.—The Secretary shall submit biennial reports to Congress on the information described in paragraph (1). Such reports shall include data from the applications submitted under subsection (b)(2) as a baseline for determining the progress of each eligible State in maintaining increased payment rates.

''(e) INDIAN TRIBES AND TRIBAL ORGANIZATIONS.—The Secretary shall determine the manner in which and the extent to which the provisions of this section apply to Indian tribes and tribal organizations.

''(f) PAYMENT RATE.—In this section, the term 'payment rate' means the rate of reimbursement to providers for subsidized child care.''.

(e) PAYMENTS.—Section 658J(a) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858h(a)) is amended by inserting ''from funds appropriated under section 658B(a)'' after ''section 658O''.

(f) ALLOTMENT.—Section 658O of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858m) is amended—

(1) in subsection (b)(1), in the matter preceding subparagraph (A)—

(A) by striking ''section 658B'' and inserting ''section 658B(a)''; and

(B) by inserting ''and from the amounts appropriated under section 658B(b) for each fiscal year remaining after reservations under subsection (a),'' before ''the Secretary shall allot''; and

(2) in subsection (e)—

(A) in paragraph (1), by striking ''the allotment under subsection (b)'' and inserting ''an allotment made under subsection (b)''; and

(B) in paragraph (3), by inserting ''corresponding'' before ''allotment''.

SUBMITTED RESOLUTIONS

SENATE CONCURRENT RESOLUTION 24—CONCERNING A JOINT MEETING OF CONGRESS AND THE CULMINATING YEAR OF THE COMMEMORATION OF THE 50TH ANNIVERSARY OF THE KOREAN WAR

Mr. CAMPBELL submitted the following concurrent resolution; which was referred to the Committee on the Judiciary

Whereas, 50 years ago, nearly 1,800,000 Americans answered the call to defend freedom in South Korea and fought the common foe of communism with 21 allied countries under the banner of the United Nations;

Whereas the United States suffered casualties of 36,577 killed, 103,284 wounded, and 8,166 still missing in action during the Korean War in some of the most horrific conditions in the history of warfare;

Whereas 2003 marks the final year of the United States' 50th Anniversary of the Korean War Commemoration;

Whereas our Korean War veterans did not receive the proper welcome home, thanks, or recognition for selfless service and sacrifice that had been given to veterans of previous wars;

Whereas the bravery and sacrifices of our Korean War veterans and their families and next of kin should be properly honored and recognized, and the American people wish to join in thanking and honoring Korean War veterans and their families;

Whereas it is important to include the history of the Korean War in the curricula of our schools so that future generations will learn about and appreciate the sacrifices of our Korean War heroes; and

Whereas the final year of the 50th Anniversary of the Korean War Commemoration should be recognized by a national effort of programs and activities to officially thank, honor, and welcome home our Korean War veterans, and to officially thank and honor their families and next of kin: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) shall assemble in the Chamber of the House of Representatives on [____] for the purpose of declaring to the Nation and the world that the American people will never forget our veterans or those who served our Nation on the home front during the Korean War;

(2) designates 2003 as the Year of the Korean War Veteran;

(3) requests the President to issue a proclamation calling on the people of the United States to observe 2003 with appropriate ceremonies and activities to thank, honor, and welcome home our Korean War veterans; and

(4) urges the chief executives of the States, and the chief executives of the political subdivisions of the States, to issue a proclamation calling upon the citizens of such State or political subdivision to ''Pause to Remember'' our Korean War veterans and their families and next of kin with appropriate ceremonies and activities.

Mr. CAMPBELL. Mr. President, today I rise to call attention to an important milestone in our national history. Fifty-three years ago, armed forces from communist North Korea stormed across the 38th Parallel and brutally invaded South Korea. For the first time in history, a coalition of 21 nations' forces—most of them Americans—rallied under the aegis of the United Nations to join the South Korean Forces in staving off the communist challenge.

In the end, these heroes, fighting courageously under some of the most horrific conditions in the history of warfare, prevailed against the invading forces.

An Armistice ending the hostilities in Korea and forever halting the spread of international communism was signed fifty years ago on 27 July 1953.

During the Korean War approximately 1.8 million Americans fought in

places like the Naktong Bulge, the Pusan perimeter, Inchon, Kunu-ri, the ''Frozen Chosin'', Pork Chop Hill and Heartbreak Ridge.

Nearly 37,000 Americans lost their lives, over 100,000 were wounded, and more than 8,000 were taken prisoner or went missing in action. Some 50 years later, approximately 8166 Americans remain missing in action from the Korean War.

Today, as we face the challenges of a new pending war and international terrorism we look with pride and respect to our Korean War veterans for their example of absolute dedication and sacrifice to the defense of freedom. Our Korean War veterans faced formidable odds and endured harsh and inhumane conditions in furthering our Nation's proud heritage of honor and valor in the face of overwhelming adversity.

As the United States marks the fiftieth Anniversary of the signing of the Armistice that ended the hostilities in South Korea, all Americans must ''Pause to Remember'' our Korean War veterans and their families and next of kin.

We thank and honor all Korean War veterans with hearts filled with pride. Today, the Republic of Korea stands as a proud testament to the sacrifices of 1.8 million Americans. Today, South Koreans enjoy a thriving economy and taste the fruits of a marvelous democracy. During the year 2003, let all Americans thank and honor our Korean War veterans for serving Freedom and Democracy with such distinction and valor.

AMENDMENTS SUBMITTED AND PROPOSED

SA 275. Mr. ROCKEFELLER (for himself, Ms. COLLINS, Mr. NELSON of Nebraska, Mr. SMITH, Mr. SCHUMER, Mr. EDWARDS, Mrs. CLINTON, Mrs. HUTCHISON, Mr. BINGAMAN, Mr. CORZINE, Ms. MIKULSKI, Mr. KOHL, Mr. KERRY, Mr. SARBANES, Mrs. MURRAY, Ms. CANTWELL, Mr. DEWINE, and Mr. COLEMAN) proposed an amendment to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Governments for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013.

SA 276. Mr. SARBANES (for himself, Mr. JEFFORDS, Ms. MIKULSKI, and Mr. GRAHAM of Florida) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 277. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 278. Mr. BIDEN (for himself, Mr. SCHUMER, Mrs. CLINTON, Mr. KERRY, Mr. ROCKEFELLER, Mr. SARBANES, Mr. JOHNSON, Mr. LAUTENBERG, Mr. DAYTON, Mr. LIEBERMAN, Mr. LEAHY, Mrs. MURRAY, Mr. BAYH, Mr. CORZINE, Mr. BINGAMAN, Mr. PRYOR, Ms. CANTWELL, and Mr. KOHL) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 279. Mr. NICKLES (for Mr. GRAHAM of South Carolina) proposed an amendment to the concurrent resolution S. Con. Res. 23, supra.

SA 280. Mr. LUGAR submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 281. Mr. KERRY submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 282. Mr. BROWNBACK (for himself, Mr. INHOFE, Mr. SANTORUM, Mr. CORNYN, Mr. SESSIONS, Mr. THOMAS, and Mr. GRAHAM of South Carolina) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 283. Mrs. FEINSTEIN (for herself, Mr. KYL, Mr. BINGAMAN, Mr. MCCAIN, and Mr. SCHUMER) submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 284. Mrs. MURRAY (for herself, Mr. KENNEDY, Mr. HARKIN, Mr. BINGAMAN, Mr. KERRY, Ms. MIKULSKI, Mr. JOHNSON, Mr. SARBANES, Mr. EDWARDS, Mrs. CLINTON, and Mr. DODD) proposed an amendment to the concurrent resolution S. Con. Res. 23, supra.

SA 285. Mr. SCHUMER (for himself, Mr. SMITH, and Mr. BIDEN) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 286. Mr. SCHUMER submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 287. Mr. SCHUMER (for himself and Ms. SNOWE) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 288. Mr. KYL (for himself and Mr. SESSIONS) proposed an amendment to the concurrent resolution S. Con. Res. 23, supra.

SA 289. Mr. DODD (for himself, Mr. LAUTENBERG, and Ms. LANDRIEU) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 290. Mr. DODD (for himself and Mr. KERRY) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 291. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 292. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 293. Mr. HATCH submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 294. Mr. DORGAN (for himself, Mr. GRAHAM of Florida, and Ms. STABENOW) proposed an amendment to the concurrent resolution S. Con. Res. 23, supra.

SA 295. Mr. DORGAN (for himself, Mr. KERRY, and Ms. LANDRIEU) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 296. Mr. ROCKEFELLER submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

SA 297. Mr. DURBIN submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 275. Mr. ROCKEFELLER (for himself, Ms. COLLINS, Mr. NELSON of Nebraska, Mr. SMITH, Mr. SCHUMER, Mr. EDWARDS, Mrs. CLINTON, Mrs. HUTCHISON, Mr. BINGAMAN, Mr. CORZINE, Ms. MIKULSKI, Mr. KOHL, Mr. KERRY, Mr. SARBANES, Mrs. MURRAY, Ms. CANTWELL, Mr. DEWINE, and Mr. COLEMAN) proposed an amendment to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Governments for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 adn for fiscal years 2005 through 2013; as follows:

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE CONCERNING STATE FISCAL RELIEF.

(a) FINDINGS.—The Senate makes the following findings:

(1) States are experiencing the most severe fiscal crisis since World War II.

(2) States are instituting severe cuts to a variety of vital programs such as health care, child care, education, and other essential services.

(3) According to the Kaiser Commission on Medicaid and the Uninsured, 49 States already have taken actions or plan to cut medicaid before or during the current fiscal year 2003. Medicaid budget proposals in many States would eliminate or curtail health benefits for eligible families and substantially reduce or freeze provider reimbursement rates.

(4) In 2002, at least 13 States reported decreased State investments in their child care assistance programs.

(5) According to a forthcoming analysis of 22 States, at least 1,700,000 people are now at risk of losing their health care coverage under cuts that have already been implemented or proposed.

(6) Fiscal relief would help avoid adding even more Americans to the ranks of the uninsured while preserving the safety net when it is most needed during an economic downturn.

(7) Curtailing the States' need to cut spending and increase taxes is essential for true economic growth.

(b) SENSE OF THE SENATE.—It is the Sense of the Senate that the functional totals in this resolution assume that any legislation enacted to provide economic growth for the United States should include not less than $30,000,000,000 for State fiscal relief over the next 18 months (of which at least half should be provided through a temporary increase in the Federal medical assistance percentage (FMAP)).

SA 276. Mr. SARBANES (for himself, Mr. JEFFORDS, Ms. MIKULSKI, and Mr. GRAHAM of Florida) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 3 line 10, increase the amount by $150,000,000.

On page 3 line 11, increase the amount by $451,000,000.

On page 3 line 12, increase the amount by $903,000,000.

On page 3 line 13, increase the amount by $903,000,000.

On page 3 line 14, increase the amount by $451,000,000.

On page 4 line 1, increase the amount by $150,000,000.
On page 4 line 2, increase the amount by $451,000,000.
On page 4 line 3, increase the amount by $903,000,000.
On page 4 line 4, increase the amount by $903,000,000.
On page 4 line 5, increase the amount by $451,000,000.
On page 4 line 15, increase the amount by $3,009,000,000.
On page 5 line 5, increase the amount by $150,000,000.
On page 5 line 6, increase the amount by $451,000,000.
On page 5 line 7, increase the amount by $903,000,000.
On page 5 line 8, increase the amount by $903,000,000.
On page 5 line 9, increase the amount by $451,000,000.
On page 16 line 11, increase the amount by $3,009,000,000.
On page 16 line 12, increase the amount by $150,000,000.
On page 16 line 16, increase the amount by $451,000,000.
On page 16 line 20, increase the amount by $903,000,000.
On page 16 line 24, increase the amount by $903,000,000.
On page 17 line 3, increase the amount by $451,000,000.
On page 45 line 24, decrease the amount by $2,858,000,000.
On page 47 line 5, increase the amount by $3,009,000,000.
On page 47 line 6, increase the amount by $159,000,000.
On page 47 line 15, increase the amount by $451,000,000.

SA 277. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Governments for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 3 line 10, increase the amount by $13,102,000,000.
On page 3 line 11, increase the amount by $8,650,000,000.
On page 3 line 12, increase the amount by $5,950,000,000.
On page 3 line 13, increase the amount by $2,702,000,000.
On page 3 line 14, increase the amount by $912,000,000.
On page 4 line 1, increase the amount by $13,102,000,000.
On page 4 line 2, increase the amount by $8,650,000,000.
On page 4 line 3, increase the amount by $5,950,000,000.
On page 4 line 4, increase the amount by $2,702,000,000.
On page 4 line 5, increase the amount by $912,000,000.
On page 4 line 15, increase the amount by $15,581,000,000.
On page 4 line 16, increase the amount by $409,000,000.
On page 4 line 17, decrease the amount by $654,000,000.
On page 4 line 18, decrease the amount by $825,000,000.
On page 4 line 19, decrease the amount by $920,000,000.
On page 4 line 20, decrease the amount by $988,000,000.
On page 4 line 21, decrease the amount by $1,048,000,000.
On page 4 line 22, decrease the amount by $1,106,000,000.
On page 4 line 23, decrease the amount by $1,166,000,000.
On page 4 line 24, decrease the amount by $1,228,000,000.
On page 5 line 5, increase the amount by $6,432,000,000.
On page 5 line 6, increase the amount by $3,916,000,000.
On page 5 line 7, increase the amount by $2,231,000,000.
On page 5 line 8, increase the amount by $526,000,000.
On page 5 line 9, decrease the amount by $464,000,000.
On page 5 line 10, decrease the amount by $988,000,000.
On page 5 line 11, decrease the amount by $1,048,000,000.
On page 5 line 12, decrease the amount by $1,106,000,000.
On page 5 line 13, decrease the amount by $1,166,000,000.
On page 5 line 14, decrease the amount by $1,228,000,000.
On page 5 line 18, increase the amount by $6,670,000,000.
On page 5 line 19, increase the amount by $4,734,000,000.
On page 5 line 20, increase the amount by $3,629,000,000.
On page 5 line 21, increase the amount by $2,176,000,000.
On page 5 line 22, increase the amount by $1,376,000,000.
On page 5 line 23, increase the amount by $988,000,000.
On page 5 line 24, increase the amount by $1,048,000,000.
On page 5 line 25, increase the amount by $1,106,000,000.
On page 6 line 1, increase the amount by $1,166,000,000.
On page 6 line 2, increase the amount by $1,228,000,000.
On page 6 line 6, decrease the amount by $6,670,000,000.
On page 6 line 7, decrease the amount by $11,404,000,000.
On page 6 line 8, decrease the amount by $15,032,000,000.
On page 6 line 8, decrease the amount by $17,208,000,000.
On page 6 line 10, decrease the amount by $18,584,000,000.
On page 6 line 11, decrease the amount by $19,573,000,000.
On page 6 line 12, decrease the amount by $20,620,000,000.
On page 6 line 13, decrease the amount by $21,726,000,000.
On page 6 line 14, decrease the amount by $22,892,000,000.
On page 6 line 15, decrease the amount by $24,120,000,000.
On page 6 line 19, decrease the amount by $6,670,000,000.
On page 6 line 20, decrease the amount by $11,404,000,000.
On page 6 line 21, decrease the amount by $15,032,000,000.
On page 6 line 22, decrease the amount by $17,208,000,000.
On page 6 line 23, decrease the amount by $18,584,000,000.
On page 6 line 24, decrease the amount by $19,573,000,000.
On page 6 line 25, decrease the amount by $20,620,000,000.
On page 7 line 1, decrease the amount by $21,726,000,000.
On page 7 line 2, decrease the amount by $22,892,000,000.
On page 7 line 3, decrease the amount by $24,120,000,000.
On page 21 line 23, increase the amount by $3,700,000.
On page 21 line 24, increase the amount by $1,316,000,000.
On page 22 line 3, increase the amount by $1,035,000,000.
On page 22 line 7, increase the amount by $775,000,000.
On page 22 line 11, increase the amount by $451,000,000.
On page 22 line 15, increase the amount by $81,000,000.
On page 23 line 19, increase the amount by $8,000,000,000.
On page 23 line 20, increase the amount by $3,775,000,000.
On page 23 line 24, increase the amount by $1,950,000,000.
On page 24 line 3, increase the amount by $750,000,000.
On page 24 line 7, increase the amount by $375,000,000.
On page 27 line 11, increase the amount by $3,000,000,000.
On page 27 line 12, increase the amount by $660,000,000.
On page 27 line 16, increase the amount by $1,140,000,000.
On page 27 line 20, increase the amount by $1,050,000,000.
On page 27 line 24, increase the amount by $150,000,000.
On page 36 line 15, increase the amount by $1,000,000,000.
On page 36 line 16, increase the amount by $800,000,000.
On page 36 line 20, increase the amount by $200,000,000.
On page 40 line 6, decrease the amount by $119,000,000.
On page 40 line 7, decrease the amount by $119,000,000.
On page 40 line 10, decrease the amount by $409,000,000.
On page 40 line 11, decrease the amount by $409,000,000.
On page 40 line 14, decrease the amount by $654,000,000.
On page 40 line 15, decrease the amount by $654,000,000.
On page 40 line 18, decrease the amount by $825,000,000.
On page 40 line 19, decrease the amount by $825,000,000.
On page 40 line 22, decrease the amount by $920,000,000.
On page 40 line 23, decrease the amount by $920,000,000.
On page 41 line 2, decrease the amount by $988,000,000.
On page 41 line 3, decrease the amount by $988,000,000.
On page 41 line 6, decrease the amount by $1,048,000,000.
On page 41 line 7, decrease the amount by $1,048,000,000.
On page 41 line 10, decrease the amount by $1,106,000,000.
On page 41 line 11, decrease the amount by $1,106,000,000.
On page 41 line 14, decrease the amount by $1,166,000,000.
On page 41 line 15, decrease the amount by $1,166,000,000.
On page 41 line 18, decrease the amount by $1,228,000,000.
On page 41 line 19, decrease the amount by $1,228,000,000.
On page 45 line 24, decrease the amount by $31,316,000,000.
On page 47 line 5, increase the amount by $15,700,000,000.
On page 47 line 6, increase the amount by $6,551,000,000.
On page 47 line 15, increase the amount by $4,325,000,000.

SA 278. Mr. BIDEN (for himself, Mr. SCHUMER, Mrs. CLINTON, Mr. KERRY, Mr. ROCKEFELLER, Mr. SARBANES, Mr.

JOHNSON, Mr. LAUTENBERG, Mr. DAYTON, Mr. LIEBERMAN, Mr. LEAHY, Mrs. MURRAY, Mr. BAYH, Mr. CORZINE, Mr. BINGAMAN, Mr. PRYOR, Ms. CANTWELL, and Mr. KOHL) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Governments for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 3, line 10, increase the amount by $240,000,000.

On page 3, line 11, increase the amount by $500,000,000.

On page 3, line 12, increase the amount by $500,000,000.

On page 3, line 13, increase the amount by $700,000,000.

On page 4, line 1, increase the amount by $240,000,000.

On page 4, line 2, increase the amount by $560,000,000.

On page 4, line 3, increase the amount by $500,000,000.

On page 4, line 4, increase the amount by $700,000,000.

On page 4, line 15, increase the amount by $988,000,000.

On page 4, line 16, decrease the amount by $13,000,000.

On page 4, line 17, decrease the amount by $28,000,000.

On page 4, line 18, decrease the amount by $46,000,000.

On page 4, line 19, decrease the amount by $46,000,000.

On page 4, line 20, decrease the amount by $36,000,000.

On page 4, line 21, decrease the amount by $38,000,000.

On page 4, line 22, decrease the amount by $41,000,000.

On page 4, line 23, decrease the amount by $43,000,000.

On page 4, line 24, decrease the amount by $45,000,000.

On page 5, line 5, increase the amount by $118,000,000.

On page 5, line 6, increase the amount by $267,000,000.

On page 5, line 7, increase the amount by $222,000,000.

On page 5, line 8, increase the amount by $304,000,000.

On page 5, line 9, increase the amount by $410,000,000.

On page 5, line 10, decrease the amount by $36,000,000.

On page 5, line 11, decrease the amount by $38,000,000.

On page 5, line 12, decrease the amount by $41,000,000.

On page 5, line 13, decrease the amount by $43,000,000.

On page 5, line 14, decrease the amount by $45,000,000.

On page 5, line 18, increase the amount by $122,000,000.

On page 5, line 19, increase the amount by $293,000,000.

On page 5, line 20, increase the amount by $278,000,000.

On page 5, line 21, increase the amount by $396,000,000.

On page 5, line 22, increase the amount by $410,000,000.

On page 5, line 23, increase the amount by $36,000,000.

On page 5, line 24, increase the amount by $38,000,000.

On page 5, line 25, increase the amount by $41,000,000.

On page 6, line 1, increase the amount by $43,000,000.

On page 6, line 2, increase the amount by $45,000,000.

On page 6, line 6, decrease the amount by $122,000,000.

On page 6, line 7, decrease the amount by $415,000,000.

On page 6, line 8, decrease the amount by $693,000,000.

On page 6, line 8, decrease the amount by $1,089,000,000.

On page 6, line 10, decrease the amount by $679,000,000.

On page 6, line 11, decrease the amount by $716,000,000.

On page 6, line 12, decrease the amount by $754,000,000.

On page 6, line 13, decrease the amount by $795,000,000.

On page 6, line 14, decrease the amount by $838,000,000.

On page 6, line 15, decrease the amount by $883,000,000.

On page 6, line 19, decrease the amount by $122,000,000.

On page 6, line 20, decrease the amount by $415,000,000.

On page 6, line 21, decrease the amount by $693,000,000.

On page 6, line 22, decrease the amount by $1,089,000,000.

On page 6, line 23, decrease the amount by $679,000,000.

On page 6, line 24, decrease the amount by $716,000,000.

On page 6, line 25, decrease the amount by $754,000,000.

On page 7, line 1, decrease the amount by $795,000,000.

On page 7, line 2, decrease the amount by $838,000,000.

On page 7, line 3, decrease the amount by $883,000,000.

On page 36, line 15, increase the amount by $1,000,000,000.

On page 36, line 16, increase the amount by $120,000,000.

On page 36, line 20, increase the amount by $280,000,000.

On page 36, line 24, increase the amount by $250,000,000.

On page 37, line 3, increase the amount by $350,000,000.

On page 40, line 6, decrease the amount by $2,000,000.

On page 40, line 7, decrease the amount by $2,000,000.

On page 40, line 10, decrease the amount by $13,000,000.

On page 40, line 11, decrease the amount by $13,000,000.

On page 40, line 14, decrease the amount by $28,000,000.

On page 40, line 15, decrease the amount by $28,000,000.

On page 40, line 18, decrease the amount by $46,000,000.

On page 40, line 19, decrease the amount by $46,000,000.

On page 40, line 22, decrease the amount by $46,000,000.

On page 40, line 23, decrease the amount by $46,000,000.

On page 41, line 2, decrease the amount by $36,000,000.

On page 41, line 3, decrease the amount by $36,000,000.

On page 41, line 6, decrease the amount by $38,000,000.

On page 41, line 7, decrease the amount by $38,000,000.

On page 41, line 10, decrease the amount by $41,000,000.

On page 41, line 11, decrease the amount by $41,000,000.

On page 41, line 14, decrease the amount by $43,000,000.

On page 41, line 15, decrease the amount by $43,000,000.

On page 41, line 18, decrease the amount by $45,000,000.

On page 41, line 19, decrease the amount by $45,000,000.

On page 45, line 24, decrease the amount by $2,000,000,000.

On page 47, line 5, increase the amount by $1,000,000,000.

On page 47, line 6, increase the amount by $120,000,000.

On page 47, line 15, increase the amount by $280,000,000.

On page 79, after line 22, add the following:

SEC. 308. FUNDING FOR DEPARTMENT OF JUSTICE COMMUNITY ORIENTED POLICING SERVICES PROGRAMS.

(a) FINDINGS.—The Senate finds that—

(1) State and local law enforcement officers provide essential services that preserve and protect our freedom and safety;

(2) with the support of the Community Oriented Policing Services program (referred to in this section as the ''COPS program''), State and local law enforcement officers have succeeded in dramatically reducing violent crime;

(3) the COPS program is the only program in the Federal government that provides homeland security resources directly to law enforcement first responders;

(4) on July 15, 2002, the Attorney General stated, ''Since law enforcement agencies began partnering with citizens through community policing, we've seen significant drops in crime rates. COPS provides resources that reflect our national priority of terrorism prevention.'';

(5) On February 26, 2002, the Attorney General stated, ''The COPS program has been a miraculous sort of success. It's one of those things that Congress hopes will happen when it sets up a program.'';

(6) the Federal Bureau of Investigation's Assistant Director for the Office of Law Enforcement Coordination has stated, ''The FBI fully understands that our success in the fight against terrorism is directly related to the strength of our relationship with our State and local partners.'';

(7) as a result of the COPS program, State and local law enforcement agencies have received funds for more than 117,000 officers, 87,300 of whom are on the beat, fighting crime, and improving the quality of life in our neighborhoods and schools;

(8) the COPS program has assisted in advancing community policing nationwide;

(9) 86 percent of the Nation is served by a law enforcement agency that has full-time officers engaged in community policing activities;

(10) the continuation and full funding of the COPS program through fiscal year 2009 is supported by several major law enforcement organizations, including—

(A) the International Association of Chiefs of Police;

(B) the International Brotherhood of Police Officers;

(C) the Fraternal Order of Police;

(D) the National Sheriffs' Association;

(E) the National Troopers Coalition;

(F) the Federal Law Enforcement Officers Association;

(G) the National Association of Police Organizations;

(H) the National Organization of Black Law Enforcement Executives;

(I) the Police Executive Research Forum; and

(J) the Major Cities Chiefs;

(11) several studies have concluded that the implementation of community policing as a law enforcement strategy is an important factor in the reduction of crime in our communities;

(12) Congress appropriated $1,050,000,000 for the COPS program for fiscal year 2002 and $928,900,000 for fiscal 2003; and

(13) the President requested $164,000,000 for the COPS program for fiscal year 2004, $886,000,000 less than the amount appropriated for fiscal year 2002.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the levels in this resolution assume that an increase of $1,000,000,000 for fiscal year 2004 for the Department of Justice's community oriented policing program will be provided without reduction and consistent with previous appropriated and authorized levels.

SA 279. Mr. NICKLES (for Mr. GRAHAM of South Carolina) proposed an amendment to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Governments for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; as follows:

On page 79, after line 22, add the following:

SEC. 308. SOCIAL SECURITY RESTRUCTURING.

(a) FINDINGS.—The Senate finds that—

(1) Social Security is the foundation of retirement income for most Americans;

(2) preserving and strengthening the long term viability of Social Security is a vital national priority and is essential for the retirement security of today's working Americans, current and future retirees, and their families;

(3) Social Security faces significant fiscal and demographic pressures;

(4) the nonpartisan Office of the Chief Actuary at the Social Security Administration reports that—

(A) the number of workers paying taxes to support each Social Security beneficiary has dropped from 16.5 in 1950 to 3.3 in 2002;

(B) within a generation there will be only 2 workers to support each retiree, which will substantially increase the financial burden on American workers;

(C) the implementation of a Social Security ''lockbox'' would have no direct effect on the future solvency of Social Security;

(D) without structural reform, the Social Security system, beginning in 2018, will pay out more in benefits than it will collect in taxes;

(E) without structural reform, the Social Security system, by 2042, will be insolvent and unable to pay full benefits on time;

(F) without structural reform, Social Security tax revenue in 2042 will only cover 73 percent of promised benefits, and will decrease to 65 percent by 2077;

(G) without structural reform, payroll taxes will have to be raised 50 percent over the next 75 years to pay full benefits on time, resulting in payroll tax rates of 16.9 percent by 2042 and 18.9 percent by 2077;

(H) without structural reform, Social Security's total cash shortfall over the next 75 years is estimated to be more than $25,000,000,000,000 in constant 2003 dollars;

(I) without structural reform, real rates of return on Social Security contributions will continue to decline dramatically for all workers; and

(J) absent structural reforms, spending on Social Security will increase from 4.4 percent of gross domestic product in 2003 to 7.0 percent in 2077; and

(5) the Congressional Budget Office, the General Accounting Office, the Congressional Research Service, the Chairman of the Federal Reserve Board, and the President's Commission to Strengthen Social Security have all warned that failure to enact fiscally responsible Social Security reform quickly will result in 1 or more of the following:

(A) Higher tax rates.

(B) Lower Social Security benefit levels.

(C) Increased Federal debt.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the President and Congress should work together at the earliest opportunity to enact legislation to achieve a solvent and permanently sustainable Social Security system.

SA 280. Mr. LUGAR submitted an amendment intended to be proposed by him to the concurrent resolutions S. Con. Res. 23, setting forth the congressional budget for the United States Governments for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 10, line 23, increase the amount by $1,115,000,000.

On page 10, line 24, increase the amount by $675,000,000.

On page 11, line 2, increase the amount by $834,000,000.

On page 11, line 3, increase the amount by $830,000,000.

On page 11, line 6, increase the amount by $560,000,000.

On page 11, line 7, increase the amount by $641,000,000.

On page 11, line 10, increase the amount by $294,000,000.

On page 11, line 11, increase the amount by $392,000,000.

On page 11, line 14, increase the amount by $28,000,000.

On page 11, line 15, increase the amount by $130,000,000.

On page 11, line 18, decrease the amount by $242,000,000.

On page 11, line 19, decrease the amount by $130,000,000.

On page 11, line 22, decrease the amount by $505,000,000.

On page 11, line 23, decrease the amount by $397,000,000.

On page 12, line 2, decrease the amount by $767,000,000.

On page 12, line 3, decrease the amount by $656,000,000.

On page 12, line 6, decrease the amount by $1,034,000,000.

On page 12, line 7, decrease the amount by $924,000,000.

On page 12, line 10, decrease the amount by $1,298,000,000.

On page 12, line 11, decrease the amount by $1,188,000,000.

On page 42, line 2, decrease the amount by $1,115,000,000.

On page 42, line 3, decrease the amount by $657,000,000.

On page 42, line 6, decrease the amount by $834,000,000.

On page 42, line 7, decrease the amount by $830,000,000.

On page 42, line 10, decrease the amount by $560,000,000.

On page 42, line 11, decrease the amount by $641,000,000.

On page 42, line 14, decrease the amount by $294,000,000.

On page 42, line 15, decrease the amount by $392,000,000.

On page 42, line 18, decrease the amount by $28,000,000.

On page 42, line 19, decrease the amount by $130,000,000.

On page 42, line 22, increase the amount by $242,000,000.

On page 42, line 23, increase the amount by $130,000,000.

On page 43, line 2, increase the amount by $505,000,000.

On page 43, line 3, increase the amount by $397,000,000.

On page 43, line 6, increase the amount by $767,000,000.

On page 43, line 7, increase the amount by $656,000,000.

On page 43, line 10, increase the amount by $1,034,000,000.

On page 43, line 11, increase the amount by $924,000,000.

On page 43, line 14, increase the amount by $924,000,000.

On page 43, line 15, increase the amount by $1,188,000,000.

SA 281. Mr. KERRY submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Governments for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

Federal Revenues:

On page 3, line 10, increase the amount by $376,000,000.

On page 3, line 11, increase the amount by $808,000,000.

On page 3, line 12, increase the amount by $230,000,000.

On page 3, line 13, increase the amount by $102,000,000.

On page 3, line 14, increase the amount by $48,000,000.

On page 3, line 15, increase the amount by $15,000,000.

On page 3, line 16, increase the amount by $7,000,000.

On page 3, line 17, increase the amount by $3,000,000.

On page 3, line 18, increase the amount by $2,000,000.

On page 3, line 19, increase the amount by $1,000,000.

Change in Revenue:

On page 4, line 1, increase the amount by $376,000,000.

On page 4, line 2, increase the amount by $808,000,000.

On page 4, line 3, increase the amount by $230,000,000.

On page 4, line 4, increase the amount by $102,000,000.

On page 4, line 5, increase the amount by $48,000,000.

On page 4, line 6, increase the amount by $15,000,000.

On page 4, line 7, increase the amount by $7,000,000.

On page 4, line 8, increase the amount by $3,000,000.

On page 4, line 9, increase the amount by $2,000,000.

On page 4, line 10, increase the amount by $1,000,000.

New Budget Authority

On page 4, line 15, decrease the amount by $797,000,000.

On page 4, line 16, decrease the amount by $19,000,000.

On page 4, line 17, decrease the amount by $35,000,000.

On page 4, line 18, decrease the amount by $42,000,000.

On page 4, line 19, decrease the amount by $46,000,000.

On page 4, line 20, decrease the amount by $50,000,000.

On page 4, line 21, decrease the amount by $53,000,000.

On page 4, line 22, decrease the amount by $56,000,000.

On page 4, line 23, decrease the amount by $59,000,000.
On page 4, line 24, decrease the amount by $62,000,000.
Budget Outlays
On page 5, line 5, increase the amount by $185,000,000.
On page 5, line 6, increase the amount by $385,000,000.
On page 5, line 7, increase the amount by $80,000,000.
On page 5, line 8, increase the amount by $9,000,000.
On page 5, line 9, decrease the amount by $22,000,000.
On page 5, line 10, decrease the amount by $42,000,000.
On page 5, line 11, decrease the amount by $49,000,000.
On page 5, line 12, decrease the amount by $54,000,000.
On page 5, line 13, decrease the amount by $58,000,000.
On page 5, line 14, decrease the amount by $62,000,000.
On page 5, line 18, increase the amount by $191,000,000.
On page 5, line 19, increase the amount by $423,000,000.
On page 5, line 20, increase the amount by $149,000,000.
On page 5, line 21, increase the amount by $92,000,000.
On page 5, line 22, increase the amount by $70,000,000.
On page 5, line 23, increase the amount by $57,000,000.
On page 5, line 24, increase the amount by $57,000,000.
On page 5, line 25, increase the amount by $58,000,000.
On page 6, line 1, increase the amount by $60,000,000.
On page 6, line 2, increase the amount by $63,000,000.
On page 6, line 6, decrease the amount by $191,000,000.
On page 6, line 7, decrease the amount by $614,000,000.
On page 6, line 8, decrease the amount by $764,000,000.
On page 6, line 9, decrease the amount by $856,000,000.
On page 6, line 10, decrease the amount by $927,000,000.
On page 6, line 11, decrease the amount by $984,000,000.
On page 6, line 12, decrease the amount by $1,040,000,000.
On page 6, line 13, decrease the amount by $1,098,000,000.
On page 6, line 14, decrease the amount by $1,158,000,000.
On page 6, line 15, increase the amount by $1,221,000,000.
Debt Held By Public
On page 6, line 19, increase the amount by $191,000,000.
On page 6, line 20, increase the amount by $614,000,000.
On page 6, line 21, increase the amount by $764,000,000.
On page 6, line 22, increase the amount by $856,000,000.
On page 6, line 23, increase the amount by $927,000,000.
On page 6, line 24, increase the amount by $984,000,000.
On page 6, line 25, increase the amount by $1,040,000,000.
On page 7, line 1, increase the amount by $1,098,000,000.
On page 7, line 2, increase the amount by $1,158,000,000.
On page 7, line 3, increase the amount by $1,221,000,000.
Function BA and OL–150: Int'l Affairs
On page 10, line 23, decrease the amount by $400,000,000.
On page 10, line 24, decrease the amount by $40,000,000.
On page 11, line 3, decrease the amount by $220,000,000.
On page 11, line 7, decrease the amount by $75,000,000.
On page 11, line 11, decrease the amount by $35,000,000.
On page 11, line 15, decrease the amount by $16,000,000.
On page 11, line 19, decrease the amount by $8,000,000.
On page 11, line 23, decrease the amount by $4,000,000.
On page 12, line 3, decrease the amount by $2,000,000.
On page 12, line 7, decrease the amount by $1,000,000.
550: Health
On page 27, line 11, decrease the amount by $400,000,000.
On page 27, line 12, decrease the amount by $148,000,000.
On page 27, line 16, decrease the amount by $184,000,000.
On page 27, line 20, increase the amount by $40,000,000.
On page 27, line 24, increase the amount by $16,000,000.
On page 28, line 3, increase the amount by $8,000,000.
On page 40, line 6, decrease the amount by $3,000,000.
On page 40, line 7, decrease the amount by $3,000,000.
On page 40, line 10, decrease the amount by $19,000,000.
On page 40, line 11, decrease the amount by $19,000,000.
On page 40, line 14, decrease the amount by $35,000,000.
On page 40, line 15, decrease the amount by $35,000,000.
On page 40, line 18, decrease the amount by $42,000,000.
On page 40, line 19, decrease the amount by $42,000,000.
On page 40, line 22, decrease the amount by $46,000,000.
On page 40, line 23, decrease the amount by $46,000,000.
On page 41, line 2, decrease the amount by $50,000,000.
On page 41, line 3, decrease the amount by $50,000,000.
On page 41, line 6, decrease the amount by $53,000,000.
On page 41, line 7, decrease the amount by $53,000,000.
On page 41, line 10, decrease the amount by $56,000,000.
On page 41, line 11, decrease the amount by $56,000,000.
On page 41, line 14, decrease the amount by $59,000,000.
On page 41, line 15, decrease the amount by $59,000,000.
On page 41, line 18, decrease the amount by $62,000,000.
On page 41, line 19, decrease the amount by $62,000,000.
On page 47, line 5, increase the amount by $800,000,000.
On page 47, line 6, increase the amount by $188,000,000.
On page 47, line 15, increase the amount by $404,000,000.

SA 282. Mr. BROWNBACK (for himself, Mr. INHOFE, Mr. SANTORUM, Mr. CORNYN, Mr. SESSIONS, Mr. THOMAS, and Mr. GRAHAM of South Carolina) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Governments for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 79, after line 22, add the following:

SEC. 308. FEDERAL AGENCY REVIEW COMMISSION.

It is the sense of the Senate that a commission should be established to review Federal domestic agencies, and programs within such agencies, with the express purpose of providing Congress with recommendations, and legislation to implement those recommendations, to realign or eliminate government agencies and programs that are duplicative, wasteful, inefficient, outdated, or irrelevant, or have failed to accomplish their intended purpose.

SA 283. Mrs. FEINSTEIN (for herself, Mr. KYL, Mr. BINGAMAN, Mr. MCCAIN, and Mr. SCHUMER) submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Governments for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 79, after line 22, insert the following:

SEC. ___. SENSE OF THE SENATE ON THE STATE CRIMINAL ALIEN ASSISTANCE PROGRAM.

(a) FINDINGS.—The Senate finds the following:

(1) The control of illegal immigration is a Federal responsibility.

(2) In fiscal year 2002, however, State and local governments spent more than $13,000,000,000 in costs associated with the incarceration of undocumented criminal aliens.

(3) The Federal Government provided $565,000,000 in appropriated funding to the State Criminal Alien Assistance Program (SCAAP) to reimburse State and local governments for these costs.

(4) In fiscal year 2003, the fiscal burden of incarcerating undocumented criminal aliens is likely to grow, however, Congress provided only $250,000,000 to help cover these costs.

(5) The 56 percent cut in fiscal year 2003 funding for SCAAP will place an enormous burden on State and local law enforcement agencies during a time of heightened efforts to secure our homeland.

(6) The Administration did not include funding for SCAAP in its fiscal year 2004 budget.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the functional totals underlying this resolution on the budget assumes that the State Criminal Alien Assistance Program be funded at $585,000,000 to reimburse State and local law enforcement agencies for the burdens imposed in fiscal year 2003 by the incarceration of undocumented criminal aliens; and

(2) Congress enact a long-term reauthorization of the State Criminal Alien Assistance Program beginning with the authorization of $750,000,000 in fiscal year 2004 to reimburse State and county governments for the burdens undocumented criminal aliens have placed on the local criminal justice system.

SA 284. Mrs. MURRAY (for herself, Mr. KENNEDY, Mr. HARKIN, Mr. BINGAMAN, Mr. KERRY, Ms. MIKULSKI, Mr. JOHNSON, Mr. SARBANES, Mr. EDWARDS,

Mrs. CLINTON, and Mr. DODD) proposed an amendment to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Governments for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; as follows:

On page 3, line 10, increase the amount by $1,018,000,000.
On page 3, line 11, increase the amount by $10,794,000,000.
On page 3, line 12, increase the amount by $2,410,000,000.
On page 3, line 13, increase the amount by $442,000,000.
On page 4, line 1, increase the amount by $1,018,000,000.
On page 4, line 2, increase the amount by $10,794,000,000.
On page 4, line 3, increase the amount by $2,410,000,000.
On page 4, line 4, increase the amount by $442,000,000.
On page 4, line 15, increase the amount by $8,893,000,000.
On page 4, line 16, decrease the amount by $128,000,000.
On page 4, line 7, decrease the amount by $276,000,000.
On page 4, line 18, decrease the amount by $324,000,000.
On page 4, line 19, decrease the amount by $348,000,000.
On page 4, line 20, decrease the amount by $367,000,000.
On page 4, line 21, decrease the amount by $388,000,000.
On page 4, line 22, decrease the amount by $410,000,000.
On page 4, line 23, decrease the amount by $432,000,000.
On page 4, line 24, decrease the amount by $456,000,000.
On page 5, line 5, increase the amount by $611,000,000.
On page 5, line 6, increase the amount by $6,423,000,000.
On page 5, line 7, increase the amount by $1,187,000,000.
On page 5, line 8, decrease the amount by $56,000,000.
On page 5, line 9, decrease the amount by $348,000,000.
On page 5, line 10, decrease the amount by $367,000,000.
On page 5, line 11, decrease the amount by $388,000,000.
On page 5, line 12, decrease the amount by $410,000,000.
On page 5, line 13, decrease the amount by $432,000,000.
On page 5, line 14, decrease the amount by $456,000,000.
On page 5, line 18, increase the amount by $407,000,000.
On page 5, line 19, increase the amount by $4,471,000,000.
On page 5, line 20, increase the amount by $1,223,000,000.
On page 5, line 21, increase the amount by $497,000,000.
On page 5, line 22, increase the amount by $348,000,000.
On page 5, line 23, increase the amount by $367,000,000.
On page 5, line 24, increase the amount by $388,000,000.
On page 5, line 25, increase the amount by $410,000,000.
On page 6, line 1, increase the amount by $432,000,000.
On page 6, line 2, increase the amount by $456,000,000.
On page 6, line 6, decrease the amount by $407,000,000.
On page 6, line 7, decrease the amount by $4,779,000,000.
On page 6, line 8, decrease the amount by $6,002,000,000.
On page 6, line 9, decrease the amount by $6,499,000,000.
On page 6, line 10, decrease the amount by $6,847,000,000.
On page 6, line 11, decrease the amount by $7,215,000,000.
On page 6, line 12, decrease the amount by $7,603,000,000.
On page 6, line 13, decrease the amount by $8,013,000,000.
On page 6, line 14, decrease the amount by $8,446,000,000.
On page 6, line 15, decrease the amount by $8,901,000,000.
On page 6, line 19, decrease the amount by $407,000,000.
On page 6, line 20, decrease the amount by $4,779,000,000.
On page 6, line 21, decrease the amount by $6,002,000,000.
On page 6, line 22, decrease the amount by $6,499,000,000.
On page 6, line 23, decrease the amount by $6,847,000,000.
On page 6, line 24, decrease the amount by $7,215,000,000.
On page 6, line 25, decrease the amount by $7,603,000,000.
On page 7, line 1, decrease the amount by $8,013,000,000.
On page 7, line 2, decrease the amount by $8,446,000,000.
On page 7, line 3, decrease the amount by $8,901,000,000.
On page 25, line 16, increase the amount by $8,900,000,000.
On page 25, line 17, increase the amount by $618,000,000.
On page 25, line 21, increase the amount by $6,551,000,000.
On page 25, line 25, increase the amount by $1,463,000,000.
On page 25, line 4, increase the amount by $268,000,000.
On page 40, line 6, decrease the amount by $7,000,000.
On page 40, line 7, decrease the amount by $7,000,000.
On page 40, line 10, decrease the amount by $128,000,000.
On page 40, line 11, decrease the amount by $128,000,000.
On page 40, line 14, decrease the amount by $276,000,000.
On page 40, line 15, decrease the amount by $276,000,000.
On page 40, line 18, decrease the amount by $324,000,000.
On page 40, line 19, decrease the amount by $324,000,000.
On page 40, line 22, decrease the amount by $348,000,000.
On page 40, line 23, decrease the amount by $348,000,000.
On page 41, line 2, decrease the amount by $367,000,000.
On page 41, line 3, decrease the amount by $367,000,000.
On page 41, line 6, decrease the amount by $388,000,000.
On page 41, line 7, decrease the amount by $388,000,000.
On page 41, line 10, decrease the amount by $410,000,000.
On page 41, line 11, decrease the amount by $410,000,000.
On page 41, line 14, decrease the amount by $432,000,000.
On page 41, line 15, decrease the amount by $432,000,000.
On page 41, line 18, decrease the amount by $456,000,000.
On page 41, line 19, decrease the amount by $456,000,000.
On page 47, line 5, increase the amount by $8,900,000,000.
On page 47, line 6, increase the amount by $618,000,000.
On page 47, line 15, increase the amount by $6,551,000,000.

SA 285. Mr. SCHUMER (for himself, Mr. SMITH, and Mr. BIDEN) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Governments for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 79, after line 22, add the following:

SEC. ___. SENSE OF THE SENATE.

(a) FINDINGS.—The Senate finds that—

(1) in our increasingly competitive global economy, the attainment of higher education is critical to the economic success of an individual, as evidenced by the fact that, in 1975, college graduates earned an average of 57 percent more than individuals who were only high school graduates, as compared to the fact that, in 2001, college graduates earned an average of 84 percent more than high school graduates;

(2) over the past 20 years, the average cost of college tuition has increased by over 250 percent and is increasing—

(A) at a faster rate than any consumer item, including health care; and

(B) at a rate that is more than twice as fast as the rate of inflation;

(3) despite increases in grant amounts contained in legislation recently enacted by Congress, the value of the maximum Pell Grant has declined 15 percent since 1975 in inflation-adjusted terms, forcing more students to rely on student loans to finance the cost of a higher education;

(4) from fiscal years 1990 to 2000, the demand for student loans rose by 41 percent and the average student loan amount increased by 48.2 percent; and

(5) according to the Department of Education, there is approximately $150,000,000,000 in outstanding student loan debt and students borrowed more during the decade beginning in 1990 than during all of the decades beginning in 1960, 1970, and 1980.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that economic stimulus legislation enacted pursuant to the instructions contained in this concurrent resolution on the budget should include provisions to make higher education affordable, including—

(1) a provision to make permanent the above-the-line deduction for the higher education expenses of a taxpayer and members of the taxpayer's family and to increase such deduction to $8,000 for taxable year 2003 and $12,000 for taxable year 2004 and thereafter; and

(2) a credit against tax of up to $1,500 for each taxable year (indexed for inflation) for interest paid during such taxable year on loans incurred for higher education expenses—

(A) during the first 60 months such payments are required; and

(B) paid by individuals who are not dependents.

SA 286. Mr. SCHUMER submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Governments for fiscal year 2004 and

including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 79, after line 22, add the following:

SEC. ___. SENSE OF THE SENATE.

It is the sense of the Senate that the budgetary totals in this concurrent resolution assume that the September 11th Victim Compensation Fund of 2001 (49 U.S.C. 40101 note; Public Law 107–42) should be amended to provide compensation for victims killed in the bombing of the World Trade Center in 1993.

SA 287. Mr. SCHUMER (for himself and Ms. SNOWE) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Governments for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 79, after line 22, add the following:

SEC. ___. SENSE OF THE SENATE.

(a) FINDINGS.—The Senate finds that—

(1) the States and their local governments face budget deficits of historic proportions;

(2) the States and their local governments are raising taxes, cutting jobs, and reducing services to address this fiscal crisis;

(3) these actions by the States and their local governments threaten to undo any economic stimulus measures implemented at the Federal level; and

(4) the States and their local governments require adequate funding to meet their responsibilities for homeland security, as well as other Federal mandates.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that economic stimulus legislation enacted pursuant to the instructions contained in this concurrent resolution on the budget should include $40,000,000,000 in direct fiscal assistance provided in a one-time revenue grant to the States and their local governments, as follows:

(1) $20,000,000,000 should be allotted amongst the States.

(2) $20,000,000,000 should be allotted for distribution to the various units of local government within such States.

(3) Such fiscal assistance should be allotted among the States and their units of local government based on a formula which considers size of population and growth in the average annual rate of unemployment during the preceding two years.

SA 288. Mr. KYL (for himself and Mr. SESSIONS) proposed an amendment to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Governments for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; as follows:

On page 3, line 9, decrease the amount by $200,000,000.

On page 3, line 10, decrease the amount by $5,200,000,000.

On page 3, line 11, decrease the amount by $10,200,000,000.

On page 3, line 12, decrease the amount by $34,600,000,000.

On page 3, line 13, decrease the amount by $31,600,000,000.

On page 3, line 14, decrease the amount by $34,100,000,000.

On page 3, line 15, decrease the amount by $36,600,000,000.

On page 3, line 16, decrease the amount by $31,100,000,000.

On page 3, line 17, decrease the amount by $33,700,000,000.

On page 3, line 18, decrease the amount by $58,100,000,000.

On page 3, line 19, decrease the amount by $63,900,000,000.

On page 3, line 23, decrease the amount by $200,000,000.

On page 4, line 1, decrease the amount by $5,200,000,000.

On page 4, line 2, decrease the amount by $10,200,000,000.

On page 4, line 3, decrease the amount by $34,600,000,000.

On page 4, line 4, decrease the amount by $31,600,000,000.

On page 4, line 5, decrease the amount by $34,100,000,000.

On page 4, line 6, decrease the amount by $36,600,000,000.

On page 4, line 7, decrease the amount by $31,100,000,000.

On page 4, line 8, decrease the amount by $33,700,000,000.

On page 4, line 9, decrease the amount by $58,100,000,000.

On page 4, line 10, decrease the amount by $63,900,000,000.

On page 41, line 22, decrease the amount by $85,000,000.

On page 41, line 23, decrease the amount by $85,000,000.

On page 42, line 2, decrease the amount by $4,692,000,000.

On page 42, line 3, decrease the amount by $4,692,000,000.

On page 42, line 6, decrease the amount by $9,406,000,000.

On page 42, line 7, decrease the amount by $9,406,000,000.

On page 42, line 10, decrease the amount by $33,617,000,000.

On page 42, line 11, decrease the amount by $33,617,000,000.

On page 42, line 14, decrease the amount by $30,324,000,000.

On page 42, line 15, decrease the amount by $30,324,000,000.

On page 42, line 18, decrease the amount by $32,408,000,000.

On page 42, line 19, decrease the amount by $32,408,000,000.

On page 42, line 22, decrease the amount by $35,018,000,000.

On page 42, line 23, decrease the amount by $35,018,000,000.

On page 43, line 2, decreased the amount by $28,750,000,000.

On page 43, line 3, decreased the amount by $28,750,000,000.

On page 43, line 6, decreased the amount by $2,515,000,000.

On page 43, line 7, decreased the amount by $2,515,000,000.

On page 43, line 10, decreased the amount by $336,000,000.

On page 43, line 11, decreased the amount by $336,000,000.

On page 43, line 14, decreased the amount by $347,000,000.

On page 43, line 15, decreased the amount by $347,000,000.

SA 289. Mr. DODD (for himself, Mr. LAUTENBERG, and Ms. LANDRIEU) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table, as follows:

On page 3, line 10, increase the amount by $232,000,000.

On page 3, line 11, increase the amount by $9,656,000,000.

On page 3, line 12, increase the amount by $1,512,000,000.

On page 3, line 13, increase the amount by $232,000,000.

On page 4, line 1, increase the amount by $9,656,000,000.

On page 4, line 3, increase the amount by $1,512,000,000.

On page 4, line 4, increase the amount by $232,000,000.

On page 4, line 15, increase the amount by $5,814,000,000.

On page 4, line 16, decrease the amount by $131,000,000.

On page 4, line 17, decrease the amount by $287,000,0000.

On page 4, line 18, decrease the amount by $329,000,000.

On page 4, line 19, decrease the amount by $352,000,000.

On page 4, line 20, decrease the amount by $372,000,000.

On page 4, line 21, decrease the amount by $393,000,000.

On page 4, line 22, decrease the amount by $415,000,000.

On page 4, line 23, decrease the amount by $437,000,000.

On page 4, line 24, decrease the amount by $461,000,000.

On page 5, line 5, increase the amount by $114,000,000.

On page 5, line 6, increase the amount by $4,697,000,000.

On page 5, line 7, increase the amount by $469,000,000.

On page 5, line 8, decrease the amount by $213,000,000.

On page 5, line 9, decrease the amount by $352,000,000.

On page 5, line 10, decrease the amount by $372,000,000.

On page 5, line 11, decrease the amount by $393,000,000.

On page 5, line 12, decrease the amount by $415,000,000.

On page 5, line 13, decrease the amount by $437,000,000.

On page 5, line 14, decrease the amount by $461,000,000.

On page 5, line 18, increase the amount by $118,000,000.

On page 5, line 19, increase the amount by $4,959,000,000.

On page 5, line 20, increase the amount by $1,043,000,000.

On page 5, line 21, increase the amount by $445,000,000.

On page 5, line 22, increase the amount by $352,000,000.

On page 5, line 23, increase the amount by $372,000,000.

On page 5, line 24, increase the amount by $393,000,000.

On page 5, line 25, increase the amount by $415,000,000.

On page 6, line 1, increase the amount by $437,000,000.

On page 6, line 2, increase the amount by $461,000,000.

On page 6, line 6, decrease the amount by $118,000,000.

On page 6, line 7, decrease the amount by $5,077,000,000.

On page 6, line 8, decrease the amount by $6,120,000,000.

On page 6, line 9, decrease the amount by $6,565,000,000.

On page 6, line 10, decrease the amount by $6,917,000,000.

On page 6, line 11, decrease the amount by $7,289,000,000.

On page 6, line 12, decrease the amount by $7,682,000,000.

On page 6, line 13, decrease the amount by $8,096,000,000.

On page 6, line 14, decrease the amount by $8,533,000,000.

On page 6, line 15, decrease the amount by $8,994,000,000.

On page 6, line 19, decrease the amount by $118,000,000.

On page 6, line 20, decrease the amount by $5,077,000,000.

On page 6, line 21, decrease the amount by $6,120,000,000.

On page 6, line 22, decrease the amount by $6,565,000,000.

On page 6, line 23, decrease the amount by $6,917,000,000.

On page 6, line 24, decrease the amount by $7,289,000,000.

On page 6, line 25, decrease the amount by $7,682,000,000.

On page 7, line 1, decrease the amount by $8,096,000,000.

On page 7, line 2, decrease the amount by $8,533,000,000.

On page 7, line 3, decrease the amount by $8,994,000,000.

On page 25, line 16, increase the amount by $5,816,000,000.

On page 25, line 17, increase the amount by $116,000,000.

On page 25, line 21, increase the amount by $4,828,000,000.

On page 25, line 25, increase the amount by $756,000,000.

On page 26, line 4, increase the amount by $116,000,000.

On page 40, line 6, decrease the amount by $2,000,000.

On page 40, line 7, decrease the amount by $2,000,000.

On page 40, line 10, decrease the amount by $131,000,000.

On page 40, line 11, decrease the amount by $131,000,000.

On page 40, line 14, decrease the amount by $287,000,000.

On page 40, line 15, decrease the amount by $287,000,000.

On page 40, line 18, decrease the amount by $329,000,000.

On page 40, line 19, decrease the amount by $329,000,000.

On page 40, line 22, decrease the amount by $352,000,000.

On page 40, line 23, decrease the amount by $352,000,000.

On page 41, line 2, decrease the amount by $372,000,000.

On page 41, line 3, decrease the amount by $372,000,000.

On page 41, line 6, decrease the amount by $393,000,000.

On page 41, line 7, decrease the amount by $393,000,000.

On page 41, line 10, decrease the amount by $415,000,000.

On page 41, line 11, decrease the amount by $415,000,000.

On page 41, line 14, decrease the amount by $437,000,000.

On page 41, line 15, decrease the amount by $437,000,000.

On page 41, line 18, decrease the amount by $461,000,000.

On page 41, line 19, decrease the amount by $461,000,000.

On page 47, line 5, increase the amount by $5,816,000,000.

On page 47, line 6, increase the amount by $116,000,000.

On page 47, line 15, increase the amount by $4,828,000,000.

SA 290. Mr. DODD (for himself and Mr. KERRY) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Governments for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 3, line 10, increase the amount by $116,000,000.

On page 3, line 11, increase the amount by $1,494,000,000.

On page 3, line 12, increase the amount by $576,000,000.

On page 3, line 13, increase the amount by $114,000,000.

On page 4, line 1, increase the amount by $116,000,000.

On page 4, line 2, increase the amount by $1,494,000,000.

On page 4, line 3, increase the amount by $576,000,000.

On page 4, line 4, increase the amount by $114,000,000.

On page 4, line 15, increase the amount by $1,149,000,000.

On page 4, line 16, decrease the amount by $22,000,000.

On page 4, line 17, decrease the amount by $51,000,000.

On page 4, line 18, decrease the amount by $64,000,000.

On page 4, line 19, decrease the amount by $69,000,000.

On page 4, line 20, decrease the amount by $73,000,000.

On page 4, line 21, decrease the amount by $77,000,000.

On page 4, line 22, decrease the amount by $81,000,000.

On page 4, line 23, decrease the amount by $86,000,000.

On page 4, line 24, decrease the amount by $90,000,000.

On page 5, line 5, increase the amount by $57,000,000.

On page 5, line 6, increase the amount by $725,000,000.

On page 5, line 7, increase the amount by $237,000,000.

On page 5, line 8, decrease the amount by $7,000,000.

On page 5, line 9, decrease the amount by $69,000,000.

On page 5, line 10, decrease the amount by $73,000,000.

On page 5, line 11, decrease the amount by $77,000,000.

On page 5, line 12, decrease the amount by $81,000,000.

On page 5, line 13, decrease the amount by $86,000,000.

On page 5, line 14, decrease the amount by $90,000,000.

On page 5, line 18, increase the amount by $59,000,000.

On page 5, line 19, increase the amount by $769,000,000.

On page 5, line 20, increase the amount by $339,000,000.

On page 5, line 21, increase the amount by $121,000,000.

On page 5, line 22, increase the amount by $69,000,000.

On page 5, line 23, increase the amount by $73,000,000.

On page 5, line 24, increase the amount by $77,000,000.

On page 5, line 25, increase the amount by $81,000,000.

On page 6, line 1, increase the amount by $86,000,000.

On page 6, line 2, increase the amount by $90,000,000.

On page 6, line 6, decrease the amount by $59,000,000.

On page 6, line 7, decrease the amount by $828,000,000.

On page 6, line 8, decrease the amount by $1,167,000,000.

On page 6, line 9, decrease the amount by $1,228,000,000.

On page 6, line 10, decrease the amount by $1,357,000,000.

On page 6, line 11, decrease the amount by $1,430,000,000.

On page 6, line 12, decrease the amount by $1,507,000,000.

On page 6, line 13, decrease the amount by $1,589,000,000.

On page 6, line 14, decrease the amount by $1,674,000,000.

On page 6, line 15, decrease the amount by $1,765,000,000.

On page 6, line 19, decrease the amount by $59,000,000.

On page 6, line 20, decrease the amount by $828,000,000.

On page 6, line 21, decrease the amount by $1,167,000,000.

On page 6, line 22, decrease the amount by $1,288,000,000.

On page 6, line 23, decrease the amount by $1,357,000,000.

On page 6, line 24, decrease the amount by $1,430,000,000.

On page 6, line 25, decrease the amount by $1,507,000,000.

On page 7, line 1, decrease the amount by $1,589,000,000.

On page 7, line 2, decrease the amount by $1,674,000,000.

On page 7, line 3, decrease the amount by $1,765,000,000.

On page 25, line 16, increase the amount by $1,150,000,000.

On page 25, line 17, increase the amount by $58,000,000.

On page 25, line 21, increase the amount by $747,000,000.

On page 25, line 25, increase the amount by $288,000,000.

On page 26, line 4, increase the amount by $57,000,000.

On page 40, line 6, decrease the amount by $1,000,000.

On page 40, line 7, decrease the amount by $1,000,000.

On page 40, line 10, decrease the amount by $22,000,000.

On page 40, line 11, decrease the amount by $22,000,000.

On page 40, line 14, decrease the amount by $51,000,000.

On page 40, line 15, decrease the amount by $51,000,000.

On page 40, line 18, decrease the amount by $64,000,000.

On page 40, line 19, decrease the amount by $64,000,000.

On page 40, line 22, decrease the amount by $69,000,000.

On page 40, line 23, decrease the amount by $69,000,000.

On page 41, line 2, decrease the amount by $73,000,000.

On page 41, line 3, decrease the amount by $73,000,000.

On page 41, line 6, decrease the amount by $77,000,000.

On page 41, line 7, decrease the amount by $77,000,000.

On page 41, line 10, decrease the amount by $81,000,000.

On page 41, line 11, decrease the amount by $81,000,000.

On page 41, line 14, decrease the amount by $86,000,000.

On page 41, line 15, decrease the amount by $86,000,000.

On page 41, line 18, decrease the amount by $90,000,000.

On page 41, line 19, decrease the amount by $90,000,000.

On page 47, line 5, increase the amount by $1,150,000,000.

On page 47, line 6, increase the amount by $58,000,000.

On page 47, line 15, increase the amount by $747,000,000.

SA 291. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Governments for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

At the end of subtitle A of title II, insert the following:

SEC. ___. REPORTS ON LIABILITIES AND FUTURE COSTS.

Not later than the date the President submits the Federal budget each year, the Director of the Congressional Budget Office shall submit to Congress a report containing—

(1) an estimate of the unfunded liabilities of the Federal Government;

(2) an estimate of the contingent liabilities of Federal programs; and

(3) an accrual-based estimate of the current and future costs of Federal programs.

SA 292. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Governments for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

At the end of subtitle A of title II, insert the following:

SEC. ___. POINT OF ORDER AGAINST UNAUTHORIZED APPROPRIATION.

It shall not be in order in the Senate to consider any appropriations provision that is an appropriation for an unauthorized program unless there is filed at the desk a letter signed by the chairman of the authorizing committee with jurisdiction over the program stating that the committee does not object to the appropriation and explaining why the program has not been reauthorized.

SA 293. Mr. HATCH submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Governments for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 12, line 19, increase the amount by $110,000,000.

On page 12, line 20, increase the amount by $110,000,000.

On page 79, after line 22, add the following:

SEC. 308. MANUFACTURING EXTENSION PARTNERSHIP.

It is the sense of the Senate that the funding levels in this resolution assume that the Manufacturing Extension Partnership of the National Institute of Standards and Technology will be fully funded for fiscal year 2004 at the authorized level of $110,000,000.

SA 294. Mr. DORGAN (for himself, Mr. GRAHAM of Florida, and Ms. STABENOW) proposed an amendment to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; as follows:

On page 3, line 9, increase the amount by $7,589,000,000.

On page 3, line 10, increase the amount by $23,341,000,000.

On page 3, line 11, increase the amount by $26,169,000,000.

On page 3, line 12, increase the amount by $29,003,000,000.

On page 3, line 13, increase the amount by $32,406,000,000.

On page 3, line 14, increase the amount by $35,710,000,000.

On page 3, line 15, increase the amount by $39,465,000,000.

On page 3, line 16, increase the amount by $43,508,000,000.

On page 3, line 17, increase the amount by $47,687,000,000.

On page 3, line 18, increase the amount by $52,440,000,000.

On page 3, line 19, increase the amount by $58,514,000,000.

On page 3, line 23, increase the amount by $7,589,000,000.

On page 4, line 1, increase the amount by $23,341,000,000.

On page 4, line 2, increase the amount by $26,169,000,000.

On page 4, line 3, increase the amount by $29,003,000,000.

On page 4, line 4, increase the amount by $32,406,000,000.

On page 4, line 5, increase the amount by $35,710,000,000.

On page 4, line 6, increase the amount by $39,465;,000,000.

On page 4, line 7, increase the amount by $43,508,000,000.

On page 4, line 8, increase the amount by $47,687,000,000.

On page 4, line 9, increase the amount by $52,440,000,000.

On page 4, line 10, increase the amount by $58,514,000,000.

On page 4, line 14, decrease the amount by $56,000,000.

On page 4, line 15, decrease the amount by $6,750,000,000.

On page 4, line 16, decrease the amount by $12,607,000,000.

On page 4, line 17, decrease the amount by $2,089,000,000.

On page 4, line 18, increase the amount by $11,134,000,000.

On page 4, line 19, increase the amount by $13,388,000,000.

On page 4, line 20, increase the amount by $18,051,000,000.

On page 4, line 21, increase the amount by $23,189,000,000.

On page 4, line 22, increase the amount by $28,020,000,000.

On page 4, line 23, increase the amount by $33,135,000,000.

On page 4, line 24, increase the amount by $39,338,000,000.

On page 5, line 4, decrease the amount by $56,000,000.

On page 5, line 5, decrease the amount by $6,750,000,000.

On page 5, line 6, decrease the amount by $12,607,000,000.

On page 5, line 7, decrease the amount by $2,089,000,000.

On page 5, line 8, increase the amount by $11,134,000,000.

On page 5, line 9, increase the amount by $13,388,000,000.

On page 5, line 10, increase the amount by $18,051,000,000.

On page 5, line 11, increase the amount by $23,189,000,000.

On page 5, line 12, increase the amount by $28,020,000,000.

On page 5, line 13, increase the amount by $33,135,000,000.

On page 5, line 14, increase the amount by $39,338,000,000.

On page 5, line 17, increase the amount by $7,645,000,000.

On page 5, line 18, increase the amount by $30,091,000,000.

On page 5, line 19, increase the amount by $38,776,000,000.

On page 5, line 20, increase the amount by $31,092,000,000.

On page 5, line 21, increase the amount by $21,272,000,000.

On page 5, line 22, increase the amount by $22,322,000,000.

On page 5, line 23, increase the amount by $21,414,000,000.

On page 5, line 24, increase the amount by $20,319,000,000.

On page 5, line 25, increase the amount by $19,667,000,000.

On page 6, line 1, increase the amount by $19,305,000,000.

On page 6, line 2, increase the amount by $19,176,000,000.

On page 6, line 5, decrease the amount by $7,645,000,000.

On page 6, line 6, decrease the amount by $37,737,000,000.

On page 6, line 7, decrease the amount by $76,513,000,000.

On page 6, line 8, decrease the amount by $107,604,000,000.

On page 6, line 9, decrease the amount by $128,877,000,000.

On page 6, line 10, decrease the amount by $151,199,000,000.

On page 6, line 11, decrease the amount by $172,612,000,000.

On page 6, line 12, decrease the amount by $192,931,000,000.

On page 6, line 13, decrease the amount by $212,599,000,000.

On page 6, line 14, decrease the amount by $231,903,000,000.

On page 6, line 15, decrease the amount by $251,080,000,000.

On page 6, line 18, decrease the amount by $7,645,000,000.

On page 6, line 19, decrease the amount by $37,737,000,000.

On page 6, line 20, decrease the amount by $76,513,000,000.

On page 6, line 21, decrease the amount by $107,604,000,000.

On page 6, line 22, decrease the amount by $128,877,000,000.

On page 6, line 23, decrease the amount by $151,199,000,000.

On page 6, line 24, decrease the amount by $172,612,000,000.

On page 6, line 25, decrease the amount by $192,931,000,000.

On page 7, line 1, decrease the amount by $212,599,000,000.

On page 7, line 2, decrease the amount by $231,903,000,000.

On page 7, line 3, decrease the amount by $251,080,000,000.

On page 29, line 6, decrease the amount by $6,000,000,000.

On page 29, line 7, decrease the amount by $6,000,000,000.

On page 29, line 10, decrease the amount by $10,000,000,000.

On page 29, line 11, decrease the amount by $10,000,000,000.

On page 29, line 14, increase the amount by $2,498,000,000.

On page 29, line 15, increase the amount by $2,498,000,000.

On page 29, line 18, increase the amount by $17,195,000,000.

On page 29, line 19, increase the amount by $17,195,000,000.

On page 29, line 22, increase the amount by $20,630,000,000.

On page 29, line 23, increase the amount by $20,630,000,000.

On page 30, line 2, increase the amount by $26,482,000,000.

On page 30, line 3, increase the amount by $26,482,000,000.

On page 30, line 6, increase the amount by $32,751,000,000.

On page 30, line 7, increase the amount by $32,751,000,000.

On page 30, line 10, increase the amount by $38,644,000,000.

On page 30, line 11, increase the amount by $38,644,000,000.

On page 30, line 14, increase the amount by $44,787,000,000.

On page 30, line 15, increase the amount by $44,787,000,000.

On page 30, line 18, increase the amount by $52,013,000,000.

On page 30, line 19, increase the amount by $52,013,000,000.

On page 40, line 2, decrease the amount by $56,000,000.

On page 40, line 3, decrease the amount by $56,000,000.

On page 40, line 6, decrease the amount by $750,000,000.

On page 40, line 7, decrease the amount by $750,000,000.

On page 40, line 10, decrease the amount by $2,607,000,000.

On page 40, line 11, decrease the amount by $2,607,000,000.

On page 40, line 14, decrease the amount by $4,587,000,000.

On page 40, line 15, decrease the amount by $4,587,000,000.

On page 40, line 18, decrease the amount by $6,061,000,000.

On page 40, line 19, decrease the amount by $6,061,000,000.

On page 40, line 22, decrease the amount by $7,242,000,000.

On page 40, line 23, decrease the amount by $7,242,000,000.

On page 41, line 2, decrease the amount by $8,431,000,000.

On page 41, line 3, decrease the amount by $8,431,000,000.

On page 41, line 6, decrease the amount by $9,562,000,000.

On page 41, line 7, decrease the amount by $9,562,000,000.

On page 41, line 10, decrease the amount by $10,624,000,000.

On page 41, line 11, decrease the amount by $10,624,000,000.

On page 41, line 14, decrease the amount by $11,652,000,000.

On page 41, line 15, decrease the amount by $11,652,000,000.

On page 41, line 18, decrease the amount by $12,675,000,000.

On page 41, line 19, decrease the amount by $12,675,000,000.

On page 61, line 12, insert ''on an equal basis with respect to benefit level regardless of whether such beneficiaries remain in the traditional medicare fee-for-service program under parts A and B of such title or enroll in a private plan under the medicare program'' after ''prescription drugs''.

On page 61, line 19, strike $400,000,000,000 and insert $619,000,000,000.

SA 295. Mr. DORGAN (for himself, Mr. KERRY, and Mrs. LANDRIEU) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Governments for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 14 line 15, increase the amount by $372,000,000.

On page 14 line 16, increase the amount by $45,000,000.

On page 14 line 20, increase the amount by $104,000,000.

On page 14 line 24, increase the amount by $93,000,000.

On page 15 line 3, increase the amount by $130,000,000.

On page 42 line 2, decrease the amount by $372,000,000.

On page 42 line 3, decrease the amount by $45,000,000.

On page 42 line 7, decrease the amount by $104,000,000.

On page 42 line 11, decrease the amount by $93,000,000.

On page 42 line 15, decrease the amount by $130,000,000.

SA 296. Mr. ROCKEFELLER submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Governments for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

On page 79, after line 22, add the following:

SEC. 308. RADIO INTEROPERABILITY FOR FIRST RESPONDERS.

(a) STUDY.—It is the sense of the Senate that the Secretary of Commerce, in consultation with the Secretary of Homeland Security, should conduct a study of the need and cost to make the radio systems used by fire departments and emergency medical services agencies interoperable with those used by law enforcement to the extent that interoperability will not interfere with law enforcement operations.

(b) GRANT PROGRAM.—It is the sense of the Senate that Congress should authorize and appropriate $20,000,000 to establish a grant program through which the Secretary of Commerce would award grants to local governments to assist fire departments and emergency medical services agencies to establish radio interoperability.

SA 297. Mr. DURBIN submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 23, setting forth the congressional budget for the United States Governments for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013; which was ordered to lie on the table; as follows:

At the end of subtitle A of title II, insert the following:

SEC. ___. POINT OF ORDER REQUIRING THAT THE AMT BE DEALT WITH BEFORE OR SIMULTANEOUSLY WITH OTHER TAX CUTS.

(a) FINDINGS.—The Senate finds the following:

(1) The American taxpayers are threatened with a looming crisis which is ignored by the President's budget and the budget resolution before the Senate, namely that a rapidly growing number of middle income taxpayers will be subject to the AMT, up from 2,000,000 currently to an estimated 36,000,000 by 2010.

(2) This crisis has come about as a result of two factors—

(A) that the Federal income tax is indexed for inflation, but the AMT is not; and

(B) that President Bush sought and obtained huge new tax cuts in 2001, which he is now seeking to make permanent, without providing for corresponding, permanent adjustments to the AMT.

(3) The President and the architects of this budget resolution refuse to address the AMT on a permanent basis because to do so would be costly and might jeopardize their ability to enact additional tax cuts which primarily benefit the wealthiest taxpayers at the expense of the estimated 85 percent of families with two or more children who will otherwise be affected by the AMT by 2010; the 43 percent of taxpayers with annual incomes between $50,000 and $75,000 who will otherwise be affected by the AMT by 2010; and the 80 percent of taxpayers with annual income between $75,000 and $100,000 who will otherwise be affected by the AMT by 2010.

(4) Congress must begin to address the issue of permanent AMT reform by creating a point of order against further tax cuts that do not include AMT reform.

(b) IN GENERAL.—It shall not be in order in the Senate to consider any bill or joint resolution, including a reconciliation bill or resolution, or any amendment, motion, or conference report thereto, that would allow tax cuts unless such bill, joint resolution, amendment, motion or conference report thereto contains, or Congress has previously enacted, comprehensive legislation that reforms the alternative minimum tax to protect taxpayers with annual incomes under $100,000.

(c) WAIVER AND APPEAL.—This section may be waived or suspended in the Senate only by an affirmative vote of ⅗ of the members, duly chosen and sworn. An affirmative vote of ⅗ of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. NICKLES. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, March 19, 2003 at 9:30 a.m. to hold a hearing on Nonproliferation Programs of the Department of State.

Witnesses

Panel 1: The Honorable John S. Wolf, Assistant Secretary for Nonproliferation, Department of State, Washington, DC.

Panel 2: The Honorable Rose E. Gottemoeller, Senior Associate, Carnegie Endowment for International Peace, Washington, DC.

The Honorable Charles B. Curtis, President and Chief Operating Officer, Nuclear Threat Initiative, Washington; Dr. Amy E. Smithson, Senior Associate, The Henry L. Stimson Center, Washington, DC.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. NICKLES. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the

Senate on Wednesday, March 19, 2003 at 2:30 p.m. to hold a hearing on the Effects and Consequences of an Emerging China.

Witnesses

Panel 1: Mr. Randall Schriver, Deputy Assistant Secretary of State for China, Department of State, Washington, DC; Mr. Charles Freeman, Deputy Assistant US Trade Representative, Office of the US Trade Representative, Washington, DC.

Panel 2: Dr. Robert A. Kapp, President, The US-China Business Council, Washington, DC; Ms. Hillary B. Rosen, President and Chief Executive Officer, Recording Industry Association of America, Washington, DC.

Panel 3: Dr. Larry Wortzel, The Heritage Foundation, Washington, DC; Dr. David M. Lampton, Director of Chinese Studies, The Nixon Center, Washington, DC.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. NICKLES. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet in Executive Session during the session of the Senate on Wednesday, March 19, 2003. The following agenda will be considered:

Agenda

S. , Lifespan Respite Care Act.

S. , Pediatric Drugs Research Authority.

S. 15, Biodefense Improvement and Treatment for America Act.

Any nominees that have been cleared for action.

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

COMMITTEE ON RULES AND ADMINISTRATION

Mr. NICKLES. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, March 19, 2003, at 9:30 a.m., to conduct an oversight hearing on the operations of the Secretary of the Senate and the Architect of the Capitol.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. NICKLES. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, March 19, 2003, at 2:30 p.m. in Room 485 of the Russell Senate Office Building to conduct a hearing on Indian energy legislation, S. 424, the Tribal Energy self-Sufficiency Act, and S. 522, the Native American Energy Development and Self Determination Act of 2003.

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

COMMITTEE ON THE JUDICIARY

Mr. NICKLES. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing entitled ''Promoting Ethical Regenerative Medicine Research and Prohibiting Immoral Human Reproductive Cloning'' on Wednesday, March 19, 2003, at 10:30 a.m. in the Dirksen Senate Office Building Room 226.

Panel I: The Honorable Sam Brownback, United States Senator, [R–KS]; The Honorable Jim R. Langevin, United States Representative, [D–RI–2nd District].

Panel II: Dr. Leon Kass, Addie Clark Harding Professor, The College and the Committee on Social Thought, University of Chicago. Hertog Fellow, American Enterprise Institute, Chicago, IL; Dr. Thomas Murray, President, The Hastings Center, Garrison, NY.

Panel III: Dr. Harold Varmus, President, Memorial Sloan-Kettering Cancer Center, New York City, NY; Dr. Anton-Lewis Usala, Professor, East Carolina University Professor, Greenville, NC; Dr. Micheline Mathews-Roth, Associate Professor of Medicine, Harvard Medical School, Boston, MA; Dr. Paul Berg, Cahill Professor, Department of Biochemistry, Stanford University, Palo Alto, CA.

Panel IV: Mr. James Kelly, Patient Advocate, Granbury, TX; Mr. Gregg Wasson, Patient Advocate, Cotai, CA.

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

SUBCOMMITTEE ON PERSONNEL

Mr. NICKLES. Mr. President, I ask unanimous consent that the Subcommittee on Personnel of the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, March 19, 2003, at 3 p.m., in open session to receive testimony on the National Guard and Reserve Military and Civilian Personnel Programs, in review of the Defense Authorization Request for Fiscal Year 2004.

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

SUBCOMMITTEE ON READINESS AND MANAGEMENT SUPPORT

Mr. NICKLES. Mr. President, I ask unanimous consent that the Subcommittee on Readiness and Management Support of the Armed Services Committee be authorized to meet during the Session of the Senate on Wednesday, March 19, 2003, at 9:30 a.m., in open session to receive testimony on acquisition policy and outsourcing issues, in review of the Defense Authorization Request for Fiscal Year 2004.

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

PRIVILEGE OF THE FLOOR

Mr. REED. I ask unanimous consent that a fellow in my office, Denis Borum, be granted the privilege of the floor for purposes of this debate.

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

IDENTITY THEFT PENALTY ENHANCEMENT ACT

Mr. NICKLES. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 8, S. 153.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 153) to amend title 18, United States Code, to establish penalties for aggravated identity theft, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. NICKLES. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The bill (S. 153) was read the third time and passed, as follows:

S. 153

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 ''Identity Theft Penalty Enhancement Act''.

SEC. 2. AGGRAVATED IDENTITY THEFT.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding after section 1028, the following:

''§ 1028A. Aggravated identity theft

''(a) OFFENSES.—

''(1) IN GENERAL.—Whoever, during and in relation to any felony violation enumerated in subsection (c), knowingly transfers, possesses, or uses, without lawful authority, a means of identification of another person shall, in addition to the punishment provided for such felony, be sentenced to a term of imprisonment of 2 years.

''(2) TERRORISM OFFENSE.—Whoever, during and in relation to any felony violation enumerated in section 2332b(g)(5)(B), knowingly transfers, possesses, or uses, without lawful authority, a means of identification of another person shall, in addition to the punishment provided for such felony, be sentenced to a term of imprisonment of 5 years.

''(b) CONSECUTIVE SENTENCE.—Notwithstanding any other provision of law—

''(1) a court shall not place on probation any person convicted of a violation of this section;

''(2) except as provided in paragraph (4), no term of imprisonment imposed on a person under this section shall run concurrently with any other term of imprisonment imposed on the person under any other provision of law, including any term of imprisonment imposed for the felony during which the means of identification was transferred, possessed, or used;

''(3) in determining any term of imprisonment to be imposed for the felony during which the means of identification was transferred, possessed, or used, a court shall not in any way reduce the term to be imposed for such crime so as to compensate for, or otherwise take into account, any separate term of imprisonment imposed or to be imposed for a violation of this section; and

''(4) a term of imprisonment imposed on a person for a violation of this section may, in the discretion of the court, run concurrently, in whole or in part, only with another term of imprisonment that is imposed by the court at the same time on that person for an additional violation of this section, provided that such discretion shall be exercised in accordance with any applicable guidelines and policy statements issued by the Sentencing

Commission pursuant to section 994 of title 28.

''(c) DEFINITION.—For purposes of this section, the term 'felony violation enumerated in subsection (c)' means any offense that is a felony violation of—

''(1) section 664 (relating to theft from employee benefit plans);

''(2) section 911 (relating to false personation of citizenship);

''(3) section 922(a)(6) (relating to false statements in connection with the acquisition of a firearm);

''(4) any provision contained in this chapter (relating to fraud and false statements), other than this section or section 1028(a)(7);

''(5) any provision contained in chapter 63 (relating to mail, bank, and wire fraud);

''(6) any provision contained in chapter 69 (relating to nationality and citizenship);

''(7) any provision contained in chapter 75 (relating to passports and visas);

''(8) section 523 of the Gramm-Leach-Bliley Act (15 U.S.C. 6823) (relating to obtaining customer information by false pretenses);

''(9) section 243 or 266 of the Immigration and Nationality Act (8 U.S.C. 1253 and 1306) (relating to willfully failing to leave the United States after deportation and creating a counterfeit alien registration card);

''(10) any provision contained in chapter 8 of title II of the Immigration and Nationality Act (8 U.S.C. 1321 et seq.) (relating to various immigration offenses); or

''(11) section 208, 1107(b), or 1128B(a) of the Social Security Act (42 U.S.C. 408, 1307(b), and 1320a–7b(a)) (relating to false statements relating to programs under the Act).''.

(b) AMENDMENT TO CHAPTER ANALYSIS.—The table of sections for chapter 47 of title 18, United States Code, is amended by inserting after the item relating to section 1028 the following new item:

''1028A. Aggravated identity theft.''.

SEC. 3. AMENDMENTS TO EXISTING IDENTITY THEFT PROHIBITION.

Section 1028 of title 18, United States Code, is amended—

(1) in subsection (a)(7)—

(A) by striking ''transfers'' and inserting ''transfers, possesses,''; and

(B) by striking ''abet,'' and inserting ''abet, or in connection with,'';

(2) in subsection (b)(1)(D), by striking ''transfer'' and inserting ''transfer, possession,'';

(3) in subsection (b)(2), by striking ''three years'' and inserting ''5 years''; and

(4) in subsection (b)(4), by inserting after ''facilitate'' the following: ''an act of domestic terrorism (as defined under section 2331(5) of this title) or''.

KEEPING CHILDREN AND FAMILIES SAFE ACT OF 2003

Mr. NICKLES. Mr. President, I ask unanimous consent that the Senate proceed to Calendar No. 24, S. 342.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 342) to amend the Child Abuse Prevention and Treatment Act to making improvements to and reauthorize programs under that Act, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. NICKLES. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the record.

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

The bill (S. 342) was read the third time and passed, as follows:

S. 342

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Keeping Children and Families Safe Act of 2003''.

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

Sec. 1. Short title; table of contents.

TITLE I—CHILD ABUSE PREVENTION AND TREATMENT ACT

Sec. 101. Findings.

Subtitle A—General Program

Sec. 111. National clearinghouse for information relating to child abuse.
Sec. 112. Research and assistance activities and demonstrations.
Sec. 113. Grants to States and public or private agencies and organizations.
Sec. 114. Grants to States for child abuse and neglect prevention and treatment programs.
Sec. 115. Miscellaneous requirements relating to assistance.
Sec. 116. Authorization of appropriations.
Sec. 117. Reports.

Subtitle B—Community-Based Grants for the Prevention of Child Abuse

Sec. 121. Purpose and authority.
Sec. 122. Eligibility.
Sec. 123. Amount of grant.
Sec. 124. Existing grants.
Sec. 125. Application.
Sec. 126. Local program requirements.
Sec. 127. Performance measures.
Sec. 128. National network for community-based family resource programs.
Sec. 129. Definitions.
Sec. 130. Authorization of appropriations.

Subtitle C—Conforming Amendments

Sec. 141. Conforming amendments.

TITLE II—ADOPTION OPPORTUNITIES

Sec. 201. Congressional findings and declaration of purpose.
Sec. 202. Information and services.
Sec. 203. Study of adoption placements.
Sec. 204. Studies on successful adoptions.
Sec. 205. Authorization of appropriations.

TITLE III—ABANDONED INFANTS ASSISTANCE

Sec. 301. Findings.
Sec. 302. Establishment of local projects.
Sec. 303. Evaluations, study, and reports by Secretary.
Sec. 304. Authorization of appropriations.
Sec. 305. Definitions.

TITLE IV—FAMILY VIOLENCE PREVENTION AND SERVICES ACT

Sec. 401. State demonstration grants.
Sec. 402. Secretarial responsibilities.
Sec. 403. Evaluation.
Sec. 404. Information and technical assistance centers.
Sec. 405. Authorization of appropriations.
Sec. 406. Grants for State domestic violence coalitions.
Sec. 407. Evaluation and monitoring.
Sec. 408. Family member abuse information and documentation project.
Sec. 409. Model State leadership grants.
Sec. 410. National domestic violence hotline grant.
Sec. 411. Youth education and domestic violence.
Sec. 412. National domestic violence shelter network.
Sec. 413. Demonstration grants for community initiatives.
Sec. 414. Transitional housing assistance.
Sec. 415. Technical and conforming amendments.

TITLE I—CHILD ABUSE PREVENTION AND TREATMENT ACT

SEC. 101. FINDINGS.

Section 2 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 note) is amended—

(1) in paragraph (1), by striking ''close to 1,000,000'' and inserting ''approximately 900,000'';

(2) by redesignating paragraphs (2) through (11) as paragraphs (4) through (13), respectively;

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

''(2)(A) more children suffer neglect than any other form of maltreatment; and

''(B) investigations have determined that approximately 63 percent of children who were victims of maltreatment in 2000 suffered neglect, 19 percent suffered physical abuse, 10 percent suffered sexual abuse, and 8 percent suffered emotional maltreatment;

''(3)(A) child abuse can result in the death of a child;

''(B) in 2000, an estimated 1,200 children were counted by child protection services to have died as a result of abuse or neglect; and

''(C) children younger than 1 year old comprised 44 percent of child abuse fatalities and 85 percent of child abuse fatalities were younger than 6 years of age;'';

(4) by striking paragraph (4) (as so redesignated), and inserting the following:

''(4)(A) many of these children and their families fail to receive adequate protection and treatment;

''(B) slightly less than half of these children (45 percent in 2000) and their families fail to receive adequate protection or treatment; and

''(C) in fact, approximately 80 percent of all children removed from their homes and placed in foster care in 2000, as a result of an investigation or assessment conducted by the child protective services agency, received no services;'';

(5) in paragraph (5) (as so redesignated)—

(A) in subparagraph (A), by striking ''organizations'' and inserting ''community-based organizations'';

(B) in subparagraph (D), by striking ''ensures'' and all that follows through ''knowledge,'' and inserting ''recognizes the need for properly trained staff with the qualifications needed''; and

(C) in subparagraph (E), by inserting before the semicolon the following: '', which may impact child rearing patterns, while at the same time, not allowing those differences to enable abuse'';

(6) in paragraph (7) (as so redesignated), by striking ''this national child and family emergency'' and inserting ''child abuse and neglect''; and

(7) in paragraph (9) (as so redesignated)—

(A) by striking ''intensive'' and inserting ''needed''; and

(B) by striking ''if removal has taken place'' and inserting ''where appropriate''.

Subtitle A—General Program

SEC. 111. NATIONAL CLEARINGHOUSE FOR INFORMATION RELATING TO CHILD ABUSE.

(a) FUNCTIONS.—Section 103(b) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5104(b)) is amended—

(1) in paragraph (1), by striking ''all programs,'' and all that follows through ''neglect; and'' and inserting ''all effective programs, including private and community-based programs, that show promise of success with respect to the prevention, assessment, identification, and treatment of child

abuse and neglect and hold the potential for broad scale implementation and replication;'';

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

(3) by redesignating paragraph (2) as paragraph (3);

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

''(2) maintain information about the best practices used for achieving improvements in child protective systems;''; and

(5) by adding at the end the following:

''(4) provide technical assistance upon request that may include an evaluation or identification of—

''(A) various methods and procedures for the investigation, assessment, and prosecution of child physical and sexual abuse cases;

''(B) ways to mitigate psychological trauma to the child victim; and

''(C) effective programs carried out by the States under this Act; and

''(5) collect and disseminate information relating to various training resources available at the State and local level to—

''(A) individuals who are engaged, or who intend to engage, in the prevention, identification, and treatment of child abuse and neglect; and

''(B) appropriate State and local officials to assist in training law enforcement, legal, judicial, medical, mental health, education, and child welfare personnel.''.

(b) COORDINATION WITH AVAILABLE RESOURCES.—Section 103(c)(1) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5104(c)(1)) is amended—

(1) in subparagraph (E), by striking ''105(a); and'' and inserting ''104(a);'';

(2) by redesignating subparagraph (F) as subparagraph (G); and

(3) by inserting after subparagraph (E) the following:

''(F) collect and disseminate information that describes best practices being used throughout the Nation for making appropriate referrals related to, and addressing, the physical, developmental, and mental health needs of abused and neglected children; and''.

SEC. 112. RESEARCH AND ASSISTANCE ACTIVITIES AND DEMONSTRATIONS.

(a) RESEARCH.—Section 104(a) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5105(a)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), in the first sentence, by inserting '', including longitudinal research,'' after ''interdisciplinary program of research''; and

(B) in subparagraph (B), by inserting before the semicolon the following: '', including the effects of abuse and neglect on a child's development and the identification of successful early intervention services or other services that are needed'';

(C) in subparagraph (C)—

(i) by striking ''judicial procedures'' and inserting ''judicial systems, including multidisciplinary, coordinated decisionmaking procedures''; and

(ii) by striking ''and'' at the end; and

(D) in subparagraph (D)—

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

(ii) by redesignating clause (ix) as clause (x); and

(iii) by inserting after clause (viii), the following:

''(ix) the incidence and prevalence of child maltreatment by a wide array of demographic characteristics such as age, sex, race, family structure, household relationship (including the living arrangement of the resident parent and family size), school enrollment and education attainment, disability, grandparents as caregivers, labor force status, work status in previous year, and income in previous year; and'';

(E) by redesignating subparagraph (D) as subparagraph (I); and

(F) by inserting after subparagraph (C), the following:

''(D) the evaluation and dissemination of best practices consistent with the goals of achieving improvements in the child protective services systems of the States in accordance with paragraphs (1) through (12) of section 106(a);

''(E) effective approaches to interagency collaboration between the child protection system and the juvenile justice system that improve the delivery of services and treatment, including methods for continuity of treatment plan and services as children transition between systems;

''(F) an evaluation of the redundancies and gaps in the services in the field of child abuse and neglect prevention in order to make better use of resources;

''(G) the nature, scope, and practice of voluntary relinquishment for foster care or State guardianship of low income children who need health services, including mental health services;

''(H) the information on the national incidence of child abuse and neglect specified in clauses (i) through (xi) of subparagraph (H); and'';

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

''(B) Not later than 2 years after the date of enactment of the Keeping Children and Families Safe Act of 2003, and every 2 years thereafter, the Secretary shall provide an opportunity for public comment concerning the priorities proposed under subparagraph (A) and maintain an official record of such public comment.'';

(3) by redesignating paragraph (2) as paragraph (4);

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

''(2) RESEARCH.—The Secretary shall conduct research on the national incidence of child abuse and neglect, including the information on the national incidence on child abuse and neglect specified in subparagraphs (i) through (ix) of paragraph (1)(I).

''(3) REPORT.—Not later than 4 years after the date of the enactment of the Keeping Children and Families Safe Act of 2003, the Secretary shall prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor and Pensions of the Senate a report that contains the results of the research conducted under paragraph (2).''.

(b) PROVISION OF TECHNICAL ASSISTANCE.—Section 104(b) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5105(b)) is amended—

(1) in paragraph (1)—

(A) by striking ''nonprofit private agencies and'' and inserting ''private agencies and community-based''; and

(B) by inserting '', including replicating successful program models,'' after ''programs and activities''; and

(2) in paragraph (2)—

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

(B) in subparagraph (C), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(D) effective approaches being utilized to link child protective service agencies with health care, mental health care, and developmental services to improve forensic diagnosis and health evaluations, and barriers and shortages to such linkages.''.

(c) DEMONSTRATION PROGRAMS AND PROJECTS.—Section 104 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5105) is amended by adding at the end the following:

''(e) DEMONSTRATION PROGRAMS AND PROJECTS.—The Secretary may award grants to, and enter into contracts with, States or public or private agencies or organizations (or combinations of such agencies or organizations) for time-limited, demonstration projects for the following:

''(1) PROMOTION OF SAFE, FAMILY-FRIENDLY PHYSICAL ENVIRONMENTS FOR VISITATION AND EXCHANGE.—The Secretary may award grants under this subsection to entities to assist such entities in establishing and operating safe, family-friendly physical environments—

''(A) for court-ordered, supervised visitation between children and abusing parents; and

''(B) to safely facilitate the exchange of children for visits with noncustodial parents in cases of domestic violence.

''(2) EDUCATION IDENTIFICATION, PREVENTION, AND TREATMENT.—The Secretary may award grants under this subsection to entities for projects that provide educational identification, prevention, and treatment services in cooperation with preschool and elementary and secondary schools.

''(3) RISK AND SAFETY ASSESSMENT TOOLS.—The Secretary may award grants under this subsection to entities for projects that provide for the development of effective and research-based risk and safety assessment tools relating to child abuse and neglect.

''(4) TRAINING.—The Secretary may award grants under this subsection to entities for projects that involve effective and research-based innovative training for mandated child abuse and neglect reporters.

''(5) COMPREHENSIVE ADOLESCENT VICTIM/VICTIMIZER PREVENTION PROGRAMS.—The Secretary may award grants to organizations that demonstrate innovation in preventing child sexual abuse through school-based programs in partnership with parents and community-based organizations to establish a network of trainers who will work with schools to implement the program. The program shall be comprehensive, meet State guidelines for health education, and should reduce child sexual abuse by focusing on prevention for both adolescent victims and victimizers.''.

SEC. 113. GRANTS TO STATES AND PUBLIC OR PRIVATE AGENCIES AND ORGANIZATIONS.

(a) DEMONSTRATION PROGRAMS AND PROJECTS.—Section 105(a) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106(a)) is amended—

(1) in the subsection heading, by striking ''DEMONSTRATION'' and inserting ''GRANTS FOR'';

(2) in the matter preceding paragraph (1)—

(A) by inserting ''States,'' after ''contracts with,'';

(B) by striking ''nonprofit''; and

(C) by striking ''time limited, demonstration'';

(3) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking ''nonprofit'';

(B) in subparagraph (A), by striking ''law, education, social work, and other relevant fields'' and inserting ''law enforcement, judiciary, social work and child protection, education, and other relevant fields, or individuals such as court appointed special advocates (CASAs) and guardian ad litem,'';

(C) in subparagraph (B), by striking ''nonprofit'' and all that follows through ''; and'' and inserting ''children, youth and family service organizations in order to prevent child abuse and neglect;'';

(D) in subparagraph (C), by striking the period and inserting a semicolon; and

(E) by adding at the end the following:

''(D) for training to support the enhancement of linkages between child protective service agencies and health care agencies, including physical and mental health services, to improve forensic diagnosis and health evaluations and for innovative partnerships between child protective service agencies and health care agencies that offer creative approaches to using existing Federal, State, local, and private funding to meet the health evaluation needs of children who have been subjects of substantiated cases of child abuse or neglect;

''(E) for the training of personnel in best practices to promote collaboration with the families from the initial time of contact during the investigation through treatment;

''(F) for the training of personnel regarding the legal duties of such personnel and their responsibilities to protect the legal rights of children and families;

''(G) for improving the training of supervisory and nonsupervisory child welfare workers;

''(H) for enabling State child welfare agencies to coordinate the provision of services with State and local health care agencies, alcohol and drug abuse prevention and treatment agencies, mental health agencies, and other public and private welfare agencies to promote child safety, permanence, and family stability;

''(I) for cross training for child protective service workers in effective and research-based methods for recognizing situations of substance abuse, domestic violence, and neglect; and

''(J) for developing, implementing, or operating information and education programs or training programs designed to improve the provision of services to disabled infants with life-threatening conditions for—

''(i) professionals and paraprofessional personnel concerned with the welfare of disabled infants with life-threatening conditions, including personnel employed in child protective services programs and health care facilities; and

''(ii) the parents of such infants.'';

(4) by redesignating paragraph (2) and (3) as paragraphs (3) and (4), respectively;

(5) by inserting after paragraph (1), the following:

''(2) TRIAGE PROCEDURES.—The Secretary may award grants under this subsection to public and private agencies that demonstrate innovation in responding to reports of child abuse and neglect, including programs of collaborative partnerships between the State child protective services agency, community social service agencies and family support programs, law enforcement agencies, developmental disability agencies, substance abuse treatment entities, health care entities, domestic violence prevention entities, mental health service entities, schools, churches and synagogues, and other community agencies, to allow for the establishment of a triage system that—

''(A) accepts, screens, and assesses reports received to determine which such reports require an intensive intervention and which require voluntary referral to another agency, program, or project;

''(B) provides, either directly or through referral, a variety of community-linked services to assist families in preventing child abuse and neglect; and

''(C) provides further investigation and intensive intervention where the child's safety is in jeopardy.'';

(6) in paragraph (3) (as so redesignated), by striking ''nonprofit organizations (such as Parents Anonymous)'' and inserting ''organizations'';

(7) in paragraph (4) (as so redesignated)—

(A) by striking the paragraph heading;

(B) by striking subparagraphs (A) and (C); and

(C) in subparagraph (B)—

(i) by striking ''(B) KINSHIP CARE.—'' and inserting the following:

''(4) KINSHIP CARE.—

''(A) IN GENERAL.—''; and

(ii) by striking ''nonprofit''; and

(8) by adding at the end the following:

''(5) LINKAGES BETWEEN CHILD PROTECTIVE SERVICE AGENCIES AND PUBLIC HEALTH, MENTAL HEALTH, AND DEVELOPMENTAL DISABILITIES AGENCIES.—The Secretary may award grants to entities that provide linkages between State or local child protective service agencies and public health, mental health, and developmental disabilities agencies, for the purpose of establishing linkages that are designed to help assure that a greater number of substantiated victims of child maltreatment have their physical health, mental health, and developmental needs appropriately diagnosed and treated, in accordance with all applicable Federal and State privacy laws.''.

(b) DISCRETIONARY GRANTS.—Section 105(b) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106(b)) is amended—

(1) in the matter preceding paragraph (1), by striking ''subsection (b)'' and inserting ''subsection (a)'';

(2) by striking paragraph (1);

(3) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively;

(4) by inserting after paragraph (2) (as so redesignated), the following:

''(3) Programs based within children's hospitals or other pediatric and adolescent care facilities, that provide model approaches for improving medical diagnosis of child abuse and neglect and for health evaluations of children for whom a report of maltreatment has been substantiated.''; and

(5) in paragraph (4)(D), by striking ''nonprofit''.

(c) EVALUATION.—Section 105(c) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106(c)) is amended—

(1) in the first sentence, by striking ''demonstration'';

(2) in the second sentence, by inserting ''or contract'' after ''or as a separate grant''; and

(3) by adding at the end the following: ''In the case of an evaluation performed by the recipient of a grant, the Secretary shall make available technical assistance for the evaluation, where needed, including the use of a rigorous application of scientific evaluation techniques.''.

(d) TECHNICAL AMENDMENT TO HEADING.—The section heading for section 105 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106) is amended to read as follows:

''SEC. 105. GRANTS TO STATES AND PUBLIC OR PRIVATE AGENCIES AND ORGANIZATIONS.''.

SEC. 114. GRANTS TO STATES FOR CHILD ABUSE AND NEGLECT PREVENTION AND TREATMENT PROGRAMS.

(a) DEVELOPMENT AND OPERATION GRANTS.—Section 106(a) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106a(a)) is amended—

(1) in paragraph (3)—

(A) by inserting '', including ongoing case monitoring,'' after ''case management''; and

(B) by inserting ''and treatment'' after ''and delivery of services'';

(2) in paragraph (4), by striking ''improving'' and all that follows through ''referral systems'' and inserting ''developing, improving, and implementing risk and safety assessment tools and protocols'';

(3) by striking paragraph (7);

(4) by redesignating paragraphs (5), (6), (8), and (9) as paragraphs (6), (8), (9), and (12), respectively;

(5) by inserting after paragraph (4), the following:

''(5) developing and updating systems of technology that support the program and track reports of child abuse and neglect from intake through final disposition and allow interstate and intrastate information exchange;'';

(6) in paragraph (6) (as so redesignated), by striking ''opportunities'' and all that follows through ''system'' and inserting ''including—

''(A) training regarding effective and research-based practices to promote collaboration with the families;

''(B) training regarding the legal duties of such individuals; and

''(C) personal safety training for case workers;'';

(7) by inserting after paragraph (6) (as so redesignated) the following:

''(7) improving the skills, qualifications, and availability of individuals providing services to children and families, and the supervisors of such individuals, through the child protection system, including improvements in the recruitment and retention of caseworkers;'';

(8) by striking paragraph (9) (as so redesignated), and inserting the following:

''(9) developing and facilitating effective and research-based training protocols for individuals mandated to report child abuse or neglect;

''(10) developing, implementing, or operating programs to assist in obtaining or coordinating necessary services for families of disabled infants with life-threatening conditions, including—

''(A) existing social and health services;

''(B) financial assistance; and

''(C) services necessary to facilitate adoptive placement of any such infants who have been relinquished for adoption;

''(11) developing and delivering information to improve public education relating to the role and responsibilities of the child protection system and the nature and basis for reporting suspected incidents of child abuse and neglect;'';

(9) in paragraph (12) (as so redesignated), by striking the period and inserting a semicolon; and

(10) by adding at the end the following:

''(13) supporting and enhancing interagency collaboration between the child protection system and the juvenile justice system for improved delivery of services and treatment, including methods for continuity of treatment plan and services as children transition between systems; or

''(14) supporting and enhancing collaboration among public health agencies, the child protection system, and private community-based programs to provide child abuse and neglect prevention and treatment services (including linkages with education systems) and to address the health needs, including mental health needs, of children identified as abused or neglected, including supporting prompt, comprehensive health and developmental evaluations for children who are the subject of substantiated child maltreatment reports.''.

(b) ELIGIBILITY REQUIREMENTS.—

(1) IN GENERAL.—Section 106(b) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106a(b)) is amended—

(A) in paragraph (1)(B)—

(i) by striking ''provide notice to the Secretary of any substantive changes'' and inserting the following: ''provide notice to the Secretary—

''(i) of any substantive changes; and'';

(ii) by striking the period and inserting ''; and''; and

(iii) by adding at the end the following:

''(ii) any significant changes to how funds provided under this section are used to support the activities which may differ from the

activities as described in the current State application.'';

(B) in paragraph (2)(A)—

(i) by redesignating clauses (ii), (iii), (iv), (v), (vi), (vii), (viii), (ix), (x), (xi), (xii), and (xiii) as clauses (iv), (vi), (vii), (viii), (x), (xi), (xii), (xiii), (xiv), (xv), (xvi) and (xvii), respectively;

(ii) by inserting after clause (i), the following:

''(ii) policies and procedures (including appropriate referrals to child protection service systems and for other appropriate services) to address the needs of infants born and identified as being affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure;

''(iii) the development of a plan of safe care for the infant born and identified as being affected by illegal substance abuse or withdrawal symptoms;'';

(iii) in clause (iv) (as so redesignated), by inserting ''risk and'' before ''safety'';

(iv) by inserting after clause (iv) (as so redesignated), the following:

''(v) triage procedures for the appropriate referral of a child not at risk of imminent harm to a community organization or voluntary preventive service;'';

(v) in clause (viii)(II) (as so redesignated), by striking '', having a need for such information in order to carry out its responsibilities under law to protect children from abuse and neglect'' and inserting '', as described in clause (ix)'';

(vi) by inserting after clause (viii) (as so redesignated), the following:

''(ix) provisions to require a State to disclose confidential information to any Federal, State, or local government entity, or any agent of such entity, that has a need for such information in order to carry out its responsibilities under law to protect children from abuse and neglect;'';

(vii) in clause (xiii) (as so redesignated)—

(I) by inserting ''who has received training appropriate to the role, and'' after ''guardian ad litem,''; and

(II) by inserting ''who has received training appropriate to that role'' after ''advocate'';

(viii) in clause (xv) (as so redesignated), by striking ''to be effective not later than 2 years after the date of enactment of this section'';

(ix) in clause (xvi) (as so redesignated)—

(I) by striking ''to be effective not later than 2 years after the date of enactment of this section''; and

(II) by striking ''and'' at the end;

(x) in clause (xvii) (as so redesignated), by striking ''clause (xii)'' each place that such appears and inserting ''clause (xvi)''; and

(xi) by adding at the end the following:

''(xviii) provisions and procedures to require that a representative of the child protective services agency shall, at the initial time of contact with the individual subject to a child abuse and neglect investigation, advise the individual of the complaints or allegations made against the individual, in a manner that is consistent with laws protecting the rights of the informant;

''(xix) provisions addressing the training of representatives of the child protective services system regarding the legal duties of the representatives, which may consist of various methods of informing such representatives of such duties, in order to protect the legal rights and safety of children and families from the initial time of contact during investigation through treatment;

''(xx) provisions and procedures for improving the training, retention, and supervision of caseworkers; and

''(xxi) not later than 2 years after the date of enactment of the Keeping Children and Families Safe Act of 2003, provisions and procedures for requiring criminal background record checks for prospective foster and adoptive parents and other adult relatives and non-relatives residing in the household;''; and

(C) in paragraph (2), by adding at the end the following flush sentence:

''Nothing in subparagraph (A) shall be construed to limit the State's flexibility to determine State policies relating to public access to court proceedings to determine child abuse and neglect.''.

(2) LIMITATION.—Section 106(b)(3) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106a(b)(3)) is amended by striking ''With regard to clauses (v) and (vi) of paragraph (2)(A)'' and inserting ''With regard to clauses (vi) and (vii) of paragraph (2)(A)''.

(c) CITIZEN REVIEW PANELS.—Section 106(c) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106a(c)) is amended—

(1) in paragraph (4)—

(A) in subparagraph (A)—

(i) in the matter preceding clause (i)—

(I) by striking ''and procedures'' and inserting '', procedures, and practices''; and

(II) by striking ''the agencies'' and inserting ''State and local child protection system agencies''; and

(ii) in clause (iii)(I), by striking ''State'' and inserting ''State and local''; and

(B) by adding at the end the following:

''(C) PUBLIC OUTREACH.—Each panel shall provide for public outreach and comment in order to assess the impact of current procedures and practices upon children and families in the community and in order to meet its obligations under subparagraph (A).''; and

(2) in paragraph (6)—

(A) by striking ''public'' and inserting ''State and the public''; and

(B) by inserting before the period the following: ''and recommendations to improve the child protection services system at the State and local levels. Not later than 6 months after the date on which a report is submitted by the panel to the State, the appropriate State agency shall submit a written response to the citizen review panel that describes whether or how the State will incorporate the recommendations of such panel (where appropriate) to make measurable progress in improving the State and local child protective system''.

(d) ANNUAL STATE DATA REPORTS.—Section 106(d) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106a(d)) is amended by adding at the end the following:

''(13) The annual report containing the summary of the activities of the citizen review panels of the State required by subsection (c)(6).

''(14) The number of children under the care of the State child protection system who are transferred into the custody of the State juvenile justice system.''.

(e) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to Congress a report that describes the extent to which States are implementing the policies and procedures required under section 106(b)(2)(B)(ii) of the Child Abuse Prevention and Treatment Act.

SEC. 115. MISCELLANEOUS REQUIREMENTS RELATING TO ASSISTANCE.

Section 108 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106d) is amended by adding at the end the following:

''(d) GAO STUDY.—Not later than February 1, 2004, the Comptroller General of the United States shall conduct a survey of a wide range of State and local child protection service systems to evaluate and submit to Congress a report concerning—

''(1) the current training (including cross-training in domestic violence or substance abuse) of child protective service workers in the outcomes for children and to analyze and evaluate the effects of caseloads, compensation, and supervision on staff retention and performance;

''(2) the efficiencies and effectiveness of agencies that provide cross-training with court personnel; and

''(3) recommendations to strengthen child protective service effectiveness to improve outcomes for children.

''(e) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary should encourage all States and public and private agencies or organizations that receive assistance under this title to ensure that children and families with limited English proficiency who participate in programs under this title are provided materials and services under such programs in an appropriate language other than English.

''(f) ANNUAL REPORT ON CERTAIN PROGRAMS.—A State that receives funds under section 106(a) shall annually prepare and submit to the Secretary a report describing the manner in which funds provided under this Act, alone or in combination with other Federal funds, were used to address the purposes and achieve the objectives of section 105(a)(4)(B).''.

SEC. 116. AUTHORIZATION OF APPROPRIATIONS.

(a) GENERAL AUTHORIZATION.—Section 112(a)(1) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106h(a)(1)) is amended to read as follows:

''(1) GENERAL AUTHORIZATION.—There are authorized to be appropriated to carry out this title $120,000,000 for fiscal year 2004 and such sums as may be necessary for each of the fiscal years 2005 through 2008.''.

(b) DEMONSTRATION PROJECTS.—Section 112(a)(2)(B) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106h(a)(2)(B)) is amended—

(1) by striking ''Secretary make'' and inserting ''Secretary shall make''; and

(2) by striking ''section 106'' and inserting ''section 104''.

SEC. 117. REPORTS.

Section 110 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106f) is amended by adding at the end the following:

''(c) STUDY AND REPORT RELATING TO CITIZEN REVIEW PANELS.—

''(1) STUDY.—The Secretary shall conduct a study by random sample of the effectiveness of the citizen review panels established under section 106(c).

''(2) REPORT.—Not later than 3 years after the date of enactment of the Keeping Children and Families Safe Act of 2003, the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report that contains the results of the study conducted under paragraph (1).''.

Subtitle B—Community-Based Grants for the Prevention of Child Abuse

SEC. 121. PURPOSE AND AUTHORITY.

(a) PURPOSE.—Section 201(a)(1) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116(a)(1)) is amended to read as follows:

''(1) to support community-based efforts to develop, operate, expand, enhance, and, where appropriate to network, initiatives aimed at the prevention of child abuse and neglect, and to support networks of coordinated resources and activities to better strengthen and support families to reduce the likelihood of child abuse and neglect; and''.

(b) AUTHORITY.—Section 201(b) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116(b)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A) by striking ''Statewide'' and all that follows through the dash, and inserting ''community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect (through networks where appropriate) that are accessible, effective, culturally appropriate, and build upon existing strengths-that—'';

(B) in subparagraph (F), by striking ''and'' at the end; and

(C) by striking subparagraph (G) and inserting the following:

''(G) demonstrate a commitment to meaningful parent leadership, including among parents of children with disabilities, parents with disabilities, racial and ethnic minorities, and members of other underrepresented or underserved groups; and

''(H) provide referrals to early health and developmental services;''; and

(2) in paragraph (4)—

(A) by inserting ''through leveraging of funds'' after ''maximizing funding'';

(B) by striking ''a Statewide network of community-based, prevention-focused'' and inserting ''community-based and prevention-focused''; and

(C) by striking ''family resource and support program'' and inserting ''programs and activities designed to strengthen and support families to prevent child abuse and neglect (through networks where appropriate)''.

(c) TECHNICAL AMENDMENT TO TITLE HEADING.—Title II of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116) is amended by striking the heading for such title and inserting the following:

''TITLE II—COMMUNITY–BASED GRANTS FOR THE PREVENTION OF CHILD ABUSE AND NEGLECT''.

SEC. 122. ELIGIBILITY.

Section 202 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116a) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) by striking ''a Statewide network of community-based, prevention-focused'' and inserting ''community-based and prevention-focused''; and

(ii) by striking ''family resource and support programs'' and all that follows through the semicolon and inserting ''programs and activities designed to strengthen and support families to prevent child abuse and neglect (through networks where appropriate);''

(B) in subparagraph (B), by inserting ''that exists to strengthen and support families to prevent child abuse and neglect'' after ''written authority of the State)'';

(2) in paragraph (2)—

(A) in subparagraph (A), by striking ''a network of community-based family resource and support programs'' and inserting ''community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect (through networks where appropriate)'';

(B) in subparagraph (B)—

(i) by striking ''to the network''; and

(ii) by inserting '', and parents with disabilities'' before the semicolon;

(C) in subparagraph (C), by striking ''to the network''; and

(3) in paragraph (3)—

(A) in subparagraph (A), by striking ''Statewide network of community-based, prevention-focused, family resource and support programs'' and inserting ''community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect (through networks where appropriate)'';

(B) in subparagraph (B), by striking ''Statewide network of community-based, prevention-focused, family resource and support programs'' and inserting ''community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect (through networks where appropriate)'';

(C) in subparagraph (C), by striking ''and training and technical assistance, to the Statewide network of community-based, prevention-focused, family resource and support programs'' and inserting ''training, technical assistance, and evaluation assistance, to community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect (through networks where appropriate)''; and

(D) in subparagraph (D), by inserting '', parents with disabilities,'' after ''children with disabilities''.

SEC. 123. AMOUNT OF GRANT.

Section 203 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116b) is amended—

(1) in subsection (b)(1)(B)—

(A) by striking ''as the amount leveraged by the State from private, State, or other non-Federal sources and directed through the'' and inserting ''as the amount of private, State or other non-Federal funds leveraged and directed through the currently designated'';

(B) by striking ''State lead agency'' and inserting ''State lead entity''; and

(C) by striking ''the lead agency'' and inserting ''the current lead entity''; and

(2) in subsection (c)(2), by striking ''subsection (a)'' and inserting ''subsection (b)''.

SEC. 124. EXISTING GRANTS.

Section 204 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5115c) is repealed.

SEC. 125. APPLICATION.

Section 205 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116d) is amended—

(1) in paragraph (1), by striking ''Statewide network of community-based, prevention-focused, family resource and support programs'' and inserting ''community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect (through networks where appropriate)'';

(2) in paragraph (2)—

(A) by striking ''network of community-based, prevention-focused, family resource and support programs'' and inserting ''community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect (through networks where appropriate)''; and

(B) by striking '', including those funded by programs consolidated under this Act,'';

(3) by striking paragraph (3), and inserting the following:

''(3) a description of the inventory of current unmet needs and current community-based and prevention-focused programs and activities to prevent child abuse and neglect, and other family resource services operating in the State;'';

(4) in paragraph (4), by striking ''State's network of community-based, prevention-focused, family resource and support programs'' and inserting ''community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect'';

(5) in paragraph (5), by striking ''Statewide network of community-based, prevention-focused, family resource and support programs'' and inserting ''start up, maintenance, expansion, and redesign of community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect'';

(6) in paragraph (7), by striking ''individual community-based, prevention-focused, family resource and support programs'' and inserting ''community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect'';

(7) in paragraph (8), by striking ''community-based, prevention-focused, family resource and support programs'' and inserting ''community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect'';

(8) in paragraph (9), by striking ''community-based, prevention-focused, family resource and support programs'' and inserting ''community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect'';

(9) in paragraph (10), by inserting ''(where appropriate)'' after ''members'';

(10) in paragraph (11), by striking ''prevention-focused, family resource and support program'' and inserting ''community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect''; and

(11) by redesignating paragraph (13) as paragraph (12).

SEC. 126. LOCAL PROGRAM REQUIREMENTS.

Section 206(a) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116e(a)) is amended—

(1) in the matter preceding paragraph (1), by striking ''prevention-focused, family resource and support programs'' and inserting ''and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect'';

(2) in paragraph (3)(B), by inserting ''voluntary home visiting and'' after ''including''; and

(3) by striking paragraph (6) and inserting the following:

''(6) participate with other community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect in the development, operation and expansion of networks where appropriate.''.

SEC. 127. PERFORMANCE MEASURES.

Section 207 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116f) is amended—

(1) in paragraph (1), by striking ''a Statewide network of community-based, prevention-focused, family resource and support programs'' and inserting ''community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect'';

(2) by striking paragraph (3), and inserting the following:

''(3) shall demonstrate that they will have addressed unmet needs identified by the inventory and description of current services required under section 205(3);'';

(3) in paragraph (4),

(A) by inserting ''and parents with disabilities,'' after ''children with disabilities,''; and

(B) by striking ''evaluation of'' the first place it appears and all that follows through ''under this title'' and inserting ''evaluation of community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect, and in the design, operation and evaluation of the networks of such community-based and prevention-focused programs'';

(4) in paragraph (5), by striking '', prevention-focused, family resource and support programs'' and inserting ''and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect'';

(5) in paragraph (6), by striking ''Statewide network of community-based, prevention-focused, family resource and support programs'' and inserting ''community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect''; and

(6) in paragraph (8), by striking ''community based, prevention-focused, family resource and support programs'' and inserting ''community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect''.

SEC. 128. NATIONAL NETWORK FOR COMMUNITY-BASED FAMILY RESOURCE PROGRAMS.

Section 208(3) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116g(3)) is amended by striking ''Statewide networks of community-based, prevention-focused, family resource and support programs'' and inserting ''community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect''.

SEC. 129. DEFINITIONS.

(a) CHILDREN WITH DISABILITIES.—Section 209(1) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116h(1)) is amended by striking ''given such term in section 602(a)(2)'' and inserting ''given the term 'child with a disability' in section 602(3) or 'infant or toddler with a disability' in section 632(5)''.

(b) COMMUNITY-BASED AND PREVENTION-FOCUSED PROGRAMS AND ACTIVITIES TO PREVENT CHILD ABUSE AND NEGLECT.—Section 209 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116h) is amended by striking paragraphs (3) and (4) and inserting the following:

''(3) COMMUNITY-BASED AND PREVENTION-FOCUSED PROGRAMS AND ACTIVITIES TO PREVENT CHILD ABUSE AND NEGLECT.—The term 'community-based and prevention-focused programs and activities designed to strengthen and support families to prevent child abuse and neglect' includes organizations such as family resource programs, family support programs, voluntary home visiting programs, respite care programs, parenting education, mutual support programs, and other community programs or networks of such programs that provide activities that are designed to prevent or respond to child abuse and neglect.''.

SEC. 130. AUTHORIZATION OF APPROPRIATIONS.

Section 210 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116i) is amended to read as follows:

''SEC. 210. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this title $80,000,000 for fiscal year 2004 and such sums as may be necessary for each of the fiscal years 2005 through 2008.''.

Subtitle C—Conforming Amendments

SEC. 141. CONFORMING AMENDMENTS.

The table of contents of the Child Abuse Prevention and Treatment Act, as contained in section 1(b) of such Act (42 U.S.C. 5101 note), is amended as follows:

(1) By striking the item relating to section 105 and inserting the following:

''Sec. 105. Grants to States and public or private agencies and organizations.''.

(2) By striking the item relating to title II and inserting the following:

''TITLE II—COMMUNITY-BASED GRANTS FOR THE PREVENTION OF CHILD ABUSE AND NEGLECT''.

(3) By striking the item relating to section 204.

TITLE II—ADOPTION OPPORTUNITIES

SEC. 201. CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE.

Section 201 of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (42 U.S.C. 5111) is amended—

(1) in subsection (a)—

(A) by striking paragraphs (1) through (4) and inserting the following:

''(1) the number of children in substitute care has increased by nearly 24 percent since 1994, as our Nation's foster care population included more than 565,000 as of September of 2001;

''(2) children entering foster care have complex problems that require intensive services, with many such children having special needs because they are born to mothers who did not receive prenatal care, are born with life threatening conditions or disabilities, are born addicted to alcohol or other drugs, or have been exposed to infection with the etiologic agent for the human immunodeficiency virus;

''(3) each year, thousands of children are in need of placement in permanent, adoptive homes;'';

(B) by striking paragraph (6);

(C) by striking paragraph (7)(A) and inserting the following:

''(7)(A) currently, there are 131,000 children waiting for adoption;''; and

(D) by redesignating paragraphs (5), (7), (8), (9), and (10) as paragraphs (4), (5), (6), (7), and (8) respectively; and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by inserting '', including geographic barriers,'' after ''barriers''; and

(B) in paragraph (2), by striking ''a national'' and inserting ''an Internet-based national''.

SEC. 202. INFORMATION AND SERVICES.

Section 203 of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (42 U.S.C. 5113) is amended—

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

''SEC. 203. INFORMATION AND SERVICES.'';

(2) by striking ''SEC. 203. (a) The Secretary'' and inserting the following:

''(a) IN GENERAL.—The Secretary'';

(3) in subsection (b)—

(A) by inserting ''REQUIRED ACTIVITIES.—'' after ''(b)'';

(B) in paragraph (1), by striking ''nonprofit'' each place that such appears;

(C) in paragraph (2), by striking ''nonprofit'';

(D) in paragraph (3), by striking ''nonprofit'';

(E) in paragraph (4), by striking ''nonprofit'';

(F) in paragraph (6), by striking ''study the nature, scope, and effects of'' and insert ''support'';

(G) in paragraph (7), by striking ''nonprofit'';

(H) in paragraph (9)—

(i) by striking ''nonprofit''; and

(ii) by striking ''and'' at the end;

(I) in paragraph (10)—

(i) by striking ''nonprofit''; each place that such appears; and

(ii) by striking the period at the end and inserting ''; and''; and

(J) by adding at the end the following:

''(11) provide (directly or by grant to or contract with States, local government entities, or public or private licensed child welfare or adoption agencies) for the implementation of programs that are intended to increase the number of older children (who are in foster care and with the goal of adoption) placed in adoptive families, with a special emphasis on child-specific recruitment strategies, including—

''(A) outreach, public education, or media campaigns to inform the public of the needs and numbers of older youth available for adoption;

''(B) training of personnel in the special needs of older youth and the successful strategies of child-focused, child-specific recruitment efforts; and

''(C) recruitment of prospective families for such children.'';

(4) in subsection (c)—

(A) by striking ''(c)(1) The Secretary'' and inserting the following:

''(c) SERVICES FOR FAMILIES ADOPTING SPECIAL NEEDS CHILDREN.—

''(1) IN GENERAL.—The Secretary'';

(B) by striking ''(2) Services'' and inserting the following:

''(2) SERVICES.—Services''; and

(C) in paragraph (2)—

(i) by realigning the margins of subparagraphs (A) through (G) accordingly;

(ii) in subparagraph (F), by striking ''and'' at the end;

(iii) in subparagraph (G), by striking the period and inserting a semicolon; and

(iv) by adding at the end the following:

''(H) day treatment; and

''(I) respite care.''; and

(D) by striking ''nonprofit''; each place that such appears;

(5) in subsection (d)—

(A) by striking ''(d)(1) The Secretary'' and inserting the following:

''(d) IMPROVING PLACEMENT RATE OF CHILDREN IN FOSTER CARE.—

''(1) IN GENERAL.—The Secretary'';

(B) by striking ''(2)(A) Each State'' and inserting the following:

''(2) APPLICATIONS; TECHNICAL AND OTHER ASSISTANCE.—

''(A) APPLICATIONS.—Each State'';

(C) by striking ''(B) The Secretary'' and inserting the following:

''(B) TECHNICAL AND OTHER ASSISTANCE.—The Secretary'';

(D) in paragraph (2)(B)—

(i) by realigning the margins of clauses (i) and (ii) accordingly; and

(ii) by striking ''nonprofit'';

(E) by striking ''(3)(A) Payments'' and inserting the following:

''(3) PAYMENTS.—

''(A) IN GENERAL.—Payments''; and

(F) by striking ''(B) Any payment'' and inserting the following:

''(B) REVERSION OF UNUSED FUNDS.—Any payment''; and

(6) by adding at the end the following:

''(e) ELIMINATION OF BARRIERS TO ADOPTIONS ACROSS JURISDICTIONAL BOUNDARIES.—

''(1) IN GENERAL.—The Secretary shall award grants to, or enter into contracts with, States, local government entities, public or private child welfare or adoption agencies, adoption exchanges, or adoption family groups to carry out initiatives to improve efforts to eliminate barriers to placing children for adoption across jurisdictional boundaries.

''(2) SERVICES TO SUPPLEMENT NOT SUPPLANT.—Services provided under grants made under this subsection shall supplement, not supplant, services provided using any other funds made available for the same general purposes including—

''(A) developing a uniform homestudy standard and protocol for acceptance of homestudies between States and jurisdictions;

''(B) developing models of financing cross-jurisdictional placements;

''(C) expanding the capacity of all adoption exchanges to serve increasing numbers of children;

''(D) developing training materials and training social workers on preparing and moving children across State lines; and

''(E) developing and supporting initiative models for networking among agencies, adoption exchanges, and parent support groups across jurisdictional boundaries.''.

SEC. 203. STUDY OF ADOPTION PLACEMENTS.

Section 204 of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (42 U.S.C. 5114) is amended—

(1) by striking ''The'' and inserting ''(a) IN GENERAL.—The'';

(2) by striking ''of this Act'' and inserting ''of the Keeping Children and Families Safe Act of 2003'';

(3) by striking ''to determine the nature'' and inserting ''to determine—

''(1) the nature'';

(4) by striking ''which are not licensed'' and all that follows through ''entity'';''; and

(5) by adding at the end the following:

''(2) how interstate placements are being financed across State lines;

''(3) recommendations on best practice models for both interstate and intrastate adoptions; and

''(4) how State policies in defining special needs children differentiate or group similar categories of children.''.

SEC. 204. STUDIES ON SUCCESSFUL ADOPTIONS.

Section 204 of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (42 U.S.C. 5114) is amended by adding at the end the following:

''(b) DYNAMICS OF SUCCESSFUL ADOPTION.—The Secretary shall conduct research (directly or by grant to, or contract with, public or private nonprofit research agencies or organizations) about adoption outcomes and the factors affecting those outcomes. The Secretary shall submit a report containing the results of such research to the appropriate committees of the Congress not later than the date that is 36 months after the date of the enactment of the Keeping Children and Families Safe Act of 2003.

''(c) INTERJURISDICTIONAL ADOPTION.—Not later than 1 year after the date of the enactment of the Keeping Children and Families Safe Act of 2003, the Secretary, in consultation with the Comptroller General, shall submit to the appropriate committees of the Congress a report that contains recommendations for an action plan to facilitate the interjurisdictional adoption of foster children.''.

SEC. 205. AUTHORIZATION OF APPROPRIATIONS.

Section 205(a) of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (42 U.S.C. 5115(a)) is amended to read as follows:

''There are authorized to be appropriated $40,000,000 for fiscal year 2004 and such sums as may be necessary for fiscal years 2005 through 2008 to carry out programs and activities authorized under this subtitle.''.

TITLE III—ABANDONED INFANTS ASSISTANCE

SEC. 301. FINDINGS.

Section 2 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended—

(1) by striking paragraph (1);

(2) in paragraph (2)—

(A) by inserting ''studies indicate that a number of factors contribute to'' before ''the inability of'';

(B) by inserting ''some'' after ''inability of'';

(C) by striking ''who abuse drugs''; and

(D) by striking ''care for such infants'' and inserting ''care for their infants'';

(3) by amending paragraph (5) to read as follows:

''(5) appropriate training is needed for personnel working with infants and young children with life-threatening conditions and other special needs, including those who are infected with the human immunodeficiency virus (commonly known as 'HIV'), those who have acquired immune deficiency syndrome (commonly known as 'AIDS'), and those who have been exposed to dangerous drugs;'';

(4) by striking paragraphs (6) and (7);

(5) in paragraph (8)—

(A) by striking ''such infants and young children'' and inserting ''infants and young children who are abandoned in hospitals''; and

(B) by inserting ''by parents abusing drugs,'' after ''deficiency syndrome,'';

(6) in paragraph (9), by striking ''comprehensive services'' and all that follows through the semicolon at the end and inserting ''comprehensive support services for such infants and young children and their families and services to prevent the abandonment of such infants and young children, including foster care services, case management services, family support services, respite and crisis intervention services, counseling services, and group residential home services;'';

(7) by striking paragraph (11);

(8) by redesignating paragraphs (2), (3), (4), (5), (8), (9), and (10) as paragraphs (1) through (7), respectively; and

(9) by adding at the end the following:

''(8) private, Federal, State, and local resources should be coordinated to establish and maintain services described in paragraph (7) and to ensure the optimal use of all such resources.''.

SEC. 302. ESTABLISHMENT OF LOCAL PROJECTS.

Section 101 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended—

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

''SEC. 101. ESTABLISHMENT OF LOCAL PROJECTS.'';

and

(2) by striking subsection (b) and inserting the following:

''(b) PRIORITY IN PROVISION OF SERVICES.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees to give priority to abandoned infants and young children who—

''(1) are infected with, or have been perinatally exposed to, the human immunodeficiency virus, or have a life-threatening illness or other special medical need; or

''(2) have been perinatally exposed to a dangerous drug.''.

SEC. 303. EVALUATIONS, STUDY, AND REPORTS BY SECRETARY.

Section 102 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended to read as follows:

''SEC. 102. EVALUATIONS, STUDY, AND REPORTS BY SECRETARY.

''(a) EVALUATIONS OF LOCAL PROGRAMS.—The Secretary shall, directly or through contracts with public and nonprofit private entities, provide for evaluations of projects carried out under section 101 and for the dissemination of information developed as a result of such projects.

''(b) STUDY AND REPORT ON NUMBER OF ABANDONED INFANTS AND YOUNG CHILDREN.—

''(1) IN GENERAL.—The Secretary shall conduct a study for the purpose of determining—

''(A) an estimate of the annual number of infants and young children relinquished, abandoned, or found deceased in the United States and the number of such infants and young children who are infants and young children described in section 101(b);

''(B) an estimate of the annual number of infants and young children who are victims of homicide;

''(C) characteristics and demographics of parents who have abandoned an infant within 1 year of the infant's birth; and

''(D) an estimate of the annual costs incurred by the Federal Government and by State and local governments in providing housing and care for abandoned infants and young children.

''(2) DEADLINE.—Not later than 36 months after the date of enactment of the Keeping Children and Families Safe Act of 2003, the Secretary shall complete the study required under paragraph (1) and submit to Congress a report describing the findings made as a result of the study.

''(c) EVALUATION.—The Secretary shall evaluate and report on effective methods of intervening before the abandonment of an infant or young child so as to prevent such abandonments, and effective methods for responding to the needs of abandoned infants and young children.''.

SEC. 304. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 104 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended—

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

''(a) IN GENERAL.—

''(1) AUTHORIZATION.—For the purpose of carrying out this Act, there are authorized to be appropriated $45,000,000 for fiscal year 2004 and such sums as may be necessary for fiscal years 2005 through 2008.

''(2) LIMITATION.—Not more than 5 percent of the amounts appropriated under paragraph (1) for any fiscal year may be obligated for carrying out section 102(a).'';

(2) by striking subsection (b);

(3) in subsection (c)—

(A) in paragraph (1)—

(i) by inserting ''AUTHORIZATION.—'' after ''(1)'' the first place it appears; and

(ii) by striking ''this title'' and inserting ''this Act''; and

(B) in paragraph (2)—

(i) by inserting ''LIMITATION.—'' after ''(2)''; and

(ii) by striking ''fiscal year 1991.'' and inserting ''fiscal year 2003.''; and

(4) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(b) REDESIGNATION.—The Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended—

(1) by redesignating section 104 as section 302; and

(2) by moving that section 302 to the end of that Act.

SEC. 305. DEFINITIONS.

(a) IN GENERAL.—Section 301 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended to read as follows:

''SEC. 301. DEFINITIONS.

''In this Act:

''(1) ABANDONED; ABANDONMENT.—The terms 'abandoned' and 'abandonment', used with respect to infants and young children, mean that the infants and young children are medically cleared for discharge from acute-care hospital settings, but remain hospitalized because of a lack of appropriate out-of-hospital placement alternatives.

''(2) ACQUIRED IMMUNE DEFICIENCY SYNDROME.—The term 'acquired immune deficiency syndrome' includes infection with the etiologic agent for such syndrome, any condition indicating that an individual is infected with such etiologic agent, and any condition arising from such etiologic agent.

''(3) DANGEROUS DRUG.—The term 'dangerous drug' means a controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

''(4) NATURAL FAMILY.—The term 'natural family' shall be broadly interpreted to include natural parents, grandparents, family members, guardians, children residing in the household, and individuals residing in the household on a continuing basis who are in a care-giving situation, with respect to infants and young children covered under this Act.

''(5) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.''.

(b) REPEAL.—Section 103 of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is repealed.

TITLE IV—FAMILY VIOLENCE PREVENTION AND SERVICES ACT

SEC. 401. STATE DEMONSTRATION GRANTS.

(a) UNDERSERVED POPULATIONS.—Section 303(a)(2)(C) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)(2)(C)) is amended by striking ''underserved populations,'' and all that follows and inserting the following: ''underserved populations, as defined in section 2007 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–2);''.

(b) REPORT.—Section 303(a) of such Act (42 U.S.C. 10402(a)) is amended by adding at the end the following:

''(5) Upon completion of the activities funded by a grant under this title, the State shall submit to the Secretary a report that contains a description of the activities carried out under paragraph (2)(B)(i).''.

(c) CHILDREN WHO WITNESS DOMESTIC VIOLENCE.—Section 303 of such Act (42 U.S.C. 10402) is amended—

(1) by redesignating subsections (c) through (f) as subsections (d) through (g), respectively; and

(2) by inserting after subsection (b) the following:

''(c) For a fiscal year described in section 310(a)(2), the Secretary shall use funds made available under that section to make grants, on a competitive basis, to eligible entities for projects designed to address the needs of children who witness domestic violence, to—

''(1) provide direct services for children who witness domestic violence;

''(2) provide for training for and collaboration among child welfare agencies, domestic violence victim service providers, courts, law enforcement, and other entities; and

''(3) provide for multisystem interventions for children who witness domestic violence.''.

SEC. 402. SECRETARIAL RESPONSIBILITIES.

Section 305(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10404(a)) is amended—

(1) by striking ''an employee'' and inserting ''1 or more employees'';

(2) by striking ''of this title.'' and inserting ''of this title, including carrying out evaluation and monitoring under this title.''; and

(3) by striking ''The individual'' and inserting ''Any individual''.

SEC. 403. EVALUATION.

Section 306 of the Family Violence Prevention and Services Act (42 U.S.C. 10405) is amended in the first sentence by striking ''Not later than two years after the date on which funds are obligated under section 303(a) for the first time after the date of the enactment of this title, and every two years thereafter,'' and inserting ''Every 2 years,''.

SEC. 404. INFORMATION AND TECHNICAL ASSISTANCE CENTERS.

Section 308 of the Family Violence Prevention and Services Act (42 U.S.C. 10407) is amended by striking subsection (g).

SEC. 405. AUTHORIZATION OF APPROPRIATIONS.

(a) GENERAL AUTHORIZATION.—Section 310(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10409(a)) is amended to read as follows:

''(a) IN GENERAL.—

''(1) AUTHORIZATION.—There are authorized to be appropriated to carry out sections 303 through 311, $175,000,000 for each of fiscal years 2004 through 2008.

''(2) PROJECTS TO ADDRESS NEEDS OF CHILDREN WHO WITNESS DOMESTIC VIOLENCE.—For a fiscal year in which the amounts appropriated under paragraph (1) exceed $150,000,000, the Secretary shall reserve and make available 50 percent of the excess to carry out section 303(c).''.

(b) ALLOCATIONS FOR OTHER PROGRAMS.—Subsections (b), (c), and (d) of section 310 of such Act (42 U.S.C. 10409) are amended by inserting ''(and not reserved under subsection (a)(2))'' after ''each fiscal year''.

(c) GRANTS FOR STATE DOMESTIC VIOLENCE COALITIONS.—Section 311(g) of such Act (42 U.S.C. 10410(g)) is amended to read as follows:

''(g) FUNDING.—Of the amount appropriated under section 310(a) for a fiscal year (and not reserved under section 310(a)(2)), not less than 10 percent of such amount shall be made available to award grants under this section.''.

SEC. 406. GRANTS FOR STATE DOMESTIC VIOLENCE COALITIONS.

Section 311 of the Family Violence Prevention and Services Act (42 U.S.C. 10410) is amended by striking subsection (h).

SEC. 407. EVALUATION AND MONITORING.

Section 312 of the Family Violence Prevention and Services Act (42 U.S.C. 10412) is amended by adding at the end the following:

''(c) Of the amount appropriated under section 310(a) for each fiscal year (and not reserved under section 310(a)(2)), not more than 2.5 percent shall be used by the Secretary for evaluation, monitoring, and other administrative costs under this title.''.

SEC. 408. FAMILY MEMBER ABUSE INFORMATION AND DOCUMENTATION PROJECT.

Section 313 of the Family Violence Prevention and Services Act (42 U.S.C. 10413) is repealed.

SEC. 409. MODEL STATE LEADERSHIP GRANTS.

Section 315 of the Family Violence Prevention and Services Act (42 U.S.C. 10415) is repealed.

SEC. 410. NATIONAL DOMESTIC VIOLENCE HOTLINE GRANT.

(a) DURATION.—Section 316(b) of the Family Violence Prevention and Services Act (42 U.S.C. 10416(b)) is amended—

(1) by striking ''A grant'' and inserting the following:

''(1) IN GENERAL.—Except as provided in paragraph (2), a grant''; and

(2) by adding at the end the following:

''(2) EXTENSION.—The Secretary may extend the duration of a grant under this section beyond the period described in paragraph (1) if, prior to such extension—

''(A) the entity prepares and submits to the Secretary a report that evaluates the effectiveness of the use of amounts received under the grant for the period described in paragraph (1) and contains any other information the Secretary may prescribe; and

''(B) the report and other appropriate criteria indicate that the entity is successfully operating the hotline in accordance with subsection (a).''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 316(f) of such Act (42 U.S.C. 10416(f)) is repealed.

SEC. 411. YOUTH EDUCATION AND DOMESTIC VIOLENCE.

Section 317 of the Family Violence Prevention and Services Act (42 U.S.C. 10417) is repealed.

SEC. 412. NATIONAL DOMESTIC VIOLENCE SHELTER NETWORK.

The Family Violence Prevention and Services Act is amended by inserting after section 316 (42 U.S.C. 10416) the following:

''SEC. 317. NATIONAL DOMESTIC VIOLENCE SHELTER NETWORK.

''(a) IN GENERAL.—For a year in which the Secretary makes an amount available under subsection (g)(2), the Secretary shall award a grant to a nonprofit organization to establish and operate a highly secure Internet website (referred to in this section as the 'website') that shall—

''(1) link, to the greatest extent possible, entities consisting of the entity providing the national domestic violence hotline, participating domestic violence shelters in the United States, State and local domestic violence agencies, and other domestic violence organization, so that such entities will be able to connect a victim of domestic violence to the most safe, appropriate, and convenient domestic violence shelter; and

''(2) contain, to the maximum extent practicable, continuously updated information concerning the availability of services and space in domestic violence shelters across the United States.

''(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this section, a nonprofit organization shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require. The application shall—

''(1) demonstrate the experience of the applicant in successfully developing and managing a technology-based network of domestic violence shelters;

''(2) demonstrate a record of success of the applicant in meeting the needs of domestic violence victims and their families; and

''(3) include a certification that the applicant will—

''(A) implement a high level security system to ensure the confidentiality of the website;

''(B) establish, within 5 years, a website that links the entities described in subsection (a)(1);

''(C) consult with the entities described in subsection (a)(1) in developing and implementing the website and providing Internet connections; and

''(D) otherwise comply with the requirements of this section.

''(c) USE OF GRANT AWARD.—The recipient of a grant award under this section shall—

''(1) collaborate with officials of the Department of Health and Human Services in a manner determined to be appropriate by the Secretary;

''(2) collaborate with the entity providing the national domestic violence hotline in developing and implementing the network;

''(3) ensure that the website is continuously updated and highly secure;

''(4) ensure that the website provides information describing the services of each domestic violence shelter to which the website is linked, including information for individuals with limited English proficiency and information concerning access to medical care, social services, transportation, services for children, and other relevant services;

''(5) ensure that the website provides up-to-the-minute information on available bed space in domestic violence shelters across the United States, to the maximum extent practicable;

''(6) provide training to the staff of the hotline and to staff of the other entities described in subsection (a)(1) regarding how to use the website to best meet the needs of callers;

''(7) provide Internet access, and hardware in necessary cases, to domestic violence shelters in the United States that do not have the appropriate technology for such access, to the maximum extent practicable; and

''(8) ensure that after the third year of the website project, the recipient will develop a plan to expand the sources of funding for the website to include funding from public and private entities, although nothing in this paragraph shall preclude a grant recipient under this section from raising funds from other sources at any time during the 5-year grant period.

''(d) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to require any shelter or service provider, whether public or private, to be linked to the website or to provide information to the recipient of the grant award or to the website.

''(e) DURATION OF GRANT.—The term of a grant awarded under this section shall be 5 years.

''(f) TECHNICAL ASSISTANCE AND OVERSIGHT.—The Secretary shall—

''(1) provide technical assistance, if requested, on developing and managing the website; and

''(2) have access to, and monitor, the website.

''(g) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated to carry out section 316 and this section, $5,000,000 for fiscal year 2004 and such sums as may be necessary for each of fiscal years 2005 through 2008.

''(2) CONDITIONS ON APPROPRIATIONS.—Notwithstanding paragraph (1), the Secretary shall make available a portion of the amounts appropriated under paragraph (1) to carry out this section only for any fiscal year for which the amounts appropriated under paragraph (1) exceed $3,000,000.

''(3) ADMINISTRATIVE COSTS.—Of the amount made available to carry out this section for a fiscal year the Secretary may not use more than 2 percent for administrative costs associated with the grant program carried out under this section, of which not more than 5 percent shall be used to assist the entity providing the national domestic violence hotline to participate in the establishment of the website.

''(4) AVAILABILITY.—Funds appropriated under paragraph (1) shall remain available until expended.''.

SEC. 413. DEMONSTRATION GRANTS FOR COMMUNITY INITIATIVES.

(a) IN GENERAL.—Section 318(h) of the Family Violence Prevention and Services Act (42 U.S.C. 10418(h)) is amended to read as follows:

''(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $6,000,000 for each of fiscal years 2004 through 2008.''.

(b) REGULATIONS.—Section 318 of such Act (42 U.S.C. 10418) is amended by striking subsection (i).

SEC. 414. TRANSITIONAL HOUSING ASSISTANCE.

Section 319(f) of the Family Violence Prevention and Services Act (42 U.S.C. 10419(f)) is amended by striking ''fiscal year 2001'' and inserting ''each of fiscal years 2004 through 2008''.

SEC. 415. TECHNICAL AND CONFORMING AMENDMENTS.

The Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.) is amended—

(1) in section 302(1) (42 U.S.C. 10401(1)) by striking ''demonstrate the effectiveness of assisting'' and inserting ''assist'';

(2) in section 303(a) (42 U.S.C. 10402(a))—

(A) in paragraph (2)—

(i) in subparagraph (C), by striking ''State domestic violence coalitions knowledgeable individuals and interested organizations'' and inserting ''State domestic violence coalitions, knowledgeable individuals, and interested organizations''; and

(ii) in subparagraph (F), by adding ''and'' at the end; and

(B) by aligning the margins of paragraph (4) with the margins of paragraph (3);

(3) in section 303(g) (as so redesignated)—

(A) in the first sentence, by striking ''309(4)'' and inserting ''320''; and

(B) in the second sentence, by striking ''309(5)(A)'' and inserting ''320(5)(A)'';

(4) in section 305(b)(2)(A) (42 U.S.C. 10404(b)(2)(A)) by striking ''provide for research, and into'' and inserting ''provide for research into'';

(5) by redesignating section 309 as section 320 and moving that section to the end of the Act; and

(6) in section 311(a) (42 U.S.C. 10410(a))—

(A) in paragraph (2)(K), by striking ''other criminal justice professionals,;'' and inserting ''other criminal justice professionals;'' and

(B) in paragraph (3)—

(i) in the matter preceding subparagraph (A), by striking ''family law judges,,'' and inserting ''family law judges,'';

(ii) in subparagraph (D), by inserting '', criminal court judges,'' after ''family law judges''; and

(iii) in subparagraph (H), by striking ''supervised visitations that do not endanger victims and their children'' and inserting ''supervised visitations or denial of visitation to protect against danger to victims or their children''.

APPOINTMENTS

THE PRESIDING OFFICER. The Chair, on behalf of the Majority Leader, in consultation with the Democratic Leader, pursuant to Public Law 68–541, as amended by Public Law 102–246, reappoints John W. Kluge, of New York as a member of the Library of Congress Trust Fund Board for a term of five years.

The Chair, on behalf of the Majority Leader, pursuant to Public Law 100–458, reappoints Wiliam E. Cresswell, of Mississippi, to the Board of Trustees of the John C. Stennis Center for Public Service Training and Development, for a six-year term, commencing on October 11, 2002.

The Chair, on behalf of the President of the Senate, and after consultation with the Majority Leader, pursuant to Public Law 106–286, appoints the following Members to serve on the Congressional-Executive Commission on the People's Republic of China: The Senator from Kansas, Mr. BROWNBACK; the Senator from Oregon, Mr. SMITH; the Senator from Wyoming, Mr. THOMAS; the Senator from Kansas, Mr. ROBERTS; and the Senator from Nebraska, Mr. HAGEL, Chairman.

The Chair, on behalf of the Vice President, pursuant to Public Law 94–304, as amended by Public Law 99–7, appoints the following Senators as members of the Commission on Security and Cooperation in Europe (Helsinki) during the 108th Congress: The Senator from Kansas, Mr. BROWNBACK; the Senator from Oregon, Mr. SMITH; the Senator from Texas, Mrs. HUTCHISON; and the Senator from Georgia, Mr. CHAMBLISS.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. NICKLES. Mr. President, I ask unanimous consent that the Senate proceed immediately to executive session to consider the following nominations on today's executive calendar: Calendar Nos. 62, 63, 64, 65, 66, 67, 68, 69, and all nominations on the Secretary's desk. I further ask unanimous consent that the nominations be confirmed en bloc, the motion to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

The nominations were considered and confirmed, as follows:

NOMINATIONS

DEPARTMENT OF TRANSPORTATION

Ellen G. Engleman, of Indiana, to be Chairman of the National Transportation Safety Board for a term of two years.

Ellen G. Engleman, of Indiana, to be a Member of the National Transportation Safety Board for a term expiring December 31, 2007.

Richard F. Healing, of Virginia, to be a Member of the National Transportation Safety Board for a term expiring December 31, 2006.

Mark V. Rosenker, of Maryland, to be a Member of the National Transportation Safety Board for the remainder of the term expiring December 31, 2005.

DEPARTMENT OF HOMELAND SECURITY

Charles E. McQueary, of North Carolina, to be Under Secretary for Science and Technology, Department of Homeland Security.

DEPARTMENT OF TRANSPORTATION

Jeffrey Shane, of the District of Columbia, to be Under Secretary of Transportation for Policy.

Emil H. Frankel, of Connecticut, to be an Assistant Secretary of Transportation.

Robert A. Strugell, of Maryland, to be Deputy Administrator of the Federal Aviation Administration.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

COAST GUARD

PN357 Coast Guard nominations (4) beginning Paul S. Szwed, and ending Darell Singleterry, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of February 25, 2003.

PN297 Coast Guard nomination of Scott Aten, which was received by the Senate and appeared in the CONGRESSIONAL RECORD of February 6, 2003.

PN272 Coast Guard nominations (2) beginning DIANE J. HAUSER, and ending LISA H. DEGROTT, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 28, 2003.

PN409 Coast Guard nomination of John P. Nolan, which received by the Senate and appeared in the CONGRESSIONAL RECORD of March 11, 2003.

PN410 Coast Guard nomination of Christy L. Howard, which was received by the Senate and appeared in the CONGRESSIONAL RECORD of March 11, 2003.

PN411 Coast Guard nominations (244) beginning Bruce E Graham, and ending Bradford W Youngkin, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of March 11, 2003.

PN271 Coast Guard nominations (192) beginning Christine K Alexander, and ending Adam M Ziegler, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 28, 2003.

FOREIGN SERVICE

PN270 Foreign Service nominations (7) beginning Lyle J. Sebranek, and ending Margaret K. Ting, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 28, 2003.

ORDER OF BUSINESS

Mr. NICKLES. Mr. President, we have agreed to have votes on several pending amendments. I tell my colleagues, I am disappointed we are going to go out of session shortly. We stated our intention to stay in session, stay in business, to receive amendments late into the night, to work to pass and/or to modify, to accept or to come up with second degree amendments. We did not get as many amendments done as I had hoped.

We plan on being on this resolution from 9:30 in the morning until midnight tomorrow. So I do not want colleagues coming to me and saying they did not have a chance to offer their amendment. They had a chance tonight. They will have a chance tomorrow. I am trying to avoid a calamity towards the end called a ''vote-athon'' that we have had in the past. My colleague from Nevada and I know that is not the way the Senate should work, and we should avoid it if we possibly can.

We are going to be in on the bill tomorrow morning at 9:30. I urge Members, if they have amendments, please share those amendments with us. I have not seen any amendments that are expected to be offered by our colleagues on the other side of the aisle. I would like to see them. We would like to review them. We would like to analyze them. We would like to know what we are voting on.

I urge our colleagues on the other side of the aisle, if they have amendments, please share those with us. Likewise, I say to any of my colleagues, if they have amendments, I would like to share them with the managers on the other side so we can cooperatively work and manage this budget. It is very much the leader's intention and my intention to finish this budget this week.

As with most budgets in the past, I expect we will have a lot of votes. It needs to be done in a way that we know what we are voting on. So I make those editorial comments. Again, I want to thank my colleagues from Nevada and North Dakota. Both have been a pleasure to work with. I hope we will have greater progress in moving amendments.

I mentioned in our unanimous consent request, which has already been agreed upon, we have three votes. My expectation would be that we would have several other votes tacked on in addition to those. I hope we will have substantive amendments.

ORDERS FOR THURSDAY, MARCH 20, 2003

Mr. NICKLES. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 9:30 a.m. on Thursday, March 20. I further ask that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of S. Con. Res. 23, the concurrent budget resolution; provided further that there be 14½ hours remaining for debate on the resolutions with 6½ hours remaining under the control of the chairman of the Budget Committee and 8 hours remaining under the control of the ranking member.

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

The Democratic whip.

Mr. REID. Mr. President, in response to the earlier statements of my dear friend, the distinguished Senator from Oklahoma, we have worked hard the last few days trying to work our way through this very difficult legislation. It is always this way. It is very difficult. The reason we do it this way is it is statutory. We are doing our best.

We stand on the brink of a war. The two leaders have met today to talk about the fact that when this does start, there will be a pause of some time to be determined by the leaders so that Members can speak about what is going on in Iraq. I think I speak for the entire Senate in this regard, as we leave the Senate tonight, our thoughts and our prayers are with the Commander in Chief of the United States military, George Bush, and also with the hundreds of thousands of American troops who are standing ready to go do what is appropriate at this time.

We recognize there are some who feel this is not the right time, but as Americans we always rally around our troops. This time is going to be no different. The minute the first shot is fired, with rare exception, all Americans will be recognizing what we feel here tonight is that there is a strong sense of urgency to making sure that we do the business of this Nation in the Senate and work to complete whatever business is necessary to make sure those people who are fighting for us—lives are going to be lost—have everything they need and more.

As we retire tonight, I think I speak for the entire Senate when I say our thoughts and prayers are with those who have to make this momentous decision, especially the President.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. I thank my friend and colleague from Nevada for his comments in support of the President and the troops. We do wish them Godspeed and God's blessing and protection as well.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. NICKLES. If there is no further business to come before the Senate, I ask the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 9:15 p.m, adjourned until Thursday, March 20, 2003, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate March 19, 2003:

DEPARTMENT OF STATE

PAMELA J. H. SLUTZ, OF TEXAS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO MONGOLIA.

ERIC M. JAVITS, OF NEW YORK, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS UNITED STATES REPRESENTATIVE TO THE ORGANIZATION FOR THE PROHIBITION OF CHEMICAL WEAPONS.

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COLONEL JOHN C. ADAMS, 0000
COLONEL CHARLES B. ALLEN, 0000
COLONEL CHARLES A. ANDERSON, 0000
COLONEL OSCAR R. ANDERSON, 0000
COLONEL JOHN R. BARTLEY, 0000
COLONEL KEVIN J. BERGNER, 0000
COLONEL BRUCE A. BERWICK, 0000
COLONEL NOLEN V. BIVENS, 0000
COLONEL DANIEL P. BOLGER, 0000
COLONEL DOYLE D. BROOME JR., 0000
COLONEL ALBERT BRYANT JR., 0000
COLONEL ROBERT L. CASLEN JR., 0000
COLONEL JAMES E. CHAMBERS, 0000
COLONEL BERNARD S. CHAMPOUX, 0000
COLONEL ANTHONY A. CUCOLO III, 0000
COLONEL MICHAEL C. FLOWERS, 0000
COLONEL JEFFREY W. FOLEY, 0000
COLONEL YVES J. FONTAINE, 0000
COLONEL REBECCA S. HALSTEAD, 0000
COLONEL KARL R. HORST, 0000
COLONEL MICHAEL D. JONES, 0000
COLONEL PURL K. KEEN, 0000
COLONEL DAVID B. LACQUEMENT, 0000
COLONEL STANLEY H. LILLIE, 0000
COLONEL THOMAS C. MAFFEY, 0000
COLONEL FRANCIS G. MAHON, 0000
COLONEL JOSEPH E. MARTZ, 0000
COLONEL RAYMOND V. MASON, 0000
COLONEL JOHN F. MULHOLLAND, 0000
COLONEL PATRICK J. OREILLY, 0000
COLONEL MARK V. PHELAN, 0000
COLONEL JOSEPH SCHROEDEL, 0000
COLONEL JOHN E. STERLING JR., 0000
COLONEL RANDOLPH P. STRONG, 0000
COLONEL JAMES L. TERRY, 0000
COLONEL WILLIAM J. TROY, 0000
COLONEL PETER M. VANGJEL, 0000
COLONEL DENNIS L. VIA, 0000
COLONEL JOSEPH L. VOTEL, 0000
COLONEL FRANCIS J. WIERCINSKI, 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral

REAR ADM. (LH) FENTON F. PRIEST III, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral

REAR ADM. (LH) PETER L. ANDRUS, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral

REAR ADM. (LH) JAMES M. MCGARRAH, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral

REAR ADM. (LH) MICHAEL K. LOOSE, 0000
REAR ADM. (LH) ROBERT L. PHILLIPS, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral

REAR ADM. (LH) ROBERT E. COWLEY III, 0000
REAR ADM. (LH) STEVEN W. MAAS, 0000

CONFIRMATIONS

Executive nominations confirmed by the Senate March 19, 2003:

DEPARTMENT OF TRANSPORTATION

ELLEN G. ENGLEMAN, OF INDIANA, TO BE CHAIRMAN OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR A TERM OF TWO YEARS.

ELLEN G. ENGLEMAN, OF INDIANA, TO BE A MEMBER OF THE NATIONAL TRANSPORTATION SAFETY BOARD.

RICHARD F. HEALING, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL TRANSPORTATION SAFETY BOARD.

MARK V. ROSENKER, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR THE REMAINDER OF THE TERM EXPIRING DECEMBER 31, 2005.

DEPARTMENT OF HOMELAND SECURITY

CHARLES E. MCQUEARY, OF NORTH CAROLINA, TO BE UNDER SECRETARY FOR SCIENCE AND TECHNOLOGY, DEPARTMENT OF HOMELAND SECURITY.

DEPARTMENT OF TRANSPORTATION

JEFFREY SHANE, OF THE DISTRICT OF COLUMBIA, TO BE UNDER SECRETARY OF TRANSPORTATION FOR POLICY.

EMIL H. FRANKEL, OF CONNECTICUT, TO BE AN ASSISTANT SECRETARY OF TRANSPORTATION.

ROBERT A. STURGELL, OF MARYLAND, TO BE DEPUTY ADMINISTRATOR OF THE FEDERAL AVIATION ADMINISTRATION.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

COAST GUARD NOMINATIONS BEGINNING CHRISTINE K ALEXANDER AND ENDING ADAM M ZIEGLER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 28, 2003.

COAST GUARD NOMINATIONS BEGINNING DIANE J. HAUSER AND ENDING LISA H. DEGROOT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 28, 2003.

COAST GUARD NOMINATION OF SCOTT ATEN.

COAST GUARD NOMINATIONS BEGINNING PAUL S. SZWED AND ENDING DARELL SINGLETERRY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 25, 2003.

COAST GUARD NOMINATION OF JOHN P. NOLAN.

COAST GUARD NOMINATION OF CHRISTY L. HOWARD.

COAST GUARD NOMINATIONS BEGINNING BRUCE E. GRAHAM AND ENDING BRADFORD W YOUNGKIN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 11, 2003.

FOREIGN SERVICE NOMINATIONS BEGINNING LYLE J. SEBRANEK AND ENDING MARGARET K. TING, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 28, 2003.

EXTENSIONS OF REMARKS

HONORING JEANINE MARRINSON

HON. PETER DEUTSCH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 2003

Mr. DEUTSCH. Mr. Speaker, I rise today to honor the life of Mrs. Jeanine Marrinson, a community leader, civic activist, loving individual, and a great Floridian. Born originally in Chicago, Marrinson moved to Florida in 1966 and soon began a career of service to her community.

Mrs. Marrinson will long be remembered as an accomplished woman in business and civic affairs. After arriving to South Florida, she and husband Ralph opened the Manor Pines Convalescent Center. Later, she served as president of Designs by Jeanine and fulfilled the role as chief designer of her husband Ralph Marrinson's seven senior care facilities that the couple later opened. Prior to spearheading her own successful business, Mrs. Marrinson was an American Airlines Flight Attendant.

Marrinson made sincere and concerted efforts to give back to the community. She volunteered for a number of organizations, including the YMCA, Kids in Distress, and for a period of more than 25 years the Boys & Girls Club. Remaining dedicated to these causes and helping many less fortunate neighbors, her devotion and commitment serves as an example to us all.

Mr. Speaker, it is truly a special occasion for me to honor Mrs. Jeanine Marrinson. Marrinson's earnest and altruistic values in helping others and becoming involved in the greater Fort Lauderdale community serves as an example to us all. I trust that her amazing legacy will last forever and will be carried on by others who loved her.

Mrs. Marrinson is survived by her husband Ralph Marrinson and her twin brother Jerome Duever of Chicago.

IN HONOR OF JESSICA E. WILKES-MOBLEY

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 2003

Mr. TOWNS. Mr. Speaker, I rise to honor Jessica Elizabeth Wilkes-Mobley.

Jessica is one of Brooklyn's brightest young stars. She is an honor student, having ranked second in her sophomore class at Catherine McAuley High School. Currently, Jessica is continuing her strong academic showing by remaining on the Principal's list in her junior year.

Her lifelong goal of being a pediatrician was furthered by her participation in the June 2002 National Leadership Forum on Medicine in Chicago. Jessica was also nominated as a National Math Award winner and had her biography published in the 2001 United States Achievement Academy National Awards Yearbook. Jessica was also nominated as a United States National Honor Roll Member and Who's Who Among American High School Students. She is a member of the National Honor Society and the recipient of the St. Johns University Women in Science Society for Mathematics.

Jessica is a member of Our Lady of Charity R.C. Church where she works with the church elders. She is also a member of Youth Discipleship and the Liturgical Dance Group. In addition to her academic studies and church work, Jessica also enjoys reading and cheerleading in her spare time.

Mr. Speaker, Jessica Elizabeth Wilkes-Mobley is truly a young lady who is going places and who is already an academic success story. As such, she is more than worthy of receiving our recognition today.

IN MEMORY OF SISTER PEG HYNES

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 2003

Mr. ANDREWS. Mr. Speaker, I rise before you today in memory of a very special woman, Sister Peg Hynes.

A friend remembers Sister Peg as ''an extraordinary, vibrant, and unforgettable person. With a constant smile she lit up every place she was in with her good nature and good humor. She represented everything good about humanity—an abundance of generosity, selflessness and an abiding love for people of all backgrounds and walks of life. The world is a sadder and emptier place without her.''

Margaret Mary ''Peg'' Hynes was born on June 7, 1933 in Philadelphia, PA, the second of five daughters of Nellie (Burke) and Tom Hynes, who had emigrated from Co. Galway, Ireland. Growing up in North Philadelphia, Peg graduated from St. Columba Elementary School, and John W. Hallahan Catholic Girls' High School, where she was an All-Catholic basketball player and a distinguished honor student.

Peg worked for three years before entering the Sisters of St. Joseph, a religious community in Chestnut Hill, PA in 1954. In the convent she was given the name Sister Francis de Sales. Peg received degrees from Chestnut Hill College and Boston College, then embarked on a 31-year career in education. She was a teacher or principal at various schools, including St. John's in Hillsdale, NJ, Epiphany in Plymouth Meeting, PA, as well as St. Stephen, St. Athanasius, Christ the King, and Norwood-Fontbonne Academy, all in Philadelphia. Her last teaching assignment was Holy Trinity in Washington, DC.

In 1986, Sister Peg Hynes became Executive Director of the Heart of Camden Housing Corporation, a non-profit organization. The Heart of Camden had been established in 1984 by Father Michael Doyle, pastor of Sacred Heart Church in South Camden, to rehabilitate abandoned homes and sell them at cost to poor families in the neighborhood. Camden is one of the poorest cities in the United States, and Father Doyle has described the Heart of Camden's work as ''the most difficult housing assignment in the country''.

In testimony before the New Jersey State Assembly in 1996, Sister Peg described her mission: ''We are attempting to make ours a stable neighborhood by making home ownership available to families who would never qualify for a conventional mortgage. We have a dream, not a dream merely to renovate houses, but to renovate humanity. The goal is to continue to expand our efforts until every ugly eyesore of abandonment in our area has a light in the windows and life within the walls.'' Under Sister Peg's leadership, the Heart of Camden has helped more than 125 families to achieve the dream of home ownership. She also enlarged the scope of the Heart of Camden to include a counseling center, a food distribution program, a medical clinic, a youth center, and a family resource center.

Sister Peg successfully battled breast cancer twice—in 1982 and in November 2000. Because of health problems, Sister Peg stepped down as Executive Director of the Heart of Camden in October, 2001, and became Development Director, raising funds for the work to be done.

Over the years Sister Peg received many awards and accolades for her work, including the World Habitat Day Award from the United Nations, and the Fannie Mae Award of Excellence. None of these awards pleased her more than the one she received from her Alma Mater, Hallahan High School. Since its opening in 1901, Hallahan has graduated more than 37,000 girls. To celebrate the school's 100th Anniversary, Hallahan established a Hall of Fame, and selected Sister Peg as one of its first inductees.

Sister Peg was proud of her Irish roots. She loved traditional Irish music and enthusiastically participated in ceili dancing. In 1997, she was chosen for the Ring of Honor by the Philadelphia St. Patrick's Day Committee, and proudly helped to lead the annual parade. An athlete in her youth, Peg was an avid sports fan, and enjoyed watching Philadelphia's college and professional basketball and football teams. Having grown up in the shadow of Connie Mack Stadium, however, Sister Peg had a particular fondness for the Philadelphia Phillies baseball team.

Sister Peg was killed in an automobile accident on December 21, 2002. Bishop Nicholas DiMarzio of the Diocese of Camden stated, ''Sister Peg's untimely and tragic death is an irreparable loss to the work of the church and the city of Camden. She was known for her work with the heart of Camden, but it was her own heart that she will be remembered for—a heart that made a place for Christ and all those she served in His name.''

Mr. Speaker, please join me in honoring the memory of Sister Peg Hynes. Her dedication

to assisting others was unparalleled, and she will be sorely missed.

CONGRATULATIONS TO DUNBAR HIGH SCHOOL AND COACH ROBERT HUGHES ON 5–A BASKETBALL CHAMPIONSHIP

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 2003

Mr. FROST. Mr. Speaker, I want to recognize and congratulate the remarkable Dunbar High School boys basketball team and their legendary coach Robert Hughes for winning the 2003 Texas Division 4–A championship.

Throughout the championship tournament, sports fans across Texas eagerly followed the Dunbar team to see if Coach Hughes would win his fifth state championship just weeks after setting the national record for the most wins by a high school basketball coach. An outstanding group of student athletes from Fort Worth made sure we weren't disappointed.

The championship game pitted Dunbar, the top seed, against No. 2 seed Oxen High School. Led by outstanding play from Jeremis Smith, Lance Jackson, Dominique Williams, Jeff Muriel and other Wildcats, Dunbar came from behind to win the second championship in Dunbar's school history.

With the excitement of the tournament behind us, talk is turning to whether Coach Hughes will return for his 46th season of coaching. The Dunbar players, many of whom are returning next season and who desperately want to play for the title again in Austin, have made it very clear that they want Coach Hughes back on the bench. And all of us who greatly admire everything Coach Hughes has accomplished on the court and to help countless young peoples' lives also hope to see him back next year.

PERSONAL EXPLANATION

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 2003

Ms. LEE. Mr. Speaker, on March 18, 2003, during rollcall vote No. 65 on H. Con. Res. 26 I was unavoidably detained. Had I been present, I would have voted ''yea.''

INTRODUCING THE AVIATION INDUSTRY STABILIZATION ACT OF 2003

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 2003

Mr. OBERSTAR. Mr. Speaker, today I have introduced the ''Aviation Industry Stabilization Act.'' The bill addresses the burdens placed on the industry by the terrorist attacks on September 11, the increased security required in response to the attacks, and additional burdens the industry will face if there is a war with Iraq.

Although the events of September 11 were directed at our Nation as a whole, the airlines were used as the weapons of attack and, as a result, have incurred a disproportionate share of the costs of the attack.

The effects of September 11 on the aviation industry were direct and far-reaching. Commercial airliners were totally grounded for several days and realized no revenues while incurring hundreds of millions of dollars in expenses. Even after the industry resumed flying, passenger traffic has not fully recovered because of public anxiety that the airlines could again become a weapon for terrorists. The events of September 11 have also added to the industry's expenses, including a billion dollars a year in increased insurance costs, and loss of substantial revenues because of security limitations on the carriage of freight and mail. In addition, we have required increased security for the aviation system after September 11. Although it was our intent that the general public pay most of these added costs, and that the new Transportation Security Administration take over many security functions, we have not fully compensated the airlines for the added costs involved in functions they continue to perform, such as screening catering facilities, checking documents, screening passengers and persons with access to aircraft, and cockpit door retrofit.

The costs of a war with Iraq will also fall disproportionately on the airlines. A war with Iraq is likely to add substantially to the industry's financial distress, including increased fuel costs (fuel is approximately 15 percent of the airlines' total costs), loss of revenue from the reluctance of passengers to fly—especially in the trans-Atlantic service—and the need of our military to use the airlines' aircraft to carry troops and equipment to the war zone.

Shortly after September 11, Congress responded to the aviation industry's financial problems by passing a $15 billion package of direct assistance and loans. Even with this assistance, the Air Transport Association (ATA) states that passenger carriers reported over $10 billion in 2002 net losses. ATA forecasts $6.7 billion in net losses of 2003 if the United States does not go to war with Iraq. However, if the United States does go to war with Iraq, ATA forecasts that airline net losses for 2003 will be $10.7 billion to $13 billion.

The costs of September 11 have fallen not only on airline creditors and stockholders, but also on their employees. Airline workers have suffered unprecedented job loss and economic uncertainty. Some 100,000 airline employees are out of work or facing imminent lay-off. The ATA forecasts another 70,000 layoffs if there is a war with Iraq. And, with two major airlines in bankruptcy, and more likely to follow, the staggering job losses may grow.

Mr. Speaker, we must act now to stem the tremendous costs of September 11 that are continuing to be imposed on the airlines and their hard-working employees, and the even greater costs and revenue losses that are likely once the war with Iraq commences. The airlines have already shouldered, and are continuing to shoulder a disproportionate share of the costs of September 11. We must not force them to bear a disproportionate share of the direct and indirect costs of a war with Iraq. We must act now to provide airlines with stable, low cost war risk insurance from the federal government, relief from security burdens that are the responsibility of the entire country, and assistance in coping with any major increase in fuel costs and any loss of traffic, resulting from a war with Iraq.

Specifically, my bill provides:

WAR RISK INSURANCE

A permanent limitation on airline liability for third party damages (i.e. injuries to people in a building or on the ground) from acts of terrorism to $100 million, and extends existing war risk policies until December 31, 2007 at premiums no higher than now.

FUEL PRICES

Loan Guarantees: Reopens the federal loan program established by the Air Transportation and System Stabilization Act (Pub. L. 107–42) and dedicates $3 billion of the $10 billion program to federal guarantees for loans or for lines of credit, or direct lines of credit for carriers to purchase fuel. In other words, the program authorizes ATSB to issue a loan guarantee, or issue a line of credit directly to carrier or to guarantee a line of credit issued to a carrier by a third party.

Strategic Petroleum Reserve: Requires the Secretary of Energy to draw down not less than 500,000 barrels per day of petroleum from the Strategic Petroleum Reserve (SPR) to offset dislocation or price spikes in the jet fuel market due to a possible war with Iraq.

AIR CARRIER REIMBURSEMENT

Air Traffic Losses: Authorizes the Department of Transportation to reimburse, subject to appropriations, an air carrier for any financial losses that the DOT determines are attributable to the loss of air traffic due to a war with Iraq.

Security-Related Activities: Directs the TSA, within available resources, to reimburse air carriers and airports for screening related activities they are still performing, such as catering, document checks, and screening of passengers and persons having access to aircraft. In addition, directs the TSA to reimburse such entities for the provision of space. The bill also directs the TSA to reimburse air carriers for the costs of strengthening cockpit doors.

Civil Reserve Air Fleet: Ensures that air carriers participating in the civil reserve air fleet program are compensated for positioning, depositioning, and other ferry portions of such missions. During the gulf war, many air carriers performing CRAF missions lost revenue from the lack of return flight traffic.

Mr. Speaker, my bill recognizes the ongoing plight of the aviation industry, for the costs imposed upon them by the terrorist attacks of September 11, the increased security necessitated by the attack, and the likely war with Iraq. National security is the responsibility of the entire nation; disproportionment costs should not be imposed on the industry that happens to be the means of terrorist attacks.

I urge my colleagues to join me in working to pass this important legislation.

HELP EFFICIENT, ACCESSIBLE, LOW-COST, TIMELY HEALTHCARE (HEALTH) ACT OF 2003

SPEECH OF

HON. BOB ETHERIDGE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 13, 2003

Mr. ETHERIDGE. Mr. Speaker, I rise today in opposition to H.R. 5, the Republican medical malpractice bill, and the process by which it is being debated in this House.

Today, the House will pass H.R. 5, a bill to impose caps on damages that may be awarded for medical malpractice, defective products, and other health related wrongdoings. Like many Members of this House, I am concerned about the rising cost of medical malpractice insurance and its impact on physicians and their patients, but H.R. 5 is not the right medicine for this national problem.

I oppose H.R. 5 because it will not reduce medical malpractice premiums. What's more, it protects manufacturers of defective pharmaceutical and medical equipment from product liability actions, and overturns North Carolina state law.

Years of experience prove that limiting patient rights to seek legal remedies for medical malpractice will not reduce insurance rates for doctors or hospitals. We've heard a lot of debate on this floor today about California's law that caps damage awards in medical malpractice cases at $250,000. Supporters of H.R. 5 misses the point in this debate, Mr. Speaker. Instead of dealing with the real issue here, which involves insurance rates, the Republican Majority is turning this serious issue into a political football at the expense of patients.

H.R. 5 also limits the ability of injured persons to bring suits against pharmaceutical companies, HMOs, nursing homes, and medical device manufacturers, thus setting a dangerous precedent allowing these entities to escape the law in even the most severe cases of neglect and abuse.

Finally, H.R. 5 undermines North Carolina's patients protection statutes, which are some of the strongest in the nation.

My colleagues Mr. DINGELL and Mr. CONYERS have drafted an alternative amendment to H.R. 5. This alternative will help courts weed out frivolous lawsuits without restricting the rights of legitimate claims, repeal the federal anti-trust exemption for medical malpractice insurance companies, thereby increasing competition and lowering premiums, and provide targeted assistance directly to physicians, hospitals, and communities in medical malpractice crisis areas. Finally, the alternative establishes an independent advisory commission to examine and recommend long-term solutions to this important issue. Unfortunately, the Republican Leadership has denied us an opportunity to offer this alternative.

Mr. Speaker, the issue of a insurance is an important one. Yet, it seems that the Republican Majority has forgotten one of the key tenets of the Hippocratic oath—do no harm or injustice. H.R. 5 will without a doubt harm America's patients. I urge all of my colleagues to vote against H.R. 5 and to support the motion to recommit the bill.

TRIBUTE TO MRS. ANNIE MAE AARON ON HER 95TH BIRTHDAY

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 2003

Mr. HASTINGS of Florida. Mr. Speaker, I rise today with great pride to recognize Mrs. Annie Mae Aaron who will soon observe her 95th birthday.

Born on April 24, 1908, Mrs. Aaron was aware at an early age of the importance family, faith, freedom, and education. Though she was struck with polio at the age of three, through her faith in God, and self-reliance, she recovered from this illness to lead a full and productive life of distinction. She Attended Edward Waters College in Jacksonville, Florida and graduated in the class of 1930. She was a teacher in the public school system of Florida, teaching in E.O. Douglas high school in Sebring.

In 1939, Mrs. Aaron made her home in West Palm Beach Florida where she was the Sunday school secretary at Payne Chapel A.M.E. Church. She was a marketing representative for the Afro American Insurance Company. She married J.E. Aaron of Sebring in 1941 and they enjoyed a long happy union until his death in 1974.

Mrs. Aaron's greatest contribution to her community and to her country is through her family—her children that she reared—and preschool age children of others whom she mentored. She produced seven sons and two daughters. Four of her sons served honorably in the United States Army, three of whom served in combat zones during hostilities. Rudy rose to the rank of Sergeant and served in the Army Signal Corps in the Korean War. Samuel achieved to the rank of Regular Army Major and was an Army aviator during two tours in the Vietnam War. He is a high-ranking official with the Federal Aviation Administration. A third son, Eugene, advanced to the rank of Regular Army Captain and served in Wurzburg, Germany with the Third Infantry Division as a Tank platoon commander during the height of the Cold War. He was also an advisory to South Vietnamese in the Vietnam War. He is now a State Department Foreign Service Officer, who has completed diplomatic assignments in four countries. Patrick served in the United States Army in Alaska in the Signal Corps, Mrs. Aaron's daughters are also serving their communities in significant ways. Both have chosen to become teachers in their native Florida, following in the large footprints of their mother. Priscilla is a Business teacher at Sebring High School in Highlands County. Ruth is a Mathematics Instructor in the Seminole County Community College.

Some sons have distinguished themselves in non-military areas as well. Joseph is an expert chemist and enjoyed a long 20-year career with the Department of Energy. James is a passionate lawyer, using his knowledge and skill of the law to increase justice in his community. During his life, Robert used his hands in many trades, mainly the construction crafts. Lastly, one of the children that she mentored as a pre-school student, Water, is a Medical Doctor. Indeed Mrs. Aaron has contributed much to Sebring, the state of Florida and America.

In addition to organizing and serving as president of the Women's Club, a community service organization, Mrs. Aaron was an advisor to the Girl Scouts. She is still a vibrant presence in Mt. Zion A.M.E. Church in Sebring, Florida. Mrs. Aaron's life is the very model of what is possible in a free and open democratic society and it is in keeping with the culture and highest traditions of what it means to be an American. Mr. Speaker I know that my colleagues here in the U.S. House of Representatives join me today in saluting Mrs. Aaron and wishing her continued health and happiness in the years to come.

CONGRESSIONAL RESOLUTION SUPPORTING THE EDUCATIONAL VALUE OF STUDENT TRAVEL

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 2003

Ms. NORTON. Mr. Speaker, whereas travel is a vital component of the educational experience for Americans of all ages;

Whereas, the Washington, DC area is an area rich in American history and is visited by students nationwide;

Whereas many school boards across the country are reluctant to approve student trips to Washington, DC and other historic areas due to the attack on the World Trade Center, Washington, DC and Pennsylvania and the fear of additional attacks;

Whereas many U.S. students will not be able to experience landmarks and monuments celebrating American democracy, political figures and scientific achievement;

Whereas the absence of student travel to our nation's historic sites will leave a vital gap in the education of America's youth;

Whereas America's youth must be cognizant of American history to understand fully the concepts and responsibilities of democracy and citizenship;

Now, therefore, be it resolved by the Senate and the United States House of Representatives of the United States in Congress assembled, that student travel is a vital component of the educational process and should be encouraged so that Americans, young and old, can participate in travel, the perfect freedom.

LIEUTENANT GOVERNOR TONI JENNINGS

HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 2003

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker I rise today to congratulate Florida's new Lieutenant Governor, Toni Jennings, who was appointed Monday by Florida Governor Jeb Bush.

I served with Toni in the Florida State Senate and I know from working with her in that capacity what a dedicated public servant she is.

A Florida native and the first woman to hold this post in Florida's history, Toni brings a wealth of legislative knowledge and dedication to the State of Florida with her to the Executive Branch.

Toni was the youngest woman ever elected to the State Legislature when she took office

in 1976 at the age of 27. In 1980, she was elected to the Florida Senate where in 1996 she became the first woman ever elected as President of the Florida Senate. In 2000 she became the first senator ever to be elected to two consecutive terms as Senate President. Senators trusted Toni. The House leadership trusted Toni and the voters trusted Toni.

She was also the first woman Minority Leader in either house of the legislature serving two terms, from 1983–84 and from 1986–88 while in the Senate.

A former fifth-grade teacher, Toni was a strong champion of education issues in the Senate and earned a reputation as such. Toni instilled in every senator that there were no ''Ds'' or ''Rs'' in TEAM.

I am proud to say she's the Lieutenant Governor of my state and I know Florida is lucky to have her. Congratulations, Toni.

SUPPORTING WORKERS

HON. SHERROD BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 2003

Mr. BROWN of Ohio. Mr. Speaker, I rise to recognize the courage and strength of legal immigrant workers who immigrated to the United States to make life better. Throughout their struggles, they were filled with the promised optimism and freedom inherent in the American dream.

Today marks the two year anniversary of a unique American struggle. On March 19, 2001, Chinese Daily News workers, mostly immigrants from Taiwan, voted to select The Newspaper Guild of the Communications Workers of America to represent them for purposes of collective bargaining and to help them develop a more cohesive voice at work. I commend the tireless efforts of these workers as they continue to wrestle the overwhelming resources of a foreign employer committed to silencing their voices and thwarting their right to organize under U.S. labor law. This is unacceptable.

Foreign employers should not be given leeway to further erode the organizing rights of U.S. workers. Chinese Daily News employees put their faith in America and in U.S. labor law. At this pivotal juncture in our history, we should recognize the faith and allegiance of those legal immigrants who subscribe to our rule of law. These workers deserve our support. I urge management of the Chinese Daily News to sit down with the affected workers and immediately settle their differences.

REMEMBERING WILMA MUSGROVE

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 2003

Ms. ROS-LEHTINEN. Mr. Speaker, pioneer aviation wife and South Dade avocado farmer, Wilma ''Billie'' Musgrove, died on March 6th in the arms of her son at the age of 86 after suffering several strokes. Born of Dutch parents in Holland, Michigan, she celebrated Tulip Time and the sand dunes and beaches of Lake Michigan. She caught the eye of aviator Lester E. Musgrove and married him when she was 16 years old. She followed her barnstorming husband across the United States to air shows, wing walker exhibitions, air races and crop-dusting jobs. While Lester served in the U.S. Army Air Corps at the start of WWII, Billie raised their son, Bob, in Grand Rapids and worked their new property in South Dade.

After the war, the couple started their Redland avocado grove and they watched Bob grow to become a pilot. Billie purchased an air boat to hunt in the Everglades and enjoyed preparing feasts from her catches for family and friends.

Billie had a great love of the organ and piano which led her to entertain at Sunniland's Flame Restaurant and Homestead's Capri Restaurant with big band era favorites. A great joy was her immediate past presidency of South Florida's Organ Belles club and Light Aircraft Flyer's Association. Travels around the world added to her wonderful life.

Billie touched many lives and leaves great memories with those who were fortunate to know her. She will be sorely missed but always remembered with love. My heartfelt sympathies go out to her family for their tremendous loss.

THE CITIZEN AND THE CONSTITUTION PROGRAM

HON. BILL SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 2003

Mr. SHUSTER. Mr. Speaker, I rise today to inform my colleagues that on April 26, 2003, more than 1,200 students from across the United States will visit Washington, DC, to compete in the national finals of the We the People: The Citizen and the Constitution program. This educational program is developed specifically to teach young people more about the Constitution and the Bill of Rights and is administered by the Center for Civic Education. The program is funded by the U.S. Department of Education by an act of Congress.

I am proud to announce that the class from Indiana Area High School from Indiana will represent the state of Pennsylvania in this national event. These young scholars have worked conscientiously to reach the national finals by participating at local and statewide competitions. As a result of their experience they have gained a deep knowledge and understanding of the fundamental principles and values of our constitutional democracy.

The 3-day We the People national competition is modeled after hearings in the United States Congress. The hearings consist of oral presentations by high school students before a panel of adult judges on constitutional topics. The students are given an opportunity to demonstrate their knowledge while they evaluate, take, and defend positions on relevant historical and contemporary issues. Their testimony is followed by a period of questioning by the judges who probe the students' depth of understanding and ability to apply their constitutional knowledge.

The We the People program provides curricular materials at upper elementary, middle, and high school levels. The curriculum not only enhances students' understanding of the institutions of American constitutional democracy, it also helps them identify the contemporary relevance of the Constitution and Bill of Rights. Critical thinking exercises, problem-solving activities, and cooperative learning techniques help develop participatory skills necessary for students to become active, responsible citizens.

The class from Indiana Area High School is currently preparing for their participation in the national competition in Washington, DC. It is inspiring to see these young people advocate the fundamental ideals and principles of our government, ideas that identify us as a people and bind us together as a nation. It is important for future generations to understand these values and principles which we hold as standards in our endeavor to preserve and realize the promise of our constitutional democracy. I wish these young ''constitutional experts'' the best of luck as they participate in the We the People national finals.

SUPPORT RANCHER DROUGHT TAX RELIEF

HON. BARBARA CUBIN

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 2003

Mrs. CUBIN. Mr. Speaker, our Tax Code is unfairly penalizing livestock producers during the present drought that is affecting a large area of this great country. Under current law, ranchers who were forced to sell their cattle because of the drought are limited to a time period of just 2 years before they either have to pay taxes on that sale—or buy new livestock—even though the drought persists. The problem is, we are now in the third year of this drought, and there's no end in sight—experts have called this the worst drought in a century in many parts of the West, including my home, Wyoming. In fact, it is so bad out West that we had a city in Wyoming actually run out of water last summer. If the cities are out of water, imagine how hard it is for ranchers to raise their livestock on drought-ravaged land.

A good first step to help drought-stricken ranchers is to extend the period of time we allow for them to weather the drought. That's why I support the McInnis amendment in H.R. 1308, the Tax Relief, Simplification, and Equity Act of 2003, which would allow ranchers an additional 2 years to either replace their herd or pay a capital gains tax. The impact on the Treasury would be small, but the impact on Wyoming ranchers is huge. It is the difference between sinking and swimming. The 2-year limit in current law is unworkable in our present situation and serves as a disincentive to those who raise this valuable commodity that feeds millions of people. A poorly designed Tax Code should not force these small business men and women to choose between closing their doors or paying their tax bill.

Mr. Speaker, these are desperate times for our agricultural community, and they demand our attention. This change can provide hope to those who are on the verge of closing the barn doors for good. I yield back the balance of my time.

HONORING THE LIFE OF STEPHEN PETER LYNCH

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 2003

Mr. HYDE. Mr. Speaker, it is with deep regret and sorrow that I announce to the House the passing of a good friend and former staff member, Stephen Peter Lynch.

Steve was a native of New Bedford, Massachusetts, the whaling and textile capital of the world. He was a Vietnam War Era Veteran and was recommended for the Seventh Army Commendation Medal. After his honorable discharge in 1970, he attended Saint Louis University in pursuit of a post-graduate degree in Political Science. He was a seasoned Capitol Hill staffer for almost thirty years and was an active member in the Irish community, along with many other civic efforts.

Steve's work on Capitol Hill began in the fall of 1973, where he served as a research assistant to the Judiciary Committee's Subcommittee on Criminal Justice. There, his research on the Federal Rules of Evidence and the development of Special Prosecutor legislation were to hold the key to his work on Capitol Hill for the remainder of his professional career. In addition to his research duties, he also assisted in the investigations of the firing of Special Prosecutor Archibald Cox, the pardon of President Richard M. Nixon, and the subsequent attempt to reopen the pardon investigation. This work also included being a special assistant to the Subcommittee Chairman on the impeachment investigation of Richard Nixon and serving as a Committee representative to the staff and security force of Governor Nelson A. Rockefeller during his Vice Presidential confirmation hearings.

His other service on Capitol Hill included: Staff Director on the Regulatory Agencies and Export Opportunities Subcommittees of the House Committee on Small Business (1975–1983); Minority Professional Staff Member on the Subcommittee on Export Opportunities and Special Small Business Problems, House Committee on Small Business (1984–1991); House Committee on Small Business, Minority Staff Director (1991–1993); and House Committee on Small Business, Majority Director of Special Projects (1994–1996).

In 1998, after a short retirement, Steve returned to Capitol Hill to serve on the House Judiciary Committee's staff on the Impeachment investigation of President Clinton, where he conducted research analysis and acted as the archivist for the Committee until 2001. His consummate knowledge of the history of the Nixon investigation made him invaluable to the committee.

As an active member of the Saint Patrick's Day Parade Committee of Washington, D.C. since 1983, Steve was instrumental in getting many prominent individuals to serve as parade Grand Marshal, including House Speaker Thomas ''Tip'' O'Neill (1986), the First Lady of the American Theater, Helen Hays (1987), and the Lord Mayor of Dublin, Carmencita Hederman (1988). As Chairman of the Parade Committee (2000–2002), Steve expanded the parade's visibility nationally. He began by having a web site created, reorganizing and expanding the Committee, and establishing the office of Chairman Emeritus in tribute to past parole chairmen and naming Cecilia Farley as the first Emeritus.

Steve's participation in the Irish-American community went beyond his parade activities. He was a founding member of the American Foundation for Irish Heritage with the late John O'Beirne. Since 1990, Steve served as Secretary on the Board of Directors. The American Foundation for Irish Heritage was instrumental in getting Congressional legislation passed to designate March as ''Irish-American Heritage Month'' by Presidential Proclamation.

In addition to pursuing his Irish roots, Steve also shared his love for people and history by volunteering with other organizations. He served as co-chairman of the Friends of the Negro League Baseball Players Association, as well as historian for the Capitol Hill Philatelic Society.

Steve passed away on March 9, 2003, at his home in Takoma Park, Maryland. He is survived by his sister, Diana L. Coyne; his niece, Elizabeth Coyne; his nephew, Michael Coyne; brother-in-law, Jay Coyne, and half-brother, Frank Lynch.

All of us who knew Steve enjoyed his warm and caring spirit. We will miss him. I conclude with the old Irish Blessing:

May the road rise up to meet you,
May the wind be always at your back,
May the sun shine warm upon your face,
And the rains fall soft upon your fields,
And until we meet again,
May God hold you in the palm of His hand.

Godspeed, old friend.

PERSONAL EXPLANATION

HON. VITO FOSSELLA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 2003

Mr. FOSSELLA. Mr. Speaker, I am not recorded on rollcall numbers 65, 66 and 67. I was unavoidably detained and was not present to vote. Had I been present, I would have voted ''yes'' on rollcall numbers 65, 66 and 67.

HONORING PHILLIP HALLE

HON. PETER DEUTSCH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 2003

Mr. DEUTSCH. Mr. Speaker, I rise today to honor the life of Mr. Phillip Halle, a community leader, political activist, loving family man, and a great Floridian. Born originally in New York, Mr. Halle moved to Florida after practicing law in New York City for many years.

Mr. Halle will be long remembered by residents of Plantation for his staunch commitment to civic affairs in the town and in the greater region of South Florida. Over the years, Halle fulfilled numerous civic posts. As a prominent member of the Lauderdale West community in Plantation, Halle served as their representative to the city and to the Broward County Commission.

In addition to representing his local community, Phillip Halle was once named chairman of the Broward County Consumer Protection Board and the Sanitary and Health Control Board. Clearly, Halle felt passionate about serving his community and helping his neighbors.

Halle volunteered his time and resources to various causes, including acting as president emeritus of the Broward Coalition of Condominiums, a group representing 67 condominium groups, and being director of the Jewish National Fund, B'nai B'rith, and Temple Beth Israel.

Mr. Speaker, it is truly a special occasion for me to honor Mr. Halle. His earnest efforts to assist his neighbors and be active in the community serves as an example to us all. His enthusiasm and dedication to many causes will be a legacy that stands to last forever.

Mr. Halle is survived by his wife of 71 years, Kate Halle, along with son Michael Halle and daughter Gilda Siegel, in addition to seven grandchildren and 10 great grandchildren.

HONORING THE UNIVERSITY OF NORTH CAROLINA AT ASHEVILLE MEN'S BASKETBALL TEAM

HON. CHARLES H. TAYLOR

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 2003

Mr. TAYLOR. Mr. Speaker, I rise today in proud recognition of the University of North Carolina at Asheville Men's Basketball Team. In the University's rich seventy-six year history, the 2002–2003 Men's Basketball Team is the first to represent the school in the NCAA Tournament.

This accomplishment was achieved through the incredible effort the men's team demonstrated during the Big South Conference Tournament. The team had three consecutive wins and defeated Radford University, 85–71, to clinch the Big South Conference title.

Not only did the men's team win their division championship, but they continue to represent the school well in the NCAA Tournament. The UNC-A Men's Team, on Tuesday, March 18, 2003, defeated Texas Southern, 92–84.

This proud moment in the University's history could not have been achieved without the leadership and effort of several individuals. Coach Eddie Biedenbach and his assistant coaches, Thomas Nash and Nicholas McDevitt, have done an incredible job guiding these outstanding men. In addition, the support of Chancellor James Mullen, Athletic Director Dr. Joni Comstock and her staff, and Drs. Eric Iovacchini and Kevan Frazier with the Office of Student Affairs have been instrumental in the success of the program.

Finally, I would like to mention the Senior leadership of the men's basketball team. Andre Smith, Alex Kragel, and Ben McGonagil have devoted themselves to this team, to this effort, and to this University. On behalf of North Carolina's Eleventh District, I would like to congratulate the team, the staff, and the student body on their success, both present and future.

SECURING PEACE THROUGH SHARED SACRIFICE

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 2003

Mr. RANGEL. Mr. Speaker, as we stand on the brink of an invasion of Iraq, we must ask ourselves if there are better ways to secure long-lasting peace and prosperity in the Middle East.

I invite you to read excerpts of my remarks against an invasion of Iraq and in support of national service that I delivered Sunday, March 9, 2003 at Riverside Church. I was really moved by the sermon delivered by the Reverend Dr. James Forbes, Jr. that morning. The reading from the Bible was the parable of the weeds in the wheat field. It tells how the weeds will be destroyed but only after the weeds and the wheat grow up together and the wheat is allowed to mature. It was a great analogy as we take a look at a world today—a world that would have us believe that the weeds would be Saddam Hussein and that some are saying we have to destroy the entire wheat field in order to get him.

UNDERSTANDING THE POWER OF THE PEOPLE

Every minute of every day of every year that we live is actually part of history. We never really perceive what it is we do, how important it is, what we could have done or what we didn't do, until that day is over.

Well, I can share with you now that I was not excited about that trip. I didn't intend to walk and I asked Percy why didn't he walk down there if he felt so excited about this? But he said no and set it up with Andrew Young and John Lewis. I was running for office and he said how important it would be at least for me to go down and have my picture taken.

Well, having my picture taken seemed like it made a lot of sense. So I got a roundtrip ticket, and took my cashmere coat, my Stingy Brim hat, my Florsheim shoes, and went down there to have my picture taken.

I had bad feet so I knew I wasn't going to march. But when the rain started coming. I saw these poor farmers, sharecroppers and young people just finding plastic to wrap their feet in. I heard them start singing the hymns and the civil rights songs. When I saw and heard all this, I knew that I just could not return to the airport. So I switched my shoes with someone that was coming back to New York, got his sneakers (kept my cashmere coat, however) and started that march from Selma to Montgomery.

I cursed every step of the way of that march, wondering why in the world was I marching with no cameras, no TV, no reporters, in the darkness with a group of white Southern guardsman allegedly there to protect me. But it was only after that event was over that I fully recognized the power of Dr. Martin Luther King and fully understood the power of people who believed that they could make a difference.

How little did I know in marching in that march that, as a result, Americans who had been treated as a fraction of a man would be given the power to vote in the Deep South. It was a country where lives could be taken through lynchings, where people could be beaten to death and segregated, and people would say there's nothing that we could do about it. This march, and the subsequent incidents with dogs, allowed the best of America to come out—and not only turn it around, but provide for a kid from Lennox Avenue to succeed the late and the great Adam Clayton Powell. It allowed me to be here today and say that as a result of that Voting Rights Act, we now have 39 African-American men and women serving in the House of Representatives. God is good.

It means that no matter how many weeds are growing that, if we are strong enough to be the wheat to provide the light, there is no sense in giving up on this country. It's all that we got.

We are the country. It is not just those people who come to Washington. It is us who decide just how strong we're going to be or how frightened we're going to be, or show silent we will be against the injustices that are taking place under our flag.

AN UNJUST AND UNWISE INVASION

On September the 11th, when enemies of the United States struck the World Trade Center, I think all Americans put aside whether they were Republican or Democrats, liberals or conservatives. For the first time in our history we felt the pain of hatred attacking us, and the things that we believed in. For the first time in my congressional career, New York City members were treated as members of Congress, and not merely as members of the New York delegation. We sang, ''God Bless America'' and said, under the President's leadership, that wherever this threat had come from, we were prepared to do whatever was necessary so that we would never feel the pain the way we did then.

However, soon the President started talking about ''the axis of evil.'' He spoke about North Korea, Iran, and Iraq. And somewhere along the line, it was forgotten that our attackers were funded and had come from Saudi Arabia. Also lost was the fact that Osama bin Laden was the person we were searching for. Somehow the message got blurred. Soon, the President started connecting—without facts—Osama bin Laden with some force on television. And before you knew it. Saddam Hussein was transformed into the link to the tragedy that befell us at the Trade Center.

Let me tell you, I have listened to President Bush privately and publicly. I have heard from the CIA and the FBI. And I can tell you without fear of contradiction that the President of the United States, has not given one scintilla of evidence to connect the actions of Saddam Hussein with the tragedies that struck us here in New York City, And, if Colin Powell, the CIA, and the FBI have evidence that Saddam Hussein possesses weapons of mass destruction, why in the heck didn't they give it to the U.N. inspectors so they could get these weapons out?

I want to make it abundantly clear that what I learned on Lennox Avenue applies to me today. If somebody is around the corner waiting to hit me in the head with a pipe, I want him taken out right away. Preemptive strikes don't bother me. But for this great country, without any evidence that we're in imminent danger, to select a developing country that's defenseless against our power, and deliver in ultimatum that they must show evidence of how they disposed weapons of mass destruction, or we will drop bombs on them until they're sensless—3,000 high tech bombs in 48 hours—that's not the great America that I'm proud to be a part of.

An attack against Iraq would be the first time that our country has ever struck another country without provocation. Doing so, we will lose the moral authority to tell other countries that God made us to live and work together. If Pakistan and India decide that they don't trust each other, if the Taiwanese and the Chinese don't trust each other, if the North Koreans fear that they're going to be attacked by South Korea, do they also have the right to a preemptive attack? What international body could we appeal to in good faith and say that they were wrong?

They tell me that there will be little collateral damage, but how much is ''little'' when you're talking about the lives of people? They tell me we have the technology to reduce the loss of life of Iraq's people—mothers and children, innocent people. But if we have that technology to determine where the innocent people are in Iraq, why couldn't we use that technology to locate the weapons?

LET'S TALK ABOUT OIL

Why Iraq? Why now? Why the rush? At the end of the day, the question has to be: Will we in New York, will we in the United States, will we on this planet, feel any safer after bombing Iraq senseless?

It goes beyond Iraq or weapons of mass destruction. It has to, because we know as a fact that weapons of mass destruction are in North Korea. And take my word for it, these people in North Korea are the meanest people in the world. I know. I've dealt with them. You can't imagine people starving to death in North Korea, with 40,000 American troops in South Korea, being isolated by their former friends, the Russians, who have collapsed, the Chinese, who look at them suspiciously, the Japanese, who have had problems with them historically. The only thing they got are these dangerous weapons which they're selling, and we are saying that we got to negotiate with them while we bomb Saddam Hussein.

It would seem to me if we're prepared to go to the international community to contain North Korea, that that is the least we can do for civilization and the United Nations to contain Saddam Hussein.

But let's think about it, because we have to be practical about it. There ain't no oil in North Korea.

Now, let's talk about oil, because some of my colleagues in Washington may be listening to me here, not just because I'm at The Riverside Church, but because C-Span is here, and we like to watch each other. So, to my colleagues that may be watching, let's talk about oil. For years we have been addicted and dependent on foreign oil and gasoline. 55-percent of the oil that we consume today comes from foreign countries. We have been promising ourselves since the days of sweater-wearing Jimmy Carter that we were going to do better. But each year we import more and more oil from abroad.

Any economist will tell you—and those of you that came to church late may have seen some of them on TV this morning—that the one thing that could possibly turn this economy around would be cheaper oil prices. That, if the price of oil continues to rise, then what we know in our community to be a recession could become a depression for us and a recession for other people in this country.

The largest reservoirs of oil are in this region, with Iraq controlling most of it. But the countries in the region that do have oil have joined together in order to make certain that they keep the price of oil high so that they would get an income. They have decided that they will control the supply of oil from the region in order to get what they think would be a fair price for oil.

Now, the President of the United States has said to me privately and, if you listen to him carefully, he has said it publicly, that we have to have as our first mission to seize the oil wells in Iraq. That we will be sending airborne troops there to prevent Saddam Hussein from destroying them. Once we seize those oil fields, he has said, we will bring in American and European technology. To do

what? To develop the full potential of the production of oil in this area. By doing this, he shatters the restriction on the supply of oil that OPEC has put on and shatters any idea that the reduction in the supply of oil would increase the price of oil.

Is the President saying this so that America would no longer have to depend on Middle Eastern heads of nations for higher oil prices? Is he saying this in order to get us out of the recession? Is he saying this because we are so dependent on foreign oil that we would want a stable supply?

No. The President doesn't say that at all. This is what the President says. We have to increase the supply of oil out of Iraq so that we can get the money to restore peace and harmony to the people of Iraq to build their schools and to give them health care. That is what the President is saying that we must do.

The President is also saying something else. He is saying that after we liberate Iraq—and, there is no indication that we're going to met with kids and women with little American flags waving for us—but after we liberate Iraq, that that will be the beginning of bringing democracy to all of the countries in the region.

Now, I don't know that much about the Islamic faith, but I hardly think they're waiting for born-again Bush to be bringing his type of democracy to that area.

If we hit Saddam Hussein, he will want to be remembered by the people in the region. Knowing that they are no friends of Israel in the region, it would seem to me that we're jeopardizing our friends and brothers and sisters in Israel from a preemptive strike by Iraq. Since they can't reach us, they will reach for our best friend, Israel. Israel will be forced to strike back with force—one, to show that she can sustain the hostility from the region and, two, because of the internal politics that exist between the hawks and the doves there. You tell me how it will not be perceived as the United States and Israel not having a ''holy war,'' especially with our President saying he's going to bring democracy to the region of the Muslim states there.

Instead of us bringing a sense of peace and confidence, we're creating an atmosphere that could be chaotic as Americans go to the Middle East and Americans go abroad.

THE BURDEN MUST BE CARRIED BY ALL

Now, whenever a nation, a community or your home is in danger, it seems to me that we all have an obligation—if we've enjoyed the benefits of living in this great nation—to say, ''What can we do to help?'' But there's a strange atmosphere that exists in Washington, that people talk about war without talking about the sacrifices of war. You don't have to be in combat, you don't have to be shot, to understand that not all of the people who go to Iraq are coming back—that families suffer the pain of losing their loved ones, and that you're going to kill people whose lives you have no right to take away.

It reminds me so much when I was in P.S. 89, where there were groups of people that would say, ''Let's fight. Someone said something about your mamma. Someone offended your sister. Let's go fight. I'll hold your coat.'' You know.

We got a lot of people in Washington that want to hold people's coats.

I listen to these people talking about how we should have taken out Saddam Hussein a long time ago. ''We have to teach these people a lesson. We have to demonstrate the power of the United States. We have to force the United Nations to respect us.'' But we do this by sending people into harm's way.

There has never been a war in which we have not said that, at least in terms of financing it, that we're going to have to pay for it through taxes. Yet this President has said, through Rumsfeld, that we can have two and three wars going on at the same time. We already have troops in Korea, Japan, Europe and Afghanistan. We're sending troops to Colombia and the Philippines. We're deploying 300,000 troops in Iraq. God knows how many more it will take for the occupation of Iraq. The President has asked for $90 billion to pay for the first month of the invasion while advocating a $674 billion tax cut for the wealthiest people in the United States.

When you take a look at who the liberators will be, who will be put in harm's way, it won't be the sons and daughters of members of Congress or the President's cabinet. It won't be the rich and affluent who insist that we ''take them out now.'' No. It will be good Americans, patriotic Americans, who evaluated the economic situation in this country, and decided that the military gave them a better shake than they could get in the private sector.

And so they, like me and so many others, go into the Army. When the flag goes up, they salute it because they made a contract to fight—if they were called on. Don't tell me that they'll be checking out who is in the foxhole to see whether they were drafted or volunteered. Don't tell me that, in this great country, only those who can't do better economically should be forced to carry the burden of being killed in war. I refuse to accept that.

So some people have accused me of introducing legislation to reinstitute the draft just to embarrass the President or because I am against the war. Others say I did it to deter people from talking about going to war because of concern that their loved ones would be placed in harm's way.

And I tell them, ''You're darned right, those are some of the reasons why I introduced it.''

It makes sense to me that, if we're going to determine that we're going to attack a nation, if we're going to determine that we're going to take a preemptive strike, if we're going to determine that no matter what the United Nations says, that we will go it alone, we have to find out who ''we'' are. And the closer that ''we'' are to our families, the less likely we are to say that we're going to war.

We have a situation where the President believes that God has given him a mandate to attack Iraq. It seems that there is nothing that Saddam Hussein could ever have done to prevent war. It went beyond Saddam Hussein showing where the weapons are or proving that there are no weapons. This President is bent on getting rid of Saddam Hussein; the goal is to take him out.

And so, as people were ridiculing me, I got a call from the senior senator from South Carolina. He told me, ''Charlie, I am so sick and tired of all this minority stuff.'' He said, ''While it is true that minorities find themselves in the service and in harm's way more than the general population, while it is true that they seek safe haven from the economic oppression in the military, what about some of my constituents. No one ever talks about them.''

Poor whites in rural areas face the same challenges. They love the uniform and the opportunity to serve. But it doesn't mean that they want to carry the full burden of fighting wars all over the world. He told me about the National Guard. We have 800,000 people, dedicated people, in the Guard. Many of them have already served their full careers in the military, and they have decided to live the rest of their lives in South Carolina. So they join the reserve. They join the police department. They join the fire department. They want to increase their skills in the military reserves. They want promotions. They want to increase their pensions. But they have been called up, not once, not twice, but three times. We've been pulling up the reserves, breaking up marriages, breaking up families, causing people to lose homes, and pull kids from schools.

He said that it was time that the burden of fighting wars be not restricted to those people who find themselves without financial or political influence. So Senator Fritz Hollings introduced my draft bill in the other chamber.

MAKE HISTORY—LET YOUR VOICE BE HEARD

I didn't believe that my bad feet and me could make any difference in bringing about the Voting Rights Act. Sometimes, some of you may believe that the power of the United States is just so overwhelming that your voices can't be heard. But let me say this to you: At some time, at some place, somebody may just ask you, ''When your country decided that it was going to have a preemptive strike against a weak, undeveloped country to prove a point, did you say anything? Did you do anything? DId you demonstrate?''

We have a responsibility as Americans not to wait for things to happen, but to be involved in those happening things. We are America. We are history. Your voice really counts.

The silence has been deafening. Why? No one wants to challenge a President after the attack of September 11, 2001. No one wants to be perceived as being unpatriotic. No one wants to be perceived as if they are not supporting our brave men and women that are stationed in the Middle East.

But I tell you what. Your support of me has given me the power and the incentive, not to be classified as a profile in courage, but to represent your sentiment as you have expressed it—at the Riverside Church, in front of the United Nations, all over New York, and as we see it all over the country. You just can't be blinded by your own prejudice when the whole nation is saying that we will not be safer if we attack Iraq.

IN HONOR OF LILLY COX-KELLAR

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 2003

Mr. TOWNS. Mr. Speaker, I rise today to honor Lilly Cox-Kellar for her significant contributions in business, as a community leader and family stalwart. Ms. Cox-Kellar has been a powerhouse of innovation and commitment, her discipline and hard work has led to a record achievement of many ''firsts'' for an African American who opened the doors for so many others.

Just to highlight a few of her accomplishments, Lilly was the first African American to be hired at the American Federation of Television and Radio Artists (AFTRA) where she worked as Executive Secretary to the Treasurer. She was the first minority to hold a position with Hirshe, Rotman and Druck, an international public relations firm. As a Human Resources and Benefits Specialist, she was the first minority staff person recruited by Cogan, Berlin and Weill, a major Wall Street firm with a national staff of more than two thousand employees. As Director of Chapter Relations for the National Audubon Society, Lilly was responsible for the administrative oversight of

more than five hundred chapters nationwide. In the majority of these position, she was afforded the opportunity to hire additional African Americans. In addition, to her management and human resources skills, Lilly worked as a housing consultant to First Baptist Church of Crown Heights, Church of St. Mark Episcopal, Bridge Street A.W.M.E. Church, Berean Missionary Baptist Church, Harlem Congregations for Community Improvement and Northeast Brooklyn HDFC/Wayside Baptist Church to develop 524 units of senior housing. However, Lilly felt she could do more.

Lilly ventured out on her own and opened LWC & Associates, a housing development consulting firm, which evolved into the current LWC Management Corp., now a real estate management and development corporation. Through this multi-faceted company working primarily with churches and community-based organizations, over $56 million worth of housing has been developed for senior citizens, low and moderate income persons and families, and the formerly homeless. She is most gratified when housing is developed for senior citizens and the homeless. In her effort to promote housing development, she also owns Brisa Builders Corporation, a general contracting/construction manager firm. Her firm is currently involved with 230 units of senior housing under construction in Manhattan and Brooklyn.

Lilly, as a person of deep convictions, is grounded in her faith and family. She believes in the spirit of ''community'' and ''having a quality education'' for our youth. She is a lifetime member of the NAACP, committed exclusively to their educational programs. Lilly also shares her wealth of knowledge and information regularly as she develops, directs and facilitates workshops, seminars and other training for non-profit organizations, boards of directors and volunteers. Lilly has also served as a guest lecturer at the Harvard Divinity School, lecturing on ''The Urban Church and Community Development.''

Mr. Speaker, I ask my colleagues to join me in honoring Lilly Cox-Kellar for her leadership specifically with community based development and the many other contributions to her community. Her endeavors and accomplishments deserve our praise and appreciation.

PERSONAL EXPLANATION

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 2003

Ms. SLAUGHTER. Mr. Speaker, I was unable to be present for rollcall vote Nos. 65, 66, and 67 due to my attendance at the funeral for former Rochester Mayor Thomas P. Ryan, Jr. and traffic jams caused by the standoff with Mr. Watson on the Mall in Washington, DC. Had I been present, I would have voted ''aye'' on rollcall vote Nos. 65, 66, and 67. Mr. Speaker, I ask unanimous consent that my statement appear in the permanent RECORD immediately following this vote.

H. Con. Res. 26, rollcall No. 65, ''aye.''
H.R. 868, rollcall No. 66, ''aye.''
H. Res. 109, rollcall No. 67, ''aye.''

IN HONOR OF LISA TEALER

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 2003

Ms. ESHOO. Mr. Speaker, I rise today to honor a distinguished Californian, Lisa Tealer, as she is inducted into the San Mateo County Women's Hall of Fame.

Lisa Tealer is a dedicated advocate for health and diversity issues. She is a Certified Aerobic Instructor for Large Women and founded A-Body-Positive Fitness Facility for women of all sizes and fitness levels. She has hosted special classes and seminars on various topics of benefit to women and has given numerous presentations and demonstrations on issues ranging from expanding diversity in fitness to bridging the multi-ethnic healthcare gap.

Lisa Tealer has displayed extraordinary leadership skills in business as well. She manages the Pharmacological Sciences Division in the Department of Assay Services at Genentech, has ten years experience managing a technical service operation at Genentech, and four years experience as a health club owner in San Mateo. She was the first Chairperson of Genentech's African Americans in Biotechnology Employees Association. She designed the Diversity Action Plan which was presented to the CEO and Executive Committee of Genentech and she has initiated many diversity efforts in the areas of recruitment and development.

Mr. Speaker, I ask my colleagues to join me in honoring Lisa Tealer as she is inducted into the San Mateo County Women's Hall of Fame.

TRIBUTE TO CARL GOSS

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 2003

Mr. MCINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to Carl Goss of Pueblo, Colorado on the occasion of his ninetieth birthday. A true Colorado native, Carl was born on April 1, 1913. As Carl celebrates this impressive milestone in his life, I would like to honor him and his accomplishments before this body of Congress and this nation.

Carl's grandparents came to Colorado from the east, settling on a ranch in Pueblo. After ninety years raising cattle, you could say that ranching runs deep in his blood. He worked on farms in New Mexico before returning to Pueblo to run the Hatchett Ranch for thirty years. Carl has always been proud of his Hereford cattle, even winning adulation at the Stock Show for his ''Pen of Ten'' calves. He has been an active member of the Colorado Cattlemen's Association, the Pueblo County Stockmen's Association, Central Christian Church, and the Pueblo Historical Society.

Even more than his accomplishments, I know Carl is proud of his family. He has two daughters, Susan and Norma; four grandchildren, Carl, Matt, Megan and Rachel; and a great grandson, Alex. His family values his honesty, compassion, and generosity. They are truly blessed to have Carl in their lives.

Mr. Speaker, I am privileged to stand today before this body of Congress and this nation to wish Carl Goss a very happy ninetieth birthday. Carl's lifetime of experiences is an invaluable resource for his family, friends, and all of us in Colorado. Happy Birthday, Carl. I wish you all the best!

CONDEMNING THE PUNISHMENT OF EXECUTION BY STONING AS A GROSS VIOLATION OF HUMAN RIGHTS

SPEECH OF

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 18, 2003

Mr. HASTINGS of Florida. Mr. Speaker, I rise to voice my full support for H. Con. Res. 26—Condemning the Punishment of Execution by Stoning as a Gross Violation of Human Rights.

Civilized countries and organizations the world over have universally condemned this form of punishment. The European Union, the Australian government, the president of Mexico, the Spanish parliament, and the New Zealand government, have all condemned stoning and asked for clemency for those persons sentenced to this cruel form of punishment. Amnesty International has reported that execution by stoning is designed to increase the victim's suffering.

Mr. Speaker, as if all the above are not reason enough to support this measure, there is another aspect of this stoning as a form of punishment that makes it particularly troubling. Reports indicate that where this form of punishment is used, it is generally applied disproportionately to women, women who have been accused of adultery. These victims, these women, are guiltier of being women than guilty of having committed a crime. Mr. Speaker, some of these women are forced into prostitution, and others have even been raped.

In other instances stoning has been used as a means of suppressing religious freedom and stifling political debate.

In our own country, I am proud of the work that we have done to protect women against violence. The previous administration created the White House Office for Women Initiatives and Outreach to serve as a liaison between the White House and women's organizations, with a presidentially appointed director. This establishment of this office recognized the special needs to communicate better with women to address their issues. In 2000, the Violence Protection Act reauthorized programs designed to, among other purposes, stop sexual assault on campuses, offer transitional housing for victims of domestic abuse, and assist victims of violence.

Mr. Speaker, I urged passage of this bill, as America must continue to serve as a beacon of hope in the world to those who seek freedom and to escape from political prosecution. This is a responsibility that we in this chamber must hold dear and must never forget or forsake.

HONORING RETIRING ACADIA PARISH SHERIFF KENNETH GOSS

HON. CHRISTOPHER JOHN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 2003

Mr. JOHN. Mr. Speaker, the long and successful career of a good friend is drawing to a close. On June 30, 2004, after 20 years in his current office and over 40 years in law enforcement, Acadia Parish Sheriff Ken Goss will retire.

Sheriff Goss' distinguished career in law enforcement is known and respected across Louisiana. He has been a leader, innovator and enforcer his entire career, consistently keeping his department on the cutting edge of law enforcement while maintaining the respect of his peers and those in the community he serves.

He has received numerous awards and accolades from both his colleagues and his constituents, affirming his dedication to his community and his intense desire to constantly improve the safety of our neighbors. His long career has also incorporated service in the Louisiana Sheriffs' Association, including a term as president of the organization. Moreover, Sheriff Goss serves as a member of the Board of Directors of the National Sheriffs' Association.

He is dedicated to the young people in our community. Throughout his tenure, Sheriff Goss has implemented or expanded programs such as DARE, Mentoring Programs, the School Resource Officer Program, ACAMP—a summer camp for 8–10 year olds, and Basic Training—a summer program for 7th and 8th graders.

He has grown the Acadia Parish Sheriffs Office to 130 deputies and the Detective Division to 8 deputies in the Criminal Investigation Division. True to his desire to constantly improve as the resources allow, numerous programs within Sheriff Goss' department from narcotics to emergency response and communications have been enhanced to meet the needs of our community.

Sheriff Goss is an example to local law enforcers across the country. After 40 years in law enforcement in Acadiana, his record of accomplishment is unparalleled. I wish Sheriff Goss well in his retirement, and I speak for our community when I offer him my humble thanks for his lifetime of dedication to our safety.

IN HONOR OF SUSAN FERREN

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 2003

Ms. ESHOO. Mr. Speaker, I rise today to honor a distinguished Californian, Susan Ferren, as she is inducted into the San Mateo County Women's Hall of Fame.

Susan Ferren is a manager in San Mateo County's Human Services Agency and for the past 12 years has dedicated herself to improving health in San Mateo County. In addition to her job at the Human Services Agency, Susan Ferren is a Marriage and Family Therapist Intern and is working toward obtaining her license. She also works as a Crisis Therapist at Mills/Peninsula Hospital.

Susan Ferren has initiated and managed many innovative programs to address family violence and children's welfare. She is cochair of the Family Self-Sufficiency Policy Team which helps families achieve stability and independence, and a site coordinator for the Fatherhood Project. She serves on the board of directors of Sor Juana Ines and has given many hours of volunteer time to several community service agencies.

Susan Ferren is a mentor to interns at the Human Services Agency and gives generously of her time and talents to nurture them. A single parent, she is justifiably proud of her extraordinary son and daughter. She's been a Cub Scout Leader, a Sunday School Teacher, a Room Parent, a PTA Vice President and a Team Mother for several sports teams.

Mr. Speaker, I ask my colleagues to join me in honoring Susan Ferren as she is inducted into the San Mateo County Women's Hall of Fame.

TRIBUTE TO DOUG WINTER

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 2003

Mr. MCINNIS. Mr. Speaker, it is with great pride that I rise today to honor veteran Doug Winter of Paonia, Colorado. It is my privilege to recognize Doug as he prepares to assume the role of State Commander of the Colorado American Legion. Doug believes deeply in our great nation and has demonstrated his dedication and commitment to his country through his service, endurance, and sacrifice in the United States Marine Corps as a battery gunner sergeant. Now, as he prepares to take on his new role as State Commander, I would like to honor Doug's service before this body of Congress and this nation.

Since his service in Vietnam, Doug has demonstrated a deep commitment to his fellow veterans. Thirteen years ago, Doug joined Paonia Post 97 of the American Legion. Since then, he has served as adjutant commander, commander and first vice commander of Post 97, and as District 11 junior and senior vice commander. Doug understands that the completion of military service does not mean the end of a serviceman's responsibility to his fellow veterans. He reaffirms his commitment to his country and his fellow veterans daily, through his work with the Colorado American Legion.

Mr. Speaker, in this time of international uncertainty, our veterans provide a firm foundation for our nation. It is an honor to rise today and recognize Doug Winter before this body of Congress and this nation for his service to this country and dedication to his fellow veterans. For the first time in 25 years, the Colorado American Legion will have a leader from the Western Slope, and it is my distinct honor to represent such a fine American as Doug Winter in this Congress.

SECURE AND FAST ENTRY AT THE BORDER ACT OF 2003 (SAFE BORDER)

HON. SUSAN A. DAVIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 2003

Mrs. DAVIS of California. Mr. Speaker, I rise today to discuss an opportunity to strengthen national security, promote bi-national commerce, and provide assistance to our dedicated agents at the border.

My district touches the U.S.-Mexico border. Because of this proximity, ports of entry play a vital role in our area's economic and social life. Thousands of San Diego and Tijuana residents cross the border every day as commuters, shoppers, or visitors, illustrating the growing global connection between our neighboring countries. Unfortunately, our border infrastructure has not kept pace with the booming traffic volume, and travelers frequently encounter delays and congestion at the border.

The tragic events of September 11 further intensified these challenges along the border. Increased security measures severely over-extended inspection resources and waits lasting up to several hours became commonplace. Ports of entry in other states that had not previously encountered significant delays realized that they were not well equipped to handle future volume growth. This climate raised the need for innovative methods that meld security measures with more efficient practices. For some of my constituents, the answer came in the form of a dedicated commuter lane program called SENTRI.

SENTRI, which stands for Secure Electronic Network for Travelers' Rapid Inspection, accepts only low-risk travelers who pass both an extensive background check to verify their eligibility and a thorough inspection of their vehicle. After passing through these steps, travelers receive the privilege of using an exclusive lane to cross the border into the United States.

Since its introduction, SENTRI has quickly demonstrated its ability to reduce wait times without compromising border security. Border waits often lasted an hour or more before SENTRI, but now average only 5 to 15 minutes for enrollees. Travelers in other lanes also benefit because the prescreened SENTRI crossers move swiftly through the border, reducing the number of motorists using general commuter lanes. Expediting inspections through SENTRI is actually helping to improve border security, as Customs and Border Patrol agents can focus more attention on non-screened drivers and passengers. Additionally, those travelers in SENTRI lanes have a 50 percent greater probability of being referred to secondary inspection than those in regular lanes due to built in random selection. As a result of embedded security measures, statistics show an extremely low rate of fraud among renewal participants. Simply put, SENTRI lanes are more efficient and better inspected than regular commuter lanes.

Unfortunately, SENTRI has become a victim of its own success. SENTRI needs a greater investment of resources to keep up with the current and future demand. Enrollment increased by more than 100 percent after September 11 and, currently, prospective applicants must wait approximately 8 months. I believe that if we want innovative programs like

SENTRI to work, we must provide them with the tools and resources they need to succeed. This is why I am re-introducing the Secure and Fast Entry at the Border Act or SAFE Border Act.

The SAFE Border Act recognizes the contribution of SENTRI to border security and the agents who administer the program. My bill ensures the continuity of SENTRI as the Immigration and Naturalization Service and Customs Department transition into the Department of Homeland Security, and reinforces recent agency action by permanently extending the SENTRI renewal period from 1 to 2 years—enabling border agents to process new applicants and reduce the current enrollment wait. SAFE Border also recommends the appointment of dedicated SENTRI staff to expedite application processing, encourages the creation of a dedicated commuter lane for prescreened, low-risk pedestrian crossers, and promotes the integration of technology at SENTRI sites for increased access at participating ports of entry.

Our agents at the border shoulder an enormous responsibility every day. I believe we owe them the appropriate resources and support they need to carry out their duties. The SAFE Border Act, as a result, increases security by enabling more people to be prescreened and allowing border agents to focus more attention on other border crossers.

Our nation's economic and overall security is heavily linked to smooth and secure border crossings. The SAFE Border Act provides a way for trusted travelers to cross the border securely and quickly.

I urge my colleagues in Congress to act quickly in passing the SAFE Border Act into law.

TRIBUTE TO DR. WALLACE CONERLY

HON. ROGER F. WICKER

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 2003

Mr. WICKER. Mr. Speaker, I rise today to honor and pay tribute to an individual whose dedication and contributions to my home state of Mississippi are exceptional.

Dr. A. Wallace Conerly has devoted his career to public service. A native of Tylertown, Mississippi, Dr. Conerly graduated from Millsaps College in 1957, and went on to receive his M.D. from Tulane University in 1960. He served six years in the United States Air Force until his honorable discharge with the rank of Major. Since 1973, Wally has dedicated his time to the University of Mississippi Medical Center in Jackson, Mississippi.

He held the title of Assistant Vice Chancellor for 13 years until obtaining the title of Chief Executive Officer in 1994. As the CEO of the state's only academic health sciences center, he leads an institution of 7200 employees with an annual budget of more than $610,000,000.

Dr. Conerly has directed a $335 million building program, the largest in the history of higher education in Mississippi, including a new children's hospital, a new women and infant's hospital, a new 256 bed adult hospital and a critical care hospital, along with a host of new facilities for the School of Nursing, the School of Health Related Professions and the Medical Center complex.

He created a campus-wide Office of Research in 1998 to further enhance the Medical Center's research mission. Since that time, grant and contracts awarded to the Medical Center have more than tripled—from approximately $12 million to more than $40 Million annually. He spearheaded the Medical Center's efforts to get national Heart, Lung and Blood Institute funding for the Jackson Heat Study, the project that will follow cardiovascular risk factors in African-Americans for decades.

Wally Conerly has worked hard to make the Medical Center a more diverse environment. He has expanded the institution's efforts to recruit and retain minority students. He was successful in securing funding for 12 full scholarships designated for African-American students in the School of Medicine. The scholarships, worth approximately S25,000 annually to the student, also have helped keep these promising young students in Mississippi—where they are now more likely to practice. Wally also has worked to increase the Medical Center's number of minority employees at the professional level through aggressive recruitment efforts. Currently, 35 percent of UMC's employees in that category are minorities; approximately 45 percent of the Medical Center's total work force is minority. In 2001, Minority Access, Inc. recognized the Medical Center as a ''National Role Model Institution'' for these achievements. Dr Conerly has enriched the lives of Mississippians and enhanced the national prominence of the Medical Center resulting in better health care for our citizens.

In August 2002, Secretary of Health and Human Services Tommy Thompson appointed Dr. Conerly to a four-year term on the Board of Regents of the National Library of Medicine. He is the first Mississippi an to serve on the prestigious body. Dr. Conerly has served on the Board of Directors of the American Red Cross, Mississippi Chapter and the Capital Area United Way. He is past president of the Rotary Club of Jackson and past chairman of the Board of Governors of the University Club. He is on the boards of the Metro Jackson Chamber of Commerce, Junior Achievement, the Jackson Medical Education District, the Community Bank and it's a member of the Community Advisory Council of the Junior League of Jackson. In 2001, the Mississippi Division of the Multiple Sclerosis Society honored Dr. Conerly with the Hope Award. He also received Millsaps College's ''Alumnus of the Year'' award in 2002, and he and his wife Frances Bryan Conerly were recognized as the 2002 People of Vision by Preserve Sight Mississippi. Wally and Frances are the proud parents of two sons, Al and Charlie.

Mr. Speaker, I would like to commend this extraordinary man and my dear friend for his superior service and thank him for his strong commitment to helping the citizens of Mississippi.

IN HONOR OF LENNIE ROBERTS

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 2003

Ms. ESHOO. Mr. Speaker, I rise today to honor a great American and a most distinguished Californian, Lenore (Lennie) Roberts, as she is inducted into the San Mateo County Women's Hall of Fame.

Ms. Roberts has been named to the Hall of Fame for her success in protecting ''much of the open space that makes the San Francisco Peninsula a uniquely beautiful place to live and work.''

I founded the Women's Hall of Fame in 1984 to honor women who have made major contributions to our community and our country. Lennie Roberts is the personification of those we honor; she is intelligent, fair, effective, trusted, and articulate. The Peninsula would not be the place it is today without Lennie and her extraordinary work.

Lennie Roberts has a unique vision which extends beyond the limits of San Mateo County. In addition to her work with the Committee for Green Foothills, she serves as a member of the Yosemite Association Board of Trustees and helped form the Yosemite Fund Council of Directors, and is a member of the Citizens Advisory Commission for the Golden Gate National Recreation Area.

Among Lennie Roberts' many achievements were the passage of Measure A which protects San Mateo County's rural coastal area from urban sprawl and her successful fight to prevent a giant freeway from being built on the coastside.

Mr. Speaker, I ask my colleagues to join me in honoring this great and good woman. Lennie Roberts is one of the most exceptional, effective and respected leaders in our community and through her commitment and professionalism, she has made our communities and our country a better place for all.

TRIBUTE TO VOLUNTEER FIRE DEPARTMENT OF NORWOOD-REDVALE

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 2003

Mr. McINNIS. Mr. Speaker, it is with great honor that I rise before this body of Congress and this nation today to recognize the men and women of the Norwood-Redvale Volunteer Fire Department of Norwood, Colorado. Their heroic efforts are responsible for saving the lives and homes of many in my state, and it is my honor to pay tribute to their efforts today.

On the night of December 29, 2002, there was a fire in a home south of Norwood. Although the home is occupied, there was no one present when the blaze started. The quick actions of the Norwood-Redvale Volunteer Fire Department saved the house, which sustained only minimal smoke damage. Almost the entire fire department responded, including four engines and the ambulance crew, adding up to more than fifteen VFD members on the scene who spent more than three long hours battling the flames.

Mr. Speaker, it is with great pride that I rise to recognize the Norwood-Redvale Volunteer Fire Department before this body of Congress and this nation. Their selfless and capable service is a credit to themselves and their families, and their dedication to community is a great asset to their neighbors and countrymen. I personally thank them for their efforts.

URGING PASSAGE OF RESOLUTION ADDRESSING HUMAN RIGHTS ABUSES IN NORTH KOREA AT 59TH SESSION OF UNITED NATIONS COMMISSION ON HUMAN RIGHTS

SPEECH OF

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 18, 2003

Mr. HASTINGS of Florida. Mr. Speaker, I rise today in support of H. Res. 109.

North Korea has been in the news lately for a number of reasons. In recent months, it has expelled U.N. monitors, withdrawn from the Nuclear Nonproliferation Treaty and restarted a nuclear reactor.

In addition, North Korea may have the worst human-rights record in Asia. The regime prohibits freedom of speech, religion, the press, assembly, association, citizens' movements and workers' rights. There are an estimated 150,000 to 200,000 political prisoners in work camps. Accounts by refugees and defectors indicate that inmates are subject to forced labor, beatings, torture and executions.

The United Nations Commission on Human Rights convened in Geneva this week and is scheduled to be in session until April 25th. This year one of its most challenging issues will be to determine whether to hold North Korea accountable for its poor human rights records.

I strongly support H. Res. 109, which urges the Commission to pass a resolution addressing human rights abuses in North Korea, and calls on the government of North Korea to respect and protect the human rights of its citizens. if passed by the Commission, it would be a critical first step by member states of the United Nations in demonstrating a multi-national commitment to human rights.

In 1981, North Korea ratified two treaties, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. By ratifying these treaties, North Korea officially affirmed its commitment to internationally recognized human rights and standards. Although no single diplomatic initiative can begin to resolve North Korea's human rights abuses, this Resolution would be an important first step in bringing this issue to the world's attention.

In closing, I would like to remind my colleagues on both sides of the aisle, that on February 11, 2002, we passed, by an overwhelming vote of 402 to 6, a Resolution condemning the selection of Libya to chair the United Nations Commission on Human Rights.

Libya has failed to demonstrate that it does not support international terrorism. It has also failed to demonstrate that it has abandoned its quest for weapons of mass destruction. To reward these failures with an important and prestigious appointment makes a mockery of what this Commission stands for.

That being said, if the Commission manages to persuade North Korea to open itself up to visits by U.N. human rights experts and other international observers, this would be a significant accomplishment. I urge all members of the United Nations to work towards this goal and urge my colleagues to support this Resolution.

HONORING THE LIFE OF ACADIANA VETERAN LESTER J. GUIDRY

HON. CHRISTOPHER JOHN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 2003

Mr. JOHN. Mr. Speaker, our community lost a dedicated servant on February 20, 2003. Lester J. Guidry, Commander of American Legion Post 69, lost his battle with cancer. Mr. Guidry was a tireless advocate for Acadiana's Veterans, often serving as their voice in the community.

Mr. Guidry was a veteran of the Korean War, serving with the 25th Infantry Division, 35th Regiment, 1st Battalion, Able Company. He was awarded the Purple Heart for wounds he sustained in battle in 1951. Back on the home front, Mr. Guidry became a mountaineering instructor with the U.S. Air Force Academy in Colorado Springs. For 25 years, he taught our young cadets the specifics of winter survival, mountaineering safety and awareness.

Upon his return home to Acadiana, Mr. Guidry became a project coordinator working on behalf of Korean War Veterans. He was tireless in his efforts to help these veterans secure the service medals and accolades they were due.

I knew Lester Guidry well. He constantly interacted with my office on behalf of our local veterans, insuring that cases were tended to and information was located. In 2002, he visited with me in Washington, DC during his trip to retrieve pieces of the damaged Pentagon for display at memorials across Acadiana.

Mr. Guidry's passion for life and service was both inspirational and contagious. He was persistent in his task, making service to our local veterans and their memory his mission in life. I believe he accomplished his mission.

He fought for the ideals he believed in until his final days. He labored to remind of us that ''freedom is never free,'' and that service to country should be recognized and never forgotten. He was an example of patriotism for our community, he touched countless lives in our area and across the country, and he will be sorely missed.

IN HONOR OF NORA RAZON

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 2003

Ms. ESHOO. Mr. Speaker, I rise today to honor a distinguished Californian, Nora Razon, as she is named a San Mateo County Young Woman of Excellence.

Nora Razon is a young woman of tremendous insight and dedication. She took initiative in conceiving of and founding her own organization at Carlmont High School, Chicanas Healing Injustice, Sexism, Prejudice and Animosity (C.H.I.S.P.A.). This organization empowers Latino youth through participation in school and extracurricular activities dealing with the healing of injustice and animosity within and towards the Latino community. Under her direction, C.H.I.S.P.A. has evolved into one of the most successful and well-attended clubs at Carlmont High School.

Nora Razon's leadership has been likewise valuable in East Palo Alto's College Track, a non-profit organization which assists motivated young people from socioeconomically disadvantaged neighborhoods to recognize their full potential and to attend a four-year university of their choosing. She has been credited with helping turn College Track ''from a good idea into a successful entity.''

Nora Razon is a senior leader in the East Palo Alto chapter of Youth United for Community Action and an active four-year participant in Youth Community Service. She is the Youth Representative on the San Mateo County Commission on Aging, a member of the Student Council, and a mentor to her peers through Carlmont's SOS Program designed to mediate conflicts that arise within the student body.

Mr. Speaker, I ask my colleagues to join me in honoring Nora Razon as she is named a San Mateo County Young Woman of Excellence.

THE CHILD HEALTHCARE CRISIS RELIEF ACT

HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 2003

Mr. KENNEDY of Rhode Island. Mr. Speaker, our Nation has been blessed for more than two centuries. At no time in the history of mankind has a society prospered like ours has. Through an industrious spirit, a deep sense of entrepreneurship, and a land teeming with natural resources and human talent, we have created a nation that is the dream of those in the world who lack our good fortune. We have led the world in the area of biotechnology and medical research for almost an entire century. There is no place else on Earth where people flock by the thousands to obtain the best that the arts and sciences of medicine have to offer.

With that said, there has been, however, a well kept secret regarding our nation's healthcare system, which was only recently brought to light by former United States Surgeon General Dr. David Satcher. In his landmark 1999 report, Mental Health: A Report of the Surgeon General, Dr. Satcher describes the crisis faced by our Nation's children who suffer from mental illness. According to this report, one out of every five children in America suffers from a diagnosable mental disorder, yet only one-third of them receive mental healthcare treatment.

Part of the reason for this alarming statistic is that mental health services specific to children are in very short supply. I hear time and time again the frustrations of pediatricians who cannot find available mental healthcare professionals for their patients who require psychological evaluations. There are many parents in our nation who are forced to relinquish custody of their disturbed children because outpatient psychiatric services are either not available or the wait for an appointment is weeks to months away. In my own state of Rhode Island, a physician affiliated with a leading psychiatric children's hospital told me recently that on any given day, up to one-third of the hospitalized youth could be home if only outpatient services were available.

That is why today Congresswoman ILEANA ROS-LEHTINEN and I are introducing the Child Healthcare Crisis Relief Act. This is a bill designed to help alleviate the paucity of mental health services for our nation's youth by providing incentives for mental healthcare workers to specialize in the treatment of children and adolescents.

The statistics are quite startling:

13,700,000 of America's children and adolescents have a diagnosable mental disorder.

There are 6,000,000 to 9,000,000 children and adolescents in the United States who meet the definition of having a serious emotional disturbance.

Approximately 5 to 9 percent of children and adolescents in the United States meet the definition of extreme functional impairment.

The demand for the services of child and adolescent psychiatry is projected to increase by 100 percent between 1995 and 2020.

There are approximately 513 students for each school counselor in United States schools. This ratio is more than double the recommended ratio of 250 students for each school counselor.

The Child Healthcare Crisis Relief Act creates incentives to help recruit and retain child mental health professionals providing direct clinical care, and to improve, expand, or help create programs to train child mental health professionals through the following mechanism:

Loan repayment and scholarships for child mental health and school-based service professionals to help pay back educational loans.

Grants to graduate schools to provide for internships and field placements in child mental health services.

Grants to help with pre-service and in-service training of paraprofessionals who work in clinical mental health settings for children.

Grants to graduate schools to help develop and expand child and adolescent mental health programs.

This bill also allows for an increase in the number of Child and Adolescent Psychiatrists under the Medicare Graduate Medical Education Program and extends the board eligibility period for residents and fellows from four years to six years.

The Child Healthcare Crisis Relief Act is not only about providing incentives for health care workers, it is also a bill about expanding treatment options for children in need. Expanding treatment options expands the opportunities that children with mental health concerns have to grow and become happy and productive members of our society.

Children who do not receive adequate treatment for mental health problems start out in life with an albatross around their necks with significantly reduced opportunities. These children have a high probability of becoming involved with illicit substances, dropping out of school, and committing felonies including homicide. Just as tragic, many of these children will never make it into adulthood because of suicide.

The hope and the potential for endless possibilities that we, as a people, attribute to children are diminished with each child struggling with mental illness who does not receive adequate treatment. We may choose not to see their struggle out of ignorance or fear, but as an old English proverb says: ''We never know the worth of water 'til the well is dry''.

Mr. Speaker, we cannot in good conscience sit back and allow the well to dry up when we know how to find a spring that can feed it. I, therefore, ask my colleagues to lend their support for my Child Healthcare Crisis Relief Act.

ROBERT KELLY, SR., HONORED BY SCRANTON HEBREW DAY SCHOOL

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 2003

Mr. KANJORSKI. Mr. Speaker, I rise today to call the attention of the House of Representatives to the honoring of Robert T. Kelly, Sr., by the Scranton Hebrew Day School at the school's 55th anniversary dinner on March 23, 2003. Because he has been both a community leader and a very generous benefactor as a trustee of the Harry and Jeanette Weinberg Foundation, the school will present him with its Special Recognition Award.

Mr. Kelly is a graduate of the University of Scranton, where he was also awarded a Master of Business Administration degree. The university has also presented him with an honorary Doctor of Laws degree.

A member of the advisory board of directors of the First Liberty Bank and Trust Company, Mr. Kelly is a former member of the board of trustees of the University of Scranton and served in a similar capacity with Mercy Health Systems, Northeast Region. He is currently a member of the American and Pennsylvania Institutes of Certified Public Accountants, the Country Club of Scranton and the Johns Hopkins Club of Baltimore.

Mr. Kelly has been one of the Weinberg Foundation's trustees since 1990 and currently serves as a trustee emeritus, having been succeeded as a trustee by his son Timothy P. Kelly.

An intimate of philanthropist Harry Weinberg since the 1950s when Mr. Weinberg operated the Scranton Transit Company, Mr. Kelly was designated a trustee by Mr. Weinberg to assist in the running of the foundation after his death. Mr. Weinberg passed away in 1990 at the age of 82. At that time, the foundation possessed assets worth nearly $1 billion. It currently distributes more than $95 million annually to the needy around the world and is considered to be one of the top 25 philanthropic trusts in the United States.

Mr. Kelly and his wife, the former Rose Marie Simoncelli, reside in Jessup and are the proud parents of four children, Timothy and Mary Louise, both of Waverly; Attorney Robert Jr. of Clarks Green; and Dr. Patricia Kelly-Holmes of South Bend, Indiana.

Mr. Speaker, I am pleased to call to the attention of the House of Representatives the honor being accorded to Mr. Robert T. Kelly, Sr., by the Scranton Hebrew Day School, and I wish him and his family all the best.

HONORING ELIZABETH MCKENNA

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 2003

Ms. ESHOO. Mr. Speaker, I rise today to honor a distinguished Californian, Elizabeth McKenna, as she is named a San Mateo County Young Woman of Excellence.

As President of Best Buddies, an international organization that provides students with intellectual disabilities the opportunity to develop one-on-one friendships with other students at their high school, Elizabeth McKenna devotes extraordinary time and energy to improving her school and community. She organizes and publicizes meetings, pairs up mentors and mentees, and ensures all aspects of the program run smoothly. Her chapter was the proud recipient of the ''Chapter of the Month'' award at a recent Bay Area chapter meeting. In addition to her involvement in Best Buddies, she also finds time to volunteer weekly with Service Commission and the Interact Club and to be a member of the Dance Team and Dance Ensemble at Hillsdale High School.

Elizabeth McKenna excels in her academic pursuits as well. She is a lead trial attorney with Hillsdale High School's Mock Trial team and played an instrumental role in bringing her team to the 2002 California State Finals, where they placed second. She is a staff writer for her high school newspaper and has been playing the piano since the fifth grade and she maintains an excellent grade point average while juggling multiple Advanced Placement and Honors courses.

Mr. Speaker, I ask my colleagues to join me in honoring, Elizabeth McKenna as she is named a San Mateo County Young Woman of Excellence.

INTRODUCTION OF THE UNITED STATES COMMISSION ON AN OPEN SOCIETY WITH SECURITY ACT

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 2003

Ms. NORTON. Mr. Speaker, today, I introduce the United States Commission on an Open Society and Security Act, expressing an idea I have been working on since well before 9–11. For years now before our eyes, parts of our open society have gradually been closed down because of fear of terrorism. Such actions have accelerated and with war coming now, even more so. For example, Pennsylvania Avenue has just been closed to pedestrians, isolating the country's most visible landmark from the American people and connection to the President. The bill I introduce today would begin a systematic investigation that takes full account of the importance of maintaining our democratic traditions while responding adequately to the real and substantial threats terrorism poses.

These years in our history will be remembered by the rise of terrorism in the world and in this country. As a result, American society faces new and unprecedented challenges. We must provide ever-higher levels of security for our people and public spaces while maintaining a free and open democratic society. As yet, our country has no systematic process or strategy for meeting these challenges.

When we have been faced with unprecedented and perplexing issues in the past, we have had the good sense to investigate them deeply and to move to resolve them. Examples include the Warren Commission following

the assassination of President John F. Kennedy and the Kerner Commission following riotous uprisings that swept American cities in the 1960's and 1970's.

The problems associated with worldwide terrorism are of similar importance and dimension. The Act requires that a commission be presidentially appointed which, to be useful in meeting the multiple problems raised, would have a careful balance of members representative of a cross section of disciplines. To date, questions of security most often have been left to security and military experts. They are indispensable participants, but they cannot alone resolve all the issues raised by terrorism in an open society. In order to strike the balance required by our traditions, constitution and laws, a cross cutting group representing our best and wisest minds needs to be working at the same table.

With only existing tools and thinking, we have been left to muddle through, using blunt 19th century approaches, such as crude blockades and other denials of access, or risking the right to privacy with the misapplication of the latest technology. The threat of terrorism to our democratic society is too serious to be left to ad hoc problem-solving. Such approaches are often as inadequate as they are menacing.

We can do better, but only if we recognize and then come to grips with the complexities associated with maintaining a society with free and open access in a world characterized by unprecedented terrorism. The place to begin is with a high-level presidential commission of wise men and women expert in an array of disciplines who can help chart the new course that will be required to protect both our people and our precious democratic institutions and traditions.

JIM THORPE DAY AT THE UNIVERSITY OF NORTH CAROLINA AT PEMBROKE

HON. MIKE McINTYRE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 2003

Mr. McINTYRE. Mr. Speaker, today I rise to pay tribute to Jim Thorpe Day at the University of North Carolina at Pembroke. Jim Thorpe was one of the greatest athletes in the world, a man of courage, patriotism and fair play.

Jim Thorpe, the only American athlete to excel in three major sports as an amateur and as a professional, accomplished more than any other athlete of his time. The Sac and Fox Indian played professional baseball, football and won Olympic gold medals in both the pentathlon and the decathlon. His Olympic performance earned him the title of the ''greatest athlete in the world'' from Sweden's King Gustav V. His feats on the football field led him to the 1911 and 1912 All-American football teams and ultimately as the first president of the American Professional Football Association. In 1950, the Associated Press named Thorpe the greatest All-Around Male Athlete and America's Greatest Football Player of the half-century.

Born in 1887 into the Sac and Fox Indian Tribe, Jim Thorpe grew up on a reservation in Oklahoma. As a teenager, Thorpe enrolled at the Indian Industrial School in Carlisle, PA where he became a football All-American and led his team to numerous victories. In between seasons, Thorpe gained international fame at the Stockholm Olympics, returning to the United States with two gold medals in track and field. Thorpe played six major league baseball seasons with the New York Giants, Cincinnati Reds and the Boston Braves and ultimately returned to football to play for the Canton Bulldogs. With Thorpe's leadership, the Bulldogs were recognized as the ''world champion'' for 1916, 1917 and 1919.

Mr. Speaker, almost a century has passed since Jim Thorpe amazed the world with his athletic talent, and he is still known as the greatest athlete in the world. Jim Thorpe Day in North Carolina is an appropriate tribute to this heroic athlete, and I encourage all to acknowledge his admirable accomplishments.

IN HONOR OF CAROL YOUNG-HOLT

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 19, 2003

Ms. ESHOO. Mr. Speaker, I rise today to honor a distinguished Californian, Carol Young-Holt, as she is inducted into the San Mateo County Women's Hall of Fame.

Carol Young-Holt is a model for success in academics, professional development and nonprofit management. As the Coordinator of the South Coast Collaborative (SCC), a grassroots organization, she has united members of the South Coast area into a community of equal partners and initiated a multitude of programs for community development and enhancement. She has secured over a million dollars of funding for local projects and has designed a community development plan that among other things, developed a strong community leadership program for Spanish-speaking residents. She also established the first local positions for mental health and community outreach workers. The change in the South Coast community since she became Coordinator has been described as a ''Renaissance for both the English and Spanish-speaking communities.''

Aside from her remarkable work through the SCC, Carol Young-Holt has lectured at Stanford University, directed the prestigious Bing Nursery School Child Development Laboratory School, and created an innovative child development teaching and management program with Foothill and Cañada Community Colleges. She is the publisher of many seminal articles, was director of a national multimedia-training program for early childhood educators and served as a program consultant for federal government Head Start programs.

Mr. Speaker, I ask my colleagues to join me in honoring Carol Young-Holt as she is inducted into the San Mateo County Women's Hall of Fame.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the Congressional Record on Monday and Wednesday of each week.

Meetings scheduled for Thursday, March 20, 2003 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MARCH 21

9:30 a.m.

Armed Services

Emerging Threats and Capabilities Subcommittee

To hold hearings to examine proposed legislation authorizing funds for fiscal year 2004 for the Department of Defense, focusing on the science and technology program and the role of Department of Defense laboratories.

SR–325

MARCH 25

9:30 a.m.

Armed Services

To hold hearings to examine proposed legislation authorizing funds for fiscal year 2004 for the Department of Defense and the Future Years Defense Program, focusing on homeland defense; to be followed by closed hearings in SH–219.

SH–216

Foreign Relations

To hold hearings to examine the qualifications of NATO enlargement.

SD–419

Joint Economic Committee

To hold hearings to examine Medicare's financial crisis, focusing on the long-term financial viability of the program, proposals to add a prescription drug benefit and other reforms.

SD–628

10 a.m.

Banking, Housing, and Urban Affairs

To hold hearings to examine the nominations of Alfred Plamann, of California, to be a Member of the Board of Directors of the National Consumer Cooperative Bank, and Thomas Waters Grant, of New York, Noe Hinojosa, Jr., of Texas, and William Robert Timken, Jr., of Ohio, each to be a Director of the Securities Investor Protection Corporation.

SD–538

Appropriations

Energy and Water Development Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2004 for the Department of Energy's Office of Environmental Management, and Office of Civilian Radioactive Waste Management.

SD–192

Finance

To hold hearings to examine the Enron situation, focusing on the Joint Committee on Taxation investigation on compensation-related issues.

SD–215

Health, Education, Labor, and Pensions

To hold hearings to examine the Washington Teachers' Union, focusing on union member protections.

SD–430

Appropriations

Homeland Security Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2004 for the Department of Homeland Security.

SD–106

Energy and Natural Resources

Water and Power Subcommittee

To hold hearings to examine S. 520, to authorize the Secretary of the Interior to convey certain facilities to the Fremont-Madison Irrigation District in the State of Idaho, and S. 625, to authorize the Bureau of Reclamation to conduct certain feasibility studies in the Tualatin River Basin in Oregon.

SD–366

2:30 p.m.

Energy and Natural Resources

National Parks Subcommittee

To hold oversight hearings to examine National Trail designations and the potential impact of National Trails on private lands, communities, and activities within the viewshed of the trails, and S. 324, to amend the National Trails System Act to clarify Federal authority relating to land acquisition from willing sellers for certain trails in the National Trails System, S. 634, to amend the National Trails System Act to direct the Secretary of the Interior to carry out a study on the feasibility of designating the Trail of the Ancients as a national historic trail, and S. 635, to amend the National Trails System Act to require the Secretary of the Interior to update the feasibility and suitability studies of four national historic trails.

SD–366

MARCH 26

9:30 a.m.

Environment and Public Works

To hold hearings to examine the nominations of Ricky Dale James, of Missouri, and Rear Adm. Nicholas Augustus Prahl, National Oceanic and Atmospheric Administration, both to be a Member of the Mississippi River Commission, and Richard W. Moore, of Alabama, to be Inspector General, Tennessee Valley Authority.

SD–406

Health, Education, Labor, and Pensions

Business meeting to consider proposed legislation entitled ''Caring for Children Act of 2003'', proposed legislation entitled ''Genetics Information Nondiscrimination Act of 2003'', and other pending calendar business.

SD–430

Judiciary

To hold hearings to examine the nominations of Edward C. Prado, of Texas, to be United States Circuit Judge for the Fifth Circuit, Cecilia M. Altonaga, to be United States District Judge for the Southern District of Florida, Richard D. Bennett, to be United States District Judge for the District of Maryland, Dee D. Drell, to be United States District Judge for the Western District of Louisiana, J. Leon Holmes, to be United States District Judge for the Eastern District of Arkansas, and Susan G. Braden, of the District of Columbia, and Charles F. Lettow, of Virginia, each to be a Judge of the United States Court of Federal Claims.

SD–226

10 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings to examine the reauthorization of child nutritionprograms.

SR–328A

Appropriations

Defense Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2004 for the Air Force.

SD–192

Indian Affairs

To hold oversight hearings to examine the Indian Gaming Regulatory Act, focusing on the role and funding of the National Indian Gaming Commission.

SH–216

Energy and Natural Resources

Public Lands and Forests Subcommittee

To hold hearings to examine issues uncovered as a result of the Blue Ribbon Panel's report of findings on Aerial Fire Fighting Safety and responses to the report.

SD–366

Armed Services

SeaPower Subcommittee

To hold hearings to examine proposed legislation authorizing funds for fiscal year 2004 for the Department of Defense and the Future Years Defense Program, focusing on Navy shipbuilding programs.

SR–222

Appropriations

Transportation, Treasury and General Government Subcommittee

To hold hearings to examine proposed budget estimates for fiscal year 2004 for the Department of the Treasury.

SD–138

2:30 p.m.

Foreign Relations

International Economic Policy, Export and Trade Promotion Subcommittee

To hold hearings to examine global energy security issues.

SD–106

Armed Services

Strategic Forces Subcommittee

To hold hearings to examine proposed legislation authorizing funds for fiscal year 2004 for the Department of Defense, focusing on the Department of Energy Office of Environmental Management and Office of Legacy Management.

SR–222

MARCH 27

9:30 a.m.

Armed Services

To hold hearings to examine the future of the North Atlantic Treaty Organization; to be followed by closed hearings (in Room SH–219).

SH–216

Energy and Natural Resources

To hold hearings to examine certain proposals with respect to electricity, including S. 475, to reform the nation's outdated laws relating to the electric industry, improve the operation of our transmission system, enhance reliability of our electric grid, increase consumer benefits from whole electric competition, and restore investor confidence in the electric industry.

SD–106

Appropriations
Labor, Health and Human Services, and Education Subcommittee
To hold hearings to examine proposed budget estimates for fiscal year 2004 for the Department of Education.
SD–192

10 a.m.
Health, Education, Labor, and Pensions
To hold hearings to examine health care transmission of global AIDS in Africa.
SD–430

2:30 p.m.
Foreign Relations
To resume hearings to examine the qualifications for NATO enlargement.
SD–419

APRIL 1

2:30 p.m.
Armed Services
SeaPower Subcommittee
To hold hearings to examine proposed legislation authorizing funds for fiscal year 2004 for the Department of Defense and the Future Years Defense Program, focusing on Navy and Marine Corps development and procurement priorities.
SR–232A

APRIL 2

10 a.m.
Indian Affairs
To hold hearings to examine S. 556, to amend the Indian Health Care Improvement Act to revise and extend that Act.
SR–485

APRIL 8

10 a.m.
Health, Education, Labor, and Pensions
To hold hearings to examine the Mammography Quality Standards Act.
SD–430

Daily Digest

HIGHLIGHTS

The House passed H.R. 975, Bankruptcy Abuse Prevention and Consumer Protection Act.

Senate

Chamber Action

Routine Proceedings, pages S3913–S4042

Measures Introduced: Fourteen bills and one resolution were introduced, as follows: S. 656–669, and S. Con. Res. 24. **Pages S3993–94**

Measures Reported:

S. 164, to authorize the Secretary of the Interior to conduct a special resource study of sites associated with the life of Cesar Estrada Chavez and the farm labor movement, with an amendment in the nature of a substitute. (S. Rept. No. 108–20)

S. 212, to authorize the Secretary of the Interior to cooperate with the High Plains States in conducting a hydrogeologic characterization, mapping, modeling and monitoring program for the High Plains Aquifer, with an amendment in the nature of a substitute. (S. Rept. No. 108–21)

S. 220, to reinstate and extend the deadline for commencement of construction of a hydroelectric project in the State of Illinois. (S. Rept. No. 108–22)

S. 278, to make certain adjustments to the boundaries of the Mount Naomi Wilderness Area. (S. Rept. No. 108–23)

S. 328, to designate Catoctin Mountain Park in the State of Maryland as the " Catoctin Mountain National Recreation Area", with an amendment in the nature of a substitute. (S. Rept. No. 108–24)

S. 347, to direct the Secretary of the Interior and the Secretary of Agriculture to conduct a joint special resources study to evaluate the suitability and feasibility of establishing the Rim of the Valley Corridor as a unit of the Santa Monica Mountains National Recreation Area, with an amendment in the nature of a substitute. (S. Rept. No. 108–25)

S. 425, to revise the boundary of the Wind Cave National Park in the Sate of South Dakota. (S. Rept. No. 108–26)

H.R. 397, to reinstate and extend the deadline for commencement of construction of a hydroelectric project in the State of Illinois. (S. Rept. No. 108–27) **Page S3993**

Measures Passed:

Identity Theft Penalty Enhancement Act: Senate passed S. 153, to amend title 18, United States Code, to establish penalties for aggravated identity theft. **Pages S4031–32**

Keeping Children and Families Safe Act: Senate passed S. 342, to amend the Child Abuse Prevention and Treatment Act to make improvements to and reauthorize programs under that Act. **Pages S4032–40**

Congressional Budget Resolution: Senate continued consideration of S. Con. Res. 23, setting forth the congressional budget for the United States Government for fiscal year 2004 and including the appropriate budgetary levels for fiscal year 2003 and for fiscal years 2005 through 2013, taking action on the following amendments proposed thereto: **Pages S3913–87**

Adopted:

Nickles (for Graham (SC)) Modified Amendment No. 274, to express the sense of the Senate regarding the urgent need for legislation to ensure the long term viability of the Social Security program. **Pages S3931, S3935–48**

By 52 yeas to 48 nays (Vote No. 59), Boxer Amendment No. 272, to prevent consideration of drilling in the Arctic National Wildlife Refuge in a fast-track budget reconciliation bill. **Pages S3914–30, S3931–35, S3948–54**

Rejected:

Murray Amendment No. 284, to fully fund the No Child Left Behind Act in 2004 and reduce debt by reducing tax breaks for the wealthiest taxpayers. (By 50 yeas to 48 nays (Vote No. 60), Senate tabled the amendment.) **Pages S3955–64**

Withdrawn:

Nickles (for Graham (SC)) Amendment No. 279, to express the sense of the Senate regarding the urgent need for legislation to ensure the long term viability of the Social Security program. **Pages S3930–31**

Pending:

Kyl Modified Amendment No. 288, to provide financial security to family farm and small business owners by ending the unfair practice of taxing someone at death. **Pages S3966–73**

Dorgan Amendment No. 294, to provide a meaningful prescription drug benefit in Medicare that is available to all beneficiaries. **Pages S3973–79**

Rockefeller Amendment No. 275, to express the sense of the Senate concerning State fiscal relief. **Pages S3979–87**

A unanimous-consent-time agreement was reached providing that at 4 p.m., on Thursday, March 20, 2003, Senate proceed to a series of votes in relation to the following amendments: Kyl Modified Amendment No. 288, Dorgan Amendment No. 294, and Rockefeller Amendment No. 275 (all listed above), and that there be no second degree amendments in order prior to the votes. **Page S3987**

A unanimous-consent agreement was reached providing for further consideration of the resolution at 9:30 a.m., on Thursday, March 20, 2003; provided further that there be 14½ hours left for debate on the resolution with 6½ hours remaining under the control of the Chairman of the Committee on the Budget and 8 hours remaining under the control of the Ranking Member. **Page S4041**

Messages From the President: Senate received the following messages from the President of the United States:

Transmitting, pursuant to law, a periodic report on the National Emergency with Respect to National Union for the Total Independence of Angola (UNITA) declared in Executive Order 12865 of September 26, 1993; to the Committee on Banking, Housing, and Urban Affairs. (PM–25) **Page S3991**

Transmitting, pursuant to section 5 of the Oceans Act of 2000, the first biennial Federal Ocean and Coastal Activities Report; to the Committee on Commerce, Science, and Transportation. (PM–26) **Page S3991**

Transmitting, pursuant to law, a report on the participation of the United States in the United Nations and its affiliated agencies during calendar year 2001; to the Committee on Foreign Relations. (PM–27) **Page S3991**

Appointments:

Library of Congress Trust Fund Board: The Chair, on behalf of the Majority Leader, in consultation with the Democratic Leader, pursuant to Public Law 68–541, as amended by Public Law 102–246, reappointed John W. Kluge, of New York, as a member of the Library of Congress Trust Fund Board for a term of five years. **Page S4040**

John C. Stennis Center for Public Service Training and Development: The Chair, on behalf of the Majority Leader, pursuant to Public Law 100–458, reappointed William E. Cresswell, of Mississippi, to the Board of Trustees of the John C. Stennis Center for Public Service Training and Development, for a six-year term, commencing on October 11, 2002. **Page S4040**

Congressional-Executive Commission on the People's Republic of China: The Chair, on behalf of the President of the Senate, and after consultation with the Majority Leader, pursuant to Public Law 106–286, appointed the following Members to serve on the Congressional-Executive Commission on the People's Republic of China: Senators Brownback, Smith, Thomas, Roberts, and Hagel (Chairman). **Page S4040**

Commission on Security and Cooperation in Europe (Helsinki): The Chair, on behalf of the Vice President, pursuant to Public Law 94–304, as amended by Public Law 99–7, appointed the following Senators as members of the Commission on Security and Cooperation in Europe (Helsinki) during the 108th Congress: Senators Brownback, Smith, Hutchison, and Chambliss. **Page S4040**

Nominations Confirmed: Senate confirmed the following nominations:

Emil H. Frankel, of Connecticut, to be an Assistant Secretary of Transportation.

Mark V. Rosenker, of Maryland, to be a Member of the National Transportation Safety Board for the remainder of the term expiring December 31, 2005.

Richard F. Healing, of Virginia, to be a Member of the National Transportation Safety Board for a term expiring December 31, 2006.

Robert A. Sturgell, of Maryland, to be Deputy Administrator of the Federal Aviation Administration.

Jeffrey Shane, of the District of Columbia, to be Under Secretary of Transportation for Policy. (New Position)

Ellen G. Engleman, of Indiana, to be Chairman of the National Transportation Safety Board for a term of two years.

Ellen G. Engleman, of Indiana, to be a Member of the National Transportation Safety Board for a term expiring December 31, 2007.

Charles E. McQueary, of North Carolina, to be Under Secretary for Science and Technology, Department of Homeland Security. (New Position)

Routine lists in the Coast Guard, Foreign Service. **Pages S4040–41, S4042**

Nominations Received: Senate received the following nominations:

Pamela J. H. Slutz, of Texas, to be Ambassador to Mongolia.

Eric M. Javits, of New York, for the rank of Ambassador during his tenure of service as United States Representative to the Organization for the Prohibition of Chemical Weapons.

40 Army nominations in the rank of general.

7 Navy nominations in the rank of admiral.

Pages S4041–42

Messages From the House: **Page S3991**

Measures Referred: **Pages S3991–92**

Executive Communications: **Pages S3992–93**

Executive Reports of Committees: **Page S3993**

Additional Cosponsors: **Pages S3994–95**

Statements on Introduced Bills/Resolutions: **Pages S3995–S4021**

Additional Statements: **Pages S3988–91**

Amendments Submitted: **Pages S4021–30**

Authority for Committees to Meet: **Pages S4030–31**

Privilege of the Floor: **Page S4031**

Record Vote: Two record votes were taken today. (Total—60) **Pages S3954, S3964**

Adjournment: Senate met at 9:30 a.m., and adjourned at 9:15 p.m., until 9:30 a.m., on Thursday, March 20, 2003. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S4041.)

Committee Meetings

(Committees not listed did not meet)

APPROPRIATIONS: HHS

Committee on Appropriations: Subcommittee on Labor, Health and Human Services, Education, and Related Agencies concluded hearings to examine proposed budget estimates for fiscal year 2004 for the Department of Health and Human Services, after receiving testimony from Tommy G. Thompson, Secretary of Health and Human Services.

ARMY POSTURE

Committee on Appropriations: Subcommittee on Defense concluded hearings to examine the Posture of the United States Army, focusing on the power of new technologies, different organizations, and revitalized leader development initiatives, after receiving testimony from Thomas E. White, Secretary of the Army, and Gen. Eric K. Shinseki, Chief of Staff of the Army, both of the Department of Defense.

DEFENSE AUTHORIZATION

Committee on Armed Services: Subcommittee on Readiness and Management Support concluded hearings to examine proposed legislation authorizing funds for fiscal year 2004 for the Department of Defense, focusing on acquisition policy and outsourcing issues, after receiving testimony from Edward C. Aldridge, Jr., Under Secretary of Defense for Acquisition, Technology and Logistics; David M. Walker, Comptroller General of the United States, General Accounting Office; Angela B. Styles, Administrator, Office of Federal Procurement Policy, Office of Management and Budget; Stan Z. Soloway, Professional Services Council, Arlington, VA; and Bobby L. Harnage, Sr., American Federation of Government Employees (AFL–CIO), Washington, D.C.

DEFENSE AUTHORIZATION: NATIONAL GUARD AND RESERVE

Committee on Armed Services: Subcommittee on Personnel concluded hearings to examine proposed legislation authorizing funds for fiscal year 2004 for the Department of Defense, focusing on the National Guard and Reserve military and civilian personnel programs, after receiving testimony from Thomas F. Hall, Assistant Secretary of Defense for Reserve Affairs, Bob Hollingsworth, Executive Director, National Committee for Employer Support of the Guard and Reserve, Office of the Assistant Secretary of Defense for Reserve Affairs; Major General Raymond F. Rees, ARNG, Acting Chief, National Guard Bureau; Lieutenant General Roger C. Schultz, ARNG, Director, Army National Guard; Lieutenant General Daniel James III, ANG, Director, Air National Guard; Lieutenant General James R. Helmly, USAR, Chief, Army Reserve; Vice Admiral John B. Totushek, USNR, Chief, Naval Reserve; Lieutenant General Dennis M. McCarthy, USMCR, Commander, Marine Forces Reserve; and Major General John J. Batbie, Jr., USAFR, Vice Chief of Air Force Reserve.

NONPROLIFERATION PROGRAMS

Committee on Foreign Relations: Committee concluded hearings to examine nonproliferation policies and programs of the Department of State, focusing on curbing the supply of material, equipment, and technology for weapons of mass destruction and missiles to proliferators or terrorists, persuading states seeking to acquire weapons of mass destruction and missiles to cease those efforts, maintaining and strengthening the international system of nonproliferation treaties and regimes, promoting international nuclear cooperation under the highest nonproliferation and

safety standards, and containing the transfer of advanced conventional arms to states of concern, and terrorists, after receiving testimony from John S. Wolf, Assistant Secretary of Nonproliferation, and Richard J.K. Stratford, Director, Office of Nuclear Energy Affairs, Bureau of Nonproliferation, both of the Department of State; and Rose E. Gottemoeller, Carnegie Endowment for International Peace, Charles B. Curtis, Nuclear Threat Initiative, and Amy E. Smithson, Henry L. Stimson Center, all of Washington, D.C.

CHINA

Committee on Foreign Relations: Subcommittee on East Asian and Pacific Affairs concluded hearings to examine the effects and consequences of the economic emergence of China and presence in U.S. capital markets, focusing on its role as a strategic power in East Asia, the World Trade Organization (WTO), the Korean peninsula, free trade and national security, after receiving testimony from Randall G. Schriver, Deputy Assistant Secretary of State for East Asian and Pacific Affairs; Charles Freeman, Deputy Assistant, U.S. Trade Representative; Robert A. Kapp, United States-China Business Council, Hilary Rosen, Recording Industry Association of America, Larry M. Wortzel, Heritage Foundation, and David M. Lampton, Nixon Center, all of Washington, D.C.

BUSINESS MEETING

Committee on Health, Education, Labor, and Pensions: Committee ordered favorably reported the following business items:

An original bill, to amend the Public Health Service Act to establish a program to assist family caregivers in accessing affordable and high-quality respite care;

An original bill, to amend the Federal Food, Drug, and Cosmetic Act to authorize the Food and Drug Administration to require certain research into drugs used in pediatric patients;

S. 15, to amend the Public Health Service Act to provide for the payment of compensation for certain individuals with injuries resulting from the administration of smallpox countermeasures, to provide protections and countermeasures against chemical, radiological, or nuclear agents that may be used in a terrorist attack against the United States, and to improve immunization rates by increasing the distribution of vaccines and improving and clarifying the vaccine injury compensation program, with an amendment in the nature of a substitute; and

The nominations of Karen Lias Wolff, of Michigan, Mary Costa, of Tennessee, and Jerry Pinkney and Makoto Fujimura, both of New York, each to be a Member of the National Council on the Arts.

ENERGY RESOURCES ON INDIAN LANDS

Committee on Indian Affairs: Committee concluded hearings to examine S. 424, to establish, reauthorize, and improve energy programs relating to Indian tribes, and S. 522, to amend the Energy Policy Act of 1992 to assist Indian tribes in developing energy resources, after receiving testimony from Theresa Rosier, Counselor to the Assistant Secretary of the Interior for Indian Affairs; Vicky Bailey, Assistant Secretary of Energy for Policy and International Affairs; Arvin Trujillo, Navajo Nation, Window Rock, Arizona; Vernon Hill, Eastern Shoshone Business Council, Fort Washakie, Wyoming; Sam Maynes, Southern Ute Tribal Council, Ignacio, Colorado; A. David Lester and Victor Roubidoux, both of the Council of Energy Resource Tribes, Denver, Colorado; and Robert P. Gough, Intertribal Council on Utility Policy, Rosebud, South Dakota.

REPRODUCTIVE CLONING

Committee on the Judiciary: Committee concluded hearings to examine the ethical issues of human cloning, focusing on both reproductive cloning and the use of nuclear transplantation in research with human stem cells, after receiving testimony from Senator Brownback; Representative Langevin; Leon Kass, American Enterprise Institute, Chicago, Illinois; Thomas H. Murray, The Hastings Center, Garrison, New York; Harold Varmus, Memorial Sloan-Kettering Cancer Center, New York, New York; Anton-Lewis Usala, East Carolina University, Greenville, North Carolina; Micheline M. Mathews-Roth, Harvard Medical School, Boston, Massachusetts; Paul Berg, Stanford University, Palo Alto, California; Greg Wasson, Cotati, California, on behalf of the Coalition for the Advancement of Medical Research; and James Kelly, Granbury, Texas.

SECRETARY OF THE SENATE/ARCHITECT OF THE CAPITOL

Committee on Rules and Administration: Committee concluded oversight hearings to examine the operations of the offices of the Secretary of the Senate and the Architect of the Capitol, after receiving testimony from Emily J. Reynolds, Secretary of the Senate; and Alan M. Hantman, Architect of the Capitol, who were both accompanied by several of their associates.

House of Representatives

Chamber Action

Measures Introduced: 26 public bills, H.R. 1345–1370; 1 private bill, H.R. 1371; and 4 resolutions, H. Con. Res. 101–102, and H. Res. 149–150, were introduced. **Pages H2130–32**

Additional Cosponsors: **Page H2132**

Reports Filed: Reports were filed today as follows:

H. Res. 151, providing for consideration of H. Con. Res. 95, establishing the congressional budget for the United States Government for fiscal year 2004 and setting forth appropriate budgetary levels for fiscal years 2003 and 2005 through 2013 (H. Rept. 108–44); and

H. Res. 152, waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (H. Rept. 108–45). **Page H2130**

Guest Chaplain: The prayer was offered by the guest Chaplain, Rev. Willie Davis, Pastor, Second Baptist Church of Las Vegas, Nevada. **Page H1957**

Use of Military Force Against Iraq Resolution of 2002: The Speaker announced that he is in receipt of a report from the President pursuant to the Use of Force Resolution approved by Congress last year (107th Congress, H.J. Res. 114, Public Law 107–243). He stated that the report summarizes diplomatic and other peaceful means pursued by the United States, cooperating with foreign countries and international organizations to obtain Iraqi compliance with all relevant United Nations Security Council resolutions regarding Iraq. He further stated that, pursuant to House Rule 12, he will refer the report to the Committee on International Relations and submit the document in its entirety, for printing into the Congressional Record (H. Doc. 108–50). **Pages H1957–60**

Suspensions: The House agreed to suspend the rules and pass the following measures:

Mortgage Servicing Clarification Act: Debated on March 18, H.R. 314, to amend the Fair Debt Collection Practices Act to exempt mortgage servicers from certain requirements of the Act with respect to federally related mortgage loans secured by a first lien (agreed to by 2/3 yea-and-nay vote of 424 yeas with none voting ''nay,'' Roll No. 68); **Pages H1988–89, H1989**

Cibola Wildlife Refuge Boundary Correction: H.R. 417, to revoke a Public Land Order with respect to certain lands erroneously included in the Cibola National Wildlife Refuge, California (agreed to by 2/3 yea-and-nay vote of 424 yeas with none voting ''nay,'' Roll No. 69); **Pages H1962–63, H1989–90**

Rathdrum Prairie/Spokane Valley Aquifer Study: H.R. 699, to direct the Secretary of the Interior to conduct a comprehensive study of the Rathdrum Prairie/Spokane Valley Aquifer, located in Idaho and Washington (agreed to by 2/3 yea-and-nay vote of 414 yeas to 6 nays, Roll No. 70); **Pages H1963, H1990**

San Gabriel River Watershed Study: H.R. 519, to authorize the Secretary of the Interior to conduct a study of the San Gabriel River Watershed; **Pages H1963–64**

Tax Relief, Simplification, and Equity Act: H.R.1308, to amend the Internal Revenue Code of 1986 to end certain abusive tax practices, to provide tax relief and simplification. **Pages H1970–76**

Suspensions—Proceedings Postponed: The House postponed further proceedings until tomorrow, March 20 on the following motions to suspend the rules that were debated today:

Armed Forces Tax Fairness Act: H.R. 1307, to amend the Internal Revenue Code of 1986 to provide a special rule for members of the uniformed services in determining the exclusion of gain from the sale of a principal residence and to restore the tax exempt status of death gratuity payments to members of the uniformed services; and **Pages H1964–70**

Urging that the Ninth Circuit Court of Appeals Ruling on the Pledge of Allegiance be Overturned: H. Res. 132, expressing the sense of the House of Representatives that the Ninth Circuit Court of Appeals ruling in Newdow v. United States Congress is inconsistent with the Supreme Court's interpretation of the first amendment and should be overturned. **Pages H1976–81**

Bankruptcy Abuse Prevention and Consumer Protection Act: The House passed H.R. 975, to amend title 11 of the United States Code by yea-and-nay vote of 315 yeas to 113 nays with 1 voting ''present'', Roll No. 74. **Pages H1991–H2100**

Rejected the Jackson-Lee motion to recommit the bill to the Committee on the Judiciary with instructions to report the same back to the House forthwith with an amendment that inserts Sec. 220A, protecting alimony and child support payments from competition with new creditor entitlements by a recorded vote of 150 ayes to 276 noes with 1 voting ''present'', Roll No. 73. **Pages H2097–99**

Pursuant to the rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill (H. Rept. 108–40 Part 1) was considered as an original bill for the purpose of amendment. **Page H1999**

Agreed To:

Toomey amendment No. 1 printed in H. Rept. 108–42 that revises Title IX, Financial Contract Provisions to include banks and credit unions; **Pages H2046–51**

Guiterrez amendment No. 2 printed in H. Rept. 108–42 that specifies that Section 1234, Involuntary Cases, shall apply with respect to cases commenced under Title 11 of the United States Code before, on, and after enactment; **Page H2055**

Cannon amendment No. 3 printed in H. Rept. 108–42 that increases the monetary cap on wage and employee benefit claims entitled to priority under the bankruptcy code, strengthens provisions dealing with fraud, and requires the reinstatement of retiree benefits that are modified within 180 days period preceding the filing unless equity balances justify the modification. **Pages H2151–53**

Rejected:

Sherman amendment No. 4 printed in H. Rept. 108–42 that sought to require corporations to file a bankruptcy case in the district where their principal place of business is located (rejected by recorded vote of 155 ayes to 269 noes with 1 voting ''present,'' Roll No. 71); and **Pages H2053–55, H2095–96**

Nadler amendment in the nature of a substitute No. 5 printed in H. Rept. 108–42 that among other provisions, sought to modify the means test and require the court, in considering a motion to dismiss or convert a Chapter 7 case, to consider the debtor's actual reasonable and necessary expenses and income (rejected by a recorded vote of 128 ayes to 296 noes with 1 voting ''present,'' Roll No. 72). **Pages H2055–95, H2096–97**

Agreed to the unanimous consent request made by Representative Gutierrez that he be permitted to offer amendment numbered 2 printed in House Report 107–42 out of numerical sequence. **Page H2055**

The Clerk was authorized to make technical corrections and conforming changes in the engrossment of the bill. **Page H2100**

The House agreed to H. Res. 147, the rule that provided for consideration of the bill by voice vote. **Pages H1981–88**

Presidential Messages: Read the following messages from the President:

National Emergency Re National Union for the Total Independence of Angola: Message wherein he transmitted a 6 month report on the national emergency with respect to the National Union for the Total Independence of Angola (UNITA) that was declared in Executive order 12865 of September 26, 1993—referred to the Committee on International Relations; **Page H2100**

Federal Ocean and Coastal Activities Report: Message wherein he transmitted the first biennial Federal Ocean and Coastal Activities Report—referred to the Committees on Resources, Science, and Transportation and Infrastructure; and **Page H2100**

United States Participation in the United Nations: Message wherein he transmitted a report on the participation of the United States in the United Nations and its affiliated agencies during calendar year 2002—referred to the Committee on International Relations. **Page H2118**

Recess: The House recessed at 9:50 p.m. and reconvened at 10:37 p.m. **Page H2129**

Senate Message: Message received from the Senate today appears on page H1957.

Referral: S. 628 was referred to the Committees on Veterans' Affairs and Science. **Page H2129**

Quorum Calls—Votes: Four yea-and-nay votes and three recorded votes developed during the proceedings of the House today and appear on pages H1989, H1989–90, H1990, H2095–96, H2096–97, H2098–99, and H2099–H2100. There were no quorum calls.

Adjournment: The House met at 10 a.m. and adjourned at 10:38 p.m.

Committee Meetings

AGRICULTURE, RURAL DEVELOPMENT, FDA AND RELATED AGENCIES APPROPRIATIONS

Committee on Appropriations: Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and related Agencies held a hearing on Rural Development. Testimony was heard from Tom Dorr, Under Secretary, Rural Development, USDA.

DEFENSE APPROPRIATIONS

Committee on Appropriations: Subcommittee on Defense met in executive session to hold a hearing on Fiscal Year 2004 National Foreign Intelligence Program. Testimony was heard from John Dempsey, Deputy Director, CIA.

The Subcommittee also held a hearing on Fiscal Year 2004 Air Force Budget Overview. Testimony was heard from the following officials of the Department of the Air Force: James G. Roche, Secretary; and Gen. John P. Jumper, USAF, Chief of Staff.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS

Committee on Appropriations: Subcommittee on Energy and Water Development met in executive session to hold a hearing on Department of Energy: National Nuclear Security Administration. Testimony was heard from Ambassador Linton Brooks, Under Secretary, National Nuclear Security Administration, Department of Energy.

INTERIOR APPROPRIATIONS

Committee on Appropriations: Subcommittee on Interior held a hearing on National Park Service. Testimony was heard from the following officials of the Department of the Interior, National Park Service: Fran Mainella, Director; Don Murphy, Deputy Director; and Bruce Sheaffer, Comptroller.

LABOR, HHS, EDUCATION AND RELATED AGENCIES APPROPRIATIONS

Committee on Appropriations: Subcommittee on Labor, Health and Human Services, and Education held a hearing on Department of Education Panel: ''Vocational, Adult and Postsecondary Education'' programs. Testimony was heard from the following officials of the Department of Education: Carol D'Amico, Assistant Secretary, Office of Vocational and Adult Education; and Sally Stroup, Assistant Secretary, Office of Postsecondary Education.

TRANSPORTATION AND TREASURY, AND INDEPENDENT AGENCIES APPROPRIATIONS

Committee on Appropriations: Subcommittee on Transportation and Treasury, and Independent Agencies held a hearing on Director, Office of Management and Budget. Testimony was heard from Mitchell Daniels, Jr., Director, OMB.

VA AND HUD, AND INDEPENDENT AGENCIES APPROPRIATIONS

Committee on Appropriations: Subcommittee on VA, HUD and Independent Agencies held a hearing on Department of Housing and Urban Development. Testimony was heard from Mel Martinez, Secretary of Housing and Urban Development.

SPACE PROGRAMS

Committee on Armed Services: Subcommittee on Strategic Forces held a hearing on space programs in the fiscal year 2004 national defense authorization budget request. Testimony was heard from Peter B. Teets, Under Secretary, Air Force, Department of Defense.

CHEMICAL AND BIOLOGICAL THREAT

Committee on Armed Services: Subcommittee on Terrorism, Unconventional Threats and Capabilities held a hearing on Department of Defense efforts to address the chemical and biological threat. Testimony was heard from the following officials of the Department of Defense: Dale Klein, Assistant to the Secretary (Nuclear and Chemical and Biological Defense); Anthony J. Tether, Director, Defense Advanced Projects Research Agency; Stephen M. Younger, Director, Defense Threat Reduction Agency; Brig. Gen. Stephen Reeves, USA, Joint Program Executive Officer, Chemical and Biological Defense Program, Brig. Gen. Stephen Goldfein, USAF, Director, Joint Requirements Office for Chemical, Biological, Radiological and Nuclear Defense, J–8, The Joint Staff.

MILITARY PERSONNEL MANAGEMENT AND SUPPORT

Committee on Armed Forces: Subcommittee on Total Force held a hearing on domestic violence, Joint Officer Management and education reform, employer support of the Guard and Reserve, Reserve pay and benefits, and Department of Defense Active and Reserve Components Force Mix Study. Testimony was heard from the following officials of the Department of Defense: Lt. Gen. Garry L. Parks, USMC, Deputy Commandant, Manpower and Reserve Affairs, USMC, Co-Chair, Defense Task Force on Domestic Violence; and Charles Abell, Principle Deputy Under Secretary, Personnel and Readiness; Derek B. Stewart, Director, Defense Capabilities and Management, GAO; Deborah D. Tucker, Executive Director, National Center on Domestic and Sexual Violence, Co-Chair, Defense Task Force on Domestic Violence; and public witnesses.

U.S. OLYMPIC COMMITTEE'S ORGANIZATIONAL STRUCTURE

Committee on Energy and Commerce: Subcommittee on Commerce, Trade and Consumer Protection held a hearing entitled ''Does the U.S. Olympic Committee's Organizational Structure Impede its Mission?'' Testimony was heard from Senator Campbell, Representative Ryun of Kansas; officials of the U.S. Olympic Committee; and a public witness.

ENERGY POLICY ACT

Committee on Energy and Commerce: Subcommittee on Energy and Air Quality approved for full Committee action the Energy Policy Act.

DEFENSE PRODUCTION ACT REAUTHORIZATION

Committee on Financial Services: Subcommittee on Domestic and International Monetary Policy, Trade, and Technology began markup of H.R. 1280, Defense Production Act Reauthorization of 2003.

Subcommittee recessed subject to call.

Prior to this action, the Subcommittee held a hearing on H.R. 1280. Testimony was heard from the following officials of the Department of Commerce: Kenneth I. Juster, Under Secretary, and Karan K. Bhatia, Deputy Under Secretary, both with Industry and Security; Michael D. Brown, Under Secretary, Emergency Preparedness and Response, Department of Homeland Security; and the following officials of the Department of Defense: Suzanne D. Patrick, Deputy Under Secretary, Industrial Policy; and Ronald M. Sega, Director, Defense Research and Engineering.

MIDDLE EAST PARTNERSHIP INITIATIVE

Committee on International Relations: Subcommittee on Middle East and Central Asia held a hearing on the Middle East Partnership Initiative: Promoting Democratization in a Troubled Region. Testimony was heard from the following officials of the Department of State: William Burns, Assistant Secretary, Bureau of Near Eastern Affairs; and Wendy Chamberlin, Assistant Administrator, Asia and the Near East, AID.

OVERSIGHT—ENHANCING AMERICA'S ENERGY SECURITY

Committee on Resources: Held an oversight hearing on Enhancing America's Energy Security. Testimony was heard from Rebecca Watson, Assistant Secretary, Land and Minerals Management, Department of the Interior; Carl Michael Smith, Assistant Secretary, Fossil Energy, Department of Energy; Hunt Downer, Representative, State of Louisiana; and public witnesses.

OVERSIGHT—NOAA AND U.S. FISH AND WILDLIFE SERVICE BUDGET REQUESTS

Committee on Resources: Subcommittee on Fisheries Conservation, Wildlife and Oceans held an oversight hearing on the Administration's Fiscal Year budget requests for NOAA and the U.S. Fish and Wildlife Service. Testimony was heard from Vice Adm. Conrad C. Lautenbacher, USN (Ret.), Under Secretary, Oceans and Atmosphere, NOAA, Department of Commerce; and Steven A. Williams, Director, Fish and Wildlife Service, Department of the Interior.

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2004

Committee on Rules: Granted, by voice vote, a structured rule on H. Con. Res. 95, establishing the congressional budget for the United States Government for fiscal year 2004 and setting forth appropriate budgetary levels for fiscal years 2003 and 2005 through 2013, providing three hours of general debate with two hours equally divided and controlled by the chairman and ranking minority member of the Committee on the Budget and one hour on economic goals and policies equally divided and controlled by Representative Saxton and Representative Stark. The rule waives all points of order against consideration of the concurrent resolution. The rule provides that the amendment in the nature of a substitute specified in part A of the Rules Committee report accompanying the resolution shall be considered as adopted in the House and in the Committee of the Whole. The rule makes in order only those amendments printed in part B of the Rules Committee report which 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 one hour equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment. The rule waives all points of order against the amendments printed in the report, except that the adoption of a further amendment in the nature of a substitute shall constitute the conclusion of consideration of the concurrent resolution for amendment. The rule provides, upon the conclusion of consideration of the concurrent resolution for amendment, for a final period of general debate not to exceed 20 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on the Budget. The rule permits the chairman of the Budget Committee to offer amendments in the House to achieve mathematical consistency. Finally, the rule provides that the concurrent resolution shall not be subject to a demand for a division of the question of its adoption. Testimony was heard from Chairman Nussle and Representatives Toomey, Spratt, Hooley, Moore, Scott of Virginia, Skelton, Stenholm, Owens, Allen, Bishop of New York, Marshall and Michaud.

SAME DAY CONSIDERATION OF CERTAIN RESOLUTIONS REPORTED FROM THE COMMITTEE ON RULES

Committee on Rules: Granted, by voice vote, a resolution waiving clause 6(a) of rule XIII (requiring a two-thirds vote to consider a rule on the same day it is reported from the Rules Committee) against certain resolutions reported from the Rules Committee. The resolution applies the waiver to any special rule reported on the legislative day of March 20, 2003, providing for the consideration of the concurrent resolution (H. Con. Res. 95) establishing the congressional budget for the United States Government for fiscal year 2004 and setting forth appropriate budgetary levels for fiscal years 2003 and 2005 through 2013.

NANOTECHNOLOGY R&D ACTIVITIES

Committee on Science: Held a hearing on federal nanotechnology research and development activities,

with emphasis on H.R. 766, Nanotechnology Research and Development Act of 2003. Testimony was heard from Senators Allen and Wyden; Richard M. Russell, Associate Director, Technology, Office of Science and Technology Policy; James Roberto, Associate Laboratory Director, Physical Sciences, Oak Ridge National Laboratory; and public witnesses.

MISCELLANEOUS MEASURES

Committee on Transportation and Infrastructure: Subcommittee on Economic Development, Public Buildings and Emergency Management approved for full Committee action the following: Fiscal Year GSA lease resolutions; two GSA amending resolutions; H.R. 281, to designate the Federal building and United States courthouse located at 200 West 2nd Street in Dayton, Ohio, as the "Tony Hall Federal Building and United States Courthouse;" H. Con. Res. 53, amended, authorizing the use of the Capitol Grounds for the Greater Washington Soap Box Derby; and H. Con. Res. 96, authorizing the use of the Capitol Grounds for the National Peace Officers' Memorial Service.

WASTEWATER INFRASTRUCTURE NEEDS

Committee on Transportation and Infrastructure: Subcommittee on Water Resources and Environment held a hearing on Meeting the Nation's Wastewater Infrastructure Needs. Testimony was heard from Larry S. Coffman, Associate Director, Department of Environmental Resources, Prince Georges County, State of Maryland; and public witnesses.

PHARMACEUTICAL SERVICES—
AVAILABILITY AND ELIGIBILITY

Committee on Veterans' Affairs: Subcommittee on Health held a hearing on the availability and eligibility for pharmaceutical services provided by the Department of Veterans Affairs. Testimony was heard from Representatives Evans, Lynch, Mica and Wicker; and Anthony J. Principi, Secretary of Veterans Affairs.

CIA PROGRAM

Permanent Select Committee on Intelligence: Met in executive session to hold a hearing on CIA Program. Testimony was heard from departmental witnesses.

COMMITTEE MEETINGS FOR THURSDAY, MARCH 20, 2003

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Agriculture, Nutrition, and Forestry: to hold hearings to examine the nomination of Vernon Bernard Parker, of Arizona, to be an Assistant Secretary of Agriculture, 10:30 a.m., SR–328A.

Committee on Appropriations: Subcommittee on Commerce, Justice, State, and the Judiciary, to hold hearings to examine the proposed budget estimates for fiscal year 2004 for the Department of Commerce, 10 a.m., S–146, Capitol.

Subcommittee on Interior, to hold hearings to examine the proposed budget estimates for fiscal year 2004 for the Department of Agriculture Forest Service, 10 a.m., SD–124.

Subcommittee on VA, HUD, and Independent Agencies, to hold hearings to examine proposed budget estimates for fiscal year 2004 for the Environmental Protection Agency, 10 a.m., SD–138.

Committee on Armed Services: to hold hearings to examine proposed legislation authorizing funds for fiscal year 2004 for the Department of Defense, focusing on atomic energy defense activities of the Department of Energy, 9:30 a.m., SH–216.

Committee on Banking, Housing, and Urban Affairs: to hold hearings to examine issues related to the Department of Housing and Urban Development's proposed rule on the Real Estate Settlement Procedures Act, 9:30 a.m., SD–538.

Committee on Environment and Public Works: Subcommittee on Clean Air, Climate Change, and Nuclear Safety, to hold hearings to examine proposed legislation amending the Clean Air Act regarding fuel additives and renewable fuels, 9:30 a.m., SD–406.

Committee on Foreign Relations: to hold hearings to examine how to make embassies safer in areas of conflict, 2:30 p.m., S–116, Capitol.

Committee on Governmental Affairs: to hold hearings to examine possible terrorist threats on cargo containers, 9:30 a.m., SD–342.

Committee on the Judiciary: business meeting to consider pending calendar business, 9:30 a.m., SD–226.

Committee on Veterans' Affairs: to hold joint hearings with the House Committee on Veterans' Affairs to examine legislative presentations of AMVETS, American Ex-Prisoners of War, the Vietnam Veterans of America, the Military Officers Association of America, and the National Association of State Directors of Veterans' Affairs, 10 a.m., 345, Cannon Building.

Special Committee on Aging: to hold hearings to examine Medicare, focusing on prescription drugs, 10:30 a.m., SD–562.

House

Committee on Appropriations, Subcommittee on Agriculture, Rural Development, Food and Drug Administration and Related Agencies, on Food, Nutrition and Consumer Services, 9:30 a.m., 2362A Rayburn.

Subcommittee on Commerce, Justice, and State and The Judiciary, and Related Agencies, on Secretary of State, 10 a.m., and on DEA and Bureau of Alcohol, Tobacco, Firearms, and Explosives, 2 p.m., 2358 Rayburn.

Subcommittee on Defense, on Fiscal Year 2004 Navy/Marine Corps Budget Overview, 9:30 a.m., 2212 Rayburn.

Subcommittee on Energy and Water Development, on Department of Energy: Nuclear Waste Management and Disposal, 10 a.m., 2362B Rayburn.

Subcommittee on Homeland Security, on Secretary of Homeland Security, 10 a.m., 2359 Rayburn.

Subcommittee on Labor, Health and Human Services, and Education, on Secretary of Health and Human Services, 10:15 a.m., 2358 Rayburn.

Subcommittee on VA, HUD and Independent Agencies, on Neighborhood Reinvestment Corporation, 10 a.m., and on Agency for Toxic Substances and Disease Registry, 11 a.m., H–143 Capitol.

Committee on Armed Services, hearing on the 2004 fiscal year defense authorization budget request for Ballistic Missile Defense programs, 9 a.m., 2118 Rayburn.

Subcommittee on Readiness, to continue hearings on the state of military readiness and review of the fiscal year 2004 Defense Authorization budget request, 3 p.m., 2118 Rayburn.

Subcommittee on Tactical Air and Land Forces, hearing on the fiscal year 2004 national defense authorization budget request, 11:30 a.m., 2118 Rayburn.

Committee on Education and the Workforce, Subcommittee on 21st Century Competitiveness, to mark up H.R. 1261, Workforce Reinvestment and Adult Education Act of 2003, 10 a.m., 2175 Rayburn.

Committee on Energy and Commerce, Subcommittee on Health, hearing on ''HIV/AIDS, TB, and Malaria: Combating a Global Pandemic,'' 10 a.m., 2322 Rayburn.

Committee on Financial Services, Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises, to consider H.R. 658, Accountant, Compliance, and Enforcement Staffing Act of 2003, 10 a.m., 2128 Rayburn.

Committee on Government Reform, hearing on ''Breaking Fumes: A Decade of Failure in Energy Department Acquisitions;'' followed by consideration of H.R. 1346, to amend the Office of Federal Procurement Policy Act to provide an additional function of the Administrator for Federal Procurement Policy relating to encouraging Federal procurement policies that enhance energy efficiency, 10 a.m., 2154 Rayburn.

Committee on International Relations, to mark up H.R. 1298, United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003, 11:15 a.m., 2172 Rayburn.

Subcommittee on East Asia and the Pacific, hearing on the U.S. and South Asia: Challenges and Opportunities for American policy, 1 p.m., 2172 Rayburn.

Committee on the Judiciary, Subcommittee on the Constitution, to mark up H.J. Res. 22, proposing a balanced budget amendment to the Constitution of the United States, 10 a.m., 2237 Rayburn.

Subcommittee on Courts, the Internet, and Intellectual Property, to mark up the following bills: H.R. 1302, Federal Courts Improvement Act of 2003; and H.R. 1303, to amend the E-Government Act of 2002 with respect to rulemaking authority of the Judicial Conference, 1 p.m., 2141 Rayburn.

Committee on Small Business, hearing entitled ''Changes to SBA Financing Programs Needed for Revitalization of Small Manufacturers,'' 9:30 a.m., 2360 Rayburn.

Committee on Transportation and Infrastructure, Subcommittee on Aviation, to consider a motion to go into executive session to hold a hearing on Protecting Commercial Aircraft from the Threat of Missile Attacks, 9:30 a.m., 2253 Rayburn.

Committee on Ways and Means, Subcommittee on Health, to mark up H.R. 810, Medicare Regulatory and Contracting Reform Act of 2003, 10 a.m., 1100 Longworth.

Subcommittee on Human Resources, hearing to Review State Use of Federal Unemployment Funds, 1 p.m., B–318 Rayburn.

Permanent Select Committee on Intelligence, executive, hearing on National Imagery and Mapping Agency Program, 1 p.m., H–405 Capitol.

Joint Meetings

Joint Meetings: Senate Committee on Veterans' Affairs, to hold joint hearings with the House Committee on Veterans' Affairs to examine legislative presentations of AMVETS, American Ex-Prisoners of War, the Vietnam Veterans of America, the Military Officers Association of America, and the National Association of State Directors of Veterans' Affairs, 10 a.m., 345 Cannon Building.

Next Meeting of the SENATE

9:30 a.m., Thursday, March 20

Senate Chamber

Program for Thursday: Senate will continue consideration of S. Con. Res. 23, Congressional Budget Resolution for Fiscal Year 2004.

At 4 p.m., Senate will begin a series of votes on Kyl Modified Amendment No. 288, Dorgan Amendment No. 294, and Rockefeller Amendment No. 275, respectively.

Next Meeting of the HOUSE OF REPRESENTATIVES

10 a.m., Thursday, March 20

House Chamber

Program for Thursday: Consideration of H. Con. Res. 95, Budget Resolution for Fiscal year 2004 (structured rule, three hours of debate); and

Consideration of H.R. 1104, Child Abduction Prevention Act (unanimous consent).

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